

LEGISLATIVE HISTORY OF R.S. 23:10-20  
(Fish and game commissioners; searches and seizures; immunity  
from civil suit)

L.1902 - chap.207 - S109.  
No statement.

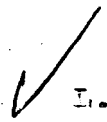
Amended by:

*copy 2*

L.1906 - chap.63 - A86  
No statement.

1937 Revision.

The wording of this section is identical in all three drafts.



L.1948 - chap.448 - S29 - §33.  
Amended during passage but this section was not affected.  
Statement (copy enclosed).

L.1972 - chap.184 - A859  
Amended during passage (copy enclosed)  
Statement (copy enclosed)

No hearings or reports were located.

NOTE: There was considerable discussion of the search and seizure powers of fish and game wardens in the report listed below but there was no discussion of legislative intent.

974.90 New Jersey Department of Law and Public  
P537 Safety  
1949 First Annual Training Conference for  
Fish and Game Wardens.  
1949.

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JH/EE  
Encl.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 859

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1972

By Assemblyman LITTELL and Assemblywoman MARGETTS

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning searches and seizures of equipment and apparatus used in violation of fish and game statutes and regulations and amending R. S. 23:10-20.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 23:10-20 is amended to read as follows:

2 23:10-20. A member of the Fish and Game Council<sup>1</sup>, the fish  
3 and game protector or a warden<sup>2</sup> and any conservation officer may,  
4 without warrant search and examine any boat, conveyance, vehicle,  
5 fish box, fish basket, game bag, game coat or other receptacle for  
6 game and fish, when he has reason to believe that a provision of  
7 this Title, or any law supplementary thereto, or the State Fish and  
8 Game Code has been violated, and shall seize and take possession  
9 of any *firearms, bows and arrows, shells or cartridges, fishing rods*  
10 *and reels, fishing lines, knives, lights, slingshots, traps, spears,*  
11 *spear guns or any other article or equipment that has been illegally*  
12 *used or any bird, animal or fish unlawfully caught, taken, killed,*  
13 *had in possession or under control, shipped or about to be shipped.*  
14 A court, upon receiving proof of probable cause for believing in  
15 the concealment of a bird, animal or fish so unlawfully caught,  
16 taken, killed, had in possession or under control, shipped or about  
17 to be shipped, shall issue a search warrant and cause a search to  
18 be made in any place, and to that end, may, after demand and  
19 refusal, cause any building, inclosure or car to be entered, and any  
20 apartment, chest, box, locker, crate, basket or package to be broken  
21 open and its contents examined by a member of the Fish and Game  
22 Council<sup>1</sup>, the fish and game protector or a warden<sup>2</sup> or any con-  
23 *servation officer. All firearms, bows and arrows, shells or cartridges,*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

24 *fishing rods and reels, fishing lines, knives, lights, slingshots, traps,*  
 25 *spears, spear guns or any other article or equipment that has been*  
 26 *illegally used* \**[or any birds, animals or fish,]*\* \*and\* seized by a  
 27 member of the council~~], the protector or a warden]~~ *or any conserva-*  
 28 *tion officer shall be* \**[disposed of in such manner as the court before*  
 29 *which the offense is tried directs]*\* \*returned to the defendant when  
 30 *and if the case has been dismissed, if he has been found not guilty,*  
 31 *or if he has been convicted and has paid the penalty and costs im-*  
 32 *posed, if any\*.*

33 The member of the council~~], protector or warden]~~ *or conserva-*  
 34 *tion officer shall not be liable for damages by reason of any such*  
 35 *search or the* \**[destruction]*\* \*seizure\* *of any nets or fishing, hunt-*  
 36 *ing or trapping apparatus in accordance herewith.*

1 2. This act shall take effect immediately.

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ASSEMBLY, No. 859

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1972

By Assemblyman LITTELL and Assemblywoman MARGETTS

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3 and game protector or a warden] *and any conservation officer* may,  
4 without warrant search and examine any boat, conveyance, vehicle,  
5 fish box, fish basket, game bag, game coat or other receptacle for  
6 game and fish, when he has reason to believe that a provision of  
7 this Title, or any law supplementary thereto, or the State Fish and  
8 Game Code has been violated, and shall seize and take possession  
9 of any *firearms, bows and arrows, shells or cartridges, fishing rods*  
10 *and reels, fishing lines, knives, lights, slingshots, traps, spears,*  
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15 the concealment of a bird, animal or fish so unlawfully caught,  
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17 to be shipped, shall issue a search warrant and cause a search to  
18 be made in any place, and to that end, may, after demand and  
19 refusal, cause any building, inclosure or car to be entered, and any  
20 apartment, chest, box, locker, crate, basket or package to be broken  
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22 Council[, the fish and game protector or a warden] *or any con-*  
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26 *illegally used or any birds, animals or fish, seized by a member of*

27 the council[, the protector or a warden] or any conservation officer  
28 shall be disposed of in such manner as the court before which the  
29 offense is tried directs.

30 The member of the council[, protector or warden] or conserva-  
31 tion officer shall not be liable for damages by reason of any such  
32 search or the destruction of any nets or fishing, hunting or trapping  
33 apparatus in accordance herewith.

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#### STATEMENT

The purpose of this amendment is to provide conservation officers with authority to seize equipment used in the violation of statutes and regulations, and to insure its presentation in court as evidence.

SENATE AMENDMENTS TO  
ASSEMBLY, No. 859

STATE OF NEW JERSEY

ADOPTED NOVEMBER 20, 1972

Amend page 1, section 1, line 26, omit "or any birds, animals or fish," insert "and".

Amend page 2, section 1, lines 28 and 29, omit "disposed of in such manner as the court before which the offense is tried directs", insert "returned to the defendant when and if the case has been dismissed, if he has been found not guilty, or if he has been convicted and has paid the penalty and costs imposed, if any".

Amend page 2, section 1, line 32, omit "destruction", insert "seizure".

SENATE REPRINT

ASSEMBLY, No. 859

with Senate amendments adopted November 20, 1972

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1972

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11 spear guns or any other article or equipment that has been illegally  
12 used or any bird, animal or fish unlawfully caught, taken, killed,  
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LEGISLATIVE FACT SHEET

on est. <sup>ECONOMIC</sup> CONSERVATION & DEVELOPMENT as  
"PRINCIPAL DEPARTMENT"

N.J.R.S. 13:12-6,8  
23:4-1 23:2-8  
23:5-1 et al. 23:3-22  
23:6-1  
23:8-9,10,11  
23:10-1 et al.

(1948 Amendment) + Supp.

LAWS OF 1948

CHAPTER 448 Oct. 25, 1948

SENATE BILL 29

ASSEMBLY BILL

INTRODUCED Aug. 16, 1948

BY ARMSTRONG

SPONSOR'S STATEMENT

YES  NO

(file copies)

ASSEMBLY COMMITTEE STATEMENT

YES  NO

SENATE COMMITTEE STATEMENT

YES  NO

FISCAL NOTE

YES  NO

AMENDED DURING PASSAGE

YES  NO

HEARING 974.90  
R 424 Public Hearing on S 29.

VETO 1948g

**BACKGROUND:**

974.90! Driscoll, Alfred E. 1ST ANNUAL MESSAGE, 1/13/48  
G52 pp. 6-8 (Copy enclosed).

974.901 New Jersey. DEPT. OF CONSERVATION.  
C73 2nd Annual Report of the Commissioner  
of Conservation for the period 7/1/46-6/30/47.  
[DEPOSITORY].

974.901 NEW JERSEY. DEPT. OF ECONOMIC DEVELOPMENT.  
C72.1 Fourth Annual Report, 7/1/47-6/30/48.  
1947-48 [DEPOSITORY].

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13:1B-1 to 72

LEGISLATIVE FACT SHEET

ON

LAWS OF 1948

CHAPTER 448

continued

**BACKGROUND cont'd :**

- 974.90 New Jersey. Commission on State Administrative  
R424 Reorganization.  
1944 Report (part 4 - "CONSERVATION"), Jan. 1945.
- 974.90 New Jersey. Legislature. Joint Committee on State  
R424 Dept. Reorganization.  
1948g Public Hearing on Senate Bill No. 29, 8/11/48.
- 974.90 New Jersey. Legislature. Joint Committee on State  
R424 Gov't. Reorganization.  
1948h Progress Report to the people of N.J.,  
1948, pp. 15-16.

## STATEMENT

This bill is one of the series of administrative reorganization bills designed to implement the provisions of Article V, Section IV, of the new State Constitution. It would establish in the Executive Branch of the State Government a principal department known as the Department of Conservation and Economic Development.

To effectuate the intent and spirit of the new Constitution, and to accomplish maximum efficiency and economy:

(1) There are integrated within the proposed department, the functions, powers and duties of all of the major agencies of the State concerned with the conservation, protection and development of the natural resources of the State; with physical and economic planning and development; and with the effective reintegration of our war veterans into civilian life;

(2) The responsibility for the administration of the functions consolidated within the proposed department is imposed in the head of the department, i.e., the Commissioner of Conservation and Economic Development, and in him is vested the administrative authority essential to the effective carrying out of such responsibility; and

(3) The head of the new department will become responsible for the elimination of any overlapping and duplicating functions and for the full utilization of all staff services within the department.

In accordance with the mandate of the new Constitution the head of the department will be appointed by the Governor, with the advice and consent of the Senate, and will serve at the pleasure of the Governor, during the Governor's term of office and until the appointment and qualification of the successor to the head of the department.

The agencies whose functions are to be consolidated under the bill within the new department are: the Department of Economic Development with all of the subdivisions and authorities therein; the State Department of Conservation with all of its subdivisions; the Department of Aviation; the State

Soil Conservation Committee; the commissioners of pilotage; and the several harbor masters and port wardens.

The bill establishes five divisions in the proposed new department through which all of the functions of the department will be administered, i.e., a Division of Planning and Development, a Division of Veterans' Services, a Division of Fish and Game, a Division of Shell Fisheries, and a Division of Water Policy and Supply. Each division would be under the immediate supervision of a director, qualified by training and experience to direct the work assigned to the division. In addition, each division will have a policy developing and advisory council.

The director of the Division of Planning and Development, the director of the Division of Veterans' Services, and the Director of the Division of Shell Fisheries, and the director of the Division of Water Policy and Supply, would each be appointed by the Governor, with the advice and consent of the Senate, to serve during the term of the Governor appointing him and until a successor is appointed and has qualified. The director of the Division of Fish and Game would be appointed by the Fish and Game Council, subject to the approval of the Governor, to serve at the pleasure of the Council. The Governor may remove any division director from office, for cause, upon notice and opportunity to be heard.

The functions of the Department of Economic Development (except those pertaining to the veterans' services, loan, and housing programs), the functions of the State Department of Conservation (except those of the Divisions of Fish and Game, Shell Fisheries, and Water Policy and Supply), the functions of the Department of Aviation, the functions of the several harbor masters and port wardens, the work of the commissioners of pilotage, and the work of the State Soil Conservation Committee, will be administered through the Division of Planning and Development. The veterans' services and special aid programs, the veterans' loan program, and the veterans' emergency housing program will be administered through the Division of Veterans' Services. The State fish and game program will be administered through the Division of Fish and Game.

The functions of the Department of Conservation pertaining to shell fisheries will be administered through the Division of Shell Fisheries. The Water Policy and Supply functions of the Department of Conservation will be administered through the Division of Water Policy and Supply. The Water Policy and Supply Council would succeed to the quasi-judicial functions of the existing Water Policy and Supply Council of the Department of Conservation. Its actions, in the exercise of such functions, would be subject to approval by the commissioner.

The Fish and Game Council will consist of nine members; three of whom will be farmers, recommended to the Governor for appointment by him, with the advice and consent of the Senate, by the Agricultural Convention, and six of whom will be sportsmen, recommended to the Governor for appointment by him, with the advice and consent of the Senate, by the State Federation of Sportsmen's Clubs. In order to permit for the broadest possible representation of sportsmen in the making of recommendations for appointment of sportsmen to membership in the Council, a provision in the bill would require that every sportsmen's club, duly organized and existing under and by virtue of the laws of this State, and having a membership of twenty-five or more persons interested in the conservation of the natural resources of the State, be eligible for membership in the appropriate County Federation of Sportsmen's Clubs. Any refusal by such County Federation to accept any such club into membership would be subject to reversal by the State Federation of Sportsmen's Clubs. One of the farmer representatives and two of the sportsmen representatives in the Council would be chosen from each of the three regions of the State, i.e., from northern New Jersey, central New Jersey, and southern New Jersey.

The bill would provide for an adequate and flexible system for the protection, propagation, increase, control and conservation of fresh water fish, game birds, game animals and fur-bearing animals in this State, and for their use and development for public recreation and food supply. To accomplish this purpose, the bill authorizes the Fish and Game Council to adopt, and from time to time amend and repeal, after public hearing, appropriate and

reasonable regulations, within the scope provided in the bill, fixing seasons, bag limits, possession limits and territorial limits for, and prescribing the manner and means of pursuing, taking or killing, fish, game birds, game animals and fur-bearing animals; fixing size limits with respect to fish; and fixing restrictions based upon sex, maturity or other physical distinction with respect to game birds, game animals, and fur-bearing animals. Regulations so adopted will be known as the State Fish and Game Code. Any provision of the code will supersede any existing statutory provision on the same subject. Unless so superseded, existing statutory provisions will remain in effect.

The penalty for violation of any existing statutory provision of the Fish and Game Laws will remain unchanged, and will apply to violation of any regulation of the Fish and Game Code superseding such statutory provision. Under the bill no provision of the State Fish and Game Code may in any manner affect, change or modify any of the provisions of the State Fish and Game Laws relating to licenses, permits or fees.

Under a specific provision in the bill the "public shooting and fishing grounds fund" and the "hunters' and anglers' license fund" are required to be maintained, and used solely for the purposes permitted, by existing law. In addition, no part of the salary to be paid to the head of the new department may be paid from any license or permit fees received or collected under the Fish and Game Laws.

FIRST ANNUAL MESSAGE

OF

ALFRED E. DRISCOLL

Governor of New Jersey

TO THE ONE HUNDRED AND SEVENTY-SECOND  
LEGISLATURE OF NEW JERSEY

January 13, 1948



### State Administrative Reorganization

The reorganization of the Executive Branch of our State Government has been the elusive goal of many Legislatures and Governors. This year we should achieve this objective. We have the advantage of a Constitutional mandate requiring that "All executive and administrative offices, departments, and instrumentalities of the State Government . . . and their respective functions, powers and duties, shall be allocated by law among and within not more than twenty principal departments . . . according to major purposes so far as practicable." No mere *pro forma* reshuffling or regrouping of State agencies will satisfy this constitutional command. After conferring with legislative representatives appointed by your leaders, I am convinced that the constitutional mandate can be carried out within not more than fifteen principal departments. The following are suggestive of the titles and major purposes: Agriculture, Banking and Insurance, Civil Service, Economic Development (including Conservation), Education, Institutions, Labor and Industry, Law and Public Safety, Military Affairs, Public Health, Public Utilities, Public Works, State (Department of), the Treasury, and Welfare Services.

I recognize that this is not an easy task. It will require statesmanship of a high order. Certain basic principles should, in my judgment, guide the reorganization program. It should be designed—

- (1) to secure a maximum of efficiency and economy in government;
- (2) to protect and develop career service for those with the capacity for the operation of the business of government;
- (3) to provide the Governor with a limited number of policy-making aides, appointed by him subject to confirmation by the Senate; and
- (4) to continue the fine tradition of citizen participation as exemplified by boards devoted to the considera-

tion of policies such as in the fields of Agriculture, Education, Economic Development, Health, and Institutions, and possibly others.

It is obvious that we shall have to establish clear-cut lines of authority and definite official responsibility to the people. This has been one of the major motivations of administrative reorganization as conceived in the Constitutional Convention. It should be our purpose to so organize our principal departments as to provide the maximum opportunity for advancement in a career service below positions of top policy. It is only in this way that the business of government can be made attractive to the most able public officials and employees.

We should also recognize that the function of organization is essentially to carry out the major departmental purposes provided by law. Organization plans should not fall into the error of seeking to cultivate association of particular processes, techniques, or professional disciplines at the expense of the teamwork necessary to accomplish the major purposes of State Government. This teamwork which should be one of our key objectives in the establishment of principal departments, is paralleled by the equally important need for teamwork among the several principal departments wherever and whenever their activities affect the same subject.

Reorganization of structure will be only the first phase of the major problem of establishing an administration which is responsible to the Legislature and which is fully accountable to the people. The new Constitution has taken a basic step in this respect by requiring the filing and publication of administrative orders and regulations in a manner to make them fully available for public information. The next step is to make the procedure of our administrative agencies conform to accepted standards of fair and uniform administration according to the rule of law. This will require that we establish by statute a code of admin-

istration and procedure which will apply to the various departments resulting from the reorganization. We have in the new Federal Administrative Procedure Act, and the long legislative history behind it, a very useful source from which to develop legislation best fitted to our needs.

### Federal-State Relations

Our new Constitution is designed not only to serve the citizens of this State but also to permit the State to serve the nation, and to assure its most effective role in the Federal system. The interdependence of our States and their increasing vulnerability as the result of the shift from a Federal Government to a National Government that has occurred during the last twenty years is perhaps most evident from the viewpoint of fiscal relations.

This Administration has been in the forefront of the campaign to re-establish a working federalism in this country. We have opposed, and will continue to oppose, the indiscriminate creation of Federal grant-in-aid programs. They have been used and abused to transfer authority and responsibility from the States to Washington. If the National Government would relinquish those tax fields which rightfully belong to the States, we would be well able to finance and even expand all State services with our own resources.

These Federal programs, carried to their logical conclusion, could destroy our Republican form of government and our Federal system itself. President Andrew Jackson foresaw this result in 1833 when he stated that Congress should not be "the tax-gatherer and paymaster" of the State Governments. This does not mean that New Jersey is opposed to a limited amount of Federal assistance in a limited number of States, where need is clearly indicated. It does mean, however, that New Jersey will continue to oppose a hodgepodge program, which indiscriminately includes all States in providing the aid required by a few States. Federal grants-in-aid have grown from a little over

five million dollars in 1915 to a total of more than one billion dollars in 1947. They have been accompanied by duplication of administrative costs and inevitable competition for the tax dollar. Our State, moreover, is forced to contribute to these programs at a time when it is hard-pressed to meet its own obligations.

In calling for the curtailment of this extravagant system of government; for the reduction in the annual levy by the Federal Government against our citizens here of over \$1,400,000,000; for the return of many of the tax bases that formerly belonged exclusively to the States; and for the restoration of home rule; we are not unmindful that first things must come first. We are prepared to recognize the following order of priorities:

- (1) Adequate aid for the people of Western Europe as outlined in the Marshall Plan as well as adequate aid for the people of Asia—halfway measures will not suffice. Necessity requires that this program include provision for sound and thrifty administration and the control of inflation at home.
- (2) An adequate national defense program.
- (3) The adjustment of taxes and services between the States and the Federal Government.
- (4) Federal tax reduction and debt retirement.

The cost of the Marshall Plan and national defense may not be adequately appraised at this time. If you asked how much, my answer today, as during the days of the war, would be "Enough to win."

Accepting these priorities, we must none-the-less stress the harsh discrimination that has been practiced against New Jersey by an antiquated Federal fiscal program. As the result of the failure of the Federal Government to correct the inequities that exist between the community and non-community property States, New Jersey citizens are



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PROGRESS REPORT TO THE  
PEOPLE OF NEW JERSEY ON  
THE ADMINISTRATIVE REORGANIZATION  
PROGRAM UNDER THE STATE  
CONSTITUTION OF 1947

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By The

Joint Legislative Committee  
on  
State Government Reorganization

Senate Members

C. Wesley Armstrong, Jr., Chairman  
Samuel L. Bodine  
Alfred C. Clapp  
Freas L. Hess  
John E. Toolan  
David Van Alstyne, Jr.  
David Young, 3rd

Assembly Members

Reuben H. Reiffin,  
Vice-Chairman  
Walter Henry Jones  
Percy A. Miller, Jr.  
Nathaniel C. Smith  
G. Clifford Thomas

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And The

Commission on State Administrative  
Reorganization

Members

Charles R. Erdman, Jr., Chairman  
C. Wesley Armstrong, Jr.  
Charles A. Eaton, Jr.  
Robert C. Hendrickson  
Walter Henry Jones

June 21, 1948

190  
424  
482

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Senate, to serve during the term of office of the Governor.

The agencies consolidated within the new department are: the Office of Secretary of State, the office of State Athletic Commissioner, the Board of State Canvassers, the State Board of Public Accountants, the State Board of Architects, the State Board of Registration and Examination in Dentistry, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the State Board of Nursing, the State Board of Optometrists, the State Board of Pharmacy, the State Board of Veterinary Medical Examiners, and the State Board of Shorthand Reporting.

The responsibility for the effective performance of the work of the new department and of its officers and employees is imposed on the head of the department, and in him is vested the administrative authority essential to the effective carrying out of such responsibility. He will be responsible for the elimination of any overlapping and duplicating functions and for the full utilization of all staff services within the department.

The professional boards consolidated within the department will continue to exercise their regulatory and quasi-judicial functions.

#### 14. Department of Conservation and Economic Development.

A bill to accomplish the consolidation and integration of the conservation and economic development activities of the State will be introduced shortly. It will integrate within one department the functions, powers and duties of all of the major agencies of the State concerned with the conservation, protection and development of the natural resources of the State; with physical and economic planning and development; and with the effective reintegration of our war veterans into civilian life.

The major agencies whose functions are to be consolidated within the new department are: the recently reorganized departments of Conservation and Economic Development, with all of their respective divisions and instrumentalities; and the State Department of Aviation.

Thus, for the first time in the history of our State, the effectuation of an overall integrated program designed to protect, develop and promote the physical and economic resources of New Jersey, is made possible within the structure of one department.

The new department will be headed by a single commissioner who will be appointed by the Governor, with the advice and consent of the Senate, to serve at the pleasure of the Governor during the Governor's term of office. He will be responsible for the effective administration of the work of the department and in him will be vested the administrative authority essential to the effective carrying out of such responsibility.

ADMINISTRATIVE PROCEDURE ACT (SENATE, NO. 21)

This bill constitutes an integral phase of the administrative reorganization program. It is to implement the provisions of Article V, Section IV, Paragraph 6, of the new Constitution, and regulate the procedure of administrative agencies.

Under the bill, all administrative rules and regulations will be required to be filed with the Secretary of State, and be compiled and published in a weekly Register and ultimately in an annual volume to be known as the New Jersey Administrative Code. The bill would also require that all determinations rendered by administrative agencies be in the form of written opinions embodying reasons and that significant decisions be published in the weekly Register. These decisions together with all administrative rules and regulations will thus be made fully available for public information.