

LAWS RELATING TO LIVING RESOURCES

Preliminary Draft

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FOREWORD

This volume is one of eight representing a compilation of Mississippi laws which most significantly affect the use and development of the state's marine and coastal zone. The compilation has been prepared by the Mississippi Law Center at the University of Mississippi School of Law, under the auspices of the University of Mississippi and the Mississippi Universities Marine Center, Dr. Sidney E. Upham, Director.

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CHAPTER ONE: INTRODUCTION

I. GENERAL

Living resources are generally comprised of four main categories: (1) fresh water fish and shellfish; (2) salt water fish and shellfish; (3) wild-life and fowl, and (4) domestic animals. As suggested by the scope of these four categories, the development and protection afforded living resources in Mississippi is primarily directed at fish, fowl, and wildlife. Living resources, as the term is used in this study, is not concerned with human beings, trees, or plants.

Several state agencies and governmental subdivisions are responsible for the development and protection of living resources in Mississippi. Nevertheless, the GAME AND FISH COMMISSION¹ and the MARINE CONSERVATION COMMISSION² are the principle state agencies delegated this task. The composition and scope of authority for these two commissions will be discussed in detail in Section B, supra.

Some agencies indirectly and innocuously express a policy of encouraging the development of natural resources in the state. For example, the GULF REGIONAL DISTRICT³ is granted wide latitude and broad authority to coordinate all activities in planning for the redevelopment of the region and provide for the marshalling of the region's natural and human resources.⁴ THE GULF COAST RESEARCH LABORATORY, which is under the control of the board of trustees of State Institutions of Higher Learning, also promotes the study and knowledge of

natural resources in the state.⁵ Another purpose of the Gulf Coast Research Laboratory is to provide for the dissemination of research findings and specimens from the Gulf Coast area.⁶ THE MARINE RESOURCES COUNCIL, an agency of the State of Mississippi, studies and develops plans and recommendations for the effective, efficient, and economic development of marine resources.⁷ Also, any county or municipality in the state may expend money for advertisement of its resources.⁸

The FISHERIES and WILDLIFE LABORATORY at Mississippi State University conducts a program of research in the culture of fish, the diagnosis and treatment of fish and game animal diseases, and the physiology and nutrition of fish and game animals.⁹ The laboratory disseminates its findings to the public and to all individuals and agencies for whom such knowledge will be helpful and useful.¹⁰

Mississippi is authorized to participate in an interstate compact with Florida, Alabama, Texas and Louisiana known as the Gulf States Marine Fisheries Compact.¹¹ Each state joining the compact appoints three representatives to a commission designated as the Gulf States Marine Fisheries Commission¹² and located in New Orleans, Louisiana. The duty of the commission is to make inquiry and ascertain such methods, practices, circumstances, and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the marine, shell, and anadromous fisheries of the Gulf Coast. It also drafts and recommends legislation dealing with the fisheries to the governors and legislatures of the member states.

II. SPECIFIC AGENCIES

1. AGRICULTURAL AND INDUSTRIAL BOARD

Part of the declared public policy and legislative intent of the Agricultural and Industrial Board¹⁴ is to develop natural resources in Mississippi.¹ Within the context of this policy there are tremendous possibilities for economic development of the state's natural resources, including the living resources described above. The board is authorized to cooperate with agencies of the federal government and other states for securing economic development in Mississippi.¹⁶ The board is also charged with the duty of making effective the declared public policy of the state and municipalities regarding economic development; therefore, it is empowered to determine whether public convenience and necessity require that a municipality shall have the right to acquire lands and erect enterprises and expansions thereof.¹⁷ Each municipality can apply to the board for a certificate of public convenience and necessity to determine whether the general welfare requires that the municipality enter into a given enterprise.¹⁸ One criterion which the board determines upon an application by a municipality is that there are sufficient natural resources readily and economically available for the operation of the particular enterprise.¹⁹ Any port authority or commission in the state may cooperate with a county or municipality to effectuate the above purposes.²⁰ The entire cost of acquiring any project, however, must be paid out of the proceeds from the sale of bonds issued

under the authority of state law, and no contribution to the costs can be derived from the general funds of a municipality.²¹

The Agricultural and Industrial Board can also employ firms qualified in the field of market research to make detailed economic studies,²² and the board may offer the research data and information to any individuals in the state, including any governmental subdivision of Mississippi.²³ Also, the A & I Board is authorized to encourage the establishment of industrial parks or districts where necessary to aid in the development of municipalities, counties, or supervisors districts.²⁴ Any municipality²⁵ in the state may apply to the board for a certificate of public convenience and necessity to determine if the general welfare necessitates the development of an industrial park.²⁶

2. GAME AND FISH COMMISSION

As indicated above the Game and Fish Commission and the Marine Conservation Commission are the principal agencies responsible for the development and protection of living resources in Mississippi. Under the authority of state law²⁷ and Public Notice No. 1551²⁸ a jurisdictional boundary line between salt and fresh waters has been established.²⁹ All areas declared to be fresh waters are under the jurisdiction of the Game and Fish Commission.³⁰ All areas declared to be salt waters are under the jurisdiction of the Marine Conservation Commission.³¹

The Game and Fish Commission is composed of eleven members who are appointed by the Governor.³² The members serve partially staggered terms of office.³³ The Governor also appoints a state director of conserva-

tion who is responsible for the execution of commission policies.³⁴ The director appoints a deputy director, a chief law enforcement officer, and a public relations officer.³⁵

The Game and Fish Commission cooperates with the federal government³⁶ and counties of the state,³⁷ as well as any persons, firms, or governmental agencies.³⁸ The delegation of certain enforcement powers against discharging industrial waste into streams³⁹ suggests a cooperation with the Pollution Control Commission. Nevertheless, it is believed that this power is no longer exercised by the Game and Fish Commission.

The powers and duties of the commission are broad and varied, but generally the commission's responsibilities cover the regulation and protection of game birds, game or fur-bearing animals, and fish or amphibians.⁴⁰ It also conducts research in improved wildlife conservation methods.⁴¹

All lands belonging to the State of Mississippi, whether held in fee or in trust by the State, are declared forest reserves and wildlife refuges so long as the State owns them, and no wildlife can be taken from these areas except under regulations of the Game and Fish Commission.⁴² Furthermore, the commission is authorized to purchase the land necessary for the construction and maintenance of management projects or hunting and fishing refuges.⁴³ Also, the State Land Commissioner, with the consent and approval of the Attorney-General and the Game and Fish Commission, is authorized to lease the cut-over, swamp and overflowed lands belonging to the state and unsuitable for cultivation for the establishment of game and

fish preserves.⁴⁴

The commission has general authority to operate game and fish management areas or refuges. It may adopt rules and regulations regulating public hunting and fishing in such projects and refuges and may also collect fees for the privilege of hunting and fishing therein.⁴⁵ Support and maintenance for the projects and refuges may come from any county, from revenues resulting from sale of timber or minerals on the land, from donations from any agency of the Federal government or State of Mississippi, or from fees collected by the refuge for hunting and fishing permits.⁴⁶ Also, any municipality or county may issue bonds to secure funds for the purchase of the required lands and to construct projects on the lands.⁴⁷ All of this must be done under the direction of the Game and Fish Commission.⁴⁸ In order to warn the public against hunting, fishing or trespassing on refuges, the State Director of Conservation shall post notices or sign boards (not less than one foot square) in conspicuous places near and along the boundaries of any refuge.⁴⁹

There are various penalties for violation of game and fish laws, rules, and regulations. These will be discussed later specifically as they apply, but a few general ones will be mentioned here. The Game and Fish Commission is empowered to dispose of contraband animals, birds, and fish which it acquires.⁵⁰ Trespassing on any refuge or management project constitutes a misdemeanor;⁵¹ and violation of any provision of the game and fish laws or any rule or regulation of the commission also constitutes a misdemeanor.⁵²

3. MISSISSIPPI MARINE CONSERVATION COMMISSION

The Marine Conservation Commission is vested with full power to manage, control, supervise, and direct any matters pertaining to salt-water⁵³ aquatic life.⁵⁴ While specific authority and duties are given to the commission, its general purpose is to meet the expressed objectives of state public policy. The state legislature has recognized the need for a concerted effort to work for the protection, propagation, and conservation of the state's sea food and aquatic life in connection with the revitalization of the seafood industry of Mississippi.⁵⁵

The commission consists of ten members, all appointed by the governor with the advice and consent of the state senate. Three members are from Hancock County; three are from Harrison County; and three are from Jackson County. The tenth member is a marine biologist who serves as an advisor and consultant to the commission. Members serve staggered terms of four years.⁵⁶

The commission may appoint an advisory council of persons regarded as representative of all the various segments of the industry. This council shall aid the commission in formulating policies and discussing problems related to the advancement and protection of the industry.⁵⁷

The commission is authorized to cooperate with the Jackson County Port Authority, the Harrison County Development Commission, the Municipal Port Commission and other port and harbor agencies, so that oyster beds

will not be planted in close proximity to navigable channels.⁵⁸ The commission is authorized to enter into contracts with the board of trustees of state institutions of higher learning to obtain the benefit of any agency or employee under their control, including the Gulf Coast Research Laboratory, in order to foster the seafood industry in Mississippi.⁵⁹ The commission pays ten percent of the funds derived from the sale of shells to the Gulf Coast Research Laboratory,⁶⁰ and the commission may also contribute any excess funds in its treasury to the research laboratory.⁶¹ Furthermore, the commission is authorized to appropriate up to \$2500.00 per year from the sale of shells for the Gulf States Marine Fisheries Commission so long as Mississippi remains a member of the interstate compact.⁶²

Any municipality bounded by the Gulf of Mexico or Mississippi Sound is authorized to cooperate with the commission in enforcing all laws regulating the catching and transporting of oysters, and all regulations and ordinances relating to oyster reefs.⁶³ The commission may also cooperate with the board of supervisors of coastal counties regarding the prohibition against the catching of menhaden.⁶⁴ The commission is generally authorized to enter into advantageous interstate and intrastate agreements with proper officials for agreements resulting in the protection and conservation of seafood in Mississippi.⁶⁵

Also, the commission is to cooperate in any declared civil or military emergency by assisting and performing various duties.⁶⁶

LIVING RESOURCES -- FOOTNOTES

1. See generally Miss. Code Ann. §§ 5841 - 5911.5 (Supp. 1971).
2. See generally Miss. Code Ann. §§ 6047-04 to 6051.9 (Supp. 1971).
3. See generally Miss. Code Ann. §§ 9054-51 to -71 (Supp. 1971) for the composition, purpose, and scope of authority for the Gulf Regional District.
4. Miss. Code Ann. § 9054-61 (Supp. 1971).
5. Miss. Code Ann. § 6725-05 (1952).
6. Id.
7. Miss. Code Ann. § 8946-152, -153 (Supp. 1971). See generally Miss. Code Ann. §§ 8946-151 to -161 (Supp. 1971) for the composition, purpose, and scope of authority for the Mississippi Marine Resources Council.
8. Miss. Code Ann. § 2982 (1956).
9. Miss. Code Ann. § 5840-55 (Supp. 1971).
10. Id. See purposes of "Fisheries and Wildlife Management Act" at Miss. Code Ann. § 5840-52 (Supp. 1971).
11. Miss. Gen. Laws ch. 556 (1950).
12. Id.
13. Id.
14. See Miss. Code Ann. § 8936 (Supp. 1971) for the composition of the Agricultural and Industrial Board.
15. Miss. Code Ann. §§ 8936-05, -51, -52 (Supp. 1971).
16. Miss. Code Ann. § 8936-02 (Supp. 1971).
17. Miss. Code Ann. § 8936-07 (Supp. 1971).

19. Miss. Code Ann. § 8936-08 (1952). All municipal enterprises acquired, constructed, or owned under this act are exempt from taxation. [Id. at § 8936-21.]
20. Miss. Code Ann. § 8936-22 (1952).
21. Miss. Code Ann. § 8936-64 (Supp. 1971).
22. Miss. Code Ann. §§ 8939-01, -02 (Supp. 1971).
23. Miss. Code Ann. § 8939-03 (Supp. 1971).
24. Miss. Code Ann. § 8940-02 (Supp. 1971).
25. As used in this context, the word "municipality" means counties, supervisors districts, cities, towns, or villages, or combinations thereof. Miss. Code Ann. § 8940-02 (Supp. 1971).
26. Miss. Code Ann. § 8940-06 (Supp. 1971).
27. Miss. Code Ann. § 6051.5 (Supp. 1971).
28. Public Notice No. 1551 (Game and Fish Comm., Sept. 23, 1971).
29. See Public Notice No. 1551, supra, note 28, for the specific boundary lines and points which separate fresh waters and salt waters.
30. Id.
31. Id.
32. Miss. Code Ann. § 5841 (Supp. 1971).
33. Id.
34. Miss. Code Ann. § 5843 (Supp. 1971).
35. Id.
36. E.g., Miss. Code Ann. §§ 5882, 5927 (Supp. 1971); Miss. Code Ann. § 5926 (1952).

37. Miss. Code Ann. § 5844-22 (Supp. 1971).
38. Miss. Code Ann. § 5844(f) (Supp. 1971).
39. Miss. Code Ann. § 5844(o) (Supp. 1971).
40. See Miss. Code Ann. § 5844 (Supp. 1971). The commission must also regulate the burning of rubbish, marshes, or other areas that it finds necessary to reduce the danger of destructive fires. Id. § 5844(g).
41. Id. § 5844(h). Also, under Executive Order No. 73 (Sept. 28, 1970), the Game and Fish Commission has various duties of assistance in care of civil or military disaster.
42. Miss. Code Ann. § 5860 (1952).
43. Miss. Code Ann. § 5844(s) (Supp. 1971).
44. Miss. Code Ann. § 5923 (1952). Leases must be for a term not exceeding twenty years. There are also prohibitions against cutting timber and mining for oil, gas, and minerals on or under the land.
45. Miss. Code Ann. § 5844-21 (Supp. 1971).
46. Miss. Code Ann. § 5844-22 (Supp. 1971).
47. Miss. Code Ann. § 5844-23 (Supp. 1971).
48. Id.
49. Miss. Code Ann. § 5847 (Supp. 1971).
50. Miss. Code Ann. § 5848 (1952).
51. Miss. Code Ann. § 5844-24 (Supp. 1971). This misdemeanor is punishable by a fine from \$10.00 to \$100.00 and imprisonment in the county jail of not more than thirty (30) days, in the discretion of the court.

52. Miss. Code Ann. § 5844 (Supp. 1971).
53. See authority for jurisdictional boundaries cited notes 27 and 28, supra.
54. Miss. CodeAnn. § 6047-04 (Supp. 1971).
55. Id. § 6047-01.
56. Miss. Code Ann. § 6047-04 (Supp. 1971). Meetings are held at the office of the Board of Supervisors of Harrison County, Mississippi, at such time as may be fixed by the governor.
57. Miss. Code Ann. § 6047-14 (Supp. 1971).
58. Miss. Code Ann. § 6047-11 (Supp. 1971).
59. Miss. Code Ann. § 6051.9 (Supp. 1971). See also Miss. Code Ann. § 6048-03 (Supp. 1971).
60. Miss. Code Ann. § 6048-08 (Supp. 1971).
61. Miss. Code Ann. § 6051.9 (Supp. 1971).
62. Miss. Code Ann. § 6048-08 (Supp. 1971).
63. Miss. Code Ann. § 6085-01 (Supp. 1971).
64. Miss. Code Ann. § 6047.-17 (Supp. 1971).
65. Miss. Code Ann. § 6047-06 (Supp. 1971). See also subsection (k) of the above code section.
66. Executive Order No. 73 (Sept. 28, 1970).

CHAPTER TWO

FRESHWATER FISH AND SHELLFISH

I. DEVELOPMENT OF RESOURCES

Statutory provisions for the Game and Fish Commission are predominantly silent with regard to the development of freshwater fish resources. The Game and Fish Commission is empowered to acquire and hold¹ for the state any lands or water suitable for fish hatcheries or for public fishing areas where any citizen may fish under special regulations prescribed by the Commission.² The Commission is required to pay into the general county fund of the county where the fishing area or hatchery is located an amount equal to the county ad valorem tax that would have been assessed if such land had been owned privately.³ The Commission is also required to submit to the general county fund twenty-five percent of the gross proceeds from the sale of timber of any land; such payments are not required from proceeds derived from the sale of timber from the Commission's management projects or from hunting and fishing refuges.⁴

The Game and Fish Commission is further authorized to capture, propagate, transport, sell, or exchange any species of fish needed for stocking or restocking any waters of the state.⁵

In 1952 the State of Mississippi expressly assented to the provisions of federal legislation⁶ designed to aid the states in fish restoration and management projects.⁷ The Game and Fish Commission was authorized and

directed to perform any acts necessary to the conduct and establishment of cooperative fish restoration projects as defined in the federal statute and in compliance with the rules and regulations promulgated by the Secretary of the Department of Interior.⁸ It is stated that no funds accruing to the state from license fees paid by fishermen may be used for any purpose other than the administration of the game and fish division and for the protection, propagation, preservation, and investigation of fish and game.⁹

II. LICENSING AND TAXING

A. Residents. Each resident of the State of Mississippi between the ages of sixteen and sixty-five engaged in fishing with artificial bait or from a boat in any of the fresh waters of the state is required to purchase an annual fishing license.¹⁰ However, in the case of a privately-owned landlocked lake no license is required of any person holding a written permit from the owner of such lake unless there was a charge for the fishing privilege.¹¹ Furthermore, no license is required of persons to fish on lands in which the record title is vested in such person.¹² Any person over the age of sixty-five, in lieu of a hunting or fishing license, must have with him at all times while hunting or fishing a certificate stating his county of residence and his age as being over sixty-five.¹³ In its discretion the Game and Fish Commission may authorize the issuance and sale of resident permits which enable the holder to fish in the state for a period not exceeding three consecutive days.¹⁴

Any person who can show proof of residency in Mississippi is entitled to receive a combination resident hunting and fishing license and is required to carry such license on his person while engaged in hunting, trapping, or fishing.¹⁵ The cost of a combination resident hunting and fishing license is five dollars plus an additional fee of 25 cents to the issuing officer.¹⁶ Such license entitles its holder to hunt and fish seasonably all game, fish, and fowl, with the exception of deer and turkey,¹⁷ in any county of the state.¹⁸ Any resident citizen of Mississippi who has not reached the age of sixteen years or who has reached the age of sixty-five years or any resident citizen who has a 100 percent service-connected disability is entitled to engage in hunting or fishing in the state without payment of any license charge.¹⁹

B. Commercial Fishing. The licensing provisions governing commercial fishing are characterized by specific fees for both wholesale and retail activity. Any person engaged in fishing for commercial purposes and selling fish, either at retail or wholesale prices, to markets dealers, or canning plants within Mississippi is required to pay five dollars on the first fifteen hoop or barrel nets used.²⁰ Such license permits the use of one thousand feet of trot line and a similar length of snag line.²¹ Upon payment of the license fee the purchaser is permitted to use lead nets 35 yards in length for each two barrel nets used, but not to exceed seven lead nets.²² The permission to use additional hoop or barrel nets may be obtained at a cost of one dollar for each additional net; permission to use additional line may likewise be obtained at a cost of \$2.50 for each additional line, not to exceed one thousand feet.²³

Any person using a seine or lesal mesh not exceeding 150 feet in length

is required to purchase an annual license at a cost of five dollars plus an additional fee of 25 cents to the issuing officer; no person is allowed to operate more than one seine or net on such license. Additional netting or seining up to 200 yards may be used at a cost of \$12.50, while each additional one hundred feet requires a fee of five dollars.²⁴

Persons who buy or handle fish secured from a commercial fisherman or others for the purpose of resale to others than consumers, whether handled on a commission basis or otherwise, are required to purchase an annual license at a cost of fifty dollars. Likewise, each resident person shipping fish, other than his own catch, out of the State of Mississippi is considered to be a wholesale dealer and is required to obtain a similar annual license. Licenses for resident wholesale dealers are issued only to those persons who have been bona fide residents of Mississippi for at least six months.²⁵

Nonresident wholesale dealers who buy from resident fishermen or wholesale dealers for the purpose of resale are required to obtain an annual license at a cost of one hundred dollars plus a fee of 25 cents to the issuing officer. Furthermore, any nonresident who brings fish into the state for the purpose of wholesale or retail sale is required to purchase a similar annual license.²⁶

Any resident person desiring to buy fish from licensed wholesale dealers or licensed commercial fishermen for the purpose of retail sale to consumers only on urban or rural routes must purchase an annual license to do so at a cost of ten dollars plus a fee of 25 cents to the issuing officer.²⁷

Each person engaged in buying and selling fish as a wholesale dealer's agent, whether on a commission or salary basis or otherwise, and not selling

in the open market, is required to purchase an annual license at a cost of ten dollars. Such person is responsible for any illegal transaction ensuing between the time of purchase from the fisherman and the time of acceptance of the fish by the wholesaler's employer. A similar annual license is required of any vessel buying fish to make up a cargo.²⁸

Each person engaged in the taking and selling of non-game gross fish, commonly known as minnows, as an established business and for use as bait is required to purchase an annual license at a cost of five dollars plus a fee of 25 cents to the issuing officer.²⁹

The licensing of wholesale minnow dealers³⁰ is governed by the Mississippi Wholesale Minnow Dealers Act of 1962.³¹ Under the provisions of the act it is unlawful for any person³² to sell minnows³³ at wholesale within Mississippi without a privilege license;³⁴ the cost of such license is five dollars for resident dealers³⁵ and \$500 for nonresident dealers.³⁶ Any sale in violation of the act is punishable by a fine of not less than \$100 nor no more than \$1000 and/or a maximum jail sentence of thirty days.³⁷

C. Certificates. The license certificates for fishing are issued on a form prepared by the State Director of Conservation and are issued in the name of the State Game and Fish Commission. All licenses bear a description of the applicant and set forth his occupation, race, color of hair and eyes, and any marks or scars peculiar to the applicant. The license certificates authorize the person named and described therein to hunt or fish in the state and are valid from the date of issuance to the thirtieth day of June following

such date. Such certificate must be countersigned by the licensee in the presence of the issuing officer³⁸ and must be carried on the person of the licensee while exercising the privileges conferred by the certificate. The application for a license certificate must be subscribed and sworn to by the applicant before an officer authorized to administer oaths in the state; members of the Game and Fish Commission, the State Director of Conservation, sheriffs, wardens, and bonded agents are authorized by statute to administer such oaths.³⁹

It is provided that any person authorized to issue fishing licenses who attempts to issue a license on a form other than that prescribed by statute or who attempts to prepare a license certificate in any manner other than on the prescribed form furnished by the State Director of Conservation shall be guilty of a misdemeanor.⁴⁰ Conviction of such violation will result in a fine between \$100 and \$500 in addition to a permanent revocation of the right to issue licenses in Mississippi.⁴¹

D. Mussels. Any person desiring to catch, take or kill mussels in any of the fresh waters of Mississippi must apply to the director of conservation for such privilege.⁴² A fee of ten dollars is charged all residents applicants while the nonresident⁴³ application fee is \$50.00.⁴⁴ Any person desiring to purchase mussel shells as mussels in the shell must make application for such privilege to the director of conservation accompanied by a fee of \$100 if the applicant is a resident of Mississippi and a fee of \$300 if the applicant is a nonresident.⁴⁵

Upon receipt of such application and the proper fee, the Director of Conservation is required to issue a license to catch, take or kill mussels. All licenses issued are valid from the date of issuance to the first day of July following such date. Such licenses must state whether it is a resident or non-resident license, the address of the licensee, and the amount paid for the license; the license must also state what waters have been closed to the capture of mussels by the State Game and Fish Commission. The licensee is required to have such license in his possession while taking, catching or killing mussels and must exhibit the license when requested to do so by an authorized officer.⁴⁶

Upon receipt of all applications and fees the Director of Conservation must deposit all moneys collected into the State Treasury to the credit of "The State Game and Fish Fund". All moneys collected and deposited may be used for the enforcement of the game and fish laws of Mississippi, for propagation and for biological investigation, and any other investigations as may be necessary.⁴⁷

E. Nonresidents. Any nonresident of the State of Mississippi is required to purchase a nonresident fishing license at a cost of six dollars plus an additional fee of 25 cents to the issuing officer. However, no fishing license is required of any nonresident minor under the age of fourteen.⁴⁸ The Game and Fish Commission is empowered to issue and sell tourist permits which enable the holder to fish in the state for a period not exceeding three consecutive days.⁴⁹

It is provided that the fee for a nonresident fishing license shall not be less than the fee charged a Mississippian for a non-resident fishing license in the state in which the applicant resides. In addition to the license fee already stated, the applicant is required to pay any additional amount necessary to bring the fee to the figure required of Mississippians in the applicant's state of residence, but such nonresident fee will not be reduced below the \$6.00 amount previously mentioned.⁵⁰

A nonresident fishing license is not required of any nonresident engaged in fishing at any commercial catfish farming operation, or a fee fishing lake or pond using farm reared catfish and who has paid a fee for such fishing privileges. The owner, operator, or manager of such commercial catfish operation must issue a permit in writing to all nonresidents paying a fee for such fishing privilege. The holder of such written permit is required to keep the permit on his person while fishing and while he is within the state with any fish in his possession. The written permit must contain the name, address, age, and sex of the permittee in addition to the date and time of issuance and expiration and the amount of fee paid.⁵¹

In State v. Heard⁵² the Mississippi Supreme Court was confronted with the question of whether a nonresident of Mississippi, who pays the owner for the privilege, may fish in a privately-owned, land-locked lake without first obtaining the fishing license required of nonresidents by Section 5904 of the Mississippi Code. There, Heard, from New Orleans, was fishing in a privately-owned lake which was entirely land-locked. All fish in the lake were raised from stock placed there by the owner. Heard was using both natural and artificial bait and had paid the owner \$1 for fishing privilege.

The Court noted that the language of the licensing statute was clear and that the statute contained no language exempting a person fishing on a privately-owned lake from the licensing requirement. The Court concluded that it was the intention of the legislature that its licensing power should apply equally to those hunting and fishing on privately-owned as well as publicly-owned lands and that Section 5904 was not violative of constitutional due process requirements. The Court stated:

By enacting Section 5904, the legislature did not attempt to interfere with the owner of the lake in his individual rights to the fish in his pond. The licensing act regulated only the public invited to fish in it. If it becomes necessary to regulate reasonably private property, in order to enforce the law in respect to public property, that may be done by the state in the exercise of its police power.⁵³

It was held that nonresident fishermen, other than the owner of the property and stated minors, must have a fishing license.

Two Justices dissented⁵⁴ upon the ground that the regulations made by the State Game and Fish Commission have no application to artificial lakes and the landlocked lakes, privately owned. It was stated that statutory language dealing with its "waters", "waters of Mississippi", and "fresh waters of Mississippi" have no reference to privately-owned lakes that are landlocked.⁵⁵

F. Revocation of Licenses. The State Game and Fish Commission is empowered to revoke any fishing license or to deny any person the right to secure such license if such person is convicted of the violation of any laws or regulations with respect to game or nongame fish. The revocation of any license or refusal to grant such license is valid for a period of one year. Before any revocation may become effective, the director of the Game and Fish Commission is required to notify such person or licensee by registered mail; the notice must set out fully the ground or complaint upon which the revocation of the license or refusal to grant the license is sought. Such person or licensee has the right to a hearing or representation before the Game and Fish Commission at the next regular meeting or a special meeting.⁵⁶

Any person who is convicted for a second time during any period of twelve months for violation of any laws with respect to game or nongame fish is required to forfeit any license or licenses issued to him by the Game and Fish Commission; the Commission may not issue such person any license for a period of one year from the date of forfeiture.⁵⁷

The failure of any person to surrender his license upon demand by the Game and Fish Commission, or by its representative at its direction,

constitutes a misdemeanor and is punishable as such.⁵⁸ If any violator whose license has been revoked is apprehended during the twelve month period of revocation for fishing without a valid license, he faces a mandatory jail term not less than thirty days nor no more than six months.⁵⁹ [Furthermore, any person who fishes in Mississippi after the right to do so has been denied or the license therefor has been revoked can be fined from \$100 to \$500 and/or sentenced from 60 days to six months in jail]

III. Seasons

An examination of pertinent Mississippi statutory provisions readily reveals that the legislature has chosen to place minimal restrictions upon the time during which fish may lawfully be taken. A closed season is defined as "The time during which . . . fish may not be taken."⁶⁰ An open season is defined to be "the time during which . . . fish may be lawfully taken".⁶¹ The only statutory provision with regard to open season for fishing states that the season for taking nongame gross fish by hand or with grappling tongs shall be from May 1 to October 1.⁶² If such times fixed by statute for the beginning of a game season falls on a Sunday, the season will begin on the preceding Saturday.⁶³ Although specific provisions with regard to fishing seasons are presently absent from Mississippi law, the Game and Fish Commission is not without authority to establish and regulate such fishing seasons when necessary. It is stated that the Commission is empowered to close or shorten the open season as prescribed by law on any species of fish in cases of extreme emergency and in any specific locality or localities.

The exercise of such power is dependent upon an investigation by the Commission and a public hearing where it is found that such action is reasonably necessary to perpetuate or maintain an adequate supply of any species of fish.⁶⁴

IV. PROTECTION AND LIMITATION ON TAKING

A. Constitutionality. As early as 1905⁶⁵ the Mississippi Supreme Court held that the state has the power to regulate the time, manner, and extent of the taking of fish whose ownership is in the public,⁶⁶ and in doing so, the state acts in its sovereign capacity for the benefit of all its citizens. Although the state has the inherent police power to regulate the taking of fish, constitutional provisions prohibit the passage of any local, private, or special laws which grant any person, corporation, or association the right to have any fish trap.⁶⁷ It is provided that such matter be dealt with only by general laws.⁶⁸

B. Game and Fish Commission. In the 1971 regular session the Mississippi Legislature enacted a statutory provision⁶⁹ which empowered the State Game and Fish Commission and the Mississippi Marine Conservation Commission to enter into agreement for jurisdictional purposes as to the dividing line between salt and fresh waters. Pursuant to such statutory provision the Game and Fish Commission adopted Public Notice No. 1551⁷⁰ which established U. S. Highway 90 as the jurisdictional boundary line between salt and fresh waters. All territory landward and north of the south right-of-way line of U. S. Highway 90 was declared to be fresh waters and under jurisdiction of the Game and Fish Commission, while all territory seaward and south of the dividing line was declared to be salt waters and under the jurisdiction of the Marine Conservation Commission.⁷¹

In the area of protection and regulation of fresh water fish, the Game and Fish Commission is empowered to designate localities as fish refuges to perpetuate or maintain the supply of any species of fish it deems necessary.⁷² Furthermore, the Commission possesses exclusive control of the propagation and distribution of fish and of the maintenance of hatcheries and biological stations acquired by the state.⁷³ The Commission also controls expenditures for the protection, propagation, or preservation of fish whether the necessary funds arise from licenses, gifts, or otherwise.⁷⁴ The Commission is further empowered to regulate the taking of nongame gross fish other than minnows.⁷⁵

C. Pollution. Despite the powers of the Game and Fish Commission to regulate the taking of fresh water fish, most limitations on taking are dealt with by extensive statutory provisions. Mississippi statutory provisions governing the protection and taking of fresh water fish and shellfish cover many areas -- pollution of waters, sale and transportation of game fish, and regulation of fishing methods. It is provided that any person who pollutes navigable waters by placing therein any refuse or foul matter calculated to render the water less fit for the sustenance of fish shall be guilty of a misdemeanor which carries a maximum punishment of \$50.00 and/or thirty days imprisonment in the county jail.⁷⁶ The above statutory provision is not designed to prevent any municipality or village from maintaining sewer systems which empty into navigable waters at least twenty-five miles in length.⁷⁷ Nevertheless, such sewer systems must comply with the public health requirements established by the State Board of Health and may be prohibited

altogether if deemed necessary in the interest of public health.⁷⁸

Dumping of waste by any sawmill or creosoting plant into any running stream is prohibited⁷⁹ and is deemed a misdemeanor with a fine ranging from \$25.00 to \$100.00 for each offense.⁸⁰ In prosecutions for the pollution of waters by substances known to be detrimental to fish or fish food, it is not necessary to prove that such substances actually caused the death of any fish.⁸¹ Any person, firm, or corporation operating a commercial enterprise and charged with violating this statutory provision may show as a defense that every reasonable and practical means has been employed to abate and prevent the pollution of waters in question by the escape of such harmful substances.⁸²

D. Manner of Taking. The manner by which game fish may be taken is governed by a detailed statutory provision.⁸³ It is declared unlawful to take or kill game fish in any manner other than by hook and line with one or more hooks, by trot or troll, or dip net.⁸⁴ However, it is provided that dip nets may be used for capturing or rescuing game fish in private ponds, barrow pits, or overflow ponds which go dry in the summer and are cut off from the regular streams.⁸⁵ Furthermore, it is declared unlawful for any person to fail to return immediately to the water any game fish taken by net, seines, or other equipment used for the taking of fish not classified as game fish.⁸⁶

It is likewise unlawful to take or kill any species of fish at any time or place by mudding or by the use of lime, poison, dynamite, India berries, weeds, walnuts, giant powder, gunpowder, or any other explosive.⁸⁷ An exception is made in the case of gross fish as buffalo and gar which may law-

fully be taken by the use of not more than one-fifth of three drams of gunpowder used in a single-barrel shotgun to propel a harpoon rod.⁸⁸ It is further provided that no nongame gross fish shall be taken by the use of nets, seines, or trap for personal use without a commercial fishing license.⁸⁹ In any case, traps, nets, or seines may not be used in such a way as to completely obstruct the passage of fish in a stream; nets must be placed at least one hundred yards apart.⁹⁰

The use of a telephone, battery, or any other electrically operated device for the purpose of killing or capturing fish is prohibited.⁹¹ Also, the use of any chemical powder in any lake or stream where the public fishes for the purpose of killing or taking fish is prohibited.⁹² However, this statutory provision is inapplicable to any owner of any fish pond using such chemical in his privately owned pond.⁹³ Any conviction resulting from a violation of the above provisions may result in a fine ranging from \$100 to \$500 and/or a jail sentence from 60 days to six months.⁹⁴

The use of explosives or chemicals in the taking of fish is specifically prohibited by numerous statutory provisions.⁹⁵ The use of poisons or any substance designed to stupefy or destroy fish is declared a misdemeanor and is punishable by a fine of not less than five dollars and/or a jail sentence of at least ten days.⁹⁶

Prosecution and defense of any cause arising under any law or regulation for the protection of fish is the duty of each district attorney in Mississippi and each county prosecuting attorney.⁹⁷ It is also provided that circuit judges

give grand juries the provisions of the laws relating to fish and urge strict inquiry into all violations thereof.⁹⁸

It is unlawful for any person to take or attempt to take any game fish other than during open season or to have in possession any game fish except that those lawfully taken may be possessed during the open season and sixty days thereafter.⁹⁹ "Game fish" includes: family contrachidae, including crappie (chinquapin perch, goggle eye, speckled perch), calico bass (red eyed, goggled eyed), breasted bream, long eared sunfish, blue gill (copper nose sunfish), black bass (small mouthed black bass), straw bass (large mouthed black bass, green bass, bayou bass), club trout, green trout; family percidae, including jack perch, wall eyed pike, and yellow perch (ringed perch); family serranidae, including white bass, yellow bass, tabby cat and blue cat (not including any class or classes of catfish taken from navigable stream or lake).¹⁰⁰

The statutory limitation on the maximum number of game fish which may be taken is established at 100 per day for all game fish other than black bass, the limit upon which is 15 per day.¹⁰¹ Also, it is unlawful for a person to have more than two days' bag limit in possession.¹⁰²

E. Sale and Transportation. The sale of game fish within Mississippi is strictly prohibited by several statutory provisions.¹⁰³ One statute declares it unlawful for any person to buy, sell or offer for sale or exchange any game fish whether taken within or coming from outside the state.¹⁰⁴ Another provision states a similar prohibition against the sale or exchange of game fish but provides an exception for the owner of a private pond in that such owner may receive a permit from the Game and Fish Commission to sell fish grown

or cultivated by him.¹⁰⁵ Fish dealers may not possess, buy, sell, or offer to buy or sell any game fish whether taken within or coming from outside Mississippi.¹⁰⁶ It is also declared unlawful for any restaurant, hotel, club, or other public eating place to possess or to offer for sale to its patrons any game fish whether taken from within or coming from outside the state.¹⁰⁷ An exception is made in the case of a public eating place which prepares and serves game fish to any persons who have lawfully killed or taken such fish.¹⁰⁸

The transportation of game fish by commercial means is governed by a lengthy statutory provision.¹⁰⁹ It is declared unlawful for any railroad, express company, or common carrier knowingly to receive for shipment or to ship any game fish except when accompanied by the hunter who killed such fish.¹¹⁰ Likewise, it is unlawful for any person or corporation to transport, carry, ship, receive, any game fish beyond the limits of the state or to cause such fish to be transported, carried, or shipped out of Mississippi.¹¹¹ It is further declared unlawful for any person or corporation to possess any game fish with the intent to transport, carry or ship such fish outside the limits of the state.¹¹² The offering or reception of any game fish for shipment outside the state by a person or corporation within Mississippi is deemed prima facie evidence that such fish were killed, captured, or taken within the state.¹¹³

A nonresident licensee, however, may ship up to two day's limit of game fish during open season provided the nonresident accompanies the shipment or attaches an affidavit stating that the game were lawfully killed or

taken by him, are being shipped to his home, and are not for sale.¹¹⁴ The affidavit must be sworn to within ten days after its receipt and before any person authorized to administer oaths, including game wardens and agents of transportation companies.¹¹⁵ A duplicate affidavit must be filed with the transportation company or its agent whose duty is to forward such duplicate to the State Director of Conservation within ten days after its receipt.¹¹⁶

F. Shellfish. Statutory provisions governing the taking of mussels¹¹⁷ state that it is unlawful to take, catch, kill, offer for sale, or have in possession, more than one percent by weight, mussels less than three inches in diameter.¹¹⁸ An exception is made for mussels used for culture and scientific purposes.¹¹⁹ Nevertheless, it is unlawful for any person to take mussels from fresh waters of Mississippi for the purpose of culture or scientific investigation without first obtaining a permit from the Director of Conservation at a cost of one dollar.¹²⁰ Such fee is not required of duly accredited representatives of public educational or scientific institutions, or federal government departments engaged in the scientific study of mussels.¹²¹

Any person licensed to take, catch, or kill mussels may not operate more than one boat, with or without motor, for those purposes.¹²² However, any such person is permitted to use one additional boat for the purpose of towing only when no equipment for taking, catching, or killing mussels is used or kept thereon.¹²³

Mussels may be legally taken with a dredge having an opening of four inches in length, hand-tongs, rake, or fork and may never be taken at any time with a crow-foot hook, commonly called a crow-foot bar.¹²⁴

The Game and Fish Commission is empowered to promulgate regulations governing the operations of boats and equipment in the taking of mussels and may close any mussel bed at any time to prevent depletion of such beds and the proper propagation of the mussels.¹²⁵ During such closed season no one may lawfully take mussels from such mussel beds.¹²⁶ The commission also possesses rule-making powers regarding regulations to prevent depletion of mussel beds and to insure proper propagation of mussels.¹²⁷

V. PENALTY AND ENFORCEMENT

In addition to the specific penalties prescribed by statutory provisions discussed elsewhere in this chapter, the Mississippi Code contains a general "fines and penalties" section which governs violations of laws or regulations for the protection of fish. It is provided that, unless a different or other penalty is specially prescribed, any person who violates any law or regulation for the protection of fish or who violates or fails to comply with any lawful order, rule, or regulation adopted by the Game and Fish Commission shall be guilty of a misdemeanor; conviction of such violation carries with it a fine of not less than \$25 nor more than \$100.¹²⁸ In addition, the court may, in its discretion, impose an additional penalty of \$10 for each fish bought, sold, or offered for sale, taken, possessed, or transported in violation of such law or regulation.¹²⁹

The State Director of Conservation is authorized and directed by statute to appoint as many game and fish wardens as may be required to efficiently enforce the laws for the protection of fish.¹³⁰ Such appointment is subject to the approval of the Game and Fish Commission provided funds are available

from the game and fish protection fund,¹³¹ It is further provided that all sheriffs, deputy sheriffs, constables, and peace officers of the state are designated as ex-officio special game and fish wardens who shall assist in the enforcement of laws and regulations for the protection of fish.¹³²

Statutory provisions enumerate in detail all types of property designated as contraband with respect to use in illegal fishing. It is stated that any firearm, equipment, appliance, conveyance or other such property used in fishing by using a telephone, magneto, battery, or any other electrically operated device or any dead or live fish killed, stunned, or taken by using such devices is declared to be contraband property subject to forfeiture to the State and seizure by the Game and Fish Commission or other law enforcement officers.¹³³

Furthermore, no property rights exist in any person, natural or artificial, nor are any such rights vested in any person with respect to the above mentioned property.¹³⁴ Procedure for recovering seized property is prescribed by several statutory provisions which include appeals to the Mississippi Supreme Court.¹³⁵ It is provided that the county attorney or district attorney of the locality where confiscation proceedings are held shall represent the State in the enforcement of provisions relating to the seizure, confiscation, and sale of the aforementioned property.¹³⁶

Statutory provisions also state that it is illegal to have in possession any illegal nets, wire baskets, slat baskets, or any illegal fishing equipment for the taking of fresh water fish, regardless of location,¹³⁷ without obtaining a permit from the State Game and Fish Commission no later than ten days after acquisition of such equipment.¹³⁸ It should be noted that possession of

a trap, fishing tackle, fish, or any device used for taking fish in their natural habitat is prima facie evidence that the person in possession has been fishing.¹³⁹

In case of a violation of any law or regulation for the protection of fish by a corporation, it is provided that the arrest warrant may be read to or delivered to the president, secretary, manager, or to any general or local agent in the county where the action is pending.¹⁴⁰ Upon return of such warrant the corporation is deemed in court and subject to its jurisdiction.¹⁴¹ Furthermore, any fines imposed may be collected by the execution against the property of the corporation and any agent or employee shall not be exempt from prosecution.¹⁴²

In the case of violations of laws for the protection or taking of mussels, it is provided that any person, firm, or corporation violating any such laws shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$10 nor more than \$150 and/or be imprisoned up to three months.¹⁴³

FOOTNOTES

(FRESHWATER FISH AND SHELLFISH)

1. Such land may be acquired by purchase, condemnation, lease, gifts, devise, or agreement with legislative authorization. Miss. Code Ann. § 5844(c) (Supp. 1971).
2. The Commission is also authorized to extend and consolidate waters under its supervision suitable for fish hatcheries or public fishing areas. Miss. Code Ann. § 5844(d) (Supp. 1971).
3. Miss. Code Ann. § 5844(c) (Supp. 1971).
4. Id.
5. Miss. Code Ann. § 5844(e) (Supp. 1971).
6. Act of Aug. 9, 1950, ch. 658, § 1, 64 Stat. 430 [codified at 16 U. S. C. § 777 (1970)].
7. Miss. Code Ann. § 5927.3 (1956).
8. Id.
9. Id.
10. The cost of the annual license is three dollars plus an additional fee of 25 ¢ to the officer issuing the license. Miss. CodeAnn. § 5906(a) (Supp. 1971).
11. Id.
12. Miss. Code Ann. § 5876 (1956).
13. Such certificate is issued by the sheriff or circuit clerk. Miss. Code Ann. § 5906(i) (Supp. 1971).

14. The cost of such permit is one dollar plus an agent's fee of 25¢. Miss. Code Ann. § 5844(g) (Supp. 1971).
15. Miss. Code Ann. § 5870 (Supp. 1971).
16. Miss. Code Ann. § 5871(a) (Supp. 1971).
17. Any person desiring to hunt deer and turkey is required to apply for and obtain an additional license for such privilege. See Miss. Code Ann. § 5871(b) (Supp. 1971).
18. Miss. Code Ann. § 5871(a) (Supp. 1971).
19. Any person not between the ages of sixteen and sixty-five desiring to hunt deer and turkey is required to apply for and obtain a resident exempt deer and turkey tag(s) for such privilege. See Miss. Code Ann. § 5871(c) (Supp. 1971).
20. Any person taking commercial fresh water fish from the fresh waters of the state is considered a producer and is entitled to sell his catch to anyone or at any point within or outside the state. Miss. Code Ann. § 5906(c) (Supp. 1971).
21. Miss. Code Ann. § 5906(b) (Supp. 1971).
22. Id.
23. Id.
24. Id.
25. Miss. Code Ann. § 5906(d) (Supp. 1971).
26. Id.
27. Miss. Code Ann. § 5906(e) (Supp. 1971).
28. Miss. Code Ann. § 5906(f) (Supp. 1971).
29. Miss. Code Ann. § 5906(g) (Supp. 1971).

30. The term "wholesale minnow dealer" means any person selling minnows to a person for resale. Miss. Code Ann. § 5872.7-(1)(a) (Supp. 1971).
31. Miss. Code Ann. § 5872.7 (Supp. 1971).
32. The term "person" means any person, firm, or corporation. Miss. Code Ann. § 5872.7-(1)(b) (Supp. 1971).
33. The term "minnow" means any fish commonly used for bait purposes, with the exception of shrimp. Miss. Code Ann. § 5872.7-(1)(c) (Supp. 1971).
34. Miss. Code Ann. § 5872.7(3) (Supp. 1971).
35. Miss. Code Ann. § 5872.7(5) (Supp. 1971).
36. Miss. Code Ann. § 5872.7(6) (Supp. 1971).
37. Miss. Code Ann. § 5872.7(4) (Supp. 1971).
38. Such license certificates must also be countersigned by the State Director of Conservation, sheriff, warden, or bonded agent issuing the certificate. Miss. Code Ann. § 5877 (1956).
39. No charge shall be made by any such officer employed by the Game and Fish Commission or sheriff for the administration of such oath. *Id.*
40. *Id.*
41. *Id.*
42. Miss. Code Ann. § 5915 (Supp. 1971).
43. A nonresident of Mississippi is deemed to be any person who has not resided within the state for a period of at least six consecutive months immediately prior to the time application is made for license. Miss. Code Ann. § 5917 (1956).
44. Miss. Code Ann. § 5915 (Supp. 1971).
45. *Id.*

46. Miss. Code Ann. § 5916 (Supp. 1971).
47. Miss. Code Ann. § 5917 (1956).
48. Miss. Code Ann. § 5904(a) (Supp. 1971).
49. The cost of such license is \$1.50 plus an agent's fee of 25¢. Miss. Code Ann. § 5844(q) (Supp. 1971).
50. Miss. Code Ann. § 5904(a) (Supp. 1971).
51. Miss. Code Ann. § 5904(b) (Supp. 1971).
52. 246 Miss. 774, 151 So. 2d 417 (1963).
53. 246 Miss. at 786, 151 So. 2d at 423.
54. See dissent of Chief Justice McGehee joined by Justice McElroy, 246 Miss. at 787, 151 So. 2d at 423.
55. 246 Miss. at 790, 151 So. 2d at 424. The Mississippi Game and Fish Commission is empowered to negotiate a reciprocity agreement with the Louisiana Conservation Commission and the Arkansas Game and Fish Commission; such an agreement would affect fishermen who hold current licenses issued by the respective state game and fish commissions of their states of residence and who fish in the Mississippi River or in lakes formed by the Mississippi River. Also included are bodies of water between the Mississippi River and the nearest levee or old Mississippi River runs, where there is no levee. See Miss. Code Ann. § 5911.5 (Supp. 1971).
56. Miss. Code Ann. § 5881 (Supp. 1971).
57. Id.

58. Id.
59. Id.
60. Miss. Code Ann. § 5867(e) (Supp. 1971).
61. Miss. Code Ann. § 5867(f) (Supp. 1971).
62. Miss. Code Ann. § 5882 (Supp. 1971).
63. Miss. Code Ann. § 5882.5 (Supp. 1971).
64. Miss. Code Ann. § 5844(a) (Supp. 1971).
65. Ex Parte Fritz, 86 Miss. 210, 38 So. 722 (1905).
66. Fritz was cited in the dissenting opinion of Chief Justice McGehee in *State v. Heard*, 246 Miss. 774, 151 So.2d 417 (1963), as authority for his proposition that privately-owned, land-locked ponds are not within the purview of Game and Fish rules and regulations. Nevertheless, the majority held that the nonresident licensing statute in question did not regulate the owners of privately-owned ponds, but merely regulated the rights of others invited to fish there. See 53 and 54, *supra* with accompanying text.
67. Miss. Const. 1890, art. 4, § 90.
68. Id.
69. Miss. Code Ann. § 6051.5 (Supp. 1971).
70. Public Notice No. 1551 (Sept. 23, 1971).
71. The Public Notice lists six exceptions for areas north of U. S. Highway 90 as covering salt waters: (1) bridges on U. S. Highway 90, (2) Bay St. Louis, (3) Back Bay of Biloxi, (4) certain waters south of U. S. Highway 90 and west of St. Louis Bay, (5) certain waters south of U. S. Highway

90 and between the West Pascagoula River and the mouth of Biloxi River, and (6) certain waters south of U. S. Highway 90 and East of East Pascagoula River. See the applicable sections of Public Notice No. 1551 for the precise jurisdictional boundaries in the above six areas.

72. Miss. Code Ann. § 5844(b) (Supp. 1971).
73. Miss. Code Ann. § 5849(i) (Supp. 1971).
74. Id.
75. Miss. Code Ann. § 5844(k) (Supp. 1971).
76. Miss. Code Ann. § 2414 (1956).
77. Id.
78. Id.
79. Miss. Code Ann. § 2415 (1956).
80. Each day that Section 2415 is violated constitutes a separate offense.
81. Miss. Code Ann. § 2415 (1956).
82. Id.
83. Miss. Code Ann. § 5900(a) (1956).
84. Id.
85. Id.
86. Miss. Code Ann. § 5902 (1956).
87. Miss. Code Ann. § 5900(a) (1956).
88. Id.
89. Id.
90. Id.
91. Miss. Code Ann. § 5900(b)(1) (1956).

92. Miss. Code Ann. § 5900(b)(2) (1956).
93. Id.
94. Miss. Code Ann. § 5900(b)(3) (1956).
95. See Miss. Code Ann. § 5890 (1956) and Miss. Code Ann. § 5900 (1956).
96. Miss. Code Ann. § 2326 (1956).
97. Miss. Code Ann. § 5858 (1956).
98. Id.
99. Miss. Code Ann. § 5892 (1956).
100. Miss. Code Ann. § 5867(c) (1956).
101. Miss. Code Ann. § 5908 (Supp. 1971). Actually, the State Game and Fish Commission may set the limit for game fish at its discretion but such figure must comply with the maximum figures specified in §5908.
102. Id.
103. See Miss. Code Ann. § 5885 (1956) and Miss. Code Ann. § 5903 (1956).
104. Miss. Code Ann. § 5885 (1956).
105. Miss. Code Ann. § 5903 (1956).
106. Miss. Code Ann. § 5905 (1956).
107. Miss. Code Ann. § 5887 (1956).
108. Id.
109. See Miss. Code Ann. § 5886 (1956).
110. Id.
111. Each game fish in possession or received for transportation constitutes a separate offense.

112. Miss. Code Ann. § 5886 (1956).
113. Id.
114. Id.
115. Id.
116. Id.
117. The term "mussel" means the pearly fresh water mussel, clam, or naid and the shells thereof. Miss. Code Ann. § 5921 (1956). The ownership and title of all mussels found in or upon the freshwater bottoms within Mississippi is declared to be vested in the State. Miss. Code Ann. § 5914 (1956).
118. Miss. Code Ann. § 5919 (1956). It is also declared unlawful to take, catch, or kill mussels in any manner in any fresh waters of the State without first having secured a license or permit. See Miss. Code Ann. § 5914 (1956).
119. Miss. Code Ann. § 5919 (1956).
120. Miss. Code Ann. § 5920 (1956).
121. Id.
122. Miss. Code Ann. § 5918 (1956).
123. Id.
124. Id.
125. Miss. Code Ann. § 5918.5 (Supp. 1956).
126. Id.
127. Miss. Code Ann. § 5918.7 (Supp. 1971).

128. Miss. Code Ann. § 5866 (Supp. 1971).
129. Id.
130. Miss. Code Ann. § 5851 (Supp. 1971).
131. Id.
132. Miss. Code Ann. § 5857 (1956).
133. Miss. Code Ann. § 5866-04 (Supp. 1971).
134. Id.
135. See Miss. Code Ann. §§ 5866-04 (Supp. 1971) et seq.
136. Miss. Code Ann. § 5866-18 (Supp. 1971).
137. Possession of illegal nets on or within six hundred feet of Pickwick Lake is made a misdemeanor by a special statute and is punishable by a maximum fine of \$500 and/or up to six months imprisonment.
Miss. Code Ann. § 5903.5(1) (Supp. 1971).
138. Miss. Code Ann. § 5903.5(2) (Supp. 1971).
139. Miss. Code Ann. § 5884 (1956).
140. Miss. Code Ann. § 5859 (1956).
141. Id.
142. Id.
143. Miss. Code Ann. § 5922 (1956).

SALTWATER FISH AND SHELLFISH

I. Public Policy

It is the public policy of the State of Mississippi to "work toward the protection, propagation and conservation of its sea food and aquatic life in connection with the revitalization of the sea food industry of the State of Mississippi and in this connection, it is the intent of the legislature to provide a modern, sound, comprehensive and workable law to be administered by specialists, who are vested with full and ample authority to take such action as may be necessary in order to help protect, conserve and revitalize our sea food life in the State of Mississippi"¹

II. Licensing and Taxing

The authority to assess and collect the licenses and taxes relating to salt water fish and shellfish is granted to the Marine Conservation Commission.²

A. Oysters. Any vessel used to catch, take, carry, or transport oysters or any vessel engaged in the transportation of any oysters within the territorial waters of the State of Mississippi must be licensed annually before beginning operations.³ In addition to this privilege license, an inspection fee of five cents (5¢) per barrel is levied upon all oysters which are canned or packed in the state, shipped raw in or from the state, or caught or taken from the public reefs or private bedding ground for packing, canning and for shipment for sale raw.

Also, a further inspection fee of one and one half cents (1-1/2¢) per barrel is levied on oysters removed from the reefs and waters of the state for packing, canning, and for shipment for sale raw.⁴ Each factory engaged in canning oysters in the state and each person, firm, or corporation which is engaged in shipping oysters shall pay an annual privilege tax of one hundred dollars (\$100.00). The secretary of the commission issues a license to those paying the tax, and the license is non-transferable and required for each factory or place of business.⁵

B. Shrimp. The licensing rates of boats for the catching of shrimp are levied according to size of the boat, with the maximum tax being twenty-five dollars (\$25.00) for a vessel over forty-five (45) feet in length.⁶ A tax of twenty-five cents (25¢) is levied on all shrimp processed in the state and all shrimp taken from the territorial waters of the state.⁷ Each person, firm or corporation engaged in canning, packing, freezing, drying, or shipping salt-water shrimp in the state must obtain a license at the annual rate of fifty dollars (\$50.00).⁸

Licensed live bait shrimp dealers are taxed somewhat differently, paying an annual privilege tax of seven dollars and fifty cents (\$7.50) for each boat not to exceed three (3) boats for any one licensee.⁹

C, Menhaden. Each net, seine, trawl or purse net employed in taking or catching menhaden and each boat or vessel so employed is taxed at fifty dollars (\$50.00) each. Also, a factory or establishment engaged in the manufacture of oil, fish scrap, fertilizer or other products derived from

menhaden must pay a license fee of five hundred dollars (\$500. 00).¹⁰

D. Other Fish. Any vessel used in catching or transporting fish for commercial purposes must obtain a license annually from the Commission,¹¹ and any factory canning fish must pay a privilege tax of one hundred dollars (\$100. 00).¹² In addition, any firm or corporation deemed to be a wholesale dealer of sea food must secure a license upon the payment¹³ of a tax.

III. Seasons

The opening, closing, and regulating of fishing seasons for the taking of shrimp, oysters, and crabs are governed by orders and ordinances promulgated by the Marine Conservation Commission. However, the legislature set the season for the taking and catching of oysters from September 1 through May 1 of each year, with the allowance of an extension upon written recommendation of the marine biologist.¹⁴

Similarly, the shrimp fishing season terminates at sunset of April 30th of each year unless the marine biologist recommends a change.¹⁵ Such a recommendation concerning the catching of shrimp south of the Intercoastal Waterway area was filed by the marine biologist, which resulted in the extending of the season in that area only to May 23.¹⁶ All persons properly licensed and otherwise qualified as "live bait dealers" are allowed to fish for live bait from sunrise on the first day of July through sunset on the 31st day of December.¹⁷

IV. Protection and Limitation on Taking

Within the guidelines provided by state law, the Marine Conservation Commission is vested with the authority to establish regulations for catching, taking, and culling of all types of seafood within its control.¹⁸

A. Oysters. The legal size for oysters is a minimum of three (3) inches, measured from hinge to mouth, and all oysters falling below this standard must immediately be broadcasted from the natural reefs from which they were taken.¹⁹ To provide for the growing of future oyster crops, fifty percent (50%) of all the oyster shells taken from the public reefs of the state and fifty percent (50%) of all oyster shells produced from oysters processed within the state are deemed the property of the state and are required to be delivered to the Commission unless the Commission sets a reasonable price to be paid for the shells in lieu of their delivery.²⁰

Both the legislature and the Commission have taken a hand in regulating the dredging of sea beds for oysters or dead shells. The former sets out the geographical areas in which catching or taking oysters by dredging is prohibited,²¹ while the latter controls the number and size of the equipment used and the season in which it is allowed.²² To further the conservation, and propagation of oysters, no rigid season for dredging has been set up, but the Commission retains the power to regulate the season as the changing elements and factors of the resources

dictate.²³ The use of dredges in excess of one hundred fifteen (115) pounds or exceeding sixteen (16) teeth is prohibited,²⁴ as is the use of more than two dredges in any one boat. Incorporated into this last regulation is the requirement that all oysters taken from the dredging reefs must be examined by an inspector either on the reefs or at the place where the oysters are unloaded from the boats.²⁵ The Commission is granted the authority to contract for the sale of oyster shells, beds, banks, and accumulation of shells, but such a contract can be entered into only upon the approval of an order for dredging by both the Commission and the Marine biologist.²⁶ Before the order can be approved the marine biologist must make a study to determine whether the dredging may be done without damage to marine life and in what areas and at what time. If the marine biologist approves the sale, then the order shall be adopted upon the written approval of the marine biologist and a three-fifths (3/5ths) vote of the entire membership of the Commission. This order must expressly state that the dredging being authorized will not be detrimental to aquatic life nor harmful to the fishing industry.²⁷

The Commission has the authority to establish new bedding grounds and to dredge areas where the oysters are too thick and spread them on reefs where oysters are needed to increase maximum yield. In conjunction with this power, bedding grounds or reefs are prohibited from being established in any area where the waters are not of sufficient sanitary quality

to meet the standards determined by the State Board of Health,²⁸ As
a result, the Commission has prohibited the taking of oysters from areas
declared unsafe by the State Board of Health where the level of contamina-
tion exceeds the allowable standards of the U. S. Public Health Service.²⁹

Two miscellaneous regulations which govern the taking and
catching of oysters are that which prohibits their harvesting between sun-
set and sunrise of each day,³⁰ and that which prohibits the establishment
of an artificial fishing reef by the use of any type of junk or material
without the consent of the Commission.³¹

B. Shrimp. As to the minimum size of shrimp which may be caught,
it is unlawful for anyone to catch or have in their possession shrimp which
in the raw state weigh less than one pound for each sixty-eight (68) shrimp.³²
The Commission has regulated the time of day during which different
types of shrimp may be caught: brown shrimp may be taken at any time of
the day during the open season, but no white shrimp may be taken between the
hours of sunset and sunrise.³³

With the exception of licensed live bait dealers, the taking of shrimp
near the mainland is expressly prohibited, and the area in which the
catching of shrimp is prohibited is set out in a most detailed manner.³⁴

It is unlawful for any boat engaged in the catching of shrimp to
utilize more than one trawl, and this trawl may not be more than fifty (50)
feet along the cork line nor more than sixty (60) feet along the lead line.
This regulation applies only to fishing in the waters north of a line from
the Louisiana boundary to Cat Island to Ship Island to Horn Island to

Petit Bois Island to the Alabama boundary, thereby exempting the waters south of the designated line.³⁵

Licensed live bait dealers are limited to one trawl per boat not over sixteen (16) feet long, and any seines used must be less than one hundred (100) feet long. In addition, there may be not more than one hundred (100) pounds of dead shrimp in his possession at his fishing camp and no more than ten (10) pounds of dead shrimp on his catch boat.³⁶

C. Menhaden. Given the power to prohibit the taking and catching of menhaden within two miles from the coast line of any county which requests the same through its board of supervisors,³⁷ the Marine Conservation Commission has made it unlawful for any person, firm, or corporation to take or catch menhaden fish within one mile of the shore line of both Harrison and Hancock counties.³⁸

D. Crabs. Besides the regulations governing the catching of oysters, shrimp, and menhaden, there is only one other class of fish regulated -- the crab. It is unlawful to take or catch at any time an egg-bearing female crab, and all crabs landed at ports in this state must contain the apron portion of the crab.³⁹

V. Penalty and Enforcement

A. Penalty. Any person, firm or corporation who violates the seafood laws shall be deemed guilty of a misdemeanor, and the general penalty for such violations is as follows: a fine not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for the first offense; not

less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment in jail for a period not exceeding thirty (30) days for any subsequent offense; and revocation of the license of the convicted party and of the vessel used during the violation upon the third conviction. The penalty for third and subsequent convictions carries with it a denial of a further license to the convicted party or his vessel for a period of one year following the conviction.⁴⁰

Aside from this penalty, any violator is subject to having confiscated all of the aquatic life caught, taken, or transported in violation of the seafood laws and any boat, vessel, or net or other paraphernalia used in connection with the violation.⁴¹

B. Enforcement. The primary law enforcement officials to which the burden of enforcing the laws relating to salt-water aquatic life are the Marine Conservation Commission's inspectors and their deputies. They have the authority to seize any and all aquatic life which was unlawfully taken and may confiscate any of the equipment used in connection with the violation. To aid in the enforcement of these laws inspectors may obtain the aid of crews, captains and boats and may board and search vessels without warrant.⁴²

In addition to the Commission's enforcement of seafood laws, certain municipalities⁴³ may enforce the oyster laws within a specified area,⁴⁴ and any prosecutions or convictions by a municipality shall not bar subsequent prosecution and conviction by the Marine Conservation Commission.⁴⁵

C. Suits and Appeals. The original jurisdiction of any prosecution or suit brought under the authority of the seafood laws or any ordinances enacted by the Commission is in the justices of the peace of the respective counties or in the county courts in which the Mississippi Marine Conservation Commission functions.⁴⁶ Any order of the Commission may be appealed by an aggrieved party by the filing of a written petition with the Commission, which will hold a hearing on the matter and issue a decision. If the petitioner is still dissatisfied with the decision, he may appeal to the circuit court within ten (10) days after the final order is issued by the commission.⁴⁷

FOOTNOTES

1. Miss. Code Ann. § 6047-01 (Supp. 1971).
2. Miss. Code Ann. § 6047-18 (Supp. 1971).
3. Miss. Code Ann. § 6047-18(a) (Supp. 1971).
4. Miss. Code Ann. § 6047-18(b) (Supp. 1971).
5. Miss. Code Ann. § 6047-18(c) (Supp. 1971).
6. Miss. Code Ann. § 6047-18(j) (Supp. 1971).
7. Miss. Code Ann. § 6047-18(k) (Supp. 1971).
8. Miss. Code Ann. § 6047-18(l) (Supp. 1971).
9. Miss. Code Ann. 6047-18(i) (Supp. 1971).
10. Miss. Code Ann. § 6047-18(h) (Supp. 1971).
11. Miss. Code Ann. § 6047-18(e) (Supp. 1971).
12. Miss. Code Ann. § 6047-18(f) (Supp. 1971).
13. Miss. Code Ann. § 6047-18(g) (Supp. 1971).
14. Miss. Code Ann. § 6047-06(b) (Supp. 1971).
15. Miss. Marine Conservation Commission, Ordinance 47, § 1,
March 3, 1969.
16. Miss. Marine Conservation Commission, Ordinance 53, April 6, 1970.
17. Miss. Marine Conservation Commission, Ordinance 60, October 4, 1971.
18. Miss. Code Ann. § 6047-06(c) (Supp. 1971).
19. Id. This statute also provides that the marine biologist may reduce the size of oysters to be culled by written recommendation, but to a size not less than two and one-half (2-1/2) inches.

20. Miss. Code Ann. § 6047-06(d) (Supp. 1971).
21. Miss. Code Ann. § 6075-12 (Supp. 1971).
22. Miss. Marine Conservation Commission, Ordinance 35, March 13, 1967.
23. Miss. Marine Conservation Commission, Ordinance 10, February, 1962.
24. See note # 5.
25. Miss. Marine Conservation Commission, Ordinance 34, January 9, 1967.
26. Miss. Code Ann. § 6048-02 (Supp. 1971).
27. Miss. Code Ann. § 6048-03 (Supp. 1971).
28. Miss. Code Ann. § 6072 (Supp. 1971).
29. Miss. Marine Conservation Commission, Ordinance 7, February 18, 1961; Ordinance 24, September 9, 1963; Ordinance 38, September 1, 1967.
30. Miss. Code Ann. § 6077.
31. Miss. Marine Conservation Commission, Ordinance 29, June 7, 1965.
32. Miss. Code Ann. § 6047-06(c) Supp. 1971).
33. Miss. Marine Conservation Commission, Ordinance 47, § 5, March 3, 1969.
34. Miss. Marine Conservation Commission, Ordinance 56, July 14, 1971.
35. Miss. Marine Conservation Commission, Ordinance 50, June 2, 1969.
36. Miss. Marine Conservation Commission, Ordinance 60, October 4, 1971.
37. Miss. Code Ann. § 6047-17 (Supp. 1971).
38. Miss. Marine Conservation Commission, Ordinance 28, May 3, 1965; Ordinance 55, May 3, 1971.

39. Miss. Marine Conservation Commission, Ordinance 21, §§ 1 & 2,
April 1, 1963.
40. Miss. Code Ann. § 6047-13 (Supp. 1971).
41. Miss. Code Ann. § 6047-09(c) (Supp. 1971).
42. Id.
43. Miss. Code Ann. § 6085-01(1) (Supp. 1971). "Any municipality bounded by the Gulf of Mexico or Mississippi Sound, which has wholly or partly within its corporate limits, or in the waters adjacent thereto, a public oyster reef reserved for catching oysters exclusively by use of hand tongs"
44. Miss. Code Ann. § 6085-01(2) (Supp. 1971). For purposes of enforcement a municipality may "extend its corporate limits by continuing its boundaries at right angles to the shore line, into the waters of the Mississippi Sound or Gulf of Mexico or waters tributary thereto to any-line within the boundaries of the State of Mississippi, and may, by ordinance spread upon its minutes, provide that all violations of such laws and ordinances regulating the catching, taking and transporting of oysters shall be violations of the municipal ordinance and punishable as such "
45. Miss. Code Ann. § 6085-01(4) (Supp. 1971).
46. Miss. Code Ann. § 6047-12 (Supp. 1971).
47. Miss. Code Ann. § 6047-15 (Supp. 1971).

WILDLIFE AND FOWL

I. Development of Resources

In keeping with its efforts to conserve and develop the living resources of this state, the legislature has declared that every public park, golf course and playground constitutes a sanctuary or preserve for the propagation of bird and animal life.¹ Moreover, the size (area) of any such preserve may be enlarged (increased) by order of the board of supervisors in any county.² Also, Mississippi State Game and Fish Commission is authorized to designate certain localities as game and bird refuges for the purpose of securing the continued existence of certain endangered species and providing these birds and animals with safe retreats in which they may rest and replenish adjacent hunting grounds.³

The State Game and Fish Commission is further authorized to acquire -- through various legal devices -- and hold for the state lands suitable for refuges, hunting grounds, or game and bird farms.⁴ Furthermore, the Commission has control of the operation of these game and fur farms, and exercises exclusive charge and control of the propagation and distribution of wild birds and animals with the right to expend such sums as is necessary to accomplish these purposes,⁵ as is done, for example, in the purchase from landowners of quail trapped on their lands.⁶

Though the Commission has been granted the right of exclusive control over the propagation and distribution of birds and animals, the Legislature recently saw fit to create a wildlife research laboratory for the purpose of dis-

covering and disseminating knowledge concerning the management and proper utilization of game resources in Mississippi.⁷ All state agencies and departments, including the Game and Fish Commission, have been directed to give the laboratory their full cooperation in every possible manner.⁸ The State Game and Fish Commission has also been asked to cooperate with the United States Bureau of Biological Survey in the taking and killing of predatory animals that present a threat to game birds and animals.⁹

This spirit of cooperation in developing the living resources in Mississippi has not been confined to the narrow limits of activities among state agencies; it also exists between the state and federal government, as demonstrated by the establishment of co-operative wildlife restoration projects by the Mississippi State Game and Fish Commission with the aid of the United States¹⁰ and by the establishment of national migratory bird refuges in Mississippi on land acquired by the United States with the State's consent.¹¹

II. Licensing and Taxing

In General. As a general rule, no one may hunt and kill wildlife and fowl in Mississippi without first applying for and obtaining a valid hunting license, but there are exceptions to this rule, which will be revealed later in our discussion. For a license to be valid, it must be issued on a special form prepared by the State Director of Conservation and distributed to the various officers authorized to issue such licenses. The license certificate is issued in the name of the State Game and Fish Commission and has to be countersigned by the State Director of Conservation, sheriff, warden, or other bonded issuing agent as well as the applicant. All licenses issued in this manner authorize the person named and

described therein to hunt and kill or take any game animals, and birds during a period running from the date of issuance to the following thirtieth day of June.¹²

At the same time the applicant receives his license certificate, he will also be given a badge-type of tag having a transparent window, through which the number of the tag, his name and the kind of license issued to him shall be plainly visible, and from which his license may be readily removed for closer examination. These tags are, of course, so designed that they may be firmly pinned or attached to the outer clothing;¹³ moreover, the licensee is required by law to so display the tag in order to facilitate his identification by the State Director of Conservation, his deputies, or any other officer authorized to require of him the number of his license.¹⁴

The cost of the license to the applicant depends on various factors - such as, residence of the applicant, his age, the type of license applied for, the weapon to be used, and the kind of animal to be hunted.

B. Resident. Needless to say, the Mississippi resident pays a license fee considerably less than that demanded of non-residents. For this reason the applicant must first be able to show proof of residency in Mississippi.¹⁵ Once the applicant fulfills this requirement, he may then pay a sum of three dollars and fifty cents (\$3.50) plus a twenty-five cent (25¢) issuing fee and receive a resident hunting license which shall entitle him to hunt all game and fowl, with the exception of deer and turkey, in any county of the State.¹⁶ Before hunting deer and turkey, the licensee must obtain an additional license at the cost of two dollars (\$2.00).¹⁷

As suggested earlier the hunter's age can make a difference where licensing is concerned, for a resident citizen of this state who has not reached the age

of sixteen (16) or who has reached the age of sixty-five (65) is not required to purchase or have in his possession a hunting license, unless he is hunting deer and turkey, at which time he must have a resident exempt deer and turkey tag obtained at a cost of fifty cents (50¢) plus a twenty-five cent (25¢) issuing fee.

These same provisions apply to any resident citizen who has been adjudged to have a one hundred percent (100%) service-connected disability, regardless of his age.¹⁸

Non-Resident. A non-resident of this state can pay twenty-five dollars (\$25.00) for a state hunting license which will entitle him to hunt all game except deer and turkey during the fiscal year, or he may wish to pay only ten dollars (\$10.00) for a state hunter's permit which would provide him with the same privileges for a period of seven (7) days, or, as another alternative, he may want to pay the sum of six dollar (\$6.00) for a period valid for only three (3) days. And should the non-resident also desire the privilege of hunting deer and turkey in this state he must apply for and obtain a second license for such purpose at an additional charge of two dollars (\$2.00). If, on the other hand, the non-resident is strictly interested in hunting small game (as defined by the State Game and Fish Commission) he need only pay fifteen dollars (\$15.00) for his license.¹⁹

It should be noted too that while these stated amounts represent fixed minimums, there is at least one instance when the non-resident may be required to pay a higher fee. This occurs under the policy of reciprocity. If the applicant is the resident of a state which would charge a Mississippian more money for the same privileges, he will be required to pay the same fee in Mississippi. Moreover, if the applicant is the resident of a state which does

not have a reciprocity agreement with our State Game and Fish Commission as to non-resident hunting²⁰ and which would not permit the sale of a non-resident hunting license to a Mississippian, he will not be permitted to buy a license in this state.²¹

D. Special Types Some of the less common variations to licensing requirements include (of Licenses).

the right to hunt deer with a bow and arrow. A Mississippi resident has to purchase, in addition to the regular hunting license and the deer and turkey license and tags, a special archery license at a fee of three dollars (\$3.00) before he can hunt deer in such a manner. As for the non-resident, he can begin his deer hunt with the purchase of an archery license for five dollars (\$5.00), but once he kills a deer with a bow and arrow, he must immediately apply for a regular non-resident hunting license and pay the difference of twenty dollars (\$20.00).²²

E. Commercial. Licensing by the State Game and Fish Commission does not deal exclusively with the sport of hunting; the wildlife and fowl of this state also serve a commercial purpose to some people, and these persons too are required to obtain a license before carrying on their activities. Probably the most familiar example of a person who uses the living resources of this state to an economic advantage is the trapper. If he is a resident of Mississippi, he is entitled to receive a trapper's license with tag for a fee of five dollars (\$5.00). Any helper or assistant employed by him must also buy a license.²³ If the trapper is a resident of some other state, he may still receive a Mississippi trapper's license after paying two hundred

dollars (\$200.00) plus an agent's fee of one dollar (\$1.00) to the issuing officer.²⁴

Another commercial activity subject to licensing by the Mississippi Game and Fish Commission is the propagation of quail for sale. The quail breeder is required by law to acquire through application a license costing twenty-five dollars (\$25.00). This license must be conspicuously displayed at all times at the place of breeding.²⁵

Private Land. Except for the commercial breeding of quail, all other activities - hunting, trapping, etc. - previously discussed are conducted on public lands. But what happens when the activity sought to be regulated is to be pursued on private property? As might be suspected, no license is required of a person who wishes to hunt and trap on land to which he holds record title.²⁶ This right, however, is not without limitations. If, for example, the owner or lessee of a piece of land wishes to establish and operate a "Deer Camp" on his property, he must first obtain a permit from the Game and Fish Commission.²⁷

Shooting Preserves (Licenses for). If a person, partnership, association, or corporation²⁸ holds title to or is currently leasing a piece of property which contains at least one hundred (100) acres,²⁹ he, or its representative, may apply to the Game and Fish Commission³⁰ for a permit to operate a shooting preserve on his land. The fees for a license and permit to operate a shooting preserve are seventy-five dollars (\$75.00) per year for the first one hundred (100) acres, plus another five dollars (\$5.00) for each additional one hundred (100) acres or fraction thereof,³¹ not to exceed six hundred forty (640) acres.³² As for those people who hunt a shooting preserve, residents are licensed under the regularly established game and hunting laws discussed earlier, while non-residents are required to hold either a regular non-resident hunting license or a special shooting preserve license obtained at a cost of three dollars (\$3.00).³³ All game killed on a shooting preserve

must be tagged prior to preparation for consumption with a self-sealing tag furnished by the commission at a cost to licensed operators of three cents (3¢) each. 34

III. Seasons.

Once the hunter has obtained a valid license, he must decide what he wants to hunt, for a prior determination of his quarry is conclusive of when he may legally hunt. This period during which birds and animals may be lawfully taken is known as "open season".³⁵

An examination of the relevant statute on "open season"³⁶ would seem to suggest that the Mississippi legislature in prescribing the hunting seasons has divided wildlife and fowl into four (4) classes: 1) game birds,³⁷ 2) game animals,³⁸ 3) fur bearing animals,³⁹ and 4) predatory animals.⁴⁰

The open season on game birds and game animals, with few exceptions, runs from December 1 to February 28. A slight modification of this general rule was made in the case of bobwhite and quail, which may be hunted only seventy (70) days during this ninety day period from December 1 to February 28. The Game and Fish Commission fixes the dates to be covered by this reduced season. The season on wild turkeys and squirrels is also fixed by the Commission in the exercise of its discretion.⁴¹

Deer season represents the greatest variation from the norm established for game animals; moreover, there are several statutory-provided modifications applicable to deer season itself. Basically, the open season on deer runs from November 20 to December 1 and from December 20 to January 1, but the Game and Fish Commission is authorized to begin the season as early as November 10 or to extend the closing date to January 15 so long as the amended period does not exceed sixty (60) days.⁴² The Game

and Fish Commission may also open additional seasons of ten (10) days or less to commence after January 1. And where it becomes necessary to thin the number of existing deer, the commission may permit the killing of doe deer in any locality affected by an overstock. Moreover, deer guilty of depredating or destroying crops may be killed under a special permit.⁴³ Finally, it should be noted that the Mississippi congress has established a special hunting season, during which deer may be hunted with bow and arrow. This special archery season is fixed by statute to begin on October 1 and end on November 19 of every year, with further provision that the Commission may extend the season from December 2 to December 19 on any public hunting project or game refuge.⁴⁴

The open season on fur animals is fixed by the Game and Fish Commission to run from November 1 to March 1; however, the Commission may fix the season for hunting opossums and raccoons with dogs in certain sections of Mississippi from October 1 to January 31. Moreover, rabbits may be killed by licensed hunters using guns during any season in which other game may be hunted with guns, and if rabbits are destroying a man's crops, he may shoot to kill with a gun.⁴⁵

As for predatory animals, there is no closed season where these rascals are concerned.⁴⁶ In fact, the Mississippi legislature has even created a couple of laws providing for payment of a bounty on bobcats,⁴⁷ beaver and nutria.⁴⁸ On the other hand the Game and Fish Commission may, on written petition, close the season on fox in certain areas or prohibit their

killing in any manner when in its opinion the fox is in danger of extermination.⁴⁹ Even though the season on fox may be closed under this special set of circumstances, it would not affect the right of any person to kill fox that pose a threat to his livestock or domestic animals.⁵⁰

There is at least one instance in which the time to hunt is determined by the place of the hunt rather than the class of wildlife or fowl to be hunted. The Game and Fish Commission is authorized to select one hundred eighty (180) consecutive days out of the seven month period beginning September 1 and ending March 31 to serve as the hunting season for shooting preserves.⁵¹

We can close our discussion of the hunting seasons with a brief consideration of two general rules. (1) In cases of urgent emergency the Commission is authorized to close or shorten the open season on any species of game birds, game or fur-bearing animals in any specified locality, when the findings of an investigation and public hearing indicate such action is necessary to insure the perpetuation of wildlife and fowl in Mississippi.⁵² (2) If the time fixed by law for the beginning of a hunting season would fall on a Sunday, that particular season will instead commence on the preceding Saturday.⁵³

IV. PROTECTION AND LIMITATION ON TAKING.

The Mississippi State Game and Fish Commission has exclusive charge and control over distribution and propagation of game, and shall expend funds acquired from licenses and gifts for the preservation of game.⁵⁴ The Commission is further responsible for the designation of reserves and refuges to be used for the perpetuation of certain species of game⁵⁵ and regulating the removal of game therefrom.⁵⁶ Similarly, the Commission controls the protection and regulation of commercially raised quail as set forth in the Mississippi Commercial Quail Act.⁵⁷ Responsibility also extends to the protection of all game during periods of high water or fire.⁵⁸

In addition, the Game and Fish Commission may enter into agreements with land owners for the trapping of certain animals and birds during the open season.⁵⁹

To implement its tasks, the Commission is authorized to appoint game and fish wardens to enforce all laws for the protection of wild animals and birds.⁶⁰ Violators of such laws will be prosecuted,⁶¹ and any property used by them in any illegal hunting shall be seized and confiscated as contraband.⁶²

Game animals, game birds and fur bearing animals, as defined by Mississippi law,⁶³ may be taken subject to various protections and limitations established by law.

The State determines the times during which animals may be taken. It is unlawful to hunt except during open season,⁶⁴ although possession of killed animals may be extended to 60 days after the close of the season.⁶⁵ Similarly, it is unlawful to hunt during certain hours.⁶⁶

The State also determines the manner in which animals may or may not be taken. It is unlawful to hunt animals with poisons, explosives or chemicals,⁶⁷ or with headlights at night.⁶⁸ Use of traps or nets are also prohibited except when authorized.⁶⁹ It should be noted that once such authorization is given, it is then unlawful to disturb said traps.⁷⁰

In all cases where animals are hunted legally, they are taken subject to bag limits.⁷¹

Additional laws have been passed for further protection.⁷² It is unlawful to disturb or destroy the nests and eggs of birds,⁷³ or to set fire to woods during the nesting season of game birds for the purpose of driving birds or animals out of the forest.⁷⁴ It is not, however, unlawful to drive foxes from the ground, provided that the landowner consents and the Game Commission has not closed the season on foxes.⁷⁵ Furthermore, all regulations of the Federal Migratory Bird Treaty Act, as amended from time to time, have been adopted by the State for expanded protection of wildlife.⁷⁶ All nongame birds are also protected, and shall not be pursued, killed or captured.⁷⁷

Restrictions on commerce have also expanded the protection of wildlife. It is unlawful to sell game birds or animals,⁷⁸ or ship them by railroad or common carrier.⁷⁹ Neither shall restaurants possess game birds or animals,⁸⁰ nor shall any party buy or sell the pelts of any animal unlawfully killed.⁸¹

The Game and Fish Commission may authorize exceptions to certain aforementioned rules and regulations. It may issue permits for the collection and possession of wild animals, birds, nests or eggs for scientific exhibition or propagation purposes,⁸² or may capture or destroy animals or birds injurious to property.⁸³

Mississippi law also provides for the creation of private shooting preserves, determines the game which may be hunted thereon,⁸⁴ and prescribes the methods of harvesting,⁸⁵ and tagging of said wild game.⁸⁶ The program additionally calls for registration of all hunters taken on the preserve⁸⁷ and stipulates that the rules of the preserve must comply with those of the State Game and Fish Commission.⁸⁸

Separate from the jurisdiction of the Game and Fish Commission, the various county boards of supervisors may, in their discretion, place a bounty on bobcats, beaver and nutria when property is being destroyed by these animals.⁸⁹

V. PENALTY AND ENFORCEMENT

A. PENALTY AND FINE

The principal statute⁹⁰ prescribing fines and penalties to be imposed on persons who violate the Game and Fish Act or any other law or regulation designed for the protection of wildlife and fowl declares such violator guilty of a misdemeanor subject to fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). It further provides that the court may in its discretion demand an additional ten dollars (\$10.00) for each animal or bird, or part thereof, "or each nest or egg of any bird bought, sold, offered for sale, taken, possessed, or transported in violation of such law or regulation."⁹¹

The Mississippi legislature, in its attempt to protect and limit the taking of certain species of wildlife and fowl, has deemed it necessary to provide for imposition of the greatest fines and penalties where turkey and deer are concerned. Any person found guilty of killing a wild turkey out of season or a turkey hen at any time can be fined up to two hundred fifty dollars (\$250.00); moreover, any person convicted of baiting turkeys can be fined anywhere from thirty-five dollars (\$35.00) to one hundred dollars (\$100.00).⁹²

Since the same statute speaks in terms of a fine "not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00)" for the killing of a doe deer,⁹³ at first glance it may appear that the deer hunter enjoys greater protection from heavy penalties, but there are numerous

other statutes regulating deer hunting which should quickly erase any such mistaken impression. For example, the fine for killing any deer out of season is not less than one hundred dollars (\$100.00),⁹⁴ with no statutory limit on the maximum indicated. Also, a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) may be levied against anyone convicted of using headlighting or any other lighting device for the purpose of hunting and killing deer.⁹⁵ In fact, all firearms, equipment, or vehicles used directly or indirectly in the hunting or capturing of deer at night with a lighting device are subject to confiscation and forfeiture to the State of Mississippi as contraband property.⁹⁶ Finally, it should be noted that a violation of the provisions regulating the special hunting season on deer, established for the benefit of archers, is treated as a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00).⁹⁷ While most fines and penalties arise in connection with provisions designed to protect and limit the taking of wildlife and fowl, some few may be traced directly to a violation of licensing requirements. To begin with any person who swears to or affirms a false statement contained in an application for a hunting license is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).⁹⁸ Any authorized issuing agent who attempts to issue a hunting license on an improper form is also guilty of a misdemeanor and can be fined anywhere from one hundred dollars (\$100.00) to five hundred dollars (\$500.00).⁹⁹ Moreover, any public officer who fails to perform

his duty, as assigned by law or by the Commission, is not only subject to a fine in the same amounts but also may be imprisoned up to six (6) months.¹⁰⁰

The Commission is authorized to revoke for one year any hunting or trapping license issued to a person who has been convicted of a violation of the Game and Fish Act.¹⁰¹ If the violator, subsequent to revocation of his license, is caught hunting without a valid license, a mandatory jail sentence of not less than thirty (30) days nor more than six (6) months will be imposed upon him.¹⁰²

Penalties for failure to abide with licensing requirements are not limited to hunting license regulations. Any party in violation of the Mississippi Commercial Quail Act¹⁰³ is guilty of a misdemeanor and can be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisoned up to one (1) year in the county jail, or both.¹⁰⁴

Anyone guilty of operating a Deer Camp without first having obtained the necessary permit from the Commission shall be fined up to one hundred dollars (\$100.00)¹⁰⁵ Any party who violates a provision of the act¹⁰⁶ establishing game preserves is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment for up to one year in the county jail, or both.¹⁰⁷

Property rights provide yet another source for penalties and fines. Any person who trespasses on a game refuge or management area shall have committed a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) and, in the discretion

of the court, by imprisonment up to thirty (30) days in the county jail.¹⁰⁸

Finally, a general comment should be made with regard to the role played by penalties and fines in the regulation of the seasons, and that is "any person convicted of hunting out of season shall be fined not less than one hundred dollars (\$100.00)."¹⁰⁹

B. ENFORCEMENT

Game wardens are not the only officials authorized to enforce the provisions of the Game and Fish Act. The Mississippi legislature has designated all sheriffs, deputy sheriffs, constables and other peace officers of this state ex-officio special game wardens.¹¹⁰

And where bird and animal preserves are concerned, it is the duty of these officers, as well as city, town and village officials within the county affected, "to arrest with or without process any person whom they may know or have good reason to believe" is illegally hunting on such preserve and "take them before the proper justice of the peace, or other officer, to be dealt with according to law."¹¹¹

Once the arrest has been made for illegal hunting or any other violation of the Game and Fish Act has been discovered, it becomes the duty of the district attorney and the county prosecuting attorney to prosecute and defend for the state all causes, both civil and criminal, in which the state is a real or interested party. The circuit judges meanwhile are required by law to familiarize grand juries with the provisions of the laws relating to wildlife and fowl and encourage their strict inquiry into all possible violations.¹¹²

In those cases where the violator is a corporation, the arrest warrant "may be read to and a true copy delivered to the president, secretary, or manager in this State, or to any general or local agent thereof in the county where the action is pending, and upon the return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fines may be collected by the execution against the property of such corporation." ¹¹³

The only remaining significant feature in the area of enforcement deals with witnesses and their right against self-incrimination. No person duly called as a witness will be excused from testifying on the ground that such testimony might tend to incriminate him; however, he cannot later be prosecuted for any offense concerning which he gave testimony. ¹¹⁴

FOOTNOTE

1. Miss. Code Ann. § 5835 (1952).
2. Miss. Code Ann. § 5839 (1952).
3. Miss. Code Ann. § 5844(b) (Supp. 1971).
4. Miss. Code Ann. § 5844(c) (Supp. 1971).
5. Miss. Code Ann. § 5844(d) (Supp. 1971).
6. Miss. Code Ann. § 5844(e) (Supp. 1971).
7. Miss. Code Ann. § 5840-52 (Supp. 1971).
8. Miss. Code Ann. § 5840-57 (Supp. 1971).
9. Miss. Code Ann. § 5925 (1952).
10. Miss. Code Ann. § 5927 (Supp. 1971).
11. Miss. Code Ann. § 5928 (1952).
12. Miss. Code Ann. § 5877 (1952).
13. Miss. Code Ann. § 5878 (1952).
14. Miss. Code Ann. § 5879 (1952).
15. Miss. Code Ann. § 5870 (Supp. 1971).
16. Miss. Code Ann. § 5871(a) (Supp. 1971).
17. Miss. Code Ann. § 5871(b) (Supp. 1971), which also provides that
the licensing agent, acting within the discretion of the Game and
Fish Commission, may also issue an additional deer tag at a cost
of five dollars (\$5.00) to the licensee.
18. Miss. Code Ann. § 5871(c) (Supp. 1971).

19. Miss. Code Ann. § 5872(1) (Supp. 1971). All licenses issued under this section are subject to a twenty-five cent (25¢) agent's fee.
20. Miss. Code Ann. § 5911.5 (Supp. 1971). Residents of Louisiana and Arkansas, for example, would not be required to buy a non-resident license for hunting on Mississippi territory within defined reaches of the Mississippi River.
21. Miss. Code Ann. § 5872(1) (Supp. 1971).
22. Miss. Code Ann. § 5872.5(3). (Supp. 1971).
23. Miss. Code Ann. § 5873 (1952).
24. Miss. Code Ann. § 5874 (1952). This is the only instance in which the issuing officer is entitled to receive more than twenty-five cents (25¢) as an agent's fee. See Miss. Code Ann. § 5874.5 (1952).
25. Miss. Code Ann. § 5922-04 (Supp. 1971).
26. Miss. Code Ann. § 5876 (1952).
27. Miss. Code Ann. § 5899.5 (1952).
28. Miss. Code Ann. § 5899-02(a) (Supp. 1971). If the preserve is to be confined to the releasing of ducks, there is a minimum of fifty (50) acres.
29. Miss. Code Ann. § 5899-03 (Supp. 1971).
30. Miss. Code Ann. § 5899-01 (Supp. 1971).
31. Miss. Code Ann. § 5899-04 (Supp. 1971).
32. Miss. Code Ann. § 5899-02(a) (Supp. 1971).
33. Miss. Code Ann. § 5899-11 (Supp. 1971).
34. Miss. Code Ann. § 5899-08 (Supp. 1971).

FOOTNOTES

(III. Seasons)

35. Miss. Code Ann. § 5867(f) (Supp. 1971).
36. Miss. Code Ann. § 5882 (Supp. 1971).
37. Miss. Code Ann. § 5867(d) (Supp. 1971). Game birds include brant, coots, doves, geese, plovers, quail, rails, river and sea ducks, sandpipers, snipe, sora, tattlers, wild turkey, and woodcock. All other species of wild resident or migratory birds are categorized as non-game birds. The open season on migratory birds is fixed by Fed. Migratory Bird Treaty regulations. Miss. Code Ann. § 5882 (Supp. 1971).
38. Miss. Code Ann. § 5867(a) (Supp. 1971). The Mississippi legislature has divided wild animals into three (3) classes: game animals, fur bearing animals and predatory animals. Bear, deer, opossums, rabbits, and squirrels comprise that class known as game animals. Miss. Code Ann. § 5867(a) (Supp. 1971).
39. Miss. Code Ann. § 5867(b) (Supp. 1971). This class of animals consists of minks, muskrats, otters, raccoons, skunks, and weasels.
40. Id. All other animals not included in Class (2) or Class (3) are considered predatory.
41. Miss. Code Ann. § 5882 (Supp. 1971).
42. Id. The Commission must give public notice and hold a public hearing on the proposed change before extending the open season on deer.
43. Id.

44. Miss. Code Ann. § 5872.5 (Supp. 1971). The archer is free to kill antlerless deer during this special season.
45. Miss. Code Ann. § 5882 (Supp. 1971). In view of this general statute which covers the fur bearing animals, there seems to be little need for § 5844(m) of the Code which provides for open season on otter.
46. Id.
47. Miss. Code Ann. § 2890.1 (Supp. 1971).
48. Miss. Code Ann. § 2890.2 (Supp. 1971).
49. Miss. Code Ann. § 5844(n) (Supp. 1971).
50. Miss. Code Ann. § 5897 (Supp. 1971).
51. Miss. Code Ann. § 5899-07 (Supp. 1971). The legislators thought this privilege necessary "to give a reasonable opportunity for a fair return on a sizable investment" in these shooting preserves.
52. Miss. Code Ann. § 5844(a) (Supp. 1971).
53. Miss. Code Ann. § 5882.5 (Supp. 1971).

FOOTNOTES

(IV. PROTECTION AND LIMITATION ON TAKING)

54. Miss. Code Ann. § 5844(i) (Supp. 1971).
55. Miss. Code Ann. § 5844(b) (Supp. 1971)
56. Miss. Code Ann. § 5860 (1952).
57. Miss. Code Ann. §§ 5922-02, -03, -04, -05, -06, -07, -08, -09, -10, -11, -13 (Supp. 1971).
58. Miss. Code Ann. § 5898 (Supp. 1971).
59. Miss. Code Ann. § 5844(c), (p) (Supp. 1971).
60. Miss. Code Ann. § 5851 (Supp. 1971).
61. Miss. Code Ann. § 5858 (1952).
62. Miss. Code Ann. § 5866-04 (Supp. 1971).
63. Miss. Code Ann. §§ 5867(a), (b), (c) (1952); Id. § 5844-25 (Supp. 1971).
64. Miss. Code Ann. § 5892 (1952); Miss. Code Ann. §§ 5866-01, 5888 (Supp. 1971).
65. Miss. Code Ann. § 5892 (1952).
66. Miss. Code Ann. § 5893 (Supp. 1971).
67. Miss. Code Ann. § 5890 (1952).
68. Miss. Code Ann. § 5866-02 (Supp. 1971).
69. Miss. Code Ann. § 5894 (1952).
70. Miss. Code Ann. § 5891 (1952).
71. Miss. Code Ann. § 5908 (Supp. 1971).
72. Miss. Code Ann. § 5883 (Supp. 1971).
73. Miss. Code Ann. § 5895 (1952); Id. § 5869 (Supp. 1972).

74. Miss. Code Ann. § 5896 (1952).
75. Miss. Code Ann. § 5844(n) (Supp. 1971).
76. Miss. Code Ann. § 5909 (1952).
77. Miss. Code Ann. § 5868 (1952).
78. Miss. Code Ann. § 5885 (1952).
79. Miss. Code Ann. § 5886 (1952).
80. Miss. Code Ann. § 5887 (1952).
81. Miss. Code Ann. § 5889 (1952).
82. Miss. Code Ann. §§ 5850, 5869 (Supp. 1971).
83. Miss. Code Ann. § 5849 (1952).
84. Miss. Code Ann. § 5899-03 (Supp. 1971).
85. Miss. Code Ann. §§ 5899-05, -06 (Supp. 1971).
86. Miss. Code Ann. § 5899-08 (Supp. 1971).
87. Miss. Code Ann. § 5899-09 (Supp. 1971).
88. Miss. Code Ann. § 5899-10 (Supp. 1971).
89. Miss. Code Ann. §§ 2890.1, 2890.2 (Supp. 1971).

FOOTNOTES

(V. Penalty and Enforcement)

90. Miss. Code Ann. § 5866 (Supp. 1971).
91. Id.
92. Id.
93. Id.
94. Miss. Code Ann. § 5866-01 (Supp. 1971). The hunter's license may also be revoked by the Commission for a period of one year.
95. Miss. Code Ann. § 5866-02 (Supp. 1971).
96. Miss. Code Ann. § 5866-04 (Supp. 1971). See all subsequent sections through Miss. Code Ann. § 5866-16 (Supp. 1971) for the substantive and procedural laws governing the disposition of contraband property.
97. Miss. Code Ann. § 5872.5 (Supp. 1971).
98. Miss. Code Ann. § ~~5872.5~~⁵⁸⁸³ (Supp. 1971). Such fraudulently acquired license is null and void.
99. Miss. Code Ann. § 5877 (1952). Such person is also barred from ever again issuing licenses in this state.
100. Miss. Code Ann. § 5866-03 (Supp. 1971).
101. Miss. Code Ann. § 5801 (Supp. 1971). Before a person's license can be revoked, he is first entitled to a hearing before the Commission.
102. Id.
103. Miss. Code Ann. § 5922-01 (Supp. 1971).
104. Miss. Code Ann. § 5922-12 (Supp. 1971). Conviction carries with it an automatic revocation of the license.

105. Miss. Code Ann. § 5899.5(6) (1952).
106. Miss. Code Ann. § 5899-01 (Supp. 1971).
107. Miss. Code Ann. § 5899-14 (Supp. 1971). Immediate revocation of the license follows conviction.
108. Miss. Code Ann. § 5844-24 (Supp. 1971).
109. Miss. Code Ann. § 5866 (Supp. 1971).
110. Miss. Code Ann. § 5857 (1952). Constables, designated by the Director of the Game and Fish Commission to serve as deputy game wardens, may issue hunting licenses.
111. Miss. Code Ann. § 5840 (1952). Under this statute, it is further provided that even private citizens may make an arrest where the violation is committed in his presence.
112. Miss. Code Ann. § 5858 (1952).
113. Miss. Code Ann. § 5859 (1952). This does not mean, however, that the agent or employee of such corporation is necessarily exempt from prosecution.
114. Miss. Code Ann. § 5861 (1952). The witness may be required to give evidence or produce books, records, and papers.

DOMESTIC AND DOMESTICATED ANIMALS

I. VARIOUS BOARDS AND COMMISSIONS

A. Authority.

The source of all authority within the state related to control of animals is the Mississippi Code. The Code is the law of the state in all courts or other places within the state.¹ Any penalties imposed for a violation of or noncompliance with any statute, regulation, or ordinance contained herein will be mentioned in the appropriate footnote. The Mississippi legislature has through the Code established several corporations and has given added authority to some groups already established in order to provide for effective control of animal-related activities.

B. Organizations.

The major creation appears to have been the Mississippi Board of Animal Health.² The Board is authorized to promulgate rules and regulations with which to prevent, control, and eradicate diseases among animals.³ The Board may appoint inspectors⁴ who are authorized to enter a landowner's premises, whether by permission or by writ of search and seizure, to inspect livestock.⁵ As a further aid to disease prevention, the various county boards of supervisors are authorized to put into effect a tick eradication program.⁶ Certain counties may also erect fences to prevent livestock from roaming onto federal and state highways.⁷

To encourage and promote the raising of livestock the Mississippi Livestock Show⁸ and the Mississippi Delta Livestock Fair Association⁹ were created. These corporations provide for the exhibition of livestock by owners and award prizes for contest winners. The Mississippi Livestock Show is

divided into seven districts in which annual shows are held.¹⁰ The Mississippi Delta Livestock Fair is held annually in Greenwood.¹¹ It is not possible to compete in both the Mississippi Livestock Show and the Mississippi Delta Livestock Fair, since the two events are mutually exclusive.¹² Both of these corporations receive financial assistance from the board of supervisors of each county eligible to enter the competition.¹³

Although one of the duties of the Commissioner of Agriculture and Commerce is to develop information related to raising stock and poultry,¹⁴ the boards of supervisors of two or more counties may establish a joint department of animal husbandry to disseminate additional information to aid in the development of livestock resources.¹⁵ The county board of supervisors is also authorized to purchase certain animals that provide a public benefit, such as hounds for the use of the sheriff¹⁶ or bulls for the use of livestock growers in breeding.¹⁷

The Department of Public Safety has been authorized to make whatever rules and regulations are necessary to carry out the purpose of the Branding Act.¹⁸ The Mississippi Livestock Theft Bureau was established to avoid confusion as to brands of livestock, to protect the owners of livestock against theft, and to aid the Department of Public Safety in investigating thefts and apprehending thieves.¹⁹ The livestock and poultry owners in each county may also form a protective association to prevent thefts²⁰ and to assist the sheriff in apprehending thieves.²¹ The association may also request that the governor of the state post a reward and in some instances provide for the services of a detective.²²

II. DISEASE CONTROL

The control of animal diseases in the state can best be considered under the following three categories: (1) Prevention, (2) Control, and (3) Remedial Action.

A. Preventive Action.

The Animal Health Board is required to maintain a clinic in Jackson to diagnose disease conditions of all animals, including pets.²³ The services of the clinic are available to veterinarians, vocational-agriculture teachers, farmers, and county agents without charge.

Approval of the Animal Health Board is required before bringing any livestock into the state,²⁴ and animals entering the state must be tested for infectious abortion or bangs disease.²⁵ All places where livestock will be confined or have been confined for exhibition, such as in fairs or auctions, shall be sprayed with a disinfectant under the supervision of Animal Health Board.²⁶

To secure the general health of municipalities the municipal authorities are authorized to suppress or regulate hog pens, slaughterhouses and stock-yards.²⁷ The commercial feeding of raw garbage to swine is unlawful,²⁸ except for persons who feed household garbage to swine for household consumption only.²⁹ The purpose of the prohibition is to prevent and eradicate contagious and infectious diseases of swine.³⁰ The possession, sale or disposition of hog cholera virus, except under restricted conditions at Mississippi State University, is unlawful.³¹ Also, most municipalities require dog owners to have their dogs vaccinated annually.³² Some municipalities

even provide for the pick-up of dead animals as part of the routine garbage collection;³³ however, the owner should notify the sanitation department if it appears that the dead animal will not be picked up within twelve hours.

Any livestock or poultry which dies because of a disease must be disposed of by the owner by using quick lime and burying the animal at least two feet under the ground or by burning the animal within twenty-four hours.³⁴ If a licensed veterinarian certifies that an immediate burial of livestock, which died as a result of an epidemic, is necessary in order to prevent the spread of a contagious disease, the county road equipment may be used to bury the animals.³⁵ Animal disposal plants may be erected, but the minimum standards set forth in the Code must be met before it is to be considered as suitable and sanitary.³⁶

B. Disease Control.

Counties may establish an area disease control and eradication program.³⁷ The county must pay one-third of the cost of administering such a program, but the Animal Health Board will employ a veterinarian for such an area and will supply vaccine to the owners for their animals.³⁸

Counties may also engage in a program to eradicate tuberculosis in cattle.³⁹ Owners of cattle in counties engaged in tuberculosis eradication must submit their cattle for inspection at the time and place designated by the Animal Health Board.⁴⁰ Assistance is available for such a program from the Animal Health Board.⁴¹

If a county board of supervisors fails to comply with the provisions of disease control, the state veterinarian shall apply to any court of competent jurisdiction for a writ of mandamus to require compliance.⁴²

The Animal Health Board is authorized to pay a bounty for the killing of rabid foxes at the rate of two dollars per head.⁴³ However, the fund from which the bounties are paid is limited to a two thousand dollar maximum.

C. Remedial Action.

Once partial or complete infestation of cattle tick is determined in a county by the state veterinarian the board of supervisors shall immediately begin a systematic program of tick eradication.⁴⁴ The county board of supervisors is authorized to appropriate money out of the general fund to use in cooperation with the Animal Health Board and the U. S. Department of Agriculture to eradicate tick fever and the cattle tick, as well as lice, and other animal parasites and diseases.⁴⁵ The assistant executive officer of the Animal Health Board shall be in charge of tick eradication.⁴⁶ The Code specifically authorizes the county board of supervisors to put into effect a tick eradication program and describes the sources of revenue and technical assistance that are available.⁴⁷ The state veterinarian shall appoint a necessary number of inspectors to assist in the county's eradication program.⁴⁸ In a county which has been determined to be infested with the cattle tick all cattle shall be dipped as soon as is practical; moreover, in any county where tick eradication is under way any cattle, horses, jacks, jennets or mules shall, upon notification to the owner, be dipped every fourteen days until the Animal Health Board feels such periodic dipping is no longer necessary.⁵⁰ Although any county may by vote remove the restrictions against allowing livestock to cross county lines, if the county becomes tick infested the county must pay for the eradication program.⁵¹ In addition, if the county becomes infected with the Texas fever tick, the county shall be placed back under the state stock law restrictions.⁵²

Cattle reacting to a tuberculin test shall be branded with the letter "T" on the left jaw and shall be destroyed.⁵³ Any dog which has bitten or is suspected of having bitten someone may be seized, examined and, if necessary, killed to determine whether it is rabid.⁵⁴ Where reactors to a brucellosis ring test are found the herd may be quarantined, and in counties utilizing an eradication program the herd must be officially tested within sixty days.⁵⁵

When an emergency condition exists in regard to an animal disease, the governor may cooperate with the federal government to combat and control the disease.⁵⁶ In such cases the governor has full and complete police powers to the extent necessary under the circumstances.⁵⁷

III. SEIZURE AND CONTROL OF ANIMALS

A. Lawful Taking.

Any person upon whose land an estray is found may seize the animal⁵⁸ and may use the animal in a proper and reasonable manner.⁵⁹ Although the person who seizes the estray may demand costs from the owner of the animal,⁶⁰ the use, if any, of the animal must be deducted from the costs of its support.⁶¹ The taker of the estray may begin an action to recover damages after two days have passed since he seized the animal.⁶² The taker, if successful in his action for damages, may require that the estray be sold.⁶³ When a seized estray proves troublesome but is fit for food, the taker, after having a ranger summons three persons to appraise the animal,⁶⁴ may kill the animal and pay its value to the ranger. When an estray escapes or dies, the taker must notify the ranger.⁶⁵

If any person allows a stallion above two years of age to run at large,

any other person may lawfully confine and geld the stallion.⁶⁶ In some municipalities no animals are allowed to run at large and may be impounded by the city.⁶⁷ The Mississippi Military Department may impound livestock found on military land.⁶⁸

If an owner refuses or fails to have his animals treated for cattle tick, then the animals will be dipped, quarantined and placed in the sheriff's custody.⁶⁹ A ranger may seize any estray not delivered according to law.⁷⁰ If there is no ranger, then a justice of the peace may perform the duties of a ranger.⁷¹

Any dog caught in the act of chasing or killing sheep may be killed by any person.⁷² A dog that has bitten or is suspected of having bitten someone, may be seized.⁷³ Any hog seen chasing or killing a lamb or kid may be caught, confined, and treated as an estray.⁷⁴ Any livestock found running at large illegally may be seized by the sheriff.⁷⁵

Unless a county has removed itself from the state livestock law, it is unlawful for any livestock to roam on state or federal designated highways or rights-of-way.⁷⁶ The Commissioner of Public Safety is in charge of having such animals impounded. The Commissioner may employ private individuals to impound the animals, but a law enforcement official must be present when the animal is taken up.⁷⁷ The Mississippi Highway Safety Patrol may either provide the equipment necessary to impound livestock which is roaming the highways or may contract for and obtain the services of private individuals to do the impounding.⁷⁸ Neither the state nor the county shall be liable for any injury which may occur to livestock which is picked up and removed from the

highways or highway rights-of-ways and subsequently impounded or sold.⁷⁹

B. Unlawful Taking.

The Mississippi Livestock Theft Bureau was established to protect the owners of livestock against theft and to provide protection from duplication of the brands used on livestock.⁸⁰ The Code contains a list of related unlawful acts, such as the use of an unregistered brand.⁸¹ To knowingly brand⁸² an animal belonging to another or to alter or deface a brand⁸³ with the intention of depriving the owner of his property is unlawful. It is unlawful for anyone to drive an animal from the land where it belongs, and if the animal has mixed with others being legally driven, the driver must separate the animals from his own stock at the nearest convenient place.⁸⁴ It is also unlawful to steal dogs,⁸⁵ swine, sheep, or goats⁸⁶ or to knowingly buy, trade or accept any stolen meat or horned cattle.⁸⁷ It may be considered as unlawful to kill, wound, injure or capture any fowl or game within the municipal limits of certain cities.⁸⁸ The removal of any impounded animal without paying assessments due is a wrongful taking.⁸⁹ A taking of animals exempted under the law from execution or attachment would be wrongful. Exempt property includes the following: (1) two work horses or mules, and one yoke of oxen; (2) two head of cows and calves; (3) ten head of hogs; (4) twenty head of sheep and goats, each; (5) all poultry; and (6) all colts under three years of age which were raised in this state by the debtor.⁹⁰

C. Restrictions on Mobility.

It is unlawful to bring or to allow livestock to enter the state, unless

first approved by the Animal Health Board.⁹¹ All livestock are excluded from the courthouse yard.⁹² Each person must keep his livestock on his own premises or in a safe enclosure and shall not permit them to run at large upon another's land.⁹³ The residents of the county may, however, remove the foregoing restriction by voting to be without the law.⁹⁴ Such a removal will not, however, affect the restriction in relation to swine.⁹⁵ There are also counties which, because of the amount of cultivated land, cannot remove themselves from the restriction even by an election.⁹⁶ Such an election is to be provided for by the county board of supervisors.⁹⁷ Any county that does vote to remove the restriction on the movement of livestock must build a fence between itself and any adjoining county which desires to remain under the law.⁹⁸ Such a fence must be four feet high, in good repair and closely built with rails, planks or wire.⁹⁹ If a county does remove itself from the restriction and later becomes tick infested, the eradication of the ticks is to be paid for by the county.¹⁰⁰ Should the county become infected with the Texas fever tick, the county must go back under the restriction.¹⁰¹ Certain coastal counties may designate as a special stock law district any territory lying within one mile of a sea wall.¹⁰²

Municipalities are authorized to prevent or regulate the running at large of animals and may impound, sell or destroy any animals found running at large.¹⁰³ Various municipal restrictions have been imposed, such as prohibiting the running at large of bitches in heat,¹⁰⁴ any unmuzzled vicious dog,¹⁰⁵ any dog without a license tag,¹⁰⁶ or any dog not vaccinated for rabies and not having a tag indicating such vaccination.¹⁰⁷ In some cities no animals,¹⁰⁸

including dogs,¹⁰⁹ are permitted to run at large. The city may even require that the dog be kept in an enclosure on the owner's own property.¹¹⁰

The Board of Trustees of State Institutions of Higher Learning is authorized to prevent any animal from running at large on the campus of any institutions under their management.¹¹¹

IV. OWNERSHIP OF ANIMALS

A. Ownership Rights.

In most cases the owner of an animal must be notified before any action adverse to his interest is taken. Anyone who seizes an estray,¹¹² including the Mississippi Military Department,¹¹³ a city pound keeper,¹¹⁴ or a sheriff¹¹⁵ must give notice to the owner of the animal that the animal is being held. The ranger who is to receive notification of the seizure of estrays shall record all certificates of estrays and advertise the list either in the newspaper or in public places, depending upon the value of the animal.¹¹⁶ He must also post a list of estrays each January and July on the courthouse door.¹¹⁷ Any quarantine and dipping notices for animals whose owners cannot be found must be posted in three public places in the county where the stock is found in order for the notices to be valid.¹¹⁸ One of those three places must be the county courthouse.¹¹⁹ Unless a written report has been made to the railroad agent, no one shall bury or destroy a domestic animal killed or injured by a train, if the owner of the animal has not been notified and has not had an opportunity to examine the animal.¹²⁰

The owner of an animal which has been sold as an estray may apply to

the county board of supervisors within three years of the sale and upon proof of title the board shall order the net proceeds of the sale to be refunded to the owner.¹²¹ In most instances provision is made for allowing the owner to reclaim the animal by paying the costs accrued for the support of the animal.¹²² The time period within which to reclaim the animal may depend upon the value of the animal.¹²³

Any owner of livestock who makes a damage claim must prove the amount of loss to the board of supervisors.¹²⁴ Recovery of damages by the owner is available where the damage was caused by the dipping process used for eradication of the cattle tick,¹²⁵ where any farcied or glandered stock is killed by the sheriff,¹²⁶ where livestock is destroyed by authority of the Animal Health Board,¹²⁷ where cattle are slaughtered as a result of tuberculosis eradication,¹²⁸ or where animals are destroyed by joint action in emergency situations by the governor and the federal government.¹²⁹ However, neither the State nor any county is liable for any injury which may occur to livestock which is picked up and removed from the highways or highway right-of-ways.¹³⁰

An appeal from a judgment rendered in an action for damages caused by an estray is from the justice of the peace court to the circuit court.¹³¹ An action for damages in excess of \$200 shall be brought originally in the circuit court.¹³² The owner of an estray, whether the action is brought in the justice of the peace court or in the circuit court, may replevy the animal at anytime before final judgment.¹³³

Certain animals of owners are exempted from seizure by the state under execution or attachment.¹³⁴ However, the number of such animals is limited.¹³⁵

B. Ownership Liabilities.

The owner of livestock running free illegally shall be liable for damages for all injuries caused by the animals.¹³⁶ Every offense occurring after the owner has received notice of the animal running free shall result in liability for double the damages caused.¹³⁷ Owners of livestock are liable for damages caused by their animals which, through the owner's negligence, are on federal or state designated paved highways or right-of-ways.¹³⁸ The burden of proof is upon the owner to show a lack of negligence.¹³⁹ The owner of any dog or hog which has killed a sheep, lamb, or kid must pay the injured owner three dollars for each animal killed.¹⁴⁰ The owner of any dog which kills or injures poultry or livestock is liable for the damage suffered.¹⁴¹ An owner of an estray seized by another person is liable for the reasonable costs incurred for the temporary support of such an animal plus fifty cents a head.¹⁴²

Animal owners are responsible for providing sustenance to his animals.¹⁴³ An owner of a diseased animal (glandular or farcy) must confine the animals in an area remote from other animals and notify the authorities of the diseased animals.¹⁴⁴ Owners of livestock or poultry which are dying of a disease must quick lime and bury the animals at least two feet under the ground, or else destroy the animals by fire within twenty-four hours.¹⁴⁵ An owner of livestock which is mortgaged is responsible for notifying the mortgagee of the death, theft, or estray of the stock.¹⁴⁶ Owners of cattle in counties engaged in tuberculosis eradication must submit their cattle for inspection at a time and place designated by the Animal Health Board.¹⁴⁷ Dog owners are required to have the dog vaccinated against rabies annually and must be sure a tag is

worn by the dog to indicate such a vaccination.¹⁴⁸ Where dogs are allowed to run at large an identification tag should be attached to its collar.¹⁴⁹

In most cases of seizure of an owner's animals by the state, county,¹⁵⁰ or city¹⁵¹ notice is given to the owner of the seizure along with an opportunity to reclaim the animal. The owner must pay all expenses incurred in caring for the animal or else the animal may be sold and the expenses deducted from the money received.¹⁵² The proper use of a brand by a minor who owns animals is the responsibility of the minor's father or guardian.¹⁵³

C. Restrictions Upon Ownership.

Although the state does restrict ownership rights, the municipalities place many more basic restrictions upon animal owners. It is unlawful to provide or to assist in providing for a fight between animals, such as a cock fight.¹⁵⁴ Municipalities may restrict the running of animals at large.¹⁵⁵ Such restrictions may include all animals or may be simply related to those not safe,¹⁵⁶ not vaccinated,¹⁵⁷ or in heat.¹⁵⁸ In some cases a dog chasing or killing sheep may be killed and hogs chasing or killing a lamb or kid may be treated as an stray.¹⁵⁹

It may be unlawful to keep animals which cause an undue annoyance to neighbors¹⁶⁰ or to allow a dog to become a nuisance.¹⁶¹ It may be necessary to keep dogs in an enclosure.¹⁶² Some municipalities do not allow any person to keep cats¹⁶³ or dogs¹⁶⁴ for breeding purposes or to keep hogs or pigs¹⁶⁵ unless they are kept in pens.¹⁶⁶

D. Proof of Ownership.

The Department of Public Safety shall maintain a record of brands

and furnish a booklet annually to indicate the same.¹⁶⁷ The Department of Public Safety may make whatever rules and regulations necessary to carry out the purpose of the branding act.¹⁶⁸

All owners desiring to use a brand to identify livestock must apply to the Department of Public Safety for approval to prevent concurrent use of the same brand by two different owners.¹⁶⁹ All brands must be re-registered every five years.¹⁷⁰ Notification of the renewal date must be given to the owner at least ninety days prior to the renewal date.¹⁷¹ Anyone who desires to transfer his brand to another owner must notify the Department of Public Safety.¹⁷²

A copy of the brand registration is admissible as evidence in court, if verified by an affidavit from the Department of Public Safety.¹⁷³ In certain circumstances a person may be allowed to reclaim an estray simply by swearing an oath that he is the owner.¹⁷⁴

V. PROTECTION OF ANIMALS

State statutes and municipal ordinances have provided for protection of animals from human abuse. Cruelty to any living creature is unlawful.¹⁷⁵ It is unlawful to carry an animal in a cruel manner,¹⁷⁶ to confine an animal without providing food and water,¹⁷⁷ to neglect or refuse, as owner, to furnish sustenance to an animal,¹⁷⁸ or to torture, torment, or unjustifiably injure any animal.¹⁷⁹ Anyone administering poison or exposing livestock, dogs, poultry, deer, ducks, geese, partridges or turkeys to poison is subject to imprisonment.¹⁸⁰ It may be considered unlawful to shoot, wound, capture or kill any fowl or game within municipal boundaries.¹⁸¹ Anyone who provides or assists in providing

for a fight between animals is guilty of a misdemeanor.¹⁸² A much more serious crime is the commission of unnatural intercourse by any person with a beast.¹⁸³ Any dog in the act of chasing or killing sheep may be killed by any person and any hog seen chasing or killing a lamb or kid may be caught, confined, and treated as an estray.¹⁸⁴

VI. SALE OR AUCTION OF ANIMALS

The normal procedure for disposing of any animals which are impounded as a result of being in violation of a state, county or city regulation and which are not claimed by the owner is to sell the animals.¹⁸⁵ The requirements of notice of sale vary.

Livestock impounded for roaming on federal or state highways are to be described in a notice published in a weekly newspaper.¹⁸⁶ The notice must state that unless the animal is redeemed within five days, it will be offered for sale. Notice of such sale must be published and the sale cannot be within five days of the sale notice nor more than twelve days after the sale notice. The sale notice must be in a newspaper and posted on the courthouse door.¹⁸⁷

Livestock held under a writ of attachment may be sold, if not claimed by a replevin action, unless the term of court will commence within fifteen days of levy in which case the livestock may only be sold if in danger of immediate waste and decay.¹⁸⁸

Estrays which are not claimed shall be sold after giving three weeks' notice in each county supervisor's district.¹⁸⁹ Animals being held by the sheriff for tick eradication which are not reclaimed by the owner shall be sold after the owner has been given a five day notice of the expenses due, but the owner fails

to pay, and, after an extra ten days notice or advertisement of a forthcoming sale has been given.¹⁹⁰

Livestock impounded as a result of being found on military land can be sold only after a monthly notice in a newspaper in Forrest county has been published offering the owners an opportunity to claim their animals.¹⁹¹ Animals impounded by the city may be sold if not reclaimed by the owner.¹⁹² Also, any animal impounded because it was found running at large on the campus of an institution of higher learning may be sold, if not reclaimed by the owner.¹⁹³

After two days from seizure of an estray, one who takes up an estray may begin an action to recover damages.¹⁹⁴ If a favorable decision is received, the animal may be sold to satisfy the damages.¹⁹⁵ The ranger must record any sale of an estray and report it in writing to the county board of supervisors.¹⁹⁶

All places where livestock will be confined or have been confined for sale or auction shall be sprayed with an approved disinfectant under the supervision of the Animal Health Board.¹⁹⁷ Any driver moving cattle from an advertised sale shall have a bill of sale in his possession to be delivered to the purchaser upon delivery of the cattle.¹⁹⁸

Operators of livestock markets must keep a copy of the register of brands in his place of business.¹⁹⁹ All operators, dealers, slaughterers, and butchers who buy cattle for slaughter, not purchased at a livestock market, shall keep a record covering all cattle received.²⁰⁰

The Commissioner of Agriculture is to administer the provisions of the Code related to weight measurements of livestock.²⁰¹ The weights and measures received from the U. S. and certified by the national bureau of standards are

to be used.²⁰² No one shall engage in the sale or purchase of livestock by weight without obtaining a permit.²⁰³ Permits are issued and renewed annually and a \$10,000 bond is required.²⁰⁴ A monthly report must be made to the Commissioner of Agriculture concerning sales during that month.²⁰⁵ It is unlawful to purchase or sell livestock by weight unless such animals are weighed by a licensed and bonded weigher.²⁰⁶ Exceptions to the above rule however are farmers trading between themselves, cold storage plants, pork processing plants, or local community slaughterers of livestock for retail.²⁰⁷

The sale of the flesh of an animal dying other than by slaughter²⁰⁸ or which is known to be diseased²⁰⁹ or which is for human consumption and is an unclean animal, such as a dog or cat,²¹⁰ is unlawful. It is unlawful to attempt to sell or use an animal known to have a contagious disease.²¹¹

Before the sale of baby chicks²¹² is lawful a permit must be obtained from the Animal Health Board or state veterinarian, unless the sale is public by a farmer of chicks raised on the farmer's own premises.²¹³ Certain requisites must be followed in applying for a permit.²¹⁴ All containers of baby chicks which are being sold must be labelled as to the number and kind of chick, when and by whom hatched, and tests for disease showing freedom from diseases.²¹⁵ A report of such sales of chicks must be sent to the Animal Health Board within three days of the sale by the person who conducted the sale.²¹⁶

VII. CONTROL OF RELATED ACTIVITIES

Betting on a horse-race is unlawful.²¹⁷

A sheriff must render aid to livestock inspectors when needed.²¹⁸

Anyone who wilfully damages or destroys a tick eradication vat is guilty of a

felony.

In 1958 the "Livestock Biologics and Drug Act of 1958" became effective.²²⁰ No one shall sell any biologics, drugs, or other medicines designed for livestock, poultry or any other animals until it has been registered with and approved by the Animal Health Board.²²¹ The Animal Health Board is authorized to make rules and regulations to administer such control of drugs and medications.²²² When applying for registration with the Animal Health Board of a drug or medication for animals, an official product label must be included.²²³ The Animal Health Board is authorized to inspect, investigate, sample and seize in a lawful procedure any product covered under the drug act.²²⁴ The drug act does not, however, apply to licensed veterinarians.²²⁵

Everyone, except bona fide merchants, who possesses an instrument designed to project a tranquilizer or drug by means of compressed gas, explosion or by mechanical means shall register it (within 30 days if already owned) immediately upon coming into possession.²²⁶ Anyone selling drugs or tranquilizers for injection into livestock shall register the date sold; the name and address of the purchaser; and the identity and quantity sold.²²⁷ Any law enforcement officer may inspect the register of the drugs or tranquilizers sold.²²⁸

VIII. DESTRUCTION OF ANIMALS

The lawful destruction of animals has been provided for under certain circumstances. Cattle reacting to a tuberculin test or a brucellosis ring test may be slaughtered.²²⁹ Animals found running at large in municipalities are subject to destruction, unless reclaimed.²³⁰ In some cases immediate destruction is lawful, such as bitches in heat running at large²³¹ or rabid foxes.²³²

There is a bounty of \$2 per head on rabid foxes.²³³ Abandoned or neglected animals may be killed.²³⁴ Under certain circumstances a troublesome estray may be killed by the taker.²³⁵ Although animal disposal plants are lawful, minimum sanitary and building specifications must be met.²³⁶

Owners of livestock destroyed by authority of the Animal Health Board shall receive compensation from the State, after appraisal, but not to exceed \$50.²³⁷ Owners of cattle slaughtered, as a result of a tuberculin test, may receive indemnity, not to exceed \$100.²³⁸ Indemnity is also possible where animals have farcy or glanders.²³⁹ Where animals are destroyed as a result of action by the governor in emergency conditions indemnity is possible up to an amount equal to what the federal government is willing to pay.²⁴⁰

DOMESTIC AND DOMESTICATED ANIMALS
FOOTNOTES

1. Miss. Code Ann. § 20 (1956).
2. Miss. Code Ann. § 4835 (Supp. 1971).
3. Miss. Code Ann. § 4837 (Supp. 1971); Miss. Code Ann. § 4862-04 (Supp. 1971); Miss. Code Ann. § 4863-05 (1956).
4. Miss. Code Ann. § 4838 (1956).
5. Miss. Code Ann. § 4837 (Supp. 1971).
6. Miss. Code Ann. § 4861.3 (1956).
7. Miss. Code Ann. § 4876.7 (Supp. 1971).
8. Miss. Code Ann. § 4905 (Supp. 1971).
9. Miss. Code Ann. § 4906 (1956).
10. Miss. Code Ann. § 4905 (Supp. 1971).
11. Miss. Code Ann. § 4906 (1956).
12. Id.
13. Miss. Code Ann. § 4906-01 (1956); Miss. Code Ann. § 4906-02 (1956);
Miss. Code Ann. § 4907 (1956).
14. Miss. Code Ann. § 4421 (1956).
15. Miss. Code Ann. § 2965 (1956).
16. Miss. Code Ann. § 2914 (Supp. 1972).

17. Miss. Code Ann. § 4907 -01 (1956).
18. Miss. Code Ann. § 4896-08 (Supp. 1971).
19. Miss. Code Ann. § 4896-02 (1956).
20. Miss. Code Ann. § 4908 (1956).
21. Miss. Code Ann. § 4909 (1956).
22. Id.
23. Miss. Code Ann. § 4836 (Supp. 1971).
24. Miss. Code Ann. § 4862 (1956). A violation is a misdemeanor and is punishable by a fine of \$10 to \$300 or up to six months in jail.
25. Id.
26. Miss. Code Ann. § 4861.7 (1956). Failure to comply may result in a fine of \$25 to \$50.
27. Miss. Code Ann. § 3374-116 (1956).
28. Miss. Code Ann. § 4575-203 (Supp. 1971). A violation is a misdemeanor and is punishable by a \$50 to \$250 fine and ninety days in jail.
29. Miss. Code Ann. § 4575 - 204 (Supp. 1971). A violation is a misdemeanor and is punishable by a \$50 to \$250 fine and ninety days in jail.
30. Miss. Code Ann. § 4575 -201 (Supp. 1971).
31. Miss. Code Ann. § 4863 (1956). violation is punishable by a \$25 to \$500 fine.
32. Biloxi, Miss., Code § 5-17 (1959); Gulfport, Miss., Code § 6-21 (1963).

33. Biloxi, Miss., Code § 9-10 (1959).
34. Miss. Code Ann. § 2005 (1956). A violation is punishable by a \$5 to \$25 fine.
35. Miss. Code Ann. § 2951.5 (Supp. 1971).
36. Miss. Code Ann. § 4575-109 (Supp. 1971).
37. Miss. Code Ann. § 4861.5 (1956).
38. Id.
39. Miss. Code Ann. § 4842 (1956).
40. Miss. Code Ann. § 4846 (1956).
41. Miss. Code Ann. § 4840 (1956); Miss. Code Ann. § 4841 (1956).
42. Miss. Code Ann. § 4853 (1956).
43. Miss. Code Ann. § 4863-10 (1956).
44. Miss. Code Ann. § 4850 (1956).
45. Miss. Code Ann. § 4848 (1956).
46. Miss. Code Ann. § 4837 (Supp. 1971).
47. Miss. Code Ann. § 4861.3 (1956).
48. Miss. Code Ann. § 4852 (1956).
49. Miss. Code Ann. § 4849 (1956).
50. Miss. Code Ann. § 4854 (1956).
51. Miss. Code Ann. § 4868 (1956).
52. Id.
53. Miss. Code Ann. § 4845 (1956).
54. Gulfport, Miss., § 6-24 (1963).

55. Miss. Code Ann. § 4837.5 (Supp. 1971). Failure to comply will result in a fine of \$25 to \$500 or up to six months in the county jail.
56. Miss. Code Ann. § 4847.5 (1956).
57. Id.
58. Miss. Code Ann. § 4872 (1956).
59. Miss. Code Ann. § 4881 (1956).
60. Miss. Code Ann. § 4872 (1956).
61. Miss. Code Ann. § 4881 (1956).
62. Miss. Code Ann. § 4873 (1956).
63. Id.
64. Miss. Code Ann. § 4883 (1956).
65. Miss. Code Ann. § 4882 (1956).
66. Miss. Code Ann. § 4895 (1956).
67. Biloxi, Miss., Code §§ 5-5, 5-16 (1959).
68. Miss. Code Ann. § 4895.5 (Supp. 1971).
69. Miss. Code Ann. § 4856 (1956).
70. Miss. Code Ann. § 4887 (1956).
71. Miss. Code Ann. § 4892 (1956).
72. Miss. Code Ann. § 1083 (1956).
73. Gulfport, Miss., Code § 6-24 (1963).
74. Miss. Code Ann. § 1083 (1956).
75. Miss. Code Ann. § 4870 (1956).
76. Miss. Code Ann. § 4876-01 (Supp. 1971).

77. Id.
78. Miss. Code Ann. § 4876-03 (Supp. 1971).
79. Miss. Code Ann. § 4876-03.5 (Supp. 1971).
80. Miss. Code Ann. § 4896-02 (1956).
81. Miss. Code Ann. § 4896-09 (1956).
82. Miss. Code Ann. § 2022 (1956). A violation is punishable by three years in the penitentiary, up to a \$500 fine, or one year in the county jail.
83. Miss. Code Ann. § 2023 (1956). A violation is punishable by three years in the penitentiary, a fine up to \$500 or one year in the county jail.
84. Miss. Code Ann. § 4894 (1956).
85. Miss. Code Ann. § 2243 (Supp. 1972). A violation is punishable by one to two years in the penitentiary, up to a \$500 fine or six months in the county jail.
86. Miss. Code Ann. § 2242 (Supp. 1972). A violation is punishable by one to six months in the county jail and/or a fine of \$25 to \$100.
87. Miss. Code Ann. § 2242 (Supp. 1972). A first offender is subject to six months to five years in the penitentiary or a fine of \$100 to \$1,000. Subsequent offenses may result in imprisonment from one to twenty years in the penitentiary or a fine of \$500 to \$5,000.
88. Biloxi, Miss., Code § 13-8 (1959).
89. Miss. Code Ann. § 4876-04 (1956).

90. Miss. Code Ann. § 307 (Supp. 1971).
91. Miss. Code Ann. § 4862 (1956). A violation is a misdemeanor and is punishable by a fine of \$10 to \$300 or up to six months in jail.
92. Miss. Code Ann. § 2896 (1956).
93. Miss. Code Ann. § 4864 (Supp. 1971).
94. Id.
95. Miss. Code Ann. § 4865 (1956).
96. Miss. Code Ann. § 4867 (1956).
97. Miss. Code Ann. § 4866 (1956).
98. Miss. Code Ann. § 4865 (1956).
99. Miss. Code Ann. § 4865-01 (1956).
100. Miss. Code Ann. § 4868 (1956).
101. Id.
102. Miss. Code Ann. § 4869 (1956).
103. Miss. Code Ann. § 3374-153 (1956).
104. Biloxi, Miss. , Code § 5-20 (1959).
105. Biloxi, Miss. , Code § 5-22 (1959).
106. Biloxi, Miss. , Code § 5-13 (1959).
107. Biloxi, Miss. , Code § 5-17 (1959).
108. Gulfport, Miss. , Code § 6-12 (1963).
109. Gulfport, Miss. , Code § 6-22 (1963).
110. Gulfport, Miss. , Code § 6-23 (1963).
111. Miss. Code Ann. § 6726.8 (Supp. 1971).
112. Miss. Code Ann. § 4877 (1956).
113. Miss. Code Ann. § 4895.5 (Supp. 1971).

114. Biloxi, Miss. , Code § 5-5 (1959).
115. Miss. Code Ann. § 4876-02 (1956).
116. Miss. Code Ann. § 4879 (1956).
117. Id.
118. Miss. Code Ann. § 4855 (1956).
119. Id.
120. Miss. Code Ann. § 2352 (1956).
121. Miss. Code Ann. § 4891 (1956).
122. Biloxi, Miss. , Code § 5-5 (1959).
123. Miss. Code Ann. § 4884 (1956).
124. Miss. Code Ann. § 2951 (1956).
125. Miss. Code Ann. § 2950 (1956).
126. Miss. Code Ann. § 2949 (1956).
127. Miss. Code Ann. § 4839 (1956).
128. Miss. Code Ann. § 4843 (1956).
129. Miss. Code Ann. § 4847.5 (1956).
130. Miss. Code Ann. § 4876-03.5 (Supp. 1971).
131. Miss. Code Ann. § 4874 (1956).
132. Miss. Code Ann. § 4875 (1956).
133. Miss. Code Ann. § 4876 (1956).
134. Miss. Code Ann. § 307 (Supp. 1971).
135. Id.
136. Miss. Code Ann. § 4871 (1956).
137. Id.

138. Miss. Code Ann. § 4876.05 (1956).
139. Id.
140. Miss. Code Ann. § 1082 (1956).
141. Miss. Code Ann. § 1083.5 (1956).
142. Miss. Code Ann. § 4872 (1956).
143. Miss. Code Ann. § 2068 (1956).
144. Miss. Code Ann. § 2072 (1956). A violation is punished by a fine of \$25 to \$200 or two months in jail.
145. Miss. Code Ann. § 2005 (1956). Failure to do so is a misdemeanor punishable by a fine of \$5 to \$25.
146. Miss. Code Ann. § 4901 (1956). Failure to do so is a misdemeanor by a fine of \$50 to \$200 or sixty days in jail.
147. Miss. Code Ann. § 4846 (1956).
148. Gulfport, Miss., Code § 6-21 (1963).
149. Biloxi, Miss., Code § 5-16 (1959).
150. Miss. Code Ann. § 4870 (1956).
151. Biloxi, Miss., Code § 5-6 (1959).
152. Biloxi, Miss., Code § 5-6 (1959); Miss. Code Ann. § 2710 (1956);
Miss. Code Ann. § 4857 (1956); Miss. Code Ann. 4870 (1956).
153. Miss. Code Ann. § 4897 (1956).
154. Miss. Code Ann. § 2069 (1956).
155. Biloxi, Miss., § 5-4 (1959); Gulfport, Miss., Code § 6-12 (1963);
Gulfport, Miss., Code § 6-22 (1963).

156. Biloxi, Miss., Code § 5-22 (1959).
157. Biloxi, Miss., Code § 5-13 (1959); Biloxi, Miss., Code § 5-17 (1959).
158. Biloxi, Miss., Code § 5-20 (1959).
159. Miss. Code Ann. § 1083 (1956).
160. Biloxi, Miss., Code § 5-2 (1959).
161. Gulfport, Miss., Code § 6-23 (1963).
162. Id.
163. Gulfport, Miss., Code § 6-18 (1963).
164. Gulfport, Miss., Code § 6-26 (1963).
165. Biloxi, Miss., § 5-3 (1959).
166. Gulfport, Miss., Code § 6-11 (1963).
167. Miss. Code Ann. § 4896-06 (1956).
168. Miss. Code Ann. § 4896-08 (Supp. 1971).
169. Miss. Code Ann. § 4896-03 (1956).
170. Miss. Code Ann. § 4896-05 (1956).
171. Id.
172. Miss. Code Ann. § 4896-03 (1956).
173. Miss. Code Ann. § 3896-04 (1956).
175. Miss. Code Ann. § 2067 (1956).
176. Miss. Code Ann. § 2071 (1956).
177. Miss. Code Ann. § 2070 (1956).
178. Miss. Code Ann. § 2068 (1956).
179. Gulfport, Miss., Code § 6-1 (1963).
180. Miss. Code Ann. § 2329 (1956). The penalty is a \$500 fine and one year
in the county jail or three years in the penitentiary.

181. Biloxi, Miss., Code § 5-1 (1959); Biloxi, Miss., Code § 13-8 (1959).
182. Miss. Code Ann. § 2069 (1956).
183. Miss. Code Ann. § 2413 (1956). The penalty is ten years imprisonment in the penitentiary.
184. Miss. Code Ann. § 1083 (1956).
185. Miss. Code Ann. § 6726.8 (Supp. 1971); Miss. Code Ann. § 4895.5 (Supp. 1971); Miss. Code Ann. § 5876-02 (1956); Biloxi, Miss., Code § 5-6 (1959); Miss. Code Ann. § 2710 (1956); Gulfport, Miss., Code § 6-12 (1963); Miss. Code Ann. § 4857 (1956); Miss. Code Ann. § 4885 (1956).
186. Miss. Code Ann. § 4876-02 (1956).
187. Id.
188. Miss. Code Ann. § 2710 (1956).
189. Miss. Code Ann. § 4885 (1956).
190. Miss. Code Ann. § 4857 (1956).
191. Miss. Code Ann. § 4895.5 (Supp. 1971).
192. Biloxi, Miss., Code § 5-6 (1959); Gulfport, Miss., Code § 6-12 (1963).
193. Miss. Code Ann. § 6726.8 (Supp. 1971).
194. Miss. Code Ann. § 4873 (1956).
195. Id.
196. Miss. Code Ann. § 4888 (1956).
197. Miss. Code Ann. § 4861.7 (1956). Failure to comply is punishable by a fine of \$25 to \$50.
198. Miss. Code Ann. § 4896-08 (Supp. 1971).

199. Miss. Code Ann. § 4896-07 (Supp. 1971).
200. Id.
201. Miss. Code Ann. § 5145.5-02 (1956).
202. Miss. Code Ann. § 5145.5-03 (1956).
203. Miss. Code Ann. § 5145.5-05 (Supp. 1971).
204. Id.
205. Id.
206. Miss. Code Ann. § 5145.5-01 (Supp. 1971).
207. Id.
208. Miss. Code Ann. § 2336 (1956). The penalty one to five years imprisonment in the penitentiary.
209. Miss. Code Ann. § 2062 (1956). The penalty is a fine of \$25 to \$200 or four months in the county jail.
210. Miss. Code Ann. § 2338 (1956). The penalty is a fine of \$100 or 30 days in the county jail.
211. Miss. Code Ann. § 2062 (1956). The penalty is a fine of \$25 to \$200 or four months in the county jail.
212. "Baby chick" means any domestic fowl under the age of six weeks.
Miss. Code Ann. § 4863-06 (1956).
213. Miss. Code Ann. § 4863-01 (1956).
214. Miss. Code Ann. § 4863-03 (1956).
215. Miss. Code Ann. § 4863-03 (1956).
216. Miss. Code Ann. § 4863-04 (1956).
217. Miss. Code Ann. § 2201 (1956). The penalty is a fine of \$500 or five to

twenty days in the county jail.

218. Miss. Code Ann. § 4860 (1956).
219. Miss. Code § 4861 (1956).
220. Miss. Code Ann. § 4862-01 (Supp. 1971); Miss. Code Ann. § 4862-10 (Supp. 1971).
221. Miss. Code Ann. § 4862-02 (Supp. 1971).
222. Miss. Code Ann. § 4862-04 (Supp. 1971).
223. Miss. Code Ann. § 4862-03 (Supp. 1971).
224. Miss. Code Ann. § 4862-05 (Supp. 1971).
225. Miss. Code Ann. § 4862-06 (Supp. 1971); Miss. Code Ann. § 4862-07 (Supp. 1971).
226. Miss. Code Ann. § 4904-01 (Supp. 1971).
227. Id.
228. Miss. Code Ann. § 4904-01 (Supp. 1971).
229. Miss. Code Ann. § 4845 (1956); Miss. Code Ann. § 4837.5 (Supp. 1971).
230. Biloxi, Miss., Code § 5-16 (1959); Gulfport, Miss., Code § 6-22 (1963); Gulfport, Miss., Code § 6-12 (1963); Miss. Code Ann. § 6726.8 (Supp. 1971); Miss. Code Ann. § 3374-153 (1956); Gulfport, Miss., Code § 6-24 (1963).
231. Biloxi, Miss., Code § 5-21 (1959).
232. Miss. Code Ann. § 4863-10 (1956).
233. Id.
234. Miss. Code Ann. § 2068 (1956).
235. Miss. Code Ann. § 4883 (1956).
236. Miss. Code Ann. § 4575-109 (Supp. 1971).

237. Miss. Code Ann. § 4839 (1956).
238. Miss. Code Ann. § 4843 (1956); Miss. Code Ann. § 4844 (1956).
239. Miss. Code Ann. § 2072 (1956); Miss. Code Ann. § 2949 (1956).
240. Miss. Code Ann. § 4847.5 (1956).

