

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 430

House of Representatives, Feb. 28, 1917.

Referred to Committee on Judiciary and fifteen hundred copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Baxter of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVENTEEN

AN ACT to Create a Board of Commissioners of Sea and
Shore Fisheries.

Whereas, the citizens of the State of Maine are the legal owners of all fish, shell fish, lobsters, migratory birds and game, within the limits of the jurisdiction of the state, and

Whereas, nearly one-seventh of the inhabitants of the state are dependent upon the sea and shore fisheries for a livelihood, and

Whereas, statistics and data show conclusively that the industries of the sea and shore fisheries are rapidly declining;

that there is a great and unnecessary loss of food fish, especially in lobsters, smelts, flounders, eels, clams and scallops; that there is a reckless and heedless disregard of all laws governing the sea and shore fisheries, due to misunderstanding, lack of knowledge, greed, unwise laws and exceedingly slack supervision, and

Whereas, if the sea and shore fisheries are to be preserved and the citizens of the state and those dependent on the industries of the sea and shore fisheries are to receive their proper protection and revenue, as is their just due, it is immediately necessary for the preservation of the public safety that measures be taken at once to protect, preserve, propagate and safeguard the sea and shore fisheries, and

Whereas, by reason of the foregoing facts, it is deemed that this act is exceedingly necessary for the preservation of the public health and safety and constitutes an emergency as contemplated by the constitution, therefore,

Be it enacted by the People of the State of Maine, as follows:

Section 1. The governor, with the advice and consent of
2 the council, shall appoint three commissioners, one of whom
3 he shall designate as chairman, which said commissioners
4 shall be jointly known as the commissioners of sea and shore
5 fisheries, one of whom shall be appointed for a term of two
6 years, one for a term of four years and one for a term of
7 six years from the time of their first appointment. There-
8 after each commissioner shall be appointed for a term of
9 six years from the time of his appointment and any or all

10 of said commissioners shall be removable at the pleasure
11 of the governor and council.

Sect. 2. The commissioners shall be provided suitable
2 offices at the state house, properly furnished and equipped
3 with all books, maps, stationery, office furniture and other
4 equipment and supplies, sufficient, necessary and incidental
5 to the discharge of their duties.

In said offices the commissioners shall keep and preserve,
2 under the supervision of the governor and council, as the
3 property of the state, complete records of all their acts, full
4 and accurate data of all investigations and experiments made
5 or caused to be made by them and all their reports, vouchers,
6 accounts, correspondence and all other papers and documents
7 for the information of the state and interested citizens
8 thereof.

Sect. 3. The commissioners shall appoint a clerk who shall
2 keep full and minute records of the proceedings, investi-
3 gations and all other data of the department, which shall
4 be open to public inspection at all times. They may, with
5 the approval of the governor and council, employ such other
6 clerks, assistants and employees as may be necessary.

Sect. 4. The annual salary of each commissioner shall be,
2 for the chairman, twenty-five hundred dollars and for each
3 other commissioner, two thousand dollars. The salary of
4 the clerk shall be fifteen hundred dollars. The salary and
5 compensation of any other clerks or employees shall be such
6 as the commissioners, with the approval of the governor and

7 council, may determine, and the commissioners, their clerks
8 and all employees shall receive actual expenses when travel-
9 ling on official business. All fees paid into the department
10 for any purpose shall be paid over to the state treasurer for
11 the benefit of the department.

Sect. 5. The commissioners, with the approval of the gov-
2 ernor and council, shall appoint such deputies as may be
3 necessary, who shall be known as deputy commissioners, who
4 shall receive such compensation as may, with the approval
5 of the governor and council, be determined by the commis-
6 sioners and they may serve in said capacity during good
7 behavior or until removed and they may be removed at the
8 pleasure of the commissioners. Each of said deputies and
9 each of the commissioners shall have all the powers of sher-
10 iffs, and in addition thereto, shall have jurisdiction in all
11 the counties and in all the waters of the state.

Sect. 6. Each of the commissioners, deputy commission-
2 ers, state detectives, sheriffs and deputy sheriffs shall have
3 full authority to enforce all the laws regulating the sea and
4 shore fisheries; but said deputies, state detectives, sheriffs
5 and deputy sheriffs shall be under the direction of the com-
6 missioners and shall conform absolutely to the rules, regu-
7 lations and laws of the department of sea and shore fish-
8 eries, when employed to enforce the laws thereof. Said
9 commissioners, deputies, state detectives, sheriffs and deputy
10 sheriffs may seize and remove, summarily if need be, all
11 illegal obstructions to the passage of migratory fish, except

12 dams, mills or machinery, at the expense of the person using
13 or maintaining the same, and may also seize any other illegal
14 structures or gear, maintained and operated contrary to the
15 laws governing the sea and shore fisheries and shall cause
16 the offenders to be haled into courts of competent jurisdic-
17 tion to answer therefor, as provided by law.

Sect. 7. Each of the commissioners, deputy commission-
2 ers, state detectives, sheriffs and deputy sheriffs and all other
3 officers qualified to serve criminal process, may arrest with
4 or without warrant, any person whom they find violating
5 any of the laws of the sea and shore fisheries and shall cause
6 all offenders to be brought before courts of competent juris-
7 diction, as provided by law, for trial.

Sect. 8. The commissioners may examine all dams upon
2 waters where the tide ebbs and flows, where the law re-
3 quires fishways to be maintained, shall determine whether
4 the fishways, if any, are suitable and sufficient for the passage
5 of the fish in such waters and shall prescribe, by an order
6 in writing, what changes or repairs, if any, shall be made
7 therein and at what time the same shall be kept open and
8 shall give notice to the owners of the dams accordingly. The
9 supreme judicial court shall, upon the petition of the com-
10 missioners, have jurisdiction in equity or otherwise to en-
11 force any order made in accordance with the provisions of
12 this section and to restrain any violation of such order.

Sect. 9. Such owners shall be notified by serving them a
2 copy of the order; and a certificate of the commissioners

3 that service has been so made shall be deemed sufficient proof
4 thereof.

Sect. 10. Any owner of such dam, who refuses or neg-
2 lects to keep open or maintain a fishway at the times pre-
3 scribed by the commissioners shall forfeit fifty dollars for
4 each day of such refusal or neglect.

Sect. 11. Each of the commissioners may, in the perform-
2 ance of his duties, enter upon and pass through or over
3 private property.

Sect. 12. The commissioners shall collect, assort and ar-
2 range statistical details relating to all branches of the sea
3 and shore fisheries. They may make such rules and regu-
4 lations, not inconsistent to law, as they may deem necessary
5 to promote the permanent prosperity of the sea and shore
6 fisheries.

They shall investigate all branches of the fishing industry
2 to ascertain all unnecessary loss in food fish and what meas-
3 ures should be adopted to remedy same.

They shall experiment to ascertain the best methods to
2 propagate, advance and encourage the fishing industries and
3 may employ such experts as the governor and council may
4 approve.

They shall cause all laws governing and regulating the sea
2 and shore fisheries to be strictly enforced.

They shall, on or before the first day of January, biennially,
2 report to the governor, and make such suggestions and
3 recommendations as they may deem necessary for the in-
4 formation of the legislature.

Sect. 13. The commissioners shall require all fishermen
2 and all other persons or corporations engaged, commercially,
3 in the fishery, shell fish or lobster business, to make reports
4 to them in detail the first day of each month, on blanks to
5 be furnished by the department, of all the fish and kinds
6 of fish, shell fish, and kinds of shell fish, and lobsters they
7 have caught, bought or sold during the preceding month,
8 the number of pounds of each thereof, where caught, from
9 whom bought, to whom sold and how and by whom trans-
10 ported and the value of same, and such information shall
11 be kept secret for the sole use of the department. Any per-
12 son or corporation who refuses or neglects to furnish such
13 information, shall be punished by a fine of not less than
14 twenty-five dollars, nor more than two hundred dollars, or
15 by imprisonment not more than thirty days, or by both such
16 fine and imprisonment at the discretion of the court.

Sect. 14. The commissioners shall inaugurate a campaign
2 of personal education among the fishermen, with the end in
3 view of securing their good-will and co-operation, and to
4 promote among them more intelligent and better methods
5 of handling, caring for, developing and improving the fish-
6 ing industry for the best interest of themselves and the state.
7 If, after sufficient time and efforts have been so made, in
8 the judgment of the commissioners, the commissioners ascer-
9 tain that the fishermen in any locality or section of the state,
10 continue to persistently violate and nullify the provisions
11 of the law governing same, the commissioners are hereby

12 given full authority and power, with the consent of the gov-
13 ernor and council, to declare and impose a close time on
14 such industries, in such sections, of the state where the law
15 is so violated, and for such a period of time as to them may
16 seem necessary.

Sect. 15. The office of "commissioner of sea and shore
2 fisheries" is hereby abolished and the tenure of office of the
3 commissioner, all other officers, wardens, deputy wardens
4 and clerks connected with the department of sea and shore
5 fisheries, however authorized or appointed, is hereby termi-
6 nated.

In addition to the powers by this act specially authorized,
2 all powers now vested in the officer or the office of com-
3 missioner of sea and shore fisheries, together with all the
4 duties and privileges now imposed or conferred upon said
5 commissioner of sea and shore fisheries by and under exist-
6 ing laws, except as modified by this act, are hereby imposed
7 and conferred upon the commissioners of sea and shore fish-
8 eries.

All proceedings pending before said commissioner, or be-
2 fore any court, at the time this act takes effect, shall be
3 conducted or caused to be conducted to a finish by the com-
4 missioners, and shall be heard, reheard or decided as justice
5 may require.

All existing decisions and orders of the commissioner in
2 force, when this act takes effect, shall continue until modified
3 or reversed by the commissioners.

The commissioners shall have custody and control of all
2 records, maps, papers, documents, correspondence, reports,
3 accounts and all other data pertaining to the office of com-
4 missioner of sea and shore fisheries and of the department
5 of sea and shore fisheries.

Sect. 16. All fines and penalties provided by law govern-
2 ing the sea and shore fisheries, shall be imposed by the
3 courts, which are hereby given exclusive authority thereof.
4 The commissioners, their deputies, employees, or any other
5 officer, employed by the commissioners shall have no author-
6 ity to settle any offenses under or violations of the pro-
7 visions of the statutes governing the sea and shore fisheries
8 nor to compromise any such penalties or make any collec-
9 tions therefrom. Any violation of the above provision shall
10 be punished, for the first offense by a fine of one hundred
11 dollars, for any additional offense, by a fine not exceeding
12 five hundred dollars and in addition thereto, an imprison-
13 ment in jail for a term not exceeding six months.

All fines, penalties and collections under the laws govern-
2 ing the sea and shore fisheries shall be paid by the courts
3 to the treasurer of state to be added to and made a part of
4 the appropriation for sea and shore fisheries.

Sect. 17. The prosecutions of all offenses under the laws
2 governing the sea and shore fisheries shall be conducted for
3 and in behalf of the state by the attorney general or his
4 assistant and the attorney general shall report or cause to
5 be reported, monthly, to the treasurer of state the amount

6 of each fine and penalty, itemized, the name of the party
7 paying the same and the offense for which it was paid, which
8 shall be kept on record in the treasurer's office. He shall
9 also file a duplicate report at the same time with the com-
10 missioners and shall, in addition thereto, file a report with
11 the commissioners of all cases prosecuted, together with the
12 standing and determination thereof.

Sect. 18. Where no special penalty for any offense is pro-
2 vided under the laws of the sea and shore fisheries, the court
3 shall be governed by the general laws of the state governing
4 misdemeanors and may impose such fines as to them shall
5 seem adequate.

Sect. 19. All acts and parts of acts inconsistent with the
2 provisions of this act are hereby repealed.

In view of the emergency set forth in the preamble, this
2 act shall take effect when approved.