

GENERAL STATUTES

OF THE

STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

COMPLETE IN TWO VOLUMES.

VOLUME 1, the General Statutes of 1878, prepared by GEORGE B. YOUNG, edited and published under the authority of chapter 67 of the Laws of 1878, and chapter 67 of the Laws of 1879.

VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

ST. PAUL:
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1888.

a statement of the vote on such question to be published in the official paper of said county for three weeks, as soon as practicable after the same is ascertained: *provided, only*, that this act shall not apply or be in force in the towns of Burbank, Colfax, Lake Lillian, Norway Lake, or Roseville, and that none of said last-mentioned towns shall be allowed to vote on such question at said election. (*As amended* 1874, c. 53, § 2; 1875, c. 122, § 1; 1876, c. 84, § 1; c. 85, § 1; 1877, c. 64, § 1; 1878, c. 16, § 1; 1881, c. 24, § 1, c. 81, § 1; 1881, *Ex. Sess.* c. 38; 1887, c. 76.)

See special laws regulating the running at large of cattle in certain counties, as follows:

Blue Earth.....	1881, c. 185	McLeod...1879, c. 268; 1881, cc. 184, 308, 310,
Carver.....	1881, c. 182	316; 1883, c. 279; 1885, c. 297
Cass.....	1887, c. 310	Meeker.....1881, c. 181; 1883, c. 277; 1885,
Clay...1881, c. 317; 1883, c. 272; 1885, c. 88		c. 283; 1887, c. 308
Crow Wing.....	1887, c. 311	Mower.....1879, cc. 267, 272
Dakota.....	1879, c. 264	Nicollet.....1879, c. 266
Douglas.....	1881, c. 180	Olmsted.....1879, c. 265
Fillmore.....	1879, c. 269; 1881, c. 186	Polk....." c. 346
Grant.....	1881, c. 315	Pope.....1881, c. 180; 1883, c. 275
Hennepin.....	1881, c. 314; 1883, c. 274	Rice.....1879, cc. 260, 261; 1881, c. 105
Houston.....	1881, c. 311	Swift...1879, c. 270; 1881, c. 312, 313; 1883,
Jackson.....	1879, c. 271	c. 280; 1887, c. 309
Kittson.....	1879, c. 263	Traverse.....1881, c. 306
Le Sueur.....	1883, c. 273	Washington.....1881, cc. 183, 307; 1883,
Marshall.....	1879, c. 263	c. 276; 1885, c. 282
Martin.....	1883, c. 273	Wilkin.....1879, cc. 259, 262; 1881, c. 132
		Winona.....1881, c. 309

***§ 39. Suffering certain animals to run at large—Penalty.**

This section is independent of section 40, and an action may be maintained under its provisions without a compliance with the latter section. *Goener v. Woll*, 26 Minn. 154, 2 N. W. Rep. 163.

CHAPTER 20.

PRESERVATION OF GAME.*

***§ 1. Season for killing game birds.**

[Repealed 1887, c. 142, § 7. See *§ 21a, *post*.]

***§ 2. Season for killing deer.**

[Repealed 1887, c. 142, § 7. See *§ 21b, *post*.]

***§ 4. Sale, possession, etc., of game out of season.**

No person shall sell or expose for sale, or have in his possession or custody or under his control, with intent to sell or dispose of, any woodcock, save only during the month of July, after the third day thereof, and during the months of August, September, and October; or any white-breasted or sharp-tailed grouse, or prairie chicken, save only during the month of August, after the fourteenth day thereof, and during the months of September and October; nor any quail or partridge, save only during the months of September, October, and November; nor any ruffed grouse or pheasant, save only during the months of September, October, and November succeeding; nor any aquatic fowl, save only between the first day of September and the fifteenth day of May succeeding; nor any elk, deer, buck, doe, or fawn, or piece of green skin,

*See list of special laws at end of chapter.

ever, that in all cases arising under the provisions of this act, or the statutes to which this act is amendatory, in towns where a majority of the voters at any town or special town meeting called for the purpose shall determine, by by-law of such town, that horses, cattle, mules, and asses shall be permitted to run at large, in accordance with subdivision six, section fifteen, General Statutes of eighteen hundred and sixty-six, no damage shall be recovered by the owner of any lands for damage committed thereon by any such beasts during the day-time, until it shall be proved that said lands were inclosed by a lawful fence; and every three-rail fence, four feet high, constructed of such materials, and in such manner as to constitute a good and sufficient fence as against cattle, horses, asses, and mules, one or more years old, that are not breachy, or any fence equal thereto in sufficiency, shall, for the purpose of this act, be deemed a lawful fence; but the word "cattle," as used in the act, shall not be so construed as to include either sheep or swine, or any other domestic animal not exceeding the size of sheep or swine: *provided, further*, that the foregoing proviso shall not apply to or be in force in the counties of Wabasha, Dodge, Steele, Lac qui Parle, Martin, Yellow Medicine, Lyon, Polk county, except that portion of territory organized as the town of Fossum, the seventh senatorial district, (Winona county,) and Goodhue county; nor in the county of Kandiyohi, save and except in the towns of Norway Lake, Colfax, Burbank, Roseville, and Lake Lillian in said county, Brown, Dakota, and the north half of the town of Pilot Mound, Fillmore county, towns of Cocato and Stockholm in Wright county, and the town of Chanhasson in the county of Carver, and the townships in ranges twenty-two and twenty-three in Freeborn county: *provided*, that the townships of Marshan, Ravenna, and Hastings, in the county of Dakota, shall not be affected by this act: *provided*, that the provisions of this act shall not apply to the thirtieth, thirty-first, thirty-second, thirty-fifth, thirty-ninth, except Stevens county, forty-first, except Otter Tail county, Wilkin county, and Polk county, twenty-eighth, twenty-ninth, thirty-sixth, and twenty-seventh senatorial districts; and *provided, further*, that nothing contained in this act shall apply to the townships of Deerfield, Medford, and Aurora, in the county of Steele; and *provided, further*, that in the county of Kandiyohi a majority of the voters of said county may determine, by ballot, at the next annual town meeting after the passage of this act, whether horses, mules, asses, cattle, and swine shall be permitted to run at large or not in said county; and for the purpose of determining such question, those in favor of permitting the same to run at large in said county shall have written or printed, or partly written and partly printed, on their ballots the words, "In favor of the running at large of horses, cattle, mules, asses, and swine," and those against the running at large of such beasts shall have written or printed, or partly written and partly printed, on their ballots the words, "Against the running at large of horses, cattle, mules, asses, and swine." Such votes shall be canvassed and returns thereof made in the same manner that votes for county officers are canvassed and returned; and if, upon a canvass of said votes by the board of county canvassers, it shall be ascertained that a majority of the voters of said county voting upon said question at said election shall have voted for the running at large of said beasts in said county, then, and in that case, the provisions of chapter fifty-three of the General Laws of eighteen hundred and seventy-four, and more particularly the first proviso of section two of said act, shall be applicable to the different towns in said county of Kandiyohi, without regard to the provisions of section one of this act. But if a majority of the voters of said county voting on said question at such election vote against the running at large of horses, cattle, mules, asses, and swine, then, and in that case, the provisions of section one of this act shall be and remain in full force and effect in said county from and after the first day of May, A. D. eighteen hundred and eighty-one. It shall be the duty of the county auditor of said county of Kandiyohi to cause

or either or any of them, save only during the months of November and December, and up to and including the fourteenth day thereof; nor any speckled, river, or brook trout, save only during the months of April, May, June, July, August, and September in any year; and any person or persons, whether natural person or corporation, offending against any provision of this section, shall be punished by a fine, when the property seized as hereinafter provided for shall not exceed the value of one hundred dollars, of not less than twenty nor more than one hundred dollars, or by a forfeiture of any and all the above-named game birds, animals, and fish, in his or their possession, or under his or their control, together with the costs of prosecution, or both, in the discretion of the court. But in case the property so seized shall exceed one hundred dollars in value, the offender or offenders as aforesaid may be punished by a fine not exceeding five hundred dollars, or by the forfeiture as above provided, or both, in the discretion of the court. (1877, c. 57, § 4, as amended 1878, c. 40, § 1, and 1879, c. 23, § 1.)

***§ 5. Exportation of game.**

[Repealed 1887, c. 142, § 7. See *§ 21c, *post*.]

***§ 7. Traps, snares, etc.**

[Repealed 1887, c. 142, § 7. See *§ 21d, *post*.]

***§ 11. Trespass by hunters.**

[Repealed 1887, c. 142, § 7. See *§ 21e, *post*.]

***§ 21a. Sporting season—Game-birds—Penalties.**

No person shall kill, or pursue with intent to kill, any woodcock, saving only during the month of July, after the third day of said month, and during the months of August, September, and October; nor any prairie hen or chicken, nor any white-breasted or sharp-tailed grouse or prairie chicken, save only during the month of August, after the fourteenth day of said month, and during the month of September; nor any quail or partridge, save only during the months of September, October, and November; nor any ruffed grouse or pheasant, save only during the months of September, October, and November; nor any wild duck of any variety, or wild goose or brant of any variety, or aquatic fowl whatever, save only during the month of September, after the fifteenth day of said month, and during the month of October, November, and December in each year. Whoever kills any woodcock between the first day of November and the fourth day of July following, or kills any prairie hen or chicken, or white-breasted or sharp-tailed grouse, between the first day of October and the fifteenth day of August following, or kills any quail or partridge, or rough grouse or pheasant, between the first day of December and the first day of September following, or kills any wild duck of any variety, or wild goose or brant of any variety, or aquatic fowl whatever, between the first day of January and the fifteenth day of September in any year, forfeits not less than ten dollars nor more than fifty dollars for each bird so killed. Whoever has in his possession any such bird (except alive) during the said time the killing whereof is prohibited shall be deemed to have killed the same contrary to law, and shall be liable to the penalty aforesaid, unless he proves in defense one of the following facts: That he had no notice or knowledge that the same was in his possession; or that the same was killed during the time it was lawful to kill the same; or that the same was not killed in this state. (1887, c. 142, § 1.*)

*"An act for the better preservation of game." Approved March 8, 1887. § 7 provides "that section one and section two and section five and section seven and section eleven of chapter twenty of the General Statutes of the State of Minnesota, being of an act for the preservation of game, and all acts amendatory thereof, be and the same are hereby repealed; and all acts or parts of acts inconsistent with this act are hereby repealed."

§§ 1 and 5 of c. 20, Gen. St. 1878, were amended 1881, c. 53, § 1; 1883, c. 69.

***§ 21b. Same—Deer—Penalties.**

No person shall kill or take by any means, contrivance or device whatever, or pursue with intent to kill, or take or worry, or hunt with hounds or dogs, any elk, moose, deer, buck, doe, or fawn, save during the month of November in any year; and whoever hunts, or kills, or destroys any of such animals between the first day of December and the first day of November, forfeits not less than twenty-five dollars nor more than seventy-five dollars for each animal so killed or destroyed; and whoever has in his possession the carcasses or hide of any such animal, or any part thereof, between the first day of January and the first day of November of any year, shall be deemed to have hunted and killed the same contrary to law, and shall be liable to the penalty aforesaid, unless he prove in defense one of the following facts: That he had no notice or knowledge that the same was in his possession; or that the animal was killed during the said time it was lawful to kill the same; or that the same was not killed within the state. (1887, c. 142, § 2.)

***§ 21c. Exportation of game out of season—Penalty.**

No person, persons, or corporation shall at any time or in any manner export, or cause to be exported, or carried out of the limits of the state of Minnesota, any of the birds or animals mentioned in this act, and any person or persons or corporation who shall export, or cause to be exported, or carry out or cause to be carried out of the limits of this state, any of the birds or animals mentioned in this act, shall forfeit the sum of not less than five dollars, nor more than seventy-five dollars, for each bird or animal so exported or caused to be exported, or carried out or caused to be carried out of the state of Minnesota. And the provisions of this section shall apply to every corporation, railroad company, or express company carrying on business within the state, and to any and every employe of such corporation, railroad company, or express company. (*Id.* § 3.)

***§ 21d. Killing game—Prohibited means.**

No person shall at any time catch or kill any of the birds aforesaid or any of the animals aforesaid, in any other manner than shooting them with a gun held by the person discharging the same; and no person shall at any time set, lay, or prepare any trap, snare, net, or other contrivance or device whatever with the intent to kill or catch any of the birds aforesaid or any of the animals aforesaid; and no person or persons shall, between the time of sunset and sunrise, hunt, pursue, or kill, on any of the lakes, rivers, or waters in this state, any aquatic fowl whatever; and no person or persons shall at any time in hunting any aquatic fowl, make use of any artificial light, decoy, battery, or any deception whatever whereby any such wild fowl shall be attracted or deceived; and no one shall use any part of any public highway or any bridge thereon as a duck-pass or for such duck-pass shooting; and whoever shall offend against any of the provisions of this section shall forfeit not less than twenty-five dollars, nor more than seventy-five dollars, for each and every offense. (*Id.* § 4.)

***§ 21e. Trespass by sportsmen—Penalty.**

No person shall at any time enter into any growing or standing grain, or any inclosed land not his own, with sporting implements about his person, nor permit his dog or dogs to enter into any such growing or standing grain, or into such inclosed land, without permission of the owner or occupant thereof; and no person shall at any time hunt or shoot upon any lands of another which are uncultivated or uninclosed, after being notified not to hunt or shoot thereon; and any person who shall enter into such growing or standing grain, or into such inclosed land of another with gun, dogs, or any sporting implements upon his person, without the permission of the owner or occu-

part of such grain or inclosed land, with intent to kill, hunt, or pursue any animal or game bird, and any person who shall, without the right so to do, hunt or shoot upon any uncultivated or uninclosed land of another, after being notified not to hunt or shoot thereon, shall forfeit the sum of not less than twenty dollars, nor more than fifty dollars, for each and every offense, to be recovered by action before any justice of the peace of the county where the offense is committed, or of the county where the defendant may reside, to be brought by and in the name of the owner or occupant of such land; but nothing in this section contained shall be so construed as to limit or in any way to affect the remedy of the owner or occupant of any such grain or inclosed land or uninclosed land, or of the person injured, at common law for trespass. (*Id.* § 5.)

***§ 21f. Game-warden — Deputies — Duties—Private prosecutions.**

The governor shall appoint a game-warden for the state of Minnesota, to hold his office for four years, unless sooner removed; and such game-warden may appoint, in writing, one or more deputies, and require suitable bonds for the faithful performance of their duties; and it shall be the duty of the said game-warden and his deputies to faithfully enforce all the laws of this state relative to the preservation of game; and each of said officers shall have the same authority to require aid in the execution of his office as sheriffs and their deputies have. Such state warden, or any of his deputies, may institute proceedings by civil action, in the name of said state warden as plaintiff, or of the state of Minnesota as plaintiff, and the name of the accused as defendant, to recover all penalties for the unlawful hunting and killing of any of said game birds or animals, and for any violation of any of the provisions of this act, except those provided for in section five, and the whole of the penalties so recovered shall go to such warden, to pay himself and his deputies for their time, labor, and expenses. Such prosecution may be commenced and had before any justice of the peace or district court of any county in which such bird or animal is killed or hunted, or of any county into which such bird or animal, after being killed, is carried, or of the county in which the defendant may reside. And in case any offense committed under this act shall not be prosecuted by said state warden or his deputies within twenty days after the commission thereof, then any person may institute and prosecute such action therefor in his own name, in any of said courts, and in that case the party so prosecuting shall be entitled to all penalties recovered, and in all actions thereof, if the plaintiff prevails, he shall be entitled to and recover costs; and justices of the peace shall have jurisdiction to hear, try, and determine all cases arising under this act, except when the damages claimed exceed one hundred dollars. (*Id.* § 6.)

***§ 29. Fish-ways—When to be constructed—Form and capacity.**

Every artificial obstruction built upon and across any river, stream, or water-course in this state, before the building of which fish were in the habit of passing from the waters below to the waters above the location of such artificial obstruction, shall be provided by the owner and occupant of such obstruction with a durable and suitable fish-way for the passage of fish, of such form and capacity, and in such location, as may be determined by the fish commissioners of this state, who, when they shall have determined upon the form, capacity, and location of any such fish-way, shall give written notice thereof to one or more owners or occupants of the obstructions over which such fish-way is to be built, and require the same to be built within a time to be therein specified. (1878, c. 89, § 1, *as amended* 1887, cc. 37, 77.)

[The amendment by Gen. Laws 1887, c. 37, approved March 7th, was by

striking out the last proviso, which was "that this act shall not apply to streams, the beds and banks of which are owned by the person causing such artificial obstruction." Chapter 77, Gen. Laws 1887, approved March 2d, amended the section by adding at the end thereof "excepting, however, the Big Cottonwood river in the state of Minnesota from this proviso."]

***§ 35. White fish, trout, pike—Taking from Lake Superior in spawning season.**

Whosoever willfully or intentionally kills, catches, or takes any white fish, trout, or pike from the waters of Lake Superior, or streams entering therein, in the state of Minnesota, during the spawning season in each and every year, without first stripping the eggs or milt, as the case may be, from each white fish, trout, or pike so killed, caught, or taken, and without intermingling the same together so that said milt may impregnate said eggs, and then planting said eggs so impregnated in said lake or streams from which said white fish, trout, or pike may be killed, caught, or taken, shall be fined in the sum of ten dollars for each and every violation of this act. (1881, c. 143, § 1.)

***§ 35a. Same—Prosecutions—Limitation—Disposition of fines.**

All prosecutions of this act shall be commenced within one month from the time such offense was committed, [and the same shall be a complaint under oath before any justice of the peace in the county where the offense was committed,] and all fines imposed and collected under this act shall be paid, one-half to the complainant and one-half into the treasury of the county where such conviction takes place, for the use of the common schools within said county. (*Id.* § 2.)

***§ 36. Private fish-ponds—Posting notices—Trespass.**

Any person or corporation desiring to raise, cultivate, preserve, or propagate speckled, river, salmon, mountain, hybrid, or brook trout, in any stream, pond, or lake within this state, flowing through or situate upon land owned or leased by him or it, shall post in at least two conspicuous places upon such land durable signs setting forth the name of the owner or lessee; that such premises are devoted to the purposes of a fish-pond, pound, or preserve; and that thereafter any person or persons entering upon such premises without permission or authority of the owner or lessee shall be guilty of trespass, and liable to be punished according to the law of the state of Minnesota. If a stream is sought to be preserved, such signs shall be posted upon its banks, one at each end of the portion sought to be preserved, and also at points intermediate, not more than half a mile apart; and the whole of such stream between these upper and lower points shall be protected and preserved by this act. (1887, c. 143, § 1.*)

***§ 37. Same—Constructing screens, fish-ways, etc.**

Any person or corporation desirous of so raising, cultivating, preserving, propagating, or keeping such trout in any stream or water belonging to or leased by him or it, shall have the right and are hereby authorized to erect, construct, and maintain upon such premises, or in or upon such stream or water, such dams, sluices, screens, wires, pens, gates, obstructions, houses, buildings, boats, docks, and other things of every description which may be by him or it deemed necessary for such purposes: *provided*, the same shall not in any way obstruct navigation or cause the overflowing of any lands not

*"An act to encourage the raising and propagation of trout, and to protect streams, ponds, waters, and premises used for that purpose." Approved March 8, 1887.

By section 16 "all acts or portions of acts in conflict with this act are hereby repealed, so far as they refer to the matters mentioned in and covered by this act."

owned or leased by him or it, nor the interfering with the rights or privileges previously acquired by any other person or corporation: *and provided, further*, that no dam or other artificial construction of any kind shall be placed or built in any water or stream, which shall in any way impede or prevent trout going freely to any other part or portion of such stream or water where they had previously gone, unless a fish-way over said obstruction or dam shall be built and maintained by the owner or lessee of said stream or water, in the manner and of the kind hereinafter described. If such dam or construction shall be built or maintained without such proper fish-way, any person interested may file with a magistrate or court having jurisdiction under this act an affidavit setting forth the facts, when the offending person, persons, or corporation shall be summoned into court, and, if found guilty, the court shall order the sheriff of the county to remove such obstruction or dam, and shall enter judgment to that effect, with costs, which, together with expenses of such removal, may be collected by execution. All fish-ways shall be constructed in a manner and according to plans satisfactory to, and which shall be approved by, the commissioners of fisheries of the state of Minnesota. (*Id.* § 2.)

***§ 38. Same—Injuring property—Penalty.**

Any person or persons who shall, or who shall attempt to, without authority from the owner or lessee, tear down, destroy, deface, injure, or mutilate, or cause to be torn down, destroyed, defaced, injured, or mutilated, or shall tamper with or attempt to tamper with any dams, sluices, screens, pens, buildings, boats, signs, docks, or other contrivances or article erected, constructed, or used, pursuant to the provisions of this act, for the purposes aforesaid, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine for each such offense not less than twenty-five dollars, nor more than one hundred dollars, and by imprisonment in the county jail not less than thirty, nor more than ninety, days, and shall be liable also to the owner or lessee of the premises in civil action, in treble damages, for injuries done, but nothing in this section shall be construed to prevent prosecution and punishment in lieu thereof for any act declared an offense by any other statute or law of this state, and for which a greater penalty can be imposed than is prescribed by this act. (*Id.* § 3.)

***§ 39. Ownership of fish.**

Such person or corporation shall have the exclusive control of and own all such fish as may at any and all times be in such stream or water so protected and preserved, whether the same be actually raised, cultivated, bred, or placed therein by him or it, or shall naturally come into such stream or water from other streams or waters. (*Id.* § 4.)

***§ 40. Trespassing.**

If any person or persons shall enter in or upon the premises, stream, or waters so preserved and protected, without consent of the owner or lessee, he or they shall be guilty of trespass; and if, after such trespasser or trespassers shall so enter, he or they shall set or put or attempt to set or put any seine, net, hooks, or other device or contrivance for catching or killing fish, into said water or stream, or shall fish or attempt to fish therein by or with hook and line, or in any other manner, or by shooting fish therein with a gun, pistol, or bow and arrow, or by using or attempting to use a spear or gig, they shall, in addition to being guilty of trespass, be guilty of a misdemeanor. (*Id.* § 5.)

***§ 42. Destroying fish—Penalty.**

Any person or persons, or officers or servants of any corporation, who shall place or explode in any stream or water so preserved and protected any gun-powder, giant-powder, dynamite, gun-cotton, or any other explosive substance,

or deposit or allow to be deposited any dye stuff, coal tar, fish-berries, refuse, lime, or any other substance deleterious or injurious to fish, or cause or allow the same, or any of the same, to run or flow into or upon such waters or stream, shall, upon conviction thereof, be fined not less than fifty dollars, nor more than one hundred dollars, for each offense, and in addition thereto be imprisoned in the county jail for not less than thirty, nor more than ninety, days; and such person or persons, and the corporation whose officers or servants shall violate this section, shall be liable, in a civil action, to the owner or lessee of such stream or waters, in treble damages, for all injury thereby committed. (1887, c. 143, § 6.)

***§ 43. Lake Superior—Nets, seines, etc., prohibited.**

No person or persons shall set or put any nets, seines, hooks, or other device for catching fish, or any substance injurious to fish, in any of the waters of Lake Superior, within this state, within the distance of one thousand yards from the mouth of any stream flowing into said lake, or so as to prevent the free passage of fish to the mouth of said stream, and upon conviction thereof he or they shall be judged guilty of a misdemeanor. (*Id.* § 7.)

***§ 44. Contraband nets, seines, etc.—Destruction.**

All nets, seines, or other contrivances or devices for catching or killing fish, if found placed, used, or attempted to be used, upon any premises, streams, or waters protected and preserved by this act, or in Lake Superior, within the limits or in the manner prohibited by this act, shall be and are hereby declared contraband; and any person finding the same, or any of the same, upon or in any such premises, streams, or waters, is hereby authorized to destroy the same, and no action for damages or any criminal proceeding shall lie against him for such destruction. (*Id.* § 8.)

***§ 45. Fish other than trout—Placing in protected waters—Penalty.**

Any person or persons who shall place, or cause to be placed, in any water or streams sought to be preserved and protected under this act, or in Lake Superior within five hundred yards of the mouth of any stream flowing into said lake, any fish or fish spawn, other than trout or trout spawn, shall be guilty of a misdemeanor. (*Id.* § 9.)

***§ 46. Trout—Catching, etc., out of season—Penalty.**

If any person, persons, or corporation shall catch, or have in his, their, or its possession, any trout such as are described in this act, save and except between the first day of May and the fifteenth day of September in each year, or if any person, persons, firm, corporation, express company, or common carrier shall receive for transportation or shall transport any such trout save and except between such dates, he, they, or it shall be guilty of a misdemeanor, and upon conviction thereof shall be fined the sum of one dollar for each and every trout so caught, had, transferred, or attempted to be transferred, together with cost of prosecution, and such fish shall be declared contraband, and sold as in this act herein provided. If a corporation is accused of violating this section, the warrant may be served upon any officer, agent, or employe of said corporation, which shall be considered service upon the corporation, and execution to collect the fine imposed may be issued against any person, persons, or corporation adjudged guilty; but nothing in this section shall prevent any person, persons, or corporation owning trout protected and preserved by this act, from catching and having them at any time, or to prevent a person, common carrier, or express company from receiving and transporting the same at any time, provided, the shipment of trout is accompanied by a written statement signed by the owner or lessee of such fish-pond, pound, or preserve, stating in

what fish-pond, pound, or preserve the same were caught; but such person, common carrier, or express company shall not be liable by reason of such statement being false in any respect; nor shall anything in this act prevent or forbid the shipment and transportation at any time of live trout. (*Id.* § 10.)

***§ 47. Arrests—Disposition of contraband property.**

Any person or persons violating any of the provisions of this act may be at once arrested by any person, and shall be carried with all possible speed before some magistrate or court having jurisdiction, with whom or which an affidavit setting out the facts shall be filed, and a warrant caused to be issued, when the accused shall be delivered to the proper officer for safe-keeping, and if the property declared contraband by this act shall not have been destroyed it shall be delivered to such officer, with all trout found in the possession of the accused, who shall forthwith inventory the same. All trout so delivered shall be sold by said officer at public or private sale, for the highest possible price, and the product of such sale shall be subject to the judgment of the court. (*Id.* § 11.)

***§ 48. Warrants—Seizing contraband property—Affidavits.**

Any magistrate or court having jurisdiction is hereby authorized and required, upon the making and filing of an affidavit alleging the violating by any person, persons, company, or corporation of any of the provisions of this act, to issue a warrant authorizing and commanding the sheriff, constable, or other proper officer of the village, city, county, or court in which trial is to be had, to arrest such offender or offenders, wherever found in the state, and bring him or them before such magistrate or court without delay, and to seize and take possession of all fish, fishing tackle, nets, seines, or other devices for catching trout, declared contraband by this act. The affidavits mentioned in the last two sections may be made by the owner or lessee of the premises where such offense is committed, or by any one authorized by him or it, or by any person or persons interested in enforcing this act. Such officer, upon receiving such warrant, shall forthwith proceed to execute the same in any part of this state which may be necessary. (*Id.* § 12.)

***§ 49. Prosecutions—Sale of contraband property—Disposition of proceeds and fines.**

All processes shall issue and all proceedings be had in the name of the state of Minnesota, and the prosecution may be conducted by the county attorney, or by any attorney at law designated by the owner or lessee of the premises, upon which the offense was committed, or by the person making the affidavit. If the accused are found guilty, he or they shall be sentenced by the court to pay the fine, or be imprisoned, or both, as the case may be, as provided in this act, together with the costs and disbursements of the prosecution; and the court or magistrate shall condemn all property seized as contraband, and order the same sold at public vendue, one-half of all the fines imposed and collected, and one-half of the proceeds of the sale of any fish seized or property sold, shall be paid to the owner or lessee of the premises on which said offense was committed, and the other half to the commissioners of fisheries of the state of Minnesota. (*Id.* § 13.)

***§ 50. Jurisdiction—Costs—Security.**

Jurisdiction to enforce all the provisions of this act is hereby conferred upon any municipal court, police justice, city justice, or justice of the peace in the county in which such offense shall be committed, or in an adjoining county. Costs and disbursements of all proceedings under this act shall be

paid in the first instance by the complainant, but shall be repaid to him as soon as collected from any person adjudged guilty, and before any process shall issue, the magistrate or court may require the complainant to deposit a sum of money in court sufficient to cover costs, or to execute a bond for costs, with one surety, and of and for an amount satisfactory to the court. (1887, c. 143, § 14.)

***§ 51. Penalties.**

Save as otherwise herein directed, any person or persons adjudged guilty of any misdemeanor or trespass described in this act shall be punished by a fine of not less than twenty dollars, nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten nor more than thirty days, or both; and any person or persons failing to pay any fine imposed under this act shall be imprisoned in said jail, in addition to such other imprisonment as may be imposed, one day for every dollar of such fine. (*Id.* § 15.)

***§ 52. Killing fowl by use of artificial light unlawful.**

It shall be unlawful for any person or persons to kill, or pursue with intent to kill, any duck, geese, swan, or any other fowl, at night, by the use of artificial light, on any of the lakes, rivers, streams, or marshes in this state. (1885, c. 213, § 1.*)

***§ 53. Same—Penalty.**

Any person or persons violating any of the provisions of the preceding section shall be guilty of a misdemeanor, and upon conviction thereof shall suffer and pay a fine of not less than five dollars, nor more than twenty-five dollars, together with costs of prosecution. (*Id.* § 2.)

***§ 54. Same—Prosecutions—Fines.**

All prosecutions under the provisions of this act shall be commenced by complaints, under oath, within thirty days from the time the offense was committed, before any justice of the peace in said county, and all fines collected under the provisions of this act shall be paid into the common-school fund of the county. (*Id.* § 3.)

See the following special laws relating to catching fish in the localities named:

- Afton, Washington county, 1881, Ex. Sess. c. 187.
- Albert Lea, Fountain, Pickerel, and White's lakes, Freeborn county, 1887, c. 335.
- Alexandria, La Grand, and Carlos lakes, Douglas county, 1883, c. 323.
- Alice and Preston lakes, Renville county, 1885, c. 266.
- Ann lake, town of Victor, Wright county, 1837, c. 351.
- Barsness township, Pope county, 1885, c. 270.
- Buffalo or Pulaski lake, township of Buffalo, Wright county, 1885, c. 260.
- Chippewa, Lac qui Parle, and Swift counties, 1887, c. 343.
- Chisago and Green lakes, Chisago county, 1885, c. 279.
- Clear Water and Cedar lakes, Wright and Stearns counties, 1887, c. 322.
- Clear Water lake, Carver county, 1885, c. 265.
- Collinwood lake, Wright county, 1887, c. 352.
- Como lake or Hokah mill-pond, Houston county, 1879, c. 274.
- Douglas county, 1885, c. 273.
- Elysian lake, Waseca county, 1881, c. 343.
- Fox Circle and Union lakes, Rice county, 1879, c. 281.
- Goodhue county, 1881, c. 346.
- Green and Diamond lakes, Kandiyohi county, 1885, c. 263.
- Hanska lake, Brown county, 1881, c. 347.
- Hennepin county, 1883, c. 315.
- Isanti and Chisago counties, 1887, c. 105.
- Koronis lake, Stearns and Meeker counties, 1879, c. 275.
- Koronis lake, Stearns and Meeker counties, 1881, c. 131.
- Koronis lake, Stearns county, 1887, c. 352.

*"An act to prevent the killing of duck, geese, swan, or any other fowl, at night, by the use of artificial light, on any of the lakes, rivers, streams, or marshes in this state." Approved February 27, 1885.

- Le Sueur county, 1881, c. 345.
 Le Sueur county, 1887, c. 353.
 Madison lake, Blue Earth county, 1887, c. 340.
 Meeker county, 1887, c. 352.
 Minnesota river, Chippewa and Yellow Medicine counties, 1885, c. 262.
 Minnesota river, Le Sueur county, 1881, Ex. Sess. c. 139.
 Minnetonka lake, Hennepin county, 1879, c. 230; 1885, c. 269.
 Minnewashta lake, Carver county, 1887, c. 338.
 Minnie Belle lake, Meeker county, 1879, c. 279.
 Osakis lake, Douglas and Todd counties, 1885, c. 259.
 Otter Tail county, 1887, c. 354.
 Pepin lake, Goodhue and Wabasha counties, 1887, c. 350.
 Polk county, 1885, c. 264.
 Pope county, 1885, c. 272.
 Prairie lake, Dakota county, 1883, c. 292.
 Prairie and Round lakes, Dakota county, 1883, c. 324; 1885, c. 91.
 Ramsey, Hennepin, and Washington counties, 1885, c. 278.
 Rice lake, Stearns county, 1883, c. 308.
 Rice lake, town of Foster, Faribault county, 1883, c. 317.
 Roberds and Cannon lakes, Rice county, 1883, c. 290.
 Round lake, Le Sueur county, 1887, c. 347.
 Rush and Goose lakes, Chisago county, 1885, c. 275.
 Shaokatan lake, Lincoln county, 1879, c. 278.
 Sigel lake, Lyon county, 1887, c. 349.
 Spring and Rebecca lakes, Dakota county, 1885, c. 280.
 Steele county, 1887, c. 336.
 Tetonka and Sakatah lakes, Waterville, Le Sueur county, Morrison, Rice county, 1879, c. 282.
 The "Four Lakes," Washington county, 1885, c. 277; 1887, c. 87.
 Thompson lake, Waseca county, 1879, c. 233.
 Traverse lake, Traverse county, 1885, c. 263.
 Wabasha county, 1885, c. 267.
 Washington county, 1879, c. 277.
 Waverly lake, Wright county, 1879, c. 276.
 Waverly or Little Waverly lakes, township of Marysville, Wright county, 1885, c. 260.
 Whipple lake, Pope county, 1881, c. 348.
 Wright county, 1879, c. 273.
 Zumbro river, Wabasha county, 1879, c. 80; 1885, c. 271.
 And the following special laws relating to fishways:
 Root river, Houston and Fillmore counties, 1885, c. 276; 1887, c. 93.
 Turtle creek, Freeborn and Mower counties, 1885, c. 274.
 Zumbro river, Oronoco village and city of Rochester, 1881, c. 126.

CHAPTER 21.

WEIGHTS AND MEASURES.

[Gen. Laws 1879, c. 95, regulating the grading and weighing of wheat, repealed 1885, c. 144; *post*, c. 124, *§ 20a *et seq.*]

***§ 9. (Sec. 10.) Bushel — Standard weight of — Illegal measures—Penalty.**

Whenever any wheat, rye, Indian corn, oats, barley, potatoes, clover-seed, buckwheat, dried apples, or dried peaches are sold by the bushel, the measure shall be ascertained by weight, as follows: Sixty pounds for a bushel of wheat, clover seed, or potatoes; fifty-six pounds for a bushel of rye or Indian corn; thirty-two pounds for a bushel of oats; forty-eight pounds for a bushel of barley; forty-two pounds for a bushel of buckwheat; and twenty-eight pounds for a bushel of dried apples or dried peaches; and any person or persons demanding, or taking or receiving any greater number of pounds for a