

wheat, durum wheat or any other variety, and the state in which it was produced. Such label shall also state the percentum of protein of the said wheat or mixture of wheat when manufactured into flour; also the net weight in pounds of flour contained in such container, bag or barrel.

§ 4. STATE FOOD COMMISSIONER TO ADMINISTER.] It shall be the duty of the State Food Commissioner and Chemist to enforce the provisions of this Act; and in the performance of such duty he shall possess the same rights and powers concerning flour, as are prescribed for him in the North Dakota Food and Drug Act, known as Chapter 222 of the Laws of North Dakota for the year 1923. The method of prosecution and the penalties for violation as provided in said Food and Drug Act shall apply to the provisions of this Act.

Approved March 7, 1933.

GAME AND FISH

CHAPTER 112

S. B. No. 327—(Committee on Delayed Bills.)

TAKING, ETC., BEAVER DOING DAMAGE TO PROPERTY

An Act to amend and re-enact Subsection 2 of Section 1 of Chapter 150 of the 1931 Session Laws of North Dakota, relating to taking, trapping, or killing beaver doing damage to property; giving notice to land owners; and for sale and tagging of pelts to be sold.

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

§ 1. AMENDMENT.] That Subsection 2 of Section 1 of Chapter 150 of the 1931 Session Laws of North Dakota be amended and re-enacted as follows:

(2) The licensee shall report to the Game and Fish Commissioner within ten days after the taking of any beaver, the number of beaver so taken by him and shall make application for one tag for each beaver or beaver pelt in his possession, inclosing with his application an express or postal money order in payment of the number of tags applied for. The licensee shall pay the Commissioner a fee of 25 cents for each tag so issued, and the proceeds thereof shall be paid into the Game and Fish Fund. Such tags shall be prepared and issued by the Game and Fish Commissioner and shall be numbered consecutively and shall contain such other information as said Commissioner may deem expedient or necessary. The Commissioner shall keep a record of each such tag, with its serial number, to whom issued, the date thereof, and under what permit issued. The licensee shall immediately on the receipt of such tags affix in the manner designated by the Commissioner one of such tags to each and every

beaver or beaver pelt in his possession. Beaver or beaver pelts so taken and tagged may be bought, sold, had in possession, or transported at any time upon compliance with regulations of the Commissioner and all provisions of law relating thereto. It is hereby specifically provided that no licensee shall have in his possession at any time any beaver pelt longer than twenty days after the taking thereof, unless he shall have secured and affixed thereto such tag. It shall be unlawful for any person to sell, offer for sale, barter, or otherwise dispose of any beaver or beaver pelt unless it shall be so tagged, and it shall be unlawful for any person, partnership, or corporation to buy any beaver or beaver pelt at any time unless it shall be so tagged. It shall be unlawful to ship, transport, accept for transportation, or carry or convey in any manner any beaver or beaver pelt at any time unless the same shall be so tagged. The possession of a beaver pelt, not tagged as heretofore provided and required, shall be prima facie evidence of the unlawful taking of the beaver from which such pelt was procured.

Approved March 6, 1933.

CHAPTER 113

H. B. No. 127—(Committee on Game and Fish.)

SALE OF FISH PROHIBITION

An Act to amend and re-enact Section 55 of Chapter 148 of the 1931 Session Laws, relating to the sale of fish.

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

§ 1. AMENDMENT.] That Section 55 of Chapter 148 of the Session Laws of 1931 be amended and re-enacted to read as follows:

§ 55. FISH, SALE OF.] No person shall have in possession with intent to sell, barter, or trade to any person at any time any species of trout, crappie, sunfish, pike, perch, or land-locked salmon which have been caught within the borders of this state, and the sale of bass, taken either within or without the state, is prohibited.

Approved March 3, 1933.

CHAPTER 114

H. B. No. 136—(Committee on Game and Fish.)

PROPAGATION AND DOMESTICATION GAME BIRDS AND ANIMALS

An Act providing for the propagation and domestication of protected game birds and animals and providing a penalty for the violation thereof.

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

§ 1. PROPAGATING AND DOMESTICATING GAME BIRDS AND ANIMALS.] Upon application the Game and Fish Commissioner may issue permits to residents of this state to propagate and domesticate protected game birds and animals. Such applications shall be made upon forms furnished by the Commissioner and shall contain:

1. The name and address of the applicant.
2. A description of the premises upon which the applicant will keep such domesticated birds or animals.
3. The number and kind of birds or animals in possession at the time of making application, and whether they are wild or domesticated, and such other information as the Commissioner may require.

The Game and Fish Commissioner shall keep a record of all persons holding such permits. The fee for such a permit shall be One Dollar (\$1.00), and all permits shall expire on December 31st of the year when issued. Every person holding such permit shall annually, on or before December 31st, report to the Game and Fish Commissioner any increase or decrease in the number of game birds or animals held under permit during that year. Game birds or animals held under such a permit may be sold or transported alive for propagation purposes, and the eggs of such protected game birds may be sold or transported during such seasons as the Commissioner shall prescribe. All such sales and shipment shall be with the written permission of the Commissioner, and the packages or shipments must be tagged or marked as prescribed by the Commissioner. The Game and Fish Commissioner and his bonded deputies shall have the right to inspect all premises used for the purposes of this Act.

§ 2. PENALTY.] The penalty for the possession by any person of any such protected game birds or animals for propagation purposes without such person having first secured the permit referred to in this Act shall be the same as that now provided for the illegal taking of such game birds or animals during the closed season thereon.

Approved March 6, 1933.

CHAPTER 115

H. B. No. 133—(Committee on Game and Fish.)

HARMLESS BIRDS AND GAME BIRDS

An Act to amend and re-enact Section 10322a50 of the Supplement to the Compiled Laws of 1913, defining harmless birds and game birds.

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

§ 1. AMENDMENT.] That Section 10322a50 of the Supplement to the Compiled Laws of 1913 be, and the same is, hereby amended and re-enacted to read as follows:

§ 10322a50. 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, any wild birds, living or dead, 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 purpose of this Act the following only shall be considered game birds: The anatidae, commonly known as geese, brant, river and sea ducks; the limicolae, commonly known as plover, snipe, woodcock; the gallinae, commonly known as pinnated grouse, (prairie chicken) sharp tailed grouse (white-breasted grouse), pheasants of all varieties, quail, ruffed grouse or partridge; the gruidae or cranes of all varieties; the raillidae or rails or coots; the columbidae, or pigeons or doves; provided that black birds, magpies, crows, English sparrows, sharp-shinned hawks and Cooper hawks, great horned owls, snowy owls, and cormorants, may be killed and had in possession at any time, but nothing contained herein shall be construed to prevent the keeping and sale of imported song birds as domestic pets.

Approved March 6, 1933.

CHAPTER 116

H. B. No. 132—(Committee on Game and Fish.)

AIRCRAFT HUNTING PROHIBITED

An Act to amend and re-enact Section 56 of Chapter 148 of the 1931 Session Laws, relating to hunting from aircraft.

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

§ 1. AMENDMENT.] That Section 56 of Chapter 148 of the Session Laws of 1931 be, and the same is, hereby amended and re-enacted to read as follows:

§ 56. HUNTING FROM AIRCRAFT PROHIBITED.] Any aeronaut

or passenger who, while in flight within this state, shall intentionally kill or attempt to kill any birds or animals, except as hereinafter provided, shall be guilty of a misdemeanor; provided that wolves, coyotes, Canadian lynx or bobcats, and red and gray foxes, may, with the permission of the Game and Fish Commissioner, be hunted from aeroplanes within this state. Such hunting shall be subject to regulation by the Game and Fish Commissioner, and he may, in his discretion, require the posting by the hunter of a bond in the sum of not to exceed five hundred dollars (\$500.00), which bond shall be payable to the State of North Dakota and shall be forfeit thereto in the event of his conviction of a violation of this Section.

Approved March 6, 1933.

CHAPTER 117

H. B. No. 130—(Committee on Game and Fish.)

USE OF HUNTING DOGS

An Act to amend and re-enact Section 10322a27 of the Supplement to the Compiled Laws of 1913, and to repeal Section 58 of the Session Laws of 1931.

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

§ I. AMENDMENT.] That Section 10322a27 of the Compiled Laws of 1913 be, and the same is, hereby amended and re-enacted to read as follows:

§ 10322a27. No person shall hunt, pursue, catch, take or kill deer, antelope, moose or elk with any dog or dogs. No person shall train or run any dog or dogs known as "bird dogs" including pointer, setters, or droppers, or allow the same to run loose in fields or upon land in which game birds may be found, or are apt to be frequented by game birds, between the first day of April and the first day of November (both inclusive) following of each year.

Provided, however, that this Section shall not be construed as prohibiting the use of dogs for retrieving water birds, including any or all of the several species of ducks and geese, which it is lawful to hunt and kill.

Provided, further, that nothing in this Section shall be construed as prohibiting the use of retrievers or spaniels for the purpose of retrieving dead or wounded upland game birds during the open season thereon.

§ 2. REPEAL.] That Section 58 of the Session Laws of 1931 be, and the same is hereby repealed.

Approved March 6, 1933.

CHAPTER 118

H. B. No. 131—Committee on Game and Fish.)

ILLEGAL POSSESSION GAME AND FISH

An Act defining the illegal possession of game and fish, and providing penalties for the violation thereof.

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

§ 1. POSSESSION OF GAME AND FISH. PRESUMPTION. PENALTY.] Except as otherwise provided in this Act, it shall be unlawful for any person to take or kill or wound, or attempt to take or kill or wound, any game, except during the open season or to have in possession, or under control, any protected fish, or protected game bird or animal, either alive or dead, or any part thereof, except game lawfully taken during the open season. The burden of proof that game, or any part thereof, found in possession of any person after the close of the open season, was lawfully taken, shall be upon the person in whose possession such game or part thereof is found. It is unlawful for any person to knowingly use any game that has been unlawfully killed or taken, or to knowingly aid or assist in the concealment of any game unlawfully killed, or to knowingly have in possession with intent to use or conceal the same, any game or part thereof that has been unlawfully killed or taken. Provided, that a two days' bag limit of sharp-tailed grouse, pinnated grouse (prairie chickens), ruffed grouse (partridge), Hungarian partridge, sage-hen and Chinese or ring-necked pheasants, may be had in possession for not to exceed thirty (30) days immediately following the close of the season thereon; a two days' bag limit of geese, brant, ducks, coots and jack-snipes, may be had in possession for not to exceed ten (10) days immediately following the close of the season thereon, and one deer or any part thereof may be legally had in possession for not to exceed ninety (90) days after the close of the season, if the proper tag and seal is attached thereto. The possession, transportation, or having in control, of any fish, game bird or game animal, or part thereof, taken in violation of law, shall constitute a misdemeanor and shall be punishable by the same penalty as that provided for the illegal killing, catching, taking, or hunting, of such fish, birds, or animals.

Approved March 6, 1933.

CHAPTER 119

H. B. No. 129—(Committee on Game and Fish.)

ESTABLISHMENT GAME REFUGE

An Act to amend and re-enact Section 37 of Chapter 148 of the 1931 Session Laws, relating to game refuges.

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

§ 1. AMENDMENT.] That Section 37 of Chapter 148 of the Session Laws of 1931 be, and the same is, hereby amended and re-enacted to read as follows:

§ 37. GAME REFUGE.] Any person, partnership, or corporation owning or having control by lease or otherwise for the required time of lands within the State of North Dakota, may establish thereon a game refuge by filing a written application with the Game and Fish Commissioner giving: (a) the name of the owner or lessee, or in case of the lessee, the written consent of both the owner and the lessee; (b) the time for which the refuge is to be established, in no case less than ten years from the date the application is filed; (c) the extent and legal description of the land, in no case less than ten acres, and not to exceed in all six sections in any one township; (d) a brief dedication of the land to the State of North Dakota for the purpose of a game refuge; (e) each owner or lessee, if the latter the written agreement of both, must waive all rights of himself or members of his family to hunt, shoot, trap, or kill any protected game bird or animal, during the life of the dedication of the land to the State as a game refuge, and after the filing of his application in due form and the acceptance by the Game and Fish Commissioner shall constitute a game refuge within the meaning of this Section. A proper record subject to public inspection shall be kept by the Game and Fish Commissioner in which shall be registered by counties the names and donors, the time of the dedication and the legal description of the lands so dedicated as game refuges. The Game and Fish Commissioner may, in like manner, establish one or more game refuges on any unsold public lands of the State, which shall be registered with the game refuges on the private lands, as hereinbefore set forth, the duration of the public land refuges being until they become the property of private persons or until cancelled by the Game and Fish Commissioner. It is further provided that under the same terms and conditions the owner or owners of lands surrounding or adjoining any lake within the state may dedicate the lake to the State for breeding, resting and refuge places for waterfowl. All lands and lakes so set aside and established as game refuges shall be under the protection of the state, and it shall be unlawful to hunt with any firearms of any description within one hundred and fifty feet of the boundaries thereof, and any person who shall within the limits of one hundred and fifty feet of any game

refuge shoot, trap, kill, wound in any manner, take or capture or drive out of the refuge for the purpose of killing or capturing any protected game bird or animal, or shall be found within the limits of any game refuge with firearms of any kind, shall, upon conviction, be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten or more than thirty days in the discretion of the court. Any person convicted of a second or subsequent offense shall be punished by a fine double the amount of the penalty for the first offense. Each game refuge shall, after it has been established as provided, be posted at each corner and along its outer line at approximately eighty rods with a sign upon which shall be the words, "State Game Refuge." The owner or lessee of land or lakes so set aside as a game refuge shall not himself hunt or carry firearms therein nor permit immediate members of his own family or any other person or persons to hunt or carry firearms therein, except that if he has reason to believe there are within the game refuge any carnivorous birds or animals, or if he finds any carnivorous birds or animals, he may with the knowledge and written permit from the Game and Fish Commissioner, hunt and kill and trap any and all such carnivorous or unprotected birds or animals found within such game refuge, as by nature injure or kill protected game birds and animals living therein. The Game and Fish Commissioner shall be empowered to designate as his agent, and subject to his regulation, a game warden or any other person to destroy predatory birds or animals within a state game refuge provided that consent is first secured from the owner or lessee of the property on which such birds or animals are found.

Approved March 6, 1933.

CHAPTER 120

H. B. No. 204—(Godwin.)

DISPOSITION OTHER MONEYS GAME AND FISH COMMISSION

An Act to amend and re-enact Section 11 of Chapter 148 of the Session Laws of 1931, relating to the disposition of money collected by the Game and Fish Commissioner, and providing for the conservation of water and the construction of dams within the state.

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

§ I. AMENDMENT.] That Section II of Chapter 148 of the Session Laws of 1931 be, and the same is hereby amended and re-enacted to read as follows:

§ II. DISPOSITION OF OTHER MONEYS.] All moneys collected by the Game and Fish Commissioner, his deputies or agents, upon licenses issued, by the sale of game seized and sold, and from all

other sources except fines, shall be paid to the Treasurer of the State of North Dakota to be credited to the Game and Fish Fund to be used in enforcing the provisions of this Act; provided that any surplus accumulating to the credit of the Game and Fish Fund may be used for the propagation of game and fish. The Game and Fish Commissioner is hereby authorized and empowered to expend not to exceed twenty thousand dollars (\$20,000.00) annually for the construction of dams and water conservation projects within the state, which will provide fishing facilities and breeding and resting places for waterfowl. All such expenditures shall be limited to the payment of labor and materials used in such construction projects. The selection of dam sites and the supervision of their construction shall be under the control and direction of the Game and Fish Commissioner.

Approved March 6, 1933.

CHAPTER 121

H. B. No. 134—(Committee on Game and Fish.)

RESIDENT HUNTING AND FISHING LICENSES

An Act to amend and re-enact Section 22 of Chapter 148 of the 1931 Session Laws, relating to resident licenses. Cost. How issued. Applications. Forms. Game and fish shipment, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 22 of Chapter 148 of the Session Laws of 1931 be, and the same is, hereby amended and re-enacted to read as follows:

§ 22. RESIDENT LICENSES. COST. HOW ISSUED. APPLICATIONS. FORMS. GAME AND FISH SHIPMENT.] Applications for resident hunting, trapping, or fishing licenses shall show the applicant is a citizen of the United States, or has declared his intention to become such citizen, and is a bona fide resident of the state, shall give his residence, postoffice address, shall contain a description of his person as to his weight, height, color of his hair and eyes. Such application shall be signed by the applicant. Resident hunting, trapping, fishing and taxidermist licenses shall be sold by the County Auditor, Game and Fish Commissioner, Deputy Game and Fish Commissioner, and all bonded game wardens. When sold by the Game and Fish Commissioner, Deputy Game and Fish Commissioner, or the bonded game wardens, the gross receipts must be sent to the Game and Fish Commissioner's office at Bismarck, North Dakota, and by him transmitted to the State Treasurer, who shall credit the amount to the Game and Fish Fund. No such resident license shall be transferable. Resident hunting licenses shall be sold for One Dollar and Fifty Cents (\$1.50) each; resident trapping licenses for One Dollar (\$1.00) each; resident fishing licenses for

Fifty Cents (50¢) each; taxidermist licenses for Two Dollars (\$2.00) each. Provided, that any person under 18 years of age may fish without a license. Resident licenses, when issued, shall describe the licensee, designate his place of residence, and have printed upon it in large figures the year for which issued and the words "Non Transferable." Any resident of the state having procured a resident hunting, trapping, fishing license, as required, and being lawfully in possession of any protected game birds, animals or fish, mentioned in this Act, may ship by common carrier, or when same is accompanied by the person legally in the possession of said protected game birds, animals or fish, may carry on the same train or other conveyance to his home address in the county in which he resides not to exceed a two days' bag limit of any protected game birds, animals or fish. Any resident of the state who shall hunt, trap, fish, or practice taxidermy for pay, without having first procured a license therefor, as provided in this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and cost of prosecution, or by imprisonment, in the county jail for not less than ten nor more than thirty days for each offense, or by both such fine and imprisonment, and each violation of this Act shall be a distinct and separate offense.

§ 2. EMERGENCY.] An emergency is declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1933.

CHAPTER 122

H. B. No. 128—(Committee on Game and Fish.)

USE OF TRAPS, SNARES, LIGHTS, ETC.

An Act to amend and re-enact Section 15 of Chapter 148 of the 1931 Session Laws relating to the use of traps, snares, lights, etc.

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

§ 1. AMENDMENT.] That Section 15 of Chapter 148 of the Session Laws of 1931 be, and the same is hereby amended and re-enacted to read as follows:

§ 15. TRAPS, SNARES, LIGHTS, ETC.] No person shall at any time set, lay, or prepare any trap, snare, artificial light, net, birdlime, swivel gun, or any contrivance whatever, or drag any wire, or rope, or other contrivance in any manner for the purpose of catching, taking, killing or raising any protected game birds, animals, or fish, mentioned in this Act, except as hereinafter provided. Game birds and animals protected by law can be taken only in daytime with a gun not larger in bore than a ten gauge shotgun, fired from the

shoulder. Stationary blinds on land, constructed of natural material, live or artificial decoys, and boats anchored in natural blinds, can be used in the taking of wild ducks and geese. No person shall shoot from a sunken device nor from any boat in open water of this state, nor shall any person use or cause to be used any floating battery, electric, steam, or gasoline, or other floating vessel, or rifle, pistol, or ball cartridge, for the purpose of raising or driving any game birds from their resting or feeding places in any waters of this state. Rifles shall not be used in hunting or pursuing wild ducks and geese or other protected game birds. No person, while in a motor vehicle, shall take any game or discharge any firearms at any protected birds or animals. It shall be unlawful to use any kind or type of silencers on firearms.

Approved March 6, 1933.

GAS

CHAPTER 123

H. B. No. 314—(Place and Noben.)

RESERVATION GAS FRANCHISES

An Act providing that hereafter no franchise involving the use of natural gas shall be granted to any person, firm or corporation, any city, village, or other public corporation, which does not make a reservation therein to use a percentage of native natural gas, if and when produced; providing for a pro rata distribution to producers, and fixing the percentage of native natural gas to be used by any such person, firm or corporation operating under any such franchise, and declaring what shall be native natural gas in commercial quantities, and providing an emergency.

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

§ 1. RESERVATION IN GAS FRANCHISES.] No city, village or other public corporation, shall hereafter grant to any person, firm or corporation, a franchise to furnish natural gas to the public in this state, without making a reservation therein that a percentage of native natural gas shall be used by said person, firm or corporation, if, and when produced in commercial quantities.

§ 2. PERCENTAGE FIXED.] Whenever native natural gas is produced in this State in commercial quantities, it shall be the duty of any person, firm, or corporation, having a franchise to furnish gas to the public, which franchise is dated after the passage and approval of this Act, to use 50%, or its equivalent of native natural gas as developed if the source thereof is located not more than six miles from any established gas pipe line.

§ 3. GAS IN COMMERCIAL QUANTITIES, WHAT IS.] Any gas well of two hundred fifty thousand cubic feet volume and two