

MAINE STATE LEGISLATURE

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Sixty-Eighth Legislature.

SENATE.

No. 50.

STATE OF MAINE.

To the Legislature of Maine:

The undersigned Commissioners, appointed to investigate, revise and simplify the laws relating to sea and shore fisheries, beg leave to submit the following report:

We have made a personal inspection of the fisheries along the entire coast, and find the interests affected by these laws are much greater than is generally understood. An industry from which the laborers of the State earn over \$5,000,000 annually; which creates and maintains a large amount of taxable property, and by proper care can be made more valuable each year, certainly deserves all the aid that can be rendered by wise legislation.

The necessity for investigation seems to have arisen from the existence of too many laws, rather than from lack of legislation; and it is in many cases evident that the laws have been the result of local or selfish interests rather than enactments for the public good.

It is only six years since the separate department of shore fisheries was created by law, and in all the years prior to that

time there grew up a system of laws apparently based upon the idea that the shore fisheries were not one great industry, important to the whole State, and therefore to be controlled by general laws. The theory seems to have prevailed that each town had special rights in the fisheries along its shores.

As a result of this theory, the State has, by a long series of special laws, delegated much of its authority over the shore fisheries to the selectmen of the shore towns, who have the power to grant licenses to fish within town limits, to engage by vote of the town in the cultivation and propagation of fish, and, in one case at least, to build fishways and enter on private lands and exercise the right of eminent domain for that purpose.

Another result of this policy has been to place each river, bay and section where a fishery exists, under a special law as to close time or other regulations, instead of having all the shore fisheries under one general law.

Such a law might easily be framed by taking the general provisions of the laws as now revised, and striking out all provisions relating to special powers conferred upon town officers. Thus the entire coast would be under one general law.

Then give to the Shore Commissioner the power to make such special local regulations as the Inland Commissioners are now empowered to make from time to time, where he is satisfied, after a public hearing on petition, that some temporary modification of the law would be for the good of the State. This would avoid all special laws in the future.

In pursuance of our duty to revise and simplify the existing laws, we herewith submit, as a part of our report, an act entitled, "An Act to revise and consolidate the Public Laws relating to Sea and Shore Fisheries," and we also submit an act authorizing commissioners to make special regulations as to local fisheries.

GEO. A. CURRAN,
WILLIS T. EMMONS,
ORIN B. WHITTEN,

Commission.

February 3, 1897.

Sixty-Eighth Legislature.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-SEVEN

AN ACT to revise and consolidate the Public Laws relating
to Sea and Shore Fisheries.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. In each town, where pickled fish are cured or
2 packed for exportation, the governor, with the advice and
3 consent of council, shall, from time to time, as occasion
4 requires, appoint one or more persons skilled in the quality
5 of the same, to be inspectors of fish, who shall hold their
6 office for five years, unless sooner removed by the governor
7 and council.

Sect. 2. Every such inspector, before entering upon his
2 duties, shall be sworn, and give bonds with sufficient sureties
3 to the treasurer of the town for which he is appointed, to the

4 satisfaction of the municipal officers thereof, in the penal
5 sum of not less than five hundred nor more than five thou-
6 sand dollars, for the faithful performance of his official
7 duties; and such officers shall, at least once a year, examine
8 the bonds given by said inspectors, and if that of any inspec-
9 tor is not in their opinion sufficient, they shall forthwith
10 notify him, and if he for thirty days thereafter neglects to
11 give a satisfactory bond, they shall give information thereof
12 to the governor, who shall remove him from office.

Sect. 3. Every inspector shall, by the thirtieth day of
2 November, annually, make a return into the office of the
3 Commissioner of Sea and Shore Fisheries of all fish by him
4 inspected during the year preceding the thirtieth day of
5 such November, designating the quantities, kinds and qual-
6 ities of pickled fish, and said commissioner shall embody
7 the substance thereof in his next official report.

Sect. 4. Any person injured by the neglect or misdoings
2 of an inspector, on tending to such treasurer a reasonable
3 indemnity against the costs, may bring an action on such
4 inspector's bond in the name of the treasurer, for his own
5 use, and may have a copy of the bond thereof; and if judg-
6 ment is rendered thereon for the plaintiff, execution shall
7 issue for the sum found due to the person for whose use
8 such action is brought, and the sum awarded in damages
9 shall be entered by the clerk of the court on the original
10 bond, to remain in the custody of the treasurer.

Sect. 5. Every inspector who inspects any kind of fish
2 that are split and pickled for packing, shall see that they are,

3 in the first instance, free from taint, rust or damage, and
4 well struck with salt or pickle; and such of said fish as are
5 in good order and of good quality, shall be pickled in bar-
6 rels, half barrels, quarter barrels, and tenths of barrels or
7 kits; each barrel containing two hundred pounds, and so
8 on in that proportion; and the same shall be packed in
9 good, clean, coarse salt, sufficient for their preservation;
10 and then each cask shall be headed up and filled with clear,
11 strong pickle, and shall be branded by the inspector with
12 the name and quality of the fish therein.

Sect. 6. Mackerel of the best quality, not mutilated,
2 measuring, when split, not less than thirteen inches from
3 the extremity of the head to the crotch or fork of the tail,
4 free from taint, rust or damage, shall be branded "Number
5 one;" the next best quality, being not less than eleven inches
6 measuring as aforesaid, free from taint, rust or damage,
7 shall be branded "Number two;" those that remain after the
8 above selection, free from taint or damage, and not less
9 than thirteen inches measuring as aforesaid, shall be
10 branded "Number three large;" those of the next inferior
11 quality, free from taint or damage, not less than ten inches
12 measured as aforesaid, shall be branded "Number three;"
13 all other mackerel, free from taint or damage, shall be
14 branded "Number three small." The inspector shall brand
15 in plain letters on the head of every such cask, the weight,
16 the initials of his Christian name, the whole of his surname,
17 the name of his town, and the letters "ME.," and an abridg-
18 ment in figures, of the month and the year, when packed.

Sect. 7. All barrels, and casks used for packing pickled
2 fish, shall be made of sound, well seasoned white oak, white
3 ash, spruce, pine, chestnut, or poplar staves with heading
4 of either of such kinds of wood, sound, well planed and
5 seasoned and when of pine, free from sap, and the barrels
6 hooped with at least three strong hoops on each bilge, and
7 three also on each chime; the barrel staves shall be twenty-
8 eight inches in length, and the heads seventeen inches
9 between the chimes, and made in a workmanlike manner,
10 to hold pickle. The barrels from twenty-nine to thirty
11 gallons each, and the aliquot parts of a barrel in the same
12 proportion.

Sect. 8. Every inspector who inspects pickled alewives or
2 herring, or other small fish, packed whole or round, shall
3 see that they are struck with salt or pickle, and then put in
4 good casks of the size and material aforesaid, packed closely
5 therein, and well salted, and the casks filled with the fish
6 and salt, putting no more salt with the fish than is neces-
7 sary for their preservation; and the inspector shall brand
8 all such casks with the name of the inspected fish as afore-
9 said.

Sect. 9. The fees for inspection and branding, exclusive of
2 cooperage, are for each barrel seven cents, and all such fees
3 shall in the first instance be paid by the original owners of
4 the fish, who may recover the amount thereof from the
5 party buying or receiving the same, under the marks and
6 brands aforesaid, and in addition to the price thereof.

Sect. 10. The owner of all smoked and pickled fish, except smoked herring, shall when required by the inspector, furnish a brand containing the initials of his Christian name and the whole of his surname, for stamping the casks and boxed containing such fish.

Sect. 11. Whoever sells in the State, or exports therefrom any fish in casks or boxes, not inspected, packed and branded, as aforesaid, except good and wholesome fish packed in kegs of less than ten gallons, or pickled, dry or smoked fish imported into the State from some other state or county lawfully inspected and branded there, and whoever sells or exports any fish known by him to be tainted or damaged, forfeits ten dollars for every hundred weight thus sold or exported.

Sect. 12. No pickled fish in casks, and no smoked alewives in boxes, shall be shipped from the State, unless the master or owner of the vessels produces to the officer authorized to clear the same, a certificate from the inspector, that they have been inspected, packed, and branded according to law; and the certificate shall express the number of barrels, or casks, and the number of boxes, thus shipped, the kind and quality of fish which they contain, the name of the master and owner, and that of the vessel into which such fish are received for exportation; and he shall take and subscribe the following oath, before the officer as aforesaid:

“I, A. B. swear, according to the best of my knowledge and belief, that the certificate hereunto annexed, contains

14 the whole quantity of pickled fish packed in barrels or other
15 casks, and of smoked alewives and herring, on board the
16 , master;
17 and that no pickled fish, or smoked alewives are shipped on
18 board said vessel for the ship's company, or on freight or
19 cargo, but such as are inspected and branded, and no
20 smoked herring but such as are branded, according to the
21 laws of this State, or exempted by the provisions thereof.
22 So help me God."

Sect. 13. Whoever lades or receives on board any vessel
2 or other carriage for transportation from the State, any
3 pickled fish, or cured or salted whole fish, packed or not
4 packed, not inspected and branded as aforesaid, except such
5 as is excepted in section twelve, forfeits at the rate of not
6 less than five nor more than ten dollars for every hundred
7 pounds thereof; and any trial justice may issue his warrant
8 to the proper officer, directing him to seize and secure such
9 prohibited fish, and convey it to any inspector within a con-
10 venient distance for inspection; and whoever refuses to give
11 necessary aid in the service of such warrant when required
12 by the officer, forfeits five dollars to the prosecutor in an
13 action of debt; and such inspector shall open, inspect, pack,
14 and brand such fish according to law and detain the same
15 until all lawful charges of seizure and inspection are paid.

Sect. 14. If any person takes from a cask or box, any
2 pickled, cured, or smoked fish, lawfully inspected and
3 branded or any smoked herring lawfully branded, and sub-

4 stitutes therefor or fraudulently intermixes other fish; or
5 if any inspector marks any cask or box out of his own town,
6 or which he has not inspected, packed, and himself prepared
7 according to law; permits other persons unlawfully to use
8 his brands; or wilfully and fraudulently uses the same him-
9 self after the expiration of his commission, he forfeits
10 twenty dollars for each cask or box so dealt with.

Sect. 15. It shall be unlawful to use any purse or drag
2 seines in the following waters, but no others. In Casco
3 bay north of a line easterly from Prince's Point in the town
4 of Yarmouth to Bear island in the town of Phippsburg,
5 excepting for smelts. In Casco bay north of a line drawn
6 easterly from Prince's Point in the town of Yarmouth to
7 Bear island in the town of Phippsburg, excepting for smelts.
8 In Kennebec river above a line drawn across said river to
9 Fort Popham in the town of Phippsburg to a point opposite
10 at the lower end of Long island in the town of Georgetown.

In the Sheepscot river above a bridge leading from Wiscas-
12 set to Edgecomb.

In Damariscotta river above a line drawn from Franham's
14 head in the town of Boothbay to a point opposite on the
15 shore in the town of Bristol, excepting the use of drag
16 seines between the above line and the ledges, for all fish
17 excepting alewives.

In Medomak river, above a line drawn from Martin's
19 Point in the town of Friendship, westerly by the northeast
20 end of Hog island to a point opposite in the town of Bremen,

21 or to take smelts in said river and its tributaries in any
22 other way than by hook and line.

In the Georges river, above a line drawn from Hooper's
24 Point in the town of St. George, westerly past the northerly
25 end of Caldwell's island to a point opposite on the shore
26 in the town of Cushing, or to take smelts in said river and
27 its tributaries in any other way than by hook and line.

All bays, inlets, rivers and harbors east of the west shore
29 of the Penobscot bay and river where any entrance to the
30 same or any part thereof from main land to main land is
31 not more than three nautical miles in width, but purse and
32 drag seines may be used for the purpose of taking smelts
33 in these waters except in Bluehill bay, under a penalty of
34 not exceeding five hundred dollars for each offence for
35 such unlawful fishing to be recovered in action of debt.

The taking of herring, or fishing therefor, by the use of
37 purse or drag seines and all other seines or nets, except the
38 use of seines or nets in weirs, from the first day of June to
39 the first day of November, in the waters of Machias bay
40 and its approaches inside of, or to the northward of a direct
41 line drawn straight from the highest summit of the island
42 called The Brothers, easterly to a point one-half mile
43 distant and due south from Libby island light house thence
44 from said point easterly to the southerly extremity of the
45 southern island called the The Double Head Shots, is here-
46 by prohibited, under a penalty not exceeding five hundred
47 dollars for each offence to be recovered in an action of debt.

48 It shall be unlawful for non residents to use any fishing
49 steamer for the purpose of catching mackerel, herring or
50 menhaden in the waters of this State for the purpose of
51 supplying the markets of other states, under a penalty not
52 to exceed 500 dollars for each offence, to be recovered in
53 an action of debt.

Sect. 16. Whoever catches, takes, preserves, sells, or
2 offers for sale any herring for canning purposes, or packs,
3 between the fifteenth day of December and the following
4 April forfeits twenty dollars for every hundred cans so
5 packed or canned, and for every hundred herring so taken.

Sect. 17. Whoever bakes, fries, packs or cans any herring
2 or other fish for sardines, without heading and eviscerating
3 the same, and whoever sells, offers for sale or has in his
4 possession for sale, any sardines packed without being so
5 headed and eviscerated, shall forfeit twenty dollars for every
6 hundred cans so packed, sold, offered for sale, or in posses-
7 sion for sale, to be recovered by indictment or action of
8 debt.

Sect. 18. In packing herring, mackerel or other fish in
2 hermetically sealed cans, either in oil, mustard or vinegar
3 there shall be used not less than one gallon of oil, of good
4 standard quality, for every one hundred cans so packed of
5 the size known as one quarter oils; one gallon of mustard
6 sauce of good quality for every fifty cans of the size known
7 as three-quarters mustard, and for every one hundred cans
8 of the size known as one-quarter mustard; one gallon of

9 vinegar for every one hundred cans of the size known as
10 one-quarter spiced and for every fifty cans of the size known
11 as three-quarters spiced. Proprietors of fish packing
12 factories shall provide sealed measures holding one one-
13 hundredth (1-100) part and one-fiftieth part of a gallon
14 each, which shall be used in measuring all oil, mustard
15 sauce and vinegar used in packing fish as above provided,
16 and all fish packed as aforesaid shall be when so packed,
17 good and sound, except that they shall be cleaned, headed
18 and eviscerated, and of good uniform size.

Sect. 19. Whoever packs or cans, or causes to be packed
2 or canned any fish in violation of this act shall forfeit twenty
3 dollars for every one hundred cans or fifty cans, as afore-
4 said, as the case may be, so packed by him or by his
5 employees, to be recovered by complaint.

Sect. 20. No person, not a resident of the State, shall set
2 or use any net, weir, seine, or other machine, for the taking
3 of salmon, shad, mackerel, shell-fish, lobsters, herring, ale-
4 wives, manhaden or porgies; nor shall any person take, or
5 otherwise wilfully destroy any shell-fish or obstruct their
6 growth in their beds; or set any nets crosswise of said
7 waters, except in Winnegance creek, but only lengthwise,
8 under a penalty of not less than twenty, nor more than five
9 hundred dollars; except as hereinafter provided.

Sect. 21. The municipal officers of towns may grant
2 written permits to residents of the State, to take, within
3 their towns, shell-fish, menhaden or porgies, otherwise than

4 is forbidden in section seventeen, and to those not residents
5 to take the same and also lobsters, on payment of an agreed
6 sum to their town, specifying therein the quantity to be
7 taken, the time to fish, the number of persons to be
8 employed, and the purpose for which the fish may be used;
9 but without such permit any inhabitant, within his own
10 town, may take shell-fish for the consumption of his family,
11 and any fisherman may take, anywhere, such fish suitable
12 for bait and necessary for his use, not exceeding seven
13 bushels in the shell, except that oysters shall not be taken
14 by any one in June, July and August.

Sect. 22. Any town may at its annual meeting fix the
2 times in which clams may be taken within its limits, and the
3 prices for which its municipal officers shall grant permits
4 therefor; and unless so regulated by vote, residents of the
5 town may take clams without written permit. But with-
6 out permit any inhabitant within his own town, or transient
7 person therein, may take clams for the consumption of
8 himself and family. This section does not apply to hotel-
9 keepers taking clams for the use of their hotels, nor does it
10 interfere with any law relating to the taking of shell-fish
11 for bait by fishermen. Whoever takes clams contrary to
12 municipal regulations authorized by this act, shall, for
13 each offence, be fined not more than ten dollars, or
14 imprisoned not more than thirty days, or both.

Sect. 23. Cities, towns and plantations are authorized to
2 raise annually, by a two-thirds vote at their annual meet-

3 ing, a sum not exceeding five hundred dollars, to be
4 expended by the municipal officers thereof or by a com-
5 missioner elected by the cities, towns or plantations for the
6 propagation and protection of fish in public waters located
7 wholly or partially within their respective limits. A report
8 of the expenditures thereof shall be made at the next annual
9 meeting by the officer or officers authorized to expend such
10 appropriation.

Sect. 24. Owners of shores or flats bordering on the sea
2 coast may extend their fish wiers, the materials of which
3 are wholly or partly removed annually, into tide waters
4 below low water mark; provided, that they do not obstruct
5 navigation nor interfere with the rights of others.

Sect. 25. All vessels, boats, craft, and apparatus of every
2 kind, employed in unlawful fishing, or having on board any
3 fish unlawfully taken, are liable for all fines and costs herein
4 provided for; and any officer may seize and detain said
5 property not exceeding twenty-four hours, in order that it
6 may be attached, and taken by due process of law to satisfy
7 any judgment that may be recovered; but it shall, at any
8 time, be released on payment by the owner or master, of
9 the fine, costs, and reasonable expenses.

Sect. 26. Any inhabitant of the State, with consent of the
2 adjacent riparian proprietors, may plant oysters below low
3 water mark in any navigable waters, in places where there
4 is no natural oyster bed; inclose such ground with stakes,
5 set at suitable distances, and extending at least two feet

6 above high water mark; but so as not to obstruct the free
7 navigation of such waters, and have the exclusive right of
8 taking such oysters. Whoever trespasses on such inclosure,
9 or injures such oyster beds, is liable in an action of tres-
10 pass for all the damage; and if he takes any oysters therein
11 without the consent of the owner, he shall forfeit not less
12 than twenty nor more than fifty dollars, or be imprisoned
13 not exceeding three months.

Sect. 27. This chapter does not repeal the special and
2 private laws relating to any river, bay or coast locality; nor
3 does it apply to the taking of blue back trout; except that
4 no person shall fish for, catch, take, kill or destroy the same,
5 with net, seine, weir or trap, under a penalty of five dollars
6 for the attempt, and one dollar for each blue back trout so
7 taken, caught, killed or destroyed, to be recovered by com-
8 plaint.

Sect. 28. The following waters and their tributaries are
2 exempt from provisions relating to migratory fishes, and
3 the supervision of fishways by the commissioners, that is
4 to say: Rayall's river in North Yarmouth; Sewall's pond
5 or its outlet in Arrowsic; so much of the waters of Damaris-
6 cotta river as are west of the railroad bridge near Damaris-
7 cotta Mills; the eastern Penobscot river in Orland; Wins-
8 low's stream in Penobscot; all waters in Vinalhaven, Tre-
9 mont, Mount Desert, Eden, Franklin and Sullivan; Tunk
10 river in Steuben; Pleasant river in Washington county and
11 East Machias river.

Sect. 29. For the purpose of the following sections the
2 term "salmon" means the common migratory salmon of
3 the sea coast and rivers; the term "alewife" means the small
4 species of migratory fish commonly called "alewife," but
5 known also by the local names of "herring" and "gas-
6 pereau," and also includes the similar species found in tidal
7 waters and known as "blue-back;" and the term "bass"
8 means the striped bass of tidal waters.

Sect. 30. The governor, with the advice and consent of
2 council, shall appoint a commissioner who shall have gen-
3 eral supervision of the sea and shore fisheries and shell fish,
4 regulated by this chapter and shall hold his office for three
5 years and until his successor is appointed and qualified.

Sect. 31. It shall be the duty of the commissioner of sea
2 and shore fisheries to exercise supervision over all the fish-
3 eries and its products taken from tide waters within the
4 State, including the proper enforcement of all laws relating
5 to the catching, packing, curing, manufacturing, branding
6 and transportation of all kinds of pickled, salt, smoked,
7 fresh, canned, frozen shell and other fish.

Sect. 32. The commissioner is hereby required to make
2 a detailed biennial report in the month of December, show-
3 ing the amount of capital invested, number of men em-
4 ployed, value of products, and any other information that he
5 may be able to obtain relating to the sea and shore fisheries.

Sect. 33. The salary of the commissioner of sea and shore
2 fisheries is hereby fixed at one thousand dollars per annum.

Sect. 34. It shall be the duty of the fish wardens to
2 enforce all laws relating to the sea and shore fisheries within
3 the counties in which they separately reside, but they shall
4 not exercise jurisdiction in any other county unless so
5 instructed in writing by the commissioner of sea and shore
6 fisheries. The commissioner of sea and shore fisheries and
7 fish wardens may with or without warrant enter upon any
8 vessel, boat, receptacle for fish, or any place or places used
9 therefor and seize and carry away all fish liable to seizure
10 found therein, and may with or without warrant search any
11 car or pound used for the keeping of fish and seize any
12 car or pound used for the keeping of fish and seize and
13 carry away all fish liable to seizure found therein, the fish
14 in each case to be disposed of according to law.

Sect. 35. The governor with the advice and consent of
2 council, upon the recommendation of the commissioner of
3 sea and shore fisheries may appoint suitable persons as
4 fish wardens, who shall hold office for the term of three
5 years unless sooner removed, who shall enforce all laws and
6 the rules and regulations relating to sea and shore fisheries
7 arrest all violators thereof and prosecute all offences against
8 the same; they shall have the same power to serve criminal
9 processes against such offenders, and shall be allowed the
10 same fees as sheriff for like services; they shall have the
11 same right as sheriffs to require aid in executing the duties
12 of their office. They shall, before being qualified to dis-
13 charge the duties required by this act, give bond with two

14 good and sufficient sureties in the penal sum of two thou-
15 sand dollars approved by the commissioner of sea and shore
16 fisheries, to the treasurer of the State, conditioned for the
17 faithful performance of the duties of their office.

Sect. 36. No salmon, shad or other migratory fish shall be
2 taken or fished for within five hundred yards of any fish-
3 way, dam, or mill race; nor in the Penobscot river between
4 the mouth of the Kenduskeag stream and the water works
5 dam at Treat's falls on said river; nor between the Augusta
6 highway bridge over the Kennebec river and the Augusta
7 dam; nor any salmon above Ferry Point grist-mill on the
8 Saint Croix river in Calais, between the first days of April
9 and November, except by the ordinary mode of angling
10 with single hook and line or artificial flies, nor shall hook
11 and line or artificial flies be used at any time within one
12 hundred yards of any fishway, dam or mill race; but this
13 section shall not apply to the taking of alewives by the town
14 of Warren in the Georges river, and by the town of Waldo-
15 boro in Medomak river, under the authority granted said
16 towns by the private and special laws of Massachusetts,
17 passed March six, eighteen hundred and two, and amend-
18 ments thereof, passed by the legislature of this State; nor
19 shall it apply to the taking of alewives by the town of Wool-
20 wich in Nequasset stream, provided that fly fishing shall be
21 allowed up to the bridge across the Denny's river at Lin-
22 coln's mill, but not between said bridge and Lincoln's mill
23 dam; and provided also, that fishing with an artificial fly or

24 single baited hook and line shall be allowed up to within
25 fifty feet of the dam across the Aroostook river in the town
26 of Caribou. The penalty for violation of this section is a
27 fine of not more than fifty nor less than ten dollars for each
28 offence and a further fine of ten dollars for each salmon and
29 one dollar for each shad so taken.

Sect. 37. From the fifteenth day of July to the first day
2 of April following, there shall be a close time for salmon
3 during which no salmon shall be taken or killed in any
4 manner, under a penalty of not more than fifty nor less than
5 ten dollars, and a further penalty of ten dollars for each
6 salmon so taken or killed. Provided, however, that
7 between the fifteenth days of July and September, it is law-
8 ful to fish for and take salmon by the ordinary mode, with
9 rod and single line, but not otherwise.

Sect. 38. Between the first day of April and the fifteenth
2 day of July there shall be a weekly close time of forty-eight
3 hours from sunrise on each Saturday morning to sunrise
4 on the following Monday morning, during which no salmon,
5 shad, alewives or bass, shall be taken. During the weekly
6 close time, all seines, nets and other movable apparatus
7 shall be removed from the water. Every weir shall have,
8 in that part where the fish are usually taken, an opening
9 three feet wide, extending from the bottom to the top of
10 the weir, and the netting or other material which closes the
11 same while fishing, shall be taken out, carried on shore,
12 and there remain during the weekly close time, to the extent

13 that during said close time the fish may have a free and
14 unobstructed passage through such weir or other structure,
15 and no contrivance which tends to hinder such fish shall be
16 placed in any part thereof. If the inclosure where the
17 fish are taken, is furnished with a board floor, an opening
18 extending from the floor to the top of the weir is equivalent
19 to one extending from the bottom to the top. The penalty
20 for the violation of this section is twenty dollars for each
21 offence. This section does not apply to the Kennebec,
22 Androscoggin or Penobscot rivers or their tributaries, or
23 to the St. Croix river, below the breakwater at the ledge.

Sect. 39. No alewives shall be taken, killed or fished for,
2 between the fifteenth day of July and the first day of the
3 following April, nor at any time in non-tidal or non-naviga-
4 ble waters, by any net other than the ordinary hand dip-
5 net, under penalty of ten dollars for each offence, and one
6 dollar additional for each fish so taken or killed.

Sect. 40. No smelts shall be taken or fished for in tidal
2 waters, except by hook and line, between the first days of
3 April and October, under a penalty of not less than ten, nor
4 more than thirty dollars for each offence, and a further
5 penalty of twenty cents for each smelt so taken; and all
6 weirs for the capture of smelts shall be opened, and so
7 remain, and all nets used in the smelt and tom-cod fishery
8 shall be taken from the water on or before said first day
9 of April, under a penalty of not less than twenty, nor more
10 than fifty dollars, and a further fine of five dollars for each

11 day that any such weir or net remains in violation of law;
12 but weirs with catch-pounds, covered with net, the meshes
13 of which are one inch square in the clear, or greater, are
14 not subject to this section. Provided, however, that dip-
15 nets may be used between the first and twentieth days of
16 April. Provided, further, that this section does not apply
17 to smelts taken in the Androscoggin river above the Merry-
18 meeting bay bridge, between the first days of October and
19 November, nor to smelts taken in the Penobscot river and
20 its tributaries, between the first and fifteenth days of April.

Sect. 41. No net other than a dip-net, the meshes of
2 which are smaller than one inch square in the clear, shall
3 be used in any waters frequented by migratory fishes
4 except the St. Croix river, between the first days of April
5 and October, under a penalty of not more than twenty
6 nor less than ten dollars for each offence.

Sect. 42. No weir, hedge, set-net or any other contri-
2 vance for the capture of fish, which is stationary while in
3 use, shall extend into more than two feet of water at
4 ordinary low water, under a penalty of not more than one
5 hundred nor less than fifty dollars, and forfeiture of all
6 apparatus and material so unlawfully used. This provi-
7 sion applies to any seine or drift-net which is at any time
8 attached to a stationary object, but not to fykes or bag-
9 nets used in the winter fishery for smelts and tom-cods,
10 nor to any implements lawfully used above the flow of tide,
11 nor to any portion of the Penobscot river, bay or tributaries.

Sect. 43. The limit of depth prescribed for weirs in the
2 preceding sections shall be measured at the entrance of the
3 weir, provided that no part of weir known as the leader, is
4 in more than two feet at low water mark. Weirs may
5 exceed the limit of two feet depth, measured as aforesaid,
6 under the following conditions, namely: first, the distance
7 from the before mentioned two feet limit, to the entrance
8 of such weir, shall not exceed one hundred feet; second,
9 no such weir shall obstruct more than one eighth of the
10 width of the channel; third, every such weir shall be
11 stripped so as to render it incapable of taking fish on and
12 after the twenty-fifth day of June; but these conditions apply
13 only to weirs that exceed the aforesaid limit of depth. The
14 standard for low water mark on the Kennebec river, is in
15 all cases the nearest bench mark of the United States
16 Coast Survey, allowance being made at the various points
17 for the difference in time. The provisions of this and the
18 preceding sections do not apply to fish weirs built on the
19 sea shores.

Sect. 44. No weir, hedge, trap, trawl, or any net other
2 than a dip-net shall be used for the capture of any fresh
3 water fish under a penalty of not more than fifty nor less
4 than ten dollars, besides one dollar for every fish so taken.
5 Any such structure or implement used in any fresh water
6 above the flow of the tide, shall be deemed to be used in
7 violation of this section unless it is shown to be authorized

8 by some special act or to have been used in a bona fide
9 fishery for salmon, shad or alewives.

Sect. 45. All boats, implements and materials used, and
2 all fish taken in violation of this chapter are forfeited.

Sect. 46. Whoever casts or deposits, or causes to be
2 thrown or deposited into any navigable waters any pomace,
3 scraps or other offal arising from the making of oil or
4 slivers for bait from menhaden or herring, forfeits not less
5 than fifty, nor more than one thousand dollars for each
6 offence, to be recovered by indictment or action of debt in
7 the name and to the use of the county in which the offence
8 is committed; and there shall be a lien on all boats, vessels,
9 crafts and apparatus of every kind in the possession of any
10 person violating this section, whether owned by him or not;
11 they may be attached in such action, and held to respond
12 to the judgment for the penalties, forfeitures and costs as
13 in other cases, and any trial justice on complaint, may
14 cause the arrest of the accused, and seizure of the property
15 alleged to be forfeited, and may detain the same until a trial
16 may be held; and on conviction, said property shall be
17 decreed forfeited to the uses aforesaid, to be sold in the
18 same manner as goods taken on execution, and the balance,
19 after deducting fines and costs, shall be paid to the person
20 legally entitled to receive it.

Sect. 47. It shall be the duty of each warden to make a
2 detailed monthly report to the commissioner of sea and shore
3 fisheries of all that has come to his knowledge relating to the

4 fisheries within his county, or in any county where he has
5 rendered services from the first day of one month to the first
6 day of the following month, in such a manner and on such
7 blanks as the commissioner may prescribe and furnish, and
8 to do such other acts as the commissioner may require for
9 the purpose of gaining information and the proper enforce-
10 ment of the law.

Sect. 48. A bounty of one dollar for each and every seal
2 killed in the waters of this State shall be paid to the treas-
3 urer of the town in which such seal is killed, to the person
4 exhibiting to said treasurer the nose of such seal within
5 thirty days after said seal was killed. Such treasurer shall
6 destroy it, and shall then proceed as in sections six and seven
7 of chapter thirty of the Revised Statutes. The carcasses
8 of such seals when destroyed shall not be left derelict in
9 any waters of the State, but shall be removed therefrom
10 and properly disposed of by the persons destroying them;
11 provided, however, that it shall be unlawful during the
12 months of June, July and August to destroy seals in the
13 waters of Casco bay by shooting with rifle or other long-
14 range weapon, which might endanger human life, under a
15 penalty for a violation of either of the provisions of this
16 section, of fifty dollars, to be recovered upon complaint or
17 indictment before any court of competent jurisdiction.

Sect. 49. It is unlawful to catch, buy or sell or expose for
2 sale, or possess for any purpose, any lobster less than ten and
3 one-half inches in length, alive or dead, cooked or uncooked,

4 measured in manner as follows: Taking the length of the
5 back of the lobster, measured from the bone of the nose to
6 the end of the bone of the middle flipper of the tail, the length
7 to be taken with the lobster extended on the back its natural
8 length, and any lobster shorter than the prescribed length
9 when caught, shall be liberated alive at the risk and cost of
10 the parties taking them, under a penalty of five dollars for
11 each lobster so caught, bought, sold, exposed for sale, or in
12 the possession not so liberated. The possession of muti-
13 lated, uncooked lobsters shall be prima facie evidence that
14 they are not of the required length.

Sect. 50. It is unlawful to destroy, buy, sell, expose for
2 sale or possess any female lobsters in spawn or with eggs
3 attached at any season of the year, under a penalty of ten
4 dollars for each lobster so destroyed, caught, bought, sold,
5 exposed for sale or possessed, provided, however, if it
6 appears that it was intended to liberate them in accordance
7 with the provisions of this act, the person having such lob-
8 sters in possession shall not be liable to any of the penalties
9 herein provided for, though he may have failed, for any
10 cause not within his control, to so liberate them.

Sect. 51. It shall be unlawful to can, preserve or pickle
2 lobsters less than ten and one-half inches in length, alive or
3 dead, measured as aforesaid; and for every lobster canned,
4 preserved or pickled contrary to the provisions of this sec-
5 tion, every person, firm, association or corporation so can-
6 ning, preserving or pickling, shall be liable to a penalty of

7 five dollars for every lobster so canned, preserved or pickled
8 contrary to the provisions of this section, every person, firm,
9 association or corporation so canning, preserving or pick-
10 ling shall be liable to a penalty of five dollars for every lob-
11 ster so canned, preserved or pickled, and a further penalty
12 of three hundred dollars for every day on which such unlaw-
13 ful canning, preserving or pickling is carried on.

Sect. 52. All barrels, boxes or other packages in transit
2 containing lobsters, shall be marked with the word LOB-
3 STERS in capital letters, at least one inch in length,
4 together with the full name of the shipper; said marking
5 shall be placed in a plain and legible manner on the outside
6 of such barrels, boxes or other packages; and in case of
7 seizure by any duly authorized officer, of any barrels, boxes
8 or other packages in transit, containing lobsters, which are
9 not so marked, or in case of seizure by such officer, of bar-
10 rels, boxes or other packages in transit, containing lobsters
11 less than the prescribed length, such lobsters as are alive
12 and less than the prescribed length shall be liberated, and
13 all such lobsters as are of the prescribed length found in
14 such barrels, boxes or packages, together with such barrels,
15 boxes or packages, shall be forfeited and disposed of under
16 the provisions of section fifty-seven of this act.

Sect. 53. Every person, firm, association or corporation
2 who ships lobsters without having the barrels, boxes or other
3 packages in which the same are contained, marked as pre-
4 scribed in the previous section, shall upon conviction be pun-
5 ished by a fine of twenty-five dollars, and upon subsequent

6 conviction thereof by a fine of fifty dollars; and any person
7 or corporation in the business of a common carrier of mer-
8 chandise, who shall carry or transport from place to place
9 lobsters in barrels, boxes or other packages not so marked,
10 shall be liable to a penalty of fifty dollars upon each con-
11 viction thereof.

Sect. 54. All cars in which lobsters are kept, and all lob-
2 ster cars while in the water, shall have the name of the
3 owner or owners thereof on the top of the car, where it may
4 be plainly seen, in letters not less than three-fourths of an
5 inch in length, plainly carved or branded thereon, and all
6 traps, nets, or other device for the catching of lobsters, shall
7 have, while in the water, the owner's name carved or
8 branded in like manner on all the buoys attached to said
9 traps, or other devices, under a penalty of ten dollars for each
10 car, and five dollars for each trap or device so marked, and
11 if sufficient proof to establish the ownership of such cars
12 or traps cannot be readily obtained, they may be declared
13 forfeited, subject to the provisions of section fifty-seven of
14 this act.

Sect. 55. All persons are hereby prohibited from setting
2 any lobster trap or traps within three hundred feet of the
3 mouth or outer end of the leaders of any fish weir, under a
4 penalty of ten dollars for each offence.

Sect. 56. Whoever takes up, or attempts to take up, or
2 in any way knowingly and wilfully interferes with any lob-
3 ster trap, while set for use, without the authority of the
4 owner thereof, shall be punished by a fine of not less than

5 twenty nor more than fifty dollars; provided, however, that
6 no action, complaint or indictment shall be maintained under
7 this section unless the name of the owner of all such traps
8 shall be carved or branded in legible letters, not less than
9 three-fourths of an inch in length, on all the buoys con-
10 nected with such traps.

Sect. 57. When any lobsters are seized by virtue of the
2 provisions of this act, it shall be the duty of the officer mak-
3 ing such seizure to cause such lobsters, so seized, as he is
4 not required by law to liberate, together with the cars,
5 traps, barrels, boxes or other packages in which they are
6 contained, to be appraised within twenty-four hours after
7 the time of such seizure, by three disinterested men residing
8 in the county where such seizure is made, to be selected by
9 him, and the lobsters, cars, traps, barrels, boxes or other
10 packages so seized and appraised, shall thereupon be sold
11 by the officer making the seizure thereof, at such time and
12 in such manner as shall by him be deemed proper. The
13 officer making such seizure and sale shall within ten days
14 after the time of such seizure file a libel in behalf of the
15 State before a trial justice, or a judge of a police or muni-
16 cipal court of the county in which such seizure was made,
17 setting forth the fact of such seizure, appraisal and sale, the
18 time and place of the seizure, the number of lobsters, cars,
19 traps, barrels, boxes or other packages so seized and sold,
20 and the amount of the proceeds of such sale; and such trial
21 justice or judge shall appoint a time and place for the hear-

22 ing on such libel, and shall issue a notice of the same to all
23 persons interested to appear at the time and place appointed,
24 and show cause why the lobsters, cars, traps, barrels, boxes
25 or other packages so seized and sold, and the proceeds of
26 such sale, should not be declared forfeited, which notice
27 shall be served upon the owner, if known, and by causing
28 an attested copy of such libel and notice to be posted in two
29 public and conspicuous places in the town in which the seiz-
30 ure was made, seven days, at least, before the time of
31 hearing.

If any person appears at the time and place of hearing, and
33 claims that the lobsters, cars, traps, barrels, boxes or other
34 packages so seized and sold were not liable to forfeiture at
35 the time of seizure, and that he was entitled thereto, the trial
36 justice or judge shall hear and determine the cause, and if
37 he shall decide that such lobsters, cars, traps, barrels, boxes
38 or other packages, at the time of seizure were not liable to
39 forfeiture and that the claimant was entitled thereto, he shall
40 order the proceeds of such sale to be paid to the claimant;
41 if no claimant shall appear, or if such trial justice or judge
42 shall decide that such lobsters, traps, cars, barrels, boxes or
43 other packages, at the time of seizure, were liable to forfeit-
44 ure, or that the claimant was not entitled thereto, he shall
45 decree a forfeiture of such lobsters, cars, traps, barrels, boxes
46 or other packages and of the proceeds of sale, and shall order
47 the proceeds of sale, after deducting all lawful charges, to be
48 paid to the county treasurer, and by him to the State treas-

49 urer, to be used as directed in section fifty-eight of this act,
50 and shall render judgment against the claimant for costs to
51 be taxed as in civil suits, and issue execution therefor against
52 him in favor of the State, which costs, when collected, shall
53 be paid in to the treasurer of the county, and by him to the
54 treasurer of the State, to be added and made a part of the
55 appropriation for sea and shore fisheries. The claimant
56 shall have the right of appeal to the next supreme judicial
57 court or superior court in the county, upon recognizing and
58 paying the fees for copies and entry as in cases of appeal in
59 criminal cases.

The fees and costs of seizure, appraisal and sale, and in all
61 other proceedings in the case, shall be as provided by law in
62 criminal cases, and, in case a forfeiture shall be declared,
63 shall be paid out of the proceeds of the sale, otherwise shall
64 be paid by the county, as in criminal cases.

Sect. 58. All fines and penalties under this act may be
2 recovered by complaint, indictment or action of debt made
3 or brought by any person in the county where the offense
4 is committed, and shall be paid into the treasury of the
5 county in which the offense is committed, and by such treas-
6 urer to the State treasurer, to be added and made a part of
7 the appropriations for sea and shore fisheries.

Sect. 59. All acts or parts of acts relating to the regula-
2 tion of the lobster fisheries heretofore passed, and the follow-
3 ing sections of chapter forty of the Revised Statutes, to wit:
4 sections one to thirty-three inclusive, sections forty to forty-

5 six inclusive, and sections sixty-eight to seventy-one inclu-
6 sive, and section seventy-three and acts additional or amen-
7 datory thereto, are hereby repealed.

Sect. 60. This act shall take effect on the first day of
2 May, 1897.

Sixty-Eighth Legislature.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-SEVEN

AN ACT authorizing commissioners to make special regula-
tions as to local shore fisheries.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. The governor, with the advice and consent of
2 the council, shall appoint two competent persons, residing
3 in the seaboard counties, who shall serve as associates to
4 the commissioner of sea and shore fisheries, and perform the
5 duties prescribed by this act, and who shall hold their office
6 for the term of three years or until their successors are
7 appointed and qualified.

Sect. 2. The commissioner of sea and shore fisheries,
2 together with said associates, shall have authority, upon
3 petition to said commissioner of five or more citizens, or

4 whenever they deem it for the best interest of the State, after
5 due notice and public hearing in the locality to be affected,
6 to regulate the time and place and manner in which fish may
7 be taken in the tide waters of the State, but they cannot
8 authorize the taking of any fish at a time prohibited by the
9 Public Laws of the State.

Sect. 3. Whenever they deem it for the best interest of
2 the State, after like notice and hearing, they may prohibit
3 the taking of any kind of fish on any part of the sea coast
4 or in any tide waters of the State.

Sect. 4. They may adopt, and from time to time modify
2 or repeal, such needful rules and regulations, not contrary
3 to the laws of the State, as they may deem necessary or
4 proper for the protection and preservation of the fish on the
5 sea coast, in conformity with the provisions of sections two
6 and three of this act.

Sect. 5. They shall file in the office of the clerks of cities
2 and towns in the territory to be affected a copy of the rules
3 and regulations adopted by them, and publish the same
4 three weeks successively in a newspaper printed in the
5 county; they shall also, immediately upon the adoption of
6 any rules and regulations contemplated by this act, file an
7 attested copy of the same in the office of the secretary of
8 State.

Sect. 6. Whoever fishes for, takes, catches, kills or
2 destroys any fish on the sea coast, or in any tide waters of
3 the State, in any manner or at any time, in violation of any

4 of the rules and regulations, made and promulgated in con-
5 formity with the provisions of this act, shall be punished in
6 the same manner and to the same extent as is provided by
7 law for the illegal taking, catching, killing or destroying
8 any such fish.

Sect. 7. The persons appointed under this act to serve
2 as associates to the commissioner of sea and shore fisheries
3 shall each receive as compensation for their services five
4 dollars per day for the time actually employed in the perform-
5 ance of duties under this act, together with expenses actu-
6 ally incurred, to be audited by the governor and council.

Sect. 8. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, February 5, 1897.

On motion by Mr. WYMAN of Washington, laid on table to be printed,
pending reference.

KENDALL M. DUNBAR, *Secretary*.