

MAINE STATE LEGISLATURE

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CHAPTER 48.

Pilots and Ship Owners. Wrecks and Shipwrecked Goods, Lighters, and Harbors. Port Wardens.

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Pilots.

Sec. 1. Appointment and bond of pilots. R. S. c. 43, § 1. The governor, with the advice and consent of the council, may appoint pilots for any port, in which a majority of the ship owners and masters apply in writing therefor and recommend suitable persons; and shall give to each of them branches or warrants for the execution of the duties of his office; and such pilots shall, before entering upon said duties, give bond to the treasurer of state in the sum of five thousand dollars for the faithful performance thereof.

Const. of Me. Art. ix, § 1.

Sec. 2. Their duty; master may pilot his own vessel. R. S. c. 43, § 2. Such pilots shall take charge of all vessels drawing nine feet of water and upwards, bound into, and of all such vessels, except coasting and fishing vessels, bound to sea out of any of said ports, and shall pilot them into or out of the port assigned them, first showing to the masters thereof their branches and informing them of their fees; but any master may pilot his own vessel without being subject to pay therefor.

Sec. 3. Governor and council to fix fees, hear complaints, suspend or remove pilots. R. S. c. 43, § 3. The governor and council may fix the fees of pilotage; specify the same in the branch of each pilot; transmit to each collector of customs in said ports a schedule thereof, to be hung up by him for public inspection; hear and determine all complaints against such pilots for misconduct; and suspend or remove them and appoint others in their places.

Sec. 4. Liability for damage caused by their fault. R. S. c. 43, § 4. If any vessel, while under the charge of such pilot, is lost, run aground, or cast away, through his fault, he is liable to pay the owner or insurer a just compensation for any damage thereby sustained.

Ship Owners.

Sec. 5. Ship owners' liability to freighters. R. S. c. 43, § 5. No ship owner is answerable beyond the amount of his interest in the vessel and freight, for the embezzlement, loss, or destruction, by the master and mariners, of any property put on board of such vessel; nor for any act of theirs without his privity or knowledge; but if several owners of property on the same voyage suffer damage as aforesaid, and the whole vessel and her freight for the voyage are not sufficient to compensate each of them, they shall be compensated by the owner of the vessel in proportion to their respective losses, and for that purpose,

they or the owner of the vessel, or any of them, may prosecute a bill in equity for discovery and payment of the sum, for which said owner is liable to the parties entitled thereto.

65 Me. 545.

Sec. 6. Charterer deemed the owner, and responsible to real owner. R. S. c. 43, § 6. For the purposes of the preceding section the charterer of any vessel, navigating the same at his own expense, shall be deemed the owner; and if loss happens to any person from the causes therein mentioned, and it is compensated from the freight or vessel, the owner thereof may recover the amount from the charterer.

65 Me. 545.

Wrecks and Shipwrecked Goods.

Sec. 7. Appointment and bond of commissioners of wrecks; remedy on bond. R. S. c. 43, § 7. The governor, with the advice and consent of the council, may appoint in counties where needed, commissioners of wrecks and shipwrecked goods, removable at pleasure; each shall give bond to the judge of probate for his county for the faithful discharge of his duties; and any person interested may have the same remedy for the breach of such bond, as on administrator's bonds.

See Const. of Me. Art. ix, § 1.

Sec. 8. Their powers and duties. R. S. c. 43, § 8. Every such commissioner, immediately on receiving information of any shipwreck, or of the finding of any shipwrecked property of any kind to the amount of one hundred dollars on any of the shores or waters within his county, shall immediately repair to the place where the property is, and if the same is not in the custody of any owner or agent, he shall take charge of it, and secure and preserve the same for the owner.

Sec. 9. Authority of commissioner; penalty for disobeying orders. R. S. c. 43, § 9. The said commissioner, in such case, may employ as many persons as he thinks necessary to assist in preserving the property; appoint guards to receive it; suppress all tumults and disorders; and any person who disobeys any of his lawful orders forfeits for each offense not more than ten dollars, to be recovered for the town in an action on the case in the name of the commissioner.

Sec. 10. All property to be inventoried and delivered to owner. R. S. c. 43, § 10. The said commissioner shall, on every such occasion, take an inventory of all the property coming into his possession; and when required by any person interested, make oath thereto; and shall deliver a copy thereof, if required, together with all such property, to the person lawfully authorized to receive it; provided, that there is first paid or secured to him a reasonable compensation for his services, and such custom-house duties and other charges, if any, as he has paid, or become liable to pay, on account of the property in question.

Sec. 11. Commissioner to decide compensation of other persons. R. S. c. 43, § 11. No person interested in any such property shall be held to pay to any person, other than a commissioner, any compensation for services or expenses in taking or securing any property, except property taken or secured before the arrival of the said commissioner; in which case the commissioner shall, upon due hearing of all parties interested, determine the amount of compensation by his award in writing, which shall be final unless the sum awarded to any party exceeds fifty dollars.

Sec. 12. Appeal to judge of probate, who may finally decide and enforce decision. R. S. c. 43, § 12. If the said commissioner and the party interested disagree respecting the commissioner's charges, or if the award aforesaid exceeds

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fifty dollars, any party aggrieved may appeal to the judge of probate for the county where the property is situated, who shall, either in vacation or term time, on due notice, decide the case in a summary manner, and issue, under the seal of the court, any process necessary to carry his decision into effect.

Sec. 13. Penalty for intermeddling with property after arrival of commissioner. R. S. c. 43, § 13. Whoever after the arrival of the said commissioner and without his direction or that of some person interested, takes, detains, or intermeddles with any such property, forfeits not more than one thousand dollars for each offense, to be recovered in an action of debt by the said commissioner or any person interested, to his own use.

Sec. 14. Commissioner to publish particulars of wreck; penalty for neglect. R. S. c. 43, § 14. The said commissioner shall, as soon as practicable, publish all the facts and particulars of the shipwreck and of the property found, in such manner as shall be best for the information of all parties; and in case of neglect, he forfeits fifty dollars to the interested party first suing therefor in an action of debt.

Sec. 15. Property may be sold. R. S. c. 43, § 15. He may dispose of so much of the property by public auction within thirty days after taking it, as is necessary to pay the duties thereon at the custom-house; and whenever necessity requires it, may, in the same way sell such as is perishable, giving reasonable public notice, and if practicable, in a public newspaper.

Sec. 16. Property to be accounted for to treasurer of state; liability for neglect. R. S. c. 43, § 16. If no person interested appears within one year after such property is taken into custody, and establishes his claim thereto, the said commissioner shall present under oath to the treasurer of state an inventory of the property; and if sold, an account of the sales, with an account of all moneys paid by him as duties and expenses thereon; and pay and deliver to the treasurer of state the balance of such accounts, with all the property remaining in his hands for the use of the state; and if he neglects to do so for sixty days after the expiration of such year, the treasurer of state shall cause a suit therefor to be commenced in behalf of the state.

Sec. 17. Treasurer to allow commissioner's pay. R. S. c. 43, § 17. The said treasurer may make to the said commissioner on the settlement of his account as aforesaid, a just compensation for his services and expenses, to be ascertained in case of a disagreement between them, as provided in section twelve.

Lighters and Harbors.

Sec. 18. Lighters to be marked; marks to be inspected and renewed. R. S. c. 43, § 18. Every boat or lighter employed in carrying stones, sand, or gravel shall be marked at light water-mark, and at least at five other places, with the figures four, twelve, sixteen, twenty-four, and thirty, legibly made on the stem and stern-post thereof; expressing the weight which such boat or lighter is capable of carrying, when the lower part of the respective numbers touches the water in which it floats; and such marks shall be inspected yearly, and when found illegible in whole or in part, they shall be renewed.

Sec. 19. Penalty for using lighters without marks and for falsely marking. R. S. c. 43, § 19. The master or owner who uses his craft without such marks and any person who falsely marks any such boat or lighter forfeits fifty dollars to be recovered by any prosecutor in an action of debt.

Sec. 20. Municipal officers to appoint inspectors and regulate fees. R. S. c. 43, § 20. The municipal officers of every town where boats and lighters are employed for the purposes aforesaid shall annually, in April or May, appoint

some suitable person who shall be sworn, to examine and ascertain the capacities of all such boats and lighters, and mark them as above prescribed; and said officers shall establish and regulate the fees therefor.

Sec. 21. To be re-marked if capacity altered. R. S. c. 43, § 21. When such inspector thinks that the burden or capacity of any such boat or lighter is altered by repairs or otherwise he shall forthwith ascertain the same anew, and mark it accordingly.

Sec. 22. Penalty for throwing ballast into roadstead, port, or harbor; or taking stone from shore or island without consent. R. S. c. 43, § 22. No master of any vessel shall throw overboard ballast in any road, port, or harbor, under penalty of sixty dollars, and no person shall take any stone or other ballast from any island, beach, or other land, without consent of the owner, under a penalty of not more than seven dollars for each offense, to be recovered in an action of debt by any prosecutor, half for himself and half for the town where the offense is committed.

Port Wardens.

Sec. 23. Port wardens, election of. R. S. c. 43, § 23. Port wardens shall be elected in any city or town situated on navigable waters, upon the petition of ten or more citizens engaged in commercial pursuits therein.

As to appointment of harbor masters, see c. 5, § 181.

Sec. 24. By board of trade or by town officers. R. S. c. 43, § 24. If in such city or town there is a board of trade duly incorporated, said board shall annually elect the port warden; otherwise the municipal officers thereof shall annually elect them.

Sec. 25. Removal; vacancies. R. S. c. 43, § 25. Said boards of trade, by their managers, or said municipal officers, shall forthwith, on complaint of any person aggrieved, after hearing, remove for cause, any port warden by them elected, and all vacancies shall be filled by said authorities.

Sec. 26. Qualification and term of office. R. S. c. 43, § 26. Port wardens shall be men of commercial or nautical experience, and shall hold office one year from each election and until others are qualified in their stead, except when removed for cause, or when elected to serve out an unexpired term; and they shall be sworn faithfully to perform their duties.

Sec. 27. Record. R. S. c. 43, § 27. They shall make a record of their doings and keep the same in their office for inspection at any time, free of charge, by any person interested therein.

Sec. 28. Duty of port warden on arrival of vessel. R. S. c. 43, § 28. When requested by any person interested, port wardens shall proceed on board of any vessel on her arrival in port, and survey her hatches, and notice if they are properly caulked and secured; and if they have been opened by some person not a port warden, that fact shall also be noticed, and all the facts in relation to the hatches of said vessel shall be entered in the official record. They shall also examine the condition and stowage of the cargo of any vessel, and if any portion of it is found to be damaged, they shall inquire into and ascertain the cause thereof, and make a memorandum of the same, noting particularly the marks and numbers of each damaged package, and shall enter the same in full in the records of their office; and for the purpose of ascertaining the extent of said damage, they shall examine goods, wares, or merchandise of any description, in any warehouse or store, or on any wharf or at any place where the same are; provided, that said goods, wares, or merchandise are part of the cargo, and are

claimed to be damaged; and they shall note particularly the marks and numbers of every package examined by them and the extent of the damage received, and all the facts in relation thereto shall be entered in the records of their office.

Sec. 29. Duty of port warden in case of vessel arriving in distress. R. S. c. 43, § 29. When requested in writing by any person interested, port wardens shall also survey the cargo of any vessel arriving in port in distress; and shall make and record in the books of their office, a full and particular report of the condition of said cargo, and of their recommendations in relation to the disposal of such portions of the same as in their judgment may not be in condition for reshipment, reference being had to the best interests of all concerned.

Sec. 30. In case of wrecked or damaged vessel. R. S. c. 43, § 30. When requested in writing by any person interested, they shall also survey any vessel which may have suffered wreck or damage, or which may be deemed unseaworthy; and such port wardens shall call to their assistance one merchant and one shipwright, both of whom shall be competent and disinterested persons and shall be sworn faithfully to perform their duties in the examination and survey; and said surveyors and port wardens shall examine the hull, spars, sails, rigging, and all the appurtenances of said vessel, and make and record in the books of the port wardens' office a full and particular report of all the surveys by them held on said vessel, specifying what damage she has sustained and what repairs in their opinion are necessary to render her again seaworthy; and the aforesaid report shall be presumptive evidence of the necessity of such repairs and of the sufficiency of the same when made.

Sec. 13. Port wardens; their fees of office. R. S. c. 43, § 31. Port wardens shall be allowed fees to be paid by the person requesting their services, as follows: for survey of hatches, two dollars; for each survey of cargo on shipboard, one dollar; for certificate of stowage of cargo, two dollars; for each subsequent certificate, one dollar; for each survey to ascertain extent of damage, two dollars; for each certificate thereof, two dollars; for each survey required by section twenty-nine, four dollars; for each certificate thereof, two dollars; on each survey as required by section thirty, for each person, two dollars; for each certificate thereof, two dollars.

Sec. 32. Jurisdiction; penalty for performing duties of port wardens without authority. R. S. c. 43, § 32. In the cities and towns for which they are elected, port wardens shall have exclusive jurisdiction in all matters pertaining to their duties, as specified in this chapter; and any other person who performs or attempts to perform any such duties in any city or town wherein there is a port warden, forfeits for each offense one hundred dollars, to be recovered in an action of debt by any prosecutor.