

FISH AND GAME.

CHAPTER 68.

[S. B. No. 163.]

PROVIDING FOR FISH AND GAME COMMISSIONER.

AN ACT Constituting the Superintendent of Irrigation and Forestry the Fish and Game Commissioner, and Providing for the Stocking and Maintaining Fish Hatcheries, and for the Protection of Fish in North Dakota Streams.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COMMISSIONER.] The Commissioner [Superintendent] of Irrigation and Forestry is hereby constituted the Fish and Game Commissioner of North Dakota.

§ 2. DUTY OF.] It shall be the duty of the Game and Fish Commissioner to act in conjunction with the United States commission of fish and fisheries, and otherwise as his judgment may dictate by stocking the waters of this State with fish, by distributing in suitable parts thereof such fish as he may deem best adapted to furnish cheap and nutritious food for the people, to maintain the hatcheries now established or such of them as he may deem best, and from time to time to establish such other hatcheries as may be required and to equip the same; *Provided*, That no money shall, without further authority of law, be expended for the land on which to establish the same; to employ a suitable agent to take charge of and propagate such young fish and fish eggs as he may require and procure and obtain; to prescribe and give notice of the character, dimensions, materials of suitable fishways, chutes or aprons to be erected and maintained in or upon dams and obstructions in the waters of the State; to receive, keep safely and disburse all sums of money provided by law to be paid or intrusted to him, taking duplicate receipts for all disbursements; to report to the Governor at or before the beginning of each session of the Legislative Assembly his acts and the operations of his department during the period succeeding his last report, and giving an account with vouchers of the disposition and expenditures of all sums of money received or held by him during said period; to see to the enforcement of all statutes and laws for the protection or preservation of game and fish; to exercise supervisory direction and control over all game and fish protectors, and to cause to be brought in the proper courts actions and proceedings to recover penalties and to punish violations of any of the statutes or laws.

§ 3. GAME AND FISH PROTECTORS—APPOINTMENT—DUTIES.] The Game and Fish Commissioner shall report to the Governor the names of persons, not to exceed two in each county in the State, for appointment as game and fish protectors, and the Governor upon such recommendation shall appoint and commission not to exceed two such persons in each county in the State, to be known as "game and fish protectors," who shall hold their office for four years and until their successors are appointed and qualified. Each of the said Game and Fish Commissioner's protectors shall, before entering upon the duties of his office, give bond to the State of North Dakota, with sureties, to be approved by the court or officer by whom constable bonds are required by law to be approved, and to be deposited and sued upon as is now provided by law in the case of constable bonds, in the sum of five hundred dollars, conditioned upon the faithful performance of his duties. The Governor upon recommendation of the Fish and Game Commissioner shall have power to remove any of said protectors, for violation or neglect of their duties, and upon like recommendation to fill all vacancies in the office of game and fish protectors. It shall be the duty of the Game and Fish Commissioner to see to the enforcement of all statutes and laws for the protection and preservation of game, birds and fish, and to cause to be brought proper actions and proceedings to recover penalties and to punish any violations of said statutes or laws. Upon the expiration of the term of office of said game and fish protectors the Governor shall, upon recommendation of the Game and Fish Commissioner, appoint their successors, who shall give bonds as herein provided. Nothing in this act shall in any way relieve or excuse any sheriff, constable, policeman, marketmaster or other officer or person from discharging the duties now imposed upon him touching the laws, and the enforcement thereof, for the protection of birds, game and fish.

§ 4. POWER TO ARREST—PROSECUTION OF OFFENDERS.] The Game and Fish Commissioner, and each game and fish protector, shall have power, and it is hereby made their duty, to arrest without warrant any person violating any of the provisions of any statute or law, now or hereafter in force, for the protection of game, birds or fish, and to take such person before a court or magistrate having jurisdiction of such offense. It shall also be the duty of every game and fish protector diligently to inform himself to the best of his ability of every violation of any of the statutes for the protection of game, birds and fish occurring in his county, and to ascertain the names and places of residence of all persons violating any of said laws, and of the witnesses of such violation, and to promptly make report thereof in writing to the state's attorney of the county, or the city attorney of the city, in which such violation occurred, and as far as possible procure and furnish to the state's or city attorney, or to file in the proper court, affidavits of the witnesses, to the end that the offenders may be proceeded against ac-

ording to law. Whenever the facts of such violation shall be personally known to the protector he shall accompany his report with his affidavit embodying the facts constituting such violation of the law. And upon any conviction had upon such report or complaint of a game and fish protector there shall be paid to him, in addition to the fees now provided by law to be paid to such constables or other officers in like cases, a fee of \$5, which shall be taxed as costs in the case and collected as part thereof. No game or fish protector, sheriff, constable, policeman, marketmaster or other officer, unless the court or magistrate by whom such proceeding is had shall find and certify that the report or complaint was made without probable cause, shall in any case be personally liable for any costs of any proceedings instituted upon or arising out of any report, affidavit or complaint made by him.

§ 5. REPORTS BY PROTECTORS.] The Game and Fish Commissioner shall require from each game and fish protector reports at such times and touching such matters and of such nature as the Commissioner may think proper; and every game and fish protector shall promptly make in writing to the Game and Fish Commissioner such reports as and when the same may be required. The Game and Fish Commissioner, besides his regular report, at or before the beginning of each session of the Legislature, shall make reports to the Governor from time to time as and when the Governor may require; and he shall promptly report to the Governor all cases of violation or neglect of duty on the part of game and fish protectors, and of sheriffs, constables, policemen, marketmasters, prosecuting or city attorneys, magistrates or other officers charged with the enforcement of the laws for the protection of game and fish, that shall come to his knowledge, together with such evidence thereof as he may have. The Governor shall revoke the commission of all game and fish protectors who shall be found to have wilfully violated or neglected their duties.

§ 6. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved, March 13, 1893.