

shall be deemed prima facie evidence of intent to sell or transport the same in violation of this Act.

Sec. 14. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 15. REPEALS SPECIFIC, REPEALS IMPLIED, SAVING CLAUSE.) The laws hereinafter enumerated shall be expressly repealed and all acts or parts of acts inconsistent with the provisions of this Act are hereby repealed from and after the taking effect of this Act:

Chapter 38, Article 69, Political Code of the Compiled Laws of 1913; Sections 3057 to 3080, inclusive.

Chapter 188 of the Session Laws of 1915; Sections 1 to 25, inclusive.

Chapter 161 of the Session Laws of 1917; Sections 1 to 3, inclusive.

Chapter 162 of the Session Laws of 1917; Section 1.

Chapter 185 of the Session Laws of 1919; 1 to 25, inclusive.

Approved March 8th, 1923.

GAME AND FISH

CHAPTER 224.

(S. B. No. 155—Game and Fish Committee.)

GAME AND FISH.

An Act To Amend and Re-enact Sections 3, 4, 6, 8, 34, 35 and 65, Chapter 161, Session Laws of 1915, and Section 27, Chapter 161, Session Laws of 1915, as Amended by Section 2, Chapter 134, Session Laws of 1919, and Section 36, Chapter 161, Session Laws of 1915 as amended by Section 5, Chapter 134, Session Laws of 1919, and Section 46, Chapter 161, Session Laws of 1915 as Amended by Chapter 134, Session Laws of 1919 and as Amended by Chapter 68, Session Laws of 1921 and Section 80, Chapter 161, Session Laws of 1915 as Amended by Chapter 135, Session Laws of 1919, relating to Game and Fish.

B. It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. AMENDMENT.) That Section 3 of Chapter 161, Session Laws of 1915 is hereby amended and re-enacted so as to read as follows:

Sec. 3. BOARD OF CONTROL, GAME AND FISH COMMISSIONER, TERMS, APPOINTMENTS, MEETINGS, COMPENSATION, RULES AND REGULATIONS.) The North Dakota Game and Fish Board is hereby created, consisting of three members to be appointed by the Governor. One member of such board shall be appointed for two years commencing on or before the first day of April, 1915, and two members shall be appointed for four years. Thereafter such appointments shall be made for a term of four years, commencing on the expiration of each term. Vacancies arising from any cause shall be filled by the Governor. Said Board shall hold its first meeting on the second Tuesday of the month succeeding its appointment and shall organize by electing one member of said board president, one vice president, and one secretary. A quorum of said board shall consist of two members. The North Dakota Game and Fish Board after its organization may hold its meetings at any point in the State at such time and place as the President may designate, and there must be at least four regular meetings each year. The President of the board shall have the power to call special meetings whenever, in his judgment, it becomes necessary. The President and the Vice President of the Board shall receive as compensation for their services the sum of five dollars per day for each day in attendance at and necessary for going to and returning from such meetings, and all expenses actually and necessarily incurred incident to such meetings, and the Secretary of the Board shall receive not to exceed the sum of twelve hundred dollars per year and actual expenses necessarily incurred in the performance of his official duties, which sums 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. Each member of the North Dakota Game and Fish Board shall give bonds to the State in the sum of Five Thousand Dollars, to be approved by the Governor, and the member chosen as Secretary shall maintain an office, keep a record of the acts of the board, formulate its reports and keep a record of its expenditures. The board shall establish rules and regulations and employ the most efficient and practical means to carry out the provisions of this act. It shall require of the Chief Wardens monthly and annual reports in full, a copy of which shall be mailed to each member of such board, stating the number of deputy wardens appointed, their addresses, number of arrests, convictions and fines and other matters necessary to the enforcement of the provisions of this act. In the performance of their duties as members of the Game and Fish Board, as game wardens, as game and fish commissioners, all such persons after having been legally appointed as provided in this act, and during the terms for which they are in active service, shall each of them be exempt from any or all liability to any

person for acts done or permitted or property destroyed under and by virtue of the authority of the law.

Sec. 2. AMENDMENT.) That Section 4, Chapter 161, Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 4. POWERS AND DUTIES OF THE BOARD.) 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 and the publication of such information and reports.

3. The power to purchase and lease, for the state, control, construct, mark, designate and manage all state fish hatcheries, state game farms, game refuges, game reserves and game reservations that are now, or may hereafter be owned, leased or controlled 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. The taking alive at any time, by any means, under the personal supervision of any member of the board, or someone appointed by them, any birds or animals for propagating purposes, or for the exchange with other states for game and birds and animals of other species.

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, automobiles, vehicles 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.

7. The power to appoint chief game wardens, state wide deputy game wardens, district game wardens, and such other special wardens as may be necessary to enforce the provisions of the game laws of the State of North Dakota, and the deputy game and fish commissioner as provided for in section 6 and section 8 of this act.

It is further provided that the game and fish board shall have the power and authority to remove at their pleasure any one or all of its appointees.

8. The Game and Fish Board shall have full power and authority to fix a maximum amount of traveling and other expenses which may or might be incurred by any or all of its appointees or by the Game and Fish Commissioner.

Sec. 3. AMENDMENT.) That Section 6, Chapter 161 Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 6. CHIEF GAME WARDENS.) The board shall appoint a chief game warden for each of the game districts mentioned in Section 2 of this act who shall devote all his time to the discharge of his duties, and shall receive compensation therefor the sum of 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 biennial period in which he is appointed, (biennial period for appointments shall be construed as ending April 1st of odd numbered years), unless sooner removed by action of the Game and Fish Board as provided for in paragraph 7 of Section 4 as amended, and be subject to the board's 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 duties 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 fields. Before entering upon the discharge of his duties he shall give a bond to the State of North with securities or security to be approved by the Governor, 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.

Sec. 4. AMENDMENT.) That Section 8 of Chapter 161, Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 8. OTHER EMPLOYEES.) The board may also appoint and remove at pleasure not to exceed one Statewide Deputy Game Warden for each game district, and not to exceed twelve regular district deputy game wardens, six of which are to be appointed in the first game district and six in the second game district, as provided for in Section 2, such district deputy game warden to serve for a period not to exceed four months during each year, which months shall be designated by the Game and Fish Board, unless in the opinion of the board an emergency exists which requires special work for which the board may authorize the Chief

Game Wardens to assign the district deputy wardens for extra duty for such periods and places as conditions require, for the better protection of the game of the state. PROVIDED, further, the Chief Game Warden in each district may appoint one or more special State-wide Game Wardens in each county in their respective districts, who shall serve for such a time and in such manner as the Chief Game Warden may direct. They shall serve as such special State-wide Game Wardens without compensation, except as provided in Section 21 of this Act. Such regular Deputy Game Wardens as are appointed by the board, shall receive as full compensation for their services, not to exceed one hundred dollars per month and actual expenses incurred in the performance of their 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 employees shall be paid from the state game and fish fund. Each Deputy Game Warden shall, without delay, report to the Chief Game Warden of his district all violations known to him and convictions secured, and give a detailed statement of the same. The board shall also appoint a Deputy Game and Fish Commissioner, who shall act as assistant to and under the direction of the State Game and Fish Commissioner, in the care of the state fish hatchery and in the distribution, breeding and capture of such game birds, animals and fish as the board may direct, for which he shall receive not to exceed fifteen hundred dollars per year and actual expenses necessarily incurred in the discharge of his official duties. He shall devote his entire time to the work and reside at a location designated by the board.

Sec. 5. AMENDMENT.) That Section 27, Chapter 161, Session Laws of 1915, as amended by Section 2, Chapter 134, Session Laws of 1919 is hereby amended and re-enacted so as to read as follows:

Sec. 27. DOGS, USE OF.) 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 owned or controlled by them known as "bird dogs" including pointers, setters or droppers, or allow 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, includ-

ing any or all of the several species of ducks and geese which it is lawful to hunt and kill.

Sec. 6. AMENDMENT.) That Section 34, Chapter 161, Session Laws of 1915 is hereby amended and re-enacted so as to read as follows:

Sec. 34. DEER, SEASONS FOR KILLING.) No person shall hunt, shoot, catch, kill, trap or in any manner destroy any deer within the boundary limits of the State of North Dakota. Any person violating the provisions of this Section shall be guilty of a misdemeanor, and upon conviction therefor shall be fined one hundred dollars for each deer, and cost of prosecution, or by imprisonment in the county jail for not less than thirty days nor more than sixty days, or by both such fine and imprisonment, in the discretion of the court, for each and every deer killed contrary to the provisions of this Act.

Sec. 7. AMENDMENT.) That Section 35, Chapter 161, Session Laws 1915 is hereby amended and re-enacted so as to read as follows:

Sec. 35. LICENSES FOR RESIDENT AND NON-RESIDENT HUNTERS, PROFESSIONAL DOG TRAINERS AND TAXIDERMISTS. HOW PROVIDED.) All persons are prohibited from hunting, taking or killing any protected game or bird in this state without having first procured a hunting license, as prescribed in this act. It shall be unlawful for any person over 16 years of age to take, trap, kill or capture in any manner any mink, muskrat, skunk, or other fur bearing animal without having first procured a license therefor. It is hereby provided, however, that no license is required for any resident of this state to hunt, fish or trap on lands owned by him or actually cultivated by him, or any member of his family residing permanently with him, during the open season as provided for in this act. All persons who accept money for training dogs, commonly used for hunting purposes, are hereby declared to be professional dog trainers and must secure licenses for that purpose. All persons are prohibited from practicing taxidermy for pay without first having secured a license therefor. The expiration of all licenses shall be on the following dates—each subsequent to their issuance; Hunting Licenses on the first day of December, trapping licenses on the sixth day of September, taxidermist licenses on the thirty-first day of December. The North Dakota game and fish board shall provide the necessary blank forms for applications and licenses of all kinds and distribute them among those authorized to sell said licenses.

Sec. 8. AMENDMENT.) That Section 36, Chapter 161, Session Laws of 1915 as amended by Section 5, Chapter 134, Session Laws of 1919 is hereby amended and re-enacted so as to read as follows:

Sec. 36. RESIDENT LICENSES. COST. HOW ISSUED. APPLICATIONS. FORMS. GAME AND FISH SHIPMENTS.) Application for resident hunting licenses shall show the applicant is a bona fide resident of the State and for six months has been a resident of the county in which license is sought, shall give his residence, post office, address, shall contain a description of his person as to his height, weight, color of his hair and eyes, and shall be verified by some freeholder of the county, other than the applicant, acquainted with the facts as set forth in the application; and it is provided further that if any person selling licenses is in doubt as to the question of the residence of the applicant, an affidavit on that point may be required additional to the usual application. Resident hunting, trapping, professional dog training and taxidermists licenses may be sold by the county auditors, members of the game and fish board and by all bonded game wardens. When sold by members of the game and fish board or the bonded appointees of the Board the gross receipts must be sent to the secretary of the Board at the end of each month 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 each, resident trapping licenses for two dollars each, resident professional dog trainers' licenses for one dollar each, taxidermist licenses for one dollar each. 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 word "Not Transferable." Any resident of the state having procured a resident hunting license as required, and being lawfully in possession of any protected game birds or animals mentioned in this act may ship by common carrier or when same is accompanied by the person legally in possession of said protected birds or animals 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 or animals. Any resident of the state who shall hunt, trap, practice taxidermy for pay, or train dogs professionally 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 nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days 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.

Sec. 9. AMENDMENT.) That Section 46, Chapter 161, as amended by Chapter 63, Session Laws of 1917 and as amended by Chapter 134 Session Laws of 1919, and as amended by Chapter 68, Session Laws of 1921, is hereby amended and re-enacted so as to read as follows:

Sec. 46. BEAVER, OTTER AND MUSKRAT.) No person shall take, kill, catch, trap or destroy any beaver or otter within the boundary of the State of North Dakota. No person shall take, kill, catch, trap or destroy any muskrat within the boundary of the State of North Dakota until the 10th day of January, 1924. However, at no time shall it be lawful to cut into, destroy, dynamite or molest, any beaver dam, beaver or muskrat house or mound. Provided, however, that any person having procured a trapping license may take, kill, catch or trap muskrat, but never by shooting, on or after the tenth day of January, 1924, until the 10th day of March, 1924, and between and including the 10th day of January and the 10th day of March of each year thereafter.

Any violation of this section of the law shall be declared a misdemeanor and any person or persons convicted of the violation thereof, shall be punished by a fine of not less than seventy-five dollars or more than one hundred dollars, and the costs of prosecution, or by the imprisonment in the County jail, for not less than ten or more than thirty days; or by both such fine and imprisonment.

If the owner, owners, leasee or leasees of any premises upon which there may be any muskrat shall, thereupon post in a conspicuous place upon such premises a notice forbidding trapping thereon, it shall be unlawful to take, kill, catch or trap muskrat upon such premises providing, however, the owners or leasees of said premises or any member of his family may take, kill, catch or trap muskrat upon his or their own premises after the tenth day of January, 1924, until the 10th day of March, 1924, and between and including the 10th day of January and the 10th day of March thereafter of each year, and any person or persons violating this provision shall be guilty of a misdemeanor.

Sec. 10. AMENDMENT.) That Section 65, Chapter 161, Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 65. RUFFED GROUSE OR PARTRIDGE, PHEASANTS, QUAIL.) Ruffed grouse or partridge, pheasants of all kinds and quail may be propagated, bred and distributed under the direction of the Game and Fish Board and it shall be unlawful for any person or persons to hunt, shoot, kill, take, trap or in any manner destroy, maim or wound any of these birds, except as authorized by the game and fish boards. An open season on ruffed grouse or partridge shall be declared from October 7th to October 16th, inclusive, in each year, in the counties of Bottineau, Cavalier, Pembina, and Rolette, the bag limit to be five birds only per day for each licensed hunter and no hunter shall be permitted to have more than fifteen ruffed grouse or partridges in his possession at one time. It is further provided that it shall be unlawful to shoot, kill or

trap in any manner the Sandhill, Little Brown or Whooping Crane, Swans, the Sage Hen or (Sage Grouse). Any violations of this Section shall be a misdemeanor.

Sec. 11. AMENDMENT.) That Section 80, Chapter 161, Session Laws of 1915 as amended by Chapter 135, Session Laws of 1919 is hereby amended and re-enacted so as to read as follows:

Sec. 80. FISH, MANNER OF TAKING.) No person shall take, catch, kill or destroy in any manner than by angling for them with a hook and line held in the hands or attached to a rod so held, not with more than one line, nor with more than one rod, nor more than one hook or an artificial lure attached thereto any protected game fish; provided, that any person or persons may take with nets, seines, drag nets, dip nets and traps any such fish as buffalo, bullhead, suckers, carp, catfish, redhorse or sturgeon from the waters of this State provided it is done under the direction of the Game Board or Chief Game Wardens or their authorized agent. Any person or persons desiring to do such seining must notify the members of the Game Board or Chief Game Wardens (of their district) and the members of the Game Board or Chief Game Wardens are authorized to issue a permit allowing seining, provided the parties making application so that this Game Board or Chief Game Wardens or their duly authorized agent may be present at such seining and if any other fish than the above mentioned kind are caught they shall be returned to the waters with as little harm as possible; provided, further, that seines, nets, drag nets, dip nets or traps may be used by any person without a permit in Des Laes Lake, Mouse River and the Missouri River, and any species or variety of fish may be taken from the Mouse River or the Missouri River and bayous or backwaters of the Missouri River. But no person or persons shall use a seine, net or trap within a thousand feet of the mouth of any stream emptying into the above named rivers; provided, further, that pickerel are hereby considered a game fish and are therefore protected; but the members of the Game Board or Chief Game Wardens shall have the power and authority to allow seining of pickerel at such time and place as in their judgment it shall be beneficial to the waters of the State. That the Game and Fish Board shall issue annual licenses to any person to use seines, nets, drag nets, dip nets or traps in Des Laes Lake, Mouse River and the Missouri River, upon payment of the following fee:

For resident license, \$1.50 dollars; for non-resident license twenty-five dollars.

Approved March 7th, 1923.

CHAPTER 225.

(S. B. No. 154—Game and Fish Committee.)

BREEDING OF FUR BEARING ANIMALS.

An Act to Amend and Re-enact Chapter 121, Session Laws of 1917 Relating to the Issuance of Permits for Breeding or Domestication of Certain Fur Bearing Animals.

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

Sec. 1. AMENDMENT.) That Chapter 121, Session Laws of 1917, is hereby amended and re-enacted so as to read as follows:

Sec. 1. Breeding of Fox, Mink, Muskrat, Skunk and Raccoon. Application to be Made to Game and Fish Board. Bond to be Given. The game and fish board of this state may issue annual permits to breed or domesticate fox, mink, muskrat, skunk and raccoon upon application to it which shall contain:

1. The name and address of the applicant.
2. A description of the premises upon which the applicant shall keep such domesticated animals.

The approximate number and kinds of animals in possession at the time of making the application and whether they are wild or domesticated.

The application shall be accompanied by a fee of five dollars. The board may thereupon issue a permit to the applicant to keep such animals. Any person so holding such permit shall annually on the first day of January, report to the board any increase or decrease had upon the original number applied for. The board shall keep a record of all persons holding such permits.

Any person desiring to breed and domesticate such fur-bearing animals may apply to the game and fish board for a permit to catch and take for the purpose of breeding and domesticating only, such animals within certain described territory and within a described portion of the closed season and upon such applicant giving a bond to the State of North Dakota in the sum of five hundred dollars (\$500.00), with two or more sureties to be approved by said board, conditioned, among other things, that said applicant will only within the time prescribed and within the territory mentioned in the application, take and catch such animals for the purpose of breeding and domesticating, and that such applicant will not catch, take or use such animals for any other purposes and will not sell or otherwise dispose of the same, or of the carcasses, fur and hides thereof, the said board may issue to such applicant a permit to so catch and take such animals. At the end of the time stated in such permit the person named therein shall forthwith report to the game and fish board the kind and number of

such animals so caught and taken and receive a permit for their retention and domestication, as in this act provided.

Sec. 2. Any person, who under the authority of this act, shall have in his lawful possession, any such fur bearing animals, shall be deemed to have a property right therein and to be the owner thereof, and any person who shall enter the enclosure where such animals are confined, or who shall catch, take or molest such animals when in such enclosure, shall be subject to the same liabilities, penalties and punishments as though the animals in question were ordinary domestic animals, the subject of property rights in this state.

Any such animals or their furs or hides may be sold or shipped within or without the state upon receipt of written permission to do so from the board.

Approved February 24th, 1923.

CHAPTER 226.

(S. B. No. 213—Steel.)

FISH.

An Act Giving the North Dakota Game and Fish Commission Power to Make Rules and Regulations in Addition to Those Already Provided by Law, for the Protection of the Fish in the Lakes and Rivers of North Dakota.

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

Sec. 1. Whenever the North Dakota Game and Fish Board, after investigation, finds that the fish, or any species thereof, in any lake of this state, for which an open season is provided, are in danger of undue depletion or extinction, or when necessary for the propagating of or the protection of immature fish, it may by an order provide protection for such fish, additional to that provided by law, and to that end may prescribe, in what manner and in what number, and in what places, and at what time fish may be taken.

Sec. 2. Any order issued by the said Board pursuant to this act, shall have the force of law, and any person or persons who shall violate any provisions of this act, shall be guilty of misdemeanor, and shall upon conviction be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) and costs of prosecution, or by imprisonment in the county jail for not less than twenty nor more than thirty days, or both, at the discretion of the Court.

Sec. 3. This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 24, 1923.