

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

WATERVILLE
SENTINEL PUBLISHING COMPANY

1915

been necessary, when amended application was filed, and the certificate could have properly been issued by the President and Secretary in accordance with previous action of the Board. On the other hand it is claimed that the Board took no action on original certificate, and that it was withdrawn and application was made *de novo* on April 18th, 1913, and on this application no action by the Board has ever been taken at any meeting, and the issuing of the certificate was therefore unwarranted.

From the data which has been furnished us, we think the latter view is the only tenable one. The records of the Board do not show any action by the Board on the first application and it was withdrawn entirely from the files of the Board. The second application shows by memoranda upon it that it was treated as a new application and attempted action of the Board was had upon it, but we understand such action was not at a Board meeting but by telephone, which according to our understanding of the law, could be of no effect.

While it has no effect upon any of these questions, we also note what on the face appears to be an irregularity in the second application, in that at the time the applicant made oath to it, it was not fully made out in this respect; that on the twelfth day of March, 1913, there was no statement contained therein as to his good professional standing, this part of the certificate having been completed on the tenth day of April, 1913. This, however, is a technical matter, perhaps, and if the Board was satisfied it was done in good faith, should not weigh in determining whether or not a certificate should be granted.

Very sincerely,

SCOTT WILSON,

Attorney General.

SEA AND SHORE FISHERIES,—RIGHT OF WARDEN
TO SEARCH VESSELS.

8th August, 1913.

Henry D. S. Woodbury, 120 Exchange St., Portland, Maine.

DEAR SIR: Yours of the 6th inst., inquiring as to the rights of wardens to board fishing smacks and examine the cargo

to ascertain whether they have short lobsters on board, was duly received, and in reply will say that it seems to me within the authority of the wardens, provided they have a search warrant, to board a vessel and examine the cargo notwithstanding the vessel may be owned by non-residents and the lobsters are purchased or taken on board for the purpose of taking them out of the State.

A question does, however, arise as to in what waters this can be done. Unquestionably the jurisdiction of the State extends three miles to sea, but a peculiar situation seems to exist in Maine as to the extent of the county lines, and, therefore, of the jurisdiction of the courts over offenses of this nature unless committed within some county. Without further extension by the statutes, county lines seem to be bounded by low water mark but include all bays and harbors along the coast where "a man standing on one shore can reasonably discern with the naked eye objects and what is done on the opposite shore." I have not made a careful examination as to the limits of all the counties but undoubtedly they all include the islands along the coast at least, and in all probability no question will arise over any bay or harbor.

Probably this is sufficient for your purposes, as I presume if you want to make a test case of this you can locate one of these vessels in some port and have a search warrant made out and examine their cargo and if short lobsters are found bring them before the magistrate issuing the warrant.

I call your attention to Section 59 of Chapter 41 which makes the boat itself liable to seizure as security for any judgment that may be recovered. It will undoubtedly be wise for you to take it up with the county attorney, and be sure that the papers are properly made out.

Very sincerely,

SCOTT WILSON,

Attorney General.

Bishops Criminal Law, Vol 1, Sec. 146.
Commonwealth v. Peters, 12 Metcalf, 387.
Manchester v. Massachusetts, 139, U. S. 240.
Judson on Inter-State Commerce.