

on the section line between sections twelve and thirteen, in township twenty-eight north, of range twenty-five east, in Door county; provided, that all the waters of Sawyer's harbor shall be construed to be a part of Sturgeon bay.

Penalty.

SECTION 2. Any person violating any provision of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and costs of prosecution, or by imprisonment in the county jail not less than sixty days nor more than six months, or by both such fine and imprisonment; and on a second and subsequent conviction for a similar offense shall be punished by a fine not less than fifty dollars nor more than one hundred dollars, and costs of prosecution, or by imprisonment in the county jail not less than ninety days nor more than six months, or by both such fine and imprisonment.

SECTION 3. This act shall be in force from and after its passage and publication.

Approved April 24, 1891.

No. 124, A.]

[Published May 5, 1891.

CHAPTER 436.

AN ACT relating to the office of state fish and game warden, and the preservation of fish, game and birds, and repealing sections numbers 5, 6, 7, 8, 9 and 11, of chapter 520, of the general laws of Wisconsin for the year 1887, and chapter 456, of the laws of Wisconsin for the year 1887, and sections 1, 2, and 3, of chapter 414, of the general laws of Wisconsin for the year 1889.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Offices of state fish wardens and state game wardens abolished.

SECTION 1. The offices of state fish wardens and state game wardens hitherto existing in this state, are hereby abolished. It shall be the duty of the governor, upon the passage of this act, to appoint an officer to be known as

state fish and game warden, whose duty it shall be to secure the enforcement of all the statutes of this state for the preservation of fish, game and birds, and to bring or cause to be brought, actions and proceedings, in the name of the state of Wisconsin, to recover any and all fines and penalties provided for in said laws, and for the confiscation and forfeiture of any property used in violation of any of said laws, and to punish all violations of said statutes. Such fish and game warden shall hold his office for the term of two years from the date of his appointment and until his successor shall be appointed and qualified; and any vacancy occurring during such term shall be filled by the governor. Such game warden may appoint one or more deputies for each county, who shall have all the authority given them in this or any other law of this state relating to the preservation of fish, game or birds. Such deputies shall receive no salary, and shall be entitled to the same fees as constables now receive in criminal cases for like services, and shall be paid in like manner. Such deputies may be removed at any time, and their places filled by the state fish and game warden. Such deputies shall have the right to act as informers or complainants and to serve the process in any action or proceeding for the recovery of such fines, penalties or forfeitures.

Governor to appoint State Fish and Game Warden; his powers and duties.

SECTION 2. Such fish and game warden or any such deputy, shall have full power and authority to serve and execute all warrants and processes of law issued by justices of the peace or police magistrates, or by any court having jurisdiction, under the provisions of this chapter or any other law of this state, relating to the preservation of fish, game or birds, in the same manner as any constable may serve and execute such process, and may arrest any person or persons by them detected in actually violating any of the provisions of the laws of this state relating to the protection of fish, game or birds, and may take such person or persons so offending, before any court having jurisdiction of the offense, and make proper complaint before such court, which shall proceed with such cause in the manner and form as provided by law. It shall further be the duty of such fish and game warden or his deputies, up-

Powers and duties of warden and deputies.

on receiving information that any such law has been violated, to immediately cause a thorough investigation to be made of such complaint and to cause proceedings to be instituted, if the proof at hand will warrant a conviction. For which purpose, and for all the purposes of enforcing this chapter and in the apprehending or securing of any person or persons for the violation of the game, fish or bird laws of this state, and for the purpose of confiscating and obtaining a forfeiture of any nets, snares, traps, or other contrivances of any kind or of any dog or ferret, used in violation of any game, fish or bird laws of this state, they and every sheriff, deputy sheriff, coroner, constable, or police officer, having the powers of a sheriff or constable, may call to their aid such persons or the power of the county as they may deem necessary; and it shall be the duty of every sheriff, deputy sheriff, coroner, constable or police officer having the powers of a sheriff or constable, of any county of this state, whenever required by such fish and game warden, or his deputies, to forthwith assist them in the execution of process, and in the seizure and confiscation of any contrivances or animals used in violation of such laws. Such fish and game warden and his deputies shall have the power, and it shall be their duty to take and confiscate any and all nets, snares, traps, ferrets, or dogs, and every other means and contrivances, whatsoever, used in violation of any of the fish, game or bird laws of this state. And any and all such property, means and contrivances or animals, taken and confiscated as aforesaid, shall, upon the conviction of the offender, or upon the judgment of the court having jurisdiction of the confiscation proceedings herein mentioned, be sold by such fish and game warden or his deputies, or by the sheriff, deputy sheriff, coroner, constable or any police officer having the powers of a sheriff or constable, by the judgment and direction of such justice of the peace, police magistrate, or court before whom or in which the conviction or confiscation proceedings may be had, and the proceeds derived from said sale be paid into the school fund of the county.

Sheriffs,
etc., are ex-officio deputy
fish and game
wardens.

SECTION 3. All sheriffs, deputy sheriffs, coroners and police officers, having by law the power

of a sheriff or constable, are hereby declared to be *ex-officio* deputy fish and game wardens.

SECTION 4. All nets, seines, snares, traps or other contrivances of any kind, or any dog or ferret, used in violation of any of the game, fish or bird laws of this state, are hereby declared contraband. In order that the forfeiture of any such property so declared to be contraband, may be judicially declared and ascertained, any officer whose duty it shall be to enforce the laws of this state relating to the preservation of fish, game or birds, or any other person may seize such property without the warrant therefor hereinafter mentioned, and take the same before any court having jurisdiction thereof, which court shall hold the same until the determination of the proceedings herein pointed out. Where such property has been seized without a warrant, as well as where a warrant is applied for, for the purpose of making such seizure, a complaint in writing under oath shall be made, in which complaint it shall be alleged, that such contraband property was being used for an unlawful purpose, describing such purpose, and stating the time and place where used, and the name of the person or owner so using such contraband property for an unlawful purpose if the same be known to the complainant, and if not known to the complainant then it may be alleged that the owner or person using such property is unknown to him. If the person owning or using such contraband property is known to him then the complaint, warrant and other entries or papers in such proceedings, shall be entitled as near as may be, thus: The state of Wisconsin against J. B., the owner or person in possession of a net unlawfully used for fishing. If the owner or persons using such contraband property are unknown, in like manner the complaint, warrant and other papers in the proceedings shall be entitled: The state of Wisconsin against the unknown owners of a net unlawfully used for fishing. The form of the proceedings and entitling herein given shall be varied to suit the facts in each case. Upon the making of such complaint, the court before whom it is made shall issue its warrant, in which warrant the substance of the complaint shall be set forth, and such warrant shall run to the sheriff or any constable of

Nets, traps,
etc., used in
violation of law
declared con-
traband.

Proceedings to
declare same
and sale of
property.

the county, where the proceedings are commenced, and shall command the officer serving the same, to seize the property alleged to be contraband, and to serve a copy of such warrant upon the owner of such contraband property, or upon the person having possession of the same, and to make return of such writ and his proceedings thereunder, on the sixth day from the date thereof. If the officer serving such warrant cannot find the owner or person in whose possession such property is found, he shall make return to that effect upon the warrant. Such warrant shall state that the property described therein, will be, at the office of such court naming the village, town or city where such office is at an hour named in such warrant, and will be adjudged contraband and forfeit according to law. On the day and at the hour and place named in such warrant, such court shall proceed to hear the evidence adduced by the parties, and such trial shall be conducted in accordance with the rules of practice and procedure conferred by law upon such court. The district attorney shall appear for the state of Wisconsin, and the defendant in such proceeding may also appear by counsel and cross-examine witnesses, as in other criminal trials. Where such proceeding is in justice court or in municipal or police courts, exercising the powers of a justice of the peace, the defendant in such proceedings shall have the right of trial by jury given by law in such courts. If upon the return of such writ in any such proceeding, the name of the owner or owners of such property is not known, or there is any uncertainty as to such ownership, the court may in its discretion continue such proceeding to a date not exceeding ten days from such return day, for the purpose of publishing notice of such proceedings. When such continuance for such purpose shall be had, the court shall cause to be published in some newspaper of the county, a notice of the pendency of such proceedings, in which notice the making of the complaint shall be alleged, a description of the property seized and the place where found, and an allegation of the unlawful use being made of it, and that at the time and place to which such proceeding was continued, such property will be declared con-

traband and forfeit. Such notice shall be published for one week in such newspaper. Proof of the publication shall be made by the editor or publisher, under oath, and filed with the papers in the proceeding. Where such publication is had, a trial and like proceedings shall be had on the day to which such cause is continued, as are provided for on the return day of such warrant. If the court or jury shall find such property to be contraband and forfeit, the court shall record such finding and judgment, and shall order and direct the sheriff or any constable of the county to seize and sell the same after giving five days' public notice of such sale. Such order shall be executed and such property seized and sold by any sheriff or constable to whom such order shall be given and the proceeds derived from the sale of such property, shall be paid into the school fund of the county. If the court or jury shall find such property to be not contraband, then the court shall order said property to be returned to the owner. The finding of such court or jury shall be final and conclusive as to the character of such property, and the use made of it, except that the defendant may in actions tried before courts having the powers of justices of the peace, appeal from an adverse verdict or judgment, to the circuit court of the proper county, where a new trial of such proceedings shall be had according to law.

SECTION 5. It shall be the duty of such fish and game warden to file in the office of the secretary of the state, quarterly in each year, a report, stating the days and parts of days spent by him in the discharge of his duties, an itemized account of his actual expenses and disbursements, the number of suits commenced at his instance, the number of convictions secured, the aggregate amount of fines collected, and the number of persons imprisoned for the violation of the laws for the preservation of fish, game or birds; also itemized statements of the amount of fish or game, of the number of nets, seines, traps or other contrivances, used in violation of any of the laws of this state, and of the number of dogs, ferrets or other animals forfeited under the laws of this state for the preservation of fish, game or birds. Such

Warden's reports to be filed with secretary of state.

What to contain.

statements shall be verified by the oath of such warden.

Repeals certain laws.

SECTION 6. Sections 5, 6, 7, 8, 9 and 11, of chapter 520, of the general laws of Wisconsin for the year 1887, are hereby repealed; chapter 456, of the general laws of Wisconsin for the year 1887, is hereby repealed, and sections 1, 2 and 3, of chapter 414, of the general laws of Wisconsin for the year 1889, are hereby repealed.

Officers of police to co-operate with warden to enforce law.

SECTION 7. It shall be the duty of all the district attorneys of this state, and all sheriffs, deputy-sheriffs, coroners or police officers having the powers of a constable and justices of the peace, and police magistrates to co-operate with the fish and game warden and his deputies to secure the enforcement of the laws of this state for the preservation of fish, game or birds, and it shall be the duty of such district attorneys to institute proceedings in the name of the state of Wisconsin, when complaint is made by such warden or any of his deputies, and to prosecute all such proceedings vigorously, and to furnish such warden and his deputies advice and assistance from time to time, as the same may be required.

Powers and duties of warden as to Mississippi river.

SECTION 8. Such fish and game warden and his deputies shall have the jurisdiction and powers herein, or by any other law of this state, granted throughout the state, and over the sloughs of the Mississippi river, and to the thread of the stream of said river and over every other stream that forms the boundary line of this state to the thread of such stream and to the center of any lake which shall form a boundary line of this state. All laws for the preservation of fish, game or birds shall have force and effect in the Mississippi river or in any other stream forming a boundary line of this state, to the thread of the stream of such river or other streams and shall have force and effect to the center of any lake forming such boundary line. Such fish and game warden, and his deputies shall have the power and authority conferred upon the fish and game wardens of this state by the provisions of any law, not repealed by this act. Any court having jurisdiction of offenses against the laws of this state relating to the preservation of fish,

game, or birds, shall have jurisdiction of the proceedings for forfeitures herein mentioned. All laws of this state relating to the offices of fish wardens or game wardens, or defining the duties of such officers, or conferring jurisdiction or authority upon them, shall apply to the office of fish and game warden created by this act and such fish and game warden shall perform all duties required to be performed by the fish wardens and game wardens of this state as now constituted.

SECTION 9. Such fish and game warden shall receive a salary of twelve hundred dollars per year and actual disbursements while traveling in the line of his duties; such disbursements to be audited by the secretary of state, and paid out of the state treasury, as other salaries and disbursements are paid, upon sworn vouchers and receipts as other accounts are audited; and he shall also be allowed necessary printing, stationery and postage. His deputies shall receive no salary or fee except as herein provided. A sum sufficient to pay the salary and expenses of such warden and the other expenses to be incurred by him under the provisions of this act, is hereby appropriated. Such fish and game warden shall have his office at the city of Madison and shall devote his entire time to the performance of the duties of his said office.

Salary and fees of warden and deputy wardens.

Warden's office to be at Madison.

SECTION 10. This act shall take effect and be in force from and after its passage and publication.

Approved April 24, 1891.