

MAINE STATE LEGISLATURE

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FIFTH REVISION.

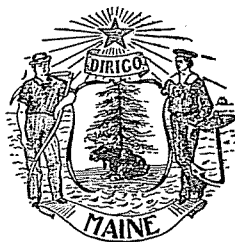
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
KENNEBEC JOURNAL PRINT,
1904.

CHAP. 41.

Metallurgical cabinet shall be established.
1903, c. 227, § 4.

Report.
1903, c. 227, § 5.

ranean productions in the state that are supposed to exist in quantities sufficient to justify the development of such properties.

SEC. 61. It shall establish a metallurgical cabinet of exhibit of the state in such room in the state house, as the superintendent of public buildings may direct, and in such cabinet they shall properly arrange samples and specimens of ores, valuable rocks and metals of the state collected by them, for the safe keeping and preservation of same.

SEC. 62. It shall biennially issue a pamphlet containing such reliable information concerning the mineral resources of the state as it has collected, and shall distribute at least one thousand copies of such pamphlet among the business men and capitalists of other states.

CHAPTER 41.

SEA AND SHORE FISHERIES.

Commissioner of sea and shore fisheries how appointed.
1901, c. 284, § 1.

—term.

—duties.
1901, c. 284, § 2.

—shall report biennially.
1901, c. 284, § 3.

Appointment of fish wardens.
1901, c. 284, § 5.

—term of office.

—powers and duties.

—shall give bond.
See § 31.

—commissioner may appoint deputy wardens.

—powers.

Wardens shall enforce laws relating

SEC. 1. The governor, with the advice and consent of the council, shall appoint a commissioner who shall have general supervision of the sea and shore fisheries and shell fish regulated by this chapter and shall hold his office for three years and until his successor is appointed and qualified. He shall exercise supervision over all the fisheries and their products taken from tide waters within the state, including the proper enforcement of all laws relating to the catching, packing, curing, manufacturing, branding and transportation of all kinds of pickled, salt, smoked, fresh, canned, frozen shell or other fish. He shall make a detailed biennial report in the month of December, showing the amount of capital invested in, number of men employed in, value of products of, and any other information that he may be able to obtain relating to the sea and shore fisheries.

SEC. 2. The governor with the advice and consent of the council upon the recommendation of the commissioner of sea and shore fisheries, may appoint suitable persons as fish wardens, who shall hold office for the term of three years unless sooner removed, and shall enforce all laws and the rules and regulations relating to sea and shore fisheries, arrest all violators thereof, and prosecute all offenses against the same; they shall have the same power to serve criminal processes against such offenders, and shall be allowed the same fees as sheriffs for like services; they shall have the same right as sheriffs to require aid in executing the duties of their office. They shall, before being qualified to discharge the duties required by this chapter, give bond with two good and sufficient sureties in the penal sum of two thousand dollars, approved by the commissioner of sea and shore fisheries, to the treasurer of state, conditioned for the faithful performance of the duties of their office. The commissioner of sea and shore fisheries may appoint deputy wardens, for whose official misconduct and neglect he shall be answerable, and said deputy wardens shall be sworn. Their appointment and discharge shall be in writing. Such deputy wardens shall be subject to all the laws pertaining to wardens appointed by the governor and council, and have the same powers. And said commissioner may revoke such appointment at any time.

SEC. 3. The fish wardens shall enforce all laws relating to the sea and shore fisheries within the counties in which they respectively reside, but

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they shall not exercise jurisdiction in any other county unless so instructed in writing by the commissioner of sea and shore fisheries. The commissioner of sea and shore fisheries and fish wardens may, with a lawful warrant therefor, enter upon any vessel, boat, receptacle for fish or lobsters, or any place or places used therefor, and seize and carry away all fish and lobsters liable to seizure found therein, and may, with a lawful warrant therefor, search and seize any car or pound used for the keeping of fish or lobsters, and seize and carry away all fish or lobsters liable to seizure found therein, the fish or lobsters in each case to be disposed of according to law. Any magistrate may issue warrants to search, within his jurisdiction, any vessel, boat, receptacle for fish or lobsters, or any place or places used therefor, to the commissioner of sea and shore fisheries, or any fish warden appointed and qualified as provided in this chapter. Such warrants shall issue subject to the requirements of section thirteen of chapter one hundred and thirty-three.

SEC. 4. Each warden shall make a detailed monthly report to the commissioner of sea and shore fisheries of all that has come to his knowledge relating to the fisheries within his county, or in any county where he has rendered services, from the first day of one month to the first day of the following month, in such manner and on such blanks as the commissioner may prescribe and furnish, and shall do such other acts as the commissioner may require for the purpose of gaining information and for the proper enforcement of the law.

to sea and shore fisheries. 1901, c. 284, § 6. 94 Me., 132.

—commissioner and wardens may seize fish and lobsters.

—magistrates may issue search warrants.

—how warrants shall issue.

Wardens shall make monthly report. 1901, c. 284, § 7.

INSPECTION OF FISH.

SEC. 5. In each town where pickled fish are cured or packed for exportation, the governor, with the advice and consent of the council, shall, from time to time, as occasion requires, appoint one or more persons skilled in the quality of the same, to be inspectors of fish, who shall hold their office for five years, unless sooner removed by the governor and council.

SEC. 6. Every such inspector, before entering upon his duties, shall give bond with sufficient sureties to the treasurer of the town for which he is appointed, to the satisfaction of the municipal officers thereof, in the penal sum of not less than five hundred, nor more than five thousand dollars, for the faithful performance of his official duties; and such officers shall, at least once a year, examine the bonds given by said inspectors, and if that of any inspector is not in their opinion sufficient they shall forthwith notify him, and if for thirty days thereafter he neglects to give satisfactory bond, they shall give information thereof to the governor who shall remove him from office.

SEC. 7. Every inspector shall, by the thirtieth day of November, annually, make a return into the office of the commissioner of sea and shore fisheries of all fish by him inspected during the year preceding the thirtieth day of such November, designating the quantities, kinds and qualities of pickled fish, and said commissioner shall embody the substance thereof in his next official report.

SEC. 8. Any person injured by the neglect or misdoings of an inspector, on tendering to such treasurer a reasonable indemnity against the costs may bring an action on such inspector's bond in the name of the treasurer, for his own use, and may have a copy of the bond therefor; and if judgment is rendered thereon for the plaintiff, execution shall issue for the sum found due to the person for whose use such action is brought, and the

Appointment of inspectors of fish. 1901, c. 284, § 9.

—term.

Inspectors shall give bond. 1901, c. 284, § 10. See Const. of Me., Art. ix, § 1.

Shall make return annually of all fish inspected. 1901, c. 284, § 11.

Any person injured by neglect of inspector may bring action on bond. 1901, c. 284, § 12.

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How fish shall be inspected and packed. 1901, c. 284, § 13.

—how branded.

Mackerel of best quality shall be branded number one. 1901, c. 284, § 14.

—number two.

—number three, large.

—number three.

—number three, small.

—casks, how branded.

Quality of casks and how made. 1901, c. 284, § 15.

—dimensions.

Pickled alewives and herring, how prepared and packed. 1901, c. 284, § 16.

Fees for inspection and branding, how paid. 1901, c. 284, § 17.

Penalty for selling or exporting uninspected or damaged fish. 1901, c. 284, § 18.

sum awarded in damages shall be entered by the clerk of the court on the original bond, to remain in the custody of the treasurer.

SEC. 9. Every inspector who inspects any kind of fish that are split and pickled for packing, shall see that they are, in the first instance, free from taint, rust or damage, and well struck with salt or pickle; and such of said fish as are in good order and of good quality, shall be pickled in barrels, half barrels, quarter barrels and tenths of barrels or kits; each barrel containing two hundred pounds, and so on in that proportion; and the same shall be packed in good, clean coarse salt, sufficient for their preservation; and then each cask shall be headed up and filled with clear, strong pickle, and shall be branded by the inspector with the name and quality of the fish therein.

SEC. 10. Mackerel of the best quality, not mutilated, measuring, when split, not less than thirteen inches from the extremity of the head to the crotch or fork of the tail, free from taint, rust or damage, shall be branded "Number one;" the next best quality, being not less than eleven inches, measuring as aforesaid, free from taint, rust or damage, shall be branded "Number two;" those that remain after the above selection, free from taint or damage, and not less than thirteen inches, measuring as aforesaid, shall be branded "Number three large;" those of the next inferior, free from taint or damage, not less than ten inches, measured as aforesaid, shall be branded "Number three;" all other mackerel, free from taint or damage, shall be branded "Number three small." The inspector shall brand or stencil in plain letters on the head of every such cask, the weight, the initials of his christian name, the whole of his surname, the name of his town, and the letters "Me.," and an abridgment in figures, of the year when packed.

SEC. 11. All barrels and casks used for packing pickled fish, shall be made of sound, well seasoned white oak, white ash, spruce, pine, chestnut or poplar staves with heading of either of such kinds of wood, sound, well planed and seasoned, and when of pine, free from sap, and the barrels hooped with at least three strong hoops on each bilge, and three also on each chime; the barrel staves shall be twenty-eight inches in length, and the heads not less than sixteen and one-half inches between the chimes, and made in workmanlike manner, to hold pickle. The barrels shall contain from twenty-eight to thirty gallons each, and the aliquot parts of a barrel in the same proportion.

SEC. 12. Every inspector who inspects pickled alewives or herring, or other small fish, packed whole or round, shall see that they are struck with salt or pickle, and then put in good casks of the size and material aforesaid, packed closely therein, and well salted, and the casks filled with fish and salt, putting no more salt with the fish than is necessary for their preservation; and the inspector shall brand or stencil all such casks with the name of the inspected fish as aforesaid.

SEC. 13. The fees for inspection and branding, exclusive of cooperage, are for each barrel seven cents, and all such fees shall in the first instance be paid by the original owners of the fish, who may recover the amount thereof from the party buying or receiving the same, under the marks and brand aforesaid, and in addition to the price thereof.

SEC. 14. Whoever sells in the state, or exports therefrom any fish in barrels or boxes, not inspected, packed and branded, as aforesaid, except good and wholesome fish packed in kegs of less than ten gallons, or pickled, dry or smoked fish imported into the state from some other state or country lawfully inspected and branded there, and whoever sells or exports

unlawfully any fish known by him to be tainted or damaged, unless sold as such, forfeits ten dollars for every hundred weight thus sold or exported.

SEC. 15. Whoever ships or receives on board any vessel or other carriage for transportation from the state, any pickled fish in barrels, parts of barrels or casks, not inspected and branded or stenciled as aforesaid, forfeits not less than fifty dollars for each offense, and any trial justice may issue his warrant to the proper officer, directing him to seize and secure such prohibited fish, and convey it to any inspector within a convenient distance for inspection; and whoever refuses to give necessary aid in the service of such warrant when required by the officer, forfeits five dollars to the prosecutor in an action of debt; and such inspector shall open, inspect, pack and brand such fish according to law, and detain the same until all lawful charges of seizure and inspection are paid.

SEC. 16. If any person takes from a cask or barrel, any pickled fish lawfully inspected and branded, and substitutes therefor or fraudulently intermixes other fish; or if any inspector marks any cask or barrel out of his own town, or which he has not inspected, packed, and himself prepared according to law; permits other persons unlawfully to use his brands, or wilfully and fraudulently uses the same himself after the expiration of his commission, he forfeits one dollar for each cask or barrel so dealt with; but an inspector may, after a satisfactory examination, brand such packages, thereby becoming responsible for the quality of the contents as represented by his brand.

Penalty for attempting to export uninspected fish. 1901, c. 284, § 19.

—trial justice may issue warrant for seizure.

—penalty for refusing to aid officer.

Penalty for intermixing inspected fish. 1901, c. 284, § 20.

—for fraud of inspector.

LOBSTERS.

SEC. 17. No person shall catch, buy or sell, give away or expose for sale, or possess for any purpose any lobster less than ten and one-half inches in length, alive or dead, cooked or uncooked, measured in manner as follows: taking the length of the back of the lobster, measured from the bone of the nose to the end of bone of the middle flipper of the tail, the length to be taken in a gauge with a cleat upon each end of the same, measuring ten and one-half inches between said cleats, with the lobster laid and extended upon its back its natural length upon the gauge, without stretching or pulling; and any lobster shorter than the prescribed length when caught shall be liberated alive at the risk and cost of the parties taking them, under a penalty of one dollar for each lobster so caught, bought, sold, given away, exposed for sale or in possession. The possession of mutilated lobsters, cooked or uncooked, shall be prima facie evidence that they are not of the required length. All lobsters or parts of lobsters sold for use in this state or for export therefrom must be sold and delivered in the shell under a penalty of twenty dollars for each offense, and whoever ships, buys, gives away, sells or exposes for sale, lobster meat after the same shall have been taken from the shell shall be liable to a penalty of one dollar for each pound of meat so bought, sold, given away, exposed for sale or shipped. Any person or corporation in the business of a common carrier of merchandise, who shall knowingly carry or transport from place to place lobster meat after the same shall have been taken from the shell shall be liable to a penalty of fifty dollars upon each conviction thereof. All lobster meat so illegally bought, shipped, sold, given away, exposed for sale or transported shall be liable to seizure and may be confiscated. Nothing contained herein, shall be held to prohibit the sale of lobsters that have been legally canned. (a)

Unlawful to catch lobsters less than 10½ inches long. 1901, c. 284, § 21.

—how measured.

—short lobsters to be liberated.

—possession of mutilated lobsters, evidence. 1903, c. 70, § 1.

—must be sold in the shell.

—penalty.

—common carriers, liabilities of.

—meat liable to seizure.

—exception.

(a) 79 Me., 55, 163; 80 Me., 87; 83 Me., 180; 85 Me., 121; 87 Me., 109; 93 Me., 420; 94 Me., 129.

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Lobsters with eggs attached, may be purchased by commissioner of sea and shore fisheries. 1903, c. 216.

Close time on female lobsters. 1901, c. 284, § 22.

—penalty.
—exceptions.

Unlawful to can lobsters less than 10½ inches long. 1901, c. 284, § 23. 1903, c. 70, § 2.

—penalty.

How packages of lobsters in transit shall be marked. 1901, c. 284, § 24. 33 Me., 211.

—short lobsters in case of seizure, shall be liberated.

Penalty for shipping lobsters without having barrels, etc., properly marked. 1901, c. 284, § 25.

—penalty on common carriers.

Cars in which lobsters are kept shall be branded. 1901, c. 284, § 26.

SEC. 18. The commissioner of sea and shore fisheries may purchase at a rate not exceeding twenty-five per cent above the market price, lobsters with eggs attached, caught along the coast of the state. Whoever catches any such lobsters with eggs attached, may safely store the same in lobster cars or sections of cars used for that purpose only, and may keep them separate from other lobsters until such time as the said commissioner or some person or persons designated by him can gather and pay for them. The commissioner or his agent shall liberate them in the vicinity of the location where they were caught; or said commissioner may at his discretion sell any portion or all of them to the officer in charge of the United States fish hatchery for artificial propagation, the proceeds to be applied to the appropriation made for carrying out the provisions of this section.

SEC. 19. No person shall destroy, catch, buy, sell, expose for sale or possess any female lobsters in spawn or with eggs attached at any season of the year, under a penalty of ten dollars for each lobster so destroyed, caught, bought, sold, exposed for sale or possessed, *provided, however*, if it appears that it was intended to dispose of them in accordance with the preceding section, or to liberate them in accordance with the provisions of this chapter, the person having such lobsters in possession shall not be liable to any of the penalties herein provided, though he may have failed, for any cause not within his control, to so liberate them.

SEC. 20. No person shall can lobsters less than ten and one-half inches in length, alive or dead, measured as aforesaid; and for every lobster canned contrary to the provisions of this section, every person, firm, association or corporation so canning, shall be liable to a penalty of one dollar for every lobster so canned contrary to the provisions of this section, and a further penalty of three hundred dollars for every day on which such unlawful canning is carried on.

SEC. 21. All barrels, boxes or other packages in transit containing lobsters, shall be marked with the word "lobsters" in capital letters, at least one inch in length, together with the full name of the shipper; said marking shall be placed in a plain and legible manner on the outside of such barrel, boxes or other packages; and in case of seizure by any duly authorized officer, of any barrels, boxes or other packages in transit, containing lobsters, which are not so marked, or in case of seizure by such officer, of barrels, boxes or other packages in transit, containing lobsters, less than the prescribed length, such lobsters as are alive and less than the prescribed length shall be liberated, and all such lobsters as are of the prescribed length, found in such barrels, boxes or packages shall be forfeited and disposed of under the provisions of section twenty-six.

SEC. 22. Every person, firm, association or corporation who ships lobsters without having the barrels, boxes or other packages in which the same are contained, marked as prescribed in the preceding section, shall upon conviction be punished by a fine of twenty-five dollars, and upon subsequent conviction thereof by a fine of fifty dollars, and any person or corporation in the business of a common carrier of merchandise, who shall carry or transport from place to place lobsters in barrels, boxes or other packages not so marked, shall be liable to a penalty of fifty dollars upon each conviction thereof.

SEC. 23. All cars in which lobsters are kept and all lobster cars while in the water, shall have the name of the owner or owners thereof on the top of the car, where it may be plainly seen, in letters no less than three-fourths of an inch in length, plainly carved or branded thereon, and all

traps, nets or other devices for the catching of lobsters, shall have, while in the water, the owner's name carved or branded in like manner on all the buoys attached to said traps or other devices, under a penalty of ten dollars for each car, and five dollars for each trap or device not so marked; and if sufficient proof to establish the ownership of such cars or traps cannot be readily obtained they may be declared forfeited.

SEC. 24. No person shall set any lobster trap within three hundred feet of the mouth or outer end of the leaders of any fish weir, under a penalty of ten dollars for each offense.

SEC. 25. Whoever takes up, or attempts to take up, or in any way knowingly and wilfully interferes with any lobster trap while set for use, without the authority of the owner thereof, shall be punished by a fine of not less than twenty, nor more than fifty dollars; *provided, however,* that no action, complaint or indictment shall be maintained under this section unless the name of the owner of all such traps shall be carved or branded in legible letters, not less than three-fourths of an inch in length, on all the buoys connected with such traps.

SEC. 26. When any lobsters are seized by virtue of the provisions of this chapter, the officer making such seizure shall cause such lobsters, so seized, as he is not required by law to liberate, to be appraised within twenty-four hours after the time of such seizure by three disinterested men residing in the county where such seizure is made, to be selected by him, and the lobsters so seized and appraised shall thereupon be sold by the officer making the seizure thereof, at such time and in such manner as shall by him be deemed proper. The officer making such seizure and sale shall within ten days after the time of such seizure file a libel in behalf of the state before a trial justice, or a judge of a police or municipal court of the county in which such seizure was made, setting forth the fact of such seizure, appraisal and sale, the time and place of the seizure, the number of lobsters so seized and sold and the amount of the proceeds of such sale; and such trial justice or judge shall appoint a time and place for the hearing on such libel, and shall issue a notice of the same to all persons interested to appear at the time and place appointed, and show cause why the lobsters so seized and sold, and the proceeds of such sale, should not be declared forfeited, which notice shall be served upon the owner, if known, and by causing an attested copy of such libel and notice to be posted in two public and conspicuous places in the town in which the seizure was made, seven days at least before the time of hearing. If any person appears at the time and place of hearing and claims that the lobsters so seized and sold were not liable to forfeiture at the time of seizure, and that he was entitled thereto, the trial justice or judge shall hear and determine the cause, and if he shall decide that such lobsters at the time of seizure were not liable to forfeiture and that the claimant was entitled thereto, he shall order the proceeds of such sale to be paid to the claimant; if no claimant shall appear, or if such trial justice or judge shall decide that such lobsters, at the time of seizure were liable to forfeiture, or that the claimant was not entitled thereto, he shall decree a forfeiture of such lobsters and of the proceeds of sale, and shall order the proceeds of sale, after deducting all lawful charges, to be paid to the treasurer of state, to be used as directed in section sixty-one, and shall render judgment against the claimant for costs to be taxed as in civil suits, and issue execution therefor against him in favor of the state, which costs, when collected, shall

—penalty for neglect.

Traps not to be set near fish weir.
1901, c. 284, § 27.

Penalty for wilful interference with any lobster trap.
1901, c. 284, § 28.

—does not apply to unmarked traps.

How lobsters seized, shall be disposed of.
1901, c. 284, § 29.
94 Me., 133.

—officer making seizure shall file libel in behalf of the state.

—contents of libel.

—judge shall appoint time and place for hearing.

—if claimant appears judge shall determine the cause.

—if claim is allowed, proceeds shall be paid claimant.

—if no claimant appears judge shall decree a forfeiture.

—proceeds shall finally be paid to treasurer of state.

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—appeal by claimant.

—fees and costs how paid.

be paid to the treasurer of state, to be added to and made a part of the appropriation for sea and shore fisheries. The claimant shall have the right of appeal to the next supreme judicial or superior court in the county, upon recognizing as in criminal cases. The fees and costs of seizure, appraisal and sale, and of all other proceedings in the case, shall be as provided by law in criminal cases, and, in case a forfeiture shall be declared, shall be paid out of the proceeds of the sale, otherwise shall be paid by the county, as in criminal cases.

REGULATION OF PACKING FISH.

Duties of commissioner.
1901, c. 234, § 30.
1903, c. 173, § 1.

—penalty for taking herring for canning less than 8 inches long between December 1 and April 15.

—penalty for packing herring without heading and eviscerating the same.

—amount of oil and mustard that shall be used in packing herring.

—how oil shall be measured.

—penalty for packing in violation of this section.

Labels required on cans.
1901, c. 234, § 31.

—how swell heads, etc., shall be treated.
—penalty for violation of this section.

SEC. 27. The commissioner of sea and shore fisheries shall require a strict observance of the following rules: Whoever catches, takes, preserves, sells or offers for sale between the first day of December and the fifteenth day of the following April, any herring for canning purposes less than eight inches long, measured from one extreme to the other, or packs or cans sardines of any description, between the first day of December and the fifteenth day of the following April, forfeits twenty dollars for every hundred cans so packed or canned, and for every hundred herring so taken; and whoever either bakes, fries, steams or cooks in any manner, packs or cans any herring or other fish for sardines without first heading and eviscerating the same, and whoever sells, offers for sale or has in his possession for sale any sardines packed without being so headed and eviscerated shall forfeit twenty dollars for every hundred cans so packed, sold, offered for sale or in possession for sale, to be recovered by indictment or action of debt, one-half to the complainant or prosecutor, and one-half to the town in which the offense is committed. In packing herring, mackerel or other fish in hermetically sealed cans, either in oil, mustard or vinegar, there shall be used not less than three quarts of oil, of the first quality, pure summer or winter cotton oil or any food oil of equal quality, for every hundred cans so packed of the size known as quarter oils; three quarts of mustard sauce of good quality for every fifty cans of the size known as three-quarter mustards, and for every one hundred cans of the size known as one-quarter mustards; one gallon of vinegar for every one hundred cans of the size known as one-quarter spiced, and for every fifty cans of the size known as three-quarter spiced or tomato. Proprietors of fish packing factories shall provide sealed measures holding one one-hundredth part of three quarts each, which shall be used in measuring all oil into quarter oil sardine cans, and measures holding one-fiftieth part of a gallon which shall be used in measuring all mustard sauce and vinegar into three-quarter size cans used in packing sardines, and all fish packed as aforesaid shall be when so packed good and sound, except that they shall be cleaned, headed and eviscerated. Whoever packs or cans, or causes to be packed or canned any fish in violation of this section shall forfeit twenty dollars for every one hundred cans, or fifty cans as aforesaid, as the case may be, so packed by him or by his employees, to be recovered by complaint.

SEC. 28. All cans shall be decorated, stamped or labeled with quality, packer's name and place of business, or merchant's name for whom the same are packed; all leaks, swell heads and blow heads, shall be thoroughly mended and filled with oil or vinegar, as may be required and then bathed in boiling water for not less than twenty minutes, or in retort, at a temperature of two hundred and forty degrees, not less than five minutes. Whoever sells or offers for sale, any sardines in violation of this section

shall forfeit one dollar for every can so sold or offered for sale, to be recovered by complaint, indictment or action of debt.

SEC. 29. No can of sardines shall be packed with less than five fish and no fish shall be packed as sardines unless they have been headed and eviscerated within twenty-four hours from the time they arrive at the factory. No fish shall be baked for sardines in ovens unless they shall first be properly flaked in rows and laid on without overlapping. Whoever flakes, bakes or packs any sardines in violation of this section forfeits five dollars for every hundred fish so flaked, baked or packed, to be recovered by indictment or action of debt, one-half to the complainant or prosecutor, and one-half to the town in which the offense is committed.

SEC. 30. Section twenty-nine shall not apply to certain articles of stock in possession of any packer of sardines on March twenty-two, nineteen hundred and one, as follows: decorated tin plate, cans, metal, labels and cans of sardines, nor to goods packed previous to said date. But this exemption does not apply to any of the methods, processes or regulations in regard to canning sardines or mending leaky cans provided for in this chapter.

SEC. 31. The commissioner of sea and shore fisheries shall insist upon the strict enforcement of the four preceding sections, and require his wardens who have jurisdiction in localities where sardine canning factories are located, to give a good and sufficient bond in the sum of five thousand dollars payable to the treasurer of state, said bond to be deposited in the state treasury, to guarantee the faithful and strict enforcement of the provisions of this chapter and its penalties, and in no case shall a packer of sardines be accepted as a surety.

SEC. 32. The commissioner of sea and shore fisheries or his wardens shall inquire into violations of the laws relating to sardines and enforce the penalties therefor, and for that purpose such commissioner or his deputies may at all reasonable times enter any manufactory, or canning establishment, and make investigations concerning the methods employed and the condition of the product, and if necessary, open packages and cut open cans of sardines for such investigation. Sufficient wardens shall be appointed by the commissioner of sea and shore fisheries to enforce the provisions of this chapter, and for the city of Eastport and town of Lubec not less than two each. No person shall be eligible for appointment as warden who is an owner in a sardine factory or a relative of such an owner in the town where such factory is located.

SEC. 33. No person shall use in the herring fishery, in any of the waters of this state, torches or any artificial light, of any kind, for the purpose of driving herring under a penalty of ten dollars for each offense.

TAKING AND PACKING OF CLAMS.

SEC. 34. Any town may at its annual meeting fix the times in which clams may be taken within its limits, and the prices for which its municipal officers shall grant permits therefor; and unless so regulated by vote, residents of the town may take clams without written permit. But without permit any inhabitant within his own town, or transient person therein, may take clams for the consumption of himself and family. This section does not apply to hotel keepers taking clams for the use of their hotels, nor does it interfere with any law relating to the taking of shell fish for bait by fishermen. Whoever takes clams contrary to municipal regula-

No can shall contain less than five fish. 1901, c. 284, § 32. 1903, c. 178, § 2.

—fish shall be flaked before baking.

—penalty.

Section 29 shall not apply to certain articles in stock. 1901, c. 284, § 33.

Commissioner shall enforce sections 27 to 30, and require bond of wardens. 1901, c. 284, § 34. See § 2.

Commissioner and wardens may enter any canning establishment to make investigations. 1901, c. 284, § 35.

—wardens for Eastport and Lubec. See c. 116, § 10.

—eligibility of wardens.

Penalty for using torches for purpose of driving herring. 1901, c. 284, § 36.

Towns may regulate taking of clams. 1901, c. 284, § 37. 89 Me., 543.

—clams may be taken for family use without permit.

—and for hotels and bait.

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—penalty.

—size of bait barrels.

Close time for clams.
1901, c. 284, § 38.

—penalty.

Transportation of clams regulated.
1901, c. 284, § 39.

—exceptions.

—penalty.

Any inhabitant may plant oysters and have exclusive right to take same.
1901, c. 284, § 40.

—penalty for trespassing on such beds.

tions authorized by this section, shall, for each offense, be fined not more than ten dollars, or imprisoned not more than thirty days. In all contracts relating to the sale of clam bait by the barrel, and clam bait barrels, unless otherwise specified in the contract, a barrel shall be twenty-seven and one-half inches long, sixteen inches head diameter, outside measure, holding not less than twenty-one gallons and not more than twenty-three gallons.

SEC. 35. The canning, packing and barreling of clams, either fresh or in salt, and the digging of clams for the purpose of canning, packing or barreling, between the first day of June and the fifteenth day of September following, is hereby prohibited under a penalty of one dollar a bushel in the shell. But this section shall not apply to the barreling of clams in the shell for consumption in this state.

SEC. 36. The shipping or transportation of clams in any manner beyond the limits of the state, between the first day of June and the fifteenth day of September following, except clams which had been canned, packed or barreled between the fifteenth day of September and the first day of June, is hereby prohibited under a penalty of three dollars for each bushel so shipped or transported.

SEC. 37. Any inhabitant of the state, with consent of the adjacent riparian proprietors, may plant oysters below low water mark in any navigable waters, in places where there is no natural oyster bed; enclose such grounds with stakes, set at suitable distances, and extending at least two feet above high water mark, but so as not to obstruct the free navigation of such waters; and have the exclusive right of taking such oysters. Whoever trespasses on such enclosure or injures such oyster beds, is liable in an action of trespass for all damages; and if he takes any oysters therein without the consent of the owner, he shall forfeit not less than twenty, nor more than fifty dollars, or be imprisoned not exceeding three months.

USE OF SEINES, WEIRS, NETS AND ARTIFICIAL FLIES.

Unlawful to use purse or drag seines in certain waters.
1901, c. 284, § 41.
85 Me., 192.

—amount of smelts taken, limited.

—all bays and harbors east of west shore of Penobscot river and bay.

SEC. 38. No person shall use any purse or drag seines in the following waters: In Casco bay north of a line drawn easterly from Prince's point in the town of Yarmouth to Bear island in the town of Phippsburg, excepting for smelts, bluebacks and spurling; in Kennebec river above a line drawn across said river from Fort Popham in the town of Phippsburg to a point opposite at the lower end of Long island in the town of Georgetown; in Sheepscot river above a bridge leading from Wiscasset to Edgcomb; in Damariscotta river above a line drawn from Farnham's head in the town of Boothbay to a point opposite on the shore in the town of Bristol, excepting the use of drag seines between the above line and The Ledges, for all fish excepting alewives; in Medomak river, above a line drawn from Martin's point in the town of Friendship, westerly by the northeast end of Hog island to a point opposite in the town of Bremen, or take smelts in said river and its tributaries in any other way than by hook and line; in Georges river, above a line drawn from Hooper's point in the town of St. George, westerly past the northerly end of Caldwell's island to a point opposite on the shore in the town of Cushing, or take smelts in said river and its tributaries in any other way than by hook and line, or dip-nets, and no individual shall take more than one-half bushel of smelts within a period of twenty-four hours with dip-net; in all bays, inlets, rivers and harbors east of the west shore of the Penobscot bay and

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river where any entrance to the same or any part thereof from main land to main land is not more than three nautical miles in width, but purse and drag seines may be used for the purpose of taking smelts in these waters, except in Bluehill bay. The taking of herring, or fishing therefor, by the use of purse or drag seines and all other seines or nets, except the use of seines or nets in weirs, from the first day of June to the first day of November in the waters of Machias bay and its approaches inside of or to the northward of a direct line drawn straight from the highest summit of the island called The Brothers, easterly to a point one-half mile distant and due south from Libby island light house, thence from said point easterly to the southerly extremity of the southern island called Double Head Shots, is hereby prohibited. The use of purse or drag seines within a distance of one-half of a nautical mile from any fish weir in any of the waters of the state east of White Head on the west shore of Penobscot river is hereby prohibited; but such seines may be used for the taking of smelts and for the purpose of taking fish in weirs, but shall not be used in any water in which their use is prohibited by special or general law. Whoever violates any provision of this section shall be liable to a penalty not exceeding five hundred dollars for each offense, to be recovered in an action of debt.

SEC. 39. No salmon, shad or other migratory fish shall be taken or fished for within five hundred yards of any fishway, dam or mill race; nor in the Penobscot river between the mouth of the Kenduskeag stream and the water works dam at Treat's falls on said river, nor between the Augusta highway bridge over the Kennebec river and the Augusta dam; nor in Mill river, a tributary of Georges river, in Thomaston, Maine, between said Georges river and the old dam at head of tide waters in said Mill river; nor any salmon five hundred feet above Ferry point bridge on the St. Croix river in Calais, between the first days of April and November, except by the ordinary mode of angling with single hook and line or artificial flies; nor shall hook and line or artificial flies be used at any time within one hundred yards of any fishway, dam or mill race; but this section shall not apply to the taking of alewives by the town of Warren in the Georges river, and by the town of Waldoboro in Medomak river, under the authority granted said towns by a private and special law of Massachusetts, passed March six, eighteen hundred and two, and amendments thereof, passed by the legislature of this state; nor shall it apply to the taking of alewives by the town of Woolwich in Nequasset stream; fly fishing shall be allowed up to the bridge across the Denny's river at Lincoln's mill, but not between said bridge and Lincoln's mill dam. This section shall not apply to the Laconia falls and the Lower falls, so called, of the Saco river, located at Biddeford and Saco; and upon the first three days of each week, from the first of June to the first of September of each year, all persons may dip for salmon, shad and alewives at the falls last named above. Any person may take any salmon, shad or alewives in the waters of Orange river, in the town of Whiting, in the county of Washington, up to one hundred and thirty yards of the fishway at the lower dam in said river, subject, however, to all the laws of the state, and laws regulating the taking of such fish in said river. The penalty for any violation of this section is a fine of not more than fifty, nor less than ten dollars for each offense, and a further fine of ten dollars for each salmon and one dollar for each shad so taken.

SEC. 40. No person shall set any net or seine within five hundred feet of the mouth of any weir under a penalty of fifty dollars for each offense.

—smelts may be taken except in Bluehill bay.

—taking of herring with drag seines or nets, in Machias bay.

—use of purse or drag seines in waters east of White Head prohibited. 1901, c. 270.

—penalty.

Salmon, shad, etc., not to be taken at certain points on Penobscot or Kennebec rivers. 1901, c. 284, § 43.

—Mill river. 1903, c. 152.

—nor at certain points on St. Croix river.

—exception.

—section does not apply to taking of alewives in Georges river. 78 Me., 394.

—nor Woolwich.

—fly fishing permitted in Denny's river.

—Laconia and Lower falls of Saco river, excepted.

—salmon shall not be taken in Whiting within 130 yards of fishway.

—penalty.

Penalty for setting net or seine near a weir. 1901, c. 284, § 44.

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Owner may use.
1901, c. 284, § 45.

Close time for salmon.
1901, c. 284, § 46.

—penalty.

—proviso.

Weekly close time of salmon, shad, alewives and bass established.
1901, c. 284, § 47.

—how it shall be observed.
81 Me., 395.

—penalty.

—rivers to which section does not apply.

—close time for Damariscotta river.
78 Me., 394.

Close time for smelts.
1901, c. 284, § 48.

—penalty for violation.

—weirs shall be open and nets removed.

—penalty.

—certain weirs excepted.

—sale of smelts restricted.

—use of dip-nets.

—Androscoggin river.

SEC. 41. The owner or person in charge of any weir is hereby permitted to use nets and seines in such weir.

SEC. 42. From the fifteenth day of July to the first day of April following, there shall be a close time for salmon during which no salmon shall be taken or killed in any manner, under a penalty of not more than fifty, nor less than ten dollars, and a further penalty of ten dollars for each salmon so taken or killed. *Provided, however,* that between the fifteenth days of July and September it is lawful to fish for and take salmon by the ordinary mode, with rod and single line, but not otherwise. But any person may take salmon by weirs on the Saint Croix river below the breakwater at the ledge between the fifteenth day of May and the first day of September.

SEC. 43. Between the first day of April and the fifteenth day of July there shall be a weekly close time of forty-eight hours from sunrise on each Saturday morning to sunrise on the following Monday morning, during which no salmon, shad, alewives or bass, shall be taken. During the weekly close time all seines, nets and other movable apparatus shall be removed from the water. Every weir shall have, in that part where the fish are usually taken, an opening three feet wide, extending from the bottom to the top of the weir, and the netting or other material which closes the same while fishing, shall be taken out, carried on shore and there remain during the weekly close time, to the intent that during said close time the fish may have a free and unobstructed passage through such weir or other structure, and no contrivance which tends to hinder such fish shall be placed in any part thereof. If the enclosure where the fish are taken is furnished with a board floor, an opening extending from the floor to the top of the weir is equivalent to one extending from the bottom to the top. The penalty for the violation of this section is twenty dollars for each offense. This section does not apply to the Kennebec, Androscoggin or Penobscot rivers or their tributaries, or to the Saint Croix river below the breakwater at the ledge. *Provided, however,* that the weekly close time on the Damariscotta river below the bridge at Damariscotta shall be from sunset on each Saturday night to twelve o'clock on the following Sunday night.

SEC. 44. No smelts shall be taken or fished for in tidal waters, except by hook and line, between the first days of April and October, under a penalty of not less than ten, nor more than thirty dollars for each offense, and a further penalty of twenty cents for each smelt so taken; and all weirs for the capture of smelts shall be open and so remain, and all nets used in the smelt and tom-cod fishery, shall be taken from the water on or before said first day of April, under a penalty of not less than twenty, nor more than fifty dollars, and a further fine of five dollars for each day that any such weir or net remains in violation of law. But weirs with catch pounds covered with nets, the meshes of which are one inch square in the clear, or greater, are not subject to this section. But no smelts caught in such weirs after the first day of April, shall be sold or offered for sale in this state, nor shall smelts caught in any manner between the first day of April and the first day of October following be offered for sale, sold or shipped from the state under a penalty of twenty-five dollars for each offense; *provided, however,* that dip-nets may be used between the first day of April and the first day of May, and all smelts caught by dip-nets between said days may be lawfully offered for sale and sold in this state; *provided, further,* that this section does not apply to smelts taken in the Androscoggin river above the Merrymeeting bay bridge, between the

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first days of October and November, nor to smelts taken in the Penobscot river and its tributaries between the first and thirtieth days of April, nor to smelts taken in Casco bay between the fifteenth day of September and the first day of October, nor to smelts taken in Taunton bay between the first day of April and the first day of May, nor to smelts taken in Little Kennebec bay, so called, in the county of Washington, between the first day of April and the first day of May.

SEC. 45. No net, the meshes of which are smaller than one inch square in the clear shall be used in any waters frequented by migratory fishes, except the Saint Croix river, between the first days of April and October, under a penalty of not more than twenty, nor less than ten dollars for each offense; but this section shall not apply to dip-nets.

SEC. 46. No weir, hedge, set net or any other contrivance for the capture of fish, which is stationary while in use, shall extend into more than two feet of water at ordinary low water, under a penalty of not more than one hundred, nor less than fifty dollars, and forfeiture of all apparatus and material so unlawfully used. This provision applies to any seine or drift net which is at any time attached to a stationary object, but not to fykes or bag-nets used in the winter fishery for smelts and tom-cods, nor to any implements lawfully used above the flow of tide, nor to any portion of Penobscot river, bay or tributaries, nor to the Saint Croix river five hundred feet above Ferry's point, in Calais.

SEC. 47. The limit of depth prescribed for weirs in the preceding section shall be measured at the entrance of the weir, *provided* that no part of the weir known as the leader, is in more than two feet of water at low water mark. Weirs may exceed the limit of two feet in depth, measured as aforesaid, under the following conditions; first, the distance from the before mentioned two feet limit to the entrance of such weir, shall not exceed one hundred feet; second, no such weir shall obstruct more than one-eighth of the channel, except that in the Cathance, Abbagadasset and Eastern rivers, such weirs may extend twenty-five feet beyond the one-eighth aforesaid, *provided* such extension shall not exceed one-fourth of the width of the channel in the Abbagadasset and Eastern rivers; third, every such weir shall be stripped so as to render it incapable of taking fish between the twenty-fifth day of June and the fifteenth day of August of each year; but these conditions apply only to weirs that exceed the aforesaid limit of depth. The standard for low water mark on the Kennebec river, is in all cases the nearest bench mark of the United States coast survey, allowance being made at the various points for the difference in time. The provisions of this and the preceding sections do not apply to weirs built for the purpose of taking herring, or other salt water fish.

SEC. 48. All boats, implements and materials used and all fish taken in violation of the two preceding sections are liable to forfeiture.

SEC. 49. Whoever shall construct, set, maintain or use any net, weir, seine or other device, in the waters of the Damariscotta river, northerly of the bridge between the villages of Newcastle and Damariscotta, for the purpose of taking or catching alewives, or whoever shall take or catch any alewives within said limits, except by hook and line, shall be punished by a fine of two hundred dollars for each offense; all nets, weirs, seines or other machines or devices, prohibited as aforesaid, shall be deemed forfeited and contraband, and any member of the fish committee of the towns of Newcastle and Nobleborough finding them in such use, may destroy them. But nothing in this section shall be construed to abridge or effect in any manner, the rights and privileges now held by

—Penobscot river.
1903, c. 191.
—Casco bay.
—Taunton bay.
—Little Kennebec bay.

Nets with meshes smaller than one inch prohibited.
1901, c. 284, § 49.

No stationary contrivance shall extend into more than two feet of water.
1901, c. 284, § 50.

—penalty.
85 Me., 121, 164.

—exceptions.

Depth of weirs how measured.
1901, c. 284, § 51.

—conditions under which limits may be exceeded.

—standard for low water on the Kennebec river.
—weirs used for taking herring and other salt water fish excepted.

Forfeitures.
1901, c. 284, § 52.

Penalty for taking alewives in Damariscotta river except by hook and line.
1901, c. 284, § 53.

—all devices shall be forfeited.

—right of towns not abridged.

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Close time
in Pemaquid
river.
1901, c. 284, § 5L

—penalty.

Fishing
about Pema-
quid falls re-
stricted.
1901, c. 284, § 55.

—fishing sea-
son.

Persons not
authorized
shall not be
allowed to
catch ale-
wives in
Pemaquid
river.
1901, c. 284, § 56.

—penalty.

Bounty on
seals.
1901, c. 284, § 57.

—carcass
shall not be
left derelict
in any
waters.

—shall not be
destroyed
with long
range
weapons in
Casco bay
during June,
July and
August.

Persons de-
riving special
benefit from
protected
waters shall
post notices
of such pro-
tection.
1901, c. 284, § 63.

—where same
shall be
placed.
78 Me., 486.

Form of such
notices, pre-
scribed.
1901, c. 284, § 64.

law, by said towns of Newcastle and Nobleborough in the alewife fishery in the said Damariscotta river.

SEC. 50. From the first day of April to the fifteenth day of July in each year, all persons are hereby prohibited from fishing with nets, seines, traps, weirs or any other contrivance, in that part of Pemaquid river which lies between Pemaquid falls and a line drawn west from the site of the old Pemaquid fort, for the term of ten years from the twelfth day of February, eighteen hundred and ninety-five. Any person violating any of the provisions of this section shall be subject to a fine of one hundred dollars, and forfeiture of all boats, nets and apparatus used in such illegal fishing.

SEC. 51. All fishing for alewives at or about Pemaquid falls below the mill dam, shall be restricted to four days in each week, and the fishing season shall be from the first day of April to the fifteenth day of July of each year, for the term aforesaid, and all fishing shall be under such regulations and further restrictions as the fish committee of the town of Bristol shall decide upon.

SEC. 52. No person not authorized by the fish committee of the town of Bristol, shall be allowed to catch or disturb any alewives in Pemaquid river above the flow of the tide, and no person unless authorized by said fish committee, shall set traps, or use any other contrivance, for catching eels, or any other fish, that shall in any way interfere with the passage, either way, of alewives old or young; whoever violates this section shall be subject to a fine of twenty-five dollars and one dollar for each fish so taken or destroyed.

BOUNTY ON SEALS.

SEC. 53. A bounty of one dollar for each and every seal killed in the waters of this state shall be paid by the treasurer of the town in which such seal is killed, to the person exhibiting to said treasurer the nose of such seal within thirty days after said seal was killed. Such treasurer shall destroy it, and shall then proceed as in section fourteen of chapter thirty-two. The carcasses of such seals when destroyed shall not be left derelict in any waters of the state, but shall be removed therefrom and properly disposed of by the persons destroying them; *provided, however*, that no person shall during the months of June, July and August destroy seals in the waters of Casco bay by shooting with rifle or other long range weapon, which might endanger human life, under a penalty for any violation of this section, of fifty dollars, to be recovered upon complaint or indictment, before any court of competent jurisdiction.

GENERAL PROVISIONS.

SEC. 54. All persons who derive special benefits from legislation for the protection of fish in any waters of this state, in excess of what is or may be derived by others, shall publish such protection by posting and maintaining notices substantially as hereinafter provided. Said notices shall be placed on the banks or shores of such protected waters not more than ten feet nor less than six feet above the ground, in a conspicuous position; and if on running water such notices shall be not more than one-half mile apart on the banks of such waters; and if on a pond or lake, not more than one mile apart on the shores of such pond or lake.

SEC. 55. Said notices shall be painted on wood in black Roman letters not less than two inches in length and not less than one-half inch in

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breadth, so that such letters shall be plainly legible, and such notices shall state the number of the act and the date of the same giving the said protection to such waters.

SEC. 56. Any one mutilating or destroying such notices, shall be subject to the same penalties as set forth in section twenty-five of chapter one hundred and twenty-eight.

SEC. 57. In case no notices as herein provided are posted and maintained on waters that are protected by any special law, no one violating such law shall be liable thereunder to any penalties therein set forth.

SEC. 58. The four preceding sections shall not apply to towns which by special act have acquired vested rights in any fishery in said towns.

SEC. 59. All vessels, boats, craft, owned and officered by non-residents, and apparatus of every kind, employed in unlawful fishing, or having on board any fish unlawfully taken, are liable for all fines and costs herein provided for; and any officer may seize and detain said property not exceeding twenty-four hours, in order that it may be attached and taken by due process of law to satisfy any judgment that may be recovered, but it shall, at any time be released on payment, by the owner or master, of the fine, costs and reasonable expenses.

SEC. 60. In all prosecutions under this chapter municipal and police judges and trial justices within their counties have by complaint original and concurrent jurisdiction with the supreme judicial and superior courts. (a)

SEC. 61. All fines and penalties under this chapter may be recovered by complaint, indictment or action of debt made or brought in the county where the offense was committed. The action of debt shall be brought in the name of the commissioner of sea and shore fisheries, and all offenses under, or violations of, the provisions of this statute, may be settled by the commissioner of sea and shore fisheries, upon such terms and conditions as he deems advisable. All fines, penalties and collections under this chapter except when otherwise expressly provided, shall be paid to the treasurer of state, to be added to and made a part of the appropriation for sea and shore fisheries.

Note. Notices on petition to legislature for special legislation relating to fish, c. 2, § 36. Use of dynamite or other explosives or any poisonous or stupefying substance, for purpose of destroying or taking fish forbidden, c. 32, § 4.

Cultivation of fish for purposes of science by commissioners of inland fisheries and game, and commissioners of sea and shore fisheries, c. 32, § 40.

Exemption of certain waters from provisions relating to migratory fishes, and supervision of fishways, c. 32, § 43.

Cultivation of useful fishes by riparian proprietor, c. 32, §§ 46, 47.

(a) 79 Me., 17, 160; 80 Me., 85; 89 Me., 42.

Mutilation.
1901, c. 284, § 65.

No liability unless notices are posted.
1901, c. 284, § 66.

Application of sections 54-57.
1901, c. 284, § 67.

Vessels owned by non-residents liable for unlawful fishing.
1901, c. 284, § 68.

—seizure.

Municipal judges and trial justices shall have jurisdiction.
1901, c. 284, § 70.

Fines how recovered.
1901, c. 284, § 71.

—settlement of offenses.

—how fines shall be disposed of.
87 Me., 206.
89 Me., 42.
See §§ 27, 29.