

council, payable as salaries of other officers of such city are paid. The term of office of any assessor or assessors in any city to which this law shall be or become applicable shall terminate on the first day of January following the date on which it becomes applicable to such city. If there be a deputy tax commissioner in any such city, he shall receive an annual salary to be fixed by the common council.

SECTION 2. All acts or parts of acts contravening the provisions of this act are hereby repealed.

SECTION 3. This act shall take effect upon passage and publication.

Approved May 24, 1917.

No. 403, S.]

[Published May 26, 1917.

CHAPTER 282

AN ACT to renumber chapter 16 of the statutes, relating to the protection of the public lands, to revise the title of said chapter and to renumber, amend, revise or repeal the sections thereof and certain other sections relating to the same subject.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 16 of the statutes is renumbered to be chapter 26 of the statutes and the title is revised to read:

CHAPTER 26.

PROTECTION OF THE PUBLIC LANDS.

SECTION 2. A new section is added to the statutes to read:

26.01 DEFINITION. The word "commission" when used in this chapter without other word or words of description or qualification means the state conservation commission of Wisconsin.

TRESPASS AND THEFT.

SECTION 3. Section 240 of the statutes is renumbered to be section 26.02 and is amended to read:

26.02. SEIZURE AND SALE OF MATERIALS. * * *
 The * * * state conservation commission of Wisconsin * * * is empowered to seize or cause to be seized, without process, any lumber, timber, bark, minerals or other materials or property which, without authority of law, has been cut upon, or dug, removed or taken from any of the public lands belonging to this state, and, after appraising such property it shall sell the same at public auction to the highest bidder, under rules and regulations * * * prescribed by * * * the commission. On such sale * * * it may * * * bid * * *

in and purchase for the state for not less than half its appraised value the property to be sold. All property so purchased shall be sold by the commission for such price as it may deem best for the interest of the state; and no part of the money realized at any such sale shall be applied on any outstanding certificate of sale.

SECTION 4. A part of section 241 of the statutes is renumbered to be section 26.03 and is amended to read:

26.03. TRESPASS. * * * (1) BY STRANGER ON LANDS SUBJECT TO PRIVATE ENTRY. Any person found trespassing on any such public lands subject to private entry may purchase the same by paying *twice* the minimum price therefor, together with all expenses of the seizure and taking charge of the material seized until such purchase is completed. *Until such purchase and payment have been made the trespasser shall be disable to acquire any of the public lands.*

(2) BY CERTIFICATE HOLDERS ON LANDS NOT PATENTED. * * * If such lands have been sold and the owner of the certificate of sale shall have committed such trespass, he, his heirs or assigns, shall receive a patent for such land, only upon his paying *twice* the amount then due the state on such certificate together with all legal charges and all the expenses of seizure and care as aforesaid;

(3) RELEASE OF PROPERTY SEIZED AND CAUSE OF ACTION. * * * When such payment shall have been made in either such case said commission shall release to such person all the materials seized which were cut, dug, removed or taken from the lands so paid for by him, and discontinue any suit commenced to recover damages for any injury done to such lands, without costs to the state;

SECTION 5. That part of section 241 of the statutes which is not incorporated in new section 26.03 is renumbered to be section 26.04 and is amended to read:

26.04. SALES OF SEIZED PROPERTY. * * * (1) At any sale of property seized as provided in section 26.02 the owner of the certificate of sale of the lands from or upon which such property was cut, dug, taken or removed, he not being the trespasser, may bid the amount due the state for such land and the expenses of seizure and sale, which amount shall be stated at the sale by the person authorized to sell before making such sale. When such bid is made by such owner the person making such sale shall strike off the property to him, and upon

* * * *his paying* the sum so bid to the state treasurer or other person authorized to receive the same and * * * *his surrender* of the said certificate of sale, the commissioners of *the public lands* shall execute a patent for such land to such owner.

(2); * * * If there shall be a dispute between bidders at the sale as to the ownership of the certificate for such lands, the property shall be sold to the contestant bidder for the highest sum bid in addition to the amount due the state, including expenses, as aforesaid, and the money shall be paid into the state treasury and remain there until the commissioners shall determine the ownership of such certificate; and for that purpose * * * *it may adopt* such rules and take such evidence as * * * *it shall* * * * *deem necessary* to determine the fact; and upon * * * *such determination* there shall be paid out of the state treasury to the rightful person so ascertained the avails of such sale, after deducting the price of such land and the expenses aforesaid; and upon the surrender of the certificate of sale said commissioners of *the public lands* shall execute a patent for such land to such owner.

SECTION 6. Section 242 of the statutes is renumbered to be section 26.05 and is amended to read:

26.05. POSSESSION OF SEIZED MATERIAL. * * * *Any property seized by the commission under the provisions of section 26.02 may be held by it until* * * * *the payments required of the trespasser by section 26.03 shall be made, even though the land affected was patented previous to the seizure but after* * * * *the trespass;* * * * *and every trespasser* * * * *and his assigns shall be* * * * *disentitled* to the possession of any materials taken from any of the public lands until all penalties and charges * * * *imposed upon him* by law are paid. Nothing in this chapter contained, nor the payment of any penalty herein provided, shall affect the liability of any person, whether prosecuted before or after the issuance of such patent, to punishment for any such trespass.

SECTION 7. Section 243 of the statutes is renumbered to be section 26.06 and is amended by striking therefrom the word "commissioners" wherever said word appears and inserting in each place thereof the word "commission."

SECTION 8. Section 244 of the statutes is renumbered to be section 4152a and is amended to read:

PUBLIC LANDS. Section 4152a. * * * In any civil or criminal action growing out of a trespass upon any public lands the certificate of the secretary of state, under the great or lesser

seal, that any specified piece or tract of land belongs to or is mortgaged to the state, or that the state has any interest, legal or equitable, therein, * * * shall be presumptive evidence of the facts so stated, * * * Also in any such action the certificate of the secretary of the conservation commission under the official seal of the commission that authority has been given to any person, naming him, to seize timber or other materials specified in this chapter shall be presumptive evidence of the fact so stated.

SECTION 9. Section 245 of the statutes is renumbered to be section 26.07 and section 1494—61 of the statutes is repealed.

SECTION 10. Section 194 of the statutes is renumbered to be section 26.08 and is amended to read:

26.08. LEASES AND LICENSES. * * * (1). Said commission * * * may, from time to time, lease for terms not exceeding * * * fifteen years, * * * parts or parcels of state park lands or state forest lands; * * * and such leases shall contain proper covenants to guard against trespass and waste; * * * The rents arising therefrom shall be paid into the state treasury to the credit of the proper fund. Licenses also may be granted to prospect for ore or mineral upon any of said lands; but proper security shall be taken that the licensees will fully inform the commission of every discovery of ore or mineral and will restore the surface to its former condition and value if no discovery of valuable deposits be made. The commission shall retain a copy of each such lease or license and file the original in the office of the commissioners of the public lands.

(2) The commission shall furnish to the commissioners of the public lands such maps, plats, surveys, valuations, information and other services as said commissioners may request respecting any of the public lands, for use by them in granting leases or licenses or in making sales under the provisions of section 24.39.

SECTION 11. Section 257 of the statutes is repealed.

SECTION 12. Section 1494—60 of the statutes is renumbered to be section 26.09 and is amended to read:

26.09. CIVIL LIABILITY FOR FOREST TRESPASS. * * * The state, the county or the private owners upon whose lands * * * any wilful trespass * * * has been committed, may recover in a civil action double the amount of damages suffered. This section shall not apply to the cutting of wood or timber from uncultivated woodland for the repair of a public highway or bridge upon or adjacent to the land.

SECTION 13. A new section is added to the statutes to read:

26.10. REPORTS BY THE CONSERVATION COMMISSION TO THE COMMISSIONERS OF THE PUBLIC LANDS. The state conservation commission shall report monthly to the commissioners of the public lands all trespasses committed, all materials seized, all sales made and all moneys received under any of the preceding sections of this chapter.

MARSH, SWAMP, FIELD AND FOREST FIRES.

SECTION 14. Section 1494—47 of the statutes is amended to read:

26.11. STATE AND LOCAL FIRE WARDENS. * * * The * * * *commission* shall * * * be in charge of and give suitable directions to the entire fire warden force of the state. * * * The chairman of the town board * * * of * * * each town * * * in the state shall be the town fire warden * * * for * * * such town * * * and the superintendents of highways for the different road districts within the different towns shall be assistant town fire wardens for their respective towns. * * *

SECTION 15. Section 1494—47a of the statutes is renumbered to be section 26.12.

SECTION 16. Section 1494—48 of the statutes is renumbered to be section 26.13 and subsections (1) and (2) thereof are amended to read:

26.13. DUTIES OF FIRE WARDENS; POLICE POWERS; COMPENSATION AND REWARDS; TAXATION AND PAYMENT. * * * 1. Each fire warden, before entering upon his duties, shall take an oath of office and file the same with the state fire warden. All fire wardens shall take prompt and effective measures against the spread and illegal setting of forest, marsh or swamp fires within their towns and districts and shall have the power of sheriffs to arrest without warrant for violations of the provisions of * * * any sections of the statutes relating to setting, failure to extinguish or care of fires. They shall have authority to call upon any able-bodied citizen, in territory in which they act, to assist in extinguishing forest, marsh, swamp and other running fires in such manner as they may direct.

(2) Those assisting either the town or assistant town fire wardens in the extinguishing of forest, marsh, swamp and other fires shall receive compensation for their services at not more than twenty cents per hour for the time actually employed. The * * * *commission* is authorized to approve for payment not to exceed fifty per cent of the clear proceeds of any fine col-

lected in an action brought for a violation of any of the provisions of sections 4405a to 4406 of the statutes relating to setting, failure to put out or care of fires, where the evidence to secure a conviction is furnished by a town fire warden, an assistant town fire warden, or any other person.

SECTION 17. Section 1494—48a of the statutes is renumbered to be section 26.14 and subsections 2 and 3 thereof are revised to read:

(26.14) (2) The fire wardens appointed by the commission shall prepare itemized accounts for their own services and the services of their assistants, and no such account shall be paid until it has been approved by the commission. The secretary of state shall not issue warrants for more than ten thousand dollars for fighting forest fires in any one county in any one year, and one-half of the amount paid by the state shall be refunded to the state by the county in which the fires were fought. In case the work of fighting fires covers a portion of two or more counties, the amount to be paid by each county shall be decided by the commission.

(26.14) (3) As soon as any account has been paid by the state treasurer, the commission shall send to the proper county treasurer a bill for the county's share of the expenses and a copy of the bill shall be filed with the secretary of state. The county shall have sixty days within which to pay such bill, but if not paid within that time, the county shall be liable for interest at the rate of six per centum per annum. If said sixty days shall have elapsed without payment before the time provided by law for the secretary of state to certify to the counties the levy for state taxes, he shall include an amount sufficient to pay such bill as a part of the levy against the county for state taxes.

SECTION 18. Section 1494—49 of the statutes is renumbered to be section 26.15 and is amended by striking from the body of said section the figures "1494—48" and by inserting in place thereof the figures "26.13."

SECTION 19. Section 1494—50 of the statutes is renumbered to be section 26.16.

SECTION 20. Section 1494—51 of the statutes is renumbered to be section 26.17.

SECTION 21. Section 1494—52, section 1494—53 and section 1494—54 of the statutes are repealed.

SECTION 22. Section 1494—55 of the statutes is renumbered to be section 26.18 and is amended by striking therefrom the words and figures "sections 1494—41 to 1494—64, inclusive," in each of the two places where said words and figures appear and by inserting in each such place the words "this chapter".

SECTION 23. Section 1494—56 of the statutes is renumbered to be section 26.19 and is amended by striking therefrom the words and figures “sections 1494—41 to 1494—64, inclusive,” and by inserting in place thereof the words “this chapter”.

SECTION 24. Section 1494—57 of the statutes is renumbered to be section 26.20 and is amended as follows:

Subsections 1 and 2 are amended by striking out the word “December” wherever it appears in said subsections and by inserting in each place thereof the word “November.”

Subsection 3 is amended to read:

(3) LOCOMOTIVE INSPECTOR; POWERS. Any locomotive inspector designated by the * * * *commission* shall have the power to reject from service immediately any locomotive, donkey, traction, or portable engine which, in the opinion of the said inspector, is deficient in adequate design, construction, or maintenance of the fire protective devices designated in subsections (1) and (2) of this section, and any such locomotive, donkey, traction, or portable engine so rejected from service shall not be returned to service until such defects have been remedied to the satisfaction of * * * *said locomotive inspector*. In case of disagreement between said inspector and the owner of the locomotive, donkey, traction, or portable engine so rejected from service as to the efficiency or proper maintenance of said protective devices, then the owner of said locomotive, donkey, traction, or portable engine may appeal to the railroad commission of Wisconsin for a decision of said matter, but pending such decision the said locomotive, donkey, traction, or portable engine shall not be returned to service.

Subsection 6 is amended by striking therefrom the word “forester” and by inserting in place thereof the word “commission.”

Subsection 7 is amended to read:

(7) FIRE PATROL. All such corporations, during a dangerously dry season, and when so directed by the * * * *commission*, shall provide fire patrols for duty along their tracks. Whenever * * * *said commission* shall deem it necessary * * * *it* may order such corporations to provide for patrolmen to follow each train throughout such districts as may be necessary to prevent fires. When * * * *said commission* has given a corporation such notice that in its opinion the conditions require such patrol after trains, the corporations shall immediately comply with such instructions throughout the districts designated; or * * * *on its failure to do so*, * * * *said commission* may employ patrolmen, and furnish them with

the necessary equipment to patrol the rights of way of such corporations, and the expenses of the same shall be charged to the corporation and the same may be recoverable in a civil action in the name of the state of Wisconsin, and in addition thereto, the said corporation shall be deemed guilty of a misdemeanor. It is also made the duty of such corporation, acting independently of such * * * *commission* to patrol * * * *its* rights of way after the passage of each train when necessary to prevent the spread of fires and to use the highest degrees of diligence to prevent the setting and spread of fires, and it is also made the duty of its officers and employes operating trains in this state, to use diligence in the extinguishment of fires set by locomotives or found existing upon their respective rights of way, and any negligence in this regard shall render such corporation or any officer or employe thereof guilty of a misdemeanor.

Subsection 8 is amended to read:

(8) INSPECTION AND ENTRY. The * * * *commission* is authorized to inspect *or cause to be inspected* any locomotive, donkey, or threshing engine, railway locomotive, and all other engines, boilers, and locomotives operated in, through or near forest, brush, or grass land and to enter upon any property for such purpose, or where they may deem it necessary in order to see that all the provisions of this section are duly complied with.

Subsection 9 is amended to read:

(9) PENALTY. * * * Any corporation, by its officers, agents, or employes, wilfully violating the provisions of this section, shall be liable to a * * * *penalty* of not less than fifty dollars nor more than five hundred dollars for each and every such violation, to be collected in a civil action in the name of the state.

Subsection 10 is amended to read:

(10) APPEAL TO RAILROAD COMMISSION. In case the * * * *commission* and any corporation or individual operating any locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive cannot agree as to the most practicable device or devices for preventing the escape of sparks, cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be determined by the railroad commission of Wisconsin.

Subsection 11 is amended to read:

(11) EXEMPTION. The * * * *commission* shall have the power to exempt from the provisions of subsections (1), (2), (3), and (4) of this section any railroad, when, in * * * *its* judgment * * * conditions along the right of way are such

that the reduced fire hazard renders such protective devices unnecessary.

SECTION 25. That part of subsection 9 of section 1494—57 of the statutes which is stricken therefrom by section 25 of this act is reenacted as a new section numbered 4406a and revised to read:

PENALTY. Section 4406a. Any person wilfully failing to comply with the requirements of section 26.20 shall be deemed guilty of a misdemeanor and shall be punished, upon conviction, by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SECTION 26. Section 1494—58 of the statutes is renumbered to be section 26.21 and is amended by striking therefrom the figures "1494—57" and by inserting in place thereof the figures "26.20;" and is further amended by striking therefrom the words and figures "sections 1494—41 to 1494—64, inclusive," and by inserting in place thereof the words "this chapter."

SECTION 26a. Section 210b of the statutes is renumbered to be section 26.22 and is amended to read:

Sales of Damaged Timber.

26.22. SALES, etc. The commission * * * *may sell any timber on the * * * state park or state forest lands * * * which has been damaged by fire or wind, on such terms and in such manner as it shall deem best for the interest of the state.*

SECTION 27. Section 1494—59 of the statutes is renumbered to be section 4449b.

SECTION 28. Chapter 264 of Wisconsin session laws of 1905, chapter 97 of Wisconsin session laws of 1907, chapter 119 of Wisconsin session laws of 1909 and chapters 238, 494 and 601 of Wisconsin session laws of 1911 are added to section 4978 of the Statutes at appropriate places according to their numbers and dates as further acts repealed by said section.

SECTION 29. This act shall take effect upon passage and publication.

Approved May 24, 1917.