men, except that it shall be unlawful to use or operate any gasoline propelled engine or machinery inside any mine in this state.”

Therefore, aside from the matter of gasoline propelled engines or machinery, no provisions of the act apply unless at least ten men are employed.

From the language utilized, we are constrained to hold, that the exception granted inures to the mine, rather than to the men. There is ample reason for this, since the general assembly obviously subscribed to such classification because it was convinced, that the dangers it sought to guard against, would not exist in mines so small that less than ten men would be employed therein at one time.

The mine forming the basis of your inquiry is not such a small mine in which the legislature believed such dangers would not be met. It is a mine large enough that one hundred men can, and are, employed at one time. It is large enough then, in the legislative body’s concept, to contain the very evils at which this enactment was directly aimed.

The letter and the spirit of this law lead to the conclusion that your question must be answered in the affirmative. More than ten men being employed in this mine at a time, it falls within the classification of mines amenable to the statute.

CONSERVATION DEPARTMENT: Whether on conviction of shooting on public highway, a fee of $5.00 should be taxed in favor of the conservation department.

June 22, 1933.

Mr. Kenneth M. Kunkel, Director,
Fish and Game Division,
Department of Conservation,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of June 16, 1933, in which you seek an opinion from this office as to whether or not, upon a conviction of or plea of guilty to a charge of shooting across, along or upon a public highway, a fee of five dollars should be taxed in favor of your department as a part of the costs.
The act providing for the taxing of such fees, being section 2859 of Burns Annotated Indiana Statutes, Revision of 1926 (Acts 1913, p. 368), provides:

"In all cases of conviction or on pleas of guilty of violating any of the provisions of this act, or of any act in relation to or for the protection of fish, game, fur-bearing animals or wild birds, there shall be taxed against each defendant so convicted, in favor of the commissioner of fisheries and game, a fee of five dollars as part of the costs." * * * (Our italics.)

By reason of a later act of the legislature (Acts 1919, p. 391), transferring the rights, powers and duties of the commissioner of fisheries and game to the conservation commission, such fees as are provided for in the above act are payable to the department of conservation.

The act under which charges of the nature referred to in your inquiry are preferred, is chapter 54, Acts of 1915, page 111, and is entitled "An act to prohibit the use of searchlights or other artificial lights attached to automobiles, in hunting, and making it unlawful to shoot across, along or upon a public highway." The act is in three sections:

Section 1 provides:

"Be it enacted by the general assembly of the State of Indiana, That it shall be unlawful for any person to hunt, or attempt to hunt, by means of any searchlight or other artificial light attached to an automobile, any species of game upon any highway or within one hundred fifty yards on either side of said highway anywhere in the State of Indiana."

Section 2 provides:

"It shall be unlawful for any person, to shoot, or cause to be shot, any firearm of any description across, along or upon any public highway in the State of Indiana, except officers of the law when in discharge of their duty."

Section 3, makes the violation of any of the provisions of the act a misdemeanor, and provides a penalty by way of fine or imprisonment. There is nothing in section 3, or in any other section of the act, providing for the taxing of a fee in favor of your department, or in favor of the commissioner of fisheries and game.
The question for consideration, then, is whether or not a violation of the above act, passed after the earlier act providing for the taxing of fees in certain cases, is governed by, and comes within the provisions of, such earlier enactment of the legislature.

The mere fact that the act defining this offense was not in existence at the time the earlier act regarding taxing of such fees was passed, is immaterial, if the previous act is broad enough in its language to cover the offense so defined. It is an accepted rule that the language of a statute is generally extended to include new things and new conditions of the same class, as those specified which were not known or contemplated when it was adopted.


The only question, then, is whether or not chapter 54, Acts of 1915, supra, is "an act in relation to or for the protection of fish, game, fur-bearing animals or wild birds" within the meaning of section 2859, supra.

If sections 1 and 2, of the 1915 act had been enacted as separate measures bearing separate titles, then it would seem clear that the substance of section 1, since it refers specifically to hunting or attempting to hunt any species of game, would come within the provisions of section 2859 and the fee should be taxed upon a conviction under such a separate act. However, section 2 of the 1915 act relates to "shooting" and clearly was not intended to be limited to only such shooting as might be done by hunters. Under rules of construction, the only way the provisions of sections 1 and 2 could be combined under the one title and come within the limitations of our Constitution, would be upon the theory that they both related to one common object, or subject matter. The only object the legislature could have had in mind that would have been common to the provisions of both sections would be the protection of travelers on, or citizens living near, the public highways of the state. If the subject or object of the act should be construed to be hunting, then section 2 would be void as being broader than the title to the act. And the law favors that construction which will, if possible, give effect and validity to all of the provisions of the act. Support of the view, that the object of the act was not the regulation of hunting of wild
game is found in the fact that section 1 of the act makes no attempt to prohibit the hunting with searchlights on automobiles on private lanes, in open fields, or in any place except within 150 yards of a highway. And it is an accepted fact, that automobiles equipped with searchlights are used, and are susceptible of use, in such other places as are not designated in the act.

Having in mind the rules of construction above referred to, it is my opinion, that chapter 54, Acts of 1915, is not an act “in relation to or for the protection of fish, game, fur-bearing animals or wild birds” and therefore, the fees provided for in section 2859, supra, should not be taxed in prosecutions under said act.

CONSERVATION DEPARTMENT: Whether unemployed persons financially unable to procure license, may be allowed to fish in certain limits without license.

June 22, 1933.

Hon. Kenneth M. Kunkel, Director,
Fish and Game Division,
Department of Conservation,
Indianapolis, Indiana.

Dear Sir:

I have before me your two letters of June 19, 1933, to one of which was attached a letter from a committee of unemployed workers of Indianapolis, and to the other a letter from the secretary of the Elkhart Fish and Game Club of Elkhart, Indiana. Both of these letters present the same general questions; therefore, I am combining the opinions for the sake of convenience.

The question presented is, substantially, whether or not your department has the authority to permit unemployed persons to fish within certain restricted territorial limits without license, upon due showing that such persons are financially unable to procure license.

Chapter 216 of the Acts of 1933, amending section 26 of an act entitled “An act concerning fish, game, wild birds, wild animals, and offenses relating thereto,” approved March 1, 1927, provides as follows: