

CHAPTER 57.

AN ACT TO AMEND CHAPTER THIRTY-EIGHT (38) OF THE GENERAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FOUR, ENTITLED, "AN ACT FOR THE PRESERVATION OF GAME."

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. Chapter thirty-eight (38) of the General Laws of one thousand eight hundred and seventy-four (1874), entitled "An act for the preservation of game," is hereby amended to read as follows:

SEC. 1. No person shall kill or pursue with intent to kill any woodcock, saving only during the month of July after the third (3d) day of said month, and during the months of August, September and October; nor any prairie hen or chicken, nor any white-breasted or sharp-tailed grouse, or prairie chicken, save only during the month of August after the fourteenth (14th) day of said month, and during the month of September; nor any quail or partridge, save only during the months of September, October and November, nor any ruffed grouse or pheasant, save only during the months of September, October and November; nor any aquatic fowl, save only between the first (1st) day of September and the fifteenth day of May succeeding, in any year. Any person or persons offending against any provisions of this act, shall be punished by a fine of not less than five [dollars] (\$5) nor more than fifty dollars (\$50), or by the forfeiture of any and all of the above named game birds found in his or their possession, and by the forfeiture of any gun or guns and sporting implements, and dog or dogs in his or their possession, together with the cost of prosecution, or both, in the discretion of the court. No person shall expose for sale, or shall have in possession for the purpose of sale, any wild fowl, except wild pigeons, pheasants and aquatic fowls, for three (3) years after the going into effect of this act. And the penalties provided in section four (4) of this act shall be applicable to every such offense.

SEC. 2. No person shall kill or take by any means, contrivance or device whatever, or pursue with intent to kill or take or worry, or kill, hunt with hounds or dogs, any elk, deer, buck, doe or fawn, save from the first (1st) day of November to the fifteenth (15th) day of December in any year. And any person or persons offending against any provisions of this section, shall be punished by a fine of not less than ten [dollars] (\$10) nor more than seventy-five dollars (\$75), or by the forfeiture of any and all of the above named game

When game birds may be killed.

Penalties for violation.

When deer may be killed.

animals found in his or their possession, and by the forfeiture of any gun or guns and sporting implements, and dog or dogs in his or their possession, together with the cost of prosecution, or both, in the discretion of the court.

When trout
may be caught.

SEC. 3. No person shall catch, kill, or take by any means, contrivance or device whatever, or expose for sale in the State of Minnesota, any speckled, river or brook trout, save only during the months of April, May, June, July, August and September in any year, and any person or persons offending against any provisions of this section, shall be punished by fine of not less than five (5) nor more than fifty (50) dollars, or by the forfeiture of any and all of the game-fish above named, found in his or their possession, and by the forfeiture of all fishing tackle, basket and other sporting implements found in his or their possession, together with the costs of prosecution, or both, in the discretion of the court.

When game
may be ex-
posed for sale.

SEC. 4. Until after March first (1st), one thousand eight hundred and eighty (1880), no person shall sell or expose for sale, or have in his possession or custody, or under his control, with intent to sell or dispose of, any woodcock, save only during the month of July, after the third day thereof, and during the months of August, September and October, or any white-breasted or sharp-tailed grouse or prairie chicken, save only during the month of August, after the fourteenth (14th) day thereof, and during the month of September; nor any quail or partridge, save only during the months of September, October and November; nor any ruffed grouse or pheasant, save only during the months of September, October and November succeeding; nor any aquatic fowl, save only between the first (1st) day of September and the fifteenth (15th) day of May succeeding; nor any elk, deer, buck, doe or fawn, or piece of green skin, or either or any of them, save only during the months of November and December, and up to and including the fourteenth (14th) day thereof; nor any speckled, river or brook trout, save only during the months of April, May, June, July, August and September in any year, and any person or persons, whether natural person or corporation, offending against any provision of this section, shall be punished by a fine, when the property seized as hereinafter provided for, shall not exceed the value of one hundred dollars (\$100), of not less than twenty (20) nor more than one hundred dollars (\$100), or by the forfeiture of any and all the above named game, birds, animals and fish, in his or their possession, or under his or their control, together with the costs of prosecution, or both, in the discretion of the court. But in case the property so seized shall exceed one hundred dollars (\$100) in value, the offender or offenders as aforesaid may be punished by a fine not exceeding five hundred dollars (\$500), or by the forfeiture as above provided for, or both, in the discretion of the court.

Penalties for
violation.

SEC. 5. No person, persons, or corporation shall at any time, or in any manner export, or cause to be exported or carried out of the limits of the State of Minnesota, any of the birds mentioned in this act, except pheasant, and the penalties provided in section four (4) of this act shall be applicable to every such offense. The provisions of this section shall apply to every corporation, railroad company or express company carrying on business within the State, and to any and every employee of [every] such corporation, railroad company or express company. *Provided*, that if any corporation shall be a defendant, the process shall be served and the penalty recovered as in civil actions.

Exportation of game—how.

SEC. 6. No person shall break up or destroy, take away, or in any manner interfere with any nest, or the eggs therein, of any woodcock, snipe, quail, partridge, ruffed grouse or prairie chicken, pheasant, plover, or any species of wild duck, brant, or wild goose, not domesticated; nor shall sell or expose for sale the said eggs, nor shall have the same in his possession for any purpose. And every railroad company and every express company, and all employees and agents of the same, shall be deemed persons within the meaning of this section; and any person or persons offending against any provision of this section, shall be punished by a fine of not less than five (5) nor more than fifty dollars (\$50), and by the forfeiture of all eggs in his or their possession, together with the costs of prosecution.

Destruction of nests, eggs, &c.

Railroad and express companies persons.

SEC. 7. No person shall at any time catch or kill any woodcock, white-breasted or sharp-tailed grouse or prairie chicken, quail, partridge, ruffed grouse or pheasant, in any other manner than by shooting them with a gun; and no person shall at any time set, lay or prepare any trap, snare, net, or other devices, with intent to catch or kill any of the birds aforesaid. And any person or persons offending against any provisions of this section, shall be punished by a fine of not less than five (5) nor more than fifty dollars (\$50), and by the forfeiture of any and all the game-birds above named in his or their possession, and by the forfeiture of any trap, snare, net, or other device or implement used in the commission of the offense, together with the costs of the prosecution; and any trap, snare, net or other device forfeited under this provision, shall be destroyed by the sheriff, or other officer enforcing the judgment of the court in the case.

Traps, snares, and devices prohibited.

SEC. 8. No person shall kill, cage or trap any whippoorwill, night hawk, blue bird, finch, thrush, lark, linnet, sparrow, wren, martin, swallow, bobolink, robin, turtle dove, cat bird, or any other harmless bird not elsewhere mentioned in this chapter, excepting blackbirds and wild pigeons. Any person or persons offending against any of the provisions of this section shall be punished by a fine of not less than five [dollars] (\$5) nor more than fifty dollars (\$50), or by the forfeiture of any gun or guns, cage, trap, net or any other

Harmless birds not to be destroyed.

device, and all sporting implements in his or their possession, together with the costs of the prosecution, or both, in the discretion of the court.

How fish are to be taken.

SEC. 9. No person shall at any time take, catch or kill, any speckled river or brook trout in any other manner than by angling for them with a hook and line. No person shall at any time take, catch, or kill any fish of any kind, except white fish, from any of the waters in the State of Minnesota, excepting Lake Superior, the Mississippi, Minnesota and St. Croix rivers; in any other manner than by shooting them with a gun, or by using a spear, or by angling for them with a hook and line. And no person shall at any time put into any waters within the State of Minnesota, any fish berries, or any deleterious substance whatever, with intent to kill or take fish. And any person or persons offending against any of the provisions of this section, shall be punished by a fine of not less than five (5) nor more than fifty dollars (\$50); or by the forfeiture of all fish in his or their possession, and by the forfeiture of any device, or implement, or substance used in the commission of the offense, together with the costs of prosecution, or both, in the discretion of the court.

Possession of game out of season evidence of violation of law.

SEC. 10. The possession of any elk, deer, buck, doe, fawn, or piece of green skin thereof, between the first (1st) day of January and the first (1st) day of November in any year, or of any woodcock, before the fourth (4th) day of July or after the first (1st) day of November in any year, or of any white-breasted or sharp-tailed grouse or prairie chicken, before the fifteenth (15th) day of August or after the first (1st) day of October in any year, or of any quail or partridge, or ruffed grouse or pheasant, before the first (1st) day of September or after the first (1st) day of December, or any aquatic fowl, after the fifteenth (15th) day of May or before the first (1st) day of September in any year, shall be deemed to be and shall be received as evidence that said elk, deer, buck, doe, fawn or bird was killed at a time when such killing is prohibited by the provisions of this chapter, and that the intent of the person so having the same in his possession is to sell or transport the same contrary to the provisions of this act, or for other unlawful purpose by this act forbidden.

Prohibits entering growing or standing grain.

SEC. 11. No person shall at any time enter into any growing or standing grain not his own, with sporting implements about his person, nor permit his dog or dogs to enter into any such grain without the permission of the owner or occupant thereof; and any person who shall enter upon the premises of another with gun, dogs, or any sporting implements upon his person, without permission of [the] owner or occupant thereof, from and after the first (1st) day of December of any year, to or before the fifteenth (15th) day of August following, with intent to kill, hunt or pursue any animal or game-bird, the killing of which is forbidden by this act, at any time (except woodcock, during the period it is lawful to

kill the same), shall be liable to a fine of ten dollars (\$10.00) for such offense, to be recovered by action before any justice of the peace of the county where the offense was committed, by the owner or occupant of said premises. But nothing in this section contained shall be construed to limit or in anywise to affect the remedy of the owner of any such grain or premises, or of the person injured, at common law for trespass.

SEC. 12. All prosecutions under the provisions of this chapter, shall be commenced within one (1) month from the time when such offense was committed. And the same shall be by complaint before any justice of the peace of any county, or before any police justice, or city justice of any city in any county in which the offense was committed; and all fines imposed and collected under the provisions of this chapter, and the proceeds of the sale of all property seized and forfeited under the provisions of this chapter, shall be paid one-half, including costs, to the complainant, and the balance or remainder into the treasury of the county where the conviction takes place, for the use of the common schools of said county; and any justice of the peace, police justice or city justice, is hereby authorized and required, upon receiving satisfactory proof by affidavit of the violation of any person or persons of any of the provisions of this chapter, to issue his warrant authorizing and commanding the sheriff, constable, or other officer, to arrest such offender or offenders, and bring him or them before him without delay, and to seize and take possession of all game and fish, guns and sporting implements, dogs, fishing tackle, nets and other property, declared forfeited in connection with the particular offense charged by the provisions of this chapter, and to make immediate return of all property so seized.

Provided, that when any gun, dog, fishing tackle, sporting implements, or other articles or material, shall be seized by any officer as forfeited, or to the end that the same may be declared forfeited by, under, or pursuant to any of the provisions of this chapter, the court or jury shall, when the defendant is tried by or before any justice of the peace, police, or city justice, or other court of limited jurisdiction, find and return specially the value of such gun, dog, or other articles or materials so seized, and said finding shall be entered upon the docket or minutes of said court, and to this end witnesses may be examined and proof taken, as in other cases where the value of personal property is in controversy; but no pleadings shall be required in connection therewith, if the value of any gun or guns, dog or dogs, fishing tackle, sporting implements or other articles or material belonging to any one (1) person arrested as herein provided for, which, singly or together, may be declared forfeited by any justice of the peace, police, or city justice, or other court of limited jurisdiction, under or pursuant to any of the provisions of this chapter, shall

Prosecutions—
how and when
to be made.

Relating to
the seizure of
sporting im-
plements or
dogs in viola-
tion of this act.

not, together with or added to the fine inflicted, exceed in value the sum of one hundred dollars (\$100), and any article, material, or property seized, and not forfeited under the provisions of this chapter, shall be returned to the owner of the same, or to the person or premises from whom or which they shall have been taken. *Provided further*, that no gun, dog, sporting implements, fishing tackle, or other articles shall be forfeited under the provisions of sections one (1), two (2), three (3), seven (7), eight (8), and nine (9) of this chapter, unless it shall be shown and proved upon the trial that the same were used or employed by the defendant for, or in connection with the commission of the offenses charged, but the possession or control by the defendant, at the time of his arrest, of any gun, dog, sporting implements, fishing tackle, or other article named in said section as forfeited, shall be taken and received in all the courts of this State as *prima facie* evidence that the same were used or employed by the defendant for, or in connection with the commission of the offense proved under or pursuant to the section or sections of this chapter providing for the seizure and forfeiture of guns, dogs, sporting implements, fishing tackle, or other articles enumerated as forfeited, and which shall have been seized and produced in court.

Prima facie evidence, what may be considered as.

Search warrant may be issued —when.

SEC. 13. Any justice of the peace, police justice, or city justice, is hereby authorized and required, upon proof by affidavit of probable cause, to believe that any person or persons within his jurisdiction, has or have concealed any fish, game bird or animal or wild fowl, mentioned in this chapter, during any of the prohibited periods, or obtained or possessed in any manner prohibited by this chapter, to issue his search warrant, and cause search to be made in any house, market, boat, car or other building or premises, or any vehicle, and the sheriff, constable or other officer, shall execute said warrant as in other cases provided. In case the sheriff, constable or other officer executing such search warrant, shall find any fish, game-bird, or animals or wild fowl, he shall arrest the person or persons complained against and so having the same in his or their possession, or under his or their control, and shall also seize and take possession of all such fish, game-birds or animals, or wild fowl, and make immediate return of his proceedings to the justice, by bringing before him the person or persons arrested; and the property seized, as hereinbefore directed. If it shall appear by the return of the officer of the property seized by him, that the property so in his hand exceeds the value of one hundred dollars (\$100), or if the same appears by affidavit of the complainant or of the defendant, to be of the value of more than one hundred dollars (\$100), the justice shall immediately make an entry thereof in his docket or upon his minutes, shall hold the offender to bail in a sum not less than one hundred dollars (\$100), to appear at the next term of the district

Action on the return of search warrant.

court of the county, or shall commit him to the jail of said county in default of bail. Said justice shall then cease all other proceedings in the case, and shall certify and return to the district court of the county a transcript of all the entries made in his docket relating to the case, together with all process and other papers relating to the cause in the same manner, and within the same time as upon an appeal, and thereupon the district court shall have jurisdiction in the cause; and shall proceed in the same to final judgment and infliction of the punishment by fine and commitment for non-payment thereof and forfeiture, the same as if the prosecution could have been, and had been commenced therein.

SEC. 14. That any dog or dogs, gun or guns, sporting implements, game birds or fish, or other property, articles or material, which may be adjudged forfeited by any court of this State, under any provisions of this act, shall, where or in such cases as this act makes no provisions for any other or different manner of disposing of the same, on conviction or judgment of forfeiture, be advertised and sold by the sheriff, constable, or other officers whose duty it is to enforce the judgment of the court in the case, and such officer shall pay the proceeds of such sale, less his lawful fees, into court. Notice of sale and other proceedings thereon, and the officer's fees, shall be the same as in case of sale of personal property on execution. In case of the seizure of any game-birds, fish, venison, or other material of a perishable nature, the court, upon being satisfied from the return of the officer seizing the same, or having it in possession, or from other satisfactory evidence, that the same would spoil, become injured or unwholesome for food if kept during the pending of the prosecution, or until final judgment, may order such officer to sell the same at public sale, and may prescribe the manner and time of giving notice of such sale and the manner of conducting the same. In case there be no purchaser found at such sale for whatever there may be offered for sale thereat, the officer conducting the sale, shall distribute such game-birds, fish, venison, or other things so offered, and for which there shall be no purchaser, to the poor houses, alms houses, jails, hospitals, or other charitable or public institutions in the county, or county adjoining where the prosecution may be pending, or shall destroy the same, as the court in its discretion may order. *Provided*, that any game-birds, fish, venison or other animal or thing, purchased at the public sale provided for by this section, may be held, used, or otherwise disposed of, without incurring any of the penalties of this act.

SEC. 15. Whenever complaint is made, or information given to any county attorney of any county, in cases in which the defendant shall not be arrested under any provision of this act, that any person or persons, or corporation

Forfeiture of dogs, implements or other property—provision for sale.

Failure to sell—distribution to be made.

On complaint, county attorney to prosecute.

has in his or their or its possession any of the game birds or animals, or any fish mentioned in this chapter, with the intent to sell, dispose of, or to transport the same, contrary to any of the provisions of this chapter, and which are liable to forfeiture by any of the provisions of this chapter, and when the value of such animals, birds or fish shall, in the aggregate, exceed the sum of one hundred dollars (\$100), then and in such case the said county attorney is hereby required and authorized to commence an action for the purpose of selling such animals, birds and fish, forfeited as hereinafter provided, and which said action shall be commenced in the district court of the county wherein said animals, birds and fish shall be found.

Action—how commenced, and joining of other parties.

SEC. 16. Said action shall be commenced in the name of the State of Minnesota, as plaintiff, and of the person or corporation in whose possession said animals, birds or fish may be found, as defendant. *Provided*, that if during the pending of such action any other person should intervene or claim such animals, birds or fish, then and in that case such person so intervening shall be joined in said action, as a party defendant thereto, and the same proceedings shall be had as to them as if they or he had been the original defendant in said action; and said action, except as herein provided, shall be continued in all respects as other civil actions are, and all general laws applicable to civil actions shall be applicable to the action herein provided for, except so far as the same may be inconsistent with the provisions of this chapter.

Warrant of seizure—when to issue.

SEC. 17. Upon the filing of the complaint in such action, and upon application of the county attorney, the judge or court commissioner of the district court wherein such action is brought, shall cause a warrant of seizure to issue to the sheriff of said county, commanding him to seize and take into his possession all of such animals, birds or fish mentioned in the complaint, and sell the same according to the provisions of section fourteen (14) of this chapter, or in default of purchasers, to dispose of the same as in said section provided.

Proceeds of sale to abide final judgment.

SEC. 18. Said money, when so paid into said county, shall remain there and to abide the final judgment of the court in such action; and if it shall be found upon the trial of said cause that the possession of said animals, birds or fish by the defendant was unlawful and contrary to the provisions of this chapter, judgment shall be entered against said defendant for the forfeiture of said animals, birds and fish, and the proceeds thereof, together with the cost of such action, and the proceeds of said sale, shall be disposed of as specified in section twelve (12) of this chapter. *Provided*, that in case no person shall appear in said action, and there should be a judgment rendered by default, then no personal judgment shall be rendered against any defendant, and no costs shall be entered in said judgment for the State.

SEC. 19. If it should appear upon the trial of any such action that the possession of the animals, birds or fish by the defendant was lawful, and not contrary to the provisions of this chapter, the money arising from said sale shall be decided to be paid forthwith to the defendant, and he shall have judgment against the county wherein such action was commenced, for his costs and disbursements therein.

If possession lawful, money to be paid defendant.

SEC. 20. The judgment, findings, rulings, or other proceedings of any officer or court, on the trial of any action or case arising under this act, shall not be overruled, examined, reversed, or in any manner interfered with, except by and upon an appeal on issues of facts; and pending such appeal any property seized or adjudged as forfeited, shall be and remain in the hands and under the control of the sheriff or other officer charged therewith at the time the appeal shall be taken. *Provided*, that if such property be of a perishable nature, it shall be disposed of as hereinbefore provided; notice of the allowance of such appeal, duly certified by the justice or court from which the appeal is taken, together with any order of such justice or court touching the disposition to be made of the forfeited property or effects in the hands of the sheriff or other officers charged therewith, shall be served upon such sheriff or officer, or if not so served the same may be disregarded.

Appeal in an issue of fact.

SEC. 21. It is the duty of supervisors and constables of towns, police officers of cities, having knowledge of the violation of any of the provisions of this chapter, to make complaint thereof to any justice of the peace of the proper county, or police justice of the city, and any other person having such knowledge may make complaint before such justice, and the said justice shall issue his warrant for the arrest of the offender, and proceed to have and determine the matter in issue in the same manner as provided in other cases; and every person convicted under any of the provisions of this chapter, in case where no forfeiture is declared and enforced, shall stand committed until such fine is paid; *Provided*, that such imprisonment shall not exceed three (3) months.

Duty of town and police officers.

SEC. 22. All acts or parts or parts of acts inconsistent with this act are hereby repealed, and this act shall be in force and take effect from and after the date of its approval by the Governor.

Repeal of inconsistent acts.

Approved March 5, 1877.