

CHAPTER XXXVIII.

AN ACT FOR THE PRESERVATION OF GAME.

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

SECTION 1. No person shall kill, or pursue with intent to kill, any woodcock, save only during the month of July, after the third 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 goose or prairie chicken, save only during the month of August, after the fourteenth day of said month and during the months of September and October; nor any quail or partridge, save only during the months of September and October; nor any ruffle grouse or pheasant, save only during the months of September, October and November, in any year. Any person or persons, offending against any provisions of this section, shall be punished by a fine of not less than five nor more than fifty dollars, 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 costs of prosecution, or both, in the discretion of the court.

Penalty for killing woodcock, &c., time when.

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 hunt, with hounds or dogs, any elk, deer, buck, doe or fawn, save from the first day of October to the fifteenth 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 nor more than seventy-five dollars, or by the forfeiture of any and all of the above named game-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 costs of prosecution or both, in the discretion of the court; *Provided*, That nothing in this section contained shall be construed to forbid any person from killing

Penalty for killing deer, &c., time when.

prairie chickens or grouse on cultivated or improved lands owned by him, or occupied by him for farming purposes as a tenant of the owner.

Penalty for catching trout, time when.

SEC. 3. No person shall catch, kill or take by any means, contrivance or devise 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 and August, 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 nor more than fifty dollars, or by the forfeiture of any and all the game-fish above named found in his or their possession, and by the forfeiture of all fishing tackle, baskets, and other sporting implements found in his or their possession, together with the costs of prosecution, or both, in the discretion of the court.

Penalty for selling or having in possession out of season certain game.

SEC. 4. No person shall sell or expose for sale, nor have in his possession or custody, or under his control with intent to sell, dispose of or transport, or for any other purpose, any woodcock, save only during the months of July, after the third day thereof, and during the months of August, September and October; nor any white breasted or sharp tailed grouse or prairie chicken, save only during the months of August after the fourteenth day thereof, and during the months of September and October; nor any quail or partridge, save only during the months of September and October; nor any ruffle grouse or prairie chicken or pheasant, save only during the months of September, October and November; nor any elk, deer, buck, doe or fawn, or piece or green skin of either or any of them, save only during the months of October and November, and up to and including the 1st day of January; nor any speckle, river or brook trout, save only during the months of April, May, June, and July and August, 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, of not less than twenty nor more than one hundred dollars, 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 cost of prosecution, or both, in the discretion of the court. But in case the property so seized shall exceed one hundred dollars

in value the [offender or] offenders as aforesaid, may be punished by a fine not exceeding five hundred dollars, or by the forfeiture as above provided for, or both, in the discretion of the court.

SEC. 5. The provisions of the proceeding section shall apply to every corporation, railroad company or express company carrying on business within this state, and to any and every employee of such corporation, railroad company, or express company. *Provided*, That when a corporation shall be defendant, the process shall be served and the penalty recovered and enforced as in civil actions.

Applicable to common carriers.

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 nor more than fifty dollars, and by the forfeiture of all eggs in his or their possession, together with the costs of prosecution.

Penalty for destroying nests or having in possession the eggs of certain fowls.

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 nor more than fifty dollars, 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.

Manner of killing game, penalty for violation.

SEC. 8. No person shall kill, cage or trap any whippoorwill, night-hawk, blue bird, finch, thrush, lark, linnet,

Penalty for killing or trapping any bird, exceptions.

sparrow, wren, martin, swallow, bobolink, robin, turtle-dove, cat-bird, or any other harmless bird not elsewhere mentioned in this chapter, excepting aquatic fowls of every kind, 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 nor more than fifty dollars, or by the forfeiture of any gun or guns, cage, trap, net, or any other 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.

Manner of killing or catching fish, penalty for violation.

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, St. Croix and Zumbro 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 nor more than fifty dollars, 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 the prosecution, or both, in the discretion of the court.

What to be deemed evidence of violation.

SEC. 10. The possession of any elk, deer, buck, doe, fawn, or piece of green skin thereof between the fifteenth day of December and the first day of October in any year, or of any woodcock before the fourth day of July or after the first day of November in any year, or of any white breasted or sharp tailed grouse, or prairie chicken before the fifteenth day of August or after the first day of November in any year or of any quail or partridge before the first day of September or after the first day of November, or ruffed grouse or pheasant before the first day of September or after the first day of December in any year, shall be deemed to be and shall receive 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.

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 implement upon his person, without permission of owner or occupant thereof from or after the first day of December of any year, to or before the fifteenth 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 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 effect the remedy of the owner of any such grain or premises or of the person injured at common law for trespass.

Penalty for trespass.

SEC. 12. All prosecutions under the provisions of this chapter, shall be commenced within one 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 by 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 to bring him or them be-

Prosecution, when commenced, fines how paid.

Power of justice.

fore 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, the value of any gun or guns, dog or dogs, fishing tackle, sporting implements or other articles or material belonging to any one 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 not, together with, or added to, the fine inflicted, exceed [exceed] in value the sum of one hundred dollars, 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, two, three, seven, eight and nine, 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 charge [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

Disposition of
firearms and fish-
ing tackle for-
feited.

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.

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-birds 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 herein before directed. If it shall appear by the return of the officer of the property seized by him that the property so in his hands exceeds the value of one hundred dollars, 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, 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 to appear at the next term of the district 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-pay-

Duty of justice of the peace, &c., upon complaint of concealment of game during term of prohibition.

Justice of the peace to make return to district court.

ment thereof and forfeiture the same as if the prosecution could have been and had been commenced therein.

Sporting implements, &c., to be advertised for sale.

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.

Disposition of game seized.

County attorney to commence action, when.

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 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 trans-

port 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, 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.

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 dependent 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.

Parties plaintiff and defendant.

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 of this chapter, or in default of purchasers to dispose of the same as in said section provided.

Warrant of seizure may issue.

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 possessor 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

Disposition of proceeds of sale.

shall be disposed of as specified in section twelve of this chapter. *Provided*, That in case no person should 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.

Costs and disbursements against county, when.

SEC. 19. If it should appear upon the trial of any such action that the possessor 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.

Appeals upon issue of facts.

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 intertered 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 appeals, 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.

Duty of county supervisors and constables.

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 months.

SEC. 22. This act shall take effect and be in force from and after its passage. When act to take effect.

Approved March 9, 1874.

CHAPTER XXXIX.

AN ACT TO AMEND SECTION FOURTEEN OF CHAPTER THIRTY-THREE OF THE GENERAL LAWS OF EIGHTEEN HUNDRED AND SEVENTY-ONE, RELATING TO THE PRESERVATION OF GAME.

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

SECTION 1. That section fourteen of chapter thirty-three of the general laws of the year eighteen hundred and seventy-one relating to the preservation of game, be so amended as to read as follows :

Sec. 14. This act shall take effect and be in force from and after its passage.

SEC. 2. This act shall take effect and be in force from and after its passage. When act to take effect.

Approved February 7, 1874.

CHAPTER XL.

AN ACT TO AMEND SECTION NINE OF CHAPTER THIRTY-THREE OF THE SESSION LAWS OF EIGHTEEN HUNDRED AND SEVENTY-ONE, RELATING TO THE PRESERVATION OF GAME.

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

SECTION 1. That section nine of chapter thirty-three of the session laws of eighteen hundred and seventy-one is hereby amended so as to read as follows :