

FORESTRY LAWS

OF THE

STATE OF COLORADO

COMPILED BY

The State Board of Agriculture

OF COLORADO



DEPARTMENT OF FORESTRY

B. O. LONGYEAR, State Forester

FORT COLLINS, COLORADO

1912

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The following compilation is intended to include all the Constitutional and Statutory provisions of the State of Colorado pertaining to forestry in a general sense, excluding those laws which pertain to the subject of horticulture.

No attempt has been made to construe these laws, except in two or three instances shown by notes following the paragraphs to which the construction applies.

It will be noticed that there are various paragraphs in which duplications occur, reference being particularly made to the subjects of Damages Occasioned by Fires; Camp Fires; Fires Caused by Railroads, etc. A judicial construction might determine that some of these paragraphs are repealed by others of later enactment. The compiler has not seen fit to determine this, except that in some instances, statutes which appear in the Revised Statutes of 1908, are so obviously repealed by later enactments which also appear in the same volume, or by enactments passed after the compilation of the Revised Statutes, as to justify their elimination from this compilation. Where there has been any doubt as to the question of the repeal of any statute, no elimination has been made, but the statute in question has been included herein.

Because of the intimate relation between the subject of fires caused by railroads and the general subject of this compilation, there have been included four paragraphs referring to railway fire guards; clearing right of way and damages for fires caused by railroads (See Par. 37, 38, 39 and 40), although these do not refer directly to the subject of forestry.

For the jurisdiction of the Courts over the various subjects included herein, reference is made to the general provisions of the Law of Colorado.

1. PRESERVATION OF FORESTS—The general assembly shall enact laws in order to prevent the destruction of, and to keep in good preservation, the forests upon the lands of the state, or upon lands of the public domain, the control of which shall be conferred by congress upon the state. (Constitution, Art. XVIII., Sec. 6).

2. LAND EXEMPT FROM INCREASE TAX—The general assembly may provide that the increase in the value of private lands caused by the planting of hedges, orchards and forests thereon, shall not, for a limited time to be fixed by law, be taken into account in assessing such lands for taxation. (Constitution, Art. XVIII., Sec. 7.)

3. INCREASED VALUE BY TREES EXEMPT FROM TAXATION FOR TEN YEARS—That whenever the owner or occupant of land under irrigation within this state has, or shall hereafter plant any fruit or forest trees, there shall not be added any increased valuation in the assessment of said land by reason of the gain in value that may be acquired by reason of such planting and cultivation, within a period of ten years thereafter. (Laws '81, page 250, Sec. 1; G. S. '83, Sec. 3425; Mills Ann. Stats., Sec. 2006.)

NOTE.—See notation below.

4. TRIPLE DAMAGES FOR INJURY TO TREES—Any person injuring or destroying any tree or trees planted upon the roadside, or along the line of irrigating canals, or upon private lands, shall be liable for thrice the amount of damage done, to be recovered in a civil action; and in case of malicious injury, he may be further prosecuted for misdemeanor. (Laws '81, Page 251, Sec. 3; G. S. '83, Sec. 3427; Mills Ann. Stats., Sec. 2008).

5. DAMAGE BY CATTLE—In case of any damage done to planted trees by domestic animals, the owner of said trees may recover full damage from the owner of said animals, as provided in the last preceding section of this act; Provided, Said trees are planted inside of a lawful fence, or boxed to a height of not less than five feet. (Laws '81, page 251, Sec. 4; G. S., '83, page 1004, Sec. 3428. Mills Ann. Stats., Sec. 2009.)

6. IN CERTAIN CASES ASSESSORS MAKE SPECIAL REPORT—In case of any unusual success in the growth or management of plantations of trees under this act, the assessors are hereby required to report as fully as practicable the kinds or species of trees, and any facts concerning their care and management that may have been observed. Such special reports shall be written upon separate sheets of paper, and shall be transmitted by the assessor to the state auditor, who shall transmit the same to the secretary of the board of agriculture, for the information of the said board; * * * * * (Laws '81, page 251, Sec. 7; G. S. '83; Sec. 3431; Mills Ann. Stats., 2012.)

COMPILER'S NOTE.—The four preceding sections are part of an act passed in 1881. Sections 2, 5 and 6 of said act provide for a bounty for the growing of trees under certain conditions. The Supreme Court of Colorado, in the case of *Institute, etc., vs. Henderson*, 18 Colo., 98, declared that the provisions of the act providing for this bounty were unconstitutional. The syllabus of the decision says that the act is unconstitutional. The opinion, however, does not go to this extent, and undoubtedly the sections above set forth were not included in the decision of court. The compilers of the Revised Statutes for the year 1908 have not included these four preceding sections, possibly having been misled by the syllabus mentioned. There is also a possibility that the first of the four sections above set forth is repealed, by implication, by Section 5545, Rev. Statutes, 1908.

7. MONEY RECEIVED FROM U. S. GOVERNMENT OUT OF FOREST SERVICE, BE APPORTIONED AMONG COUNTIES IN FOREST AND BENEFIT SCHOOL FUND AND ROAD FUND—That all moneys to which the various counties of the State of Colorado are now or may hereafter become entitled under the Act of Congress of May 23rd, 1908, or other acts, in which counties a forest reserve, or any portion thereof is situated, shall at the beginning of each fiscal year and every six months thereafter be awarded and apportioned through the proper state officials of this state to such counties in proportion to the area of the forest reserve in each county; and such apportionment of said funds shall be determined by the state auditor, and the state auditor is authorized and directed to draw warrants upon the state treasurer in favor of the county treasurer of each county for the amount due each county under the apportionment and made direct to the county treasurers of said counties, and in accordance with the so-called Agricultural Appropriation Act of Congress, approved May 23rd, 1908, and the county commissioners of said county shall direct the said monies to be credited to the school fund and the road fund of their respective county, apportioning said monies between two funds in amounts as they desire; Provided, that five per cent of said monies is the minimum amount that shall ever be credited to either one of said funds. (Laws 1911, page 6.)

8. BOARD OF AGRICULTURE BE BOARD OF FORESTRY—APPOINT STATE FORESTER—That the State Board of Agriculture shall have, and hereby is vested with authority, in addition to and in connection with its duties heretofore provided, as a State Board of Forestry, and the said The State Board of Agriculture is hereby given authority to appoint an officer to be known as the State Forester. The in-

cumbent in said office to be the professor or instructor of forestry at The State Agricultural College, said State Forester to hold office at the will of the State Board of Agriculture and except as herein-after provided, to be under the control of The State Board of Agriculture. The State Board of Agriculture is further hereby authorized to furnish the necessary office, furniture, office supplies, stamps and postage, and office and field equipment, and such necessary assistance as may be required for the proper conduct of the office of State Forester. (Laws 1911, page 419, Sec. 1.)

9. SALARY OF STATE FORESTER—The State Forester shall receive a reasonable salary, to be fixed by The State Board of Agriculture, not to exceed \$2,500 per year, which sum shall include his salary as professor or instructor of Forestry at the State Agricultural College, and shall be paid out of the money hereby appropriated. (Laws 1911, page 420, Sec. 2.)

10. STATE FORESTER—GENERAL DUTIES—It shall be the duty of the State Forester to direct the management of State Forest Reserves, if any; to collect and publish all data relative to the forests and other timber growing in the State, to co-operate, so far as is practical, with the Department of Forestry of the United States Government; to promulgate and publish rules for the prevention of forest fires and to cause the same to be posted in the forests upon State lands; to study the best conditions for preserving and growing of trees and forests. (Laws 1911, page 420, Sec. 3.)

11. STATE FORESTER CO-OPERATE WITH LAND COMMISSIONERS—The State Forester shall co-operate with the State Board of Land Commissioners in the matter of granting of permits for cutting timber upon State lands, giving them data concerning the proper timber to be cut and the proper method of cutting and removing the timber and the removal of the strippings and advising the State Board of Land Commissioners concerning any matters of importance relative to the removal of the timber and the replanting and reforestation of State lands, but nothing herein contained shall be construed as amending the law at present existing giving the State Board of Land Commissioners authority in said matter. (Laws 1911, page 420, Sec. 4.)

12. STATE FORESTER AID IN EXTINGUISHING FOREST FIRES—The State Forester shall advise, aid and assist in preventing and extinguishing forest fires on State lands and private lands and in the National Forests in the State, but nothing herein contained shall be construed as amending the law making it the duty of the Sheriffs of the various Counties of the State to prevent and extinguish forest fires. (Laws 1911, page 420, Sec. 5.)

13. STATE FORESTER ASSIST IN TREE CULTURE—The State Forester may advise or assist any individual, individuals, association or corporations, towns or cities, and examine any tract of land that it may be desired to devote to the growing of trees or forests, to advise as to the planting thereof and the protection, preservation or reforestation of any private lands under an agreement with the owners of such land, whereby the owner or owners of such land shall pay to the State Board of Agriculture a sum equal to the total expense of the State Forester or such assistants as may be appointed for said purpose. (Laws 1911, page 420, Sec. 6.)

14. SHERIFFS REPORT FOREST FIRES—It shall be the duty of the Sheriffs of the various Counties of the State to report as soon as practical the occurrence of any fire in any forest or forests in the State, either on private or public lands, and upon receiving notice from any source of a fire or fires in any forest, it shall be the duty of the State Forester to aid and assist in extinguishing the same. (Laws 1911, page 421, Sec. 7.)

15. STATE FORESTER LEARN CAUSE OF FOREST FIRES—It shall be the duty of the State Forester to examine and inquire into the cause of fires occurring in the forests of the State, either on private or public lands, to prosecute violation of all laws pertaining to fires or the cutting or destruction of timber in the State, and report to the proper authority, any violation or dereliction on the part of any officer or officers of the State with relation to fires and in relation to the timber or forests in the State. (Laws 1911, page 421, Sec. 8.)

16. COMMISSIONER OF GAME AND FISH POST NOTICES—It shall be the duty of the Commissioner of Game and Fish to have

posted, in manner as required by the State Forester, all notices prepared by the State Forester concerning the prevention and extinguishing of forest fires. (Laws 1911, page 421, Sec. 9.)

17. PENALTY FOR REMOVING NOTICES—Any person who removes, injures or defaces any sign or signs placed or maintained in pursuance of Section 9, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not to exceed \$25.00 and costs of prosecution, or imprisonment, not to exceed thirty days in the county jail, or both, at the discretion of Court. (Laws 1911, page 421, Sec. 10.)

NOTE.—Sec. 9 referred to is No. 16 above.

18. STATE FORESTER REPORT TO GOVERNOR—Said State Forester shall, biennially, make to the Governor, a report of the transactions of his office, and shall make such recommendations as he shall deem necessary with a view toward prescribing laws necessary to make his office an effective factor for the purposes for which it is created. (Laws 1911, page 421, Sec. 11.)

19. There is hereby appropriated, for the biennial period of 1911 and 1912, out of any funds in the State Treasury not otherwise appropriated, the sum of Ten Thousand Dollars (\$10,000.00) for the purpose of carrying into effect the provisions of this act, and there is hereby appropriated, for each successive biennial period, the said sum of Ten Thousand Dollars (\$10,000.00) for such purposes, and the Auditor of State is hereby authorized to draw his warrants upon said funds, upon the order of The State Board of Agriculture, signed by its President and countersigned by its Secretary. (Laws 1911, page 421, Sec. 12.)

20. TREES NOT TO BE CUT—No trees needed to conserve the snows, ice or water of any irrigation district shall be cut from any part of the public domain, except as hereinafter provided. (Sec. 2626, Rev. Stats., 1908.)

21. APPLICATION TO CUT TREES—CONTENTS—Any person desiring to cut trees upon any lands owned by the state shall make application in writing to the registrar of the State Board of Land

Commissioners, which application shall contain: (a) A complete legal designation of the lands upon which it is desired to cut the trees; (b) The purposes for which such trees are to be used; (c) That he will carefully protect from fires or other damage all trees less in size than those desired to cut; (d) That he will entirely remove, as directed by the State Board of Land Commissioners, all cut trees and their branches in such manner that fires may not consume the smaller trees; (e) That such trees as are desired for use are not necessary for the conservation of the irrigation waters of any irrigation water-shed. (Sec. 2627, Rev. Stats. 1908.)

22. REGISTRAR REFER APPLICATION TO APPRAISER—The registrar of the State Board of Land Commissioners shall, on receiving such application, refer the same to the appraiser of state lands, who shall estimate the cost of examining and reporting upon the said application, and the said registrar of the State Board of Land Commissioners shall thereupon require of the applicant a certified check payable to the state treasurer, covering the costs as estimated by the said appraiser of state lands, as well as the costs of all other proceedings, directed in this act, to determine whether such trees can be lawfully cut. (Sec. 2628, Rev. Stats. 1908.)

23. REGISTRAR PUBLISH APPLICATION—The registrar of the State Board of Land Commissioners shall cause the application of said person to cut trees to be published, for the full period of thirty days, in one or more daily or weekly newspapers having such circulation, as will fully advise the water users of the irrigation area upon the water-shed on which such trees are growing of the pendency of such application, and that protests to the granting of the application must be made within twenty days from the date of the last publication, which date shall be given in such published notice. (Sec. 2629, Rev. Stats. 1908.)

24. WATER USER MAY PROTEST—Any water user of any irrigation district thus affected may protest to the State Board of Land Commissioners against allowing said trees to be cut. (Sec. 2630, Rev. Stats. 1908.)

25. APPRAISER INSPECT LAND AND TREES—REPORT—Upon the expiration of the time for making protests as provided in Section 4 of this act, the registrar of the State Board of Land Commissioners shall refer all papers and proceedings to the appraiser of state lands, who shall thereupon personally inspect the designated lands and the trees growing thereon and carefully consider the protests, if any, from the water users, and thereupon shall report in writing to the registrar of the State Board of Land Commissioners advising that such trees may be properly disposed of, or against allowing the same to be done; but no trees less than ten inches in diameter two feet above the ground shall be allowed to be cut by any person whomsoever. (Sec. 2631, Rev. Stats. 1908.)

NOTE.—Sec. 4 referred to is No. 23 above.

26. NOTIFICATION TO PROTESTERS—INJUNCTION—PUBLICATION OF SALE—COSTS—Should the report of the appraiser of state lands advise that the trees desired may be properly disposed of, the registrar of the State Board of Land Commissioners shall at once notify by registered letter each and every protesting water user, if any, and such protesting water user or users shall thereafter be allowed fifteen days in which to commence injunction proceedings in any court of competent jurisdiction restraining the State Board of Land Commissioners from disposing of said trees, and the said State Board of Land Commissioners shall make no defense to the proceedings in injunction by said water users except at the full cost of the applicant desiring to cut said trees from the state lands. Should there be no protests, or should injunction proceedings fail, the said trees desired by said applicant shall be advertised in the paper having the greatest circulation within the state for a period of four weeks, one insertion during each week, and thereafter publicly sold at the state capitol in the city of Denver to the highest bidder, and if such highest bidder be some person other than the applicant, the legitimate costs of said applicant in prosecuting his application, which costs shall only be the expenses incurred by state officials as herein provided, shall be returned to the applicant; Provided, No bids shall be received which do not include the costs incurred by said applicant in determining the right to cut the desired trees. Should the appraiser of state lands report adversely to the cutting

of the trees desired by applicant, or injunction proceedings bar a sale, said applicant shall not recover any of the costs incurred by reason of this act. (Sec. 2632, Rev. Stats. 1908.)

27. BOND OF PERSON CUTTING TREES—The State Board of Land Commissioners shall require of all persons cutting trees upon state lands a bond in a sufficient amount, with good and approved security, for the carrying out in good faith of the provisions of this act. (Sec. 2633, Rev. Stats. 1908.)

28. TREE DEFINED—For the purposes of this act the word tree shall be held to mean all vegetable growth of a woody texture of any size whatsoever. No lands contemplated in this act shall be leased for any purpose whatsoever that will destroy the tree growth. (Sec. 2634, Rev. Stats. 1908.)

29. DEPUTY APPRAISERS—DUTIES—COMPENSATION—For the purpose of more fully carrying out the provisions of this act the State Board of Land Commissioners are hereby empowered to employ such number of persons, not exceeding six, as in their judgment are necessary. Such persons shall be known as deputy appraisers. They shall receive for their services the sum of five (5) dollars per diem, and shall have authority to arrest all violators of this act, with or without warrant, and deliver them to the most accessible justice of the peace or other officer authorized by law to act in such cases. (Sec. 2640, Rev. Stats. 1908.)

30. PENALTY FOR VIOLATION OF ACT—DAMAGE SUIT—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of not less than twenty-five nor more than one hundred dollars, or by imprisonment of not less than fifteen days nor more than sixty days or by both fine and imprisonment as the court may direct. Suit may also be brought in the name of the state for damages arising from fires destroying the timber or the trees of the state whenever such damage has been caused by any violation of the provisions of this act by any person or persons engaged in any business or pleasure pursuit whatever. (Sec. 2641, Rev. Stats. 1908.)

31. DISTRICT ATTORNEYS PROSECUTE—The district attorneys of the various judicial districts of the state are hereby directed to prosecute in the name of the state all cases arising under this act. (Sec. 2642, Rev. Stats. 1908.)

32. BOND OF LESSEE OF STATE LANDS—When, in the judgment of the state board (State Board of Land Commissioners) a bond by the purchaser of state lands is necessary, the state board shall require such purchaser to give a bond, upon such conditions as the board may determine. In leasing state lands, the state board shall require of the lessee such a bond as shall secure the state against loss or waste, or occupation of the land for more than thirty days after the cancellation or expiration of the lease of said lessee, unless the said lessee becomes the purchaser of the land, and in no case shall the lessee be allowed to cut or use more timber than shall be necessary for the improvement of the land or for fuel for the use of the family of the lessee, and the cutting and hauling of timber to sawmills, to be sawed on the shares, is expressly prohibited. (Rev. Stats. 1908, Sec. 5189.)

33. MISDEMEANOR TO REMOVE CONIFEROUS GROWTH—Any person who shall cut or remove any coniferous growth from the public lands, or state lands, with the intent to ship or sell the same outside the state, shall be deemed guilty of a misdemeanor, but this provision shall not apply to the transplanting of trees for ornamental purposes. (Sec. 2654, Rev. Stats. 1908.)

34. PENALTY FOR WRONGFUL REMOVAL OF TIMBER FROM STATE LANDS—Any person who shall cut or remove any timber from any state land without authority so to do by the state board of land commissioners, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine in any sum not less than three dollars nor more than three hundred dollars, or by imprisonment in the county jail for a term not less than thirty days nor more than three months, or by both such fine and imprisonment, for the mutilation or destruction of each tree. (Sec. 6459, Rev. Stats. 1908.)

35. JURISDICTION OF COURTS—PROSECUTION—Justice courts,

county courts and district courts, shall have jurisdiction for the trial of offenses under this act, and it shall be the duty of the county superintendent of schools to make complaint whenever he shall be informed of any violation of this act, and of the district attorney and his deputies to prosecute the same. (Sec. 6460, Rev. Stats. 1908.)

36. EXCHANGE OF LANDS IN FOREST RESERVES—The state board of land commissioners is hereby authorized and empowered to exchange any lands, the income from which is devoted to the public schools of the state of Colorado, the state university, the state agricultural college, penitentiary, internal improvements, saline or any other lands which may be under the control of said state board of land commissioners, and which may have been granted to said state of Colorado by the congress of the United States, and which lands are situated within the exterior boundary line of any federal forest reserve which may have been heretofore, or shall be hereafter established, for such unappropriated federal lands in the state of Colorado as the state board of land commissioners may select; and the register of said land board is hereby empowered to sign all papers necessary to such transfer, under the direction of said board. (Sec. 5218, Rev. Stats. 1908.)

37. RAILROAD FIRE GUARDS—That every railroad corporation operating its lines of road or any part thereof within this state shall, between the fifteenth day of July and the first day of November of each and every year, upon each side of its line of road, plough as a fireguard a continuous strip of not less than six feet in width, which said strip of land shall run parallel with said line of railroad, and be ploughed in such a good and workmanlike manner as to effectually destroy and cover up the vegetation thereon and be sufficient to prevent the spread of fire, and in addition thereto all such railroad corporations shall cause to be burned, between the dates last aforesaid, all the grass and vegetation lying between the said ploughed strips and the track of said road; and the outer line of said strip of ploughed land shall be upon the outer line of such corporation's right of way, or if upon land owned by said corporation, one hundred feet on either side from the center of the road; Provided, That such fireguard so to be ploughed need not be constructed within the

limits of any town or city, nor along the line of a railroad running through the mountains, or on other lands where ploughing would be impracticable, but that the provisions herein respecting the burning of a strip on each side shall be duly conformed with whenever any vegetation is found along such line of road; Provided, That the board of county commissioners of the various counties of the state shall prescribe for their respective counties where the ploughing of such fireguard and burning shall be done. (Sec. 5509, Rev. Stats. 1908.) (See also Sec. 2639, Rev. Stats. 1908 *infra* 42.)

38. PENALTY—Any railroad company failing to comply with the provisions of section one of this act shall be liable to pay a penalty of two hundred dollars for each and every mile or fractional part thereof of such strip of land as it neglects to plough on either side of the line of its road in this state, in each and every year as aforesaid, the same to be collected in an action of debt in any court of competent jurisdiction, in the name of the people of the state of Colorado, and when collected it shall be paid into the school fund of the county wherein the cause of action accrued; And, provided, That the said action shall be brought within three years next after it accrues. (Sec. 5510, Rev. Stats. 1908.)

NOTE.—Sec. 1 referred to is No. 37 above.

39. LIABILITY FOR DAMAGES—Every railroad corporation operating its line road, or any part thereof, shall be liable for all damages by fire that is set out or caused by operating any such line of road or any part thereof, and such damages may be recovered by the party damaged, by the proper action, in any court of competent jurisdiction; Provided, That it shall be lawful for any party so damaged, and the railroad corporation so causing such damage, to appoint appraisers in the manner now provided by law for appointment of appraisers to view and appraise stock killed by the operation of a railroad, which said appraisers shall certify to the amount of the damage done the party complaining by such fire, and which said certificate shall be received in any court in which an action may be brought to recover said damages as *prima facie* evidence of the amount thereof; Provided, That the appointment of an appraiser under this section by any such railroad corporation shall in no event

be taken as an admission or evidence of the fact that any fire by which the damage was occasioned was set out or caused by the operating of such railroad; Provided, That said action be brought by the party injured within three years next after it accrues. (Sec. 5511, Rev. Stats. 1908.) (See also Sec. 2639 *infra* 42.)

40. LIABILITY OF RAILROAD CAUSING FIRES—Every railroad company operating its line of road, or any part thereof, within this state, shall be liable for all damages by fires that are set out or caused by operating any such line of road, or any part thereof, in this state, whether negligently or otherwise; and such damages may be recovered by the party damaged, by the proper action, in any court of competent jurisdiction; Provided, The said action be brought by the party injured within two years next ensuing after it accrues; And, provided, further, That the liability herein imposed shall inure solely in favor of the owner or mortgagee of the property so damaged or destroyed by fire; and the same shall not pass by assignment or subrogation to any insurance company that has written a policy thereon; Provided, That nothing in this act shall be held to apply to or in any manner affect any right which has accrued prior to the passage hereof or any cause or suit now pending. (Sec. 5512, Rev. Stats. 1908.)

41. MAY REMOVE OVERHANGING TREES—Every such corporation, formed under this act, shall, in addition to the powers hereinbefore conferred, have power:

First: To lay out its road, not exceeding two hundred feet in width, and to construct the same; and for the purpose of cuttings and embankments to take as much more land as may be necessary for the proper construction and security of the railway; and to cut down any standing trees that may be in danger of falling or obstructing the railway, making proper compensation therefor. (Sec. 5411, Par. 1, Rev. Stats. 1908.)

42. RIGHT OF WAY KEPT CLEAR—The right of way of any railroad within the forest areas of this state shall be kept free from inflammable material, and every locomotive used in such forest area shall be so equipped and operated as to prevent the setting on fire

of any tree growth along or adjacent to such right of way. Any destruction caused by a violation of this section of this act shall be appraised by the appraiser of the state board of land commissioners, and if the appraised value of such destruction is not paid by the offending railroad company within ninety days of such appraisal, then and in that case the state board of land commissioners shall bring suit in the name of the state to recover all damages, losses and costs caused by or arising out of the wrongful acts or negligence of the offending railroad company. The measure of damages shall consist of not only the actual commercial value of the trees destroyed, but also their value as conservators of the snows, ice or irrigation waters contemplated in this act and promoters of adjacent tree growth. Each day's neglect to properly equip and operate as herein directed any locomotive shall be deemed a separate offense, punishable in like manner and with like penalties. The provisions of this section of this Act shall take effect and become operative on and after the first day of July, A. D. 1901. (Sec. 2639, Rev. Stats. 1908.)

43. BOARD OF AGRICULTURE — The secretary of the board shall keep his office at such place as the board shall direct. It shall be his duty to keep a record of the transactions of the state board of agriculture and of the state agricultural college and farms, which shall be open at all times to the inspection of any citizen of the state. He shall also have the custody of all books, papers, documents and other property which may be deposited in his office, including specimens of the vegetable and animal kingdoms of the state or counties, also keep and file all reports which may be made from time to time by the different agricultural and horticultural societies, and all correspondence of the office from other persons and societies appertaining to the general business of husbandry; address circulars to societies and the best practical farmers in the state and elsewhere with the view of eliciting information upon the newest and best mode of irrigation, and the culture of those products, vegetables, trees, etc., adapted to the soil and climate of this state, also on all subjects connected with field culture, horticulture, stock raising and the dairy. He shall encourage the formation of agricultural societies throughout the state, and purchase, receive and distribute such

rare and valuable seeds, plants, shrubbery and trees as it may be in his power to procure from the general government and such other sources, as may be adapted to our climate and soils. He shall also encourage the importation of improved breeds of horses, cattle, sheep, hogs and other live stock, and the invention and improvement of labor saving implements of husbandry and diffuse information in relation to the same. He shall encourage such domestic industry and household arts as are calculated to promote the general thrift, wealth and resources of the state. To effect these objects he shall correspond with the patent office at Washington and representatives of our national government abroad and if possible procure valuable contributions of agriculture from those sources. He shall aid, as far as possible, in obtaining contributions to the museums and the library of the State Agricultural College, and thus aid in the promotion of agricultural science and literature. (Sec. 58, Rev. Stats. 1908.)

44. DISTRIBUTION OF SEEDS, PLANTS, ETC.—The seeds, plants, trees and shrubbery received by the secretary, and not needed by the college, shall be, as far as possible, distributed equally throughout the state, and placed in the hands of those farmers and others who will agree to cultivate them properly, and return to the secretary's office a reasonable proportion of the products thereof, with a full statement of the mode of cultivation and such other information as may be necessary to ascertain their value for cultivation in the state. Information in regard to agriculture may be published by him from time to time in the newspapers of the state; Provided, It does not involve any expense to the state. (Sec. 59, Rev. Stats. 1908.)

45. ARBOR DAY—The third Friday in April of each year shall be set apart and known as "Arbor Day," to be observed by the people of this state in the planting of forest trees, for the benefit and adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of the day so established; Provided, That the actual planting of trees may be done on the day designated, or at such other most convenient time as may best conform to local cli-

matic conditions, such other time to be designated, and due notice thereof given, by the several county superintendents of schools for their respective counties. (Sec. 2942, Rev. Stats. 1908.)

46. HOLIDAY IN PUBLIC SCHOOLS—The day, as above designated, shall be a holiday in all public schools of the state, and school officers and teachers are required to have the schools under their respective charge observe the day by planting of trees, or other appropriate exercises. (Sec. 2943, Rev. Stats. 1908.)

47. GOVERNOR SHALL ISSUE PROCLAMATION—Annually, at the proper season, the governor shall issue a proclamation, calling the attention of the people to the provisions of this act, and recommending and enjoining its due observance. The superintendent of public instruction, and the respective county superintendents of schools, shall also promote, by all proper means, the observance of the day; and the said county superintendent of schools shall make annual reports to the state forest commissioner of the action taken in this behalf in their respective counties. (Sec. 2944, Rev. Stats. 1908.)

48. UNAUTHORIZED REMOVAL OF TIMBER FROM MINING CLAIM—Whoever shall cut down and remove, or shall cut down with a view to remove, or with a view to permitting or procuring another to remove, or finding cut or blown down, shall remove any tree or timber standing, growing or being upon any mining claim or mill site of another, without the consent of the owner or holder of such mining claim or mill site, shall be deemed guilty of a misdemeanor. (Sec. 4222, Rev. Stats. 1908.)

49. PENALTY—Whoever shall be convicted of violation of any of the provisions of this act shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court. (Sec. 4225, Rev. Stats. 1908.)

50. SETTING FIRE TO TIMBER OR PRAIRIE—PENALTY—That any person or persons who shall wilfully or carelessly set on fire any

body of timber or prairie on any of the lands in this state shall, upon conviction thereof, be fined not less than fifty nor more than three hundred dollars, or may be imprisoned not less than fifteen days nor more than three months, and may be punished by both fine and imprisonment in the discretion of the court. (Sec. 1876, Rev. Stats. 1908.)

51. MISDEMEANOR TO MALICIOUSLY SET FIRE—Any person who shall wilfully or maliciously set on fire, or cause or suffer to be set on fire, any woods, prairie or ground of any description, other than his own, or who shall intentionally or by neglect permit any destructive fire to pass from his own ground, shall be deemed guilty of a misdemeanor. (Sec. 2653, Rev. Stats. 1908.)

52. SETTING FIRE ON PUBLIC LANDS—PENALTY—Any person who shall set fire on any of the lands belonging to the state, or of the public domain, thereby destroying the timber or grass thereon, shall be liable to an indictment therefor, and upon conviction thereof, shall be fined a sum not less than fifty dollars and not exceeding five hundred dollars, or be confined in the county jail not less than twenty days and not exceeding six months, or fine and imprisonment, at the discretion of the court, to be paid to the county treasurer of the county in which the offense was committed and placed to the credit of the school fund of said county. (Sec. 1877, Rev. Stats. 1908.)

53. PENALTY FOR FAILURE TO EXTINGUISH CAMP FIRE—Any person who shall build a camp fire in any woods, or any prairie, or on other grounds in this state, shall, before or at the time of breaking and leaving such camp, totally extinguish such camp fire; and, upon a failure to do so, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding one month, or by both such fine and imprisonment. (Sec. 1879, Rev. Stats. 1908.)

54. NO UNGUARDED FIRE ALLOWED—No open fires not sufficiently guarded to prevent spreading shall be allowed in any forest area in this state, and all live coals emptied from any stove or re-

maining from any open fire shall be at once and completely extinguished with water before leaving. (Sec. 2635, Rev. Stats. 1908.)

55. **CAMPING PERMIT—FEE**—No person, party or parties, shall be allowed to camp, either for business or pleasure, in any forest district of this state outside of the county in which they legally reside, without first taking out a permit so to do. Such permit shall bear such part of this act as relates to fires and their care, and shall be issued by the clerk of any county court within the state upon the payment of the sum of fifty cents as a fee. Permits must at all times be produced and shown to any game or forest warden, land appraiser, constable, sheriff, or other official empowered by law to demand the same, and such permit may be taken up by such warden, land appraiser or other official whenever the holder thereof shall wilfully violate the provisions of this Act. (Sec. 2636, Rev. Stats. 1908.)

56. **NON-RESIDENTS OBTAIN SERVICES OF WARDEN** — Non-residents of this state shall not camp within the forest districts for pleasure until they shall have obtained the services, at their own cost, of a game or forest warden as conservator of the state's interests, and such warden will be held strictly responsible for the care and prevention of fires from extending to the forest areas. (Sec. 2637, Rev. Stats. 1908.)

57. **ARREST OF VIOLATORS**—Game and forest wardens, the land appraisers, and all peace officers of the state, are hereby charged with the enforcement of this act so far as it relates to fires in forest areas, and shall have full power to arrest with or without warrant, all violators and deliver them to the nearest constable or sheriff, to be dealt with according to law. (Sec. 2638, Rev. Stats. 1908.)

58. **PENALTY FOR SETTING FIRE TO WOODS OR PRAIRIE**—If any person shall wilfully and maliciously set on fire, or cause to be set on fire, any woods or prairie, or grounds of any description, other than his own, or shall, intentionally, or by gross neglect, permit a fire, set or caused to be set by him, to pass from his own grounds to the injury of any other person or persons, such person

shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine, not exceeding three hundred dollars, or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment. (Sec. 1878, Rev. Stats. 1908.)

59. DAMAGES FOR SETTING FIRE TO WOODS OF ANOTHER—If any person shall set on fire any woods or prairie, so as to damage any other person, such person shall make satisfaction for the damage to the party injured, to be recovered in an action before any court of competent jurisdiction. (Sec. 2070, Rev. Stats. 1908.)

60. COUNTY COMMISSIONERS POST CAMP FIRE NOTICES—It shall be the duty of the board of county commissioners of each county in this state, within thirty days after this act shall take effect, to cause to be erected and maintained, in conspicuous places at the side of each and every traveled highway, and at such other places as they may deem proper, at suitable distances along the main traveled highways of their respective counties, notices printed in large letters, on strong cloth, substantially in the following form, to-wit:

FIRE.

Camp fires must be totally extinguished before breaking camp, under penalty of not to exceed one month imprisonment, or one hundred dollars fine, or both as provided by law. A standing reward of one hundred (100) dollars is offered by the state, for information which may lead to the conviction of any person, or persons, guilty of causing forest fires, in violation of law.

County Commissioners.

The erection of such notices shall be at the expense of the respective counties, and at least twenty in number shall be posted and maintained in each and every county in this state. The state forest commissioner may also post similar notices to be signed by himself at such points throughout the state as may to him seem necessary or expedient. (Sec. 1227, Rev. Stats. 1908.)

NOTE.—There seems to be no appropriation providing a fund for the payment of the reward mentioned above. It is doubtful if it could be collected, unless an act were passed by the legislature to that effect.

61. PENALTY FOR DESTROYING NOTICES — Whoever shall wilfully destroy, remove, injure or deface, any such notice, erected on any highway as aforesaid, or shall wilfully injure or deface any inscription or device comprising such notice, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any justice of the peace or court of competent jurisdiction, shall be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding three months, or both, in the discretion of the court. (Sec. 1228, Rev. Stats. 1908.)

62. SHERIFF'S DUTY IN RE FIRES — The sheriff of every county shall, in addition to other duties, act as fire wardens of their respective counties in case of prairie or forest fires. (Sec. 1280, Rev. Stats. 1908.)

63. SHERIFF ASSUME CHARGE—EXPENSES—It shall be the duty of the sheriff, under-sheriffs and deputies, in case of any forest or prairie fire, to assume charge thereof; for controlling and extinguishing the same, they may call to their aid, such person or persons of their county as they may deem necessary. The county commissioners may allow the sheriff five dollars per day for such services, and the deputies not to exceed three dollars per day, and such other expenses necessarily incurred as they may deem just. (Sec. 1281, Rev. Stats. 1908.)

64. GUARD LINES TO PROTECT FORESTS FROM FIRES — Any person who shall start or cause or suffer to be started any fire on his own premises or elsewhere, in or near any woodland, forest or prairie, without having first prepared a good and sufficient guard line, by ploughing or otherwise around the place where the fire is to be started, sufficient to prevent the spreading of fire beyond the guard line, shall be deemed guilty of a misdemeanor. All camp fires must be totally extinguished before breaking camp. (Sec. 2652, Rev. Stats. 1908.)

65. FIRES—CAMP FIRES—RESTRICTED—No person shall set fire to any timber or grass on land belonging to this state or to the United States, or set fire in any place where it is liable to spread to such timber or grass, nor leave any camp fire unextinguished, and

every officer having authority in relation to timber or timber reserves of the United States shall have the same authority under this act as a deputy warden. (Rev. Stats. 1908, Sec. 2737.)

66. FLOATING TIMBER—No dynamite or other explosive or poisonous or stupefying substance whatever shall be used in the taking or killing of any fish, nor placed in any waters containing fish, except when done by public authority for public improvement, nor shall any ties or timber be driven or floated down any stream containing fish. (Sec. 2758, Rev. Stats. 1908; Laws '99, page 192, Sec. 6.)

67. WHEN TIMBER MAY BE FLOATED DOWN STREAMS—That it shall and may be lawful for any person or persons to float any and all kinds of timber, such as saw logs, ties, fencing poles or posts and fire wood, down any of the streams of this state; Provided, That any person or persons desiring to float any such timber down said streams, shall first execute a bond running to the people of each county through which such timber is to be floated, in a sum sufficient to cover all damages that may be done to any bridges, dams or irrigating ditches that are now or may hereafter be constructed in or across any streams of this state; such bond to be approved by the board of county commissioners of the county or counties through which such timber is to be floated. (Sec. 6458, Rev. Stats. 1908; Laws '72, page 134, Sec. 1.)

68. GOVERNOR APPOINT UNITED STATES FOREST OFFICERS FIRE WARDENS—The Governor may, at his discretion, appoint forest officers of the United States to act without pay as Game Wardens in enforcing the game and fish laws of this state and as Fire Wardens in enforcing the laws of this state as to forest fires, who shall have power to incur necessary expenses to extinguish forest fires. Such forest officers shall hold their positions as Game and Fire Wardens during the pleasure of the Governor. (Laws 1909, Sec. 1, page 394.)

69. BEAVERS INJURING TREES—Beavers which interfere with the maintenance or operation of any canal, ditch, or lawful dam, or the cultivation of land, or injure timber, may be killed at any

time in pursuance of written permission from the commissioner (Game and Fish Commissioner) first obtained, under such regulations as he may provide as to the disposition of the skins. (Laws 1909, page 387. Chapter 167, Sec. 2759-b.)

70. PENALTY FOR GIRDLING OR DESTROYING TREES OF ANOTHER—If any person shall wilfully and maliciously cut down, break down, level, demolish or otherwise destroy or damage any bridge, embankment, mill-dam or ditch, being the property of another; or break, destroy, or cause to be damaged by his act any machinery or boiler belonging to another; or break or destroy the windows or doors of any dwelling house, or other house belonging to another; or shall set fire to, or burn or destroy, or procure or cause to be burned or destroyed any barrack, cock-crib, rick or stack of hay, corn, wheat, oats, barley, or other grain of any kind, or any straw stack, being the property of another, or shall cut down, girdle or destroy any fruit tree or shade tree standing or growing upon the premises of another; or shall cut, pull down or destroy any gatepost, railing or fence; or shall pull down, burn or destroy any pile or piles of wood, boards or planks, or other lumber, being the property of another; or shall for malice or mischief overturn any cart, wagon or other carriage, or run them into sloughs, holes or other places; or shall unlawfully, wantonly, wilfully or maliciously kill, wound, disfigure or destroy any horse, mare, filly, colt, gelding, mule or burro, or any bull, ox, steer, bullock, cow, heifer or calf, or any sheep or lamb, or any hog, pig, dog or any other useful animal, being the property of another; or shall wantonly, unlawfully, wilfully or maliciously destroy or injure the personal or real property of another by any means not particularly mentioned or described in this act, when the damage to the real or personal property destroyed or injured shall be twenty dollars or less, shall on conviction, be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not more than three months, or both such fine and imprisonment, in the discretion of the court; or where the damage to the real or personal property destroyed or injured shall exceed twenty dollars, but shall be less than one hundred dollars, shall on conviction, be punished by a fine of not exceeding one thousand dollars, or imprisonment in the county jail not exceeding one year, or

both such fine and imprisonment, in the discretion of the court; or where the damage to the real or personal property destroyed or injured exceeds the sum of one hundred dollars, shall on conviction, be punished by imprisonment in the penitentiary for not less than one year nor more than ten years. (Rev. Stats. 1908, Sec. 1874.)



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