

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Eighth Legislature.

SENATE.

No. 189.

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 officer shall, at least once a year, examine
8 the bonds given by said inspectors, and if that of any
9 inspector is not in their opinion sufficient, they shall forth-
10 with notify him, and if he for thirty days thereafter neglects
11 to give 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 quali-
6 ties of pickled fish, and said commissioner shall embody the
7 substance thereof in his next official report.

Sect. 4. Any person injured by the neglect or misdoings of
2 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 such
8 action is brought, and the sum awarded in damages shall be
9 entered by the clerk of the court on the original bond, to
10 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 well
4 struck with salt or pickle; and such of said fish as are in
5 good order and of good quality, shall be pickled in barrels,
6 half barrels, quarter barrels, and tenths of barrels or kits;

7 each barrel containing two hundred pounds, and so on in
8 that porportion; and the same shall be packed in good,
9 clean, coarse salt, sufficient for their preservation; and then
10 each cask shall be headed up and filled with clear, strong
11 pickle, and shall be branded by the inspector with the name
12 and quality of the fish therein.

Sect. 6. Mackerel of the best quality, not mutilated, meas-
2 uring, when split, not less than thirteen inches from the
3 extremity of the head to the crotch or fork of the tail, free
4 from taint, rust or damage, shall be branded "Number one;"
5 the next best quality, being not less than eleven inches meas-
6 uring as aforesaid, free from taint, rust or damage, shall be
7 branded "Number two;" those that remain after the above
8 selection, free from taint or damage, and not less than thir-
9 teen inches measuring as aforesaid, shall be branded "Num-
10 ber three large;" those of the next inferior quality, free from
11 taint or damage, not less than ten inches measured as afore-
12 said, shall be branded "Number three;" all other mackerel,
13 free from taint or damage, shall be branded "Number three
14 small." The inspector shall brand in plain letters on the
15 head of every such cask, the weight, the initials of his Chris-
16 tian name, the whole of his surname, the name of his
17 town, and the letters "ME.," and an abridgment in figures,
18 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 of
4 either of such kinds of wood, sound, well planed and sea-
5 soned 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, to
10 hold pickle. The barrels from twenty-nine to thirty gallons
11 each, and the aliquot parts of a barrel in the same propor-
12 tion.

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

Sect. 9. The fees for inspection and branding, exclusive
2 of cooperage, are for each barrel seven cents, and all such
3 fees shall in the first instance be paid by the original owners
4 of 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 owners of all smoked and pickled fish,
2 except smoked herring, shall when required by the inspector,
3 furnish a brand containing the initials of his Christian name
4 and the whole of his surname, for stamping the casks and
5 boxes containing such fish.

Sect. 11. Whoever sells in the State, or exports there-
2 from any fish in barrels or boxes, not inspected, packed and
3 branded, as aforesaid, except good and wholesome fish
4 packed in kegs of less than ten gallons, or pickled, dry or
5 smoked fish imported into the State from some other state
6 or county lawfully inspected and branded there, and who-
7 ever sells or exports any fish known by him to be tainted or
8 damaged, forfeits ten dollars for every hundred weight thus
9 sold or exported.

Sect. 12. No pickled fish in barrels, and no smoked ale-
 2 wives in boxes, shall be shipped from the State, unless the
 3 master or owner of the vessels produces to the officer author-
 4 ized to clear the same, a certificate from the inspector, that
 5 they have been inspected, packed, and branded according to
 6 law; and the certificate shall express the number of barrels, or
 7 casks, and the number of boxes, thus shipped, the kind and
 8 quality of fish which they contain, the name of the master
 9 and owner, and that of the vessel into which such fish are
 10 received for exportation; and he shall take and subscribe
 11 the following oath, before the officer as aforesaid: "I, A. B.
 12 swear, according to the best of my knowledge and belief,
 13 that the certificate hereunto annexed, contains the whole
 14 quantity of pickled fish packed in barrels or other casks, and
 15 of smoked alewives and herring, on board the.
 16master; and that no pickled fish, or
 17 smoked alewives are shipped on board said vessel for the
 18 ship's company, or on freight or cargo, but such as are
 19 inspected and branded, and no smoked herring but such as
 20 are branded, according to the laws of this State, or exempted
 21 by the provisions thereof. 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 if
5 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 twenty
10 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, bluebacks and spurling. In Kenne-
6 bec river above a line drawn across said river to Fort Pop-
7 ham in the town of Phippsburg to a point opposite at the
8 lower end of Long island in the town of Georgetown. In the
9 Sheepscot river above a bridge leading from Wiscasset to
10 Edgecomb. In Damariscotta river above a line drawn from
11 Farnham's head in the town of Boothbay to a point opposite
12 on the shore in the town of Bristol, excepting the use of
13 drag seines between the above line and the ledges, for all
14 fish excepting alewives. In Medomak river, above a line
15 drawn from Martin's Point in the town of Friendship, west-
16 erly by the northeast end of Hog island to a point opposite
17 in the town of Bremen, or to take smelts in said river and

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

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

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

Sect. 16. The municipal officers of towns may grant writ-
2 ten permits to residents of the State, to take, within their
3 towns, shell-fish, menhaden or porgies, otherwise than is
4 forbidden in section fifteen, and to those not residents to
5 take the same, on payment of an agreed sum to their town,

6 specifying therein the quantity to be taken, the time to fish,
7 the number of persons to be employed, and the purpose for
8 which the fish may be used; but without such permit any
9 inhabitant, within his own town, may take shell-fish for the
10 consumption of his family, and any fisherman may take,
11 anywhere, such fish suitable for bait and necessary for his
12 use, not exceeding seven bushels in the shell, except that
13 oysters shall not be taken by any one in June, July and
14 August.

Sect. 17. 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 without
6 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 for
11 bait by fishermen. Whoever takes clams contrary to muni-
12 cipal regulations authorized by this act, shall, for each
13 offence, be fined not more than ten dollars, or imprisoned
14 not more than thirty days, or both. In all contracts relat-
15 ing to the sale of clam bait by the barrel, and clam bait
16 barrels, unless otherwise specified in the contract, a barrel
17 shall be twenty-seven and one-half inches long, sixteen
18 inches head diameter, outside measure, holding not less than
19 twenty-one gallons and not more than twenty-three gallons.

Sect. 18. Cities, towns and plantations are authorized to
2 raise annually, by a two-thirds vote at their annual meeting,
3 a sum not exceeding five hundred dollars, to be expended by
4 the municipal officers thereof or by a commission elected by

5 the cities, towns or plantations for the propagation and pro-
6 tection of fish in public waters located wholly or partially
7 within their respective limits. A report of the expenditures
8 thereof shall be made at the next annual meeting by the
9 officer or officers authorized to expend such appropriation.

Sect. 19. No fish weir or wharf shall be extended, erected
2 or maintained, except in accordance with this chapter; and
3 no fish weir shall be erected or maintained in tide waters
4 below low water mark in front of the shore or flats of
5 another without the owner's consent, under a penalty of fifty
6 dollars for each offence to be recovered in an action of debt
7 by the owner of said shore or flats; but this chapter does not
8 apply to weirs, the materials of which are chiefly removed
9 annually, provided that they do not obstruct navigation, nor
10 interfere with the rights of others.

Sect. 20. 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 prop-
5 erty not exceeding twenty-four hours, in order that it may be
6 attached, and taken by due process of law to satisfy any
7 judgment that may be recovered; but it shall, at any time,
8 be released on payment by the owner or master, of the fine,
9 costs, and reasonable expenses.

Sect. 21. 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 is
4 no natural oyster bed; inclose such ground with stakes, set
5 at suitable distances, and extending at least two feet above
6 high water mark; but so as not to obstruct the free naviga-
7 tion of such waters, and have the exclusive right of taking
8 such oysters. Whoever trespasses on such inclosure, or

9 injures such oyster beds, is liable in an action of trespass for
10 all damages; and if he takes any oysters therein without the
11 consent of the owner, he shall forfeit not less than twenty
12 nor more than fifty dollars, or be imprisoned not exceeding
13 three months.

Sect. 22. The following waters and their tributaries are
2 exempt from the provisions relating to migratory fishes, and
3 supervision of fishways by the commissioners, that is to say:
4 Royall's river in North Yarmouth; Sewall's pond or its out-
5 let in Arrowsic; so much of the waters of Damariscotta river
6 as are west of the railroad bridge near Damariscotta Mills;
7 the eastern Penobscot river in Orland; Winslow's stream
8 in Penobscot; all waters in Vinalhaven, Tremont, Mount
9 Desert, Eden, Franklin and Sullivan; Pleasant river in
10 Washington county and East Machias river.

Sect. 23. The governor, with the advice and consent of
2 council, shall appoint a commissioner who shall have
3 general supervision of the sea and shore fisheries and shell
4 fish, regulated by this act and shall hold his office for three
5 years and until his successor is appointed and qualified.

Sect. 24. 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. 25. The commissioner is hereby required to make a
2 detailed biennial report in the month of December, showing
3 the amount of capital invested, number of men employed,
4 value of products, and any other information that he may be
5 able to obtain relating to the sea and shore fisheries.

Sect. 26. The salary of the commissioner of sea and shore
2 fisheries is hereby fixed at one thousand dollars per annum.

Sect. 27. 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 car
12 or pound used for the keeping of fish, and seize and carry
13 away all fish liable to seizure found therein, the fish in each
14 case to be disposed of according to law.

Sect. 28. 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 fish
4 wardens, who shall hold office for the term of three years
5 unless sooner removed, who shall enforce all laws and the
6 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 a 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. 29. No salmon, shad or other migratory fish shall
2 be 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 five hundred feet above Ferry Point
8 bridge on the Saint Croix river in Calais, between the first
9 days of April and November, except by the ordinary mode
10 of angling with single hook and line or artificial flies, nor
11 shall hook and line or artificial flies be used at anytime within
12 one hundred yards of any fishway, dam or mill race; but
13 this section shall not apply to the taking of alewives by the
14 town of Warren in the Georges river, and by the town of
15 Waldoboro in Medomak river, under the authority granted
16 said 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
21 be allowed up to the bridge across the Denny's river at
22 Lincoln's mill, but not between said bridge and Lincoln's
23 mill dam; and provided also, that fishing with an artificial
24 fly or single baited hook and line shall be allowed up to
25 within fifty feet of the dam across the Aroostook river in
26 the town of Caribou. The penalty for violation of this sec-
27 tion is a fine of not more than fifty nor less than ten dollars
28 for each offence and a further fine of ten dollars for each
29 salmon and one dollar for each shad so taken.

Sect. 30. 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 man-
4 ner, under a penalty of not more than fifty nor less than ten
5 dollars, and a further penalty of ten dollars for each salmon
6 so taken or killed. Provided, however, that between the
7 fifteenth days of July and September, it is lawful to fish for
8 and take salmon by the ordinary mode, with rod and single
9 line, but not otherwise.

Sect. 31. 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 on
4 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 fish
17 are taken, is furnished with a board floor, an opening extend-
18 ing from the floor to the top of the weir is equivalent to one
19 extending from the bottom to the top. The penalty for the
20 violation of this section is twenty dollars for each offence.
21 This section does not apply to the Kennebec, Androscoggin
22 or Penobscot rivers or their tributaries, or to the St. Croix
23 river, below the breakwater at the ledge.

Sect. 32. No smelts shall be taken or fished for in tidal waters, except by hook and line, between the first days of April and October, under a penalty of not less than ten, nor more than thirty dollars for each offence, and a further penalty of twenty cents for each smelt so taken; and all weirs for the capture of smelts shall be opened, and so remain, and all nets used in the smelt and tom-cod fishery shall be taken from the water on or before the first day of April, under a penalty of not less than twenty, nor more than fifty dollars, and a further fine of five dollars for each day that any such weir or net remains in violation of law; but weirs with catch-pounds, covered with net, the meshes of which are one inch square in the clear, or greater, are not subject to this section. Provided, however, that dip-nets may be used between the first and twentieth days of April. Provided, further, that this section does not apply to smelts taken in the Androscoggin river above the Merrymeeting bay bridge, between the first days of October and November, nor to smelts taken in the Penobscot river and its tributaries, between the first and the fifteenth days of April, nor to smelts taken in Casco bay between the fifteenth day of September and first day of October, nor to smelts taken in Machias river, above Machiasport toll bridge, between the first day of April and the first day of May.

Sect. 33. No net other than a dip-net, the meshes of which are smaller than one inch square in the clear, shall be used in any waters frequented by migratory fishes except the St. Croix river, between the first days of April and October, under a penalty of not more than twenty nor less than ten dollars for each offence.

Sect. 34. No weir, hedge, set-net or any other contrivance for the capture of fish, which is stationary while in use, shall

3 extend into more than two feet of water at ordinary low
4 water, under a penalty of not more than one hundred nor
5 less than fifty dollars, and forfeiture of all apparatus and
6 material so unlawfully used. This provision applies to any
7 seine or drift-net which is at any time attached to a station-
8 ary object, but not to fykes or bag-nets used in the winter
9 fishery for smelts and tom-cods, nor to any implements law-
10 fully used above the flow of tide, nor to any portion of
11 Penobscot river, bay or tributaries, nor to the St. Croix river
12 five hundred feet above Ferry's Point in Calais.

Sect. 35. 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 know as the leader,
4 is 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 of
8 such weir, shall not exceed one hundred feet; second, no such
9 weir shall obstruct more than one-eighth of the width of the
10 channel; third, every such weir shall be stripped so as to
11 rended it incapable of taking fish on and after the twenty-
12 fifth day of June; but these conditions apply only to weirs
13 that exceed the aforesaid limit of depth. The standard for
14 low water mark on the Kennebec river, is in all cases the
15 nearest bench mark of the United States Coast Survey,
16 allowance being made at the various points for the difference
17 in time. The provisions of this and the preceding sections
18 do not apply to fish weirs built on the sea shores.

Sect. 36. All boats, implements and materials used, and
2 all fish taken in violation of this act are forfeited.

Sect. 37. 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
4 the fisheries within his county, or in any county where he
5 has rendered services from the first day of one month to
6 the first day of the following month, in such a manner and
7 on such blanks as the commissioner may prescribe and fur-
8 nish, and to do such other acts as the commissioner may
9 require for the purpose of gaining information and the
10 proper enforcement of the law.

Sect. 38. 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
7 seven of chapter thirty of the Revised Statutes. The car-
8 casses of such seals when destroyed shall not be left derelict
9 in 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 sec-
16 tion, of fifty dollars, to be recovered upon complaint or
17 indictment before any court of competent jurisdiction.

Sect. 39. It is unlawful to catch, buy or sell or expose for
2 sale, or possess for any purpose, any lobster less than ten
3 and one-half inches in length, alive or dead, cooked or
4 uncooked, measured in manner as follows: Taking the
5 length of the back of the lobster, measured from the bone
6 of the nose to the end of the bone of the middle flipper of

7 the tail, the length to be taken with the lobster extended on
8 the back its natural length, and any lobster shorter than
9 the prescribed length when caught, shall be liberated alive
10 at the risk and cost of the parties taking them, under a pen-
11 alty of five dollars for each lobster so caught, bought, sold,
12 exposed for sale, or in the possession not so liberated. The
13 possession of mutilated, uncooked lobsters shall be prima
14 facie evidence that they are not of the required length.

Sect. 40. 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
8 lobsters in possession shall not be liable to any of the penal-
9 ties herein provided for, though he may have failed, for any
10 cause not within his control, to so liberate them.

Sect. 41. 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
11 lobster 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. 42. All barrels, boxes or other packages in transit
2 containing lobsters, shall be marked with the word lobsters
3 in capital letters, at least one inch in length, together with
4 the full name of the shipper; said marking shall be placed
5 in a plain and legible manner on the outside of such barrel,
6 boxes or other packages; and in case of seizure by any duly
7 authorized officer, of any barrels, boxes or other package in
8 transit, containing lobsters, which are not so marked, or in
9 case of seizure by such officer, of barrels, boxes or other
10 packages in transit, containing lobsters less than the pre-
11 scribed length, such lobsters as are alive and less than the
12 prescribed length shall be liberated, and all such lobsters as
13 are of the prescribed length found in such barrels, boxes or
14 packages, together with such barrels, boxes or packages,
15 shall be forfeited and disposed of under the provisions of
16 section forty-seven of this act.

Sect. 43. Every person, firm, association or corporation
2 who ships lobsters without having the barrels, boxes or
3 other packages in which the same are contained, marked as
4 prescribed in the previous section, shall upon conviction be
5 punished by a fine of twenty-five dollars, and upon subse-
6 quent conviction thereof by a fine of fifty dollars; and any
7 person or corporation in the business of a common carrier
8 of merchandise, who shall carry or transport from place to
9 place lobsters in barrels, boxes or other packages not so
10 marked, shall be liable to a penalty of fifty dollars upon
11 each conviction thereof.

Sect. 44. All cars in which lobsters are kept, and all lob-
2 ster cars while in the water, shall have the name of the owner
3 or owners thereof on the top of the car, where it may be
4 plainly seen, in letters not less than three-fourths of an inch
5 in length, plainly carved or branded thereon, and all traps,
6 nets, or other device for the catching of lobsters, shall have,

7 while in the water, the owner's name carved or branded in
8 like manner on all the buoys attached to said traps, or other
9 devices, under a penalty of ten dollars for each car, and five
10 dollars for each trap or device so marked, and if sufficient
11 proof to establish the ownership of such cars or traps cannot
12 be readily obtained, they may be declared forfeited, subject
13 to the provisions of section forty-seven of this act.

Sect. 45. All persons are hereby prohibited from setting
2 any lobster traps within three hundred feet of the mouth or
3 outer end of the leaders of any fish weir, under a penalty of
4 ten dollars for each offence.

Sect. 46. Whoever takes up, or attempts to take up, or in
2 any way knowingly and wilfully interferes with any lobster
3 trap, while set for use, without the authority of the owner
4 thereof, shall be punished by a fine of not less than twenty
5 nor more than fifty dollars; provided, however, that no
6 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. 47. 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 not
4 required by law to liberate, together with the cars, traps,
5 barrels, boxes or other packages in which they are contained,
6 to be appraised within twenty-four hours after the time of
7 such seizure, by three disinterested men residing in the
8 county where such seizure is made, to be selected by him,
9 and the lobsters, cars, traps, barrels, boxes or other packages
10 so seized and appraised, shall thereupon be sold by the
11 officer making the seizure thereof, at such time and in such
12 manner as shall by him be deemed proper. The officer

13 making such seizure and sale shall within ten days after the
14 time of such seizure file a libel in behalf of the State before a
15 trial justice, or a judge of a police or municipal court of the
16 county in which such seizure was made, setting forth the
17 fact of such seizure, appraisal and sale, the time and place of
18 the seizure, the number of lobsters, cars, traps, barrels,
19 boxes or other packages so seized and sold, and the amount
20 of the proceeds of such sale; and such trial justice or judge
21 shall appoint a time and place for the hearing on such libel,
22 and shall issue a notice of the same to all persons interested
23 to appear at the time and place appointed, and show cause
24 why the lobsters, cars, traps, barrels, boxes or other pack-
25 ages so seized and sold, and the proceeds of such sale, should
26 not be declared forfeited, which notice shall be served upon
27 the owner, if known, and by causing an attested copy of such
28 libel and notice to be posted in two public and conspicuous
29 places in the town in which the seizure was made, seven
30 days, at least, before the time of hearing.

If any person appears at the time and place of hearing, and
32 claims that the lobsters, cars, traps, barrels, boxes or other
33 packages so seized and sold were not liable to forfeiture at
34 the time of seizure, and that he was entitled thereto, the trial
35 justice or judge shall hear and determine the cause, and if
36 he shall decide that such lobsters, cars, traps, barrels, boxes
37 or other packages, at the time of seizure were not liable to
38 forfeiture and that the claimant was entitled thereto, he shall
39 order the proceeds of such sale to be paid to the claimant; if
40 no claimant shall appear, or if such trial justice or judge
41 shall decide that such lobsters, traps, cars, barrels, boxes or
42 other packages, at the time of seizure, were liable to for-
43 feiture, or that the claimant was not entitled thereto, he shall
44 decree a forfeiture of such lobsters, cars, traps, barrels, boxes

45 or other packages and of the proceeds of sale, and shall
46 order the proceeds of sale, after deducting all lawful charges,
47 to be paid to the county treasurer, and by him to the State
48 treasurer, to be used as directed in section forty-eight of
49 this act, and shall render judgment against the claimant for
50 costs to be taxed as in civil suits, and issue execution there-
51 for against him in favor of the State, which costs, when col-
52 lected, shall be paid in to the treasurer of the county, and by
53 him to the treasurer of the State, to be added and made a
54 part of the appropriation for sea and shore fisheries. The
55 claimant shall have the right of appeal to the next supreme
56 judicial court or superior court in the county, upon recog-
57 nizing and paying the fees for copies and entry as in cases of
58 appeal in criminal cases.

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

Sect. 48. 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 offence
4 is committed, and shall be paid into the treasury of the
5 county in which the offence is committed, and by such treas-
6 urer, to the State treasurer, to be added and made a part of
7 the appropriation for sea and shore fisheries.

Sect. 49. The commissioner of sea and shore fisheries
2 may take fish of any kind, when, where, and in such manner
3 as he chooses for the purpose of science of cultivation and
4 of dissimulation and he may grant written permits to other
5 persons to take fish for the same purpose and may introduce
6 or permit to be introduced any kind of fish into any waters.

Sect. 50. All acts, or parts of acts, relating to the regulation of the lobster fisheries heretofore passed, and the following sections of chapter forty of the Revised Statutes, to wit; sections one to thirty-three inclusive, sections forty to forty-six inclusive, sections sixty-eight, sixty-nine and seventy-three, and all acts additional or amendatory thereto and all public acts, or parts thereof, inconsistent with this act are hereby repealed but this act shall not repeal any special and private law relating to any river, bay or coast locality.

Sect. 51. This act shall take effect on the first day of May, 1897.

STATE OF MAINE.

IN SENATE, March 18, 1897.

Reported by Mr. WYMAN from Committee on Shore Fisheries, and
laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.