

within thirty days, on notice to them in writing, made by five freeholders of any county through which the waterways so dammed shall pass, to let the work of erecting such fishway or chute, and providing material therefor, to the lowest responsible bidder, and all expenses attendant upon the erection or maintenance of the same shall be paid by the owner or occupant of the dam, and shall be recovered in the name of the person building such fishway or chute upon the acceptance of the same by the county commissioners; and if not paid by such dam owners or occupants, the same shall become a lien upon such property and shall be collected as is provided for enforcing mechanics' liens. If said board of county commissioners shall refuse or neglect to erect and maintain such fishway or chute, after the notice to them required by this section, they shall upon conviction therefor be adjudged guilty of a misdemeanor and shall be punished by removal from office and payment of the costs of prosecution.

Approved March 12, 1903.

GAME WARDENS.

CHAPTER 103.

[S. B. No. 82—Cox.]

DIVIDING STATE INTO TWO GAME WARDEN DISTRICTS.

AN ACT to Amend Sections 1642, 1644, 1645, 1646, 1647, 7678, 7683a, 7683b, 7683c, 7683d and 7683f of the Revised Codes of North Dakota, 1899, Relating to the Protection of Game, the Division of the State Into Game Districts, the Appointment of District Game Wardens, the Issuing of Permits to Hunt, the Disposition of Money Received From the Sale of Permits and Enacting Other Provisions Relating Thereto and Providing Penalties for Violation Thereof.

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

§ 1. AMENDMENT.] That sections 1642, 1644, 1645, 1646, 1647, 7678, 7683a, 7683b, 7683c, 7683d and 7683f of the revised codes of North Dakota, 1899, be and the said sections are hereby amended to read as follows:

§ 1642. DISTRICT GAME WARDENS. HOW APPOINTED. BOND. DUTIES. DEPUTIES.] The state shall be divided into two game districts.

District number one shall consist of the following counties: Pembina, Walsh, Grand Forks, Nelson, Ramsey, Cavalier, Benson, Town-er, Wells, Pierce, Rolette, McLean, McHenry, Bottineau, Ward, Williams, Allred, Wallace and all unorganized adjacent territory.

District number two shall consist of the following counties: Traill, Steele, Griggs, Eddy, Foster, Cass, Barnes, Stutsman, Richland, Ransom, LaMoure, Sargent, Dickey, McIntosh, Logan, Emmons, Kidder, Oliver, Burleigh, Morton, Hettinger, Bowman, Billings, Stark, Mercer, Dunn, McKenzie and all unorganized adjacent territory.

There shall be appointed by the governor in each of said game districts a game warden, who shall be known as the district game warden, and whose term of office shall be two years, commencing on the first Tuesday in April next succeeding his appointment and until his successor is appointed and qualified. He shall give a bond, to be approved by the governor, in the sum of one thousand dollars, conditioned for the faithful performance of his duties. It is the duty of the district game wardens to superintend and aid in the enforcement of all laws of this state for the preservation of game therein. The district game wardens shall appoint deputy game wardens in the counties of their respective districts as follows: In each county having less than three thousand inhabitants, one deputy; in each county having more than three thousand inhabitants and not less than seven thousand inhabitants, two deputies; in every other county three deputies, and special deputies wherever and whenever they deem it advisable.

Every deputy shall be an elector of the county for which he is appointed, and shall hold office at the pleasure of the district game warden, or until disqualified for any reason.

§ 1644. PERMITS. FORM OF.] The district game wardens shall cause forms of such permits to be printed, and across the face of such permits, in large red figures, shall appear the year for which they are issued, such permits to be substantially as follows:

State of North Dakota, County ofss.
, a resident of North Dakota, is hereby licensed to hunt in North Dakota, under the provisions and conditions of the game laws thereof, during the open season of the year..... This permit is not transferable.

Dated at this day of 19..

.....
 County Auditor.

Such permits shall be endorsed by the district game wardens, and issued by them to the county auditors of the several counties in their respective districts.

§ 1645. COUNTY AUDITORS TO ISSUE PERMITS. FEES.] The county auditor shall fill out and issue one of such permits to any person applying therefor on payment of twenty-five dollars, if the applicant is a non-resident of the state, and on payment of seventy-five cents, if applicant is known to the auditor, or satisfactorily proven to him to be a resident of this state; provided, that any non-resident who may own cultivated lands, or be carrying on the cultivation of any lands in this state, not less than one quarter section, for a period of not less than one year prior to the time of making application for such license,

shall be entitled to take out a resident's permit, whether such non-resident is the owner of land so cultivated in whole or in part; provided, that such non-resident shall take out such permit in the county where such cultivation is carried on. No permit shall be valid unless endorsed by the district game warden of the district in which said permit is issued, signed by the county auditor and sealed with the county seal. Such permit shall authorize the holder to hunt throughout the state either with or without dogs. All permits shall expire on the thirty-first day of December next after their issuance. It shall be unlawful for the district game wardens or any of their deputies, or any county auditor, to issue to any person any complimentary or special permit, or in any way, directly or indirectly, to grant permission to, or authorize any person to violate any of the provisions of the game laws of this state, and any such officer so doing shall for each offense forfeit and pay the sum of not less than fifty dollars, nor more than two hundred dollars, with costs, to be recovered in a civil action, for the payment of which sum such officer shall be liable upon his official bond. Any person informing against such officer shall be entitled to one-half of the amount so recovered, the balance to be disposed of as provided in section 7736 of the revised codes.

§ 1646. DISPOSITION OF FEES.] Twenty per cent of all money received from the sale of permits shall be paid over to the state treasurer by the county auditor of each county on the first day of December of each year, and shall be placed in the state general fund. Thirty per cent shall at the same time be paid over to the district game warden by the county auditor of each county within his district, and shall be in full payment for his services. Forty per cent shall at the same time be paid over to the deputy game warden of the county, or when there is more than one, be divided equally between them, and shall be in full payment for their services, and the remaining ten per cent shall be retained by the county auditor for his personal services. And the county auditor of every county shall at the same time file with the state auditor a full report of all resident and non-resident permits, issued by him during that year.

§ 1647. POWERS AND DUTIES OF DISTRICT GAME WARDENS AND DEPUTIES.] For the purpose of enforcing the laws of this state for the protection of game, the district game wardens and their deputies shall have all the powers conferred by law upon constables. It shall be the duty of each deputy game warden diligently to inform himself of all violation of such laws, and to prosecute the same, and to arrest the party so violating them with a warrant sworn out before any justice of the peace of the county in which the offense is committed, said warrant to be issued as provided in section 7891 of the revised codes. If caught in the violation thereof at the time of his arrest, a party may be arrested therefor without a warrant, when he shall be at once taken before a court having jurisdiction of the offense, and a warrant issued, when the same proceedings shall thereafter be had as if a warrant had been issued before his arrest, but no

person shall be arrested without a warrant for any such violation when not engaged in such violation at the time of his arrest. Upon any conviction had for any violation of the provisions of this act, there shall be paid to the deputy making the arrest such fees as are allowed constables for services in like cases, to be taxed and collected as a part of the costs in the case.

§ 7678. POSSESSION OF GAME ILLEGAL, WHEN.] Every person who has in his or her possession any of the birds or animals mentioned in the last section, at any time prior to the opening of the respective seasons during which it shall be lawful to hunt or kill the same, shall be guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of the county in which such offense is committed, is punishable in the manner and to the extent provided in the last section for the killing of the same; provided, that any person may retain possession of such birds or game five days from the close of their respective seasons; and further provided, if any person having the possession of any such birds or game, lawfully killed, desires to retain same for a longer period than five days from the close of their respective seasons, he may apply to the state game warden, or his deputy, for a tag, properly stamped, and describing such game, which tag shall be attached to each bird or separate part of game, and shall remain securely fastened thereto until the same is used for food.

§ 7683a. DISTRICT GAME WARDENS, DEPUTIES AND PEACE OFFICERS SHALL SEIZE GAME.] It shall be the duty of district game wardens and their deputies, and all peace officers of this state, at any and all times to seize and take possession of any and all animals or birds which have been caught, taken, killed shipped or received for shipment, had in possession or under control contrary to the provisions of the laws of this state. Such seizure may be made without a warrant. Any court having jurisdiction of the offense upon receiving by oath or affirmation [proof] of probable cause for belief in concealment of any birds or animals caught, taken, killed, shipped or received for shipment, had in possession or under control contrary to the provisions of the laws of the state, shall issue a search warrant and cause a search to be made therefor in any place particularly described in said warrant, and to that end may cause any building, inclosure or car to be entered and any apartment, chest, box, locker, crate, basket or package to be broken open and the contents thereof examined. Deputy game wardens and all peace officers taking or seizing any such animals or birds shall at once report the facts attending the same to the district game warden, and shall at his request turn the same over to him. After such taking such animals or birds shall be subject to the direction and control of the district game warden and shall be considered in his possession.

§ 7683b. GAME SEIZED AND SOLD. HOW PROCEEDS DISPOSED OF.] Any animals or birds caught, taken, killed, shipped or received for

shipment, had in possession or under control contrary to the provisions of the laws of this state, which may come into the possession of the ditrict game warden, either directly or through any deputy or peace officer, shall be sold or disposed of within this state, and the district game warden may issue a certificate to the person purchasing, certifying that the same were legally obtained and possessed, and anyone so acquiring same within this state shall have the right to deal therewith as if the same had been killed or possessed in accordance with the laws of this state. The deputy game warden or peace officer making such seizure shall be entitled to two-thirds of the proceeds of the sale of any of the animals or birds sold or disposed of as herein provided, and the district game warden shall be entitled to one-third of the proceeds of such sale.

§ 7683f. INDIANS SUBJECT TO GAME LAWS.] It shall be unlawful for any Indian who is a ward of the United States government to hunt on any lands within the state at any time, except upon such lands as are known to be Indian reservation lands. It shall be the duty of the district game wardens, their deputies and all peace officers of this state, to arrest any Indian found hunting in violation of this act. It shall be the duty of the state's attorney in any county within the state to prosecute any Indian so arrested under the provisions of this act, and upon conviction such Indian shall be deemed guilty of a misdemeanor and be punishable by a fine of not less than twenty dollars nor more than fifty dollars, or may be imprisoned in the county jail not less than ten days nor more than thirty days, or may be subjected to both such fine and imprisonment; provided, that the provision of this section shall not apply to any Indian who takes out a permit to hunt, as provided for other persons.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the present law providing for the appointment of a state game warden and the protection of game is inadequate, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1903.