

LAWS

OF THE

STATE OF UTAH,

PASSED AT THE

THIRD REGULAR SESSION

OF THE

LEGISLATURE OF THE STATE OF UTAH,

HELD AT

SALT LAKE CITY, THE STATE CAPITAL, IN JANUARY,
FEBRUARY AND MARCH, 1899.

PUBLISHED BY AUTHORITY.

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TRIBUNE JOB PRINTING COMPANY, THE DESERET NEWS.
1899.

Sec. 7. **\$5,000.00 Appropriation.** The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of carrying out the provisions of this act, payable out of any moneys in the state treasury not otherwise appropriated to be expended by or under the direction of the state commissioner of hatcheries; *provided*, that three thousand dollars may be drawn in the year 1899, and two thousand dollars may be drawn in the year 1900.

Sec. 8. This act shall take effect upon approval.

Approved March 9, 1899.

CHAPTER 26.

FISH AND GAME.

AN ACT for the Protection of Fish, Game and Birds; for Appointment of State and County Wardens and Prescribing Their Duties; to Provide Penalties for the Violation of this Act, and to Repeal Title 21, Revised Statutes of Utah, 1898, and all Acts and Parts of Acts Inconsistent Herewith.

Be it enacted by the Legislature of the State of Utah:

SECTION 1. **Governor shall Appoint Commissioner. Term. Vacancy. How Filled.** That the governor of the state, by and with the consent of the senate, shall appoint a state fish and game commissioner, who shall be a resident citizen of the state, whose term of office shall be two years and until his successor is appointed and qualified; *provided*, that when a vacancy occurs in the office of said commissioner and the legislature is not in session, the governor shall have power to fill such vacancy until the next regular session of the legislature, and he shall have power to remove the state commissioner at any time for cause.

Sec. 2. **Salary. Oath. Bond.** The state commissioner shall receive an annual salary of eight hundred dollars. He shall, before entering upon the duties of his office, take and subscribe to an oath of office and give a bond in the penal sum of three thousand dollars for the faithful performance of his duty. Such bond shall be approved by and filed with the secretary of state.

Sec. 3. **Control of Waters. Distribution of Fish. Deputies, How Paid.** The state commissioner shall have control and supervision of the waters of the state for the collection, propagation, culture and distribution of fish in the state, and shall receive and distribute all game, fish, fish fry and spawn coming into his hands fairly and equitably among the several counties. He shall have full control of all the property of the state, obtained or held for the purpose contemplated by this act, and he shall have power to appoint special deputies to assist in enforcing the provisions of this act; *provided* that a sum not to exceed seven hundred dollars may be expended annually for the payment of said deputies.

Sec. 4. Commissioner Authorized to Take Fish and Game. Report to Legislature. It shall be lawful for the state fish and game commissioner, or any person appointed by him in writing so to do, to take fish and game of any kind, dead or alive, or in any manner, under the direction of the county fish and game warden, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes, deemed by him to be in the interests of the fish and game industry of the state. He shall make a detailed report of his official transactions, including the number and kinds of fish distributed and the locality and name of streams, ponds or lakes where the same have been placed, and submit such report to the legislature during the first week of its ensuing regular session.

Sec. 5. County Fish and Game Wardens, How Appointed. Term. Bond. Compensation. Removal. At their first session after the passage of this act the county commissioners of each county of the state shall appoint a county fish and game warden, whose term of office shall be two years and until his successor shall be appointed and qualified. Said county warden shall, before entering upon the duties of his office, take and subscribe to an oath of office and give a bond for the faithful performance of his duty; said bond shall be approved by the county commissioners and filed in the office of the county clerk. The county warden shall receive adequate compensation for his services, to be determined and paid by the county commissioners out of the county treasury, and shall perform his duties under the direction of the state fish and game commissioner and the county commissioners, and may be removed for cause by the state commissioner, with the consent of the county commissioners.

Sec. 6. Duties of County Wardens. Reports to County Commissioners. It shall be the duty of the county wardens to see that all laws of the state for the protection of fish and game are faithfully enforced in their respective counties, and for this purpose they, together with the state commissioner and their deputies are hereby given the same authority exercised by sheriffs and constables. It shall be the duty of the county warden to report his official acts to the county commissioners of his county, annually, on the first Monday in December and oftener if so required by the county commissioners. The county wardens shall make detailed reports of their official doings to the state commissioner during the first week in December of each year.

Sec. 7. Fish Taken from Receding Waters. Draining of Canals. It shall be the duty of the county warden to take or cause to be taken in the best practical manner any imported fish, mountain trout, bass or herring, found in pools or other places in which receding waters of the rivers, streams, canals or other waterways have left them, and which are likely to become dry, and to carefully put the live fish thus taken into state waters, and to make the best disposition of the dead fish in the interest of the county treasury. All persons, corporations and companies owning or controlling irrigating canals, ditches or millraces for irrigation, operating mills or power plants of any kind, before draining any such canal, ditch or

millrace for any known purposes, shall give the county warden at least two days notice of such draining.

Sec. 8. Fishways. Unlawful Dam. The owners of any dam across any of the streams of this state shall, if required by the county fish and game warden, and under his direction, erect and maintain at all times at the expense of said owner or owners, suitable fishways to allow the free and uninterrupted passage of fish up and down the streams. It shall be unlawful for any person or persons, corporations or companies to build or maintain any dam that will be the means of killing or destroying the fish passing up or down said stream; *provided*, that nothing in this act shall be so construed as to interfere with acquired rights to the use of water in this State.

Sec. 9. Factory Owners to Furnish Screens. It shall be unlawful for any person or persons operating any mill, factory, power plant or other manufacturing concern run by water power and having either head or tail races, without first furnishing and maintaining suitable screens or other device to prevent the fish from entering therein; said screens to be built and maintained under the direction of the county warden and at the expense of said owner or owners or operators of said mill, factory, power plant, or other manufacturing concern; *provided*, that the woolen factory race at Provo, Utah county, this state, through which fish reach Spring Lake, be made an exception to these obligations; *and, provided, further*, that the owner or owners or operators of said woolen factory or other factories or mills situated upon said race, furnish and maintain at all times and at their own expense, suitable screens to prevent fish from entering the water wheels and water pipes of said factories or mills; said screens to be built and maintained under the direction of the county warden.

Sec. 10. Taking Fish, How and When Lawful. It shall be unlawful for any person to take any trout or bass from any of the waters of this state, by any means or device whatever, except by means of hook and line, commonly known as angling, and that only between the 14th day of June of each year and the 15th day of December following; *provided*, it shall be unlawful to take or have in possession any trout or bass less than seven inches long at any time.

Sec. 11. Unlawful Possession of Fish. Bass. It shall be unlawful for any person to sell, kill, destroy or have in his possession any bass or trout whatever at any time after the 15th day of December and before the 15th day of June following.

Sec. 12. Other Fish. It is hereby made unlawful for any person to take, kill or have in his possession any perch, rock bass, crappie, eastern brook trout, rainbow trout, goldfish, silver fish, or silver eels, taken from the waters of the state, for a period of two years after the passage of this act.

Sec. 13. Use of Explosives. Drugs. It shall be unlawful for any person to kill or take any fish from the waters of the state by the use of any poison, deleterious or stupefying drug, giant powder, or quick lime, or any explosive substance whatever, or to place or to use in or on the surface of such waters, any giant powder, quick

lime, or any explosive substance, or any poison, deleterious or stupefying drug, or to have in his possession any fish killed or taken by the use or aid any of these substances. Any person found guilty of violating any of the provisions in this section shall be fined in any sum not less than one hundred dollars for each offense, or imprisoned in the county jail not less than ninety nor more than one hundred and twenty days, or by both such fine and imprisonment.

Sec. 14. **Use of Seines, Traps, Etc.** It shall be unlawful for any person to take any fish from the waters of this state by the erection of any weir, dam, fence, wheel, basket, trap, net, seine, set-line, sieve, spear or gun, or any other device whatsoever which can be used for the unlawful catching of fish; *provided*, that for the purpose of catching carp, chubs, mullets, bullhead catfish, mountain herring or suckers, and these fish only, seines not more than two hundred yards long and twelve feet wide, with meshes not less than one and one-half inches square for fifty yards in the center, and meshes not less than two inches square in the wings thereof, may be used in the following named waters only: Utah, Bear and Sevier lakes; the Colorado, Green, Grand and San Juan rivers; in the Weber river below its junction with the Ogden river; in the Bear river below the Central Pacific railroad bridge at Corinne; in the Jordan river below the dam at Ninth North street in Salt Lake City, from September 1st to May 15th following, both days inclusive, and in Bear lake only between the 15th day of May and the 15th day of July following; *provided, further*, that before any person shall use seines in the waters above mentioned, such person shall secure the presence of either the county warden or his deputy, who shall be paid not to exceed two dollars per day by the party drawing the seine.

Sec. 15. **Near Mouths of Streams.** It shall be unlawful to use seines within one-half mile from the mouth of any stream flowing into Utah lake or the mouth of Spring creek channels which lead into said lake, or within one-half mile from the mouth of any stream, or body of water connecting two other bodies of water, in this state.

Sec. 16. **Irrigation Canals and Ditches to be Guarded.** It is hereby made the duty of the warden of each county, on the recommendation of the board of county commissioners, to see that all irrigation canals when deemed necessary in the judgment of the county warden, are properly protected by some device which will not be the means of obstructing the flow of water into such canals, so that no fish may enter said ditches between June 1st and September 15th of each year; said device to be provided and maintained by the county commissioners for each county.

Sec. 17. **Reservoirs to be Guarded.** It shall be the duty of the owners or operators of any reservoir to furnish and maintain at all times a suitable screen at the head of their reservoirs, such as will effectually prevent fish from any waters of the state from passing into the reservoirs, the same to be maintained under the direction and approval of the county warden.

Sec. 18. **Possession of Unlawful Device.** All seines, net, tackle,

powder, explosive, lime, poisons, drugs and other means or devices for unlawfully taking or killing fish of any kind, found in the possession of any person who may be detected in unlawfully taking fish from any of the waters of the state, shall be seized by the officer making the arrest, and if it appears from the evidence before the magistrate trying the case that the seines, nets, powder, explosive, lime, poisons, drugs and other means and devices for taking or killing fish were used, or were about to be used, or intended to be used for the unlawful taking of fish, the same are hereby confiscated and shall be, by order of the magistrate, taken and disposed of in the interest of the county treasury.

Sec. 19. Hunting Deer, Antelope, Etc., When Lawful. It shall be unlawful at any time to shoot at or in any manner kill, any elk, deer, antelope, mountain sheep, buffalo or bison, otter or beaver, or any game animals or game birds that may be brought or introduced into this state by the fish and game department or by private individuals for the purpose of stocking the state with said animals or birds; *provided*, that deer may be lawfully killed in the state during the month of October of each year.

Sec. 20. Use of Dogs in Hunting. It shall be unlawful for any person or persons to pursue with any dog or dogs any of the animals mentioned in section 19 of this act.

Sec. 21. Prairie Chickens, Grouse, Etc. Eggs. It shall be unlawful for any person to kill, ensnare, net or entrap or have in his possession within the state any partridge, pheasant, prairie chicken, sage-hen or grouse or mourning dove after the 1st day of December and before the 15th day of August following of any year; or to rob or to destroy the nest, eggs or young of any of the birds mentioned in this section; *provided*, that mourning doves may be killed between the 1st day of July and the 1st day of December of each year.

Sec. 22. Insectivorous or Song Birds. Sparrows. Hawks. It shall be unlawful for any person to kill, ensnare, net or entrap at any time in any year any gull, owl, hawks, lark, whippoorwill, thrush, swallow, snowbird, robins or other insectivorous or song birds, except the English sparrow, or to rob or destroy the nests, eggs or young of any of said protected birds mentioned in this section.

Sec. 23. Goose. Duck. It shall be unlawful for any person to take, kill, wound or shoot at, or have in his possession any wild goose, duck, snipe, brant or swan, between the 1st day of April and the 15th day of September following, and between the 15th day of December and the 1st day of March following, to rob or destroy nests, eggs, or the young of any of said birds mentioned in this section; or to take, kill, wound, or shoot at any of the birds mentioned in this section between one hour after sunset and one hour before sunrise; and it shall be unlawful to use any sneak boats or sink boxes, or other device answering same purpose, while in pursuit of any of the birds mentioned in this section.

Sec. 24. Size of Fowling Piece. It shall be unlawful for any

person to use any gun larger than ten-gauge while hunting for fowl or birds.

Sec. 25. Unlawful Possession of Fish or Game. Any person who shall have in his possession any game, fish or birds taken unlawfully is guilty of a misdemeanor. All fish or game taken unlawfully or offered for sale when so taken shall be seized by the state or county fish and game warden and disposed of to the best interest of the county treasury of the county in which said seizure may be made. The possession of any animal, fish or bird, or of the remains or any part of the remains thereof, within the times or period within which the taking or killing of the same is prohibited, shall be *prima facie* evidence of such unlawful taking or killing; and it shall be unlawful to kill, catch or otherwise take or destroy, and leave to waste or in any manner to cause or suffer to be wasted, any bird, animals or fish in this act mentioned, or any useful part, or parts thereof.

Sec. 26. Pheasant, Quail, Etc. Any person who shall hereafter at any time within the state wilfully kill, wound, ensnare, trap or shoot at or have in his possession any birds commonly known as the Mongolian or Chinese pheasant, English pheasant, pinnated grouse, or quail shall be guilty of a misdemeanor; *provided*, it shall be lawful to kill quail in the counties of Washington and Kane between the 1st day of October and the 1st day of the following March. It shall be unlawful to ship or transport any quail out of the above named counties at any time except for the purpose of propagation, under the direction of the state and county fish and game wardens.

Sec. 27. Penalties. Any person violating any of the provisions of this act other than the provisions of section 13 shall be guilty of a misdemeanor and shall be fined not less than ten dollars. All fines and forfeitures collected under the provisions of this act shall be paid into the county treasury of the respective counties.

Sec. 28. Reserving Waters for Propagating Fish. For the better advancement of the fish interests of the state, the state fish and game commissioner and county fish and game warden, by, and with the consent of the county commissioners, may select and reserve one stream, lake or pond in each county for the purpose of planting, breeding and propagating fish. Such reservation may continue for a period of not longer than four years; and it shall be a misdemeanor for any person to fish in any stream, lake or pond, while so reserved. When any stream, lake or pond is selected for the purposes named, the county warden shall forthwith post or cause to be posted conspicuous notices thereof along the banks or shores of such stream, lake or pond, at distances not to exceed one mile apart; and the county warden shall also cause notice thereof to be published in the nearest newspaper to such lake, stream or pond, for two weeks prior to the closing of such stream, lake or pond to public fishing.

Sec. 29. Shipping Game or Fish out of the State. It shall be unlawful for any person or persons at any time to ship or cause to be shipped, carried or transported out of the state, any of the animals, birds or fish, or any part thereof mentioned in this act; *pro-*