

# MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

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SENATE

NO. 221

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In Senate, March 7, 1923.

Referred to Committee on Sea and Shore Fisheries and five hundred copies ordered printed. Sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Emery of Washington.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED AND TWENTY-THREE

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AN ACT to Amend Section Sixty-four of Chapter Forty-five of the Revised Statutes as Amended, Relative to the Cultivation and Propagation of Clams.

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

Section sixty-four of chapter forty-five of the revised statutes, as amended by public laws of nineteen hundred seventeen, chapter 293, is hereby amended by adding thereto the following:

'Provided however that such upland owner may, if said flats have not been previously selected for such propagation purposes by the director of sea and shore fisheries under this section, use such part of any flats to which he

5 claims ownership by virtue of his ownership of the ad-  
6 joining upland, for the cultivation and propagation of clams  
7 provided that he use no more than eighty per cent of such  
8 flats, to be located by the municipal officers of the town  
9 in which such flats are situate, after notice thereof posted  
10 in two public places in said town at least ten days before  
11 the time fixed for such location. The application for such  
12 location shall be by such upland owner, in writing, and  
13 after such location is made a written certificate thereof  
14 shall be issued by said municipal officers to such applicant,  
15 who shall thereupon cause to be erected proper and suffi-  
16 cient marks and bounds to indicate any location thus made,  
17 and unless such marks and boundaries are so erected, such  
18 land owners shall be denied the benefit of this provision.  
19 Reasonable compensation shall be allowed to such munici-  
20 pal officers for their services. Any person digging clams  
21 within the limits thus located for the benefit of such owner,  
22 without his consent, is liable to such owner for three times  
23 the amount of damage done in an action on the case, or  
24 be punished as provided in section sixty-six of this chap-  
25 ter,' so that said section, as amended, shall read as follows :

'Sect. 64. The director of sea and shore fisheries may  
2 from time to time, as his judgment may determine, select  
3 proper locations below low-water mark on the coast of  
4 Maine for the propagation of oysters and quahaugs, and  
5 between high and low-water mark for the propagation of  
6 clams, cause the same to be properly stocked with oysters,

7 quahaugs, and clams, and erect proper and sufficient marks  
8 or bounds to indicate the locations thus made. But this  
9 section shall not be construed to authorize the taking of  
10 flats, which by the colonial ordinance of sixteen hundred  
11 and forty-one are possessed by the adjacent upland owners,  
12 without the consent of such owners and the payment of  
13 proper damages to such owners for such taking; provided  
14 however that such upland owner may, if said flats have not  
15 been previously selected for such propagation purposes by  
16 the director of sea and shore fisheries under this section,  
17 use such part of any flats to which he claims ownership  
18 by virtue of his ownership of the adjoining upland, for the  
19 cultivation and propagation of clams provided that he use  
20 no more than eighty per cent of such flats, to be located  
21 by the municipal officers of the town in which such flats  
22 are situate, after notice thereof posted in two public places  
23 in said town at least ten days before the time fixed for  
24 such location. The application for such location shall be  
25 by such upland owner, in writing, and after such location  
26 is made a written certificate thereof shall be issued by said  
27 municipal officers to such applicant, who shall thereupon  
28 cause to be erected proper and sufficient marks and bounds  
29 to indicate any location thus made, and unless such marks  
30 and boundaries are so erected, such land owners shall be  
31 denied the benefit of this provision. Reasonable compen-  
32 sation shall be allowed to such municipal officers for their  
33 services. Any person digging clams within the limits thus

34 located for the benefit of such owner, without his consent,  
35 is liable to such owner for three times the amount of dam-  
36 age done in an action on the case, or be punished as pro-  
37 vided in section sixty-six of this chapter.