

ated employes, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier, and the ex-employes traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph, shall include the families of those persons named in this provision, also the families of persons killed and the widows during the widowhood and minor children during minority, of persons who died while in the service of any such common carrier.

§ 2. PENALTY.] Any common carrier violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of this state of competent jurisdiction, be subject to a fine of not more than five hundred (\$500.00) dollars for each offense; and any person other than the persons excepted in this act who uses any such free ticket, free pass or free transportation, shall be subject to a like penalty.

Approved February 21, 1911.

GAME AND FISH

CHAPTER 139.

[S. B. No. 269—Baker]

PROTECTION OF BIRDS AT DEVILS LAKE.

AN ACT Creating a Reserve at Devils Lake, North Dakota, and Providing for the Protection of Birds and Their Nests within such Reserve.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That all islands that have appeared or may appear in the waters of Devils Lake, North Dakota, are hereby reserved, appropriated and set aside as a bird reserve and it shall be unlawful for any person to hunt, shoot, kill, wound or injure any bird, or to rob or destroy any bird nest or eggs on said reserve at any season of the year.

§ 2. Every violation of this act shall be declared a misdemeanor, and shall be punishable by a fine of not less than ten or more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

§ 3. Whereas, an emergency exists in that the nesting season

of birds is prior to the first day of July, 1911, and there is no adequate protection for such birds and nests, therefore, this act shall become effective from and after its passage and approval.

Approved March 3, 1911.

CHAPTER 140.

[S. B. No. 277—Baker]

RELATING TO GAME LAWS.

AN ACT Relating to Trespassing While Hunting Game.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. It shall be unlawful for any person or persons to enter upon the premises of another for the purpose of hunting or pursuing game or to hunt or to pursue game upon the premises of another without having first obtained permission of the person legally entitled to grant the same; provided that the owner of said land or premises shall have placed at a conspicuous point alongside of the public highway a sign giving notice that no hunting will be permitted on said land or premises.

§ 2. Any person or persons entering upon the premises of another without permission as provided for in Section One of this Act, who shall at the time of so entering have in his (or her) possession any gun or fire-arm shall prima facie be presumed to have entered said premises for the purpose of hunting game within the meaning of this act.

§ 3. Any person violating the provisions of this act shall upon conviction thereof be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail for not less than one and not more than ten days, or both such fine and imprisonment.

Approved March 3, 1911.

CHAPTER 141.

[S. B. No. 235—Talcott.]

AN ACT To Amend Sections 3, 4, 5, 6, 7, 8, 12, 15, 28, 35, 42, 43, 44 and 45 of Chapter 128 of the Session Laws of 1909, Being an Act Creating a State Game and Fish Board of Control and Chief Game Wardens and State Fish Commissioner, Deputies and Wardens, and Defining Their Duties and Jurisdiction, and for the Protection, Propagation, Preservation, Taking, Use and Transportation of Game, Fish, Wild Birds, Fur Bearing Animals, and Certain Harmless Birds and Animals, and Providing for the Maintenance of Fish Hatcheries.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section Three is hereby amended to read as follows:

§ 3. BOARD OF CONTROL. APPOINTMENT. TERMS. MEETINGS. COMPENSATION. RULES AND REGULATIONS.] A state board of control is hereby created, consisting of three members to be appointed by the governor. Two members of such commission shall be appointed for two years commencing on the first day of April of the year 1911 and one member of such commission shall be appointed for a term of four years, commencing on the first day of April, 1911. Thereafter such appointment shall be made for a term of four years, commencing at the expiration of such term. Vacancies arising from any cause shall be filled by the governor. Said commission shall hold its first meeting on the second Tuesday of the month succeeding its appointment and organize by electing one member of said board as president and one of said board as secretary, who shall receive as compensation for his services not to exceed the sum of one hundred dollars per month for keeping and maintaining the secretary's office. A quorum of said board shall consist of two members. The state game and fish board of control after its organization may hold its meetings at any point in the state at such time and place as the president may designate, but there shall not be to exceed four regular meetings each year: provided, that the president of the board shall have the power to call special meetings whenever in his judgment it becomes necessary.

The members of said board shall receive as compensation for their services the sum of five dollars per day for each day in attendance on such meetings, and all railway expenses actually and necessarily incurred in traveling to and from such meetings, which sum shall be paid by the state treasurer out of the game and fish fund upon vouchers of the board duly certified by the president and secretary thereof. The board shall establish rules and regulations and employ the most efficient and practical means

to carry out the provisions of this act. They shall require of the chief warden a monthly report in full, a copy of which shall be mailed to each member of such board, stating the compensation paid, number of arrests, convictions and fines.

§ 2. AMENDMENT.] Section 4 is hereby amended to read as follows:

§ 4. GENERAL POWERS. DUTIES.] Said board shall enforce the laws of this state, involving the protection and propagation of all game animals, game birds, fish and harmless birds and animals.

1. The propagation and preservation of such variety of game and fish as it shall deem to be of public value.

2. The collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

3. The construction, control and management of all state fish hatcheries, including the control of ground owned or leased for such purposes.

4. The receiving from the United States commissioner of fisheries or other persons and the gathering, purchase and distribution to the waters of this state of all fish spawn or fry.

5. The taking of fish from public waters of the state for the propagation and stocking of other waters therein.

6. The seizure and disposition of all wild birds, wild animals and fish, either taken, killed, transported or possessed contrary to law, of all dogs, guns, seines, nets, boats, lights or other instrumentalities unlawfully used or held with intent to use; in pursuing, taking or attempting to take, concealing or disposing of the same, and for these purposes it is hereby authorized and empowered to make all such rules and regulations for carrying out the provisions of this section as said board may deem most expedient.

§ 3. AMENDMENT.] Section Five is hereby amended to read as follows:

§ 5. REPORTS AND RECORDS.] Said board shall, on or before December thirty-first of each even numbered year, submit to the governor a detailed report of its actions, including the amount of money received from all sources, and inventory of all birds, game, fish, dogs, guns, seines, nets and other property seized and sold, with the names of the purchasers, and the amount received, and an itemized statement of its disbursements. The books and vouchers of said board shall be subject to examination by the public examiner at all times.

§ 4. AMENDMENT.] Section six is hereby amended to read as follows:

§ 6. CHIEF GAME WARDEN.] The board shall appoint a chief game warden for each of the game districts mentioned in section two of this act who shall devote all his time to the discharge of his duties, and shall receive compensation therefor to be fixed by said board, not exceeding fifteen hundred dollars per year and

actual expenses necessarily incurred in the discharge of his official duties. He shall act as such chief game warden during the pleasure of the board, and be subject to its direction. He shall not be engaged in or have any other business that will in any way interfere with his duties as such chief game warden. It shall be his duty to devote all his time to the practical and actual work of enforcing the provisions of this act in seasons requiring the actual work of deputy wardens in the field. Before entering upon the discharge of his duties he shall give a bond to the state of North Dakota, with securities or security to be approved by the board, in the penal sum of five thousand dollars, conditioned for the faithful performance of his duties and the accounting of all state property coming into his hands.

§ 5. AMENDMENT.] Section Seven is hereby amended to read as follows:

§ 7. FISH COMMISSIONER. HOW APPOINTED. POWER. DUTIES OF.] The Governor shall on or before the first day of April, 1911, appoint a state fish commissioner, who shall serve for a term of two years or until his successor has been appointed who shall devote all his time to the discharge of his duties, and shall receive as compensation therefor the sum of fifteen hundred dollars per annum and actual expenses necessarily incurred in the discharge of his duties, which shall be paid from the state game and fish fund. He shall act as such fish commissioner, and when the board is not in session he is hereby authorized to exercise in its name all the rights, powers and authority vested in said board relating to and pertaining to the propagation and distribution of fish.

§ 6. AMENDMENT.] Section Eight is amended to read as follows:

§ 8. EMPLOYES.] The board may appoint and remove at pleasure not to exceed four regular deputy game wardens in each game commission district, in addition to the chief game warden. The above number of regular deputy wardens shall be appointed for the period, not exceeding five months during each year, which months shall be designated by the game and fish board of control. Provided, however, the board of control may, and they are hereby authorized to appoint one of the above mentioned regular deputy game wardens in each district to serve for a period of one year, if in their judgment such action is necessary and for the better protection of the game of the state. Provided further, the chief game warden in each district may appoint one or more resident county game wardens in each county in their respective districts, who shall serve for such a time and in such a manner as the chief game warden may direct. They shall serve as such resident county game wardens without compensation, except as provided in section 24 of chapter 128, Session Laws of 1909. Such regular deputy game wardens shall receive as full

compensation for their services, not to exceed one hundred dollars per month and actual expenses incurred in performance of official duties. Each deputy game warden shall devote his whole time to the work, under the direction of the chief game warden of the district for which he is appointed.

At the close of each week he shall mail to the chief game warden an itemized statement of his expenses and attach thereto vouchers for all moneys so expended by him, together with a statement showing his daily activities during said week. The salaries and expenses of all employes shall be paid from the state game and fish fund that annually after January 1st, 1912, there shall be transferred from the game and fish fund by the game and fish board of control the sum of \$2,000.00, to be known as the expense and improvement fund, to defray the necessary expense in and about the fish hatchery as directed by the fish commission, on vouchers duly audited by the president and secretary of the board of control and paid by the treasurer, as provided by law. Each deputy game warden shall, without delay, report to the chief game warden of his district all violations known to him, arrests and convictions secured and give a detailed statement of the same.

§ 7. AMENDMENT.] Section Twelve is hereby amended to read as follows:

§ 12. DUTIES.] It shall be the duty of the chief game wardens and fish commissioner to keep a complete and correct record of all his transactions, in a record book for that purpose, showing dates of appointment of deputies, names of persons violating the game and fish laws, date of arrest, amount of fines, and costs (separately) imposed, and the names of the justice or magistrate before whom the persons appeared. All such records shall be open to the public when requested and the state chief game warden and fish commissioner shall make a full report of all matters of record to the game and fish board of control, showing the number of hunting permits issued in his district, resident and non-resident, and showing the amount of fees for such permits and for the distribution of same; such report to be made annually on the fifteenth day of December of each year, and in said report to make such recommendations as in his judgment are necessary for the better protection, preservation and propagation of wild birds and wild animals, and fish, and the enforcement of laws governing the same.

§ 8. AMENDMENT.] Section Fifteen is hereby amended to read as follows:

§ 15. CONTRABAND GAME. SEIZURE AND SEARCH.] Any bird, animal, fish, or any part thereof, caught, killed, shipped or had in possession or under control contrary to any of the provisions of this chapter is hereby declared to be contraband. The board of control, all game wardens, sheriffs and their deputies, con-

stables and police officers, shall seize and take possession of any and all birds, animals, or fish, or any part thereof, which have been caught, taken, killed or had in possession or under control, or shipped contrary to any provision of this chapter. Any court having jurisdiction may upon complaint showing probable cause for believing that any bird, animal, fish, or any part thereof, caught, taken, killed or had in possession or under control by any person, or shipped or transported contrary to the provisions of this chapter, is concealed or illegally kept in any building, car or receptacle, shall issue a search warrant and cause a search to be made in any such place for any such birds, animals, fish or any parts thereof, and may cause any building, enclosure or car to be entered, and any apartment, chest, box, locker, crate, basket, package or any other receptacle whatever to be broken open and the contents thereof examined. All such officers taking or seizing such birds, animals, or fish, or any part thereof shall at once report all the facts attending the same to the commission. The same penalty shall attach as to Section 4 of this act.

§ 9. AMENDMENT.] Section Twenty-eight is hereby amended to read as follows:

§ 28. TRAPS, SNARES, LIGHTS, ETC.] No person shall at any time set, lay, prepare or have in possession any trap, snare, artificial light, net, bird lime, swivel gun or set gun or contrivance whatever for the purpose of catching, taking or killing any of the birds or game animals in this chapter mentioned except that decoys and stationary natural blinds may be used in hunting wild geese, brant and ducks, excepting that a boat may be used to shoot from in a blind, and no persons shall use or cause to be used any floating battery, electric, steam, gasoline or other boat or floating vessel for the purpose of raising or driving any game birds from their resting or feeding places in any waters of this state, or to use rifles in pursuing or hunting ducks or geese or to use any vehicles or automobile for the purpose of disturbing geese while feeding or resting and shooting from such vehicle or automobile.

§ 10. AMENDMENT.] Section Thirty-five is hereby amended to read as follows:

§ 35. GAME BIRDS, SEASONS FOR KILLING.] No person shall hunt, take, kill, ship, convey or cause to be shipped or transported by common or private carrier, to any person either within or without the state, expose for sale, sell to any one, have in possession with intent to sell, or have in possession or under control at any time, any turtle dove, snipe, prairie chicken, pinnated, white breasted or sharp tailed grouse, quail, partridge, Chinese ring-neck or English pheasant, Hungarian partridge, wild duck of any variety, wild goose of any variety, brant of any variety of aquatic fowl whatever, or any part thereof, except; First. That any snipe, prairie chicken, pinnated

grouse, ruffed grouse, white breasted or sharp tailed grouse, woodcock, upland plover or golden plover may be killed and had in possession between the seventh day of September and the first day of November (both inclusive) following, excepting that wild geese or brant of any variety may be killed in the manner as in this act provided and had in possession between the seventh day of September and the tenth day of May, following, at least one-half mile from any permanent waters of this state. Second. That wild duck of any variety, or crane may be killed and had in possession between the seventh day of September and the fifteenth day of December (both inclusive) following. Any person violating any provisions of this section shall be punished by a fine of not less than ten dollars for each bird or more than twenty-five dollars and cost of prosecution, or by imprisonment in the county jail for not less than twenty days or more than thirty days, or by both fine and imprisonment, in the discretion of the court, for each and every bird killed or destroyed contrary to the provisions of this section.

§ 11. AMENDMENT.] Section Forty-two is hereby amended to read as follows:

§ 42. HARMLESS BIRDS. GAME BIRDS DEFINED.] No person shall kill, catch, take, ship or cause to be shipped to any person within or without the state, purchase, offer or expose for sale, sell to any one, have in possession with intent to sell, or have in possession or under control at any time, living or dead, any wild birds other than a game bird, nor any part thereof, irrespective of whether said wild bird was captured or killed within or without the state, and for the purposes of this chapter the following only shall be considered game birds: The anatidae, commonly known as swan, geese, brant, river and sea ducks; the limcolae commonly known as plover, snipe, woodcock; the gallinae, commonly known as grouse, prairie chicken, pheasants, partridges, and quail; provided, that black birds, crows, English sparrows, sharp-shinned hawks, Cooper hawks and great horned owls may be killed and had in possession at any time, but nothing herein contained shall be construed to prevent the keeping and sale of imported song birds as domestic pets.

§ 12. AMENDMENT.] Section Forty-three is hereby amended to read as follows:

§ 43. ATTEMPTED VIOLATION.] Any person traveling in any manner in any part of this state off the public highway, outside of the immediate bounds of the inhabited parts of any village, town or city in possession of any kind of a shot gun, with a dog or dogs commonly used or kept for the purpose of use in hunting any game birds mentioned in this chapter, from the first day of July to the sixth day of September (both inclusive) each year, shall be presumed to have violated or attempted to so violate the provisions of this chapter as to unlawful hunting, shooting or

taking of game birds as mentioned in this chapter, the hunting, taking or shooting of which is prohibited during said time. The use of traps, snares, and all other devices used to take game birds as defined in this chapter is hereby prohibited and subjects the persons using the same to all penalties prescribed in this section for hunting, shooting, snaring, trapping or taking any of the game birds and the fact that any traps, snares, or other devices used for the purpose of trapping, snaring or taking game birds, are found in the possession of, or upon the premises of any person, shall be prima facie evidence of the guilt, violation or attempted violation by such person of the provisions of this chapter, any person convicted of violation or attempted violation of any provision of this section shall be punished by the fine herein prescribed. Any person convicted of the violation of any of the provisions of this section shall be fined not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or both fine and imprisonment at the discretion of the court.

§ 13. AMENDMENT.] Section Forty-four is hereby amended to read as follows:

§ 44. FISH MAY BE TAKEN, WHEN.] No person shall catch, take, kill or have in possession or under control for any purpose whatever any of the fish hereinafter mentioned, within the periods herein limited, to-wit: Any variety of trout or landlocked salmon between the first day of October and the first day of May (both inclusive) following. Any black, gray or Oswego bass between the fifteenth day of October and the first day of June (both inclusive) following. Any variety of pike, crappies or perch between the fifteenth day of October and the fifteenth day of May (both inclusive) following.

§ 14. AMENDMENT.] Section Forty-five is hereby amended to read as follows:

§ 45. POWERS AND DUTIES.] The state fish commissioner shall have charge of all state fish hatcheries and appurtenances, he shall examine all state waters, and whenever suitable waters are found, arrange to plant, stock or deposit such fish as are available. He shall co-operate with the United States commissioners of fisheries, make application, receive, apportion and deposit such fish spawn or fry received, throughout the public waters of this state. He shall co-operate with and assist clubs and individuals in the stocking of the lakes and streams of this state with fish. He shall, with the consent of the game and fish board of control remove or take by any means from any of the public waters of this state containing a surplus of fish any reasonable quantity for the stocking of other public waters of this state, or to be used for hatching or propagating purposes, or for exchange with other states for equal numbers of other species, but in no case shall the number so taken be so great as

to perceptibly deplete such lake or streams. The state game and fish board of control shall have no power to authorize any individual, club, society or person to remove or take from any of the public waters of this state, for exchange, propagation or scientific purposes any fish excepting only under the personal supervision of the state fish commissioner or some one appointed by him. The state fish commissioner may take or cause to be taken at any time by any means from any of the lakes in this state any suckers, carp or pickerel. The fish hatchery heretofore established at Fish Lake, Birchwood Park, Rolette County, North Dakota, shall be maintained and the expenses thereof paid out of the game and fish fund, and it is hereby made the duty of the board of control to appropriate from said fund such moneys as are necessary for the proper maintenance and support thereof, and for the distribution of said fish hatchery.

§ 15. CLAIMS AGAINST THE GAME AND FISH FUND VERIFIED. How.] No bill, claim, account or demand against the game and fish fund shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the secretary of the board. And where charges are made for money expended in attending meetings of the board or for money expended in the performance of official duties, all items of one dollar or more shall be covered by a sub-voucher signed by the party to whom the money was paid. The sub-voucher shall show the date, at what price, and for what the money was paid. The sub-voucher shall be forwarded with the statement and said statement shall be verified by the oath of the party making it. All statements, bills or claims filed with the secretary, when duly certified to by the president of said board, shall be mailed to the state auditor. The state auditing board shall audit such claims and draw warrants upon the state treasurer for the amounts so allowed, to be paid out of the game and fish fund.

§ 16. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 17. EMERGENCY.] An emergency existing in this that the present game laws are inconsistent and that some of the provisions herein should be effective before July 1st, 1911, this act shall be in force from and after its passage and approval.

Approved March 18, 1911.

CHAPTER 142.

[H. B. No. 22—Englund]

TAKING OF FISH.

AN ACT to Amend Section 46, Chapter 128, Laws of North Dakota for the Year 1909, Relating to the Taking of Fish.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 46, chapter 128, laws of 1909 is hereby amended to read as follows:

§ 46. MANNER OF TAKING.] No person shall catch, kill or destroy in any manner than by angling for them with a hook and line held in the hand or attached to a rod so held, nor with more than one line, nor with more than one hook, or artificial line attached thereto, and no person shall have in his possession any of the above mentioned fish caught, taken, or killed in any waters of this state except as provided in this chapter; provided, that pickerel, suckers, red horse, carp, and bull heads may be taken with a spear without limit at any time, but no artificial light shall be used in the taking of said fish at any time, and that the use of set lines is permitted in the Des Lacs lakes, Missouri, Mouse, Sheyenne, and Red rivers; provided, further, that in the Des Lacs lakes, Missouri and Mouse rivers pound nets, seines or dip nets may be used, but if any other fish than pickerel, suckers, red horse, carp and bull heads are caught in any pound nets, seines or dip nets, they shall immediately be thrown back into the water and it shall be unlawful to use any such net within a distance of one thousand feet from the mouth of any stream emptying into the Missouri river.

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 18, 1911.

CHAPTER 143.

[H. B. No. 427—Heinemeyer]

WITHDRAWING FROM SALE OR RENT CERTAIN SCHOOL LAND
IN DUNN COUNTY.

AN ACT to Withdraw from Sale or Rent Certain School Land in Dunn County.

Whereas efforts are being made to have Congress set aside a portion of Dunn County known as Killdeer Mountains for a game, fish and forest reserve; and

Whereas, the school land herein described is embraced within the said section of Dunn County; therefore:

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LANDS DESCRIBED.] That section 16, township 146, range 96 west of the 5th principal meridian in Dunn county be withdrawn from sale or rent until otherwise provided by law.

§ 2. EMERGENCY.] Whereas, an emergency exists in that these lands may be sold before Congress takes action; therefore this act shall be in force immediately after its passage and approval.

Approved March 6, 1911.

GLANDERED HORSES

CHAPTER 144.

[S. B. No. 169—Cashel]

INDEMNIFYING OWNERS OF HORSES KILLED OR DESTROYED BY
GLANDERS.

AN ACT Indemnifying Owners for Horses Killed or Destroyed According to Law for Being Affected with the Disease Known as Glanders.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTY OF THE STATE BOARD OF EQUALIZATION.] It shall be the duty of the state board of equalization, at the time of the levy of the annual tax, to levy a special tax of one tenth of one mill on the dollar upon the assessed valuation of all property in this state and when collected, paid into the hands of the state treasurer, who shall at once enter the same into a fund known as the glandered horse fund. Said fund shall be preserved inviolate for the payment of claims allowed for the destruction