

1877

An act to provide for the protection, preservation, and propagation of fish and to repeal an act entitled "an act to provide for the protection of fish in Colorado territory," approved February 11, 1870; and an act entitled "an act to amend an act entitled 'an act to provide for the protection of fish in Colorado Territory,' approved February 11, 1870," approved February 9, 1872, and an act entitled "an act to encourage the propagation of fish in Colorado Territory," approved February 13, 1874.

Colorado General Assembly

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may have been a member, and the duration of such membership, and such certificate shall be received in all courts and places in the state as evidence that the person legally holding the same is entitled to the exemption hereinbefore mentioned; *provided*, that nothing herein contained shall be so construed as to diminish any privilege now allowed by any law of this state to any member of any fire company in this state, but shall be considered as conferring additional privileges.

1215. SEC. 3. That chapter thirty three (33) of the revised statutes of Colorado, and all acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

Approved, February 20, 1877.

## CHAPTER XXXVII.

### FISH.

AN ACT TO PROVIDE FOR THE PROTECTION, PRESERVATION, AND PROPAGATION OF FISH, AND TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE PROTECTION OF FISH IN COLORADO TERRITORY," APPROVED FEBRUARY 11, 1870; AND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED 'AN ACT TO PROVIDE FOR THE PROTECTION OF FISH IN COLORADO TERRITORY,' APPROVED FEBRUARY 11, 1870," APPROVED FEBRUARY 9, 1872, AND AN ACT ENTITLED "AN ACT TO ENCOURAGE THE PROPAGATION OF FISH IN COLORADO TERRITORY," APPROVED FEBRUARY 13, 1874.

*Be it enacted by the General Assembly of the State of Colorado:*

1216. SECTION 1. That it shall not be lawful for any person to kill or take any trout or other fish in any of the waters of this state, by the use of any poison or deleterious or stupefying drug, or by the use of any explosive substance, or by the erection of any weir, dam or other artificial obstruction, or any speckled trout, by the use of any net, seine or device whatsoever, except by a hook and line. *Provided*, that nothing in this act shall be so construed as to prevent the taking of any trout or other fish for the purpose of propagation.

1217. SEC. 2. It shall not be lawful for any person or persons to kill or take any trout or other fish, in any manner whatsoever, from any private lake, pond or stream,

used for the propagation of such fish, except by the consent of the proprietor of such lake, pond or stream.

Erection and  
maintaining of  
fishways.

1218. SEC. 3. Any person or persons, or the officers and servants of any company or corporation, maintaining or keeping up any dam, weir or other artificial obstruction, in or upon any stream of water in this state, shall erect and keep up, and maintain at such dam, weir or other artificial obstruction, a sufficient sluice or fishway for the free passage of fish up and down any such stream.

Months during  
which trout shall  
not be killed or  
taken, or offered  
for sale.

1219. SEC. 4. It shall not be lawful to kill, take, or have in possession for the purpose of sale, any trout taken or killed in any of the public waters of this state, during the months of November, December, January, February or March, or either of said months in any year; and the offering for sale during the months above mentioned, shall be *prima facie* evidence of the violation of the provisions of this section.

Penalty for  
violation of  
this act.

1220. SEC. 5. Any person or persons, or the officers or servants of any company or corporation, convicted of violating any of the provisions of this act, shall be fined in any sum not less than twenty-five dollars, nor more than three hundred dollars; or shall be imprisoned in the county jail not less than thirty days nor more than six months, or both fine and imprisonment, in the discretion of the court.

Neglect or  
refusal to keep  
up fishway.

1221. SEC. 6. Each and every month that any person, persons, company or corporation, shall neglect or refuse to keep up and maintain a sufficient sluice or fishway as prescribed in section three of this act, shall constitute a separate offense.

Disposition of  
fines.

1222. SEC. 7. All fines collected under the provisions of this act shall be paid, one-half to the person giving information of the offense, and the other half shall be paid into the treasury of the county wherein the offense was committed, for the benefit of the school fund of such county. And the person entitled to receive the one-half of such fine as informer, shall be deemed and held to be a competent witness upon the trial for such offense.

1223. SEC. 8. All prosecutions for the violation of any of the provisions of this act shall be commenced be-

fore any justice of the peace in the county wherein the offense shall have been committed; and any such justice of the peace shall, upon his own knowledge, or upon the oath of any competent person, issue his warrant to any constable of his county for the arrest of any person or persons charged with the violation of any of the provisions of this act; and upon the arrest of such person or persons, shall proceed in the hearing of said complaint as in other cases of misdemeanor cognizable before justices of the peace.

Prosecutions:  
how and where  
to be commenced

1224. SEC. 9. The court shall, in all cases of conviction under this act, when any fine is imposed, order as part of the judgment of the court, that the offender shall be committed to jail, there to remain until such fine and the costs are fully paid, or otherwise legally discharged, *provided*, the term of imprisonment shall not exceed six months for each offense.

Imprisonment in  
default of pay-  
ment of fine and  
costs.

1225. SEC. 10. It shall be the duty of the governor, immediately upon the taking effect of this act, and every second year thereafter, to appoint a person skilled in fish culture and the habits and nature of food-fishes, to be state fish commissioner, and who shall hold his office for the term of two years. Said commissioner shall have supervision of all fish cultural matters of a public nature, and shall receive and provide for the proper care and distribution of such food-fishes or ova of the same as shall come into the possession of the state. He will determine the necessity for fish ways, the location, form and capacity thereof, giving notice for their construction and maintenance. He shall receive compensation for time actually engaged in service of the state, not exceeding in any one year the sum of one hundred dollars, together with the additional sum of one hundred dollars, which can only be expended for express charges, and such other expenses as may be incident to the proper care and distribution of such fish as may come into the possession of the state; all accounts to be approved by the governor.

Appointment,  
duties and salary  
of fish com-  
missioner.

1226. SEC. 11. The fish commissioner shall, annually, before the first day of December, make to the governor a report of the transactions of the year, and set forth in said

Annual report of  
fish commis-  
sioner.

report any and all information he may have obtained in regard to the varieties of fish adapted to the waters of this state, and the methods of culture of the same, and the waters to which they are adapted, together with any information that may aid in promoting the culture of edible fish in the state, and the governor shall embody the same in his report to the general assembly.

Repeal.

1227. SEC. 12. An act entitled "an act to provide for the protection of fish in Colorado territory," approved February 11, 1870, and an act entitled "an act to amend an act entitled 'an act to provide for the protection of fish in Colorado territory,' approved February 11, 1870," approved February 9, 1872, and an act entitled "an act to encourage the propagation of fish in Colorado territory," approved February 13, 1874," be and the same are hereby repealed.

Emergency.

1228. SEC. 13. As the time in which the beneficial effects of this act for the present season is fast passing away, and its good effects may thereby be postponed, therefore an emergency exists, and this act shall take effect and be in force on and after its passage.

Approved, March 10, 1877.

## CHAPTER XXXVIII.

### FORCIBLE ENTRY AND DETAINER.

(Revised Statutes, Chap. XXXV.)

Unlawful or  
forcible entry  
forbidden.

1229. SECTION 1. No person shall enter upon or into any lands, tenements or other possessions, except in cases where entry is given by law, and then only in a peaceable manner.

Forcible entry  
and detainer  
defined.

1230. SEC. 2. If any person or persons shall enter upon or into any lands, tenements or mining claim or other possessions, with force, or strong hand, or multitude of people, whether any person be actually upon or in the same at the time of such entry or not, or if any person, by threats of violence or injury to the party in possession, or by such words or actions as have a natural tendency to excite fear or apprehension of danger, shall gain possession of any lands, tenements, mining claims or other possess-