

GAME, FISH AND OYSTER LAWS

OF THE

STATE OF TEXAS

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PUBLISHED BY

WILLIAM J. TUCKER

GAME, FISH AND OYSTER COMMISSIONER

AUSTIN, TEXAS

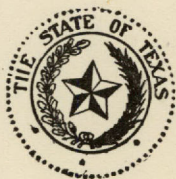
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GAME, FISH AND
OYSTER LAWS

WILLIAM L. BROWN
Author

SEPTEMBER 1917

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CHAPTER ONE

COMMISSIONER AND DEPUTIES

Art. 4016. *The Commissioner.*—The Game, Fish and Oyster Commissioner shall have his office in the State Capitol in the city of Austin, Texas, during his term of office, which shall be two years, the first term to begin September 1, 1925.

Art. 4017. *Oath and Bond.*—The Game, Fish and Oyster Commissioner shall file with the Secretary of State a good and sufficient bond to be approved by that official in the sum of ten thousand (\$10,000.00) dollars, with a surety company, conditioned that he will faithfully perform the duties of his office, the premium on such bond to be paid from any available funds appropriated to the use of the Game, Fish and Oyster Commission. He shall take the oath prescribed for sheriffs, and when he shall file said bond and take said oath, he shall enter on the duties of his office. Said bond shall not be void on the first recovery, but may be sued on from time to time in the name of the State or any person injured, until the whole amount has been recovered. (Acts 1925, p. 438.)

Art. 4018. *Duties and Powers.*—The duties of the Commissioner shall be in the execution of the laws relating to game, fish, oysters and marine life, and such further duties as are imposed upon him by legislation. In the execution of these laws he shall exercise the power and authority given to sheriffs. The Commissioner is authorized to collect and enforce the payment of all taxes, licenses, fines and forfeitures, and all money due his department, by deputies or per-

sons employed for that purpose, and to inspect all products so taxed, and to verify the weights and measures thereof; to examine, or have examined, all streams, lakes or ponds, when requested to do so, for the purpose of stocking such waters with fish best suited to such locations and he shall superintend and have control in the propagation of fish in the State fish hatchery and the distribution of such fish, and he shall have superintendence and control of the propagation and distribution of birds and game in the State reservation over which he may have control, or which may be established for such propagation. The Commissioner, or any of his deputies, may arrest without warrant anyone found violating any of the fish, game or oyster laws of Texas, and shall have the same right to execute original process as sheriffs. (Id., p. 192; Acts 1907, p. 255.)

Art. 4019. *To Report to Governor.*—The Commissioner shall make on the 31st day of August of each year, or as soon as practicable, not later than October 1st, a report to the Governor, showing the condition of the fish and oyster industry, which shall show the special taxes collected, the number and class of all boats engaged in the fish and oyster trade, the number of licenses issued and license fees collected, the number, place and acreage of private oyster beds, and rents received therefor, and all other amounts collected from whatever source and the disbursements therefor, with such observations as pertain to the industry. The report shall contain a statement of all stock furnished, to whom furnished, the cost of same, the streams, lakes or ponds stocked, the number and kind of fish used in each, and the condition of such plants, with any other data he may obtain on the subjects. The Governor shall order a sufficient number of copies of such report

to be printed and filed in the Secretary of State's office for the purpose of free distribution to parties interested therein. For failure to make such report within the time specified, the Commissioner may, in the discretion of the Governor, be dismissed from his office. (Id., p. 212, Civil Code, 1925.)

Art. 4020. *To Keep Record.*—The Commissioner shall keep a well bound record book in which shall be recorded all special taxes collected, all licenses issued and license fees collected, all certificates issued for location of private oyster beds, showing the date of certificate and application, when and how the applications were executed and the manner in which the bottoms were examined and rents collected for such locations, showing also all stock fish furnished, to whom furnished, and the cost of same, the streams, lakes or ponds stocked and the number and kinds of fish used in each, and showing all collections and disbursements in and from his office. The Commissioner shall keep an account with each person, firm or corporation holding certificates for the location of private oyster beds in this State, showing the amounts received as rents, etc. (Id., p. 213, Civil Code, 1925.)

Art. 4021. *Fish and Oyster Deputies.*—The Commissioner is authorized to appoint deputies for each of the vessels owned by the State and employed in the Fish and Oyster Department, and such other shore and interior deputies as he may deem necessary for the enforcement of the law. All such deputies shall have and exercise the same powers and duties as the Commissioner, and be at all times subject to his orders, and shall hold their office at his pleasure. Each Deputy Fish and Oyster Commissioner shall be ex-officio game commissioner. No person shall hold such office of Deputy Commissioner who is not a citizen of the United

States and of this State. All such Deputy Commissioners shall make a monthly report to the Commissioner of all funds collected by them, remitting along with said report all moneys collected by them during the said month. (Acts 2nd C. S., 1919, p. 213, Civil Code, 1925.)

Art. 4022. *Oath and Bond of Deputies.*—Before entering upon the duties of his office, each deputy shall file with the Commissioner a good and sufficient bond, with two or more sureties, in the sum of one thousand dollars, and take the same oath of office as the Commissioner, and said bond and oath shall be governed by the provisions of Article 4017. (Id., Civil Code, 1925.)

Art. 4024. *Fees of Commissioner.*—In making arrests, summoning witnesses and serving process, the Commissioner or his deputies shall be allowed the same fees and mileage as sheriffs, the same to be charged and collected as are sheriff's fees. (Acts 1895, p. 70.)

CHAPTER TWO

FISHERMEN AND DEALERS' LICENSE, ETC.

(Article 937, appearing in the Revised Criminal Statutes of 1925, was amended by Article 10, Chapter 178, Regular Session of the Thirty-ninth Legislature, and as amended reads as follows:)

Art. 10. *Fisherman's Tax*.—There shall be and is hereby levied a tax of not less than one-fifth of one cent per pound on all fish, crabs and shrimp, whether from private or public waters, taken and sold or offered for sale in this State, and not less than two cents a barrel on all oysters sold or offered for sale in this State, whether from private or public beds, and offered for sale or shipment, and not less than one-half a cent per pound on all turtles, and not less than twenty-five cents on each terrapin offered for sale and shipment. Such tax shall be paid under such rules and regulations as the Game, Fish and Oyster Commissioner shall prescribe. For all purposes mentioned in this title or section, a barrel of oysters shall be deemed and taken to consist of three boxes of oysters in the shell; said boxes to be the following dimensions: ten inches wide by twenty inches long and thirteen and one-half inches in depth. In filling such boxes for measurement, such oysters shall not be placed or deposited in such box in a way that will make them fill the box more than two and one-half inches in the center above the height of the box. Provided, that two gallons of shucked oysters without their shells shall be considered and deemed by this act

as equal to one barrel of oysters in the shell. It is hereby specially provided that the title to the shells, from which oysters are taken shall remain in the State, and the Game, Fish and Oyster Commissioner is directed to handle, control or sell same as he may see fit. Provided, such oyster shells shall not be sold for a lower price than twenty-five cents the cubic yard. All moneys and royalties collected under and by the provisions of this article shall be deposited by the Game, Fish and Oyster Commissioner to the credit of the Fish and Oyster Fund, hereinafter provided for. (Acts 1925, p. 439.)

Art. 938. *Measurement of Oysters.*—Whoever shall use any measurement other than that established in Article 937 for the measurement of oysters in the purchase and sale of oysters, shall be fined not less than ten nor more than twenty-five dollars, and any person who shall fill the measuring box in the buying and selling of oysters higher than two and one-half inches in the center of such box, shall be fined not less than ten nor more than twenty-five dollars. (Acts 1913, p. 275; Acts 2nd C. S., 1919, p. 194.)

Art. 939. *Failure to Pay Tax.*—Any person who shall not pay or who shall refuse to pay the tax imposed on the taking and sale of fish, oysters, turtle, terrapin and shrimp, as imposed in Article 10 of Acts of 1925, page 439, or who shall not pay or shall refuse to pay the taxes established and fixed by the Game, Fish and Oyster Commissioner in Article 10 of said act shall be deemed guilty of a misdemeanor and on conviction shall be fined in a sum not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars, and if such person shall be a licensed fish dealer or fisherman or oysterman, his license as a fish

dealer or fisherman shall be cancelled and not reissued for a period of three years.

Art. 936. *Wholesale Dealers' License.*—Any individual, firm or corporation engaged in, or who may engage in the business as a wholesale dealer in fish and oysters shall secure from the Game, Fish and Oyster Commissioner, or one of his deputies, a license granting such individual, firm or corporation, permission to engage in said occupation for one year. For the purpose of obtaining this license, the applicant desiring same must make written application to the Game, Fish and Oyster Commissioner, or one of his deputies, in which he (the applicant) shall set forth under oath, if required, that he is a citizen of the United States by birth, or not being so, shall state that he has been granted full naturalization papers, and by what court and at what time they were granted. Where a corporation applying for permit to conduct a wholesale business in fish, oysters, or other marine products as mentioned, contains foreigners, it shall conform to the foregoing provision as applied to individual applicants. He shall also agree that because of the privilege which he applied for from the State of Texas, that all products handled by him shall, at all times, be subject to the inspection of the Game, Fish and Oyster Commissioner, or any of his deputies; and in said application he shall authorize said Commissioner or any of his deputies to enter his place of business, or any place where he may have such products stored, and inspect same. He shall agree to keep correct record of all fish, oysters, shrimp and other taxed marine life handled by him under this law, in a book to be furnished by the Game, Fish and Oyster Commissioner; and, further, that failure on his part to keep a correct record shall be grounds for the for-

feiture of his license granted him under the application aforesaid. This application, having been duly executed and delivered to the Game, Fish and Oyster Commissioner, or any of his deputies, together with a fee of ten (\$10) dollars for same, it shall be the duty of the Game, Fish and Oyster Commissioner, or his deputy, to issue to the applicant a license to engage in the business set forth in the application. Said license must be signed by the Game, Fish and Oyster Commissioner, or one of his deputies, stamped with the seal of his office, and state the name of the licensee, place of business and the kind of license applied for, and shall be good for twelve months following the date of issuance. For such license the applicant shall pay one (\$1.00) dollar for each one thousand pounds of fish, shrimp and crabs handled by him, and a tax of one cent per barrel on oysters handled by him, which tax shall be paid monthly, the tax to be paid on the first of each month, which may be due upon said product handled during the preceding month, as shown by the record books, hereinbefore mentioned. And any person, firm or corporation, or association of persons, or any officer, agent or employee of any company, corporation or association of persons who shall engage in the business of a wholesale dealer in fish and oysters, or either, without procuring a license to follow said business, or without paying the tax and fee required by this article, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty (\$50) dollars, nor more than two hundred (\$200) dollars; and each day such business may be engaged in violation of this article, shall constitute a separate offense, and upon conviction of pursuing said occupation without payment of the tax and fee required by law, or for any other violation of the

Game, Fish and Oyster Law, the license of such dealer shall be forfeited. A wholesale dealer, in the meaning and definition of this chapter, is any person, corporation or firm or partnership engaged in the business of buying and selling or handling for shipment, fish, oysters, shrimp, turtle, terrapin, crabs, clams, lobsters or other commercial marine life, in quantities of ten pounds or more to any customer during the same day, or whose daily sales, or whose sales for any one day, amount to more than the aggregate of one hundred pounds of above mentioned marine products.

Art. 4030. *Fish and Oyster Fund*.—All funds collected by the Game, Fish and Oyster Commission from the sale of commercial fishermen's licenses, fish dealers' licenses, taxes on fish, crabs, oysters and shrimp, and all other taxed marine life, and all fines and penalties collected for any infraction of any laws relating to commercial fishermen, shall be placed in the State Treasury to the credit of a fund to be known as "Fish and Oyster Fund," and together with the money now to the credit of this fund is hereby appropriated and shall be used by the Game, Fish and Oyster Commissioner in the enforcement of the Fish and Oyster Laws of this State, and dissemination of useful information pertaining to the economic value of fish and oyster marine life; the making of scientific investigations and surveys of the principal sea food fishes and marine life, for purpose of the better protection and conservation of same; the propagation and distribution of sea food fishes, oysters, and other marine life; the purchase, repair and operation of boats and the employment of deputies to carry out and enforce the provisions of this act. (Acts 1925, p. 446.)

Art. 4031. *Tax Deposit*.—The applicant for any license under this chapter based upon fish and oysters

handled, shall, upon the issuance of such license, deposit with the Commissioner, if required to do so by such officer, an amount of money to be fixed by the Commissioner, in addition to the ten dollars required of him as a wholesale dealer as defined in the preceding article, sufficient to cover the estimated amount of tax that would be due by applicant upon monthly business of applicant, and against which deposit the tax due may be charged by the Commissioner, and said applicant shall make additional deposits in sufficient amounts to at all times maintain a deposit sufficient to cover the estimated tax that may be due by applicant, which additional deposit shall be made upon request of the Commissioner. (Acts 2nd C. S., 1919, p. 197, Civil Code, 1925.)

Art. 4032. *License to Fish.*—Any person who is an American citizen, or an alien who has filed his intention papers and shows his desire to become an American citizen, desiring to fish in the public waters of this State, or fish for oysters, fish, shrimp, turtle, terrapin, clams, crabs or other marine animal life, for the purpose of selling them, shall procure from the Commissioner a license to do so, and such person shall pay the fee of one dollar for such license, which shall be for one year from the date thereof and obligate the holder to observe all the laws of the State enacted to conserve the marine life of such public waters. (Id., p. 200, Civil Code, 1925.)

Art. 934. *License to Fish for Market.*—Whoever fishes in the public waters of this State for oysters, fish, shrimp, turtle, terrapin, crabs, clams or other marine life for market or sells such product of such waters without first procuring a license to do so, as provided by law, shall be fined not less than ten nor more than fifty dollars. (Acts 1895, p. 173; Acts

1897, p. 126; Acts 1913, p. 270; Acts 2nd C. S., 1919, p. 200; Acts 1923, p. 295, P. C., 1925.)

Art. 935. *Refusal to Show License.*—Any person fishing for market or for the sale of marine life and having a license therefor who refuses to show it to the Commissioner, or his deputy, when requested to do so, shall be fined not less than five nor more than twenty-five dollars. (Acts 2nd C. S., 1919, p. 200.)

Art. 940. *Refusing to Pay Tax.*—If any person shall refuse to pay any tax provided in this chapter, on any fish, oysters, shrimp, turtle, terrapin, clam, crabs, or other marine life, which he has sold, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than fifty (\$50) nor more than two hundred (\$200) dollars.

Art. 4033. *Registering Boat.*—Any person who is a citizen of the United States wishing to use a boat in catching or taking fish, green turtle, terrapin or shrimp, or gathering oysters or other marine life for market in public waters of this State, shall apply to the Commissioner for permission to do so. Such applicant shall furnish said officer under oath his name, place of residence, the name and kind of boat to be used by him, together with the number of men to be employed by him. Thereupon the officer shall register such boat, which register number shall be distinctly painted, as the Commissioner may designate, on such boat, for which registration he shall pay said officer one dollar and fifty cents, and said officer shall furnish the applicant with a certificate of such registration, valid for twelve months from date of issuance. (Id., p. 194, Civil Code, 1925.)

Art. 4034. *License for Boat.*—Any captain or master of any boat wishing to engage in the business of catch-

ing or taking any fish, turtle, terrapin, shrimp or oysters or other marine life from the waters of the State for market, shall before engaging in such business, secure from the Commissioner a license for such business by making written application to the Commissioner. Such applicant shall set forth under oath that he is a citizen of the United States and the name, class and register number of his boat. If the application be for a license to use seines and nets, the applicant shall state the number, class and length of the seines and nets to be used by him, and if the application be for a license to gather oysters, he must state the number of tongs to be used by him, and the applicant shall agree that all such products shall at all times be subject to inspection by the Commissioner and that said application shall authorize said Commissioner to enter at any time the boat or any house or place where he may have such products, and shall further agree to pay to the State a special tax provided for in Article 4030. Upon receipt of such duly executed application accompanied by the applicant's registration certificate and one dollar, the Commissioner shall issue to the applicant a license to engage in the business set forth in his application; and the license shall be subject to such limitations and control as prescribed by the law. Said license must state the name of the licensee, name and class of his boat, and the date of issuance. Such license shall be for twelve months, if for fishing for fish, turtle or shrimp; and from September first to April first following the date of license, if for gathering oysters; and from November first to February first, inclusive, if for the purpose of catching terrapin. The license so issued shall be kept on the boat subject to the inspection of the Commissioner, and it shall not be transferable

without the consent of the Commissioner having been first had, which consent or assignment shall be written across the face of said license. If such licensed captain or master shall violate any fish and oyster law of this State, or shall refuse to comply with any provision made in his application for license, the Commissioner is authorized to cancel said license and the boat registration certificate, notice of which shall be given by the Commissioner in writing and delivered to the licensee, and such license to such captain and the registration of such boat shall not be renewed for three years. Any person wishing to engage in the taking or catching of any fish, turtle, terrapin, shrimp, oysters or other marine life, for market, as employee of the owner or as a part of the crew of any registered boat, shall procure from the Commissioner a license to do so; such person, to obtain such license, must make written application to said Commissioner, setting forth under oath that he is a citizen of the United States or must offer proof that he has already filed his proper intention papers as required by the Federal government, and shall thereafter be vigilant in the securing of his final citizenship papers. One license issued to a captain or master of a boat under this article shall authorize such licensee to engage in the taking or catching of the products named herein. (Acts 1923, p. 294, Civil Code, 1925.)

CHAPTER THREE

FISH AND OTHER MARINE LIFE

Art. 4026. *Property of State.*—All fish and other aquatic animal life, contained in the fresh water rivers, creeks and streams and in lakes or sloughs subject to overflow from rivers or other streams within the borders of this State are hereby declared to be the property of the people of this State. All of the public rivers, bayous, lagoons, creeks, lakes, bays and inlets in this State, and all that part of the Gulf of Mexico within the jurisdiction of this State, together with their beds and bottoms, and all of the products thereof, shall continue and remain the property of the State of Texas, except in so far as the State shall permit the use of said waters and bottoms, or permit the taking of the products of such bottoms and waters, and in so far as this use shall relate to or affect the taking and conservation of fish, oysters, shrimp, crabs, clams, turtle, terrapin, mussels, lobsters, and all other kinds and forms of marine life, or relate to sand, gravel, marl, mud shell and all other kinds of shell, the Game, Fish and Oyster Commissioner shall have jurisdiction over and control of, in accordance with and by the authority vested in him by the laws of this State. (Acts 1925, p. 438.)

Art. 4027. *Oyster Beds.*—All oyster beds not designated private shall be public. All natural oyster beds and reefs of this State shall be public. A natural oyster bed shall be declared to exist when as many as five barrels of oysters may be found therein within

twenty-five hundred square feet of any position of said reef or bed; and any lands covered by water containing less oysters than the above amount shall be subject to location at the discretion of the Commissioner, but this shall not apply to a reef or bed that has been exhausted within a period of eight years. (Acts 1919, p. 289.)

Art. 4028. *Riparian Rights Prescribed.*—Whenever any creek, bayou, lake or cove shall be included within the metes and bounds of any original grant or location of land in this State, the lawful occupant of such grant or location shall have the exclusive right to use said creek, lake, bayou or cove for gathering, planting or sowing oysters. The Commissioner may require the owner of oysters claimed to be produced on such lands, when such oysters are offered for sale, to make an affidavit that such oysters were produced on such lands. If said creek, bayou, lake or cove is not so included then the exclusive right of the riparian owner shall, wherever the width of such creek, bayou, lake or cove is two hundred yards or less, extend to the middle thereof, and wherever the width of such waters is more than two hundred yards, extend one hundred yards from shore. The right of the riparian owner for planting oysters along any bay shore in this State shall extend one hundred yards into the bay from high water mark or where the land survey ceases. The riparian owner's right to any natural oyster bed located on such one hundred-yard reservation shall not be exclusive. Acts 1895, p. 70, Civil Code, 1925.)

Art. 4035. *Application for Oyster Bed.*—Any person who is a citizen of the United States or any domestic corporation shall have the right of obtaining a location for planting oysters and making private oyster beds within the public waters of this State, by making

written application to the Commissioner describing the location desired. A fee of twenty dollars cash must accompany such application. (Acts 2nd C. S., 1919, p. 197, Civil Code, 1925.)

Art. 4036. *Examining Location.*—When the application and fee provided for in the preceding article have been received by the Commissioner he shall examine thoroughly the location desired, as soon as practicable, with tongs, dredge or any other efficient means. If the same be not a natural oyster bed or reef, and exempt from location by any article of this chapter, he shall have the location surveyed by a competent surveyor. In making said location, said surveyor shall plant two iron stakes or pipes on the shore line nearest to the proposed location, one at each end of the proposed location, which said stakes or pipes shall be not less than two inches in diameter, and be set at least three feet in the ground. Said stakes or pipes shall be placed with reference to bearing of not less than three natural or permanent objects or landmarks. And the locator shall place and maintain under the direction of the Commissioner a buoy at each corner of his oyster claim farthest from the land. No person shall locate water or ground covered with water for planting oysters along any bay shore in this State nearer than one hundred yards from shore. (Id., p. 197, Civil Code, 1925.)

Art. 4037. *Locator's Certificate.*—The Commissioner shall give the locator a certificate signed and sealed by the Commissioner. Such certificate shall show the date of application, date of survey, number, description of metes and bounds with reference to the points of the compass and natural and artificial objects by which said location can be found and verified. The locator shall, before such certificate is delivered to him, pay the Com-

missioner surveyor's fees and all other expenses connected with establishing such location. If such sums, as costs of the location and establishment of the claim, are less than the twenty dollars paid to the Commissioner, the difference in amount shall be returned to such locator by the Commissioner. If such expenses amount to more than twenty dollars, the deficit shall be paid to the Commissioner by the locator.

At any time not exceeding sixty days after the date of such certificate of location, the locator must file the same with the county clerk of the county in which the location is situated, who shall record the same in a well bound book kept for that purpose, and the original with a certificate of registration shall be returned to the owner or locator; the clerk shall receive for the recording of such certificate the same fee as for recording deeds; the original or certified copies of such certificate shall be admissible in evidence under the same rule governing the admission of deeds or certified copies thereof. (Id., p. 198, Civil Code, 1925.)

Art. 4038. *Rights of Locator.*—Any person who shall be granted a certificate of location as provided for in the preceding article shall be protected in his possession thereof against trespass thereon in like manner as freeholders are protected in their possessions, as long as he maintains all stakes and buoys in their original and correct position, and complies with all laws, rules and regulations governing the fish and oyster industries. (Id., p. 198, Civil Code, 1925.)

Art. 4039. *Limiting Location.*—No person, firm or corporation shall ever own, lease or otherwise control more than one hundred acres of land covered by water, the same being oyster locations under this chapter, and within the public waters of this State; and any person, firm or corporation that now holds more than one

hundred acres of oyster locations, shall not be permitted hereafter to acquire, lease or otherwise control more; provided, that no corporation shall lease or control any such lands covered by water unless such corporation shall be duly incorporated under the laws of this State. (Id., p. 198, Civil Code, 1925.)

Art. 4040. *To Maintain Markings.*—Any person, firm or corporation who has secured, or may hereafter secure a location for a private oyster bed in this State, shall keep the two iron stakes or pipes and buoys as provided for by law, in place, and shall preserve the marks so long as he is the lessee of said location, and this shall apply also to any person, firm or corporation acquiring any location by purchase or transfer of any nature, and said locator or the assignee of any locator shall have the right to fence said location or any part thereof; provided, that said fence does not obstruct navigation through or into a regular channel or cut leading to other public waters. (Id., p. 198, Civil Code, 1925.)

Art. 4041. *Rental on Location.*—The owner or locator of private oyster beds under the foregoing provisions shall not be required to pay any rentals on such locations for a period of five years, or till such time as he shall begin to market or sell oysters from such location or bed. When such locator shall begin to sell or market oysters from such location, he shall pay the State one dollar and fifty cents per acre per annum and two cents a barrel on oyster sales. Failure to pay such rental by the first day of March of each year shall annul and be a forfeiture of his lease. And if oysters are not marketed or sold from such location within five years from the date of location, such location shall become void. (Id., p. 199, Civil Code, 1925.)

Art. 4042. *Oyster Permit.*—Any person who is a citi-

zen of the State of Texas, or any corporation chartered by the State to engage in the culture of oysters or transact business in the purchase and sale of oysters and fish and composed of American citizens, wishing to plant oysters on their own oyster locations or to take oysters from oyster reefs and public waters of the State for the purpose of preparing them for market, shall make application to the Commissioner for permission to do the same. In such application the applicant shall set out distinctly the purpose for which he desires such oysters and also the number or amount that he desires to take from the beds and waters mentioned. The Commissioner may grant such permit or he may refuse to do so. If he should grant such permit, he shall require the applicant to take the oysters he is authorized to take from beds or reefs designated by such Commissioner and name them in the permit, and it shall be unlawful for any person to take oysters of less size than three and one-half inches from hinge to mouth from any such designated beds or reefs unless authorized to do so by the Commissioner; he shall mark off the exact area of such beds or reefs from which such oysters shall be taken; he shall designate the bottoms on which such oysters shall be deposited, if they are taken to be prepared for market; he shall require the applicant to cull the oysters on the grounds where they are to be located; he shall state what implements such as tongs and dredges shall be used in taking such oysters, and he shall make and enforce all other regulations he may think necessary to protect and conserve the oysters on such public reefs or beds. All oysters taken from or deposited in the public waters of this State as herein provided shall become the personal property of the person or corporation so taking or depositing them. Such person or corporation

shall, by buoys or stakes or by fences, clearly and distinctly mark the boundaries of the private bed planted, or the boundaries of the deposit of oysters made for preparation for market; and no prosecution of anyone shall be permitted for taking such oysters unless the boundaries of such beds and deposits are established and maintained. (Id., p. 199, Civil Code, 1925.)

Art. 961. *Right to Private Oyster Bed.*—When any creek, bayou, lake or cove shall be included within the metes and bounds of any original grant or location of land in this State, the lawful occupant of such grant or location shall have the exclusive right to use said creek, lake, bayou or cove for gathering, planting, or sowing oysters within the metes and bounds of the official grant or patent. The Commissioner may require the owner of oysters produced in said water when offered for sale, to make an affidavit that such oysters were so produced. The failure of the person claiming that such oysters were produced on his private oyster bed or bottoms, to have and to show such affidavit to the Commissioner or one of his deputies, or to whoever he offers such oysters for sale, shall be presumptive that such oysters were taken from a public bed, and on prosecution for the same it shall devolve on the defendant to show that such oysters were taken from his private bed, or bottom of oysters. (Acts 2nd C. S., 1919, p. 193.)

Art. 962. *Theft of Oysters.*—Whoever fraudulently takes the oysters placed on private reefs without the consent of the owner of the private reef or from beds or deposits made for the purpose of preparing oysters for market without the consent of the owner of the oysters who has deposited them to prepare them for market under the provisions of law, shall be confined

in the penitentiary not less than one or more than two years. (Acts 2nd C. S., 1919, p. 200.)

Art. 963. *License to Dredge Oysters.*—Anyone who is an American citizen or any firm or any corporation composed of such citizens desiring to use scrapers or dredges in removing oysters from the natural oyster reefs of this State shall procure from the Commissioner or his deputy a license to do so. It is unlawful to use a dredge or any means other than hand tongs in removing oysters from such reefs in bodies of water less than four feet deep, and it is unlawful to use a power dredge except one operated by hand power for removing oysters from such reefs in bodies of water less than six feet deep. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars. (Acts 1891, p. 157; Acts 1913, p. 269; Acts 2nd C. S., 1919, p. 207; Acts 1923, p. 298.)

Art. 964. *Oysters from Closed Reef.*—Whenever the Commissioner believes that any public reef is being overworked or damaged in any way, or where such reef has been worked under his supervision, he may close such reef against anyone taking oysters from it, but before he closes it, he shall give two weeks' notice of such closing by posting notices in such fish houses as are in two towns nearest such reef. In such notices he shall state the date of closing and the time for which such reef shall be closed. Whoever takes oysters from such reef within the time closed by the Commissioner shall be fined not less than twenty-five nor more than two hundred dollars. (Acts 1913, p. 274; Acts 2nd C. S., 1919, p. 207.)

Art. 965. *Oysters from Insanitary Reef.*—It shall be unlawful to ship, sell or possess for the purpose of

sale any fish or oysters taken from insanitary or polluted reefs or beds. Any reef or bed of oysters which has been declared by the State Health Department as insanitary or polluted is, within the meaning of this article, insanitary and polluted. Whoever sells or has in his possession for the purpose of sale fish or oysters taken from such insanitary or polluted reef or bed shall be fined not less than twenty-five nor more than two hundred dollars. (Acts 2nd C. S., 1919, p. 209.)

Art. 966. *Taking Oysters in Closed Season.*—Whoever shall take or catch oysters from any public beds or reefs for sale or for market from the first day of April to the first day of September, shall be fined not less than ten nor more than two hundred dollars. Each day is a separate offense. That part of the Laguna Madre which is south and west of Baffin's Bay is exempt from the operation of this article. (Acts 2nd C. S., 1919, p. 206.)

Art. 967. *Buying or Planting Oysters in Closed Season.*—Whoever plants or buys oysters for planting, bedding, marketing or any other purpose from the first day of May to the first day of September in any year without the consent of the Commissioner shall be fined not less than ten nor more than one hundred dollars. (Acts 1891, p. 155; Acts 1913, p. 269.)

Art. 968. *Shipping Oysters in Closed Season.*—No transportation company operating within this State, its officers, agent or employees, shall receive for shipment, or ship, within the boundaries of this State, from the first day of May to the first day of September of any year, any oysters from any public bed or reef for depositing or for marketing; provided, that nothing in this chapter shall be construed to prohibit

any such transportation company, its officers, agents or employees, from shipping or receiving for shipment, any oysters taken from a private bed located under the laws of this State, offered for shipment by the owner or owners, locator or locators, of such bed, such fact to be established by the affidavit of the person or persons offering such oysters for shipment. Any officer, agent or employee of such transportation company violating any provision of this article shall be fined for each offense not less than ten nor more than one hundred dollars. (Acts 1907, p. 238; Acts 1913, p. 269; Acts 2nd C. S., 1919, p. 203.)

Art. 969. *Scattering Oyster Culls.*—It shall be unlawful for any person to fail, or refuse to scatter the culls of such oysters as he may take from the oyster reefs as directed by the Game, Fish and Oyster Commissioner, and it is hereby declared to be unlawful for any person to open or shuck oysters for market near or on the reefs or beds from which such oysters were taken, or to open or shuck oysters for market on any fishing vessel or barge, except when such vessel or barge be in some part or place where oysters are commonly sold. The shell from oysters opened or shucked on board any vessel or barge must be deposited on shore as directed by the Game, Fish and Oyster Commissioner. Anyone violating any of the provisions of this article shall be fined in a sum not less than twenty-five (\$25) dollars, nor more than one hundred (\$100) dollars; and on such conviction the Game, Fish and Oyster Commissioner in his discretion may cancel the license of the captain of the boat on which such person is employed or for which he is gathering oysters, as well as cancel the license to fish and gather oysters for such persons offending, and no new

license shall be issued to such captain or to such person convicted for a period not to exceed two years.

Art. 970. *Sale of Oysters Taken for Planting.*—No person gathering oysters for planting or depositing for preparations for market, on locations obtained from the State or on private property, shall sell, market or in any way dispose of oysters so gathered at the time of gathering, for any other purpose than planting or preparing for market, provided this shall not be considered as meaning the right to dispose of a location or oyster bed. Any person offending against this article shall be fined not less than fifty nor more than two hundred dollars. (Acts 2nd C. S., 1919, p. 206.)

Art. 971. *Cargo of Young Oysters.*—Any person offering for sale, or who shall sell any cargo of oysters which shall contain more than five per cent young oysters shall be fined not less than ten nor more than two hundred dollars. Any oyster that measures less than three and one-half inches from hinge to mouth shall be deemed a young oyster for the purpose of this chapter. The Commissioner is authorized to permit the taking of oysters of less size than three and one-half inches from any reef he may designate, but it shall be unlawful to take any oysters from reefs other than those designated by such Commissioner, and anyone taking such oysters smaller in measurement than three and one-half inches from hinge to mouth from other than such reefs as designated by such Commissioner shall be fined not less than twenty-five nor more than two hundred dollars.

Art. 972. *Using Insanitary Container.*—Any receptacle for oysters which has not been thoroughly cleaned before oysters are placed in it, is hereby declared to be insanitary. Whoever sells oysters from such recep-

tacle, or ships oysters in such receptacle shall be fined not less than twenty-five nor more than one hundred dollars. (Acts 2nd C. S., 1919, p. 209.)

Art. 973. *Floating or Bloating Oysters.*—No person, firm or corporation shall ship into or in this State, sell or have in his possession for the purpose of sale, any oyster or shell fish in which any formaldehyde or other preservative has been placed, or any oysters or other shell fish which have been subjected to “floating,” “drinking,” or “bloating” in water containing less salt than in which they are grown, or oysters or other shell fish to which water has been added, either directly or indirectly, or in the form of melted ice. Unpolluted salt cold or ice water may be used in washing shucked or shelled oysters or other shell fish, if the washing does not continue any longer than the minimum time necessary for chilling, and whoever engages in “floating,” “drinking” or “bloating” oysters in this State, or who ships into or in this State such oysters, or who has in his possession, sells or offers to sell any such oysters, shall be fined not less than twenty nor more than two hundred dollars.

Art. 957. *Season for Salt Water Terrapin.*—Whoever kills, takes or has in his possession any salt water terrapin at any time except during November, December, January and February shall be fined not less than fifty nor more than one hundred dollars. (Acts 2nd C. S., 1919, p. 208.)

Art. 958. *Underweight Turtle or Terrapin.*—Whoever sells or ships any green turtle of less than twelve pounds in weight or terrapin of less than six inches in length of under shell shall be fined not less than ten nor more than two hundred dollars. (Acts 1895, p. 173; Acts 1913, p. 270.)

Art. 959. *Buoy or Marker*.—Whoever shall deface, injure, or destroy or remove any buoy, marker or fence or any part thereof, used to designate or enclose a private oyster bed or a location where oysters have been deposited to be prepared for market, without the consent of the owner thereof, or any buoy, marker or sign placed or used by the Commissioner for the purpose of designating any waters closed against fishing or oyster taking, without the consent of said Commissioner, shall be fined not less than fifty nor more than two hundred dollars. (Acts 2nd C. S., 1919, p. 200.)

Art. 960. *Public or Private Oyster Bed*.—All oyster beds shall be public or private; all not designated private shall be public. All natural oyster beds and oyster reefs of this State shall be deemed public, and a natural oyster bed shall be declared to exist when as many as five barrels of oysters may be found within twenty-five hundred square feet of any position or said reef or bed, and any lands covered by water containing less oysters than the above amount shall be subject to location at the discretion of the Commissioner, but this shall not apply to a reef or bed that has been exhausted within a period of eight years. (Acts 2nd C. S., 1919, p. 193.)

Art. 974. *"Net" Defined*.—Whenever a net mentioned in this chapter as a trammel, strike, gill, hoop, pound, purse or other kind of a net, the standard net of such variety or kind or the usual or ordinary kind of such net as manufactured and sold as in or to the trade is meant. (Id.; Acts 1923, p. 299.)

Art. 4056. *License for Mussels, Etc*.—It shall be unlawful for any person, firm or corporation to take from the public waters of the State for sale any mus-

sels, clams, or naiad or shells thereof without first obtaining a license from the Commissioner to do so. Said license shall expire one year from the date of issuance, and shall be in such form as prescribed by the Commissioner, but shall state the water in which the licensee may operate. The applicant shall pay to the Commissioner, as a license fee the sum of ten dollars and in addition thereto the sum of twenty-five dollars for permission to use a dredge. (Acts 2nd C. S., 1919, p. 214.)

Art. 975. *License for Mussel or Clam.*—Whoever takes from the public waters of this State for sale, any mussels, clams or naiad or shells thereof without first obtaining a license from the Commissioner, shall be fined not less than ten nor more than one hundred dollars. (Acts 2nd C. S., 1919, p. 214.)

Art. 956. *Mischief in Prohibited Waters.*—Whoever shall wilfully and with intent to injure the owner, take any boat, seine or net or other device for fishing into prohibited waters, or shall use said articles for the unlawful taking or catching of fish, so as to cause the destruction of same, shall be fined not less than ten nor more than two hundred dollars, and be confined in jail not less than thirty nor more than ninety days. (Acts 1913, p. 275.)

Art. 941. *Using Seines or Gigs.*—It shall be unlawful for any person at any time to place, to set, or drag, any seine or net, or use any other device or method for taking fish other than the ordinary pole and line or cast net, or minnow seine of not more than twenty feet in length for catching bait within the waters of Agua Dulce Creek, Oso Creek, Shamrock Cove, Nueces Bay, Ingleside Cove, Red Fish Cove, Shoal Bay, Mud Flats, Shallow Bay, all of Aransas

Bay between Port Aransas and Corpus Christi Bayou and lying between Harbor Island and Mud Island, Copano Bay, Mission Bay, in Refugio County, Puerto Bay, St. Charles Bay, Hynes Bay, Contec Lake, Powderhorn Lake, Oyster Lake, the waters of the Gulf shore line one-fourth mile from mean low tide from the south end of Padre Island to a point on Mustang Island two miles north of Corpus Christi Pass, Offats Bayou in Galveston County from its head to its mouth, Sabine Pass, leading from Sabine Lake to the Gulf of Mexico, San Luis Pass, leading from Galveston West Bay to the Gulf of Mexico, Turtle Bay, Lost Lake or Old River Lake in Chambers County, as shown by the government charts, Brown's Cedar Pass, Mitchell's Cut, Pass Cavallo, leading from Matagorda Bay to the Gulf of Mexico; Cedar Bayou, leading from Mesquite Bay to the Gulf of Mexico; North Pass or St. Jo Pass; Aransas Pass, leading from Aransas Bay to the Gulf of Mexico; Corpus Christi Pass, leading from Corpus Christi Bay to the Gulf of Mexico; Brazos Santiago Pass, leading from the Lower Laguna Madre to the Gulf of Mexico or the pass on the north of Laguna Madre, leading into Corpus Christi Bay, which pass shall be defined as beginning one-fourth of a mile southwest of Peat Island and running from said point to Flour Bluff, all of said waters being situated in Nueces County, and all other passes connecting the bays and tidal waters of this State with the Gulf of Mexico, or within one mile of such passes, or within the waters of any pass, stream, or canal, leading from one body of Texas bay or coastal waters into another body of such waters; provided that nothing in this article shall prevent the use of spear or gig and light for the purpose of securing flounders from such passes, at any time of the year except the

months of November and December, which months shall constitute a closed season on flounders in all coastal waters of the State, and it shall be unlawful to possess or to take any flounder from the tidal waters of this State during the months of November and December of any year. And the Game, Fish and Oyster Commissioner, whenever he has reason to believe it is best for the protection and conservation and increase of fish life, or to prevent their destruction in the bays or parts thereof, or such tidal waters, he is hereby authorized to close such waters against fishing with any seine, net, spear, gig, light or other devices, except with hook and line or cast net or minnow seine of not more than twenty feet in length; but before closing bays or parts thereof, or of other tidal waters, against such seining or netting or the using of gigs, spears, and lights, the Game, Fish and Oyster Commissioner shall give notice of a public hearing, and shall hold a public hearing in the port nearest the waters proposed to be closed and shall give notice of his intentions to close such bays or parts thereof of such tidal waters at least two weeks prior to such closing, giving the reason why such action is deemed necessary, and which notice shall contain a designation of the area which it is proposed to close, a statement that after the date indicated in such notice it shall be unlawful to drag a seine or net or use a gig or spear and light in taking fish from such bayou or parts of such tidal waters for the period of time which the Commissioner in said notice shall declare same to be closed; and such notice shall be posted in such fish houses as are in two towns nearest waters to be closed, and such notice shall contain the information as to where and when the public hearing is to be held, and provided, further, that the Game, Fish and Oyster

Commissioner shall have the authority, when proper hearing has been had, and investigation been made, and he has determined that any such closed area in the tidal waters of this State does not promote conservation of fish, to open such areas to seining, netting, gigging and fishing of all sorts. For the purpose of locating all closed waters mentioned in this chapter, it shall be the duty of the Game, Fish and Oyster Commissioner to have erected suitable stakes, monuments or markers at points determined by him as being the outermost boundaries of such closed waters, such stakes or markers to bear the words "Warning—Closed Waters." Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on first conviction, shall be fined not less than fifty (\$50) dollars nor more than two hundred (\$200) dollars, and shall have his license revoked for a period of time not exceeding two years; and on second conviction shall be confined in the county jail for not less than thirty nor more than ninety days; and shall have his license revoked for a period of not less than two years; provided, further, that the Game, Fish and Oyster Commissioner or his deputy shall have power to seize and keep such seines, or other tackle in his possession as evidence until trial of defendant, and no suit shall be maintained against him therefor.

Art. 942. *Unlawful Possession of Seine.*—Whoever shall carry on, or over, or into the waters of any pass leading from the inland bays or tidal waters of this State to the Gulf of Mexico any seine or net except a cast net used for catching bait, or minnow net not exceeding twenty feet in length, or shall carry by vehicle or in any other way, any seine or net except a cast net used for catching bait or a minnow seine not

exceeding twenty feet in length to any point or place within one mile of such pass or shall have in his possession within one mile of any such pass any net or seine except a cast net for catching bait, or a minnow seine not exceeding twenty feet in length, shall be fined not less than twenty-five nor more than two hundred dollars, and be confined in the county jail not less than thirty nor more than ninety days. Nothing in this law shall apply to the carrying of nets or seines over closed waters within one mile of any town. (Acts 2nd C. S., 1919, p. 205; Acts 1923, p. 298, P. C., 1925.)

Art. 943. *Exceptions.*—Nothing in the foregoing article shall apply to vessels engaged in carrying freight or passengers, and engaged as sea-going vessels in coast and foreign trade, and licensed and recognised as such by the Federal government; provided, further, that the Game, Fish and Oyster Commissioner may grant permits to persons desiring to fish, to carry their boats, nets and seine, and vehicles into, over and on such passes or closed waters or on land to within the mile limits of such passes, and such permits shall state at what time such boats, vehicles, nets and seines shall be taken away from such mile limit and such passes.

Art. 944. *Proof of Possession.*—In all prosecutions under Articles 941 and 942 the identification of the boat or vehicle or the seine or net by which or from which the violation of the law occurred, shall be prima facie evidence against the owner or party last in charge of such boat or against the owner of the vehicle or seines or net. (Id., P. C., 1925.)

Art. 945. *Seining in Salt Water.*—The mesh of all seines and nets used for taking fish in salt waters of this State, not including the bag, shall not

be less than one and one-half inch square mesh. The mesh of the bags and for fifty feet on each side of the bags shall not be larger than a one-inch square mesh. No seine or net of any kind of over two thousand feet shall be dragged or pulled in the salt water of this State, and any person dragging such seine, or dragging two or more seines which are connected or tied together with a combined length of more than two thousand feet, shall be upon first conviction thereof fined not less than twenty nor more than one hundred dollars; upon second conviction thereof shall be fined not less than fifty nor more than two hundred dollars, and shall have his license revoked for a period of not less than thirty nor more than ninety days; and upon third conviction thereof shall be confined in jail for not less than thirty nor more than ninety days, and shall have his license revoked for a period of not less than one year. (Acts 2nd C. S., 1919, p. 201, P. C., 1925.)

Art. 946. *To Tag Seines and Nets.*—All seines and nets used in the salt waters of this State shall be examined by the Commissioner or one of his deputies to see if they conform to the requirements of this law as to length and size of mesh, and if they are found to conform to such requirements, the Commissioner shall tag such seines or nets with a metal tag on which shall be indented the number of such seine and net; the cost of such tag to be paid by the owner of such seines or net. The Commissioner shall then issue to the owner of it a permit to use such seine or net for one year from the date of such permit; such permit shall state the name of the owner of such net, the date on which it was issued, the size of the mesh and the length and kind of such net. It shall be the duty of the owner of the seine or net to keep the tag attached to such seine or net, and where a seine or net is used without such

tag being attached, it shall be a prima facie evidence that such seine or net is an unlawful seine or net; and any person who shall drag, haul or set any seine or net in the salt waters of this State without first having such seine or net examined by the Commissioner, or his deputy, and tagged, or who shall fail to have a permit therefor issued by said Commissioner or his deputy, or shall not keep such tag attached to such seine or net or attached to its floats, as prescribed in this article shall be fined not less than twenty nor more than two hundred dollars. (Id., Acts 1923, p. 296, P. C., 1925.)

Art. 4044. *Permit to Use Seine.*—All seines and nets used in the salt waters of this State shall be examined by the Commissioner to see that they conform to the requirements of Title 13, Chapter 6, of the Penal Code as to length and size of mesh. If they are found to conform to such requirements, the Commissioner shall tag such seines or nets with a metal tag, on which shall be indented the number of such seine and net, and it shall be the duty of the owner of such seine or net to keep the tag attached thereto; the cost of such tag, twenty-five cents, to be paid by the owner of such seine or net. The Commissioner shall then issue to the owner a permit to use such seine or net for one year from the date of such permit. And such permit shall state the name of the owner of such net, the date on which it was issued, the size of the mesh and the length and kind of such net. The Commissioner shall keep a record book in which the date of issuance of such permit, the name of the owner, the number of the tag, the size of the mesh and the length of such seine or net shall be kept. The Commissioner shall have power to seize and keep in his possession all seines which do not conform to the re-

quirements of such article as evidence until trial of defendant, and no suit shall be maintained against him therefor. (Acts 1923, p. 296.)

Art. 947. *Seining Within One Mile from City.*—It shall be unlawful for any person to catch or attempt to catch any fish, green turtle, loggerhead, terrapin or shrimp in any of the bays or navigable waters of this State, within the limits or within one mile of the limits of any city or town in this State, with seines, drags, fykes, set nets, trammel nets, traps, dams or weirs. A town or city in the meaning of this article shall be the collection of one hundred families within an area of one square mile. Anyone violating any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars. In all prosecutions the identification of the boat from which such violation occurs shall be the prima facie evidence against the owner, lessee, person in charge or master of such boat. It shall be the duty of such town to establish and maintain the buoys, stakes or other marks designating the limits of the one mile within which such seines shall be hauled and such nets set. (Acts 1897, p. 269; Acts 2nd C. S., 1919, p. 201, P. C., 1925.)

Art. 4046. *Seining for Drum.*—Any person leasing an oyster claim or oyster reef in waters where seining is prohibited may apply to the Commissioner for permission to seine for drum fish in such waters. In his application for permission to seine for drum he shall make oath that such fish are seriously damaging his oysters, and that if he is permitted to seine for such fish in such waters, he will not take or destroy any other food fish, but will throw them back into the water. If the Commissioner is satisfied that such damage is being done, he may grant such permission, specifying in such permit the length of time in which it is

to be used, and the claim or reef on which it is to be used. Such Commissioner shall assign a deputy fish and oyster commissioner to superintend such seining, and no seine shall be dragged except in his presence, and for which a person obtaining the permission to seine as set forth above, shall pay to the Commissioner two dollars and fifty cents per day. (Id., p. 202, Civil Code, 1925.)

Art. 950. *Net for Shrimp.*—The Commissioner is hereby authorized to permit the use of any shrimp seine or other device for catching shrimp in the tidal waters of this State. Any person desiring to use such seine shall apply to the Commissioner or his deputy for a permit to use such seine, net or other contrivance for catching shrimp, and such Commissioner or his deputy shall fix and establish the mesh, construction, depth and length of such seine or net or other contrivance so that it shall not be used for other purposes than in taking shrimp, and he shall tag such seine officially and issue such permit and shall state in what waters and localities such seines or nets shall be used. Any person using such shrimp seine or other contrivance for catching shrimp in the tidal waters of this State without the permit herein provided for, or who shall use any seine or contrivance or net in any waters or locality other than that stated in such permit, shall be fined not less than twenty-five nor more than two hundred dollars. (Acts 2nd C. S., 1919, p. 205, P. C., 1925.)

Art. 949. *Seiners Shall Return Small Fish.*—Any person dragging a seine or engaging in taking fish in a set net shall return to the water all fish under and above size according to the measure or weight established in this chapter, and all other fish except sharks, gars, rays, turtle and terrapin, sawfish and

catfish, except the gulf-topsail cat, which may be retained, and any person not returning such fish to the water as required by this article shall be fined not less than fifty nor more than one hundred dollars. (Acts 2nd C. S., 1919, p. 211, P. C., 1925.)

Art. 963. *License to Dredge Oysters.*—Anyone who is an American citizen or any firm or any corporation composed of such citizens desiring to use scrapers or dredges in removing oysters from the natural oyster reefs of this State shall procure from the Commissioner or his deputy a license to do so. It is unlawful to use a dredge or any means other than hand tongs in removing oysters from such reefs in bodies of water less than four feet deep, and it is unlawful to use a power dredge except one operated by hand power for removing oysters from such reefs in bodies of water less than six feet deep. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars. (Acts 1891, p. 157; Acts 1913, p. 269; Acts 2nd C. S., 1919, p. 207; Acts 1923, p. 298, P. C., 1925.)

Art. 4048. *Dredging Reefs or Beds.*—Any person who is an American citizen or any firm or corporation composed of American citizens desiring to use scrapers or dredges in removing oysters from the natural oyster reefs of this State shall procure from the Commissioner a license to do so, and such applicant shall pay to the Commissioner a license fee of five dollars when using scrapers or hand dredges, and fifteen dollars when using power dredges, which license shall be for one year from the date of issuance thereof, and shall obligate the holders to observe all the laws of the State enacted to conserve the marine life of such public waters. Whenever the Commissioner believes that a natural oyster reef or bed is too open and exposed to

be fished with hand tongs, and that such reef or bed can be improved by the use of dredges, he may grant the use of dredges on such reef or bed regardless of the depth of the body of water or exposure thereof, but only under the supervision and direction of a deputy fish and oyster commissioner; and the Commissioner is authorized to purchase boats and implements and employ labor to work such public oyster reefs and beds as he may think can be improved thereby, the expense of which shall be paid on warrants issued by the Comptroller on the sworn statement as to the correctness of such expense by the Commissioner. (Acts 1923, p. 298.)

Art. 4049. *Protection of Reservation.*—It shall be unlawful to bring into or keep on any fish hatchery or reservation for the propagation or exhibition of any birds, fowls or animals, any cat, dog or other predacious animal, and any such animal found on the grounds of such hatcheries or reservation is held to be a nuisance, and the deputy in charge shall abate and destroy it as a nuisance, and no suit for damages shall be maintained therefor. (Acts 2nd C. S., 1919, p. 209.)

Art. 978a. *Trespass on Hatchery or Reservation.*—Any person entering and trespassing on the grounds of any State fish hatchery or on the grounds set apart by the State for the propagation and keeping of birds and animals, without the permission of the Commissioner or deputy in charge of such reservation, shall be fined not less than ten nor more than twenty-five dollars. (Acts 2nd C. S., 1919, p. 208.)

Art 978b. *Protecting Fish and Game in Hatchery.*—Whoever shall take, injure or kill any fish kept by the State in its hatcheries, or any bird or animal kept by the State on its reservation grounds or elsewhere

for propagation or exhibition purposes, shall be fined not less than fifty nor more than two hundred dollars.

Art. 924. *Explosives and Poisons.*—The catching, taking or the attempt to catch or take any fish, green turtle or terrapin in any of the salt or fresh waters, lakes or streams in the State by poison, lime, dynamite, nitroglycerine, giant powder or other explosive, or by the use of drugs, substances, or things deleterious to fish life, is hereby prohibited; and any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five (\$25) dollars nor more than two hundred (\$200) dollars, and by confinement in the county jail not less than thirty nor more than ninety days.

Art. 925. *Taking Fish Without Consent of Owner.*—Whoever shall take, catch, ensnare or trap any fish by means of nets or seines or by poisoning, polluting, or by use of any explosive, or by muddying, ditching or draining in any lake, pool or pond in any county in this State without the consent of the owner of such lake, pool or pond, shall be fined not less than ten nor more than one hundred dollars. In prosecutions hereunder the burden to prove such consent shall be upon the defendant. (Id., P. C., 1925.)

Art. 926. *Fresh Water Streams Defined.*—For the purpose of establishing the dividing line between the salt and fresh waters of this State, in so far as it pertains to the fishing laws, all fresh water rivers and streams in this State, and all lakes, lagoons and bodies of rivers, except tidal bays or coastal waters, such as bays and gulfs, shall be and are hereby declared to be fresh water streams and rivers to their

mouths, and it shall be unlawful to set nets or drag-seines or fish in other ways in such streams, rivers and their connecting lakes, lagoons, and bodies of water mentioned, except in conformity with the laws enacted to govern, apply and control in fresh water fishing.

Art. 951. *March and April Closed to Seines and Artificial Bait.*—It shall be unlawful for any person to catch any fish in the fresh waters of this State with any seine or net other than minnow seine not exceeding ing twenty feet in length, or to drag any seine, except such specified minnow seine, or to set any net, in the fresh waters of this State during the months of March and April, or to fish with any artificial bait of any kind in the fresh waters of this State during the months of March and April. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be, upon conviction, fined a sum of not less than twenty (\$20) dollars nor more than one hundred (\$100) dollars.

Provided, this article shall not apply to any artificial lake, pond or pool, owned by any person, firm, corporation, city or town, that does not have as its source of water supply a river or creek or is not subject to overflow from a river or creek.

Art. 4029. *Private Fresh Waters.*—Such of the fresh water lakes, rivers, creeks and bayous within this State as may be embraced in any survey of private land shall not be sold, but shall remain open to the public. If the Commissioner stocks them with fish he is authorized to protect same for such time and under such rules as he may prescribe. (Acts 2nd C. S., 1919, p. 216.)

Art. 948. *Metallic Seines.*—It shall be unlawful for any person to set or drag in any of the fresh

waters of this State any net or seine made of wire or other metallic substance.

It shall be unlawful for any person to take or catch or attempt to take or catch fish in the fresh waters, rivers, creeks, lakes, bayous, lagoons, or in lakes or sloughs, subject to overflow from rivers or streams in this State, by any other means other than by the ordinary hook and line or trotline, or by a set or drag net or seine or trammel net, the meshes of which are three or more inches square, or by a minnow seine, not more than twenty feet in length, and it shall be unlawful for any person to place in the fresh water rivers, creeks, lakes, bayous, lagoons of this State any net or other device or trap for taking or catching fish other than as designated and permitted by this article.

Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than twenty-five (\$25) dollars, nor more than one hundred (\$100) dollars.

Any fish trap, net or seine or other seine or other fishing device found in the waters of this State, in violation of this article are hereby declared to be a nuisance, and it shall be the duty of the Game, Fish and Oyster Commissioner and his deputies to destroy same whenever found, and no suit shall be maintained against them therefor.

Provided, that the Game, Fish and Oyster Commissioner is authorized to close any of the waters mentioned in this article against the use of nets or seines or any particular kind of such nets and seines, whenever he thinks that such closing is necessary or best to protect and conserve the fish in such waters. But before closing such waters against the use of seines or

nets or any particular kind of seine or net, he shall give notice by posting his intentions for two weeks at not less than three stores or other places in proximity to such waters.

Any person who shall fish with a net or seine in such closed waters or shall use such particular kind of net or seine, as forbidden in such waters, after the notice given as above required, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum of not less than twenty-five (\$25) dollars and not more than one hundred (\$100) dollars.

Art. 927. *Fishing in Fresh Waters.*—Except the ordinary hook and line or trot line, or a set or drag net or seine, the meshes of which shall be three or more inches square, or a minnow seine not more than twenty feet long used for catching bait, no person shall place in any fresh water river, creek, lake, bayou, pool, lagoon or tank, in this State, any net, trap or other device for catching fish, or take or catch any fish from said waters with any net, seine, device, or hook and line or trot line, other than as permitted herein. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than one hundred dollars. (Acts 1913, p. 274; Acts 1917, p. 410; Acts 2nd C. S., 1919, p. 210.)

Art. 928. *Fishing in Closed Fresh Waters.*—The Commissioner is authorized to close any fresh water river, creek, lake, pool, bayou, lagoon or tank in this State, against the use of nets or seines or any particular kind of such nets and seines whenever he thinks that such closing is necessary or best to protect and conserve the fish in such waters. Before closing such waters against the use of seines or nets or any particular kind of seine or net, he shall give notice by posting his intentions for two weeks, at not less than

three stores or other places in proximity to such waters. Whoever shall fish with a net or seine in such closed waters, or who shall use such particular kind of net or seine as forbidden in such waters after the notice given as above required, shall be fined not less than twenty-five nor more than one hundred dollars. (Acts 2nd C. S., 1919, p. 210.)

Art. 929. *Oversize and Undersize Fish for Sale.*—It shall be unlawful for any person to sell, or offer for sale, or to have in his possession, or to have on board any boat or to have in any mercantile business establishment, or in any market where merchandise is disposed of, any redfish, or channel bass of greater length than thirty-two inches, or less than fourteen inches; any salt water or speckled sea trout of less length than twelve inches; any sheephead of less than nine inches in length; any flounder of less than twelve inches in length; any pompano of less than nine inches in length; any mackerel of less than fourteen inches in length, and any salt water gaff-topsail of less than eleven inches in length.

The place of sale or offering for sale or possession shall, for the purpose of this chapter to establish venue, be either the place from which such fish are shipped, or where the fish are found, or offered for sale. It shall be unlawful in selling or offering for sale any fish mentioned in this article to sever the head from the body, except in case of the redfish and catfish in which case the head shall only be severed through the gill-cavity and the gill-fins shall remain on the body of such redfish or catfish. Such headless body of a redfish shall not measure more than twenty-seven inches in length, and such headless body of a catfish shall not measure less than eight inches in length; and all fish marketed or sold as mentioned in this article, must be

weighed and sold with the head attached, except red-fish and catfish as mentioned herein.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not less than ten (\$10) dollars nor more than fifty (\$50) dollars.

Art. 930. *Venue for Under or Oversize Fish.*—A prosecution for a sale of fish of unlawful size may be begun and carried on either in the county where such fish were shipped or in the county where they were received or offered for sale, or in any county through which such shipments may pass. (Acts 2nd C. S., 1919, p. 211.)

Art. 931. *Undersize Bass, Etc.*—Whoever shall take or catch from the fresh waters of this State, or have in his possession any bass of less length than eleven inches or any white perch or crappie of less length than seven inches shall be fined not less than ten nor more than one hundred dollars.

Art. 932. *Injuring Small Fish.*—Whoever at any time shall catch or take from any fresh water river, lake, bayou, creek, pond or other natural or other artificial stream or pond of water by use of any means whatever any crappie or bass of less length than he is permitted to catch or take from such water, shall immediately return the fish back into such water; and unnecessary injuring of such fish shall be an offense under this article. Whoever violates any provision hereof shall be fined not exceeding one hundred dollars. (Acts 3rd C. S., 1917, p. 69; Acts 4th C. S., 1918, p. 188.)

Art. 933. *Closed Season on Crappie or Bass.*—Any person who shall take or catch or have in possession any bass or crappie from the fresh waters of

this State during the months of March or April of any year; or shall take, catch or have in possession any bass of less length than eleven inches, or any white perch or crappie of less length than seven inches, shall be deemed guilty of a misdemeanor, and on conviction shall be fined a sum of not less than ten (\$10) dollars nor more than one hundred (\$100) dollars.

Art. 951a. *Fish Ladder*.—It shall be the duty of every person, firm or corporation, municipal or private who has erected, or who may erect any dam, water weir, or other obstruction on any regular flowing stream within this State, on the written order of the commissioners court in the county in which such obstruction is erected, to construct and keep in repair fish ways or fish ladders at such dam, weir or obstruction, at the discretion of the Fish Commissioner, so that at all seasons of the year fish may ascend above such dam, weir or obstruction to deposit their spawn. Whoever erects or owns or maintains any such dam, obstruction or weir, and shall fail or refuse to build, construct and keep in repair such fish way or fish ladder, within ninety days after having been notified by such Commissioner to do so, shall be fined not less than twenty-five nor more than five hundred dollars. Each week, after the expiration of ninety days after receiving such notice, of such failure or refusal is a separate offense. (Acts 1881, p. 83; Acts 1915, p. 118; Acts 2nd C. S., 1919, p. 203, P. C., 1925.)

Art. 930. *Venue for Undersize Fish*.—A prosecution for a sale of fish of unlawful size may be begun and carried on either in the county where such fish were shipped or in the county where they were received or offered for sale, or in any county through which such

shipments may pass. (Acts 2nd C. S., 1919, p. 211, P. C., 1925.)

Art. 977. *Charts as Evidence.*—All United States Coastal Survey charts covering the coast of Texas are admissible in any prosecution under this chapter. (P. C., 1925.)

Art. 978. *Witnesses Must Testify.*—Any court, office or tribunal having jurisdiction of the offenses set forth in this chapter or any district or county attorney may subpoena persons and compel their attendance as witnesses to testify as to violations of any provision of this chapter. Anyone so summoned and examined shall not be liable to prosecution for any such violation about which he may testify; and a conviction of said offense may be had upon the unsupported evidence of an accomplice or participant. (Acts 2nd C. S., 1919, p. 207.)

Art. 978c. *Screening Canal or Pipe.*—Every person, firm or corporation using any means for the purpose of taking water from the fresh waters of the State, when directed to do so by the Commissioner, shall place screens over the entrance of the canal, pipe, or over whatever means are used for diverting the water, or over the mouth of the intake pipe, for the purpose of preventing fish from entering said pipe or canal. The size of and regulations for placing such screen and any other obstruction shall be designated by the Commissioner. Whoever fails to comply with this article after notification by the Commissioner to do so shall be fined not less than fifty nor more than two hundred dollars. Each day is a separate offense. (Acts 1909, p. 331; Acts 1913, p. 271.)

Art. 978e. *Sale of Bass and Crappie.*—It shall be unlawful for any person, firm or corporation, or their

agents, to buy or sell, or offer for sale, or offer to buy, or have in his or their possession for sale, or to carry, transport or ship for the purpose of sale, barter or exchange, any fresh water crappie or bass within the State of Texas.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine in any sum not exceeding one hundred dollars, and each sale or shipment or act in violation hereof shall constitute a separate offense.

Art. 4050. *May Take Brood Fish.*—It shall be lawful for the Commissioner or the United States Commissioner of Fisheries and his duly authorized agents to take at any time and in any manner from the public fresh waters of this State all brood fish required by them in operation of the State and Federal hatcheries.

SALT WATER HATCHERIES.

Section 1. The Game, Fish and Oyster Commissioner of this State is hereby authorized to construct and maintain salt water hatcheries, and propagation farms for fish, oysters and game, or either of same, on islands owned by the State of Texas in the coastal waters of the Gulf of Mexico touching this State; and the cost and expenses thereof shall be borne out of the money available to said Commissioner for the enforcement of the game, fish and oyster laws of this State. (Acts Fortieth Legislature, Regular Session, page 258.)

FISHING WITH ARTIFICIAL LURES.

Section 1. No person shall fish with artificial lures of any kind in the waters of this State without first having procured from the Game, Fish and Oyster Commissioner of Texas, or his deputy, or from a county clerk in Texas, or other legally authorized agent, a license to fish.

Sec. 2. Any officer, deputy or legally authorized agent, issuing any license to fish under the provisions of this Act, shall collect from the person to whom the license is issued the following fees:

(1) If issued to a resident, the sum of one dollar and ten cents, (\$1.10), of which amount he shall retain as his fee ten (10c) cents, the balance of which amount he shall remit to the Game, Fish and Oyster Commissioner on or before the 10th day of the month next succeeding that during which said license was issued.

(2) If issued to a non-resident or an alien, the sum of five dollars (\$5), of which amount he shall retain as his fee twenty-five cents (25c), the balance of which amount he shall remit to the Game, Fish and Oyster Commissioner as required under subdivision one (1) of this section; provided that he may issue to such non-resident a license good for only five (5) days, including the day of issuance, upon payment by the licensee of one dollar and ten cents (\$1.10), of which amount the officer so issuing said license shall retain as his fee ten (10c) cents, and the balance of which amount he shall remit to the Game, Fish and Oyster Commissioner as provided for in Subdivision One (1), of this section.

The officer issuing such license shall keep a complete and correct record of each fishing license issued, showing the name and place of residence of each li-

censee and the serial number and date of issuance of said license, on such form as the Game, Fish and Oyster Commissioner may prescribe; and the stubs of such licenses and the record thereof shall belong to the State of Texas and shall be filed with said Commissioner as and when he may direct.

The license provided for herein shall entitle the holder thereof to fish in the waters described in this Act until and including August 31st next succeeding the date of issuance thereof, except that the five (5) day license shall be good only for the five days from and including the day of the issuance thereof and every license issued under the provisions of this Act shall contain; the true date of issuance thereof, the name of licensee, his age, height, weight, color of hair, color of eyes, county of residence, if a resident of Texas, State or county of residence, if a non-resident of Texas or an alien, and such other information as the Commissioner may deem advisable to require, and the licensee shall sign upon said license a pledge to obey the laws of Texas as to fishing.

Sec. 3. Any person required under the provision of this Act to procure a license to fish who shall fish in, or who shall take by any means fish, oysters, shrimp or other marine life in any of the waters of this State in violation of the provisions of this Act without first procuring such license, or who shall fail, or refuse on demand by any officer, to show such officer his fishing license required of him by this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one (\$1) dollar nor more than ten (\$10) dollars; provided the provisions of this Act shall not apply to a resident citizen of Texas who holds a license for commercial fishing under Article 4032 of the Revised

Civil Statutes of Texas of 1925, so long as he does only commercial fishing.

Sec. 4. By the term non-resident, as used in this act, shall be meant any citizen of the United States of America who is not a citizen of the State of Texas, who has not continuously for four months next preceding the issuance of the fishing license to him been an actual bona fide resident of the State of Texas.

Sec. 5. All funds obtained from the sale of the licensee provided herein, after the payment of the fees allowed under this act, shall be deposited by the Game, Fish and Oyster Commissioner in a special fund to be known as the Special Fish Propagation and Protection Fund; and this fund shall be used for the purpose of building and maintaining fish hatcheries, fairly distributed over the State of Texas and for the propagation, distribution and protection of fish in the State of Texas. (Acts Fortieth Legislature, Regular Session, page 396.)

CHAPTER FOUR

SPECIAL COUNTY LAWS

Fish in Comal, Guadalupe, Bexar, Kerr, Bandera and Medina Counties.

“Article 952. Section 1. Whoever shall barter or sell or offer for barter or sale any bass, perch, crappie or catfish taken from any of the fresh waters of the counties of Comal, Guadalupe, Bexar, Kerr, Bandera and Medina shall be fined not less than five nor more than fifty dollars.

Sec. 2. Whoever shall use any dynamite, powder or other explosive in any of the fresh water streams of said counties and shall destroy any fish thereby shall be fined not less than one hundred nor more than one thousand dollars, and may be imprisoned in jail not exceeding one year.

Sec. 3. No person shall take or catch any fish in the fresh waters, creeks, lakes, bayous, pools, lagoons, or tanks in said counties by any other means than by the ordinary hook and line, or trot line or artificial baits, and no person shall place in the fresh waters, rivers, creeks, lakes, bayous, lagoons, ponds or tanks in said counties any seine, net or other device or trap for taking or catching fish; any person may use a minnow seine which is not more than ten feet in length and the meshes of which are not less than one-fourth inch square for the purpose of catching minnows for bait. No person shall use the minnow seine herein permitted to take any fish other than minnows for bait.

Sec. 4. No person, firm or corporation or their agents shall take, catch, seine, entrap by any means, or have in their possession any bass, perch, or crappie, or catfish taken from any fresh waters in said counties from the first of February to the first of May of any year.

Sec. 5. If any person shall at any time, catch or take from any fresh water river, lake, bayou, lagoon, creek, pond, or other natural or artificial stream or pond of water within said counties by use of any means whatsoever any bass of less than eleven inches in length he shall immediately return same back into such water; and unnecessarily injuring such fish shall be deemed an offense under the provisions hereof. Each such fish shall constitute a separate offense.

Sec. 6. No person shall take from the fresh waters of said counties more than ten bass and ten crappie in any one day.

Any person violating any provision of Sections 3, 4, 5 and 6 of this article shall be fined not less than ten nor more than fifty dollars." (Acts Fortieth Legislature, Regular Session, page 365.)

SPECIAL LAWS REGARDING TAKING OF RAINBOW TROUT.

Sec. 2. From and after the expiration of the closed season on rainbow trout as provided in Section 1 of this act, it shall be unlawful for any person to take, possess, sell or barter any rainbow trout from any of the fresh waters of Texas during the months of January, February, March, April, and May of each year, which months shall constitute a closed season on rainbow trout.

Sec. 3. It is hereby made unlawful for any person

to take or have in his or her possession any rainbow trout from any of the fresh waters of Texas of a less length than fourteen inches, or to take and have in his or her possession more than five rainbow trout during any one day.

Sec. 4. It is hereby made unlawful for any person to sell, barter, or offer for sale or barter any rainbow trout taken from any of the fresh waters of Texas.

Sec. 5. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten (\$10) dollars nor more than fifty (\$50) dollars. (Acts 1925, p. 374.)

RELATING TO THE PROTECTION OF FISH IN
THE WATERS OF BIG WICHITA RIVER IN
WICHITA, ARCHER AND BAYLOR COUNTIES.

Section 1. It shall be unlawful for any person, firm or corporation or their agent, or agents, to barter, or sell, or offer for barter, or sale, or to buy any bass, perch, crappie or catfish, or any other fish, except minnows taken from any of the waters which are located in the valley of the Big Wichita river from where the lower or diversion dam on the Big Wichita river is located, which was built by the Wichita County Water Improvement District No. 1 in the northeast corner of Archer county, Texas, and from said dam and above the same up the valley of said Big Wichita river to the storage dam on said river by said Wichita County Water Improvement District No. 1, in Baylor county, Texas, and up the valley of said river from said storage dam as far as the water by said storage dam is impounded in said river in Baylor county.

Diversion Lake, formed in Baylor county or Archer county, Texas, and in Baylor county, Texas, by said diversion dam, or in any water which is in Baylor county, Texas, by said storage dam, or in any water in Lake Wichita in Wichita county, Texas, and in Archer county, Texas, or in any water impounded by the dam across Holliday Creek forming said Lake Wichita in Wichita county, Texas, or in any water in the Big Wichita river in Baylor county, Texas, connecting with the big reservoir, or Lake Kemp, created by the storage dam, with the diversion reservoir, or Diversion Lake, formed in Baylor county or Archer county, Texas, by said diversion dam, or in any water of the irrigation canals connected with said Lake Kemp or said diversion dam, or in any water in laterals leading off from said canals in Baylor county, Texas, Archer county, Texas, Wichita county, Texas, or Wilbarger county, Texas, or in any water in Wichita county, Texas or Archer county, Texas, in the lateral, canal, or drainage ditch leading from what is known as the South Side Canal out of said Diversion Lake from a point in the said South Side Canal in Section No. 16, of Denton county school lands, League No. 4, Wichita county, Texas, to Holliday Creek and thence down Holliday Creek to Lake Wichita in Wichita and Archer counties, Texas.

Sec. 2. Any person who shall use any dynamite, powder or other explosive, or any poison in any of the waters described in Section 1 of this act, and shall injure or destroy any fish thereby shall be deemed guilty of misdemeanor and upon conviction shall be fined in any sum of not less than \$100 nor more than \$1,000, and may be imprisoned in the county jail for any time not exceeding one year.

Sec. 3. It shall be unlawful for any person to take

or catch any fish in the waters described in Section 1 of this act by any other means than the ordinary hook and line, or trotline or artificial bait; and it shall be unlawful for any person to place in any of the waters described in Section 1 of this act by any seine, net or other device or trap for taking or catching fish; provided, however, that any person may use a minnow seine which is not more than twenty feet in length and the meshes of which are not less than one-sixth inch square for the purpose of catching minnows for bait; provided, further, that in seining for minnows for bait, as herein permitted, all bass, species of bass, crappie, and white perch, calico bass, blue gill bream and strawberry bream of whatever size that may be taken by seining shall immediately be returned to the waters uninjured and all other fish more than three inches in length, except minnows, shall be immediately returned to the waters uninjured; provided, further that no person shall use a minnow seine herein permitted for the purpose of taking any fish other than minnows for bait.

Sec. 4. It shall be unlawful for any person, firm or corporation, or their agent, or agents, to take, catch, seine, entrap by any action, or to have in their possession any bass, perch, crappie or catfish, or any other fish taken from any of the waters described in Section 1 of this act, on or from the first day of February to the first day of May of any year.

Sec. 5. It shall be unlawful for any person to catch or retain, or have in his possession any bass, or other fish of the bass species, which are less than eleven (11) inches in length or to catch or retain, or have in his possession, in any one day a total aggregate of more than ten (10) bass, or other fish of the bass species, taken from the waters described in Section 1

of this act; provided that it shall be unlawful for any person to catch and retain, or have in his possession from those waters in any one day bass or other fish of the bass species, of any aggregate weight in excess of twenty (20) pounds; to catch and retain, or have in his possession any crappie or white perch or calico bass which are less than seven (7) inches in length, or catch and retain, or have in his possession any blue gill bream which are less than five (5) inches in length, or to catch or retain, or have in his possession in any one day more than a total aggregate of twenty (20) crappie, or white perch or calico bass or blue gill bream or of any of or all of those fish, taken from the waters described in Section 1 of this act; provided that it shall be unlawful for any person to catch and retain or have in his possession from those waters in any one day crappie or white perch, or calico bass, or blue gill bream or of any or all of those fish of an aggregate weight in excess of twenty (20) pounds; provided, further that it shall be unlawful for any person to catch and retain or have in his possession in any one day from the waters described in Section 1 of this act, bass, or any other fish of the bass species, crappie, white perch or sunfish, or calico bass or blue gill bream, or other fish of the crappie, white perch or bream or sunfish species, or an aggregate weight in excess of thirty (30) pounds.

Sec. 6. If any person shall at any time catch or take from any of the waters described in Section 1 of this act, in the counties named in that section by use of any means whatsoever any bass, or other fish of the bass species, of less than eleven (11) inches in length, or any crappie or white perch, or calico bass of less than seven (7) inches in length, or any blue

gill bream of less than five (5) inches in length he shall immediately return the same into such water without unnecessarily injuring such fish; and the failure to immediately return such fish into such waters or the unnecessarily injuring of such fish shall be deemed an offense under this act. (Acts Regular Session, Fortieth Legislature, page 274.)

Sec. 7. It shall be unlawful for any person to catch and retain or have in his possession any rainbow trout, or other species of trout or of any species of char within a period of six (6) years from the taking effect of this act.

Sec. 8. It shall be unlawful for any person, or persons, knowingly to place, throw or deposit upon the banks or grounds adjacent to any of the waters described in Section 1 of this act in the counties named in Section 1 of this act, any bass, crappie, white perch, sunfish, drum, catfish, or other edible fish, and leave such fish to die without any intent upon the part of such person to eat such fish, or in like manner to leave any minnows without any intent to use the same for bait. Any person found guilty of the violation of any provisions of this section shall be fined in any sum not less than \$1.00 nor more than \$25.00, and each fish so allowed to die shall constitute a separate offense.

Sec. 9. Any person violating any of the provisions of Sections 1, 3, 4, 5, 6 of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$5.00 nor more than \$50.00 for each violation of the law, and each fish caught, held in possession, sold or purchased in violation of this act shall be deemed a separate violation hereof and a separate offense, and the person guilty thereof may be prosecuted either in the county where the fish are

caught, where he is found with them in his possession or where the fish are sold or bartered or offered for sale or bartered or bought.

Sec. 10. It is made the duty of the district judges of the judicial districts in which the counties of Archer, Baylor, Wilbarger and Wichita are situated to give a special charge upon this law to the grand juries of these counties.

Sec. 11. This law shall be cumulative of all general laws relating to fish and the protection thereof.

Sec. 12. If any court should hold unconstitutional or invalid any provisions of this act such unconstitutionality or invalidity of that part shall in no way effect the constitutionality and validity of the remainder of this act.

SPECIAL LAW FOR SEINING SUCKERS.

Art. 941a. *Suckers, Etc.*—Any and all persons shall be permitted to take or catch sucker, buffalo, carp and shad in any fresh water rivers, creeks or lakes in the counties of Grayson, Bosque, Cooke, Denton, Burnet, Williamson, Lampasas, Coryell, Hamilton, Erath, Dallas and Hood with a seine of any size mesh or by the use of wire, rope or grab hooks, during the months of July, August and September of each year; provided, however, that any catfish, crappie, perch, bass or any other kind of fish caught by any of the above methods herein allowed shall be immediately released in the waters from which they were caught; and provided further, that the owner or the one in possession of any seine used for the purpose of seining shall within five days from and after using of any seine for the purpose of catching fish, make a report under

oath to the Game, Fish and Oyster Commissioner, giving in said report the names of each and every person in the seining party, and showing in said report that all fish not permitted to be caught or taken with a seine were released in the waters from which they were taken immediately after they were caught.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, and any person making a false affidavit shall be guilty of false swearing. (Acts Regular Session, Fortieth Legislature, page 91.)

Art. 954. *Fish Pound in Gulf Waters.*—It shall be unlawful for any person, firm or corporation to erect, set, operate or maintain any fish pound net in any waters of the Gulf of Mexico within three nautical miles from the coast line of this State, without first obtaining a permit for such purpose. Application for such permits shall be made to the Game, Fish and Oyster Commissioner. Such Commissioner shall issue to the person, firm or corporation applying therefor, if entitled thereto under the provisions of this chapter, a permit duly signed, to erect, set, operate or maintain a fish pound net in the waters above specified. No person, firm or corporation shall set, erect, operate, or maintain any pound net at any place closer than three miles of any other pound net owned or operated by any other person, firm or corporation; provided, further, that no pound net shall ever be placed or operated closer than three miles of any pass mentioned in this chapter. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than fifty (\$50) dollars nor more than two hundred (\$200) dollars.

Art. 955. *Sale of Fish in Certain Counties.*—If any person shall sell or offer for sale any bass, white perch, crappie, channel or other catfish, caught, trapped or ensnared in the streams of the counties of Burnet, San Saba, Brown, McCulloch, Edwards, Coleman, Concho, Menard, Mason, Gillespie, Kimble, Sutton, Kinney, Uvalde, Real, Kerr, Comal, Val Verde, Bandera, Reeves, Ward, Loving, Pecos, Medina, Bexar, Hunt, Runnels, Rains, Kimble, Williamson, Zavala, Dimmit, Milam, Travis, Lampasas or Llano, State of Texas, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than five dollars nor more than fifty dollars. No person shall take or catch any fish in the fresh water rivers, creeks, lakes, bayous, pools, or lagoons in the counties above named by any other means than by ordinary hook and line or trotline or artificial bait, and no person shall place in the fresh water rivers, creeks, lakes, bayous, pools or lagoons of the counties above mentioned, any seine, net or other device or trap for taking or catching fish; provided, however, that persons may use a minnow seine which is not more than twenty feet in length for the purpose of catching minnows for bait. In seining for bait, as herein permitted, all fish and minnows more than three inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait. Any person violating any provision of this section shall be fined not less than five nor more than one hundred dollars.

No person shall take from the fresh waters of any county mentioned more than thirty-five of such fish in any one day. Any person violating this provision of this article shall be fined not less than five nor more

than one hundred dollars. The taking of each fish in excess of the number herein allowed shall be a separate offense.

No person shall knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh waters, creeks, lakes, bayous, rivers, pools, lagoons, or tanks in the counties above named any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave such fish to die without any intention upon the part of such person either to eat such fish or use same for bait. Any person found guilty of the violation of this provision shall be fined not to exceed twenty-five dollars. The allowing of each fish so to die shall be a separate offense. (Acts 1923, p. 166; Acts 1925, p. 174.)

SPECIAL LAW FOR TOM GREEN COUNTY

Sec. 1. The provisions of law contained in Section 3, Chapter 107, of the Special Laws of the Thirty-fifth Legislature, are hereby amended so as to hereafter read as follows:

Section 3. It shall be unlawful for any person to take or catch any fish in the public fresh waters, creeks, lakes, bayous, pools, lagoons or tanks of the County of Tom Green, State of Texas, by any other means than by the ordinary hook and line, set hook and line, or artificial bait, and it shall be unlawful for any person to place in the public fresh water rivers, creeks, lakes, bayous, pools, lagoons or tanks of the County of Tom Green, State of Texas, any seine, net or other device or trap for taking or catching fish; provided, however, that persons may use a minnow seine which is not more than ten feet in length for the purpose of catching minnows

for bait. Provided, that in seining for minnows for bait, as herein permitted, all fish and all minnows more than three inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait. It shall be unlawful for any person to take from the public fresh waters of the County of Tom Green, State of Texas, more than twenty-five of any kind of fish in any one day.

Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars. (H. B. No. 299, Reg. Sess., 39th Leg.)

SEINING IN MARION, HARRISON, SMITH AND RUSK COUNTIES.

It shall be unlawful for any person to take or catch any fish in the public fresh waters, creeks, lakes, bayous, pools, lagoons, or tanks in the counties of Marion, Harrison, Smith and Rusk, State of Texas, by any other means than by the ordinary hook and line, set hook and line, gig or artificial bait, and it shall be unlawful for any person to place in the public fresh water rivers, creeks, lakes, bayous, pools, lagoons, or tanks of the counties of Marion, Harrison, Smith and Rusk, State of Texas, any seine, net, or other device or trap for taking or catching fish, provided, however, that persons may use a minnow seine for the purpose of catching minnows and small perch for bait; provided that in seining for minnows

or small perch for bait, all crappie or white perch and all black bass shall be immediately returned to the water while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows and small perch for bait.

Any person or persons violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). (H. B. No. 101, First Called Session, Fortieth Legislature.)

FISHING IN JACKSON COUNTY.

Section 1. It is hereby made unlawful for any person to take or catch fish from any of the fresh water lakes, streams, bayous, and lagoons in Jackson county, Texas, by any other means than hook and line or trot line or flounder gig and light or by the use of cast net or minnow seine, not exceeding twenty feet in length, used in catching bait. Any person dragging a seine or setting a net in any of the fresh water streams, lakes, bayous, or lagoons in Jackson county, or any person catching or taking fish by any other means than hook and line or trot line or cast net and minnow seine not exceeding twenty feet in length, shall be deemed guilty of a misdemeanor and shall be fined in a sum of not less than ten (\$10) dollars or more than one hundred (\$100) dollars. (H. B. No. 120, First Called Session, Fortieth Legislature.)

CHAPTER FIVE

POLLUTION LAW

Art. 698. *Unlawful to Pollute Water Courses and Other Bodies of Water.*—It shall be unlawful for any person, firm or corporation, private or municipal, to pollute any water course or other public body of water by throwing, casting or depositing, or causing to be thrown, cast or deposited any crude petroleum, oil or other like substance therein, or to pollute any water course, or other public body of water, from which water is taken for the use of farm live stock, drinking and domestic purposes, in the State of Texas, by the discharge, directly or indirectly, of any sewage or unclean water or unclean or polluting matter or thing therein, or in such proximity thereto as that it will probably reach and pollute the water of such water course or other public body of water from which water is taken, for the uses of farm live stock, drinking and domestic purposes; provided, however, that the provisions of this bill shall not affect any municipal corporation situated on tide water; that is to say, where the tide ebbs and flows in such water course; provided, however, that no city located on tide water shall discharge or permit to be discharged sewerage, oil or any other effluents into public tide waters of this State when such discharge will become a menace to or endangers the oyster beds or fish life in such waters or when such discharge becomes a menace to the bathing places in such waters; and, provided, further, that drain ditches, where waste oil

finds its way into water courses or public bodies of water, shall be equipped with traps of sufficient capacity to arrest the flow of oil. In so far as concerns the protection of fish and oysters, the Game, Fish and Oyster Commissioner, or his deputies, may have jurisdiction in the enforcement of this chapter. A violation of any of the provisions of this chapter shall be punished by a fine of not less than one hundred dollars and not more than one thousand dollars. When the offense shall have been committed by a firm, partnership or association, each member thereof who has knowledge of the commission of such offense shall be held guilty. When committed by a private corporation, the officers and members of the board of directors, having knowledge of the commission of such offense, shall each be deemed guilty; and when by a municipal corporation the mayor and each member of the board of aldermen or commission having knowledge of the commission of such offense, as the case may be, shall be held guilty as representatives of the municipality; and each person so indicated as above shall be subject to the punishment provided hereinbefore; provided, however, that the payment of the fine by one of the persons so named shall be a satisfaction of the penalty as against his associates for the offense for which he may have been convicted. Each day such pollution is knowingly caused or permitted shall constitute a separate offense; provided, the provisions of this article shall not apply to any place or premises of manufacturing plants whose affluents contain no organic matter that will putrefy, or any poisonous compounds, or any bacteria dangerous to public health or destructive of the fish life of streams or other public bodies of water. (Acts 1925, p. 200.)

Art. 4444. *Polluting Public Body of Water.*—(This article provides in substance the same as Article 698 except in lieu of penalty provision the following is added) :

Upon the conviction of any person for violating this law, the court or judge thereof in which such conviction is had shall issue a writ of injunction enjoining and restraining the person or corporation responsible for such pollution. For a violation of such injunction, the said court and the judge thereof shall have the power of fine and imprisonment as for contempt of court within the limits prescribed by law in other cases, and this remedy by injunction and punishment for violation thereof shall be cumulative of the fine imposed. The State Board of Health shall enforce the provisions of this article. The Governor shall appoint an inspector to act under the direction of said Board and the State Health Officer, and said inspector shall make such investigations, inspection and reports and perform such other duties in respect to the enforcement hereof as the said health officer may require. (Acts 1913, p. 90; Acts 1915, p. 38; Acts 1923, p. 177.)

CHAPTER SIX

MARL, SAND AND SHELL

Art. 4051. *Property of the State.*—All the islands, reefs, bars, lakes, and bays within the tidewater limits from the most interior point seaward coextensive with the jurisdiction of this State, and such of the fresh water islands, lakes, rivers, creeks and bayous within the interior of this State as may not be embraced in any survey of private land, together with all the marl and sand of commercial value, and all the shells, mudshell or gravel of whatsoever kind that may be in or upon any island, reef or bar, and in or upon the bottoms of any lake, bay, shallow water, rivers, creeks and bayous and fish hatcheries and oyster beds within the jurisdiction and territory herein defined, are included within the provisions of this chapter, and are hereby placed under the management, control and protection of the Commissioner. None of the marl, gravel, shells, mudshells or sand included herein shall be purchased, taken away or disturbed, except as provided herein, nor shall any oyster beds or fish hatcheries within the territory included herein be disturbed except as herein provided. (Acts 2nd C. S., 1919, p. 216.)

Art. 4052. *Powers of Commissioner.*—The Commissioner is hereby invested with all the power and authority necessary to carry into effect the provisions of this chapter, and shall have full charge and discretion over all matters pertaining to the sale, the taking, carrying away or disturbing of all marl, sand or

gravel of commercial value, and all gravel and shells or mudshell and oyster beds and their protection from free use and unlawful disturbing or appropriation of same, with such exceptions as may be provided herein. (Acts 2nd C. S., 1919, p. 216.)

Art. 4053. *Permit to Use Marl, Etc.*—Anyone desiring to purchase any of the marl and sand of commercial value and any of the gravel, shells or mudshell included within the provisions of this chapter, or otherwise operate in any of the waters or upon any island, reef, bar, lake, bay, river, creek or bayou included in this chapter, shall first make written application therefor to the Commissioner, designating the limits of the territory in which such person desires to operate. If the Commissioner is satisfied that the taking, carrying away or disturbing of the marl, gravel, sand, shells or mudshell in the designated territory would not damage or injuriously affect any oysters, oyster beds, fish-inhabiting waters thereof or adjacent thereto and that such operation would not damage or injuriously affect any island, reef, bar, channel, river, creek or bayou used for frequent or occasional navigation, nor change or otherwise injuriously affect any current that would affect navigation, he may issue a permit to such person after such applicant shall have complied with all requirements prescribed by said Commissioner. The permit shall authorize the applicant to take, carry away or otherwise operate within the limits of such territory as may be designated therein, and for such substance or purpose only as may be named in the permit and upon the terms and conditions of the permit. No permit shall be assignable, and a failure or refusal of the holder to comply with the terms and conditions of such permit shall operate as an immediate termina-

tion and revocation of all rights conferred therein or claimed thereunder. No special privilege or exclusive right shall be granted to any person, association of persons, corporate or otherwise, to take or carry away any of such products from any territory or to otherwise operate in or upon any island, reef, bay, lake, river, creek or bayou included in this chapter. (Acts 2nd C. S., 1919, p. 216.)

Art. 4054. *Use in Municipal Road Work.*—If any county, or subdivision of a county, city or town should desire any marl, gravel, sand, shell or mudshell included in this chapter for use in the building of any road or street, which work is done by said county, or any subdivision of a county, city or town, such municipality may be granted a permit without charge and shall have the right to take, carry away or operate in any waters or upon any islands, reefs or bars included herein; such municipality to do the work under its own supervision, but shall first obtain from the Commissioner a permit to do so, and the granting of same for the operation in the territory designated by such municipality shall be subject to the same rules, regulations and limitations and discretion of the Commissioner as are other applicants and permits. When such building of roads or taking of such products is to be done by contract, then the said municipality may obtain a refund from the Commissioner of the tax levied and collected on said products as fixed by the Commissioner at the time of the taking thereof, by warrant drawn by the Comptroller upon itemized account sworn to by the proper officer representing such municipality and approved by the Commissioner, and under such other rules and regulations as may be prescribed by the Commissioner. (Acts 1923, p. 342.)

Art. 4054a. If any county, city or town authorized

by Title 118 of the Revised Civil Statutes of 1925 to construct, extend, protect strengthen, maintain, keep in repair and otherwise improve any seawall or breakwater, levee, dike, floodway and drainway, shall desire any marl, gravel, sand, shell or mudshell, included in this chapter, for use in the building, constructing, extending, protecting, strengthening, maintaining, keeping in repair and otherwise improving any such seawall, or breakwater, levee, dike, floodway and drainway, such municipality shall be granted a permit without charge, and shall have the right, without payment therefor by such county, city or town to the Game, Fish and Oyster Commissioner, or to the State of Texas, to appropriate, dredge, take and carry away any such marl, gravel, sand, shell or mudshell from any of the waters, reefs, or bars included herein; provided that such permit shall be granted and such marl, gravel, sand, shell or mudshell shall be taken under such rules and regulations as the Commissioner may make and establish. Provided further that none of the benefits accruing under any by virtue of this act shall inure to any person, firm or corporation holding a contract at the present time where marl, gravel, shell or mudshell shall be used as herein provided. (Acts Fortieth Legislature, Regular Session, page 265.)

Art. 4055. *Condemnation of Land.*—That where the State of Texas, through the Game, Fish and Oyster Commissioner, has issued a permit to excavate and take from any island, reef, bar, lake, river, creek, bayou or bay of this State, marl, mudshell, oyster shell, sand and gravel, the State, at the request of the permit-holder, shall have the right and power to enter upon and condemn and appropriate the lands, right of ways, easements and property of any person

or corporation for the purpose of erecting dredges and necessary equipment and for the purpose of laying and maintaining the railway spurs to the nearest railroad, and for the purpose of operating and maintaining necessary roads and passageways to said place of operations, including all such lands, right of ways, easements and property aforesaid for the purpose of establishing and maintaining landing places and providing moorings for barges and dredges and all equipments as may be determined by said permit-holder necessary in carrying on said business; provided, that such right of way should not invade improvements such as buildings or orchards; and, provided, further, the manner and method of such condemnation and assessment and payment of damages therefor shall be the same as provided for by law in the case of railroads.

Sec. 2. Condemnation suits brought under this chapter shall be brought in the name of the State by the county attorney of the county in which the property or a part thereof affected is situated, and the county attorney shall receive a fee of \$10 for his services upon the institution of such proceedings, the same to be taxed and collected as a part of the cost in such suit. All costs in such proceedings shall be paid either by the permit-holder, at whose instance such proceedings are had, or by the person against whom such proceedings are had, to be determined as in case of railroad condemnation proceedings, and all damages and pay for property awarded in such proceedings shall be paid by the permit-holder, and in no event shall the State be liable for any cost, damages or any sum whatsoever with respect to such proceedings. (Acts 1925, p. 231.)

Art. 976. *Marl, Sand and Shell.*—Whoever shall, for himself, or for or on behalf of or under the direc-

tion of another person, association of persons, corporate or otherwise, take or carry away any marl, sand or shells or mudshell or gravel placed under the management, control and protection of the Commissioner, or shall disturb any of said marl, sand, shells or mudshell or gravel or oyster beds or fishing waters or shall operate in or upon any of said places for any purpose other than that necessary or incident to navigation or dredging under State or Federal authority, without having first obtained a written permit from said Commissioner for the territory in which such operation is carried on, shall be fined not less than ten nor more than two hundred dollars. Each day's operation shall be a separate offense. (Acts 2nd C. S., 1919, p. 218.)

CHAPTER 183 OF THE GENERAL LAWS OF THE THIRTY-NINTH LEGISLATURE.

Chapter 183 of the General Laws passed by the Thirty-ninth Legislature provides in part that the Commissioner may sell the marl, etc., included in this act, for not less than four cents per ton and that not less than seventy-five per cent of the proceeds derived therefrom shall go to the establishment and maintenance of fish hatcheries. Said hatcheries to be established from time to time in the State of Texas by the Commissioner, when in his judgment a suitable location is secured and arrangements therefor have been completed. Provides that said proceeds may also be expended in the enforcement of the provisions of the sand, shell and gravel laws. (Acts 1925, p. 452.)

CHAPTER SEVEN

GAME LAWS

Art. 871. "*Commissioner.*"—The word "Commissioner" wherever used in this chapter, shall be held to mean the Game, Fish and Oyster Commissioner of the State of Texas.

Art. 871a. *Wild Birds and Animals.*—All wild animals, wild birds, and wild fowl within the borders of this State are hereby declared to be the property of the people of this State.

Art. 872. *Game Birds Defined.*—Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens or pinnated grouse, wild pheasants of all varieties, wild partridge and wild quail of all varieties, wild pigeons of all varieties, wild mourning doves and wild white-winged doves, wild snipe of all varieties, wild shore-birds of all varieties, wild Mexican pheasants or chachalacas, and wild plover of all varieties, are hereby declared to be game birds within the meaning of this act.

Art. 873. *Bag Limit, Penalty.*—Any person killing or taking more than the daily, weekly or seasonal bag limits as set forth in this chapter; or any person killing, taking, hunting, wounding, or shooting at any game bird or game animal at any other time of the year, except during the open season, as provided for in this chapter; or any person killing, taking, capturing, wounding or shooting at any game bird or game animal for which no open season is provided by this chapter, shall be deemed guilty of a misdemeanor,

and upon conviction shall be fined in a sum of not less than ten (\$10) dollars nor more than two hundred (\$200) dollars; and each game bird or game animal unlawfully taken shall constitute a separate offense.

Art. 874. *Killing Birds Other Than Game Birds.*—It shall be unlawful for any person in this State to kill, catch, wound, take, shoot at, or have in possession, living or dead any wild bird other than a game bird. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in a sum of not less than ten (\$10) dollars, nor more than two hundred (\$200) dollars.

Art. 875. *Exemptions.*—English sparrows, crows, ravens, vultures or buzzards, "rice-birds" identified as harmful, blackbirds, pelicans, roadrunners, and the goshawk, the Cooper hawk or blue darter, the sharp-shinned hawk, the duck hawk, jay birds, sap-suckers, woodpeckers, butcher birds or shrike, and the great horned owl are not included among the birds protected by this section; and, provided, further, that nothing in this section shall prevent the purchase and sale of canaries and parrots, or the keeping of same in cages as domestic pets.

Art. 876. *Possession of Wild Game.*—It shall be unlawful for any person to have in possession at any one time more than forty-five wild doves, or thirty-six wild quail, or thirty-six wild Mexican pheasant or chachalaca; or to have in possession at any one time more than fifty water fowl, shore-birds, and other game birds, all kinds and varieties being considered in making up the one total of fifty; provided, that the provisions of this section shall not apply to transporta-

tion companies which have in their possession, for the purpose of transportation, such wild birds, where the provisions of this chapter with reference to shipment of game have been complied with; nor shall the provisions of this chapter apply to owners, agents, managers, or receivers of cold storage plants which receive wild game for storage; provided, however, that it shall be unlawful for the owner, agent, manager or receiver of such cold storage plant to receive or have in possession at any one time for himself or any one person more than the limits of the wild game birds as provided in this article.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than ten (\$10) dollars, nor more than two hundred (\$200) dollars. The possession of each bird or fowl over the number designated herein, shall be deemed a separate offense.

Art. 877. *Turkey Hens.*—It shall be unlawful for any person to take, kill, wound, shoot at, hunt or possess, dead or alive, any wild turkey hen at any season of the year except as hereinafter provided.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than twenty-five (\$25) dollars nor more than one hundred (\$100) dollars.

Art. 878. *Division into Zones.* In order to divide the State for the purpose of better regulating the open and closed seasons for the hunting of wild game birds and wild game animals of this State, a line beginning on the Rio Grande river, directly west of the town of Del Rio, Texas; thence east to the town of Del Rio; thence easterly following the center of the

main track of the Southern Pacific Railroad through the towns of Spofford, Uvalde, Hondo; thence to the point where the Southern Pacific Railroad crosses the I. & G. N. R. R. at or near San Antonio; thence following the center of the track of said I. & G. N. R. R. in an easterly direction, to the point in the City of Austin, where it joins Congress avenue, near the I. & G. N. R. R. depot; thence across said Congress avenue to the center of the main track of the H. & T. C. R. R. where said track joins said Congress avenue, at or near the H. & T. C. R. R. depot; thence following the center line of the track of said H. & T. C. R. R. in an easterly direction through the towns of Elgin, Giddings and Brenham, to the point where said railroad crosses the Brazos river; thence with the center of said Brazos river in a general northerly direction, to the point on said river where the Beaumont branch of the Santa Fe Railway, crosses the same; thence with the center of the track of the said G. C. & S. F. R. R., in an easterly direction through the towns of Navasota, Montgomery, and Conroe, to the point at or near Cleveland, where said G. C. & S. F. R. R. crosses the Houston, East & West Texas Railroad; thence with the center of said H. E. & W. T. R. R. track to the point in said line, where it strikes the Louisiana line. All that portion of the State lying north or northerly shall be known as the North Zone and all that portion of the State lying south or southerly of said line shall be known as the South Zone. (Acts Regular Session, Fortieth Legislature, page 326.)

Art. 879. *Open Seasons.*—There shall be an open season or period of time, when it shall be lawful to hunt, take or kill wild mourning doves, in South Zone, during the months of November and December

of each year; in the North Zone during the months of September and October of each year.

Art. 879a. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild white-winged doves in both the North and South Zones, during the months of July, August and September.

Art. 879b. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild quail of all kinds, and wild Mexican pheasant or chachalaca in the North Zone, December 1st to the following January 16th, both days inclusive; in the South Zone, December 1st to the following January 16th, both days inclusive.

Art. 879c. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild turkey gobblers, in both the North and South Zones, November 16th to the following December 31st, both days inclusive.

Art. 879d. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild rail, (other than coot and gallinules) wild black-bellied plover and wild golden plover, and yellow-legs, the months of September and October of each year, in both the North and South Zones.

Art. 879e. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild ducks of all kinds (except wild wood ducks), wild geese, wild brant, wild snipe of all kinds, wild gallinules and wild coot or mud hen, in the North Zone, October 16th to the following January 31st, both days inclusive; in the South Zone, November 1st to the following January 31st, both days inclusive.

Art. 879f. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill

wild prairie chicken or pinnated grouse, in both the North and South Zones, September 1st to September 10th of each year, both days inclusive, provided there shall be no open season on wild prairie chicken in the counties of Collingsworth, Donley, Wheeler and Gray until September 1st, 1929.

Art. 879g. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild buck deer, wild bear, in both the North and South Zones, November 16th to December 31st each year, both days inclusive.

Art. 879h. There shall be an open season, or period of time, when it shall be lawful to hunt, take or kill wild red or fox squirrels and wild gray squirrels, in both the North and South Zones, the months of May, June and July, and in the months of October, November and December of each year; provided, however, that nothing in this chapter shall prevent the keeping of squirrels in cages as domestic pets; and providing further, that it shall not be unlawful to kill squirrels in the following counties at any time, to-wit: DeWitt, Caldwell, Guadalupe, San Saba, Mason, Gillespie, Llano, Kimble, Menard, Comal, McCulloch, Brown, Kerr, Burnet, Mills, Schleicher, Edwards, Gonzales, Austin, Real, Kendall, Victoria, Medina, Uvalde, Jackson, Wharton, Bandera, Lavaca, Fayette, Colorado and Goliad. (Acts Fortieth Legislature, Regular Session, page 316.)

Art. 880. *Hunting with Dogs.*—It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs, and who permits or allows such dog or dogs to run, trail, or pursue any deer at any time, shall be deemed guilty of a misde-

meanor, and upon conviction shall be fined in any sum of not less than twenty-five (\$25) dollars, and not more than two hundred (\$200) dollars; provided that nothing in this article shall prohibit the use of only one dog in pursuit of a wounded buck deer, during the open season on buck deer as provided by this chapter; and provided further that this article shall not apply to the counties of Grimes, Madison, Walker, San Jacinto, Leon, Houston, Trinity, Harris, Brazoria, Fort Bend, Matagorda, Wharton, Liberty, Hardin, Orange and Lavaca. (H. B. No. 95, First Called Session, Fortieth Legislature.)

Art. 881. *Possessing More Than Bag Limit.*—It shall be unlawful to take, kill or possess any birds or animals in greater number than the daily, weekly or seasonal bag limit or number of such game birds and game animals permitted to be killed or taken, such bag limits to be as follows:

Wild mourning doves and wild white-winged doves, fifteen in any one day, and not more than forty-five in any one week of seven days.

Wild quail of all kinds, and wild Mexican pheasant or chachalaca, twelve in any one day, and not more than thirty-six in any one week of seven days, and all kinds and varieties of these shall be considered in making up the limit of twelve.

Wild turkey gobblers, three during the open season of any one year, as herein provided.

Wild gesee and brant of all kinds, four in any one day, and not more than twelve in any one week of seven days.

Wild ducks of all kinds, wild snipe of all kinds, wild black-bellied plover, wild yellow-legs, wild gallinule, or Indian hen, and wild coot or mud hen, twenty-five in any one day, and not more than fifty in any

one week of seven days; provided, that all kinds and varieties of game birds mentioned in this section shall be considered in making up the daily limit of twenty-five or weekly bag limit of fifty.

Wild prairie chicken or pinnated grouse, five in any one day, and not to exceed ten in the open season of any one year.

Wild buck deer, two during the open season of any one year, as provided in this chapter.

Wild bear, one during the open season of any one year, as provided in this chapter.

Wild squirrel, ten in any one day.

Art. 882. *Closed Season Defined.*—The term "Closed Season" shall, for the purpose of enforcement of the game laws of this State, mean the period of time during which it is unlawful to hunt, kill, attempt to kill, or take any of the game animals, wild fowl, or birds enumerated in this chapter; and the term "Open Season" shall mean the period of time in which it is lawful to hunt, kill, or take certain game, game animals, wild fowl, and birds set forth in this chapter.

Art. 883. *Five-Year Closed Season.*—It shall be unlawful for any person to hunt, kill, or take, or to have in possession, within a period of five years from the passage of this act, any wild woodcock, wild wood duck, wild sandhill crane, or whooping crane, wild inca and ground dove, or wild pheasant, except as hereinafter provided. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars, and each bird killed or possessed in violation of this article shall constitute a separate offense.

Art. 884. *Unlawful Possession of Game.*—It shall

be unlawful for any person to sell or offer for sale, or to buy or offer to buy, or to have in possession for sale, or to have in possession after purchase has been made (either by himself or by another), any wild bird, wild fowl, wild game bird, or wild game animal, dead or alive, or any part thereof, protected by this chapter, except as hereinafter provided. This article, and all other articles in this chapter, shall apply to any bird or animal coming from without this State; and in prosecutions for violations of this chapter it shall be no defense that such bird or animal was not taken or killed within this State.

It shall further be unlawful to bring into this State, for any purpose whatever, during the closed season or time when it is unlawful to possess such bird or animal, either alive or dead, any kind of bird or animal protected by this chapter, except as hereinafter provided.

Art. 885. *Bringing Game Into This State.*—Any person violating any of the provisions of Article 884 shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than twenty-five (\$25) dollars nor more than two hundred (\$200) dollars; and the bringing in of each separate bird or animal protected by this chapter in violation of this article shall constitute a separate offense. Provided, that any person who shall buy any game bird or game animal, the sale of which is prohibited by this chapter, for the purpose of establishing testimony, shall not be prosecuted for such purchase, and a conviction may be had upon the uncorroborated testimony of such purchaser.

Art. 886. *Wild Ducks, Geese and Brant.*—It shall be unlawful to hunt, kill, or take any wild duck, goose, or brant, by any means other than the ordinary gun, not to exceed ten-gauge, capable of being

held to and shot from the shoulder. Any person violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars, and each bird or fowl taken or killed in violation of this article shall constitute a separate offense.

Art. 887. *Hunting at Night.*—It shall be unlawful to kill, hunt or shoot at any wild bird, wild game bird, wild fowl or wild game animal protected by this chapter at any season of the year, between one-half hour after sunset and one-half hour before sunrise in any county in this State. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five (\$25) dollars, nor more than one hundred (\$100) dollars, and each bird or animal so killed shall constitute a separate offense.

Art. 888. *Protecting Against Depredation of Wild Fowls or Animals.*—Whenever any wild birds, wild fowl, or wild animals, protected under the provisions of this chapter, are destroying crops or domestic animals, the Game, Fish and Oyster Commissioner is hereby authorized to permit the killing of such wild birds or wild animals, without regard to the open or closed season, bag limit, or night shooting; but, before such permission shall be granted, the Commissioner aforesaid, shall be furnished with a statement of facts, sworn to by persons whose property is being injured, with the endorsement of the county judge of the county in which the crops are being destroyed or domestic animals being injured or killed, to the effect that the sworn statement is true, and that such crops or domestic animals can only be preserved by the granting of such permit. Such permit when issued

shall distinctly state the time for which it is granted, the area which it covers, and a designation of the person or persons permitted to kill the noxious birds and animals named in such permit.

Such permit shall not authorize the killing of migratory birds protected by the Federal Migratory Bird Treaty Act, unless the applicant shall first procure a permit from the United States Department of Agriculture, in compliance with the regulations of such Migratory Bird Treaty Act.

Art. 888a. *Taking Game Bird by Net or Trap.*—Whoever sets a net or trap or other device for taking any bird mentioned in Article 872, or who snares or takes by such devices any such bird, without first obtaining from the Game, Fish and Oyster Commissioner a permit in writing so to do, shall be fined not less than ten nor more than one hundred dollars. (Sec. 18, Id.)

Art. 889. *Specimens for Taxidermist.*—Any person shall have the right to ship or carry to and from a taxidermist or tannery, for mounting or preserving purposes or to his home, any specimen or part of specimen of the wild birds or wild animals of this State, where same have been lawfully taken or killed by such person, and when such specimens or parts of specimens are not for sale, but before making shipment as herein provided, such person shall first make the following affidavit in writing before some officer authorized to administer oaths, and deliver same to the common carrier transporting same, or its agent:

State of Texas,
County of.....

Before me, the undersigned authority, on this day personally appeared....., who, after being duly

sworn, upon oath says: I live at....., in the County of....., State of.....; that I have personally killed....., which I desire to ship fromto.....County, to....., State of....., which I have lawfully killed for my own use and not for sale, and which shall not be bartered or sold; that I have not killed during the present hunting season more than the bag limit, as provided by law, of any of the wild game birds, wild fowl, or wild animals.

Signature.....

Sworn to and subscribed before me this.....day of , A. D. 192...

.....

Office held.....

The affidavit thus prepared by the affiant shall be attached to the shipment, and shall not be removed during the period of transportation. If such game is carried by the person killing same, it shall not be necessary to attach the affidavit herein set forth.

Art. 890. *Penalty.*—Any person who so ships any game from any place within this State without making the foregoing affidavit; or any agent of any express company or other common carrier who receives any shipment without it being accompanied by such affidavit and list attached; or any auditor or conductor or other person in charge of any railroad train, who knowingly permits any person to carry any wild birds, wild fowl or wild animals without such affidavit being made, as herein provided, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than ten (\$10) dollars nor more than one hundred (\$100) dollars.

All express agents, conductors, and auditors of trains, captains of boats, and the Game, Fish and Oyster Commissioner and his deputies are hereby empowered to administer oaths necessary to the shipment of game, and for administering such oaths they are hereby authorized to collect the sum of twenty-five (25c) cents from the person making such oath.

Art. 891. *Destroying Nests or Eggs of Birds.*—It shall be unlawful for any person to destroy or take the nest, eggs, or young of any wild game bird, wild bird, or wild fowl, protected by this chapter, except as provided herein. Any person violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars.

Art. 892. *Certain Animals Declared to Be Game Animals.*—Wild deer, wild elk, wild antelope, wild Rocky Mountain sheep, wild black bear, and wild gray and red squirrels, cat squirrels, or fox squirrels, are hereby declared to be game animals within the meaning of this act.

Art. 893. *Forfeiture of License.*—Any person convicted of violating any provisions of the game laws of this State shall thereby automatically forfeit his license for said season; and, provided further, that any such person so convicted of violating the game laws shall not be entitled to receive from the State a license to hunt for one year immediately following the date of his conviction; and it shall be unlawful for any person who is convicted of violating any of the provisions of the game laws of this State to purchase or possess a hunting license for a period of one year immediately following date of such conviction; and it

shall also be unlawful for any person convicted of violating any of the game laws of this State to hunt with a gun in this State for a period of one year immediately following date of such conviction.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one hundred (\$100) dollars, nor more than two hundred (\$200) dollars.

Art. 894. *Form of License.*—All hunting licenses issued shall have printed across their faces the year for which they are issued; they shall bear the name and address or residence of the person to whom issued, and shall give the approximate weight, height, age, color of hair, and color of eyes of such person, in order that proper identification may be had in the field, and shall have printed thereon a statement, to be subscribed to in ink by the person to whom issued, that such person will not exceed the bag limit as printed on the license. Such license shall be dated on the date of issuance, and shall remain in effect until the last day of August thereafter; provided, that non-resident or alien licenses shall have printed thereon the following: This license does not entitle the holder thereof to hunt upon the enclosed and posted lands of another, without the consent of the owner or agent.

Art. 896. *License Fees Under Control of Council.*—All license fees and hunting-boat registration fees collected under this act, and all fines that may be made from this fund shall be expended for land or other real estate only upon the authorization of a majority vote of a council composed of Game, Fish and Oyster Commissioner, the Attorney General of Texas, and the

State Comptroller, who shall act on this council during their respective terms of office.

Art. 895. *County Clerk to Issue License.*—The county clerk of each county in this State is hereby authorized to issue hunting licenses under his official seal, to all persons complying with the provisions of this act, and shall fill out correctly and preserve for the use of the Game, Fish and Oyster Commission, the stubs attached thereto; and the county clerk shall keep a complete and correct record of hunting licenses issued, showing the name and place of residence of each license and the serial number and date of the license issued. Said license stubs and penalties and forfeitures of bonds imposed and collected for violation of any of the provisions of this chapter, shall belong to the special game fund of this State, and shall be paid over by the Game, Fish and Oyster Commissioner, to the State Treasurer during the first week of each month, and shall be credited to such special game fund; and such fund shall be used solely for the purpose of wild bird and game protection; for the creation, purchase, and maintenance of game sanctuaries and public hunting ground; for the purchase, introduction, propagation, and distribution of game and wild birds; for the dissemination of information pertaining to the conservation and economic value of wild animal life; and in the employment of special deputy game commissioners, payment of their necessary expenses and the purchase and supply of means to enable the Game, Fish and Oyster Commissioner and his deputies to enforce the game laws of this State. All expenditures shall be verified by affidavit to the Game, Fish and Oyster Commissioner; and in the approval of such expenditures by the

Game, Fish and Oyster Commissioner, it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures in favor of the person claiming the same, such warrant to be paid out of the special game fund. All moneys and all balances now in such fund from moneys already paid into the State Treasurer, or that may hereafter be paid into said fund through or because of this chapter, are made available as soon as paid into the State Treasury, and are hereby specifically appropriated to the use of the Game, Fish and Oyster Commissioner for the several purposes herein specified. The county clerk shall, within ten days after the close of each calendar month, make out a detailed report under the seal of his office showing the serial number and date of each license issued during the month covered by the report, and the name and address of the person to whom issued, and shall forward such report, with remittance of fees due the State, to the Game, Fish and Oyster Commission at Austin, and the said Commission shall credit such county clerk with the amount so remitted. As soon as possible after the licenses in a license book have all been issued, and only the stubs remain therein, such county clerk shall forward such used license book to the Game, Fish and Oyster Commission at Austin, in order that such Commission may furnish necessary information regarding holders of licenses to any officers in the State.

Art. 897. *Game Unlawfully Taken to Be Disposed of by Commissioner.*—All wild birds, wild fowl, or wild game animals, or parts thereof, which have been killed, taken in any way, shipped, held in storage, or found in a public eating place, contrary to the provisions of this chapter, shall be disposed of by order of the

Game, Fish and Oyster Commissioner, or one of his deputies, by donating same to charitable institutions, hospitals, or needy widows and orphans.

If such birds, fowls or animals mentioned in this article are required to be placed in cold storage, the expense of such storage shall, upon his conviction, be placed in a bill of cost against the defendant or person from whom they were taken.

The Game, Fish and Oyster Commissioner, or any of his deputies, shall have the right to search the game bag or any other receptacle of any kind whenever such Game, Fish and Oyster Commissioner or his deputy has reason to suspect that such game bag, or other receptacle or any buggy, wagon, automobile, or other vehicle may contain game unlawfully killed or taken, and any person who refuses to permit the searching of the same, or who refuses to stop such vehicle when requested to do so by the Game, Fish and Oyster Commissioner, or his deputy, shall be fined not less than ten (\$10) nor more than one hundred (\$100) dollars.

Art. 898. *Commissioner to Keep Lists of Fines and Fees.*—It shall be the duty of the Game, Fish and Oyster Commissioner to keep in his office, at Austin, a complete list of the license fees and fines collected; said records shall be kept open for inspection of the State Comptroller and of the public. At the close of each calendar month the Game, Fish and Oyster Commissioner shall file with the Comptroller a report in writing, showing all fines, licenses, and other fees collected, their disposition and any other particulars which he may deem proper.

Art. 899. *Hunting Under License of Another.*—Any person who shall hunt under the license issued to any other person, or any person who shall permit any

other person to hunt under a license issued to him, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than ten (\$10) dollars nor more than one hundred (\$100) dollars.

Art. 900. *Hunting for Hire.*—It shall be unlawful for any person to hire or employ any other person, or to be hired or employed by any other person, by the payment, or by the promise of payment, of money or any other thing of value, to hunt any bird, wild fowl, or game animal protected by this chapter. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than twenty-five (\$25) dollars, nor more than two hundred (\$200) dollars. Provided, that if any person who has received money, or a promise of money or other thing of value, to hunt any wild bird, wild fowl, or game animal protected and mentioned in this chapter, testifies against the person employing him, all prosecutions against him in the case in which he testifies shall be dismissed.

Art. 901. *Hunting from Automobile, Airplane or Boat.*—It is hereby declared unlawful for any person at any time and in any manner, to hunt, take, capture, or kill, or attempt to hunt, take, capture, or kill any of the wild game birds, wild game fowl, or wild game animals, protected by the laws of this State, from an automobile, an airplane, a power boat, a sail boat, any boat under sail, or any floating device towed by power boat or sail boat. Any person violating any of the provisions of this act shall be deemed guilty of misdemeanor and upon conviction shall be fined in a sum not less than twenty-five (\$25) dollars nor more than two hundred (\$200) dollars.

Art. 902. *Hunting with Headlight.*—It shall be unlawful for any person at any time of the year to hunt deer or any other animal or bird protected by this chapter, by the aid of what is commonly known as a headlight or hunting-lamp, or by artificial light attached to an automobile, or by the means of any form of artificial light. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than fifty (\$50) dollars nor more than two hundred (\$200) dollars, or by confinement in the county jail for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. The possession of a headlight, or any other hunting light used on or about the head when hunting at night, between sunset and one-half hour before sunrise, by any person hunting in a community where deer are known to range, shall be prima facie evidence that the person found in possession of said headlight, or other hunting light, is violating the provisions of this article.

Art. 903. *Boat Owner to Have License.*—It is hereby declared unlawful for any person owning or navigating a sail boat or power boat, to receive on board such boat for pay any person or persons engaged in hunting, before such person owning or navigating such boat shall have applied for and received a license from the Game, Fish and Oyster Commissioner, or one of his deputies, granting him the right for one year to receive and carry on his boat persons engaged in hunting. Before such license is issued, the person applying for it shall pay to the Game, Fish and Oyster Commissioner, or one of his deputies, the sum of two (\$2.00) dollars, and shall file with such Game, Fish and Oyster Commissioner

the name of his vessel, her accommodations for passengers, and the number of her crew and shall file with the Game, Fish and Oyster Commissioner, or one of his deputies, an affidavit to the effect that he will not violate any of the provisions of this chapter, and will endeavor to prevent anyone whom he carries on his boat from violating any of the provisions of this act, and that he will not carry any hunter on his boat who does not possess a hunting license. Whenever any boat owner or navigator fails or refuses to comply with any of the provisions of this section, the Game, Fish and Oyster Commissioner is authorized and empowered to cancel his license without a refund or return of the license fee paid; and no license shall be renewed or issued to him thereafter for a period of one year.

Any person who carries out any hunting parties for reward or pay of any kind without first having procured his license, as provided in this article, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars.

Art. 904. *Hunting with Gun; License For.*—No citizen of this State shall hunt outside of the county of his residence with a gun without first having procured from the Game, Fish and Oyster Commissioner, or one of his deputies, or from any county clerk in this State, a license to hunt, and for which he shall pay either of such officers the sum of two (\$2.00) dollars; fifteen cents of which amount shall be retained by said officer as his fee for collecting.

The fee for a non-resident citizen or alien hunting license shall be twenty-five (\$25) dollars; three (\$3.00) dollars of such amount shall be retained by the officer issuing such license as his fee for collect-

ing, issuing, and making report on license so issued and for remitting the remaining twenty-two (\$22.00) dollars to the Game, Fish and Oyster Commission.

Any person hunting with a gun out of the county of his residence without a license authorizing him to hunt out of the county of his residence, or any person who fails or refuses on demand by any officer to show such officer his hunting license required of him by this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten (\$10) dollars, nor more than one hundred (\$100) dollars.

Provided, that the provisions of this article requiring hunting license shall not apply to persons under seventeen years of age.

Art. 904a. *Non-resident and Alien License.*—Any non-resident of this State or any alien who shall hunt wild game and birds in this State without first securing a license to hunt from the Commissioner or his deputy or the county clerk shall be fined not less than ten nor more than one hundred dollars. (Acts 1919, p. 298.)

Art. 905. *Commissioner to Enforce Game Laws.*—The Game, Fish and Oyster Commissioner and his deputies shall have the same power and authority as sheriffs to serve criminal processes in connection with cases growing out of the violation of this chapter, shall have the same power as sheriffs to require aid in executing such process, and shall be entitled to receive the same fees as are provided by law for sheriffs in misdemeanor cases.

Said Commissioner or any of his deputies may arrest without a warrant any person found by them in the act of violating any of the laws for the protection and progagation of game, wild birds or fish,

and take such person forthwith before a magistrate having jurisdiction. Such arrests may be made on Sunday, and in which case the person arrested shall be taken before a magistrate having jurisdiction and proceeded against as soon as may be, on a week day following the arrest.

Art. 906. *Duty of Commissioner to Enforce Law.*—It is hereby made a special duty of the Game, Fish and Oyster Commissioner to enforce the statutes of this State for the protection and preservation of wild game and wild birds; and to bring, or cause to be brought, actions and proceedings in the name of the State of Texas, to recover any and all fines and penalties provided for in the laws now in force, or which may hereafter be enacted, relating to wild game and wild birds. Said Game, Fish and Oyster Commissioner may make complaint and cause proceedings to be commenced against any person for violating any of the laws for the protection and propagation of game or birds without the sanction of the county attorney of the county in which such proceedings are commenced; and in such cases he shall not be required to furnish security for costs.

Art. 907. *Prima Facie Evidence.*—The possession of any wild game bird, wild game fowl, or wild game animal mentioned in this chapter, whether dead or alive, during the time when killing or taking is prohibited shall be prima facie evidence of the guilt of the person in possession during the time when killing or taking is prohibited by law.

Provided, however, that it shall not be unlawful to ship or bring any wild game birds, wild fowl, or wild game animals from the Republic of Mexico into this State at any season. Provided, that the party bringing the same into this State shall procure from the

Game, Fish and Oyster Commissioner, or from one of his deputies, a permit to bring same into the State, and shall procure from the United States custom officer at the port of entry a statement showing that such game was brought from the Republic of Mexico; and, provided further, that such party comply with the provisions of this act regulating the shipment and sale of such wild game birds, wild fowls, or game animals.

Art. 908. *Hunting on Game Preserves for Pay.*— It is hereby declared unlawful for any person or persons, who may be acting as manager of any club, or the owner of any club, or shooting resort or shooting preserve, or lessor of premises leased for hunting purposes, to receive or accommodate as a guest or member of said club, or shooting resort, or shooting preserve, or lessee of premises leased for hunting purposes, for pay, any person or persons engaged in hunting, before such manager of such club, shooting resort, shooting preserve, or premises leased for hunting purposes, shall have applied for and received a license from the Game, Fish and Oyster Commissioner, or one of his deputies, granting him the right for the year beginning September 1 and ending August 31, following, to receive and accommodate any such person or persons at such club, shooting resort, shooting preserve, or premises leased for hunting purposes.

Before such license is issued the person applying for same shall pay to the Game, Fish and Oyster Commissioner the sum of five (\$5.00) dollars, and shall file with the Game, Fish and Oyster Commissioner the name of said club, shooting resort, shooting preserve, or premises leased for hunting purposes, and shall file with the Game, Fish and Oyster Commissioner an affidavit that he will not violate any of the provisions of this article and will endeavor to prevent guests of

said club, shooting resort, shooting preserve, or premises leased for hunting purposes from doing so, and that no guest will be accommodated who has not previously secured a hunting license.

All such managers of clubs, shooting resorts, shooting preserves and premises leased for hunting purposes shall be required to keep a suitable record book and each guest or member shall be required to register, showing his name and place of residence, license number, and a record of each day's kill of different birds and game, and a complete record must be made to the Game, Fish and Oyster Commissioner by such manager of club, shooting resort, shooting preserve or premises leased for hunting purposes, not later than February 10 of each year.

Whenever any manager of any club, shooting resort, shooting preserve or premises leased for hunting purposes, fails or refuses to comply with any of the provisions of this article, the Game, Fish and Oyster Commissioner is authorized and empowered to cancel his license without refund or return of the license fee, and no license shall be renewed or issued to such party, or parties, thereafter for a period of one year.

Any manager of any club, shooting resort, shooting preserve, or premises leased for hunting purposes, who accommodates hunters for reward, without first having procured the necessary license as provided in this article, or failing to comply with all the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction shall be fined the sum of not less than one hundred (\$100) dollars, nor more than two hundred (\$200) dollars, or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment. Such fines shall be placed to the credit of the special game fund.

For the purpose of carrying out the provisions of this article, it shall be the duty of the Game, Fish and Oyster Commissioner to have prepared and to furnish to all deputy game commissioners blank license with stubs attached, numbered serially, such license to be called "Shooting Preserve License"; such shooting preserve license shall have printed across the face the year for which it is issued, shall bear the name and address of the licensee, name of club, character of game found on such preserve or lease, and the expiration date of such license. Said license must bear the seal of the Game, Fish and Oyster Commission, and must be signed by the Commissioner or one of his deputies. On the reverse side of said license shall be printed the open season and bag limit, as provided in this chapter:

Art. 909. *Storage After Closed Season.*—All game birds, wild fowl, and game animals, named in this chapter, killed during the open season prescribed therefor, may be possessed during and for an additional ten days after such season is closed. But it shall be unlawful, after such ten days, to place in storage or keep in storage any wild birds, or wild game animals, or parts thereof, named in this chapter. Any person owning or claiming such birds, fowl, or animals, or parts thereof, after such ten days, or any person storing such birds, fowl, or animals, or parts thereof, for such claimant or owner, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than ten (\$10) dollars, nor more than one hundred (\$100) dollars, and each bird, fowl, or animal, or part thereof, stored in violation of this section, shall constitute a separate offense.

Art. 910. *Female Deer, Fawn or Young Buck.*—It

shall be unlawful for any person to take, kill, wound, shoot at, hunt or possess, dead or alive, any wild female deer, wild fawn deer or any wild buck deer without a pronged horn, or to possess any deer carcass or green deer hide with all evidence of sex removed.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than fifty (\$50) dollars, nor more than two hundred (\$200) dollars.

Art. 911. *Chief Deputy to Act as Commissioner.*—The Game, Fish and Oyster Commissioner shall appoint a Chief Deputy Commissioner, who shall maintain an office in the Capitol of this State; and said Chief Deputy Commissioner shall take the constitutional oath of office, and shall act as general assistant to the said Game, Fish and Oyster Commissioner; and, during the absence, sickness, or disability of the Commissioner, he shall exercise the duties of the said Commissioner. Said Chief Deputy Commissioner shall devote his entire time to the work of his office. The Chief Deputy Game, Fish and Oyster Commissioner shall, before assuming the duties of his office, file with the Secretary of State a good and sufficient bond in the sum of five thousand (\$5000) dollars, conditioned on the faithful performance of the duties of his office, which bond shall be approved by the Game, Fish and Oyster Commissioner. It shall be the duty of the Chief Deputy Game, Fish and Oyster Commissioner to prepare and furnish to each county clerk, blank hunting licenses, with stubs attached, numbered serially; and said Chief Deputy Commissioner shall cause an account to be opened in his office with each county clerk, and charge said clerk with the number

of licenses furnished him. He shall also open an account with each deputy of the Game, Fish and Oyster Commission and charge such deputy with the number of licenses furnished him. Said accounts shall show the serial numbers of such licenses.

Art. 912. *Clerk or Justice of the Peace to Remit Fines.*—It shall be the duty of any justice of the peace, clerk of any court, or any other officer of this State, receiving any fine or penalty imposed by any court for violation of any of the laws of this State pertaining to the protection and conservation of wild birds, wild fowl, wild animals, fish, oysters, and other wild life, within ten days from and after the receipt or collection of such fine or penalty, to remit same to the Game, Fish and Oyster Commission at Austin, giving docket number of case, name of person fined, and section or article of the law under which conviction was secured, when such laws are required to be enforced by the Game, Fish and Oyster Commission.

Art. 913. *Propagation and Scientific Purposes.*—Provided, nothing in this act shall prevent the capture, by any means and at any time, day or night, of wild birds or wild fowl and their nests and eggs, or of wild animals or wild quadrupeds for zoological gardens or parks, or for propagation purposes, or for scientific purposes; but, before any birds, fowl, animals, quadrupeds, nests or eggs are taken or molested for the aforesaid purposes, permission must be secured from the Game, Fish and Oyster Commissioner only, by the person desiring so to operate, such person shall make application in the form of an affidavit, in duplicate, setting forth what birds, fowls, animals, quadrupeds, nests, or eggs he desires and the purposes for which he desires the same; and if such request is for collection of skins, nests, or eggs, for scientific

purposes, such application should be accompanied by certificates from two well known ornithologists (where the specimens are birds or their nests or eggs), or mammalogists (where the specimens are animals or quadrupeds), residents of the United States, stating that the applicant is a fit person to be entrusted with such a permit and that they have known him for at least five years past, and the applicant should further be supplied with a Federal scientific collecting permit issued by the Bureau of Biological Survey of the United States Department of Agriculture, permitting him or her to collect migratory birds, and the serial number and date of said Federal permit should be furnished by the applicant on said affidavit, where request is made for the collecting of birds and their nests or eggs. Such scientific collecting permit as issued by the State of Texas will authorize the holder thereof to take, possess, and transport, in any manner and at any time, birds and their nests and eggs, for scientific purposes; provided, that before migratory birds, or their nests, or eggs, are taken the Federal permit indicated above must be obtained. Such scientific permit shall be issued for the fiscal year and shall be null and void after midnight of December 31st of the year issued.

If any person desires to bring into the State any wild birds or wild animals, dead or alive, or the nests or eggs of any bird, he shall apply to the Game, Fish and Oyster Commissioner, for permission to do so, attaching to such application an affidavit setting forth the number and species of birds or animals, or the nests or eggs of birds, desired to be introduced.

The Game, Fish and Oyster Commissioner may refuse to issue permits for any of the purposes set forth

in this article, if, in his judgment, such application, or party making same, is not satisfactory.

The Game, Fish and Oyster Commissioner is empowered to prescribe rules and regulations governing the propagation of game birds and animals, and the taking of birds and animals for scientific purposes, and is authorized to cancel any permit issued, when, in his judgment, the holder thereof fails or refuses to comply with such rules and regulations.

In the shipment of skins of protected animals, or the skins or nests or eggs of birds, each package shall have clearly and conspicuously marked, on the outside thereof, the name and address of the sender, the number of the sender's permit, and the statement that it contains specimens of animals, or of birds or their nests or eggs for scientific purposes. A person operating under, or holding a permit for scientific collecting shall report, on or before January 10th, following the expiration of his permit, to the Game, Fish and Oyster Commissioner, the number of skins, nests or eggs of each species collected, or transported, together with the disposition of all such specimens not in his possession at the time of making said report, and also a statement covering any scientific data observed during his field collecting that, in his judgment, would be of interest to the ornithological or zoological public.

The Game, Fish and Oyster Commissioner shall, at all times have the power to take in any manner, keep, and transport, anywhere within the State, any of the wild birds or their nests or eggs, or any wild animals, for investigation, propagation, distribution, or scientific purposes.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and, upon

conviction, shall be punished by a fine of not less than twenty-five (\$25) dollars nor more than two hundred (\$200) dollars; and each bird, fowl, animal, quadruped, nest, or egg, taken or possessed in violation of this article shall constitute a separate offense.

Art. 914. *Special Deputy Game Commissioners.*—It shall be the duty of the Game, Fish and Oyster Commissioner to appoint Special Deputy Game Commissioners, who shall be ex-officio Deputy Game, Fish and Oyster Commissioners to enforce conservation laws in the various districts of the State, with all the powers of the latter to enforce the game, fish and oyster laws of this State. Such Special Deputy Game Commissioners shall not receive more than one hundred and fifty (\$150) dollars per month and expenses. Each Special Deputy Game Commissioner shall take the oath of office, and shall give a good and sufficient bond in the sum of one thousand (\$1000) dollars for the faithful performance of his duties, such bond to be approved by and filed with the Game, Fish and Oyster Commissioner. Such Special Deputy Game Commissioners shall hold office at the discretion of the Game, Fish and Oyster Commissioner, and shall have all the power in the discharge of their duties as are conferred on the Game, Fish and Oyster Commissioner.

The Game, Fish and Oyster Commissioner, in order to enforce conservation laws in the various sections of the State, shall also have the power to appoint Deputy Game Commissioners in any county of the State; and said deputies shall have, in the discharge of their duties, the same powers and authority as are herein provided for the Game, Fish and Oyster Commissioner, and shall be subject to the supervision and control of and removal by said Game, Fish and Oyster Commissioner, except that they shall not be authorized to

carry on or about their person, saddle, or saddle-bags any pistol, dirk, dagger, slung-shot, sword, cane, spear or knuckles made of any metal or any hard substance Bowie knife or other knife manufactured or sold for the purpose of offense or defense. Such Deputy Game Commissioner shall not receive more than three (\$3.00) dollars a day for each day of service performed, together with all necessary expenses incurred, when same have been rendered on sworn account, and when the performance of said services was authorized by the Game, Fish and Oyster Commissioner, the Chief Deputy Commissioner, or a special Deputy Game Commissioner, which account shall be approved by the Game, Fish and Oyster Commissioner or Chief Deputy Commissioner, and paid on warrant drawn by the Comptroller.

Art. 915. *Season for Turkeys.*—The open season for killing wild turkeys shall be during November and December. Whoever kills wild turkey hen, or more than three wild turkey gobblers during any one year shall be fined not less than ten nor more than one hundred dollars. Each gobbler killed above three shall be a separate offense. (Amended by Acts Fortieth Legislature, page 316.)

Art. 915a. *Special Deputy Commissioners to Enforce Game Law.*—All Special Deputy Game Commissioners and Deputy Game Commissioners are hereby empowered and required to enforce the Game, Fish and Oyster Laws of this State, and such deputy who violates such laws shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than one hundred (\$100) dollars nor more than two hundred (\$200) dollars.

Art. 916. *Killing Turkeys in Certain Counties.*—It shall be unlawful for any person to take, kill,

wound, shoot at, hunt for, or possess, dead or alive, any wild turkey gobbler, or turkey hen in the counties of Cameron, Hidalgo, Starr, Willacy, Kennedy, Brooks, Kleberg, or Nueces until November 16, 1930, from and after which time it shall be lawful to kill only turkey gobblers as herein provided in this bill.

Art. 917. *Game Preserves; How Acquired.*—Any person, firm or corporation owning and in possession of lands in the State of Texas, may transfer by an instrument of writing, duly acknowledged before an officer authorized under the laws of this State to take acknowledgments, to the State of Texas the right to preserve, protect and introduce for propagation purposes any of the game birds or game animals mentioned in this chapter on the lands mentioned therein, for a period of not less than ten years. Such instrument of writing shall be filed in the office of the Game, Fish and Oyster Commissioner, whereupon the Game, Fish and Oyster Commissioner may at his discretion declare the lands described in said instrument a State Game Preserve and thereafter for a period named therein shall for all the purposes relating to the preservation, protection and propagation of game birds and game animals be under the control of the Game Fish and Oyster Commissioner. Providing that the aggregate acreage of all preserves which may be designated in any one county shall never exceed ten per cent of the total acreage of such county. Such preserves shall be numbered in the order of the filing of the instrument therefor. The Game, Fish and Oyster Commissioner shall cause notices to be prepared containing the words "State Game Preserve," "Trespassing Prohibited," and cause such notices to be posted at each gate or entrance thereto. All State game preserves established under the provisions of this chapter

shall for all purposes of preservation, protection and propagation of game birds and game animals thereon be under the control and management of the Game Fish and Oyster Commissioner and he and his deputies may at all times enter in and upon such preserves in the performance of their duties.

It shall be unlawful for any person to hunt, pursue, shoot at, kill, take, destroy, or in any manner molest any of the game birds or game animals within the exterior boundaries of any game preserves and any person who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty (\$50) dollars nor more than two hundred (\$200) dollars.

Art. 918. *Cautioning Sportsmen.*—It shall be the duty of the Game, Fish and Oyster Commissioner and his deputies, in addition to their duties provided for in this chapter, to caution sportsmen and other persons while in the woods, marshes, or prairies of the State of danger from fire; and, to the extent of their power, to extinguish all fires left burning by anyone, and to give notice, when possible, to any and all persons interested, of fires raging beyond control to the end that same may be controlled and extinguished.

Art. 919. *Power of Commissioners to Enter on Lands.*—The Game, Fish and Oyster Commissioner and his deputies shall at all times have the power to enter upon any lands or water where wild game or fish are known to range or stray for the purpose of enforcing the game and fish laws of this State, and for the purpose of making scientific investigations or for research work as to such wild game or fish and no action in any court shall be sustained against the

Commissioner or any of his deputies to prevent their entrance upon lands or waters when acting in their official capacity as herein set forth.

Art. 920. *Citizen, Non-resident and Alien Defined.*—

For the purpose of this chapter any person, except an alien, who has been a bona fide resident of this State for a period of time exceeding six months, continuously and immediately before applying for a hunting license, shall be considered a citizen of this State.

An alien is any person who is not a natural born citizen of the United States of America, and who has not declared his intention to become a citizen of the United States of America.

A non-resident shall be any person who is a citizen of any other State, or who has not continuously or immediately previous to the time of applying for a hunting license, been a bona fide resident of the State of Texas for a period of time more than six months.

Art. 921. *Constitutionality.*—If any paragraph, section, or part of this chapter shall be held unconstitutional or inoperative, it shall not affect any other paragraph, section, or part of this chapter; and the remainder of this chapter, save the part declared unconstitutional or inoperative, shall continue to be in full force and effect.

Art. 923. *Killing Birds in Closed Season.*—No person shall kill or take any of the birds or fowls enumerated in Article 872 except during the open season as fixed for each kind of bird or fowl, and if any person shall kill, take or have in his possession, any of the birds or fowls enumerated in Article 872 at any

time of the year except during the open season as provided for in this chapter, he shall be fined not less than ten nor more than one hundred dollars. (Acts 1919, p. 290, Sec. 9.)

Art. 923a. *Importing Game in Closed Season.*—It shall be unlawful to bring into this State for any purpose whatever during the closed season, either alive or dead, any kind of wild game birds or fowl or animal, enumerated in this chapter, or to bring into this State for sale or exchange or barter or shipment for sale any such bird or fowl or animal, during the open season as set out in this chapter except as provided in Article 908. Any person bringing such game bird or fowl or animal into the State during the closed season or bringing such game bird or fowl or animal for sale or barter or shipment for sale during the open season, shall be fined not less than ten nor more than two hundred dollars. The bringing in of each game bird or fowl or animal herein interdicted is a separate offense. (Acts 1st C. S., 1919, p. 187.)

Art. 923b. *Protecting Bats.*—Whoever wilfully kills or in any manner injures any winged mammal known as the common bat shall be fined not less than five nor more than fifteen dollars. (Acts 1907, p. 124.)

Art. 923c. *Birds Protected by Audubon Society.*—After the recording of the lease made by the Commissioner of the General Land Office to the National Association of Audubon Societies for the purpose of protecting birds and bird life on and about the property leased in Kleberg County, known as the North Bird Island and South Bird Island and on Green Island in Cameron County and on the group of three islands in Big Bay in Cameron County and on the flats and reefs and shallow waters near all of said islands as

described in the laws of this State, it shall be unlawful for any person whomsoever except a representative, an agent or an employe of said Association or a peace officer of this State or of the United States to enter upon such leased area without the knowledge and consent of said association, for the purpose of catching or killing any bird or birds or for the purpose of taking any bird or bird eggs or to destroy any bird nests or bird eggs; it shall be unlawful for any person whomsoever to catch, kill or maim any bird or birds on such leased area or to catch, kill or maim or attempt to catch, kill or maim any bird or birds on or above said area by any means whatsoever even though such person may be above or outside of such leased area; it shall be unlawful for any person whomsoever to discharge any firearms or other explosives on or above such leased area; or to land, tie or anchor any fishing boat within such leased area. Nothing herein shall be construed to prohibit any representative, agent or employe of said association from catching, killing or destroying within any such leased area any bird or birds and any animals that may be known to prey upon bird life or bird eggs nor to prohibit such representatives, agent or employe from taking bird eggs and catching any bird for propagation or conservation or scientific purposes only, nor to prohibit persons from taking refuge on such area on account of storms. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than five hundred dollars, or be imprisoned in jail for not less than ten days nor more than six months, or both. (Acts 1st C. S., 1921, p. 33; Acts 1923, p. 188.)

Art. 923d. *Refusing to Stop Vehicle for Search.*—The Commissioner, or any of his deputies, shall have

the right to search the game bag or any other receptacle of any kind whenever such Commissioner or his deputy has reason to suspect that such game bag, or other receptacle or any buggy, wagon, automobile, or other vehicle may contain game unlawfully killed or taken, and any person who refuses to permit the searching of the same, or who refuses to stop such vehicle when requested to do so by the Commissioner, or his deputy, shall be fined not less than ten (\$10) nor more than one hundred (\$100) dollars. (Acts 1915, p. 294.)

Art. 923e. *Buying for Evidence.*—One who buys, for the purpose of establishing testimony, a game bird or animal, the sale of which is prohibited by this chapter, shall not be prosecuted for such purchase. (Acts 1919, p. 296.)

Art. 923g. *Using Deer Call.*—Any person who at any time of the year in hunting deer uses a deer call, whistle, decoy, call pipe, reed or other device, mechanical or natural, for the purpose of calling or attracting any deer, except by rattling deer horns, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not less than twenty nor more than ninety days, or both. (Acts 1915, p. 162; Acts 1919, p. 295.)

Art. 923f. *Shipping Deer.*—Whoever ships any deer or any part thereof by common carrier without the person shipping it making the affidavit prescribed in Article 889, and whoever ships or receives for shipment as the agent of any transportation company any deer or any part thereof, shall be fined not less than ten nor more than one hundred dollars. (Acts 2nd C. S., 1919, p. 190.)

Art. 923g. *Deer in Bosque County.*—For a period

of five years after June 12, 1923, whoever shall hunt, trap, ensnare or kill any wild deer within Bosque County shall be fined not less than twenty-five nor more than one hundred dollars. (Acts 1923, p. 115.)

Art. 923h. *Sale or Purchase of Game.*—Whoever shall sell or offer for sale, or have in his possession for the purpose of sale, or whoever shall purchase or have in his possession after purchase, any wild deer, wild antelope or Rocky Mountain sheep, killed in this State or the carcass, hide or antlers of any such animal, shall be fined not less than ten nor more than one hundred dollars. (Acts 1911, p. 101.)

HARDIN COUNTY SQUIRREL LAW.

Section 1. That from and after the passage of this act it shall be unlawful for anyone to kill squirrels in Hardin county, Texas, during the months of February 1st to October 15th, inclusive.

Sec. 2. That during the other months of the year it shall be unlawful for anyone to kill more than ten squirrels in any one day.

Sec. 3. Every person violating any of the provisions of this act shall upon conviction be punished by a fine of not less than ten dollars or more than one hundred dollars. (Chapter 43, Acts First Called Session, Fortieth Legislature.)

MIGRATORY BIRDS.

Complete information concerning the provisions of the various laws and regulations for the protection of migratory birds may be obtained by addressing: Chief, Bureau of Biological Survey, Washington, D. C.

CHAPTER EIGHT

FUR-BEARING ANIMALS

(Chapter 177, Acts Thirty-ninth Legislature, page 434)

Section 1. *Property of the People of the State.*—All the fur-bearing animals of this State are hereby declared to be the property of the people of this State. For the purpose of this act, wild beaver, wild otter, wild mink, wild ring-tail cat, wild badger, wild pole-cat or skunk, wild raccoon, wild muskrat, wild opossum, wild fox and wild civet cat are hereby declared to be fur-bearing animals.

Sec. 2. *Trapper Defined.*—The term trapper as used under the provisions of this act is any person who traps, kills or takes any of the animals or pelts thereof, herein mentioned, for the purpose of sale or barter.

Sec. 3. *License.*—All residents, non-residents, and alien trappers desiring to trap, kill or take any of the wild fur-bearing animals or the pelts thereof mentioned in Section 1, of this act, for sale or barter, shall procure a license to do so, as hereinafter provided, and any person who fails to procure such license as herein provided for, shall be deemed guilty of a misdemeanor, which license shall expire February 15 after date of issuance and shall entitle the holder to trap or take any of the fur-bearing animals or the pelts thereof, mentioned in Section 1 of this act, for sale or barter, during the season when it is lawful to do so; which license shall state the residence, age,

height, weight, color of hair and color of eyes of the licensee. The fee for each resident license shall be one dollar (\$1.00), ten cents of which shall be retained by the officer issuing and reporting the same as his commission. The fee for a non-resident or an alien license shall be fifty (\$50) dollars for each county in which said alien or non-resident shall take, kill or trap such animals, five dollars of which shall be retained by the officer issuing and reporting the same, as his commission.

Sec. 4. *Resident, Non-resident and Alien Trappers Defined.*—For the purposes of this act a resident trapper of this State is any person who has been a bona fide resident of this State for a period of time exceeding twelve months continuously and immediately before applying for a trapper's license. A non-resident is any person who is a citizen of any other State of the United States of America or who has not continuously and immediately preceding the time of applying for a trapper's license been a bona fide resident of the State of Texas for a period of twelve months. An alien is any person who is not a natural-born American citizen or who has not received the final naturalization papers of United States citizenship.

Sec. 5. *Commissioner et al. to Issue License.*—The Game, Fish and Oyster Commissioner shall cause to be printed blank trapper's license, which shall contain the requirements as provided for in Section 3 of this act, and shall distribute the same to his deputies and to various county clerks of the State of Texas, taking their receipts therefor by numbers and quantity, and it is hereby declared to be the duty of the Game, Fish and Oyster Commissioner, his deputies, and the county clerks of this State to issue licenses as

provided in this act, and to make reports and remittances therefor, which reports and remittances shall be made during the first week of the month, succeeding such sale.

Sec. 6. *Owners and Tenants.*—Owners and tenants and their children who are residents, as defined in this act, shall have the right to kill or take from their premises any of the fur-bearing animals or pelts thereof for sale or barter during the time when it is lawful to do so, without procuring a trapper's license.

Sec. 7. *Tenant Defined.*—The term tenant as herein used shall mean any person who has resided on the land they occupy for a period in excess of twelve months continuously and who shall have the same rented or leased for agricultural or grazing purposes.

Sec. 8. *Closed Period on Beaver, Otter and Wild Fox.*—It shall be unlawful for any person to kill, take or have in his possession for barter or sale within a period of ten years after the passage of this act any wild beaver, wild otter or wild fox or the pelts thereof. Provided that this section shall not apply to wild fox in that portion of west Texas lying north and west of a line starting at the mouth of the San Antonio river where it empties into the Corpus Christi bay; thence following the meanders of the said San Antonio river northerly to the mouth of the Cibolo river where same empties into the San Antonio river; thence following said Cibolo river northerly to the northwest line of Guadalupe county, the boundary between Guadalupe and Comal counties; thence easterly with the north boundary line of Guadalupe, Caldwell, Bastrop, Lee, Burleson and Brazos counties to the Brazos river; thence following the meanders of the Brazos river north to the intersection of the east

boundary line of Young county; thence north along the west boundary line of Jack and Clay counties to the Red river; provided that the counties of Hays, Milam and Williamson shall be exempted from the provisions of this bill applying to the territory west of the boundary line herein set out and shall be in and under the full effect of the law applicable to the territory east of said division line; provided that it shall be unlawful to take, hunt, capture, or kill or attempt to hunt, capture or kill any wild game or wild animals by means of traps or any other mechanical device within the limits of Limestone county for a period of five years from and after the passage of this act.

Provided that in Young county it shall be unlawful for any person to kill, take or have in his possession for barter or sale within a period of ten years after the passage of this act any wild beaver, wild otter or wild fox or the pelts thereof. (Acts First Called Session, Fortieth Legislature.)

Sec. 9. *Closed Period on Other Fur-Bearing Animals.*—It shall be unlawful for any person to kill, or take for sale or barter, any of the wild fur-bearing animals, muskrats excepted, or other pelts permitted to be killed or taken by this act, for sale or barter, between the fifteenth day of February and the thirteenth day of November, of any year, both days included, in the closed season. The prohibited or closed season on muskrats shall be from March 15 to November 15.

Sec. 10. *Fees to Be Deposited in Special Game Fund.*—All moneys collected from the fines and penalties for the violation of this act, and all moneys collected from the sale of trapper's licenses shall belong to the special game fund of this State, and shall

be paid over by the Game, Fish and Oyster Commissioner to the Treasurer of the State during the first week of each month, and shall be credited to such special game fund for the enforcement of this act and the game laws in general, provided county attorneys shall receive ten per centum and officers making collection five per centum of any fines or fine assessed for violations of this act.

Sec. 11. *Enclosed Land.*—It shall be unlawful for any person to trap, or set any trap or dead-fall on the enclosed lands of another without the consent or permission of the owner of said land.

Sec. 12. *Trapping Muskrats on Enclosed Lands of Another.*—It shall be unlawful for any person, at any time, to trap or kill upon the posted or enclosed lands of another, or be in possession of a muskrat or the hide of such animal, without the consent of the owner or lessee of such lands to trap thereon, provided that such person may, in relief against this provision, show a rightful, legal possession of such muskrats or the hides of such animals.

Sec. 13. *Land Owners' Right to Kill Muskrats.*—It shall be unlawful for any person to destroy the beds, nests or breeding places of any muskrat or muskrats, or to take or kill any of such animals except by trapping; provided, however, that any person shall have the right to kill such animal upon his own premises at any time or by any means.

Sec. 14. *Unlawful to Purchase Furs on Lands of Another.*—It shall be unlawful for any person to purchase the hide or furs of muskrats on the land of another, taken or trapped on the lands of another, from any person other than the owner of such land or the duly authorized agent of such owner.

Sec. 15. *Enclosed Land Defined.*—By enclosed land is meant any land enclosed by a fence or fences, or by water, or partly by fence and partly by water, or by any barrier, natural or artificial, that is used by owners as methods or means of enclosure.

Sec. 16. *Posted Land Defined.*—Posted land within the meaning of this act shall have signs at the gate or gates and at any streams entering said enclosures reading "Posted" in a conspicuous place, shall be deemed posted within the meaning of this act.

Sec. 17. *Trapper Must Exhibit License.*—Any person required to procure a license under this act and who fails to carry said license on his person when trapping, killing, or taking any of the fur-bearing animals or the pelts thereof for sale or barter, or who fails or refuses to exhibit the same to any officer authorized to enforce the laws of this State or who uses the license of another or permits another to use his license shall be deemed guilty of a misdemeanor.

Sec. 18. *Unlawful to Trap Without License.*—It shall be unlawful for any person required by this act to procure a trapper's license to kill or take any of the fur-bearing animals or the pelts thereof mentioned in this act, for the purpose of sale or barter, without having procured a license to do so, as required by Section 3 of this act.

Sec. 19. *Commissioner to Enforce Law.*—It shall be the duty of the Game, Fish and Oyster Commissioner and his deputies to enforce the provisions of this act.

Sec. 20. *Penalty.*—Every person violating any of the provisions of this act shall, upon conviction, be punished by a fine of not less than ten dollars nor more than one hundred dollars.

Sec. 21. *Laws Repealed.*—That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Sec. 22. *Constitutionality.*—If any section of this bill shall be held unconstitutional it shall not affect any other section of this bill, and all sections save the one that may be declared unconstitutional shall continue to be in full force and effect. (Acts 1925, p. 434.)

SPECIAL LAW FOR CASS COUNTY.

Section 1. That for five years from and after the passage of this act, it shall be illegal for any person to take or trap by means of any snare, dead-fall or steel trap, any fur-bearing animal within the territorial limits of Cass county.

Sec. 2. That whosoever shall violate the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty five dollars and not more than two hundred dollars, provided that each animal so taken or trapped shall constitute a separate offense. (Acts Fortieth Legislature, Regular Session, page 234.)

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