

FENCES, HEDGES, GRAIN, AND TREES.

CHAPTER 43.

TO PROVIDE FOR THE PROTECTION OF HEDGES, FENCES,  
GRAIN, FRUIT, AND ORNAMENTAL TREES.

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

SECTION 1. That whenever any owner or owners, occu-  
pant or occupants of any land or lands bordering upon any  
public road or highway, except a street or alley, in a town or  
village, through which any public road or highway may pass,  
may wish to plant and cultivate any hedge or live fence  
along the margin of his, her, or their lands, it shall be lawful  
for any such person or persons to set or plant any such  
hedge or live fence, precisely on the line of the road or high-  
way; and also place on the margin of such road a protection  
fence, not to occupy more than six feet of the margin or edge  
of such road; and such protection fence, when placed oppo-  
site any line fence or hedge actually set or planted, shall be  
permitted by the supervisor of roads, and all other persons,  
to remain for the term of six years: *Provided*, That the  
authorities of any county may grant permission, in writing,  
to the owner or owners of any hedge or live fence, to con-  
tinue such protection fence any term of time they may deem  
necessary.

Provisions re-  
lating to growth  
of hedges.

Proviso.

SECT. 2. If any person or persons shall wantonly or ma-  
liciously cut through, dig up, or injure any hedge or live fence,  
or throw, cut, or lodge down, or prostrate any fence inclosing  
any orchard, pasture, meadow, garden, or other field or inclo-  
sure, in which any grain or vegetables are cultivated, the  
property of, or lawfully occupied by any other person or  
persons, or shall wantonly or maliciously open, let down,  
throw down, or prostrate any gate or bars belonging to any  
such inclosure or field, and leave any such fence, bars, or  
gate down, prostrate or open, every such person or persons

Relating to  
injury to  
hedges and  
fences. Penalty.

shall, upon conviction thereof, be fined in any sum, not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding thirty days, or both, at the discretion of the court.

Relating to injury to fruit and ornamental trees and shrubbery. Penalty.

SECT. 3. And if any person or persons shall wilfully or maliciously, and without lawful authority, cut down, root up, sever, injure, or destroy any fruit or ornamental trees, cultivated root or plant, or other vegetable production, standing or growing in, or being attached to the lands of others, and shall wilfully and without lawful authority, cut down, root up, destroy, or injure any fruit or ornamental trees or shrubbery, planted or growing in any street, lane, or alley, or public ground, in any city or incorporated town, every such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine of not more than one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, at the discretion of the court, and shall moreover be liable in damages to the party injured.

In case of prosecution, and land owned by one or more tenants.

SECT. 4. In case of prosecution for any of the above offences, if the land referred to be owned or occupied in common by two or more tenants, the complaint shall be deemed sufficient, if any one or more of such tenants in common shall be named therein.

Prosecutions commenced within one year.

SECT. 5. All prosecutions under this chapter shall be commenced within one year from the time any such offence shall have been committed, before some justice of the peace of the county wherein the same shall have been committed; and all fines collected under the provisions of this chapter, shall be paid into the treasury of the county where the offence shall have been committed, for the use of the common schools of said county.

Fines for use of common schools.

Take effect, when.

SECT. 6. This act shall take effect and be in force from and after the first day of May, 1862.

Approved April 10, 1862.

W. JAYNE, *Governor.*