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## GAME.

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### CHAPTER 58.

#### PROTECTION OF BIRDS.

##### AN ACT For the Protection of Game.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. REPEALED.] That sections one, two, three, four, five, six, of chapter forty-one of the Political Code entitled, "An Act for the Protection of Birds," and sections three, four and five of chapter sixty-three of the Laws of the Fifteenth General Assembly, entitled "An Act for the Protection of Game in the Territory of Dakota" be repealed, and the following enacted in lieu thereof:

§ 2. UNLAWFUL TO KILL AT CERTAIN TIMES.] It shall be unlawful for any person within this Territory, to shoot or kill any prairie chickens, or pennated grouse, or sharp tailed grouse, or ruffed grouse between the first day of January and the first day of September, or any wild duck, or snipe, or goose, or brant, or plover, or curlew, between the fifteenth day of May and the first day of September, or any song bird at any time.

§ 3. UNLAWFUL TO KILL FOR TRAFFIC.] It shall be unlawful for any person at any time or at any place within this Territory, to shoot or kill for traffic any prairie chicken, wild duck, snipe, goose, brant, plover or curlew, or for any person to shoot or kill during any one day more than twenty-five of either kind of said named birds, or for any one person, firm or corporation to have more than twenty-five of said named birds in his or their possession at any one time unless lawfully received for transportation, or at any time to catch or take, or attempt to catch or take, with any trap, snare or net, any of the birds named in section two of this act, or in any manner wilfully to take or destroy the eggs or nests of any of the birds hereby intended to be protected from destruction, or to buy or sell any of said birds or their eggs.

§ 4. UNLAWFUL TO HAVE IN POSSESSION—WHEN.] It shall be unlawful for any person, firm or corporation to have in possession any of the birds named in section two of this act, during the period when the killing of such birds is prohibited by said section two of this act.

§ 5. UNLAWFUL TO SHIP OUT OF TERRITORY—SHIPMENTS IN TERRITORY RESTRICTED—PENALTY.] It shall be unlawful for any person, company or corporation at any time to ship, take, or carry out of this Territory, any of the birds named in section two of this act, but it shall be lawful for any person to ship to any person within this Territory any game birds named in section two not to exceed one dozen in number in any one day during the period when by this act, the killing of such birds is not prohibited; *Provided*, He shall first make an affidavit before some person authorized to administer oaths, that said birds have not been unlawfully killed, bought, sold or had in possession; are not being shipped for sale or profit; giving the name and postoffice address of the person to whom shipped and the number of birds to be so shipped. A copy of such affidavit endorsed "A true copy of the original," by the person administering the oath, shall be furnished by him to the affiant who shall deliver the same to the railroad agent or common carrier receiving such birds for transportation, and the same shall operate as a release to such carrier or agent from any liability in the shipment or carrying such birds. The original affidavit to be retained by the officer taking the same, and may be used as evidence in prosecution for violation of this act. Any person swearing falsely to any material fact of said affidavit shall be guilty of perjury, and punished accordingly.

§ 6. PENALTY.] If any person shall shoot, kill, catch or take, trap, ensnare, buy, sell, ship or have in possession; or ship, take, or carry out of the Territory, contrary, to the provisions of this act, any of the birds named in this act, or shall wilfully destroy any eggs or nests of birds named in this act, such person shall be punished by a fine of ten dollars for each bird and ten dollars for each nest, or the eggs, therein, so shot, killed, trapped caught, or taken, ensnared, bought, sold, shipped, had in possession, destroyed or shipped, taken or carried out of the Territory, and shall stand committed to the county jail, unless such fine and the costs of prosecution be sooner paid.

§ 7. TRANSPORTATION COMPANIES LIABLE.] If any railway, express company, or any other common carrier, or any of their agents or servants, knowingly receive any of the above mentioned birds, for transportation or other purpose, during the periods hereinbefore limited, and prohibited, or at any other time except in manner provided in section five of this act they shall be punished by a fine of not less than one hundred or more than three hundred dollars or by imprisonment in the county jail for thirty days, or by both such fine and imprisonment.

§ 8. UNLAWFUL MANNER OF KILLING.] If any person shall kill or shoot any wild duck, goose or brant, with any swivel gun, or any kind of gun, except such as is commonly shot from the shoulder, or shall use medicated or poisoned food to capture or kill any of the birds named in this act, he shall be deemed guilty

of a misdemeanor, and upon conviction shall be fined twenty-five dollars for each offense, and shall stand committed to the county jail for thirty days unless such fine and the costs of prosecution are sooner paid.

§ 9. PROSECUTIONS, HOW BROUGHT.] Prosecutions for violations of this act may be brought either in the county in which the offense was committed, or in any other county where the person, company or corporation of, has had or has in his possession any birds herein named, bought, sold, killed, trapped, or ensnared in violation of any of the provisions of this act.

§ 10. COURT TO APPOINT ATTORNEY TO PROSECUTE—FEE.] In all prosecutions under this act, the court before whom the same is brought shall appoint some attorney at law for the purpose of managing the prosecution of the cause, and such attorney shall be entitled to a fee of ten dollars in each and every case in which he is so appointed, and the person filing an information under this act shall, in case of conviction, be entitled to a fee equal to one-half of the amount imposed on each conviction, and both the fee of such attorney and the informant shall be taxed as costs in the case of the person convicted; *Provided*, That the county shall in no case be held liable for said attorney's fee or penalty.

§ 11. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 12. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

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## CHAPTER 59.

### TO PROTECT LARGE GAME AND QUAIL.

#### AN ACT To Protect Large Game and Quail in Dakota Territory.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. UNLAWFUL TO SHIP.] That it shall be unlawful for any person, persons, company or corporation to ship for any purpose whatsoever from the Territory of Dakota the carcass of any buffalo, elk, deer, antelope or mountain sheep.

§ 2. UNLAWFUL TO KILL QUAIL FOR TWO YEARS.] It shall be unlawful for any person or persons to kill, trap or destroy by any means whatever, any quail in the Territory of Dakota for a period of two years.

§ 3. PENALTY.] Any person, persons or corporation who shall violate the provisions of section one of this act shall be deemed

guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each such carcass so shipped the sum of fifty dollars.

§ 4. PENALTY FOR UNLAWFUL KILLING OF QUAIL.] Any person or persons who shall violate section two of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined the sum of ten dollars for each such quail so killed, trapped or destroyed, together with costs of prosecution.

§ 5. All acts and parts of acts in conflict with this act are hereby repealed.

§ 6. This act shall take effect and be in force from and after its passage and approval.

Approved, March 5, 1887.

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## CHAPTER 60.

### TO PROHIBIT THE DESTRUCTION OF BEAVER.

AN ACT To Prohibit the Destruction of Beavers in the Territory of Dakota.

*Be it Enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. UNLAWFUL TO KILL FOR FIVE YEARS.] That it shall be unlawful to kill, entrap, ensnare, capture or destroy any animal of the beaver family within the Territory of Dakota, during a period of five (5) years from and after the date this act takes effect.

§ 2. PENALTY.] Any person who shall violate any of the provisions of this act, shall, upon conviction thereof, be subject to pay a fine not exceeding one hundred (100) dollars or imprisonment in the county jail for a period not exceeding thirty (30) days, or both such fine and imprisonment at the discretion of the court.

§ 3. This act shall be in effect from and after its passage and approval.

Approved, March 11, 1887.