

MAINE STATE LEGISLATURE

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BEING THE

ANNUAL REPORTS

OF THE VARIOUS

Public Officers Institutions

FOR THE YEAR

1893.

VOLUME I.

AUGUSTA:

BURLEIGH & FLYNT, PRINTERS TO THE STATE

1893.

REPORT

OF THE

Commissioners of Fisheries and Game

OF THE

STATE OF MAINE

FOR THE YEARS

1891-92.

AUGUSTA:

BURLEIGH & FLYNT, PRINTERS TO THE STATE.
1892.

REPORT.

His Excellency, Governor Burleigh:

The Commissioners of Fisheries and Game have the honor to lay before you their report for the years 1891 and 1892. The success of their work is best recorded by the journals of the day, our railroad superintendents, our hotel keepers and the pretty little village resorts of our summer visitors. There is a very large class of our city visitors of ample means to board their families at our more famed and fashionable resorts, who do not deem it a place of healthful moral influence for their children, or affording unrestricted opportunities for exercise. We have for some years, in our reports advised that our city friends should build houses of their own on the shores of some of our beautiful lakes. A hundred such could be named, all on railroads and with telegraphic communication to all our large cities. All accessible to villages and stores, affording ample means for all the necessities and supplies of housekeeping. We need not mention or specify the names of but a few towns or lakes as they are all on the lines of the Maine Central Railroad and can all be visited at leisure. Newport, Sebago, Green Lake, Belgrade, Sebec, &c., &c. Fond as we are of children we must confess that however well trained and looked after, they become a pest and nuisance when allowed to run loose about a hotel or boarding house. We think a trial of a summer outing in one of our proposed lakeside homes, would be followed by a yearly migration of many of our city families to an attractive and helpful field, where their accustomed studies could be pursued in some branches practically, and in all with healthy energy.

FISH.

Our lakes have been plentifully replenished with fish in accordance generally with the expressed wishes of the local inhabitants. In too many instances we have been called upon to restock a pond that has been depleted, simply by the wasteful custom of visiting the spawning beds of the fish and obtaining their winter supply of fish by the spear and net. In these cases nought has been left but the white and yellow perch and the pickerel. These waters we are yearly called upon to stock with landlocked salmon. We have responded with black bass. We have in consequence some of the best black bass ponds, so far as outlay is concerned, in New England. Black bass propagate so rapidly that we are required no longer to protect them by legislation.

Our State is best known by her salmon. Once the salmon of Maine were all quoted in the markets of the United States as from the Penobscot, or the Kennebec. Each river having its advocates for their local superiority of flavor, for the one or the other. The wonderful development of new sources of transportation has opened a market for this favorite fish, that would exhaust the whole of the crop were it taken in the fabulous amounts reported in the early days of our State's history. The Kennebec, the Androscoggin, the Eastern Penobscot in Orland are no longer contributors to our market. No longer contribute young salmon fry to those rivers, or to the High School of the ocean. These rivers have all sacrificed their means of wealth wrested from the hands of the fishermen by the demands for water power for manufactures. The Anadromous fishes bred in a river will at every recurrence of the breeding season attempt its ascent until stopped by a dam or barrier too high for them to pass beyond, until all are exterminated by net or spear. That river is then unvisited until some means of ascending the obstructions are provided and a new colony of fish is planted in the waters above the impeding fence, for the Anadromous fishes, which are the fishes whose eggs must be deposited in

fresh water, notwithstanding the parent fishes life is passed in ocean water and all their food is there obtained, and all their growth. Fishes are unlike birds which will seek other nesting places when driven from the homes nature selected for them. The eight years exemption from obedience to the fishery laws of the State granted to the dam owners at Augusta, virtually exterminated the Kennebec born salmon. When the present fishway was completed, a few surviving salmon passed up the river and were successfully hunted and killed at Waterville. We doubt that either frog or snake could escape the keen eyes or appetite of the French village at Waterville Falls. For these reasons the commissioners thought it unwise to continue further salmon planting in the Kennebec river. The different manufacturing establishments now require all of the water power. The whole of the river is devoted to and used as a dumping ground for the waste and refuse of its various factories, while its great lumbering operations requires the occupancy of all the unused space down to tide water. The salmon fishery of the Penobscot has been preserved the last few years almost entirely by the joint efforts of the United States and Maine Commissioners of Fish and Fisheries. The United States Commission purchase the fish at the weirs on the river where taken, and conveys them to waters set apart for that purpose, where they are carefully protected until ready for spawning, when their eggs are taken and distributed to such of the states as have subscribed to the expenses of the work, for home planting. We as representatives of the State's interest subscribe to the full extent of the resources that the State legislature places in our hands. We have established small hatcheries of our own at such points as are most central and convenient for distribution. The United States Commission has lately adopted a system of feeding the young fry for a length of time, that will prepare the young fish to protect and feed themselves. We deem this a great advance, as it increases the chances of life to the newly born fish. One of the young fish that is fed for six or eight months

before being turned into a pond or river is deemed equal to ten times the number of the newly born fish when planted, and liable to be eaten by even the most worthless vermin that swims.

The United States Commission has been very liberal to our State in gifts of salmon eggs and fry. We intend to adopt the system of feeding all our young fishes for some six or eight months in our State hatcheries before planting them, just as soon as our means will admit of it. We have already introduced it in a small way at Auburn with our landlocked salmon, having fed and distributed successfully some fifty thousand six months old fish.

SEA SALMON.

There is no question that the salmon fishery of Maine is rapidly diminishing and the period of its extermination in our State is imminent. Penobscot bay is fringed with weirs and its waters filtered by nets from the first entrance of the fish to our river. After reaching the head of tide water "a *cheveaux de frize*," of fishways is encountered, all requiring to be guarded day and night by vigilant wardens to protect the wretched, hunted fish, from the poacher, ever untiring in his only industry, which is always in the path of crime.

The most fatal blow struck at the Penobscot salmon fishery was the entire stoppage of the spawning fish of 1890 at the East Great Works pulp mills, for their efforts to find a passage through or over the dam summarily constructed by the corporation, they were subjected to the influence of the poisonous waters. The fish that were not killed outright found places to winter, and were mostly caught by the winter fishermen. This has been a great and irreparable loss to the river, as they were all brood fish. Many hundred fish still find their way to the branches of the Penobscot and the Mattawamkeag, after passing the poisonous waters of the pulp mills and the tanneries. Of course the fish are deci-

mated, but what does that matter if it does not affect the price of pulp or leather?

Has it not created a new industry in the sale of spring water for the drinking of our population? There cannot necessarily be many young salmon bred naturally at present in the Penobscot river. We have spoken of the contributions of the Commission of the United States and the State, of artificially hatched fry. In 1891 we planted in the Penobscot river 80,000 young salmon that had been fed at Orland for eight months. These fish when planted were from two to three inches in length. They were transported some twenty miles and turned into Grant and Burr's brooks, tributaries of the Penobscot. For the success in the transportation of these fish we are largely indebted to our excellent warden, E. G. Morse. Some of these fish were afterwards captured after a lapse of three months and had then attained a length of from four to six inches. Maine possesses resources of producing an amount of salmon equal to her former annual crop. Some of her very best salmon rivers are now barred against the salmon by legislative action. The Eastern Penobscot river in Orland with its tributaries, lakes and streams, once furnished the favorite resort of the salmon, shad and alewives—Orange river in Whiting; Machias river, &c., &c. We are now most concerned in obtaining enough of brood fish to supply our hatcheries with eggs to breed and feed the fry to keep up the stock of our few remaining rivers. We should establish hatcheries on every river it is proposed to restore, with appliances for feeding the young fish for at least eight months.

These hatcheries should be established near the line of some of our numerous railroads and in the vicinity of large towns where the materials for feeding the young fish can be readily obtained at small outlay. Experience added to new discoveries in science has given acquired skill in transporting the young fish long distances, with but trivial loss, all of which enable us to so place our hatcheries and feeding

stations, as to be most convenient to the waters most desirable to be replenished.

The St. Croix can be made a productive salmon river. At Grand Lake Stream the United States Commission have erected quite costly buildings, adapted to the hatching and feeding young fish. These works could be used for that purpose, but our present means will not admit of our incurring the expense alone. The river is the joint property of the State of Maine and the Dominion of Canada. Possibly some arrangement could be made between the two governments by which the work could be conducted for the interest of both.

LANDLOCKED SALMON.

The demand for these fish for our inland lakes and ponds, has been steadily increasing. Our success in planting them has been beyond our most sanguine expectations, and where the water and other requisites have been suitable, have rarely met with a failure. The demand for them from all quarters of the State has been greater than our supply. Yet the ponds and lakes in which this fish will thrive is limited. As we have often stated, the pond must be of good size, with large unobstructed streams of pure, quick running water with gravelly bottom, to which they can have free access to spawn and supplied with plenty of smelts or small spring spawning fish, which is their natural and necessary food. As we have before stated, the lakes must not only be of good size, but affording plenty of deep water for living grounds in summer. We have no doubt many of the young fry just from the egg sac (at which period they begin to feed) perish for want of proper food. The young smelts which hatch in the streams where the young salmon are bred, is what they require. If the waters to be stocked have these requisites they are sure to succeed.

Otherwise a failure is the result. We have many applications for small mountain and spring fed ponds, which are adapted to trout, but not for salmon. They might grow up,

but will not breed. We have not the stock to try experiments, neither can it be procured, had we the means. We are not able to supply a lake year after year with young fry to keep up its angling stock. If the waters are suitable they will supply their own breeding fish, after they are once started, if properly cared for and protected. We have had to refuse many applications which we should have been pleased to have met could we have done so without loss to the State and to waters which were much better adapted to the fish.

Maine is the only State in which a stock of these fish can be obtained, and that is limited to a much smaller number than is necessary to supply the numerous lakes and ponds in which this fish would thrive. Many (if not all) the waters where they have been introduced, have been fished by anglers so soon as any of the fish have put in an appearance, and many caught and killed before old enough to visit their breeding grounds and leave stock for the future supply of the lake. This we have no doubt has been done by the angler without thought of the consequences sure to follow. Every salmon caught in a lake newly stocked should be put back for at least six years after the planting. We would here suggest the passage of a law prohibiting the taking of any salmon from a lake or pond till after it has been stocked that length of time. In all waters frequented by land-locked salmon, many spent fish are yearly caught. These are fish not recuperated from their visit to the spawning grounds the previous autumn, and take the bait or fly more readily than those in good condition. They can be detected by their lean and sickly appearance and by the hooked jaw of the male. They are poor and worthless, and are sorry specimens for exhibition, and would disgrace any true angler's kreel. In two months they would be fine, fat fish and the following year would again return to their spawning grounds, and very materially help replenish the lake.

We get our stock of salmon eggs from Sebago lake, which contains the finest and largest specimens of these fish in the

world, some of them attaining a weight of over twenty pounds. We hatch and turn back to the lake 50 per cent of the entire product. We commenced our work there some six years ago, previous to that the salmon were nearly all speared and netted after they came into Crooked river to spawn. Since then we have taken them in a weir when they came up to their spawning beds, confining them till we could take their eggs, returning the parent fish to the lake. The increase of salmon in the lake has been steadily growing since we commenced, and many salmon are caught by trolling in May and June all along its shores.

Last spring we commenced feeding a portion of our young salmon at East Auburn under the charge of Mr. Arthur Merrill, who has proved himself a trustworthy and efficient man. Keeping about 50,000 of them till six months old, having then attained a length of three inches, and able to take care of themselves. Our success was good, meeting with a loss of about 15 per cent. We consider one hundred of these fish of more value to stock a lake than one thousand of the young fry just beginning to feed, at which point we have heretofore turned them out. We deem it advisable to continue this method hereafter, as far as our means will allow.

When we commenced at Sebago we were obliged to use a building furnished us by the liberality of Mr. Edes, below his dam on Crooked river at Edes' Falls. In time of freshet the water in the river becomes muddy, causing considerable labor and some loss of eggs. The dam getting old and unsafe, we were obliged this fall to build a new hatching house on a spring brook near by, affording us plenty of good spring water, being safe from freshets, and plenty of room to feed the young fry should we wish to do so.

There are some peculiarities about the landlocked salmon which are not generally understood by the angling fraternity. They are like their relative, the sea salmon, in many if not all their habits. Their home and feeding grounds being the fresh-water lakes and ponds instead of the ocean. Coming

into the streams to spawn at the same season of the year, and on the same grounds. Hatching at the same time, the young remaining in the streams one or two years before going back to the lake. They are identical in looks and habits and cannot be identified from each other. They are not a fish that take the fly or bait readily, even in the feeding season, often being days that not a fish can be taken, at other times, taking the hook or bait greedily. There are only about two months in the year (May and June) in which they can be angled for successfully, though a fish may be taken now and then during the summer season, but rather as an exception than a rule. They grow very rapidly during their feeding season, often attaining a growth of two pounds in one year. We have authentic information of fish being caught in ponds, stocked by us only six years that had attained a growth of eight pounds and over. In one instance, (Peabody pond) of twelve pounds. There appears to be some lakes that grow large fish, while in others with apparently the same advantages, no fish will be found of over four or five pounds. There are now quite a large number of lakes and ponds in Maine that have been stocked by us with these fish. In many of these they are quite plenty, while in others hardly a fish has been taken, but as a rule, where the waters have the requisites mentioned in the preceding page, they have been a success. We get many applications for lakes that do not contain these requirements, and we would say here to the applicant that it is useless to try such experiments. The farmer might as well try to pasture his cattle where there was nothing but rushes and stagnant water. We have no fish to try experiments, which we have done over and over again without success, and we would here request all applicants to be sure their pond contains the before mentioned requirements.

The painstaking and careful experiments of Hon. Chas. G. Atkins, Superintendent of the United States works at Orland, has made the discovery that the sea salmon only return to

the rivers to spawn once in two years. The same law applies to the landlocked salmon, and perhaps with the brook trout likewise.

Landlocked salmon have been put in the following ponds during the past year. From Enfield Hatchery, young fry 30 days old :—

Phillips pond, Dedham; Hopkins pond, Floods pond, Tomah pond, Forest; Houlton pond, Tunk pond, Cherryfield, Columbia Falls.

From Auburn, six months old fish :—

Whitney pond, Center; Worthly pond, Peru; Belgrade pond, Belgrade; Unity pond, Unity; Newport pond, Newport; China pond, China; Swan lake, Swanville; Alford's lake, Hope; Cobbosseecontee, Monmouth; Bear pond, Turner; Sibly pond, Canaan.

From Sebago eggs were sent to Rangeley, Auburn, Enfield, Cathance, Swanville. Stocked from Sebago, Sebago lake, Arroamous pond, Panther pond, Peabody pond, and numerous ponds adjacent to and tributaries of Sebago.

OUR GAME.

The result of protection to our game has more than realized our wildest expectations, but in a proportion of the class of persons that it has drawn to our State, (calling themselves sportsmen) we have been subjected to most bitter disappointment. We had thought that in making Maine a field of protected game, we should find in every man a fellow workman, sympathizer and partners with us, as lovers of field sports, interested with us in preserving respect and obedience to our game laws. We can enact no alien laws, as can the Dominion of Canada. By the laws of the United States, every citizen of each state can reside at will temporarily in each state, and enjoy equally with its own citizens all the privileges of its state laws.

All the world can come to us and enjoy during the open time of our game laws all the advantages of our fish and

game, that pertain to her own born children and citizens, who have been taxed for, and paid the expenses of our game laws. No green callow countryman has been more deceived by the wily purring "bunco steerer," than have we in some of our visiting sportsmen. But we have not lost our faith in true sportsmen. We shall always rely upon them for support in sustaining our game laws. We expect that every true sportsman that visits our State will promptly report to us every infraction of our game laws, that we may send an officer to arrest and punish the offender. The money penalty for the killing of our venison is a punishment only to the offender whose money resources are restricted. We hear the dishonest, canny remarks of a wealthy offender reported to us by good authority, (which if true) should ostracise him from the companionship of all true sportsmen and gentlemen. viz: "I kill all game that affords me a fair mark. If I am caught I promptly pay up, if not, that is the fault of the State." Complaints have been made to us by gentlemen against such persons, while they must sit quietly by and witness the cream of the hunting enjoyed by such fellows, while the true quality of "*noblesse oblige*" compels them to sit still and suffer in obedience to the law. It has been suggested to us by a delegation of gentlemen from Kineo that imprisonment be added to the money penalty in such, if not all cases. We have before spoken of the wonderful increase of our moose, deer and caribou. We ascribe much of this to the suppressing of deer dogging. Dogging is as destructive to deer as is netting and spearing on the spawning beds to fish. They have become wonderfully tame and have entered the pastures of the farmers. Many an old doe that has summered with her fawns in the pasture with the farmer's cows, has aroused all the farmer's ire, when pursued by some city counter jumper and has applied to the commissioners for protection and redress for his pets.

The caribou and moose seem to have been driven out of their usual fastnesses by the railroad laborers and engineers and the dynamite blasting enterprises.

The moose and caribou are found all over the State and in the most unlikely places in the immediate suburbs of our large towns. The improvement in fire arms, the breech loader, the magazine gun, the cheapness of these arms must tend to the decreasing of all game. We think Maine has a good code of game laws and if they are rigidly enforced, as they can be, we see no reason why our present game may not be continued to breed for all time, and afford a fine field for sportsmen. We have thousands of acres of land that can never be used for agricultural purposes, which is admirably adapted for the cultivation and home of the moose, deer and caribou. A crop already planted, needing no cultivation, but protection, and from which many thousand dollars can be harvested annually for the benefit of the State. Our game laws can always be enforced provided we have a licensed class of guides. A case was reported to us a few days since by a guide who complained that his employer had broken one of the laws of the State, in shooting caribou in close time and when neither the meat or hide could be preserved, but left to rot. This led to a discussion among the more reputable class of guides. They concluded that there was a large number of men of bad character, acting as guides, who were aiding in destroying the game of the State and would in time destroy the occupation of the guides, by annihilating all the game, that they respected no law, were a worthless class of men without whom the State would be richer. It was proposed that the guides of the State organize. We think this move would be in the right direction. They should organize and be incorporated and have their own laws, and admit only qualified men, after an examination. They should be guardians of the game laws and should report every infraction of the laws to the commissioners and fix their own rules of admission.

There are a large body of men hanging around our prominent places of summer resort, calling themselves guides, but few men of character, rarely citizens, mostly Frenchmen from over the border, skin hunters and poachers. We

arrested and tried two of them this last season for capturing a newly born moose calf, probably by killing the mother while fighting to protect her young. Their fine was paid by a Greenville man who pleaded that the men were in his employ. The calf was sold to the United States officer in charge at Togus and now adorns the United States Park at that place in violation of the law of the State of Maine.

As Maine seems to be the only State in the Union that has enacted a regular code of game laws, and is earnestly seeking to enforce them, she has naturally attracted to her forests the sportsmen from all the states. There are varieties of hardy game from other states and climes that readily acclimate here, and can be profitably introduced. We think the jack rabbit of the western plains would prove a valuable addition, as it feeds similarly with our own hare, and attains a considerably greater weight and is of similar habits. Our prominent sportsmen have been discussing for years the feasibility of introducing the black cock of Europe, known as the cappercalzie, to our northern or black growth forests. Its habits are similar to our ruffed grouse, commonly known as partridge. It nests similarly on the ground, is a hardy bird, has its home in the rough, cold, snowy hills of Scotland, breeds in considerable numbers in the forests of Sweden and Norway.

Our bright, intelligent Minister to Sweden has already brought this matter before the consideration of Congress and proposed that the birds be introduced and distributed at the expense of the United States. We do not think well of the scheme, as our Congress is composed of representatives from widely varied climes and not always of men who are judges of this class of interests. The cappercalzie is the inhabitant of a frozen clime and buries itself in the snow to preserve its life in the snowy blizzards of winter as does our beautiful ruffed grouse. We think by the subscription of the sportsmen of Maine and Massachusetts and other of our New England States, our Minister to Sweden could purchase a few pairs of the birds and these could be bred and cared for at

Rangeley and Kineo for a few years until semi-domesticated, as is the present pheasant in England, and then turned loose. As for jack rabbits, we would recommend that a few pairs be purchased and turned loose at once in our woods.

Your Commissioners respectfully represent that the salary accorded them is entirely inadequate to the time required for the performance of their duties. The minor officials employed about the Capitol receive larger emoluments. Our work is more appreciated and honored in the other states of the Union than in our own home. Our forests and streams must testify as to the fidelity and value of our work.

Respectfully,

E. M. STILWELL,
HENRY O. STANLEY.

Commissioners of Inland Fisheries and Game.

STATE OF MAINE.

To His Excellency, Edwin C. Burleigh, Governor of Maine.

May it please Your Excellency:

The undersigned has the honor to present to Your Excellency the biennial report of the official operations of the department of Sea and Shore Fisheries, for the two years ending December 31, 1891 and 1892, together with a history of the so-called "Lapham Bill."

All of which is most respectfully submitted.

EDWIN W. GOULD,

Commissioner of Sea and Shore Fisheries.

SEARSPORT, December 31, 1892.

REPORT.

We beg to congratulate the State upon the success which, we are pleased to think, has attended the efforts of this commission during the past two years. The general results are very encouraging and afford good ground for urging a further extension of our present "warden system" and more extensive facilities for properly enforcing the present protective laws. The coast fisheries of Maine, it need scarcely be said, are of great commercial interest and warrant our best exertions to meet the growing scarcity of fish and the consequent advance in prices, which in some varieties is sufficiently marked to constitute them almost luxuries. This increased demand, however, has had many excellent effects. It has acted as a stimulus upon the thinking portion of our fishing population by causing them to observe the conditions of fish growth and enabling them to suggest means whereby evils may be remedied and the great interests of the fisheries promoted.

Your commissioner has labored under many difficulties in enforcing the laws relating to our coast fisheries. Let us enumerate some of them. It will then be seen that it is practically impossible to enforce the law literally, although vigorous efforts have been made to that end. Our principal difficulties have been four.

1. Extent of coast to be protected.
2. Lack of marine police boat.
3. Lack of funds.
4. Skilful evasions of the law.

1. EXTENT OF COAST.

The coast of Maine from Eastport to Kittery, with its numerous indentations and islands is many hundred miles in length. Many of these islands are situated at such a distance from the main land as to render it practically impossible for a warden to approach without giving sufficient warning to the fishermen of his presence. It is unnecessary to say that all indications of illegal fishing are immediately removed.

2. POLICE STEAMER.

The need of a police steamer similar to the one regarded as indispensable in Massachusetts, in order to enable the wardens to reach these apparently inaccessible places selected as most desirable for illegal fishing, will be forced upon the attention of the state by reason of the decrease of fish, and as furnishing a means of protection and restoration. As things now are, the presence of a warden can be, and usually is, heralded in advance by a code of signals. If at night, by lights; if by day, by flags or steam whistles. The smacks to whom the fishermen sell their illegal fish possess a thorough knowledge of the coast and, practically out of reach of the wardens, find a market for their contraband goods in any neighboring state where the sale is permitted. To say nothing of the careful investigation into fish habits which it would make possible, the presence of a steamer would have a most salutary effect on these law breakers as well as materially assist in the proper enforcement of the law. The purchase of the "Ocean Gem" by the Massachusetts commissioners of fish and game has resulted in a most striking improvement in the protection of the lobster and other fisheries and is regarded as having done more than any single agency to vindicate the authority of Massachusetts against both the foreign and domestic enemies of her fisheries.

3. LACK OF FUNDS.

With the limited appropriation for the enforcement of the laws relating to Sea and Shore Fisheries, it is impossible to employ and pay a sufficient number of efficient wardens to protect the entire length of the coast. This lack of funds has also necessarily prevented the prosecution of a series of desirable investigations relating to certain branches of our shore fisheries, more especially the fixed shell fish. The importance of valuable industries dependent upon the shell fish would well warrant more complete investigation and the danger line for extinction of certain species, especially the clam, might be avoided both by reasonable restrictions and increasing the supply by suitable propagation. The same thing is true of the scallop and quahaug. Clearly a rich benefit to our State might be so gained and at a comparatively trifling expense. It is to be hoped that the commissioner may not be further hampered by lack of the appropriations necessary for the purpose.

The commissioner, for these and other reasons, recommends the establishment of an experimental and hatching station in connection with the work of the department. Such a station would be of especial advantage in connection with the artificial propagation of the lobster. It is believed that such a step would not only be of immense benefit to our coast fisheries but would meet the nearly unanimous support of our fishing interests.

A STATISTICAL REPORT IMPOSSIBLE.

It is impossible to give the statistical report of the Sea and Shore Fisheries with which it has been customary to adorn our commissioner's report, as no financial or legal provision exists for collecting the necessary material. An approximate report could have been reprinted, as in former years, from reports of the different fish bureaus. But as this must of necessity be misleading as to the actual condition of Maine fisheries, it is in the opinion of this commission better that no report should be made rather than to issue one not truly representing the actual condition of the fisheries. It is earnestly recommended that a suitable provision for such tabulation be made at an early day. Our citizens would need no other incentive to renewed and increased exertions for the preservation and restoration of our fish and game than presentation of the large sums which are directly brought into the state by this means, insignificant as even these are, compared to the amount indirectly brought here by the attraction incidentally afforded to immense numbers of outsiders, who, in wages, board, hotel and other investments in real estate, materially add to the wealth of the state.

A most valuable assistance in reaching these important results by tabulation would be for the state to adopt the system of licenses and reports by those engaged in fishing industries, which has given great satisfaction in Massachusetts. Each fisherman there makes itemized periodical returns, under oath, to the proper authorities of his catch, and other facts of interest. The results tabulated from these reports are of exceeding value and great service in securing intelligent legislation in the best interests of the state. It would be possible, in this way, to procure not only a proper statistical report, but also that our legislators should act upon official figures and real results rather than be forced to rely upon guess work or the contradictory statements of half-informed or intensely interested persons.

4. METHODS EMPLOYED TO EVADE THE LAW.

These are mainly in two directions.

- (a) The lobster frauds.
- (b) Seining for mackerel and menhaden at night as well as day.

(a) THE LOBSTER FRAUDS.

The Commissioner of Sea and Shore Fisheries has made the general condition of our lobster fisheries a matter of personal investigation, though not with the thoroughness which he could have desired. This investigation has demonstrated certain facts;—established by the testimony of fishermen, dealers and smack-men alike. The conclusion is unanimous that the lobster is being rapidly exterminated along the coast of Maine. Many fishermen go so far as to assert that unless measures are at once taken to prevent such wanton waste, it will speedily happen that none of these delicious crustaceans will remain to be taken by any one. The main causes of this diminution are six.

1. Increased demand.
2. Illegal sale of lobsters under the prescribed length.
3. Illegal canning of lobsters.
4. Pickling lobsters.
5. Killing spawn bearing lobsters.
6. Collusion with transportation companies.

1. INCREASED DEMAND.

The increased demand for lobsters is a result of many causes, among which are:

(a) Widening of the markets by means of improved transportation facilities.

(b) Influx of sea shore visitors during the summer months.

(a) Lobsters boiled in the shell are now being shipped in refrigerator cars to all business centers as far west as St. Louis and Chicago, while advantage is taken of the rapid through freight system to ship them alive on ice to the great eastern cities. All this exerts a potent influence on the demand for our lobsters.

(b) Influx of summer visitors to the sea shore at the same time creates a market for them never before known in Maine.

“To the tired man of business, exhausted with the terrible strain of commercial life; to the professional man, seeking the relaxation of a vacation; to the invalid; to the man of moderate means and to his little family to whom the cheapness of fish food is often an

indispensable inducement, the beautiful scenery and exhilarating climate of our State offer the draught of health and recreation. The sea coast is the breathing place and sanitarium of the entire country. It cannot be extended. With the growing prosperity furnishing the means, and the growing mental strain furnishing the necessity, it cannot be doubted that more and more people each year must recuperate their health on the Atlantic coast, carrying back to their several homes the beneficial energy so acquired."

To all this great and growing tide of immigration is due in a measure the great increase in the demand for home consumption of our lobsters.

2. SHORT LOBSTERS.

Illegal sale of lobsters of less than the prescribed length in many different forms is being carried on to an alarming extent notwithstanding the vigilant efforts of the wardens under this department.

Some idea of the amount of these contraband shipments may be gained from the fact that there is a record at this office of nearly 54,000 lobsters of less than the prescribed length detected during the last two years in transit in the city of Portland and vicinity and liberated in accordance with the Revised Statutes. The methods employed by fishermen to evade the law are numerous and ingenious.

After "short," or illegal lobsters are caught, of necessity they must be kept until a sale can be effected. Sometimes they are kept in lobster traps of the usual size, the heads being closed to prevent the escape of the lobsters. The traps are anchored in the bays or along the coast with unmarked buoys attached. Sometimes these contraband lobsters are kept in sunken cars, the line to which is taken ashore at low water and concealed beneath the sea weed covering the rocks. Sometimes they are kept in bags or sacks constructed of netting, and connected with the surface by a slender line with a small piece of wood attached and floating on the surface of the water. These and many other artifices are utilized shortly before the canning season opens and when the time (April 20th,) arrives the fishermen, on the first day rush these, at any previous time, illegal lobsters to the factory. When the shipping season begins they are shipped in every conceivable form and kind of package, representing all commercial products that are being transported to other states. New York is the principal market for these contraband goods. The necessity of constant vigilance to meet such ingenuity, carried on over such great extent of country, is obvious without extended comment. It is equally clear that proper men and appliances for the purpose cannot be procured without liberal appro-

priations. That is, if we are to continue to have lobsters and other fish on our coast.

A comparatively new industry in shipping short lobsters has sprung up lately, viz;—shipping “raws.” By a “raw” is meant the tail and claws of short lobsters torn off *while the lobster is alive*. This is usually done on board the smacks, the “raws” being packed in ice for shipment. The shipments cover hundreds of lobsters at a time.

3. ILLEGAL CANNING.

The illegal canning of lobsters is carried on to a very considerable extent. It is permitted by law to can lobsters nine inches in length between April 20th and July 1st in each year. But many establishments do not stop here. In a single case a warden seized at a factory 374 boiled “short” lobsters.

The closest personal inquiry into the matter establishes the fact that the lobster does not, as a rule, reproduce its kind until it has attained a growth of about ten (10) inches in length. It will thus readily be seen that the taking of lobsters of nine inches in length or less cannot fail to exert a strong influence on their diminution.

4. PICKLING LOBSTERS.

The pickling of short lobsters is another method of illegal sale particularly hard to detect. It is usually done on some small island by fishermen who camp there, or at their homes. Those who are engaged in this work pay no regard to size. All the lobsters caught are pickled alike. The parties, if detected with them in possession, claim that they were pickled during the canning season.

5. DESTRUCTION OF SPAWN.

The wanton destruction of the spawn and spawn bearing lobsters is another cause of the depletion of our waters. Some fishermen with a woolen mitten rub the spawn from the swimmerets of the female fish and sell the latter as legal lobsters. The proportion of females taken is much greater than males in the winter, at which season they bring the highest price. This furnishes a powerful incentive to infringe the statute.

6. COLLUSION OF TRANSPORTATION COMPANIES.

It is clear that destructive poaching exists only by virtue of a market. Fish and game will not be caught contrary to law unless they can be sold. It is for this reason that any state which furnishes a market for fish during the close season, as it was proposed by the

“Gilbert Trout Bill” that Massachusetts should do as to trout, is a direct injury to our State by stirring up our poachers to pernicious activity. Between the poacher, however, and his market are the transportation companies. Generally speaking, all contraband goods pass through the hands of some transportation company. The great mass of poaching would therefore be impossible if these companies were friendly at heart to our efforts at preservation. Unfortunately, with some exceptions, they are not. It seems harsh to say that many of the companies, enjoying valuable franchises under our laws, should be willing, for the sake of the fees earned in so doing, to assist in violating them. But the facts can be reconciled with no other conclusion. Hardly a week passes but contraband goods are found by our wardens shipped and in transit where, from the suspicious circumstances attending the shipment, the carrier must have known that the law was being violated. In view of the character of the package, its smell, the notorious character of the sender, its destination, the occupation of the consignee and other palpable facts, it must have been impossible for the carrier to shut his eyes to the nature of the articles he was carrying. In one case for instance, short lobsters were found hidden behind various wrappings, old bags, refuse, &c., belonging to the carrier. In another, a barrel of short lobsters was seen through a window to be in a steamer's washroom and only a threat of breaking the door sufficed to find a key to fit. It is a regular practice for certain steamers between our ports and those of other states to slow up at fixed points on their voyage, where a boat is in waiting containing barrels of contraband lobsters which are then transhipped on the ocean and carried to market—New York usually being the objective point. One warden liberated on a single voyage seventeen barrels of short lobsters, each barrel containing 150 shipped in this way. The carrier is frequently bold enough to defend his infractions of the laws of Maine by claiming that they do not apply, on the ground that such a voyage is an interstate matter and subject only to Congressional control, which is, of course, about the same idea that lies in the appeal of the Menhaden Company to the United States Fish Commissioner.

The carrier also frequently finds it impossible to remember who owns the goods. The nominal directions in favor of these laws are all right in many instances. The difficulty is, that there is no one actively interested to see that these directions are carried out and

nothing happens to an employe in case of a violation of these directions. While it is active co-operation to which the transportation companies are invited, it is obvious that this course of conduct must be made to cease. The commission would therefore recommend the enactment of such legislation as will make it to the personal interest of the carrier to decline to receive contraband goods. Further legislation is also needed from Congress removing such impediments to the enforcement of our laws as may exist in the power of Congress to regulate commerce.

(b) ILLEGAL SEINING FOR MACKEREL AND MENHADEN.

Illegal seining at night for mackerel and menhaden is very extensively carried on at times. The active motions of the fish in coming to the surface give, in the darkness, a marked phosphorescent gleam which guides the fishermen to their locality ;—thereby rendering capture contrary to law both easy and safe. Without the aid of a steam patrol boat, it is substantially impossible for a warden to detect this. The lack of a boat also leaves the warden at disadvantage during the day, for if detected setting a seine in proscribed waters in the day, the offender simply puts on steam and seeks another locality in which to repeat the process.

MAINTAINING THE LAWS.

To come to more general considerations, we may say that during the past two years a great change in public sentiment concerning the protection and restoration of the sea and shore fisheries of Maine has become evident. Our wardens are no longer looked upon as enemies of the fishermen and fishing interests, but are hailed as protectors to legitimate business profits, as well as protectors of the fish. Many who were opponents to the protection are beginning to realize that every citizen of the nation has a direct pecuniary interest in the matter of fish culture and protection. If the people could be brought to see that every man who, either ignorantly or wilfully, violates a protective law simply robs our citizens of their rightful property, there would be greater sympathy and more liberal appropriations for this branch of the State's work. Our citizens call for a larger supply of choice, cheap and healthful food. This can only be realized by vigorous work on the part of those to whom is intrusted the enforcement of the protective laws. They,

therefore, need and should receive the active co-operation of all right-minded citizens.

FISH AND GAME PROTECTIVE SOCIETIES.

One of the most potent factors for rendering such co-operation lies in the organization of county fish and game protective societies. Several have been formed or revived in the state during the past two years, rendering valuable aid to this commission. It is earnestly to be hoped that at no far distant day there will be such a society in each county of the state. The members of such organizations are uniformly found to be watchful for the interests of the fisheries and to lend the weight of their influence toward sustaining the law. Still farther to promote this work and obtain and enforce such legislation as may result in the propagation, preservation and restoration of fish, alike in the interests of our fishermen and the food supply of our citizens generally, these county organizations might very properly centralize their forces into a state or "United Fish and Game League." It is believed that such an organization would be of great importance to the development of a healthy public sentiment for the increase of fish.

OUR WARDENS.

The wardens under this department have been very efficient in their work and have accomplished much for the general good. For their valuable co-operation the thanks of the commission are due. It is mainly owing to their vigilance that this commission is enabled to report great improvement in the observance of the laws relating to coast fisheries. Wardens are, as a rule, a very careful and thoughtful class of men, performing arduous and oft-times dangerous duties for a very small pecuniary consideration, while being bitterly maligned by men detected in following an unlawful vocation. They are accused of obtaining "blood money," but since the passage of the law ordering the fines to be paid to the county treasurer in the county where the offense occurs, and by said treasurer to the state treasurer, these accusations have lost such point as they ever had.

Wardens often complain with reason that they frequently find themselves in a quandary as to what disposition to make of contraband fish. This is instanced by a seizure made by Warden J. W. Peabody, of Thomaston at Bass Harbor, where he seized 374 boiled

lobsters of less than the legal length at William Underwood's lobster canning establishment. Another instance is in the case of two barrels of "raws" seized at Union Station, Portland. In view of these facts it is recommended by this commission that such legislation on this subject be had as will enable the wardens making seizures of contraband fish of any kind dead or not in fit condition to liberate to destroy the same.

FINES.

The amount of cash paid the county treasurers as the result of the penalties imposed for infringement of laws regulating the Sea and Shore Fisheries since the last commissioner's report is \$4,870.38; very substantial testimony to the intelligent and unremitting labors of the wardens. It has been the effort of the commission to settle cases involving fines as speedily as possible with due regard to the interests of the state. There are, therefore, but few unsettled cases and these present a prospect of speedy settlement. The present disposition of fines has proved extremely satisfactory in actual practice, stimulating in a proper way the zeal of the officer while avoiding the evils of "blood money," and its inevitable tendency to multiplying cases and "swearing them through." There is no desire to return to the old discredited moiety system.

SEALS.

The attention of your commissioner while inspecting the coast has been repeatedly called in a practical way to the hair seals (*Phoca vitulina*) and their destructive influence on the fisheries. It has been strongly urged that they exist in large and increasing numbers at the entrances of our rivers and bays appropriating a large number of the best fish to their own use, thus greatly injuring the fishing interests of the state, especially for salmon. The many conflicting interests involved may well be of sufficient importance to lead our legislative bodies to consider the expediency of offering a sufficient bounty, as an inducement to the fishermen to lessen the number of the seals and thereby limit their destructive agency. The bounty of fifty cents per seal is practically inoperative. If a bounty is to be offered, it should be an appreciable one, say from one to three dollars. This commission while pursuing an aggressive policy against agencies that tend to lessen the fish food supply of

the people, would suggest that before legislation is passed tending towards its extermination, the place the seal occupies in the economy of nature be established by proper investigation.

WINNEGANCE CREEK.

A small salt water creek a few miles in length in the town of Winnegance, has been the source of a great deal of trouble and outlay to the State. The peculiar conditions existing in this locality render it one of more than ordinary interest. It is the only place on the coast of Maine called to the attention of the commission where striped bass, (*Roccus Lineatus*,) make their winter quarters. In former years, they were taken there in large numbers and size, frequently, it is said, weighing forty pounds and upwards. Continuous and systematic poaching has greatly diminished both their numbers and size until they now, in many instances, weigh not over one or two pounds. That Winnegance should be carefully nurtured and effectually protected by the State goes without saying. We have had many object lessons in such matters which should suggest to our people that immediate and effective legislation is necessary to protect this winter home of the striped bass and thereby preserve them from utter extinction. Many nets are taken and destroyed annually by the wardens and many pounds of fish seized but this seems to make no appreciable difference with the poachers who are continuously on the alert for a chance to set their illegal nets.

AN IMPORTANT CONCESSION.

The meeting of the New England Fish and Game Commissioners held at the State House, Boston, November 16th, 1892, was a very interesting occasion. Among those present were Elliott B. Hodge and Willard H. Griffin for New Hampshire; E. A. Brackett, E. H. Lathrop and I. C. Young for Massachusetts; J. M. K. Southwick for Rhode Island; Dr. Wm. M. Hudson, B. B. Chalker and R. S. Downes for Connecticut; Henry O Stanley and Dr. E. W. Gould for Maine, and Marshall McDonald, United States Commissioner of Fish and Fisheries of Washington, D. C. The subject discussed was the propagation, protection and restoration of our coast fish. It was with much gratification that the Commissioner of Sea and Shore Fisheries of Maine heard Mr. McDonald say that the "United

States Commission had, since last April, continued investigations begun many years ago into the habits of menhaden and since that time (last April) had demonstrated beyond reasonable doubt that menhaden are inshore spawners and bottom feeders;” in other words, that they come to the shores of New England to reproduce their kind in the warm waters of our harbors and bays and also that their food is obtained on the bottom; a fact irrefutably demonstrated by dissection and analysis of the contents of their stomachs. These two points were contended for at Washington among others as having been satisfactorily demonstrated by your commissioner of Sea and Shore Fisheries. Such unsolicited statement of facts in connection with the menhaden industry, in such direct opposition to the trend of the testimony from the same source given in support of the “Lapham Bill” when its practical side was under discussion, will convince the most skeptical that our position on the question was the only right one. As the commissioner of Maine has always claimed these facts as the basis of our law forbidding seining menhaden within the three mile limit, and as the only authority to the contrary has now admitted the justice of our claim, it is not perceived what basis can possibly exist for any attempt to repeal the law.

SHAD FISHERIES.

The condition of shad fisheries was taken up by the conference and discussed at length. The commissioners of Connecticut showed that shad were fast diminishing in number through over fishing with nets and pounds, and through the acids and impurities deposited or allowed to run into the rivers. It was also claimed that the jetty system at the mouths of the rivers tends to divert the course of currents, causing a change in the direction and haunts of the shad. It was generally agreed that young shad gave better results if kept until of a sufficient size to protect themselves from their numerous enemies before being liberated.

INTERSTATE UNIFORMITY.

The question how best to protect the lobsters on the New England coast from extermination was next considered by the commissioners present.

It was unanimously agreed that under the present law the ranks of the lobster were being very rapidly decimated and that, as the

laws now stand, lobsters contrabanded by one state could find a ready market in another. The laws of Connecticut allow the shortest lobster to be taken, the length being eight inches. All the commissioners present urged a uniform law throughout New England as the only solution of the problem and accordingly the following resolution was passed without a single dissenting voice :

“*Resolved*, That it is the opinion of this meeting of commissioners, that such legislation as shall protect the egg bearing lobsters at all seasons of the year ; and shall forbid the taking of all lobsters under ten and one-half inches in length during the entire year be passed by all the sea coast New England States.”

Commissioner Lathrop of Massachusetts was then instructed to draft a law that would secure the desired results and have a copy of the same sent to each New England Commissioner, they to present to their respective legislatures such a bill, and thus secure a uniform law on lobsters throughout New England.

THE “LAPHAM BILL.”

A brief resume has been given of the home work of the commission. But our work has not been confined to the limits of the State. It should, we had always considered, be frankly conceded by all interests that, whatever may be our fish problems, the legislature of Maine is competent to settle them. During the past winter, however, certain large fishing interests, finding that their views against the necessity for any restriction in the capture of fish failed to impress our legislature, united with the citizens of other states in a well concerted, well planned and well supported attempt to nullify the legislation which they had found themselves unable to repeal. At Washington they were, accordingly, found active supporters of the so called “Lapham Bill” (H. R. 5030) ;—a bill designed and adapted to transfer to the national fish commission the control which the legislature of Maine had always exercised over fishing in the tidal waters of the State. It was advocated in the hope and expectation that national control would, practically, mean no control, and that their (at present) illegal vessels could then roam at will into the most inland harbors of the state, however ruinous such a policy should generally be recognized to be. Further than this, our citizens saw fit, before the congressional committee in consideration of this bill, to hold up, so far as lay in their power, to public scorn

the legislation of Maine as founded on ignorance and prejudice, in nearly equal proportions, and its practical administration as being conducted by venal commissioners and rapacious wardens, diligent only for the fines forced from innocent parties by extortion and perjury. So highly colored a picture was presented, that congressmen were amazed that such a state of affairs could possibly exist, and that men should prefer the profits of their business to the honor of their State.

It seemed to your commissioner an obvious duty to defend the right of Maine to legislate upon her fisheries. Such a feeling was not lessened by finding that, shoulder to shoulder with the men who were resisting the legislation of Maine, was ranged the Fish Commissioner of the United States. Nothing less conclusive than a tacit personal admission from the commissioner himself was accepted by the Maine commissioner for such a fact. But once established, the issue apparently became one for the autonomy of Maine:—whether her legislature should continue able to protect her people in their interests of food and livelihood or turn them over to the keeping of a distant national official, willing to use the money of the states for the destruction of their prerogatives.

On arrival at the national capitol, the battle seemed clearly a losing one. The menhaden men, the mackerel men and the National Fish Commissioner had apparently formed an alliance,—offensive and defensive. They all wanted national control—for quite different reasons. Interested witnesses, brought on by the abundant means of the trust aggregation of capitalists known as the “United States Menhaden Oil and Guano Association,” thronged the committee room of the Committee on Merchant Marine and Fisheries, to be examined by able and well equipped counsel, amply supplied “with the necessary funds.” Delegations from the fertilizer interests, the oil trade, the cotton and shoe trades, wholesale fish associations from Boston, Philadelphia and New York, boards of trade from Gloucester and other places, the net and twine associations, J. W. Collins, Esq., and the United States Fish Commission united in an imposing appearance. The editorial utterances of important newspapers, resolutions from towns and other sources, private letters from constituents to members of Congress and other representatives of Maine and Massachusetts promising political annihilation for continued opposition to the bill, were industriously and discriminatingly employed. On the other side, except for congressmen,

the battle of the states was fought by two private citizens of Massachusetts, acting without compensation and with expenses contributed, to a limited extent, by private generosity. On arrival, the commissioner of Maine, by general consent, took charge of the State rights. It was obvious that the matter would take time; that to accomplish anything substantial, an extended stay was necessary. It was resolved to attack the bill as unconstitutional. Your commissioner engaged counsel and a legal argument covering the entire subject was submitted to the committee. This argument was mailed, in the name of the State of Maine, to governors and fish commissioners of the several states and territories, and to all members of the National House and Senate. An explanatory circular accompanied it to state officials, urging instant and earnest co-operation to avoid the disastrous consequences to them of the passage of this bill. While not possible to meet with witnesses the presentation of fact made by the petitioners, except at inordinate expense, there seemed need of some showing that another and stronger side of the menhaden seining question existed, on the facts. The commissioner accordingly made a complete examination of evidence showing the wide and wanton destruction of state fisheries by the menhaden fleet. The results of this investigation were presented to Congress and incorporated into the Congressional Record as the "Memorial of the State of Maine." It was distributed, under the direction of the commissioner to state and national authorities, accompanied by an explanatory circular again urging action. By such means, other states became aroused. Massachusetts, by the recommendation of Governor Russell, sent her Attorney General to oppose the bill. Michigan also addressed a memorial to Congress, the value of which they frankly conceded to the facts collected by the Maine Commissioner and arguments based on them. New York came to the rescue. Virginia and Maryland recognized, as pointed out by us, the dangerous assault upon their oyster fisheries implied in the principle of this bill. Under the leadership of Maine, the "Lapham Bill" was defeated, and upon such grounds of lack of constitutional power on the part of Congress to pass similar legislation as make its successful resurrection extremely doubtful.

A second attempt was made to pass the bill in a modified and still more dangerously insidious form, leaving the question of federal power to pass such legislation to be settled by the courts, after

possibly exasperating conflicts between state and national authority, the menhaden men, in the mean time, to fish and throw the large incidental expense of litigation upon the states. This was also met by us in the promptest possible manner.

Your commissioner led off with a circular arousing the attention and interest of other states. Attorney-General Charles E. Littlefield submitted and distributed a legal argument against the bill and in satisfactory reply to the legal reasoning in its favor. By a vote of 6 to 0, this bill was finally defeated in committee, upon reconsideration of a vote of 6 to 5 by which a favorable report on it had been adopted. In all these matters, the hands of the representatives of the fisheries of Maine were strengthened by the energetic efforts of Governor E. C. Burleigh, whose instructions were that nothing be omitted for the honor and dignity of Maine. At Washington, every assistance was rendered by Messrs. Milliken, Boutelle and Dingley, untiring in their efforts, and helpful in suggestions.

The importance of the state's work in this connection has been fully appreciated. At the last meeting of the American Fisheries Society, the national organization of fish culturists, a paper on the history of this fight was submitted by request of the society, and the position of the state amply endorsed by the passage of the following resolution in the presence of the United States Fish Commissioner and associates and against their active opposition.

Resolved further, that the aims and purposes of this society are in direct antagonism with any business that tends to depopulate the waters to enrich the land; and we therefore condemn purse seining for menhaden for the purpose of grinding the same into guano or oil, within three miles from the shore at low water."

The commissioner, in consideration of the trouble and expense to which the State has been put, feels the present to be a suitable occasion for a suggestion. It should not be forgotten that this contest between the states and the present Fish Commissioner of the United States, is likely to be constant. Little reason exists for supposing that the national commissioner will cease to believe that his powers, importance and emoluments are largely dependent upon ability to override the prerogatives of the states. Opportunity may be awaited; but the desire to avail of it will remain. **Maine will be again called upon to meet this attack on her rights.**

The question must eventually be settled;—Is state or national control better for our fisheries?

The answer depends on two considerations. (1) Is the State insufficiently equipped to discharge the work of preservation and increase? (2) Would the United States Fish Commissioner be more able to do the work?

Putting aside a justifiable feeling of state pride, looking at it absolutely from the standpoint of the fisheries themselves, to what do reason and experience point, as the answer to these two questions?

1. IS THE STATE INADEQUATE TO PRESERVE ITS FISHERIES?

The conditions of the problem of fish preservation are fairly stated in the legal argument submitted by Maine to the committee.

“The law-breaker arrives as early as the law; usually a little earlier. Unless restrained, these bounties of nature would soon cease to exist. Many things, however, are in his favor. He can work secretly and under cover of darkness. In a wooded country, it is difficult to detect the crime or follow the offender. It being usually impossible to witness the act of capture, conviction upon the direct evidence is a rare occurrence. Laws specially adapted to the end are necessary; possession is made evidence to convict; to stimulate the zeal of officers and repay necessary patrol duty, forfeitures and penalties are decreed, all discriminatingly adapted to the locality, the fishery and the resident population, and all are or can be changed as experience shall dictate. Nothing less than the most minute regulation of particular waters; the most excessive penalties, adjusted to the locality affected; their enforcement by local officers inspired by local pride and personal interest warmly backed up by local sentiment, can suffice, even among a comparatively scanty population, in preserving their fisheries to the several states.”

The situation does not change with time, except to become intensified by the enhanced value of the prize for which the poacher is contending. Vast increases in refrigeration, canning and transportation have, by widening the market, equally increased the public interest to preserve the fisheries and the temptation to deplete them. As stated in the brief already quoted from :

“It is the same constant struggle in which the interests of society need every assistance and encouragement; to have its hands strengthened in every conceivable way. Intimate local knowledge; immediate vindication of wise and energetic law, by officers thoroughly in earnest and backed by local public opinion, can alone enable the seaboard states to discharge the work which they have

in hand as trustees of the interests of the interior states in the matter of fish food."

Which of the two, National or State control, best meets the requirements of this situation? Under State control, the halls of legislation are open to all petitioners. Faults in state laws can be speedily remedied, results may be quickly noted, as quickly corrected. In short, in State control of the fisheries, their management is kept near the people, under their guidance, effective for their relief and readily modified to meet the demands of experience. It is no small argument for the efficiency of State control that no just complaint concerning it has arisen during the centuries of its existence, except from those for whose purpose it has been too effective or who desire to absorb it for their own aggrandizement.

2. WOULD NATIONAL MANAGEMENT BE BETTER?

Congress and the United States Commission scarcely claim to care for our needs with the same zeal and responsiveness to local public sentiment that our legislature and commissioners do. The care of local fisheries would seem, *à priori*, to be essentially a matter of local concern; so local, indeed, as frequently to require the minutest especial scrutiny. Now, as stated in the argument already referred to:

"Can it be conceived that, with the innumerable differences of temperature, climate, fish food, etc., a general iron clad regulation, by a National fish commission, enforced by United States officials practically irresponsible to local sentiment, would be more effective than a discriminating and readily adapted legislation, enforced by local officers prompt to respond to public interests? Are defects in fishery laws, under the widely varying circumstances of particular localities, more suitably remedied by a speedy appeal to a state legislature or by recourse to a distant and overburdened Congress? Is the necessary and speedy vindication of law against assaults by reckless law-breaking, superinduced by the hope of great gain at public expense, best intrusted to numerous and easily accessible local tribunals, or to the distant and leisurely Federal courts? Above all, what chance for adequate representation before the National Government would be afforded to the public interest as compared to that of those gigantic private interests, which, reaping ample profits at the public expense, are willing and able to use any necessary portion of these profits in obtaining or retaining valuable privileges in the public fisheries?"

If, then, care of local interests, as such, as a matter of probability, is better intrusted to the State, the National commission can only fairly claim to assume this prerogative, on account either of

(a) Superior knowledge or,

(b) For the protection of interests not local. Are either of these claims true? If true, are they valid reasons for transferring state fisheries to national control?

(a) SUPERIOR KNOWLEDGE.

This knowledge must, necessarily, be of a broad and general nature. With local matters, their knowledge can scarcely be so accurate and valuable. The commission itself is at considerable pains to claim and incessantly to repeat that its views are based upon broad examination of the entire field, as opposed, they say, to the prejudice, ignorance and jealousy of petty state officials. It may be conceded that the commission was instituted for the precise and sole purpose of acquiring such knowledge. It is also true, that they have received large sums from the tax payers of the country for that object. It is also true that they, and they alone, have opportunity and authority sufficient to enable them to take observations at such widely distant points as would naturally lead to general conclusions. But two things are also equally true.

(1) If such conclusions are reached, it is the duty of the commission to communicate them to State authorities

(2) It has reached no such conclusions.

In the twenty years of its existence, the commission has reached but one definite conclusion, to which it admits no exception;—it desires to control state fisheries. It has, substantially, reached no other. It has hatched many edible fish and has done it, at times, extremely well. It has gotten out elaborate reports, at great expense and largely from foreign sources. It has acquired facility in the use of scientific nomenclature. It has constructed and patented certain fish ways which work very nicely. It has tabulated the result of much independent investigation. But a single general conclusion of value it has yet to reach. One instance will illustrate.

It chanced to be interested in the financial success of the menhaden fishery. It has accordingly made remarkably exhaustive investigations concerning it, to an extent vouchsafed no other fish. But what facts as to menhaden, it may reasonably be asked, has it ever actually discovered certainly until a few weeks ago? Ask the commission: "Where do menhaden spawn?" "We do not know." "When do they spawn?" "We do not know." "Are they increasing or diminishing in number?" "We notice no sensible

diminution." "Might there be one and you not notice it?" "Of course. With the improvement in apparatus, an undiminished catch is an indication of no value. For all we know, the species is rapidly approaching extinction."

We do not say that such ignorance is primarily the fault of the commission. It is partly, at least, inherent in the situation. Ichthyology is not an exact science. That the subject matter under investigation is necessarily beyond the range of observation for a large part of its natural development and can only be followed in a state of nature by more or less plausible inferences possibly explains, to a considerable extent, lack of exact knowledge. But a commission which for twenty years has substantially ascertained nothing of value, and made no recommendation to Congress which has been adopted may reasonably be excused for not attempting usurpation of the State's control of its fisheries, on the ground of superior knowledge and a consequent ability to discharge the State's task better than the State itself.

(b) LARGE INTERESTS MUST BE PROTECTED.

But the United States Commissioner of Fish and Fisheries, regards himself as charged, in a peculiar and especial degree, with the care of large mercantile fishing interests. He insists upon the necessity of over-riding state law, principally on the ground that the seaboard states are more careful of their local interests than of large mercantile business in other states. A favorite instance, frequently relied on by the commission, as illustrating this evil of state control, is this same menhaden oil and guano business. It is disgraceful, says the commissioner of the United States, that little states, with local statutes, should cripple an industry of such national importance; a result attributed to "ignorance and local prejudice." He insists upon the right of a steam fleet to come on to the coast of Maine, (for example, into Casco bay) take away all the menhaden it can find, to grind them up into guano after boiling out the oil. He admits that this will naturally, if not inevitably, deplete Casco bay; that valuable food fish will no longer be attracted to those waters. He would probably agree to the inevitable corollary that Maine is just so much poorer by the process; that her own fishermen are prevented from earning a livelihood; that an entire section is made less attractive to persons seeking rest and recrea-

tion; that a cheap and abundant food supply is cut off. His answer would be that, on a broad view, it is better. Casco bay, to be sure, is depleted of menhaden. But the commissioner cannot count the hosts of ocean menhaden, and as a large school has been seen off the Jersey coast, the general bulk of the fish is not shown to his satisfaction to have been diminished. It is important, he says, that so large a business as that of catching menhaden, employing many steamers and a certain number of men, should not be sacrificed to local limitations; that if Casco bay and its inhabitants stand in the way of so great a business, their interests must needs be sacrificed. But it surely affords but little consolation to those dependent on Casco bay to know that though its own fish are gone, others of the same kind may be found elsewhere where they cannot go but the steam fleet can. To our people, it seems that fish in Casco bay, like other natural attractions, belong primarily to the bay itself; that the rights of citizens of a coast to the natural advantage of food and livelihood through good fishing are superior to the rights of any outside organization. To them, it seems their property, and to follow that if the rights of one must yield, it ought to be wandering monopolists, rather than fishermen, boatmen and citizens generally unable to repair their own loss by drawing from someone else's store. If this is a principle founded upon natural justice, it is one which the United States Commissioner persistently, obtrusively and even offensively violates. We fear that if keeping the food in our own mouths, instead of allowing it to be snatched for the gratification of others is ignorance and prejudice, Maine is likely long to remain so prejudiced, and to consider that where such "ignorance is bliss, it were folly to be wise."

The attempt of the national commission to control local fisheries is, therefore, the assertion of a right to subordinate or extinguish our rights in our own property and natural advantages, for the benefit of any outsider, whom the commissioner, for any reason, good, bad or indifferent, considers more meritorious than ourselves. Such a power is too great for any one man safely to have. It is a power too great to be conscientiously wielded and so naturally inviting to abuse as to insure most disastrous results to our prosperity and dignity, if conceded. For this reason, every attempt on the part of the national authorities to control the fisheries of Maine, directly or remotely, should be stubbornly and instinctively resisted as has been done by your representatives at Washington during the

past winter. The "Lapham Bill" has fully revealed the danger with which we are threatened and if, after so plain a warning, we neglect to observe its bearing and oppose its accomplishment, we are indeed unmindful of the true and vital interests of our beloved State in the important matter of her fisheries.

It is not intended, in what has been said, to impugn the usefulness of the United States Fish Commission. In its inception, it was to fill a well recognized need. More adequate protection of fish against extermination by excessive fishing was needed. Fully to protect, it was necessary to understand. To do this an authority with enlarged power and range of observation was called for. The history of the commission is well known. That eminent scientist and humanitarian, Prof. Spencer F. Baird of the Smithsonian Institute, as an enthusiastic fisherman, had made repeated visits to Vineyard Sound and Buzzard's Bay in Massachusetts. In so doing, he noted an alarming diminution, from year to year, in edible fish caused by their capture in nets during the spawning season. In alarm at this threatened destruction, he wrote a letter to Hon. Henry L. Dawes (Congressional Globe, 2nd session, 41st Congress, Part 3, p. 585) urging the appointment of a commission with the power and for the purpose mentioned.

"I would therefore suggest the appointment of a fish commissioner on the part of the United States, whose duty it shall be to prosecute this investigation and report upon these points to Congress, and perhaps after conference with the fish commissioners of the several states advise what action, if any, should be taken either by the general government alone or in conjunction with the states to arrest the alleged extermination of our sea fishes, and bring their numbers back to that maximum which will secure an ample supply of wholesome food for the community, and at the same time furnish a means of comfortable support to persons engaged in the business."

The suggestion was approved, the commission established and Mr. Baird wisely appointed the first commissioner. His earliest work in that capacity was to investigate the causes of the decrease he had noted. His investigations confirmed the fact and the remedy recommended by him was regulation of weirs in the spawning season. Under this policy, which met the cordial approval and entire co-operation of State authorities, the commission, so long as Professor Baird was its chief, kept within the lines of its original objects and continued, as it began, a trusted, valuable and useful institution, supplementing and assisting the work of the states; aiding the intimate local knowledge of their officials with such scien-

tific data as a broader range of observation and more liberal appropriations enabled it to supply. Of its usefulness in this and similar connections, there is, and can be, no reasonable question.

Upon the death of the great hearted, broad minded Professor Baird, a radical change in the policy of the commission began. Its object no longer was to supplement and assist the work of the states. It was rather to control and absorb it.

Usurpation, under the guise of protecting care, became the order of the day. The national commission began to speak of the "ignorance" and "prejudice" of state authorities. All fishing interests, to whom the restraints of state legislatures or state officials were irksome, instinctively appealed to the superior knowledge and experience of the commissioner. Large aggregations of capital found that their interest lay in cultivating his friendship, and the flattering suggestion was offered that, under his more intelligent guidance, the petty tyranny under which they suffered would cease. To such appeals, the commissioner has graciously listened. From being a co-worker, he assumes, as a *quasi* "Court of Appeals" to sit in judgment upon the propriety of State decisions. He collects and edits, with much expense to the country, facts in favor of certain interests; he is their regular comfort in opposing state regulations, and puts the finishing touch to his work by uniting in their effort to transfer the control of great seaboard states in their tidal and navigable waters to his own keeping.

This radical change of attitude toward the officials of the states has accompanied one equally radical toward fish preservation.

No clearer conception of how far the commission has drifted from its original position could be gained than by candidly comparing Professor Baird's first report (in 1871), "Condition of the Sea Fisheries of South Coast of New England" (Misc. Docs. 61, 2d sess. 42d Cong.) with the latest report of the commission, in 1892, by J. W. Collins and Hugh M. Smith, entitled "Report on the Fisheries of the New England States." (Bulletin of U. S. Fish Commission for 1890, pp. 73-176).

In the earlier report, the solicitude of the commission is obviously directed to preservation of the natural bounties; to the interest of the consumer; how the capital engaged in these fishing monopolies may least be injured by restrictions recommended as necessary and which would have taken the form of prohibition but for these equitable claims of invested capital.

In striking contrast to all this the later report reserves its highest encomium for the greatest number of fish killed. Any increase in the hundreds of millions of pounds of fish yearly caught, by any device, is hailed with glad applause. All increase in the destructive power of the apparatus used is warmly welcomed. It is from the standpoint of the fish destroyer alone that every table is viewed. Increase of vessels, men, apparatus or catch; new advantages for capture, are evidently the sole matters for congratulation. A steam fleet, operating in all weathers and directions; rapidly changing its field of destructive operations; using steam power for the yearly capture of 500,000,000 menhaden otherwise available for fish food, is regarded as a welcome culmination of industrial progress. No eventual scarcity; no incidental injury to worthy shore fishermen, trouble such bright tabulators of hundreds of millions of pounds of fish food and thousands of purse and other seines, operated by steam power and under all conditions. Not a syllable of caution; not a word of remonstrance!

All this would be entirely natural if the report were dealing with manufactures or other articles capable of indefinite production without diminution of supply. Were it treating, for example, of the manufacture of cotton cloth, it would be easy to understand why increase in the number manufactured, in the number of establishments or in the efficiency of the apparatus would be good cause for felicitation. But in case of the fisheries, we have the familiar problem, never far from the mind of an honest state official, of a natural bounty, limited in amount, continually reduced by natural enemies constant in their attacks, and the remnant yearly surplus of which is operated upon by man with ever increasing efficiency to supply an ever broadening market. Is not the situation one to call for caution?

The national commission owes its existence to such an increasing scarcity of fish as suggested ultimate extinction. If such is not the fact, the reasons for its existence cease. Which, then, is its proper attitude toward the objects of its care;—anxiety to preserve or anxiety to catch? Is it most clearly within the line of its objects when Prof. Baird in 1871 urges regulation of nets in the spawning season, when the commission in 1887 resolutely antagonized a proposed law of Congress preventing seining of mackerel in the spawning season, (United States Laws, 1887, Chapter 288) or when, in 1892, they foster the very policy which has damaged the fisheries? Would it

be within the legitimate province of a forestry commission to rejoice at each increase in the cutting of timber and resolutely oppose all laws to regulate tree cutting? Was it, indeed, a cause for legitimate pleasure that the amount of whale bone and sperm oil was still large during the years when whales were exterminated? Was a large crop of buffalo robes, in certain years, really a blessing though they made buffalo a reminiscence? Would a large number of seal skins from the pelagic killing of fur seals generally be accepted by the treasury authorities, as a pleasant circumstance regardless of the effect upon the supply? There is but one answer to these questions. Destruction will take care of itself. Preservation requires action and purposeful vigilance.

It seems clear, therefore, that in insisting that no more fish shall be marketed than is consistent with full maintenance of the supply, the authorities of our seaboard states simply endeavor to discharge their obvious duty as trustees for the future and our inland states; that one, at least, and almost the last, of the bounties of nature may be preserved for the use and continued enjoyment of our people. We think it follows that the national fish commission can never adequately discharge the objects of its existence or attain the highest usefulness until it makes a radical change in its entire policy, not only as relates to the authorities of the states but also toward its purpose of fish preservation, to which those states which it affects adversely to criticise, are devoting their most intelligent care. Until it shall do so, its desire to invade the cherished prerogatives of the State, may well be resisted upon every ground of public policy as well as from every legitimate feeling of State pride.

THE STATE AT CHICAGO.

While it is not perceived that there is any conflict possible between the proper spheres of the state and national fish commissioner; while, on the contrary, it seems entirely clear that the states may receive valuable aid without need of usurpation, from the data furnished by the national commission, it is at least equally clear that it is better, if there should be a conflict between them, that the state should protect her interest even badly rather than that the nation should do the work for her in the most perfect manner. Upon our own care, vigilance and liberality depend the great fishing interests of our state. It is well that we should realize that this is a respon-

sibility which we cannot delegate; that if we do not attend to it, it will not be attended to; and that we can indulge in no improvidence in our use of natural bounties and no sentimental indulgence to poaching that will not inevitably carry its own financial punishment in the present. For a splendid state like Maine, with the territory and resources of an empire, to place its trust for its fishing interests in anything but self-reliance, is a confession of weakness into which we should neither be seduced nor driven. It is in accordance with this feeling that your commissioner desires not to merge the fisheries exhibit of the state at the World's Fair in that of the national commission but to make an individual exhibit.

That Maine is the banner state for summer tourists who take pleasure in hunting and fishing goes without saying, and a comprehensive, individual state exhibit of her fish and game at the World's Fair at Chicago would mean much to her citizens even in point of revenue since the travel to the seashore and forests during the summer and fall seasons has a large and yearly increasing western element.

A suitable allotment of space has been secured and the commissioner relies, with confidence, upon the cordial co-operation of all our citizens, through specimens, suggestions or other aid, in order that the exhibit of our great resources in sea shore fish, carefully cultivated for years by the thoughtful interest of Maine, may be worthy of our beloved State.