

GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 1.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOT
REMEDIAL, THE LATTER BEING IN VOL. 2.

COMPILED AND ANNOTATED

BY

JNO. F. KELLY,

OF THE ST. PAUL BAR.

SECOND EDITION.

ST. PAUL:

PUBLISHED BY THE AUTHOR.

1891.

MINNESOTA STATUTES 1891

CHAPTER 20.

GAME — FISH — DESTRUCTION OF CERTAIN ANIMALS.

- TITLE 1. GAME.
 2. FISH.
 3. DESTRUCTION OF CERTAIN ANIMALS.

This chapter of G. S., "so far as the same applied to the preservation of game, birds or animals, and all acts amendatory thereof," and ch. 142, acts 1887, were repealed by acts 1889, ch. 205, § 12, which act, together with all other unrepealed laws, constitutes this chapter.

GAME.		<i>Sections.</i>	
<i>Sections.</i>		2019-2024.	Fishways.
1991-1994.	When may be killed and how.	2025-2029.	Propagating fish.
1995-1997.	Purchase, selling or shipping.	2030-2044.	Propagating trout.
1998.	Hunting on lands of another.	2045-2047.	United States fish hatchery.
1999.	Duties of police officers.	<i>Prosecutions for Unlawful Fishing and Hunting.</i>	
2000.	Search warrant.	2048.	When begin — Conduct of.
2001.	Neglect of duty.	2049.	Search warrant.
2002-2004.	Killing by artificial light prohibited.	2050.	Forfeiture — Sale.
2005.	Destruction of nests and eggs prohibited.	2051-2056.	Action to sell forfeited game and fish.
2006.	Certain birds not to be killed.	2057.	Duty of officers.
2007-2008.	Mink, muskrat, otter, beaver.	DESTRUCTION OF CERTAIN ANIMALS.	
FISH.		2058-2059.	Bounty for killing gophers and blackbirds.
2008-2010.	Season for fishing — Method.	2060-2063.	Bounty for killing wolves.
2011.	Season for selling.	2064-2071.	Destruction of grasshoppers.
2012-2013.	Fishing during spawning season.		
2014-2018.	Fishing in Lake Superior.		

TITLE 1.

GAME.

The following special laws regulate the pursuit of game in certain counties: 1876, ch. 34; 1877, chs. 215, 216, 217; 1879, chs. 80, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283.

SEC. 1991. **Woodcock, prairie chicken, quail, duck, pheasant.**— No person shall kill, or pursue with intent to kill, any woodcock, save only during the month of July, after the third (3d) 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 twentieth (20th) day of said month, and during the months of September, October and November; 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 time between August twentieth (20th) and January tenth (10th) inclusive, of each year. Whoever kills any woodcock between the first (1st) day of November and the fourth (4th) day of July following; or kills any prairie hen or chicken, or white-breasted or sharp-tailed grouse between the first (1st) day of December and the twentieth (20th) day of August following; or kills any quail or partridge or ruffed grouse or pheasant between the first (1st) day of December, and the first (1st) day of September following; or kills any wild duck of any variety, or any wild goose or brant of any variety, or any aquatic fowl whatever be-

MINNESOTA STATUTES 1891

SECS. 1992, 1993.]

GAME.

tween the tenth (10th) day of January and the twentieth (20th) day of August in any year, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than ten (10) dollars nor more than twenty-five (25) dollars for each and every bird so killed and costs of prosecution; and in default of the payment of such fine shall be imprisoned in the county jail not less than ten (10) days, nor more than thirty (30) days. The possession of one of such birds, (except alive) during the time the killing thereof is prohibited, shall be prima facie evidence of the fact that such person killed the same contrary to the provisions of this section. *Provided*, that no quail shall be hunted or killed at any time until after December first (1st), one thousand eight hundred and ninety-three (1893).

1889, ch. 205, § 1: "An act for the preservation of game." Approved April 23, 1889. Repeals ch. 142, acts 1887, and ch. 20, G. S., "so far as said chapter applies to the preservation of game, birds or animals, and all acts amendatory thereof." This section superseded 1887, ch. 142, § 1; 1883, ch. 69, § 1; 1881, ch. 53; 1877, ch. 57, § 1; 1874, ch. 33, § 1; 1871, ch. 33, § 1. G. S. ch. 20, § 1, was limited to killing elk, deer or fawn between January 1st and August 1st, which is provided for in § 3, ch. 205, acts 1889. G. S. ch. 20, § 2, amended 1868, ch. 27, prohibited killing of woodcock, partridge or ruffed grouse and quail between certain dates. Acts 1871, ch. 33, § 1, prohibited killing of woodcock, prairie chicken, white-breasted or sharp-tailed grouse, partridge, ruffed grouse, or quail, between certain dates, which were continued in subsequent acts.

SEC. 1992. Same—Kill by shooting only.—No person shall at any time catch or kill any of the birds aforesaid in any other manner than by shooting them with a gun, held to the shoulder 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 catch or kill any of the birds aforesaid, whether the same are caught or not. And no person or persons shall at any time in hunting any aquatic fowl make use of any artificial light, battery, or any deception whatever, whereby such wild fowl will be attracted or deceived (except that decoys may be used in hunting ducks, wild geese and brant). And whoever shall offend against any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten (10) dollars nor more than twenty-five (25) dollars and costs of prosecution; or in default of the payment of such fine, shall be imprisoned in the county jail not less than ten (10) days nor more than thirty (30) days.

1889, ch. 205, § 2. This section superseded 1887, ch. 142, § 4; 1877, ch. 57, § 7; 1874, ch. 33, § 7; 1871, ch. 33, § 5.

SEC. 1993. Elk, moose, deer, buck, doe, fawn.—No person shall hunt with hounds or dogs any elk, moose, deer, buck, doe or fawn at any time, nor kill or take by any means, contrivance or device whatever, or pursue with intent to kill or take or worry 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 such animals between the first (1st) day of December and the first (1st) day of November following in any year, or hunts the same with hounds or dogs, at any time, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty (50) dollars nor more than seventy-five (75) dollars and costs of prosecution for each animal so destroyed, or in default of the payment of such fine, shall be imprisoned in the county jail for a period of not less than thirty (30) days nor more than sixty (60) days. The possession by any one of the carcass or any part thereof, of any such animal, between the fifteenth (15th) day of December and the first (1st) day of November following of each year shall be prima facie evidence of the fact that such person killed the same contrary to the provisions of this section.

1889, ch. 205, § 3. Superseded 1887, ch. 142, § 2; 1877, ch. 57, § 2, as amended 1883, ch. 69, § 2; 1874, ch. 33, § 2; 1871, ch. 33, § 3. G. S. ch. 20, § 1, was confined to elk, deer or fawn between January first and August first. Acts 1875, ch. 133, declared it unlawful to kill or take, worry or hunt deer, buck, doe or fawn in Fillmore or Olmsted counties before January 1, 1877.

MINNESOTA STATUTES 1891

GAME.

[SECS. 1994-1997.]

SEC. 1994. Same—Kill by shooting only.—No person shall at any time catch or kill any of the animals aforesaid, in any other manner than by shooting them with a gun held to the shoulder by the person discharging the same, and no person shall at any time set, lay or prepare any trap, snare or other contrivance or device whatever, with the intent to kill or catch any of the animals aforesaid. And whoever shall offend against any of the provisions of this section, whether any such animal is taken or killed or not, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars and costs of prosecution, or in default of the payment of any such fine be imprisoned in the county jail not less than thirty (30) days nor more than sixty (60) days.

1889, ch. 205, § 4. Superseded 1887, ch. 142, § 4; 1874, ch. 38, § 7; 1871, ch. 33, § 5.

SEC. 1995. Purchase, sell or ship prohibited, when.—Any person or persons, firm or company who shall purchase, sell, ship or otherwise dispose of or have in his, her or their possession for his or their own use, or for any other purpose, any of the birds or animals mentioned in this act (except alive), during the time that the killing thereof is prohibited by this act (except during the first (1st) three (3) days of such time or close season and except as to animals as otherwise provided in this act), shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than ten (10) dollars, nor more than one hundred (100) dollars and costs of prosecution for each bird or animal purchased, sold, shipped or otherwise disposed of contrary to this act, and in default of the payment of such fine shall be imprisoned in the county jail not less than ten (10) days nor more than sixty (60) days. The purchase, sale or shipment or possession of any such birds or animals contrary to the provisions of this section shall be prima facie evidence that such person purchased, possessed, sold, shipped or disposed of such birds or animals unlawfully and contrary to the provisions of this act.

1889, ch. 205, § 5. Superseded 1877, ch. 57, § 4 (as amended 1878, ch. 40, and 1879, ch. 23); 1874, ch. 38, § 4; 1871, ch. 33, § 6.

SEC. 1996. Carriers prohibited, when.—Any express company, railway company, common carrier or any other company or person carrying on business in this state, or any servant or agent or employee of any such company receiving or having in its, his or their possession, or that shall carry, ship or transport for compensation or otherwise any bird or animal mentioned in this act (except alive) whether for transportation or otherwise, and killed within this state during the time that the killing of any such bird or animal is prohibited by this act (except during the first three (3) days of such close season or time, and except as to animals as otherwise provided in this act), shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty (\$20) dollars, nor more than two hundred (\$200) dollars and costs of prosecution for each bird or animal so received, possessed, held, carried or transported, and may be prosecuted before a justice of the peace, police magistrate or district municipal court in any county where such birds or animals are found so unlawfully possessed, transported or disposed of; possession of any such bird or animal by any such company, servant, agent or employee shall be prima facie evidence that such bird or animal was killed, held or possessed contrary to the provisions of this act.

1889, ch. 205, § 6. Superseded 1887, ch. 142, § 3; 1877, ch. 57, § 5 (as amended 1883, ch. 69); 1874, ch. 38, § 5; 1871, ch. 33, § 12.

SEC. 1997. Exporting prohibited, when.—No person, persons or corporation shall at any time export, or cause to be exported or carried out of the limits of Minnesota any of the birds or animals mentioned in this act (except alive); 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 be deemed

MINNESOTA STATUTES 1891

SECS. 1998-2000.]

GAME.

guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten (\$10) dollars, nor more than two hundred (\$200) dollars and costs of prosecution for each bird or animal so exported or caused to be exported or carried out of this state. And the provisions of this section shall apply to every corporation, railroad company or express company carrying on business within this state, and to any and every employee of such corporation, railroad company or express company.

1889, ch. 205, § 7. Superseded 1877, ch. 57, § 5; 1874, ch. 38, § 5; 1871, ch. 33, § 12.

SEC. 1998. **Hunting on lands of another.**— No person shall at any time enter into any growing or standing grain not his own with sporting implements about his person; nor permit his dog or dogs to enter into any such growing or standing grain without permission of the owner or occupant thereof; and no person shall at any time hunt or shoot upon any lands of another after being notified not to hunt or shoot thereon; and any person who shall without the right so to do, hunt or shoot upon any land of another after being notified not to hunt or shoot thereon, be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than ten (10) dollars, nor more than fifty (50) dollars and costs of prosecution 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 the land; or in default of the payment of such fine shall be imprisoned in the county jail not less than ten (10) days nor more than thirty (30) days, but nothing in this section contained shall be so construed as to limit or in any way affect the remedy of the owner or occupant of any such grain or enclosed land, or unenclosed land, or of the person injured, at common law for trespass.

1889, ch. 205, § 8. Superseded 1887, ch. 142, § 5; 1877, ch. 57, § 11 (as amended 1878, ch. 41); 1874, ch. 38, § 11; 1871, ch. 33, § 8; and G. S. ch. 20, § 4.

SEC. 1999. **Duties of police officers.**— The sheriffs and deputy sheriffs of the several counties, and constables of the several townships, the marshals and police officers of the several towns and villages in this state who are now or may hereafter be in office, shall be within their several jurisdictions the game wardens of the state and it shall be the duty of all of said wardens to faithfully enforce all of the laws of this state relative to the preservation of game, the same being the birds and animals above mentioned. And it shall be and is hereby made the duty of all such officer or officers to, but any other person may, take cognizance of all violations of this act, and when of their own knowledge or upon receiving information it shall appear that any provision of this act has been violated it shall be the duty of such officer to make complaint and prosecute such offender. All prosecutions under this act shall be commenced within ninety (90) days and the same may be by complaint before any justice of the peace of any county, or before any police justice or city justice of any city or municipal court in any county in which the defendant may be found. And all fines imposed and collected under the provisions of this chapter shall be paid to the warden (officer) making complaint, or in case any other person than a warden makes complaint then one-half ($\frac{1}{2}$) of the fine so imposed and collected shall be paid to such complainant and the balance into the treasury of the county where the conviction takes place, for the use of the common schools of said county.

1889, ch. 205, § 9. Superseded 1887, ch. 142, § 6; 1874, ch. 38, § 21; 1871, ch. 33, § 11; and G. S. ch. 20, §§ 6, 7.

SEC. 2000. **Search warrant.**— Any justice of the peace, police justice or city justice, or other court is hereby authorized and required, upon showing by affidavit of probable cause to believe, that any person or persons, or corporation, or their agents, servants or employes thereof, within his jurisdiction, has or had concealed any bird or animal, or wild fowl, mentioned in this chap-

MINNESOTA STATUTES 1891

GAME.

[SECS. 2001-2005.]

ter, during any of the prohibited periods, or has obtained or possessed the same in any manner prohibited in this chapter, to issue his search warrant and cause search to be made in any house, market boat, car or other building or premises or any vehicle; and the sheriff, constable or other officer shall execute said warrant as in other cases provided. In case the sheriff, constable or other officer executing such search warrant shall find such game, bird, or animals, or wild fowls, he shall arrest the person or persons complained against and so having the same in his or their possession, or under his or their control, and shall also seize and take possession of all such game, birds or animals, or wild fowls, and make immediate returns of his proceedings to the justice by bringing before him the person or persons arrested and the property seized as hereinbefore directed. And it shall be the duty of such officer or officers, and also of all county, town, village, or city attorneys, to prosecute such person or persons, corporations or employees to judgment.

Sale.— In case of the seizure of any birds or animals, the court, upon being satisfied from the returns of the officer seizing the same, or having it in his possession, or from other satisfactory evidence that the same would spoil or become impure or unwholesome if kept during the pending of the prosecution or until final judgment may order the officer to sell the same, and may prescribe the time and manner of conducting such sale. The proceedings of such sale shall be paid by the officer to the justice before whom the case is pending, and if it shall appear upon the trial of any such action that the possession of any such birds or animals were lawful, the money arising from such sale shall be paid forthwith to the defendant, and he shall have judgment against the county wherein such action was commenced for his costs and disbursements.

1889, ch. 205, § 10. Superseded 1874, ch. 38, § 13; 1871, ch. 33, § 11.

SEC. 2001. Neglect of duty.— If any sheriff, constable, marshal, police officer, justice, county attorney or other officer wilfully neglects or refuses to perform any duty required of him by the provisions relating to the preservation of game, he shall be deemed guilty of a malfeasance in office, and shall thereafter be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed.

1889, ch. 205, § 11.

SEC. 2002. Killing by artificial light prohibited.— 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, ch. 213, § 1: "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.

SEC. 2003. 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 (5) dollars nor more than twenty-five (25) dollars, together with costs of prosecution.

1885, ch. 213, § 2.

SEC. 2004. Complaint.— All prosecutions under the provisions of this act shall be commenced by complaints under oath within thirty (30) 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.

1885, ch. 213, § 3.

SEC. 2005. Destruction of nests, eggs, prohibited.— No person shall break up or destroy, take away, or in any manner interfere with any nest, or the eggs therein, of any woodcock, snipe, quail, partridge, ruffed grouse or prairie chicken, pheasant, plover, or any species of wild duck, brant, or wild

MINNESOTA STATUTES 1891

SECS. 2006-2008.]

GAME.

goose, not domesticated; nor shall sell or expose for sale the said eggs, nor shall have the same in his possession for any purpose. And every railroad company, and every express company, and all employes and agents of the same, shall be deemed persons within the meaning of this section; and any person or persons offending against any provision of this section, shall be punished by a fine of not less than five nor more than fifty dollars, and by the forfeiture of all eggs in his or their possession, together with the costs of prosecution.

1877, ch. 57, § 6. Supersedes 1874, ch. 38, § 6; 1871, ch. 33, § 4. This section not repealed by 1889, ch. 205.

SEC. 2006. Certain birds not to be killed.—No person shall kill, cage or trap any whippoorwill, night hawk, blue bird, finch, thrush, lark, linnnet, sparrow, wren, martin, swallow, bobolink, robin, turtle-dove, cat-bird or any other harmless bird not elsewhere mentioned in this chapter, excepting black-birds and wild pigeons. Any person or persons offending against any of the provisions of this section shall be punished by a fine of not less than five [dollars] nor more than fifty dollars, or by the forfeiture of any gun or guns, cage, trap, net or any other device, and all sporting implements in his or their possession, together with the costs of the prosecution, or both, in the discretion of the court.

1877, ch. 57, § 8. Supersedes and substantially same as 1874, ch. 38, § 8; 1871, ch. 33, § 7; G. S. ch. 20, § 3.

MINK, MUSKRAT, OTTER, BEAVER.

SEC. 2007. Killing — When allowed.—That whoever intentionally kills, or takes in any manner whatever, any mink, muskrat, otter or beaver, during the months of May, June, July, August, September or October, in each and every year, shall be deemed guilty of a misdemeanor, and shall be fined in the sum of five dollars for each such offence: *provided*, that nothing in this act shall be so construed as to prevent the destruction of any such animals as shall be found destroying private property.

1875, ch. 134, § 1: "An act to prevent the killing or taking of mink, muskrats, otter or beaver at improper seasons of the year." Approved March 4, 1875. Acts 1867, ch. 39, providing for the protection of muskrats, mink and otter, was repealed by 1869, ch. 40. This law not repealed by 1889, ch. 205, although it constituted §§ 22, 23, of ch. 20, G. S.

SEC. 2008. Same — Prosecutions.—All prosecutions under this act shall be commenced within sixty days from the time such offence was committed, and the same shall be upon complaint upon oath before any justice of the peace in the county where such offence is 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 of such county.

1875, ch. 134, § 2.

TITLE 2.

FISH.

The following special laws regulate the taking of fish in certain localities: 1868, ch. 78; 1870, ch. 103; 1872, ch. 78; 1873, chs. 23, 24, 25, 26; 1874, chs. 42, 43, 44; 1875, chs. 84, 127, 128, 129, 130, 131, 132; 1876, chs. 179, 180, 181, 182, 183, 184, 185, 186; 1877, chs. 147, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161; 1878, chs. 78, 237, 240, 247; 1881, ch. 157.

SEC. 2009. Angling or shooting.—No person shall at any time take, catch or kill, any speckled, river or brook trout in any other manner than by angling for them with a hook and line. No person shall at any time take, catch or kill any fish of any kind, except white fish, from any of the waters in the state of Minnesota, excepting Lake Superior, the Mississippi, Minnesota and St. Croix rivers, in any other manner than by shooting them with a gun, or by using a spear, or by angling for them with a hook and line. And no person shall at any time put into any waters within the state of Minnesota, any fish berries, or any deleterious substance whatever, with intent to kill or take fish. And any person or persons offending against any of the provisions of this section shall be punished by a fine of not less than five nor more than fifty dollars, or by the forfeiture of all fish in his or their possession, and by the forfeiture of any device, or implement, or substance used in the commission of the offence, together with the costs of prosecution, or both, in the discretion of the court.

1877, ch. 57, § 9. Supersedes 1874, ch. 38, § 9; and G. S. ch. 20, § 5, as amended 1867, ch. 41; 1876, ch. 102. Supersedes 1871, ch. 33, § 9, as amended 1872, ch. 92.

SEC. 2010. Season for fishing.—No person shall catch, kill, or take by any means, contrivance or device whatever, or expose for sale in the state of Minnesota, 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 offending against any provisions of this section shall be punished by fine of not less than five nor more than fifty dollars, or by the forfeiture of any and all of the game fish above named found in his or their possession, and by the forfeiture of all fishing tackle, basket, and other sporting implements found in his or their possession, together with the costs of prosecution, or both, in the discretion of the court.

1877, ch. 57, § 3. Supersedes 1874, ch. 38, § 3; and G. S. ch. 20, § 5, as amended 1867, ch. 41; 1876, ch. 102.

SEC. 2011. Season to sell.—Until after March first, one thousand eight hundred and eighty, 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 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 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, ch. 57, § 4, as amended 1878, ch. 40; 1879, ch. 23. Supersedes § 4, ch. 38, acts 1874. This section also contained provisions applicable to game and birds, which being repealed by 1889, ch. 205, § 12, are not inserted.

MINNESOTA STATUTES 1891

SECS. 2012-2016.]

FISH.

FISHING DURING SPAWNING SEASON.

SEC. 2012. Stripping and planting the eggs or milt.—Whosoever wilfully 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 (\$10) for each and every violation of this act.

1881, ch. 143, § 1: "An act to prevent the destruction of fish during the spawning season." Approved March 7, 1881.

SEC. 2013. Prosecutions — Disposal 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.

1881, ch. 143, § 2.

FISHING IN LAKE SUPERIOR.

SEC. 2014. Size of mesh in seine nets.— That no seine nets shall be used for the purposes of fishing in the Minnesota waters of Lake Superior having meshes of less than three and a half ($3\frac{1}{2}$) inch mesh; nor shall any gill nets be used for fishing of less than four and a quarter ($4\frac{1}{4}$) inch mesh; nor shall pound nets be set or used for fishing of less than three and a half ($3\frac{1}{2}$) inch mesh for the purpose of fishing for white fish and lake trout. Any person found setting or using said gill, seine or pound nets for the purpose of fishing, of less size of mesh than described in this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five (25) dollars, nor more than one hundred (100) dollars, or by fine and imprisonment, as prescribed by the laws of this state governing misdemeanors; such fines, if levied, shall be applied to the funds of the Minnesota fish commission.

1889, ch. 206, § 1: "An act to provide for the preservation and protection of the white fish fry and young brook trout deposited in Lake Superior and streams thereof by the Minnesota fish commission and the United States fish commission, and to promote the growth of the fishing industry on Lake Superior, by a proper regulation and adjustment of the sizes of meshes in all seine, gill and pound nets, and to provide for the services of a fish warden for this portion of the state of Minnesota." Approved April 24, 1889.

SEC. 2015. Same — Herring nets.— That no herring nets shall be used for fishing of meshes smaller than one and one-half ($1\frac{1}{2}$) inch mesh (for bait fishing), nor larger than two and three-eighths ($2\frac{3}{8}$) inch mesh; and that a close season shall be maintained for herring from November 10th to December 10th of each year. Any person found fishing for herring during this specified time shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five (25) dollars, nor more than one hundred (100) dollars, or by imprisonment and fine, as prescribed by the laws of the state of Minnesota governing misdemeanors; such fine, if levied, shall be applied to [placed to the credit of] the funds of the Minnesota fish commission.

1889, ch. 206, § 2.

SEC. 2016. Near mouth of stream.— That any person or persons who shall draw, set or locate any trap, seine, gill or pound nets, or any device for catching fish as in this act forbidden, across the mouth of any stream along

MINNESOTA STATUTES 1891

FISH.

[SECS. 2017-2020.]

the north shores of Lake Superior, or within three hundred (300) feet of the meander line of the mouth of such stream, shall be deemed guilty of a misdemeanor; and any nets, seines, pounds, or any device or trap for catching fish set or placed in violation of the provisions of this section shall be confiscated whenever or wherever found, and the same shall be sold to the highest bidder at public outcry in the port of Duluth, and the proceeds of such sale shall be placed to the credit of the funds of the Minnesota fish commission. The person or persons who shall set, draw or locate any such nets, traps or device at the mouth of such streams, and who shall be convicted thereof, shall be fined ten (10) dollars, or by such fine or imprisonment as prescribed by the laws of Minnesota for misdemeanors.

1889, ch. 206, § 3.

SEC. 2017. **Deposit the spawn.**—That all fishermen shall carry with them a stripping bucket for the stripping of white fish and lake trout during spawning season, and fishermen shall after stripping the fish deposit the spawn on the grounds where the fish are caught; fishermen not complying with this law shall be fined ten (10) dollars; said fine when levied shall be placed to the credit of the Minnesota fish commission.

1889, ch. 206, § 4.

SEC. 2018. **Fish warden.**—That a fish warden shall be appointed by the governor, who shall be a citizen of this state, and a man of good moral character, and familiar with the fishing industry, and who shall hold his office for the term of two (2) years, or until his successor is appointed, and shall receive a salary of two hundred (200) dollars per annum; and who shall be charged, under the direction of the governor with the enforcement of the fishing laws of the state to examine the nets of the fishermen at any time, to visit the fishing grounds, to watch for infringements of the law, and to report the same to the county attorney for action; to collect evidence of any infringements of the law; he shall also report once in each year the result of his work to the president of the Minnesota fish commission. The sum of two hundred (200) dollars annually is hereby appropriated to be paid for such purposes, out of any moneys in the treasury not otherwise appropriated.

1889, ch. 206, § 5.

FISH-WAYS.

SEC. 2019. **Construction, when.**—Every artificial obstruction built upon and across any river, stream or watercourse 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, ch. 89, § 1, as amended 1887, ch. 37; 1887, ch. 77; acts 1878, ch. 89, entitled "An act providing for the construction of fish-ways." Approved March 11, 1878. Acts 1887, ch. 77, approved March 2d, added to the end of the proviso in this section, "excepting, however, the Big Cottonwood river in the state of Minnesota from this proviso." Acts 1887, ch. 37, approved March 7th, struck out the proviso which read, "providing that this act shall not apply to streams the bed and banks of which are owned by the person causing such artificial obstructions." This section supersedes acts 1875, ch. 125, as amended 1876, ch. 101.

SEC. 2020. **Penalty for failure to construct.**—If such fish-way is not built and completed to the satisfaction of the fish commissioners within the time specified by them, the owner or occupant shall be fined not less than five dollars nor more than twenty-five dollars for every day between the first day

MINNESOTA STATUTES 1891

SECS. 2021-2026.]

FISH.

of April and the first day of October during which such fish-way shall remain incomplete after the expiration of the time fixed by such notice.

1878, ch. 89, § 3.

SEC. 2021. **Kept open and in repair.**— After the completion of any fish-way to the satisfaction of the fish commissioners, the owners and occupants shall alter and keep it in repair and open and free from obstructions to the passage of fish, in such manner and during such period as the fish commissioners shall require; and if no period shall be specified by such commissioners, it shall be kept open and free from the first day of April to the first day of October in each year; and every person who shall neglect to comply with any of the provisions of this section shall be fined not less than five nor more than twenty-five dollars for each day of such neglect.

1878, ch. 89, § 2.

SEC. 2022. **Fishing near fish-ways prohibited.**— Every person who shall take any fish within four hundred feet of any fish-way shall be fined not less than twenty-five dollars, nor more than one hundred dollars.

1878, ch. 89, § 4.

SEC. 2023. **Disposal of fines.**— All fines collected under the provisions of this act shall be paid into the state treasury, to be expended by the fish commissioners in the propagation and preservation of fish in this state.

1878, ch. 89, § 5.

SEC. 2024. **Olmsted county excluded.**— Chapter one hundred and twenty-five of the session laws of one thousand eight hundred and seventy-five, entitled an act for the preservation and protection of fish, is hereby repealed: *provided*, the county of Olmsted shall be exempted from the provisions of this act.

1878, ch. 89, § 6. The act of 1875 which this section repeals provided that a sluice-way or other fixture must be maintained where there are dams so that fish can pass; but not to apply to Winona, Faribault, Meeker, Fillmore and Goodhue counties. This was amended 1876, ch. 101, by striking out the exception.

PROPAGATING FISH.

SEC. 2025. **Dams and contrivances for.**— Any person or corporation desirous of engaging, or who is engaged in the business of cultivating, raising, propagating or preserving trout or any other fish upon his or their premises, or upon premises hired or let for such purposes, shall have the right, and are hereby authorized to erect, construct and maintain upon such premises dams, sluices, screens, wires, pens, and other fixtures, buildings, and obstructions, such as may by him or them be deemed necessary for such purposes. *Provided*, such dams, sluices or other contrivances shall in no way obstruct the navigation of any navigable waters, or interfere with or injure the use of any mill or other water privilege as the same is or may be enjoyed; nor shall the provisions of this act authorize the overflowing of any lands not owned or leased by the persons engaged in such business connected with fish, nor the interfering with the rights or privileges previously acquired by any other person or corporation.* *And provided further*, that owners of ponds or other bodies of water, who have or shall stock the same with trout or any other fish, or which ponds or bodies of water are or shall by any means become so stocked, shall, upon complying with the provisions of this act, be entitled to all the rights, privileges and protection herein provided.

1875, ch. 135, § 1, as amended 1877, ch. 62. Amendment below *. Act 1875 is entitled "An act to encourage the cultivating, raising and propagating trout and other fish." Approved March 9, 1875.

SEC. 2026. **Injury to.**— Any person or persons who shall, without authority of the owner of said premises, tear down, destroy, or cause to be destroyed, or shall injure or cause to be injured, any dam, sluice, screen, pen, building, or

other contrivance erected or constructed pursuant to the provisions of this act, for the purposes aforesaid, or any person or persons who shall, without permission of the owner or owners of the premises, catch or cause to be caught, in any way or manner, trout or other fish from any of the waters appropriated by the owners to the purposes aforesaid; or any person or persons who shall place or cause to be placed in such water any sun fish, pickerel, or other fish, or poison, destructive to the fish therein being raised, cultivated or propagated, shall be guilty of a misdemeanor, and shall, on conviction thereof, be subject to a fine for each offense of not less than twenty-five nor more than one hundred dollars, and, in default thereof, to be imprisoned in the county jail not less than thirty nor more than ninety days, and shall be liable to the owners of the premises in civil action in treble damages.

1875, ch. 135, § 2.

SEC. 2027. Trespass — Penalty.— That said person or persons so engaging in the raising, cultivating and propagating trout and other fish, shall post upon the said premises, in at least three conspicuous places, durable signs, setting forth that such premises are devoted to the purposes of a fish pond, pound or preserve; and that thereafter any person or persons entering upon said premises, without permission or authority, shall be deemed guilty of trespass, and, upon conviction thereof, shall pay a fine of not less than five dollars nor more than twenty dollars for each offense, and, in default of payment thereof, to be imprisoned to [in] the county jail not less than ten nor more than thirty days.

1875, ch. 135, § 4.

SEC. 2028. Jurisdiction of justice.— 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.

1875, ch. 135, § 5.

SEC. 2029. Sale of such fish at any time.— Such person or persons shall have the exclusive contract [control] and own all such fish as by him or them are raised, cultivated or propagated, and may at any time catch or dispose of the same in any way, or in any of the markets of the state or elsewhere.

1875, ch. 135, § 2.

PROPAGATING TROUT.

SEC. 2030. Notice on premises.— 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 (1) 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, ch. 143, § 1. "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. Repealed all acts in conflict with this act.

SEC. 2031. Dams and contrivances for.— 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

MINNESOTA STATUTES 1891

SECS. 2032-2034.]

FISH.

premises, or in or upon such stream of 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 owned or leased by him or it, nor the interfering with the rights or privileges previously acquired by any other person or corporation.

Fishway.— *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 fishway 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 fishway, 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 fishways 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.

1887, ch. 143, § 2.

SEC. 2032. Same — Injury to, penalty for.— 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 (\$25), nor more than one hundred dollars (\$100), and by imprisonment in the county jail not less than thirty (30) nor more than ninety (90) 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.

1887, ch. 143, § 3.

SEC. 2033. Trespassers.— 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.

1887, ch. 143, § 5.

SEC. 2034. Explosives — Poisons.— 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 dele-

MINNESOTA STATUTES 1891

FISH.

[SECS. 2035-2038.]

terious 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 (50) dollars nor more than one hundred (100) dollars for each offense and in addition thereto be imprisoned in the county jail for not less than thirty (30) nor more than ninety (90) days. And such person or persons and the corporation whose officers or servants shall violate this section, shall be liable, on a civil action, to the owner or lessee of such stream or waters, in treble damages, for all injury thereby committed.

1887, ch. 143, § 6.

SEC. 2035. Exclusive control.— 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.

1887, ch. 143, § 4.

SEC. 2036. Possession of trout forbidden, when.— 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 (1st) day of May and the fifteenth (15th) 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 (1) dollar for each and every trout so caught, had, transferred, or attempted to be transferred, together with costs of prosecution, and such fish shall be declared contraband, and sold as in this act herein provided.

Service.— If a corporation is accused of violating this section, the warrant may be served upon any officer, agent or employee 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.

Exception.— 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.

1887, ch. 143, § 10.

SEC. 2037. Certain spawn prohibited.— 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 (500) 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.

1887, ch. 143, § 9.

SEC. 2038. Fishing in Lake Superior, where 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 (1000) yards from the mouth of any stream flowing into said lake, or so as to prevent the

MINNESOTA STATUTES 1891

SECS. 2039-2042.]

FISH.

free passage of fish to the mouth of said stream, and upon conviction thereof, he or they shall be adjudged guilty of a misdemeanor.

1887, ch. 143, § 7. This section may be superseded by acts 1889, ch. 206, § 3 (*ante*, § 2016).

SEC. 2039. Fishing tackle declared contraband.— 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.

1887, ch. 143, § 8.

SEC. 2040. Affidavit.— 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.

Who make.— 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.

Execute warrant.— Such officer, upon receiving such warrant, shall forthwith proceed to execute the same in any part of this state which may be necessary.

1887, ch. 143, § 12.

SEC. 2041. Arrest — Delivery of contraband goods.— 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.

1887, ch. 143, § 11.

SEC. 2042. Process — Fine — Sale of condemned property.— 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.

Fine.— 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.

Sale.— 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

MINNESOTA STATUTES 1891

FISH.

[SECS. 2043-2048.]

which said offence was committed, and the other half to the commissioners of fisheries of the state of Minnesota.

1887, ch. 143, § 13.

SEC. 2043. **Jurisdiction — Costs, etc.**—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 offence 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, ch. 143, § 14.

SEC. 2044. **Punishment.**—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 (20) dollars, nor more than one hundred (100) dollars, or by imprisonment in the county jail for not less than ten (10) nor more than thirty (30) 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.

1887, ch. 143, § 15.

UNITED STATES FISH HATCHERY.

SEC. 2045. **Ground ceded.**—That jurisdiction is hereby ceded to the United States over so much land as may be appurtenant and necessary to the construction of a fish hatchery by the United States and the maintenance thereof at the mouth of Lester river near Duluth in the state of Minnesota, not to exceed ten acres, five acres of which have been heretofore donated to the United States for said purpose.

1887, ch. 162, § 1: "An act ceding jurisdiction to the United States over certain lands donated to the United States for a fish hatchery." Approved March 2, 1887.

SEC. 2046. **Map of.**—The secretary of state shall, within one (1) month after the title to said land is vested in the United States, cause a map of the same to be made showing definitely the boundaries thereof and shall file the same in his office and make a proper record thereof.

1887, ch. 162, § 2.

SEC. 2047. **Reservation.**—From the cession of jurisdiction to the United States, hereby granted, the following reservation is hereby made, to-wit: The state of Minnesota shall have and hereby does reserve and retain a concurrent jurisdiction with the United States in and over the territory aforesaid so far as may be necessary for said state and its officers to serve any process or papers, civil or criminal, that may be lawfully issued under the authority of said state or of any of the departments of the government thereof, and to arrest on said territory and punish any person or persons charged with crime against the laws of said state whether committed within or without the boundaries of said territory in the same manner and to the same extent as though said cession of jurisdiction had not been made.

1887, ch. 162, § 3.

PROSECUTIONS FOR UNLAWFUL FISHING AND HUNTING.

SEC. 2048. **When to begin — Conduct of.**—All prosecutions under the provisions of this chapter shall be commenced within one month from the time when such offence was committed, and the same shall be by complaint

MINNESOTA STATUTES 1891

SEC. 2049.]

FISH.

before any justice of the peace of any county, or before any police justice, or city justice of any city in any county in which the offence was committed; and all fines imposed and collected under the provisions of this chapter, and the proceeds of the sale of all property seized and forfeited under the provisions of this chapter, shall be paid, one-half, including costs, to the complainant, and the balance or remainder into the treasury of the county where the conviction takes place, for the use of the common schools of said county; and any justice of the peace, police justice or city justice, is hereby authorized and required, upon receiving satisfactory proof by affidavit of the violation of any person or persons of any of the provisions of this chapter, to issue his warrant authorizing and commanding the sheriff, constable or other officer to arrest such offender or offenders, and bring him or them before him without delay, and to seize and take possession of all game and fish, guns and sporting implements, dogs, fishing tackle, nets and other property, declared forfeited in connection with the particular offence charged by the provisions of this chapter, and to make immediate return of all property so seized: *provided*, that when any gun, dog, fishing tackle, sporting implements, or other articles or material, shall be seized by any officer as forfeited, or to the end that the same may be declared forfeited by, under or pursuant to any of the provisions of this chapter, the court or jury shall, when the defendant is tried by or before any justice of the peace, police or city justice, or other court of limited jurisdiction, find and return specially the value of such gun, dog, or other articles or materials so seized, and said finding shall be entered upon the docket or minutes of said court; and to this end witnesses may be examined and proof taken, as in other cases where the value of personal property is in controversy; but no pleadings shall be required in connection therewith, if the value of any gun or guns, dog or dogs, fishing tackle, sporting implements or other articles or material belonging to any one person arrested as herein provided for, which, singly or together, may be declared forfeited by any justice of the peace, police, or city justice, or other court of limited jurisdiction, under or pursuant to any of the provisions of this chapter, shall not, together with or added to the fine inflicted, exceed in value the sum of one hundred dollars; and any article, material, or property seized, and not forfeited under the provisions of this chapter, shall be returned to the owner of the same, or to the person or premises from whom or which they shall have been taken: *provided further*, that no gun, dog, sporting implements, fishing tackle, or other articles shall be forfeited under the provisions of sections one, two, three, seven, eight and nine of this chapter, unless it shall be shown and proved upon the trial that the same were used or employed by the defendant for or in connection with the commission of the offences charged; but the possession or control by the defendant, at the time of his arrest, of any gun, dog, sporting implements, fishing tackle, or other article named in said section as forfeited, shall be taken and received in all the courts of this state as *prima facie* evidence that the same were used or employed by the defendant for or in connection with the commission of the offence proved under or pursuant to the section or sections of this chapter providing for the seizure and forfeiture of guns, dogs, sporting implements, fishing tackle, or other articles enumerated as forfeited, and which shall have been seized and produced in court.

1877, ch. 57, § 12: "An act to amend chapter 38, acts 1874, entitled an act for the preservation of game." Approved March 5, 1877. This law applies to subsequent enactments only so far as expressly made applicable by such subsequent legislation.

SEC. 2049. Search warrant.—Any justice of the peace, police justice, or city justice, is hereby authorized and required, upon proof by affidavit of probable cause to believe that any person or persons within his jurisdiction, has or have concealed any fish, game bird, or animal or wild fowl mentioned in this chapter, during any of the prohibited periods, or obtained or possessed in any manner prohibited by this chapter, to issue his search warrant, and cause search to be made in any house, market, boat, car or other building or prem-

MINNESOTA STATUTES 1891

FISH.

[SECS. 2050, 2051.]

ises, or any vehicle; and the sheriff, constable or other officer, shall execute said warrant as in other cases provided. In case the sheriff, constable or other officer executing such search warrant, shall find any fish, game bird or animals, or wild fowl, he shall arrest the person or persons complained against, and so having the same in his or their possession, or under his or their control, and shall also seize and take possession of all such fish, game bird or animals, or wild fowl, and make immediate return of his proceedings to the justice, by bringing before him the person or persons arrested, and the property seized, as hereinbefore directed. If it shall appear by the return of the officer of the property seized by him, that the property so in his hands exceeds the value of one hundred dollars, or if the same appears by affidavit of the complainant or of the defendant to be of the value of more than one hundred dollars, the justice shall immediately make an entry thereof in his docket or upon his minutes, shall hold the offender to bail, in a sum not less than one hundred dollars, to appear at the next term of the district court of the county, or shall commit him to the jail of said county in default of bail. Said justice shall then cease all other proceedings in the case, and shall certify and return to the district court of the county a transcript of all the entries made in his docket relating to the case, together with all process and other papers relating to the cause, in the same manner and within the same time as upon an appeal; and thereupon the district court shall have jurisdiction in the cause, and shall proceed in the same to final judgment and infliction of the punishment by fine and commitment for non-payment thereof, and forfeiture, the same as if the prosecution could have been and had been commenced therein.

1877, ch. 57, § 13.

SEC. 2050. **Forfeiture—Sale.**—That any dog or dogs, gun or guns, sporting implements, game birds or fish, or other property, articles or material, which may be adjudged forfeited by any court of this state under any provisions of this act, shall, where or in such cases as this act makes no provisions for any other or different manner of disposing of the same, on conviction or judgment of forfeiture, be advertised and sold by the sheriff, constable, or other officer whose duty it is to enforce the judgment of the court in the case, and such officer shall pay the proceeds of such sale, less his lawful fees, into court. Notice of sale and other proceedings thereon, and the officer's fees, shall be the same as in case of sale of personal property on execution. In case of the seizure of any game birds, fish, venison, or other material of a perishable nature, the court, upon being satisfied from the return of the officer seizing the same, or having it in possession, or from other satisfactory evidence, that the same would spoil, become injured or unwholesome for food if kept during the pending of the prosecution, or until final judgment, may order such officer to sell the same at public sale, and may prescribe the manner and time of giving notice of such sale and the manner of conducting the same. In case there be no purchaser found at such sale for whatever there may be offered for sale thereat, the officer conducting the sale shall distribute such game birds, fish, venison, or other things so offered, and for which there shall be no purchaser, to the poor-houses, alms-houses, jails, hospitals, or other charitable or public institutions in the county, or county adjoining where the prosecution may be pending, or shall destroy the same, as the court in its discretion may order: *provided*, that any game birds, fish, venison or other animal or thing, purchased at the public sale provided for by this section, may be held, used, or otherwise disposed of, without incurring any of the penalties of this act.

1877, ch. 57, § 14.

SEC. 2051. **Action to sell forfeited game and fish.**—Whenever complaint is made, or information given to any county attorney of any county, in cases in which the defendant shall not be arrested under any provision of this act, that any person or persons, or corporation, has in his or their or its pos-

MINNESOTA STATUTES 1891

SECS. 2052-2056.]

FISH.

session any of the game birds or animals, or any fish mentioned in this chapter, with the intent to sell, dispose of, or to transport the same, contrary to any of the provisions of this chapter, and which are liable to forfeiture by any of the provisions of this chapter, and when the value of such animals, birds or fish shall, in the aggregate, exceed the sum of one hundred dollars, then and in such case the said county attorney is hereby required and authorized to commence an action for the purpose of selling such animals, birds and fish, forfeited as hereinafter provided, and which said action shall be commenced in the district court of the county wherein said animals, birds and fish shall be found.

1877, ch. 57, § 15.

SEC. 2052. **Same — Intervention of claimant.**— Said action shall be commenced in the name of the state of Minnesota, as plaintiff, and of the person or corporation in whose possession said animals, birds or fish may be found, as defendant: *provided*, that if, during the pending of such action, any other person should intervene or claim such animals, birds or fish, then and in that case such person so intervening shall be joined in said action, as a party defendant thereto, and the same proceedings shall be had as to them as if they or he had been the original defendant in said action; and said action, except as herein provided, shall be continued in all respects as other civil actions are, and all general laws applicable to civil actions shall be applicable to the action herein provided for, except so far as the same may be inconsistent with the provisions of this chapter.

1877, ch. 57, § 16.

SEC. 2053. **Seizure.**— Upon the filing of the complaint in such action, and upon application of the county attorney, the judge or court commissioner of the district court wherein such action is brought shall cause a warrant of seizure to issue to the sheriff of said county, commanding him to seize and take into his possession all of such animals, birds or fish mentioned in the complaint, and sell the same according to the provisions of section fourteen of this chapter, or, in default of purchasers, to dispose of the same as in said section provided.

1877, ch. 57, § 17.

SEC. 2054. **Sale.**— Said money, when so paid into said county, shall remain there and to abide the final judgment of the court in such action; and if it shall be found upon the trial of said cause that the possession of said animals, birds or fish by the defendant was unlawful and contrary to the provisions of this chapter, judgment shall be entered against said defendant for the forfeiture of said animals, birds and fish; and the proceeds thereof, together with the cost of such action, and the proceeds of said sale, shall be disposed of as specified in section twelve of this chapter: *provided*, that in case no person shall appear in said action, and there should be a judgment rendered by default, then no personal judgment shall be rendered against any defendant, and no costs shall be entered in said judgment for the state.

1877, ch. 57, § 18.

SEC. 2055. **Disposal of proceeds.**— If it should appear upon the trial of any such action that the possession of the animals, birds or fish by the defendant was lawful, and not contrary to the provisions of this chapter, the money arising from said sale shall be decided to be paid forthwith to the defendant, and he shall have judgment against the county wherein such action was commenced, for his costs and disbursements therein.

1877, ch. 57, § 19.

SEC. 2056. **Appeal.**— The judgment, findings, rulings, or other proceedings of any officer or court, on the trial of any action or case arising under this act, shall not be overruled, examined, reversed, or in any manner inter-

MINNESOTA STATUTES 1891

DESTRUCTION OF CERTAIN ANIMALS, ETC. [SECS. 2057-2059.]

ferred with except by and upon an appeal on issues of facts; and pending such appeal any property seized or adjudged as forfeited, shall be and remain in the hands and under the control of the sheriff or other officer charged therewith at the time the appeal shall be taken: *provided*, that if such property be of a perishable nature, it shall be disposed of as hereinbefore provided. Notice of the allowance of such appeal, duly certified by the justice or court from which the appeal is taken, together with any order of such justice or court touching the disposition to be made of the forfeited property or effects in the hands of the sheriff or other officers charged therewith, shall be served upon such sheriff or officer, or, if not so served, the same may be disregarded.

1877, ch. 57, § 20.

SEC. 2057. Duty of officers.— It is the duty of supervisors and constables of towns, police officers of cities, having knowledge of the violation of any of the provisions of this chapter, to make complaint thereof to any justice of the peace of the proper county, or police justice of the city; and any other person having such knowledge may make complaint before such justice, and the said justice shall issue his warrant for the arrest of the offender, and proceed to hear and determine the matter in issue in the same manner as provided in other cases; and every person convicted under any of the provisions of this chapter, in case where no forfeiture is declared and enforced, shall stand committed until such fine is paid: *provided*, that such imprisonment shall not exceed three months.

1877, ch. 57, § 21.

TITLE 3.

DESTRUCTION OF CERTAIN ANIMALS, ETC.

GOPHERS AND BLACKBIRDS.

SEC. 2058. Bounty for killing.— That gophers and blackbirds are declared public nuisances and any person who shall kill or destroy said gophers in this state shall be entitled to receive five (5) cents each for every pocket gopher so killed by him, and three (3) cents each for all other kinds of gophers so killed. And any person who shall kill or destroy blackbirds shall be entitled to receive ten (10) cents for each and every dozen so killed during the months of April, May and June of any year, five (5) cents for each and every dozen killed by him during the months of July, August, September and October of any year.

1887, ch. 144, § 1: "An act to provide bounties for the destruction of gophers and blackbirds." Approved March 8, 1887. This law supersedes acts 1877, ch. 125, and 1885, ch. 182, the former providing that the commissioners of any county may offer a bounty for destruction of pocket gophers and provide rules and regulations therefor, and the latter providing that commissioners and supervisors be empowered to offer bounty for killing blackbirds and provide rules and regulations therefor.

SEC. 2059. Same — Payment of.— That it shall be the duty of the chairman of the board of supervisors of each town, on the production to him of the dead bodies of all such gophers and blackbirds killed as aforesaid in the town of which said chairman is supervisor, and of which he shall have satisfactory evidence were killed by the person so producing such bodies, to issue his certificate under his official signature to the county auditor of the county, certifying that such person has killed one (1) or more dozen, as the case may be, of said blackbirds, and giving the number of said gophers so killed and thereupon the county auditor shall draw and issue a warrant on the county treasurer for the amount such person is entitled to receive under the provisions of the preceding section of this act.

MINNESOTA STATUTES 1891

SECS. 2060-2064.] { DESTRUCTION OF CERTAIN ANIMALS, ETC.

Acceptance of law.—*Provided*, that the provisions of this act shall not apply until the same has been submitted to the board of county commissioners of the several counties in the state, and a majority of such board of county commissioners shall vote to accept the same.

1887, ch. 144, § 2.

WOLVES.

SEC. 2060. Bounties for killing.— Any person who shall kill any wolf in this state between November first and May first in any year, shall be entitled to receive a bounty of five dollars, (\$5), and for any wolf killed in this state in any year between May first and November first, shall be entitled to receive a bounty of three dollars, (\$3); and any person claiming such bounty shall produce the head of the wolf so killed, with the ears and scalp thereon entire, within twenty (20) days after such wolf has been killed, to the county auditor, or, in his absence, to the clerk of the court, and shall make oath or affirmation in writing before such auditor, or the clerk of the court, that the wolf whose head is produced was killed within such county within twenty (20) days last past, and shall surrender and deliver to such officer the head of such wolf with the scalp thereon.

1876, ch. 94, § 1, as amended 1879, ch. 39, § 1; 1881, ch. 18. Supersedes acts 1866, ch. 28, § 1; 1867, ch. 36, § 1; 1869, ch. 82; 1872, ch. 29, § 1. Acts 1866 gave \$6; 1867 gave \$10; 1869 gave \$3; 1872 gave \$5 if county commissioners deemed it necessary to give a bounty. Acts 1876, ch. 94, gave \$3 and eliminated jurisdiction of county commissioners. Acts 1881, Ex. S. ch. 102, appropriated \$4,000 to pay wolf bounties.

SEC. 2061. Payment of.— The county auditor, after such oath or affirmation shall have been made, having been satisfied that such head has been destroyed, shall then grant an order to the person making the affidavit, for the amount due him, on the treasury of the state, taking a receipt for the same on the back of said affidavit, which said county auditor shall keep on file in his office; which said order shall be received in payment of state tax.

1876, ch. 94, § 2, as amended 1879, ch. 39, § 2. Substantially as before amendment. Supersedes 1866, ch. 28, § 2; 1867, ch. 36, §§ 2, 3; 1872, ch. 29, § 2.

SEC. 2062. Entry of.— The county auditor shall enter in a book for that purpose the date and amount of such order, with the number thereof and to whom issued, and shall annually, between the fifteenth and twentieth day of November, make a certified copy of such entries, and transmit the same to the auditor of state.

1876, ch. 94, § 3, as amended 1879, ch. 39, § 3. Supersedes 1872, ch. 29, §§ 3, 4; 1867, ch. 36, § 3; 1866, ch. 28, § 4.

SEC. 2063. Redeemed.— It shall be the duty of the state treasurer, on receipt of any such county orders in payment of state taxes, to enter on the face of the same the word "redeemed" and the date of redemption; and the auditor of state on receiving any such redeemed order to preserve the same, and at least once in each year to compare the same with the exhibit thereof furnished him by the county auditor of the proper county, as hereinbefore required.* Any county auditor, or deputy county auditor, or clerk of court who shall be found guilty, by any court of competent jurisdiction, of fraudulently issuing any order for bounty under the provisions of this act, shall be punished by fine not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail not longer than sixty days, or by both such fine and imprisonment, in the discretion of the court, for each offence.

1876, ch. 94, § 4, as amended 1879, ch. 39, § 4; 1881, ch. 18. Amendment of 1881 below *. Supersedes 1872, ch. 29, § 4; 1867, ch. 36, §§ 4, 5, 6; 1866, ch. 28, §§ 4, 5.

GRASSHOPPERS.

SEC. 2064. Destruction of.— The board of county commissioners of any county in this state afflicted by grasshoppers, shall have the right, if in their judgment they see fit, to employ one or more persons in each township in said

MINNESOTA STATUTES 1891

DESTRUCTION OF CERTAIN ANIMALS, ETC. [SECS. 2065-2069.

county, with such implements or mechanical contrivance as may prove most efficient, to destroy the grasshoppers, from the first day of April to the first day of August in each year, paying such persons either by the day or a specified sum for the amount captured and destroyed. The compensation of such persons shall be paid out of the general revenue fund of the county: *provided*, further, that parties employed and paid by the county commissioners shall not receive any other or further compensation under the provisions of this act.

1877, ch. 86, § 14: "An act to provide for the destruction of grasshoppers and their eggs." Approved March 1, 1877. This act, in sections 1 to 13 inclusive, provided for a bounty for destruction, and also assessment of five days' work between July 1st and October 1st, 1877, which, being temporary, are omitted.

SEC. 2065. Same — Tax to pay.—The boards of supervisors of any township, and the common council of any city, village, town or borough in the state of Minnesota, afflicted by grasshoppers, deeming it necessary and for the best interest of said township, city, village, town or borough, to levy a tax upon the taxable property of said township, city, village, town or borough, for the purpose of raising money to pay for the destruction of grasshoppers and their eggs, are hereby authorized to levy such tax: *provided*, the legal voters of such township, city, village, town or borough, shall vote to levy the same at their annual town meetings.

1877, ch. 111, § 1: "An act to authorize the supervisors of the several townships afflicted by grasshoppers to levy a tax for the payment of bounties for the destruction of grasshoppers and their eggs." Approved March 5, 1877.

SEC. 2066. Same — Revoked.—If at any time after the said legal voters shall have voted to levy such tax, and before the report thereof shall have been transmitted to the county auditor, the said supervisors or common council shall determine that it will not be necessary to levy such tax, they shall notify the said clerks of their determination, and the said report shall not be transmitted to said county auditors.

1877, ch. 111, § 7.

SEC. 2067. Same — Vote on tax.—The said supervisors and common councils shall direct the town clerks, city recorder, village, town and borough clerks, to insert in the notice of the annual town meetings required by law to be given, a notice that a vote of the qualified electors of such township, city, village, town or borough will be taken at such town meeting to determine whether a tax shall be levied upon the taxable property of said township, city, village, town or borough for the purpose of the aforesaid; and the said town clerk, city recorder, village, town or borough clerk shall give such notice, and shall specify the amount to be raised for that purpose.

1877, ch. 111, § 2.

SEC. 2068. Amount — Ballots.—The qualified electors of such township, city, village, town or borough, assembled at the time and place so designated in said notice for holding such town meeting, shall, before the opening of the polls on that day, consider and determine whether the amount so specified to be raised, shall be levied for that purpose, and they shall have power to raise or lower the said amount; and after the amount to be raised shall have been settled and determined upon, the proposition to levy the said tax in the manner aforesaid shall be submitted to the legal voters of said township, city, village, town or borough, for their approval or rejection; and there shall be printed or written on the ballots to be used at such town meetings, the words, "For levying a tax for the destruction of grasshoppers," or "Against levying a tax for the destruction of grasshoppers."

1877, ch. 111, § 3.

SEC. 2069. Same — Levy.—If a majority of the voters voting at such town meetings shall vote in favor of levying said tax, said supervisors and common council shall levy and assess the same according to law, in the man-

MINNESOTA STATUTES 1891

SECS. 2070, 2071.] DESTRUCTION OF CERTAIN ANIMALS, ETC.

ner provided for levying town taxes: *provided*, however, that said tax shall not exceed five mills on the dollar.

1877, ch. 111, § 4.

SEC. 2070. **Collection of tax.**—In case a majority of the qualified voters of said township, city, village, town or borough, shall vote to levy such tax, the said supervisors and common council shall cause to be transmitted to the county auditors of the county, a statement of the tax so levied; and such tax shall be collected and the payment thereof enforced in like manner as state and county taxes, and collected and the payment thereof enforced; and the county treasurer shall pay such taxes over as fast as collected to the treasurer of such township, city, village, town and borough, to be by said treasurer received and kept for the purpose aforesaid.

1877, ch. 111, § 5.

SEC. 2071. **Payment of.**—All moneys raised under the provisions of this act, shall be expended for the purpose hereinbefore specified, (and for no other purpose), under and by the direction of the supervisors of said townships and the common council of said city, village, town or borough, and the same shall be paid out by said treasurer of said township, city, village, town or borough upon the warrant of said supervisors, or common council, duly signed and countersigned by the proper officers, as required by law in such cases.

1877, ch. 111, § 67.