

was dead, Falkenberg. I intended to get a horse from the corral. I thought I could get an Indian pony. They spoke about starting for a doctor. I said, "It's no use, he would be dead in twenty minutes." The boys had him on the floor. I said, "Put him on the bed and pack flour on him to stop the blood." I went back and got Falkenberg. When I got back he (Miller) was dead. I never went in to look at the sheriff any more. When we got there he was dead. They laid him on canvas, and I never examined the wound, only when they picked him up on the ground.

Q. Did you see where they picked him up?—A. Yes, sir.

Q. Any blood there?—A. Yes, sir.

Q. Quite a considerable amount of it?—A. Yes, sir.

The court then adjourned to 7.30 p. m. of the same day.

At 7.30 p. m., October 14, 1903, the court reconvened.

JAMES DAVIS, witness for the prosecution, recalled.

By Mr. MECUM:

Q. Will you please tell the court what was done with the sheriff and this other man that was killed?—A. Sunday morning, between 10 and 11 o'clock, I started with the bodies to New Castle.

Q. When the deputized coroner arrived there you had left?—A. I had, sir.

WILLIAM HEDDEN, a witness called on behalf of the prosecution, and being first duly sworn according to law to testify the truth, the whole truth, and nothing but the truth, testified as follows:

By Mr. MECUM:

Q. Please state your name, residence, and occupation.—A. William H. Hedden. I have been working at sheep ever since I have been here.

Q. Were you out on Lightning Creek where this battle ground was?—A. I was.

Q. I will ask you if you examined any of the wagons shortly after the battle?—A. Yes, sir.

Q. Where did you find them, and how many wagons were there?—A. We found there were ten wagons near Twenty-Mile Creek, something like four miles from the battle ground.

Q. Were these the Indians' wagons taken there by these Indians?—A. I suppose they were.

Q. State just what you saw.—A. All I seen was some antelope hides, antelope meat, and a lot of old rubbish—some old clothes.

Q. About how many antelope hides did you see there?—A. Something like 75 at the wagons.

Q. State whether there were any other antelope hides on the ground about the wagons.—A. No, sir; I didn't see any on the ground. There were some strewn on the ground from the battle ground on the road.

Q. How many did you see on the ground, on the road from the battle ground?—A. A dozen, I should think.

Q. Did you see any meat in the wagons?—A. Yes, sir; there was meat.

Q. About how much of that meat did you see?—A. I could not say; but there was a good deal of it. I should judge there was something like 50 to 100 pounds in each wagon—maybe more than that.

Q. Did you examine any other wagons—did you see any other wagons besides these 10 you speak of?—A. Yes, sir; 3 wagons down at Mills's cabin.

Q. Did you see any antelope meat or hides there?—A. Yes, sir; some antelope meat and hides.

Q. How many?—A. I should judge, 15 antelope hides down at the cabin.

FOSTER ROGERS, called as a witness on behalf of the prosecution, and, being first duly sworn according to law to testify the truth, the whole truth, and nothing but the truth, testified as follows:

By Mr. MECUM:

Q. Please state your name, residence, and occupation.—A. Foster Rogers is my name; Hat Creek is where I get my mail, this State; I am a laboring man.

Q. Where were you and what were you doing on the 31st day of October, 1903?—A. Was on Lightning Creek and was herding sheep.

Q. You were present at the battle between the sheriff's posse and the Indians on that date?—A. I was.

Q. From the sheep corral there will you state where you were located, about how far, and what direction from the sheep corral?—A. Southwest; probably 200 yards.

Q. From your position at that time could you see the Indians and white men while they were shooting?—A. I could not.

Q. Did you hear any shots from where you were?—A. Yes, sir.

Q. Describe just how you heard those shots.—A. The first firing was one distinct shot, or probably two or three; and then they came thick and fast.

Q. Did you see any of the Indians there after the battle or during the battle?—A. I could see the rear end of the train during the battle, but they wasn't engaged.

Q. About where was the rear end of the train or wagons when the battle began?—A. It was probably 200 yards back from where the main firing took place.

Q. Did you see any of the Indians when they were returning from the battle?—A. Yes, sir.

Q. Will you look at these men and see if you identify any of them as the men you saw there?—A. I can't identify any of them.

Q. How close were you to the Indians you saw, and how many did you see?—A. I was closer to some than others, two right behind me about 50 yards distant, but I can't identify them.

Q. How far were you from the road?—A. About 150 yards.

Cross-examination by Mr. BURKE:

Q. It was daylight?—A. Yes, sir; before sundown.

Q. There were some of the Indians at the tail end of the train when you first saw it?—A. There would have to be drivers for the wagons.

Q. So you say there were some of them at the tail end of the train, were they?—A. Yes, sir.

Q. You didn't see them rushing forward, did you, toward the front end of the train?—A. I didn't pay particular attention.

Q. You don't remember seeing any of them rushing forward to the front end of the train?—A. I remember seeing one horseman riding up with the train.

Q. The wagons turned and went back again; or what became of them?—A. Yes, sir; they turned and went back on the same road.

Q. How many wagons did you see returning back on the same road?—A. I could not say. I know that one or more wagons split off and went out west; I saw that.

Q. Did you see some turn back on the road they came over?—A. Yes, sir.

Q. And some horsemen?—A. Yes, sir.

Q. Those you didn't see doing any shooting, did you?—A. I was out of sight at the time of the shooting; that is, of the participants in the battle.

Q. Were there two or three shots fired very close together to commence with; did it make any impression on your mind just how it occurred?—A. The first shot was distinctly by itself. I would have taken it to be a black-powder gun. It was a very loud report.

Q. Could you locate where that was from where you was; did you at the time locate where it was?—A. No; I just noticed the direction, noticed it was southeast from where I stood.

Q. And then the others came pretty rapidly from that on?—A. Yes, sir; after the first one or two shots they came pretty fast.

Redirect examination by Mr. MECUM:

Q. You say there was one man running up toward where the battle was before the shooting?—A. Yes, sir; a horsebacker.

Q. How long before the shooting was that?—A. Just before the shooting commenced.

Q. At the time the shooting commenced you could not see any of the participants?—A. I could see the rear end of the train, but I could not see the participants in the battle.

Q. On the rear end of the train, did you see any of the buck Indians, or only the women?—A. I could not say; it is hard to tell them.

The prosecuting attorney thereupon read in evidence the complaint and warrant thereon issued by the justice of the peace in Weston County, which are attached hereto as marked respectively exhibits B and C.

Mr. MECUM. We withdraw the name of Louis Falkenberg from the information.

The State then rested its case.

Mr. BURKE. At this stage of the case we will enter a demurrer to the evidence, and ask that the prisoners be discharged. The demurrer being argued by counsel for the prisoners and the prosecuting attorney, the court sustained the demurrer and discharged the prisoners.

EXHIBIT A.

Criminal complaint.

THE STATE OF WYOMING,
County of Converse, ss:

In the justice court before H. R. Daniels, justice of the peace. The State of Wyoming v. He Crow, Fool Heart, Jesse Little War Bonnet, Charging Wolf, Broken Nose, James White Elk, Red Paint, Jack High Dog, Iron Shield.

Comes now John A. McDermott, who, being first duly sworn in the name and by the authority of the State of Wyoming, informs the court and gives the court to understand that He Crow, Jesse Little War Bonnet, Fool Heart, Charging Wolf, Broken Nose, James White Elk, Red Paint, Jackson High Dog, and Iron Shield, late of the county aforesaid, on the 31st day of October, A. D. 1903, at and in the county of Converse, in the State of Wyoming, did willfully, maliciously, unlawfully, purposely, deliberately, feloniously, and each of his malice aforethought, and with premeditated malice and with force and arms, assault, shoot, wound, kill, and murder one William H. Miller, and one [Louis Falkenberg], then and there being, two human beings, at one time and in one united and concerted action, by means of guns and rifles, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Wyoming.

Second count.—That the said above-named defendants at and in the county of Converse and State of Wyoming, on the said 31st day of October, A. D. 1903, they then and there being, did willfully, maliciously, unlawfully, purposely, feloniously, and with premeditated malice, and with force and arms, assist, encourage, counsel, command, abet, and cause to be feloniously, purposely, and with premeditated malice the said William H. Miller and ——— to be assaulted, shot, killed, and murdered, two human beings then and there being, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Wyoming.

JOHN A. McDERMOTT.

Subscribed and sworn to before me and in my presence this 10th day of November, A. D. 1903.

H. R. DANIELS,
Justice of the Peace in and for Converse County, Wyo.

The foregoing complaint has the following indorsement:

In justice's court. Amended complaint, before H. R. Daniels, justice of the peace. Criminal complaint. The State of Wyoming v. He Crow, Bull Hide, Jesse Little War Bonnet, Charging Wolf, Broken Nose, James White Elk, Red Pin, Jackson High Dog, and Iron Shoe. Filed November 10, 1903.

EXHIBIT B.

Criminal complaint.

The State of Wyoming v. John Doe and Richard Roe (real names unknown), before F. R. Cooper, justice of the peace.

THE STATE OF WYOMING,
County of Weston, ss:

In the name of and by the authority of the State of Wyoming, I, W. H. Miller, do solemnly swear that on or about the 19th day of October, A. D. 1903, in the county of Weston, and State of Wyoming, the said John Doe and Richard Roe (real names unknown) did willfully, maliciously, and unlawfully kill ten antelope, against the peace and dignity of the State of Wyoming and the statute in such cases made and provided.

W. H. MILLER.

Sworn to before me this 22d day of October, A. D. 1903.

F. R. COOPER,
Justice of the Peace.

STATE OF WYOMING,
County of Weston, ss:

I hereby certify that the above is a true copy of complaint in the case of State of Wyoming v. John Doe and Richard Roe (real names unknown).

F. R. COOPER,
Justice of the Peace.

Certificate of county clerk.

I, A. L. Putnam, clerk of the county of Weston, State of Wyoming, do hereby certify that F. R. Cooper, esq., who has signed his name to the foregoing and annexed criminal complaint, was at the time of so doing a justice of the peace in and for the county and State aforesaid, duly commissioned and sworn; that all his official acts are entitled to full faith and credit, and that his signature thereto is genuine.

His term expires first Monday, January, 1905.

Witness my hand and official seal this 12th day of November, A. D. 1903.

A. L. PUTNAM, County Clerk.

In justice court. Before F. R. Cooper, justice of the peace. Criminal complaint. State of Wyoming v. John Doe and Richard Roe (real names unknown). Filed this 22d day of October, 1903. F. R. Cooper, justice of the peace.

EXHIBIT C.

Criminal warrant.

THE STATE OF WYOMING,
County of Weston, ss.

To the sheriff, or any constable of said county, greeting:

Whereas W. H. Miller has this day complained in writing to me, on oath, that John Doe and Richard Roe (real names unknown) did, on or about the 19th day of October, A. D. 1903, at ———, in the county and State aforesaid, willfully, maliciously, and unlawfully kill 10 antelope, and prayed that the said John Doe and Richard Roe might be arrested and dealt with according to law. Now, therefore, in the name of the State of Wyoming, you are commanded forthwith to apprehend the said John Doe and Richard Roe and bring them before me to be dealt with according to law.

Given under my hand and seal this 22d day of October, A. D. 1903.

F. R. COOPER,
Justice of the Peace.

STATE OF WYOMING,
County of Weston, ss:

I hereby certify that the above is a true copy of the warrant in the case of State of Wyoming v. John Doe and Richard Roe.

F. R. COOPER,
Justice of the Peace.

Certificate of county clerk.

I, A. L. Putnam, clerk of county of Weston, State of Wyoming, do hereby certify that F. R. Cooper, esq., who has signed his name to the foregoing and annexed criminal warrant, was at the time of so doing a justice of the peace in and for the county and State aforesaid, duly commissioned and sworn; that all his official acts are entitled to full faith and credit, and that his signature thereto is genuine.

His term expires first Monday, January, 1905.

Witness my hand and official seal this 12th day of November, A. D. 1903.

A. L. PUTNAM, County Clerk.

THE STATE OF WYOMING,
County of Laramie, ss:

I, Clyde M. Watts, do hereby certify that I reported in shorthand the evidence offered at the preliminary examination of He Crow, Fool Heart, Jesse Little War Bonnet, Charging Wolf, Red Paint, James White Elk, Broken Nose, Jack High

Dog, Iron Shield, at Douglas, Wyo., on the 14th day of November, 1903; that the above and foregoing is a full, true, and complete transcript of my shorthand notes of such evidence, together with a copy of each and every exhibit offered in evidence, and a copy of the map used at the examination, but which was not offered in evidence.

Dated this 11th day of December, 1903, Cheyenne, Wyo.

CLYDE M. WATTS.

DEPARTMENT OF JUSTICE,
Washington, D. C., December 29, 1903.

SIR: Referring to my letter of the 22d instant, inclosing a report from United States attorney of Wyoming, I send you herewith for your information copy of the game and fish laws of Wyoming, forwarded by him.

Respectfully,

H. M. HOYT,
Acting Attorney-General.

THE SECRETARY OF THE INTERIOR.

GAME AND FISH LAWS OF THE STATE OF WYOMING, 1903.

[Revised Statutes of Wyoming, 1899. Division 1, Title XV, game and fish, as amended by chapters 44 and 22, Session Laws of 1903.]

CHAPTER I.

GAME.

Game warden—Powers and duties—Bond—Salary.

SEC. 2101. The governor shall appoint a suitable person to serve as State game warden whose duties it shall be to protect the game and fish of this State and to enforce the laws relating thereto. The State game warden shall hold his office for four years and until his successor is appointed and qualified. Before entering upon the duties of his office the State game warden shall execute a bond to the State of Wyoming in the penal sum of (\$3,000.00) three thousand dollars, conditioned for the faithful performance of his duties, and his bond shall be approved by the governor. The governor shall have power, at any time, to remove the State game warden, for misconduct or neglect of his duties, upon written charges duly preferred; but the State game warden shall be heard in his own defense. He is hereby authorized to arrest, without warrant, any person or persons found violating any of the provisions of the game and fish laws when detected in the act or found with game or fish in their possession at the time of arrest. The State game warden shall be an active executive officer, and shall at all times, when possible, take the field in person in the performance of his duties. He shall personally supervise the protection of all game and the detection and punishment of violators of the game and fish laws. The State game warden shall be allowed to grant a permit to the agents of the Smithsonian Institute or other well known scientific institutions to take and ship out of this State game animals or birds for scientific purposes. Whenever the State game warden or his legal assistants meet with resistance when attempting the arrest of any person or persons for a violation of the game or fish laws he or his assistants shall have power and authority to call upon any peace officer or any citizen of Wyoming to assist in making such arrest. The State game warden is hereby authorized to employ an attorney to prosecute violators of the game and fish laws when deemed necessary, such attorney to be paid from the State game fund: *Provided*, That not more than (\$200) two hundred dollars per annum be expended in this manner. The State game warden shall be required to make an annual report to the governor, and all assistant game wardens be required to report monthly to said State game warden. The State game warden shall be paid the sum of (\$1,500) fifteen hundred dollars per annum, payable monthly from the general fund of the State, together with an allowance of (\$200) two hundred dollars per annum for contingent expenses.

Assistant game wardens—Salary—Bond.

SEC. 2102. The State game warden shall have power to appoint such assistants as are necessary, in the various counties of this State, to properly enforce the laws, and he is hereby authorized and directed to appoint three assistant game wardens from different parts of the State, no two to be appointed from any one county, to be paid

an annual salary of (\$900) nine hundred dollars each, payable quarterly, out of the State game fund. And he is hereby authorized and directed to appoint one or more special assistant game wardens, as the emergency may demand, in any county of this State; said special assistant game wardens to be paid the sum of three dollars per day during the time of actual service. All salaries to be paid from the State game fund after the accounts have been approved by the State game warden. The three assistant State game wardens shall execute a bond to the State of Wyoming in the penal sum of (\$1,000) one thousand dollars each; and all special assistant game wardens shall execute a bond to the State of Wyoming in the penal sum of (\$500) five hundred dollars each, conditioned for the faithful performance of their duties, said bond to be approved by and filed with the State game warden; and they shall have the same power to make arrest as the State game warden. Their commissions may be revoked at any time, for good and sufficient cause, by the State game warden: *Provided*, That persons employed in this State by the Federal Government for the protection of the various forest reserves and known as "forest rangers" may be appointed special assistant State game wardens, without pay or bond, and at the pleasure of the State game warden. And it is hereby declared by the legislature of the State of Wyoming that the office of the "forest rangers," under the Department of the Interior of the United States, shall not be incompatible with the office of special assistant game warden, within the meaning of section 19 of article 6 of the constitution of the State of Wyoming. The State game warden shall file with the governor a list of all assistant and special assistant game wardens appointed by him.

Appropriations—Neglect of duty—Penalty.

SEC. 2103. There is hereby appropriated out of the moneys of this State, not otherwise appropriated, the sum of (\$2,000) two thousand dollars, or so much thereof as may be necessary for the year 1903, and the sum of (\$2,000) two thousand dollars, or so much thereof as may be necessary for the year 1904, to be credited to the State game fund hereinafter provided for, for the years 1903 and 1904. Whenever the attention of the State game warden or of any assistant State game warden, sheriffs, deputy sheriffs, or constables is called to any violation of any of the provisions of this title, and he shall fail to take proper steps for the arrest and conviction of any person or corporation charged with such violation, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than fifty nor more than two hundred dollars and shall have his commission revoked.

Wanton destruction of game and fish prohibited.

SEC. 2104. The wanton destruction or the wasting of the game and fish of this State during any period of time when the taking or capture of such game or fish is permitted is hereby prohibited and declared a misdemeanor, and any and all persons who shall at any time take, kill, capture, or destroy any game or fish in excess of the number provided by law shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less twenty-five nor more than one hundred dollars and the costs of prosecution, to which may be added a sentence of not more than thirty days in the county jail.

Open season—Sage chickens, prairie chickens, and grouse.

SEC. 2105. No person shall kill, net, or trap within this State, except as hereinafter provided, any snipe, greenshank, tattler, godwit, curlew, avocet, or other wader or plover, nor any quail, lark, whip-poor-will, finch, thrush, snowbird, turkey buzzard, robin, or other insectivorous birds except that partridges, pheasant, prairie chicken, prairie hen may be shot from September first to December first of each year, and sage chickens or grouse may be shot from July fifteenth to October fifteenth of each year, and if at any time any person shall be found in possession of any partridge, pheasant, prairie hen, prairie chicken, or grouse or sage chicken, at any other time than between the dates above mentioned, or any other of the fowls or birds mentioned in this section, except in the season, it shall be prima facie evidence that the same was killed, netted, ensnared, or trapped by such person in violation of the provisions of law: *Provided*, That snipe, greenshank, tattler, godwit, curlew, avocet, or other wader or plover may be shot from the first day of September to the first day of May of each year: *Provided also*, That this section shall not be construed to prohibit any person from importing or dealing in quail, partridge, prairie chicken, prairie hen, pheasant, or grouse during the open season for such birds in this State. Any person who shall violate any of the provisions of this section shall be deemed

guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten nor more than fifty dollars, together with costs of suit, and shall be prosecuted and punished in the same manner as in other cases of misdemeanor.

Open season—Ducks and geese.

Sec. 2106. No person or persons shall ensnare, net, or trap within this State any wild duck, wild geese, wild swan at any time. Any person or persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty nor more than fifty dollars for each duck, goose, or swan thus ensnared, netted, or trapped. There shall be established from the first day of September to the first day of May in each year an open season in which ducks, brant, or geese may be shot, killed, or taken by means of gunshot, but nothing but shoulder guns may be used at any time. And it shall be unlawful to kill any of the above-mentioned water fowls by any other means or during any other period than above specified: Provided, That it shall be unlawful for any person or persons to kill any wild swan in the State of Wyoming. Any person or persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than twenty-five dollars for each offense, or may be imprisoned in the county jail for not more than sixty days.

Open season—Deer, elk, goat, bear—Unlawful to kill moose or antelope.

Sec. 2107. It shall be unlawful to kill any moose in the State of Wyoming till the fifteenth day of September, 1912. It shall be unlawful to trap or kill any marten in the State of Wyoming till the fifteenth day of September, 1912. It shall be unlawful to pursue, hunt, or kill any deer, elk, antelope, mountain sheep, or mountain goat at any time except from the fifteenth day of September till the fifteenth day of November of each year. It shall be made a misdemeanor to hunt, kill, or trap bears upon any of the national forest reserves within the State of Wyoming except during the open season for the hunting and killing of elk, deer, or mountain sheep and mountain goat, and then only by persons hunting legally. It shall be unlawful, at any time whatsoever to kill or capture any of the above-named animals, except bears, by means of any pit, pitfall, trap, or snare. Any person may, during the period permitted and prescribed by this section, pursue, hunt, and kill any of the above-named animals under the conditions and restrictions hereinafter imposed, except as hereinbefore provided. It shall be unlawful for any person to kill any of the game animals or birds of this State at any time without a gun license, as hereinafter provided for.

Gun license.

Sec. 2108. Any person who is a bona fide citizen of the State of Wyoming shall, upon the payment of one dollar to any justice of the peace of the county in which he resides, be entitled to receive from said justice of the peace a gun license, which license shall permit such person to pursue, hunt, and kill any animals mentioned in section two thousand one hundred and seven during the time allowed therefor, of the current year in any of the counties of this State, and such gun license shall state the name, occupation, and place of residence of the person holding the same. But no person shall be required to take out such gun license in order to pursue, hunt, and kill any of the animals mentioned in section two thousand one hundred and seven, during the time allowed therefor, in the county in which he actually resides. Any person who is not a bona fide resident taxpayer of the State of Wyoming shall, upon the payment to any justice of the peace of this State of the sum of fifty dollars and the employment of a qualified guide, be entitled to receive from such justice of the peace a license, which license shall permit such persons to pursue, hunt, and kill any of the animals mentioned in sec. 2107, or any of the game birds of this State, during the time allowed therefor of the current year: Provided, That nothing in this chapter shall prevent bona fide resident minors of this State from killing any of the game birds of this State during the open season.

Amount of game limited.

Sec. 2109. During the open season of each year no person shall be permitted to pursue, hunt, and kill more than two elk, two deer, two antelope, one mountain sheep, and one mountain goat, and all gun licenses issued by the justices of the peace of this State shall state the number of animals that may be killed by the holder of

such license. Every person who shall have procured and paid for a gun license shall be entitled to the use and possession of the whole or any part of any animal killed in accordance with the provisions of this chapter; but the barter or sale of the carcasses, skins, antlers, tusks or tusk, teeth or tooth of the animals mentioned in this chapter is hereby prohibited, and the possession of such carcasses, skins, antlers, tusks or tusk, teeth or tooth in excess of the number provided for in this section shall be considered prima facie evidence of the violation of the provisions of this chapter. It shall be a misdemeanor for any person to have in possession or to buy or sell any game or fish in this State which was killed or taken in another State, when the possession of or buying or selling of such game or fish is prohibited in this State.

Guides.

SEC. 2110. No person shall engage in the business of guiding, as the term is commonly understood, without having first procured from some justice of the peace of the county in which he resides a guide's certificate. Any competent person of good moral character who is a bona fide citizen and qualified elector of the State of Wyoming, shall, upon the payment of ten dollars to a justice of the peace of this State, be entitled to receive a certificate as guide, which certificate shall be valid only for the term of one year from date of issue, and shall state the name, age, and place of residence of the holder of the same, and shall recite that the holder of such certificate is a person of good moral character. Every person before obtaining such certificate shall present to the justice of the peace the affidavit of two resident taxpayers, known to said justice of the peace, corroborating his own affidavit, that he is a qualified elector of the State of Wyoming, and all such guides shall be required to furnish the State game warden sworn reports each year not later than December first, said reports to contain the names of persons guided, number of animals killed, and disposition of same, and the name of the justice of the peace granting such certificate to guide. Every person acting as guide in this State shall be ex officio assistant game warden, and shall file with the justice of the peace granting him his certificate his oath of office as such assistant game warden. Any person acting as guide for any person shall be equally responsible with such person for any violation of the law, and any such guide who shall fail or refuse to report any such violation of the law by the person employing him, shall be liable to the penalties prescribed in sec. 2116, and in addition to such penalties, such guide shall have his certificate revoked, and shall be ineligible to act as guide for a period of five years from the date of his conviction. Any person who shall, for pay, aid or assist any person or party in locating, pursuing, hunting, and killing any of the animals mentioned in this chapter shall be deemed a guide within the meaning of this section.

Nonresident must have guide.

SEC. 2111. It shall be unlawful for any nonresident person to kill any of the animals mentioned in this chapter unless accompanied by a qualified guide.

Game may be shipped—when.

SEC. 2112. Every nonresident person who has complied with the requirements of sec. 2108 shall be allowed to transport beyond the limits of this State any carcasses, heads, antlers, scalps, skins, teeth or tooth, tusks or tusk of any animals killed in accordance with the provisions of this chapter, and the gun license of such person shall be considered as evidence that such carcasses, heads, skins, scalps, teeth or tooth, tusks or tusk were taken from animals which were killed in season and according to law. The State game warden and his assistants, and all sheriffs and constables of this State, shall have the right to search any camp, camp outfit, pack or pack animals for carcasses, hides, horns, scalps, teeth or tooth, tusks or tusk, or any other parts of animals killed in violation of the provisions of this chapter.

License must be carried.

SEC. 2113. It shall be the duty of all persons holding licenses as herein provided for to produce the same when demanded by any duly authorized officer of the law. Each act of pursuing, killing, or hunting of any of the animals mentioned in this chapter without a license shall be considered a distinct and separate offense. The several district courts of this State shall have original jurisdiction, as well as justices of the peace, of any violation of the provisions of sections 2107 to 2115, inclusive.

State game fund.

Sec. 2114. All moneys collected for licenses and for certificates to guides, as herein provided, shall, within thirty days after the receipt of the same by any justice of the peace, be paid into the State treasury. Every justice of the peace shall, also, furnish the State treasurer, with each remittance, a list of the names of all persons who have secured from him licenses and guide certificates and the date of such licenses and certificates. All monies so paid into the State treasury shall be, and are hereby, constituted a State game fund; said fund to be drawn upon only for the payment of assistant game wardens and attorneys' fees, as hereinbefore provided.

Compensation of justices.

Sec. 2115. The justices of the peace collecting and accounting for the licenses and certificates provided for in this chapter shall be allowed as compensation, for such services, five per centum of all monies so collected, which commissions may be retained by the said justices of the peace. Any justice of the peace of this State who shall fail or refuse to pay unto the State treasury all monies collected by him as provided for in sec. 2114 shall be immediately removed from office, and shall be liable for criminal prosecution.

Penalty.

Sec. 2116. Any person or persons violating any of the provisions of sections 2107 to 2115, inclusive, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five nor more than one hundred dollars and costs, or by imprisonment in the county jail not less than ten nor more than ninety days.

Unlawful to capture or sell game animals.

Sec. 2117. It shall be unlawful at any time to capture or pursue for the purpose of capturing any of the wild animals mentioned in section 2107, of whatever age, for the purpose of selling or disposing of the same, or for shipping the same out of the State, except as hereinbefore provided. Provided, It shall be lawful to sell any colon or quail for the purpose of breeding or to take the same alive for preservation through the winter.

Beaver.

Sec. 2118. It shall be unlawful for any person to kill, wound, ensnare, or entrap any beaver or kitten beaver within the State of Wyoming until the fifteenth day of September, 1912. Provided, That any resident taxpayer and bona fide owner of real estate in this State, may, upon his own premises, or upon the right of way of his own ditches, kill or destroy beaver when necessary for the protection of his dams, irrigating ditches, and trees, and to prevent the overflow of water on his lands. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty nor more than fifty dollars, or shall be sentenced to the county jail for a period of not less than twenty days.

Unlawful to kill or capture buffalo.

Sec. 2119. It shall be unlawful for any person to kill, chase, pursue, or catch any buffalo of any age at any season of the year in the State of Wyoming, or to drive, or in any manner remove or transport any buffalo out of the State of Wyoming. Any person or persons who shall violate the provisions of this section shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State penitentiary for not less than three nor more than ten years. Provided, That this section shall not apply to tame or domesticated buffalo.

Unlawful to buy hides or horns.

Sec. 2120. It shall be unlawful for any person or persons to purchase or obtain by barter any green or untanned hides or hide, tusks or tusk, teeth or tooth, or horns of any animal mentioned in sec. 2107. All professional taxidermists who mount specimens of game animals, birds or fish for profit, shall be required to keep posted in a conspicuous place in their respective shops or offices, a list of the names of all persons who furnish them with raw or unmounted specimens; and such taxidermists

shall be required to exhibit such list, together with all unmounted specimens in their possession, to the State game warden or his assistants upon request. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than twenty nor more than two hundred dollars or imprisoned in the county jail for a period of thirty days.

Game may be shipped—When.

SEC. 2121. It shall be unlawful for any railway, express company, stage line or other public carrier, or any of their agents or employees, or other person or persons to receive or have in their possession for transportation any carcass, or part of carcass, hides untanned, teeth or tooth, tusks or tusk, or horns of any of the animals mentioned in this chapter, except as otherwise provided by law. Except that nothing in this chapter shall prevent shipping or transporting in any manner mounted heads or stuffed birds or animals to any point in or out of the State: Provided, That such birds or animals were not killed in violation of this chapter, or that heads or horns were not taken from animals killed in violation of this chapter. Any person or persons or corporation knowingly transporting game or fish for market within or out of the State shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not less than one hundred dollars nor more than five hundred dollars for each consignment from one consignor to one consignee. Provided, That none of the provisions of this section shall apply to game or fish in transit through this State from other States and Territories.

State examiner shall furnish blanks—Duty county clerk—Appropriation.

SEC. 2122. The county clerk of each county in this State shall, on or before June first of each year, furnish to the State examiner a full, true, and complete list of names of all justices of the peace within his respective county, together with their post-office addresses. The State examiner is hereby authorized and directed to furnish to such justices of the peace printed licenses and certificates, in accordance with the provisions of this act, prepared with stubs and coupons securely bound in books and numbered consecutively. Such books, together with the stubs and any unused licenses or certificates shall be returned to the State examiner by the justices of the peace on or before December first in each year. For the purpose of defraying the cost of printing licenses and certificates and paying postage the sum of two hundred dollars per annum, or so much thereof as may be necessary, is hereby appropriated out of any funds in the State treasury not otherwise appropriated.

Use of dogs in hunting prohibited.

SEC. 2123. It shall be unlawful for any person or persons to use dogs for the purpose of running or coursing deer, antelope, elk, or mountain sheep, and any person or persons found guilty of such running or coursing shall be fined in a sum of not less than ten nor more than fifty dollars for each offence, and in default of payment shall be imprisoned in the county jail not less than ten nor more than sixty days.

County commissioners may appoint game and fish wardens.

SEC. 2124. For the more certain detection and punishment of the violators of the provisions of this title the board of county commissioners of any county may, in their discretion, appoint a game and fish warden for the county, who shall hold his office during the pleasure of said board, and shall be subject to removal at any time. He shall receive such compensation as the board of county commissioners may determine, which shall be at a rate not to exceed three dollars per day for the time actually and necessarily employed by him in the discharge of his duties, and he shall be paid out of such funds as the board may direct. Before entering upon his duties he shall take and subscribe an oath before some officer authorized by the laws of the State to administer oaths to faithfully perform the duties of his office. Whenever the attention of the county game and fish warden is called to any violation of the provisions of this title, and he shall fail to take proper steps for the arrest and conviction of any person or persons or corporation charged with violating any of the provisions of this title he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not greater than one hundred dollars and shall have his commission revoked. Provided, That nothing in this chapter shall prevent the State game warden from appointing such deputies in each county as he deems necessary, as hereinbefore provided. Nothing in this title shall apply to any private fish pond.

Disposition of fines.

Sec. 2125. Upon the arrest and conviction of any person or persons violating any of the provisions of the game and fish laws the whole of the fine shall be paid into the general school fund.

Authority of officers.

Sec. 2126. Any officer authorized to enforce the fish and game laws of this State, with or without process, shall arrest any violator of any of the provisions of this title and such officer shall, with diligence, cause such person to be taken before the proper court for trial or examination, which trial shall be had upon complaint or information as now provided by law. Any game warden, sheriff, constable, or other officer of the law may at any time seize and take into his custody any game or fish or any carcass thereof, or any portion of the same which he may find at any time in the possession of any person or corporation during the period when the capture of such game or fish is not permitted by the laws of this State, and such game or fish shall be sold when practicable by said officer, and the money derived from the sale thereof shall be paid into the State game fund. Provided, That this section shall not apply to any stuffed carcass or stuffed head, or skins of animals which were taken or captured during the season allowed therefor.

CHAPTER 2.

FISH.

Fish hatchery districts.

Sec. 2127. The State of Wyoming is hereby divided into fish hatchery districts, denominated fish hatchery district number one and fish hatchery district number two. Fish hatchery district number one shall be composed of the counties of Albany, Laramie, Converse, Natrona, Fremont, Carbon, Sweetwater, and Uinta, and fish hatchery district number two shall be composed of the counties of Sheridan, Johnson, Weston, Crook, and Bighorn.

Appointment of superintendent—salary—bond.

Sec. 2128. The governor shall nominate, and, by and with the consent of the Senate, appoint a superintendent for each of the districts hereby created, who shall be a resident of the district for which he is appointed, and shall hold his office for four years or until his successor shall have been appointed; Provided, When a vacancy occurs the governor shall have power to fill such vacancy. Said superintendents shall receive an annual salary of twelve hundred dollars, which shall be in lieu of all expenses they may incur while in discharge of their respective duties, except as hereinafter provided; and they shall, before entering upon the discharge of their duties, execute a bond to the State of Wyoming in the sum of twenty-four hundred dollars for the faithful performance of their duties, which bond shall be approved by the governor.

Duties.

Sec. 2129. The superintendents shall have entire control and supervision of the public waters in their respective districts pertaining to the collection, propagation, culture, distribution, and protection of fish, and shall distribute all fish coming into their hands for distribution fairly and equitably among the several counties composing their districts, or as the county commissioners thereof may direct. Superintendent of fish hatchery district number one shall reside at the hatchery located in Albany County, Wyoming, and superintendent of fish hatchery district number two shall reside at the hatchery located in Sheridan County, Wyoming. Said superintendents are hereby authorized to employ such assistance as is absolutely necessary to the efficient and proper management of the hatcheries in their charge; Provided, That expenses so incurred shall not exceed the appropriation available for such purposes, and shall have full control of all persons so employed, and of all property of the State now owned, or which may hereafter be obtained or held for the purposes contemplated by this chapter. As far as may be possible and convenient, they shall receive equally all fish and fish spawn donated to this State from any source whatever, and also all fish and fish spawn purchased by this State. They shall give special attention to the enforcement of the laws relating to the propagation, cultivation, and pro-

tection of food fishes in the waters of this State. They may, when necessary, establish hatching boxes and make such other improvements or alterations as shall be necessary for the proper hatching and preservation of spawn, and adopt such other means as will best promote and increase the preservation of food fishes; Provided, That nothing in this chapter shall be construed or understood as in any way tending to abolish or interfere with the branch fish hatchery already established and in operation in Sundance, in Crook County, in this State.

May take fish for scientific purposes.

Sec. 2130. The superintendents may take, or cause to be taken, from any of the public waters of their districts, at any time, or in any manner, fish, for the purposes of propagation, science, or inspection.

Must make report.

Sec. 2131. It shall be the duty of superintendents to make an annual detailed statement or report to the governor of their official transactions, including expenditures and the purposes for which same were made; also the number and kind of fish distributed, and the localities and names of the streams, ponds, or lakes where the same have been placed.

Shall stock streams.

Sec. 2132. It shall be the duty of superintendents to examine the waters of their respective districts, which are not naturally stocked with fish, as to their adaptability for fish, and stock same, if suitable; and after having done so, make publication of such fact in some newspaper published in such county for not more than four consecutive weeks; and it shall be unlawful for any person or persons to take any fish, in any manner whatsoever, out of any water so stocked, for a period of two years after first issue of such publication; Provided, That the foregoing shall not apply to streams that have a natural supply of trout.

Distribution of fish.

Sec. 2133. Superintendents shall notify the boards of county commissioners of their districts, at their regular meeting in May of each year, of the number of young fish for distribution in their respective counties, and it shall be the duty of the county commissioners to instruct said superintendents what streams they wish stocked, and if said streams are suitable for fish the superintendent shall personally distribute such fish in each county as directed, unless such distribution be otherwise provided for by the board of county commissioners of said county. The board of county commissioners of the several counties is hereby authorized and directed to pay the actual and necessary expenses of the superintendents while distributing fish in such county.

Superintendents as wardens.

Sec. 2134. Superintendents of fish hatchery districts are hereby declared to be fish wardens, and as such are charged with the enforcement of all laws of this State relating to fish. They shall arrest, or cause to be arrested, all violators thereof, and prosecute all offenses against the same. They shall have full power to arrest without warrant any and all persons who may be found violating any of the provisions of the laws of this State relating to fish, and it is their duty to do so.

Penalty.

Sec. 2135. Any person or persons convicted of violating the provisions of sections two thousand one hundred and twenty-seven to two thousand one hundred and thirty-two, inclusive, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars.

Sale of game fish prohibited.

Sec. 2136. It shall be unlawful to sell, directly or indirectly, or to offer for sale, any game fish, or part thereof, caught within the borders of the State.

Shipment of fish prohibited.

Sec. 2137. It shall be unlawful for any railroad company, express company, stage company, or other common carrier, or any of their agents or employees, or other person or persons, to receive or have in their possession for transportation any game fish caught within the borders of the State: Provided, That this section shall not apply to game fish lawfully taken from the waters of this State by any bona fide citizen thereof.

Unlawful to ship fish.

Sec. 2138. It shall be unlawful for any person or persons, company or corporation, to ship or offer to ship, within or out of the State, or to carry out of the State any game fish caught within the borders of the State.

Amount lawful to catch.

Sec. 2139. It shall be unlawful for any person or persons to have in his or their possession on any one day, more than twenty pounds of game fish caught within the borders of the State.

Penalty.

Sec. 2140. Any company or corporation, person or persons, violating any of the provisions of section two thousand one hundred and thirty-six to two thousand one hundred and thirty-nine, inclusive, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than twenty-five dollars or more than one hundred dollars, or imprisonment in the county jail for a period of not more than ninety days, or both.

Unlawful to obstruct free passage of fish.

Sec. 2141. It shall be unlawful for any person or persons to erect or place, or cause to be erected or placed across any of the rivers, creeks, ponds, or lakes of this State, any dam, net, service weir, trot line, or any other obstruction in such a manner as to prevent the free passage of fish up, down, or through such waters, unless such dam, net, service weir, trot line, or other obstruction shall be erected or placed across such stream, river, creek, pond or lake with the consent and under the direction of the fish hatchery superintendent of the district.

Duty of owner of dam.

Sec. 2142. The owner or owners of any dam erected across any of the streams within this State shall build, erect, and maintain at all times at his or their expense fishways at an angle of not less than forty-five degrees, to allow the free and uninterrupted passage of fish up and down such streams.

Failure to keep sluice in dam.

Sec. 2143. Each and every month that any person or persons, company or corporation shall neglect or refuse to keep up and maintain a sufficient sluice, or fishway, as prescribed in section two thousand one hundred and forty-two, shall constitute a separate offense.

Prosecutions—where may be commenced.

Sec. 2144. All prosecutions for the violation of any of the provisions of sections two thousand one hundred and forty-one, two thousand one hundred and forty-two, and two thousand one hundred and forty-three shall be commenced before 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 said section; 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.

When offense is committed on boundary line.

Sec. 2145. When such violation is alleged to have been committed upon the portion of a stream or water course which may be the dividing line between two counties, then the complaint may be made to any justice of the peace in either of such counties.

Fishing prohibited—When.

Sec. 2146. No person shall catch or take or have in his possession from the Big Horn or North Platte rivers, or their tributaries, by any means whatever, any speckled trout, land-locked salmon, grayling or California trout during the months of October, November, December, January, February, March, April, or either of said months in any year, nor from any other river, lake, or stream of this State during the months of October, November, December, January, February, March, April, and May, and the possession and selling or offering for sale of trout or other food fish taken from said waters during the months respectively prohibited shall be prima facie evidence of the violation of this section, and the person or persons so found having in possession or selling or offering to sell such fish, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five nor more than fifty dollars and costs of prosecution or shall be imprisoned for a period of not more than three months.

Catching small fish prohibited.

Sec. 2147. It shall be unlawful to kill or destroy, or have in possession for any purpose at any time, any trout or black bass less than six inches in length taken from any of the waters of this State, and the possession shall be prima facie evidence of the violation of the provisions of this section, and any person violating the provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five nor more than twenty-five dollars and cost of prosecution, or shall be imprisoned for a period of not more than thirty days, or by both.

Use of explosives and poison prohibited.

Sec. 2148. It shall be unlawful for the owner of any sawmill, reduction works, smelters, refining or concentration works, or any of the employes thereof, or any other person or persons whomsoever, to deposit, throw, or in any way permit to pass into any natural stream or any lake wherein are living fish, any sawdust, chemicals, or other substance that will or may tend to the destruction or driving away from such waters any fish, or kill any fish by the use of any poison or deleterious drug, or by the use of any explosive substance, or to explode or cause to be exploded, any powder, Hercules powder, dynamite, nitroglycerine, lime gas, or any other explosive substance, for the purpose of catching, killing, or destroying food fish, and any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than twenty-five dollars nor more than one hundred dollars, or shall be imprisoned for a period of not more than sixty days, or by both: *Provided however,* That any person or persons convicted of using an explosive substance for the purpose of killing or taking any of the food fishes in any of the waters of this State, shall upon conviction thereof be fined in a sum not less than two hundred and fifty dollars, nor more five hundred dollars for each and every offense, or be imprisoned for not less than one year in the county jail, or by both.

Provided further, That nothing in this title contained shall prevent the owner or owners of any quartz mill or reduction works in this State, now located, or to be hereafter located upon any natural stream or lake, from operating or working said quartz mill or reduction works, where the said owner or owners thereof shall build or cause to be built a suitable dam to be used in connection with said quartz mill or reduction works, and which dam shall be so constructed as to prevent any fallings or substance from passing into the stream or lake which will destroy or drive away the fish or any number of them from said stream, lake, or water.

Lawful fishing defined.

Sec. 2149. A fishing tackle consisting of a rod or pole, line and hook, shall be the only lawful means by which fish may be taken from the waters of the State. The said hook shall not be baited with any poisonous drug or substance, and it shall be

unlawful for any person or persons to use any net, seine, gill nets, fish traps, grab hooks, spears, snare, or similar means for catching fish, and no speckled or mountain trout, California trout, or any game fish shall be caught at any time during open season for speculative purposes, or for market, or for sale, and it shall be unlawful for any person to sell or offer for sale any speckled or mountain trout caught in the waters of this State; provided, That the superintendent of a fish-hatchery district may, upon petition of fifty citizens of the county wherein is located any lake or lakes which have been stocked with food fish, such as lake trout, white-fish, and carp and upon the recommendation of the board of county commissioners of said county, permit citizens of this State to fish for said lake trout, white-fish, and carp with a gill net with mesh not less than two and one-half inches, said net to be exhibited to said superintendent and by him approved; and it is further provided, that fish so lawfully taken shall not be shipped out of the State of Wyoming, but persons having more of said fish than can be used for their own consumption may sell the same to the residents of the State of Wyoming; and provided further, That said superintendent may at any time revoke said permission if in his judgment it is necessary in order to preserve the fish in said lakes. Any person or persons, company or corporation, offending against this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty dollars nor more than fifty dollars, or shall be imprisoned for a period of not more than three months, or by both.

Private waters protected.

SEC. 2150. It shall be unlawful for any person or persons to kill or take speckled trout or other fish from any private waters used for the propagation of such fish, except by the consent of the proprietor of such private waters. It shall be the duty of the proprietors of such private waters, who are engaged in the propagation of fish, as contemplated by this section, to post, or cause to be posted, in a conspicuous manner, public notices, painted on boards in large plain letters, that the owner, naming him, is engaged in such business, and warning all persons from killing or taking any fish in the waters named in such notices.

[Session laws of 1901.]

CHAPTER 37.

(Senate file No. 21.)

PROTECTION OF BIRDS.

AN ACT to protect birds and their nests and eggs.

Be it enacted by the legislature of the State of Wyoming:

Penalty for killing birds.

SECTION 1. Any person who shall, within the State of Wyoming, kill or catch, or have in his possession, living or dead, any wild bird other than a game bird, or who shall purchase, offer, or expose for sale any such wild bird after it has been killed or caught, shall for each offence, be subject to a fine of not more than five dollars for each such bird killed or caught, or had in possession living or dead, or imprisonment for not more than ten days, or both, at the discretion of the court. For the purposes of this act the following only shall be considered game birds: The Anatidae, commonly known as swan, geese, brant and river and lake ducks; the Rallidae, commonly known as ralls, coots, and mud hens; the Limicollae, commonly known as shore birds, plover, snipe, sandpipers, tattlers, willets, curlews, godwits, and avocets; the Gallinaw, commonly known as grouse, prairie chickens, pheasants, sage hens, partridge, and quail.

Penalty for taking eggs.

SEC. 2. Any person who shall, within the State of Wyoming, take or needlessly destroy the nest or the eggs of any wild bird, or shall have such nest or eggs in his or her possession, shall be subject for each offence to a fine of not more than five dollars, or imprisonment for not more than ten days, or both, at the discretion of the court.