

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)

ACTS AND RESOLVES

OF THE

SIXTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE

1897

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

AUGUSTA
KENNEBEC JOURNAL PRINT
1897

PUBLIC LAWS
OF THE
STATE OF MAINE.

1897.

Chapter 285.

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:

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

Inspectors
of fish, ap-
pointment
of.

Sect. 2. Every such inspector, before entering upon his duties, shall be sworn, and give bonds with sufficient sureties to the treasurer of the town for which he is appointed, to the satisfaction of the municipal officers thereof, in the penal sum of not less than five hundred nor more than five thousand dollars, for the faithful performance of his official duties; and such officer shall, at least once a year, examine the bonds given, by said inspectors, and if that of any inspector is not in their opinion sufficient, they shall forthwith notify him, and if he for thirty days thereafter neglects to give satisfactory bond, they shall give information thereof to the governor, who shall remove him from office.

--term.
Shall be
sworn and
give bonds
to satis-
faction of
municipal
officers.

Sect. 3. Every inspector shall, by the thirtieth day of November, annually, make a return into the office of the commissioner of sea and shore fisheries of all fish by him inspected during the year preceding the thirtieth day of such November, designating the quantities, kinds and qualities of pickled fish, and said commissioner shall embody the substance thereof in his next official report.

Inspectors
shall make
annual re-
turns to
commis-
sioner.

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

Any person
injured by
neglect of
inspector,
may bring
action on
bonds.

CHAP. 285

How pickled fish shall be inspected.

Sect. 5. Every inspector who inspects any kind of fish that are split and pickled for packing, shall see that they are, in the first instance, free from taint, rust or damage, and well struck with salt or pickle; and such of said fish as are in good order and of good quality, shall be pickled in barrels, half barrels, quarter barrels, and tenths of barrels or kits; each barrel containing two hundred pounds, and so on in that proportion; and the same shall be packed in good, clean coarse salt, sufficient for their preservation; and then each cask shall be headed up and filled with clear, strong pickle, and shall be branded by the inspector with the name and quality of the fish therein.

Inspection of mackerel and how branded.

Sect. 6. Mackerel of the best quality, not mutilated, measuring, when split, not less than thirteen inches from the extremity of the head to the crotch or fork of the tail, free from taint, rust or damage, shall be branded 'Number one;' the next best quality, being not less than eleven inches measuring as aforesaid, free from taint, rust or damage, shall be branded 'Number two;' those that remain after the above selection, free from taint or damage, and not less than thirteen inches measuring as aforesaid, shall be branded 'Number three large;' those of the next inferior quality, free from taint or damage, not less than ten inches measured as aforesaid, shall be branded 'Number three;' all other mackerel, free from taint or damage, shall be branded 'Number three small.' The inspector shall brand in plain letters on the head of every such cask, the weight, the initials of his christian name, the whole of his surname, the name of his town, and the letters 'ME.,' and an abridgment in figures, of the month and the year, when packed.

How barrels and casks shall be made.

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

How pickled alewives and other small fish shall be packed.

Sect. 8. Every inspector who inspects pickled alewives or herring, or other small fish, packed whole or round, shall see that they are struck with salt or pickle, and then put in good

casks of the size and material aforesaid, packed closely therein, and well salted, and the casks filled with the fish and salt, putting no more salt with the fish than is necessary for their preservation; and the inspector shall brand all such casks with the name of the inspected fish as aforesaid.

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

Fees for inspection and branding.

Sect. 10. The owners 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 boxes containing such fish.

Owners, when required, shall furnish a brand containing name.

Sect. 11. Whoever sells in the state, or exports therefrom any fish in barrels 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 country lawfully inspected and branded there, and whoever sells or exports unlawfully any fish known by him to be tainted or damaged, forfeits ten dollars for every hundred weight thus sold or exported.

Penalty for selling or exporting fish not inspected and branded.

Sect. 12. No pickled fish in barrels, 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 the whole quantity of pickled fish packed in barrels or other casks, and of smoked alewives and herring, on board the....., master; and that no pickled fish, or smoked alewives are shipped on board said vessel for the ship's company, or on freight or cargo, but such as are inspected and

Fish shall not be shipped until inspector gives certificate of inspection.

—what certificate shall express.

—oath to be administered to master of vessel.

CHAP. 285 branded, and no smoked herring but such as are inspected, according to the laws of this state, or exempted by the provisions thereof. So help me God.'

Forfeiture for lading or receiving on board any fish not packed or branded as aforesaid.

—penalty for refusing aid to officer.

Penalty for substituting fish not inspected.

Unlawful to use purse or drag seines in certain waters.

—Casco bay.

—exception.

—Kennebec river, between Fort Popham and Georgetown.

—Sheepscot river.

—Damariscotta river.
—Medomak river.

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

Sect. 14. If any person takes from a cask or box, any pickled, cured, or smoked fish, lawfully inspected and branded or any smoked herring lawfully branded, and substitutes therefor or fraudulently intermixes other fish; or if any inspector marks any cask or box out of his own town, or which he has not inspected, packed, and himself prepared according to law; permits other persons unlawfully to use his brands; or willfully and fraudulently uses the same himself after the expiration of his commission, he forfeits twenty dollars for each cask or box so dealt with.

Sect. 15. It shall be unlawful to use any purse or drag seines in the following waters, but no others. In Casco bay north of a line easterly from Prince's point in the town of Yarmouth to Bear island in the town of Phippsburg, excepting for smelts, bluebacks and spurling. In Kennebec river above a line drawn across said river to Fort Popham in the town of Phippsburg to a point opposite at the lower end of Long island in the town of Georgetown. In the Sheepscot river above a bridge leading from Wiscasset to Edgecomb. In Damariscotta river above a line drawn from Farnham's head in the town of Boothbay to a point opposite on the shore in the town of Bristol excepting the use of drag seines between the above line and the ledges, for all fish excepting alewives. In Medomak river, above a line drawn from Martin's point in the town of

Friendship, westerly by the northeast end of Hog island to a point opposite in the town of Bremen, or to take smelts in said river and its tributaries in any other way than by hook and line. In the Georges river, above a line drawn from Hooper's point in the town of Saint George, westerly past the northerly end of Caldwell's island to a point opposite on the shore in the town of Cushing, or to take smelts in said river and its tributaries in any other way than by hook and line. All bays, inlets, rivers and harbors east of the west shore of the Penobscot bay and river where any entrance to the same or any part thereof from main land to main land is not more than three nautical miles in width, but purse and drag seines may be used for the purpose of taking smelts in these waters except in Bluehill bay, under a penalty of not exceeding five hundred dollars for each offense for such unlawful fishing to be recovered in an action of debt. The taking of herring, or fishing therefor, by the use of purse or drag seines and all other seines or nets, except the use of seines or nets in weirs, from the first day of June to the first day of November, in the waters of Machias bay and its approaches inside of, or to the northward of a direct line drawn straight from the highest summit of the island called the Brothers, easterly to a point one-half mile distant and due south from Libby island light house, thence from said point easterly to the southerly extremity of the southern island called the Double Head Shots, is hereby prohibited, under a penalty not exceeding five hundred dollars for each offense to be recovered in an action of debt.

Sect. 16. The municipal officers of towns may grant written permits to residents of the state to take, within their towns, shell fish, menhaden or porgies, otherwise than is forbidden in section fifteen, and to those not residents to take the same, on payment of an agreed sum to their town, specifying therein the quantity to be taken, the time to fish, the number of persons to be employed, and the purpose for which the fish may be used; but without such permit any inhabitant, within his own town, may take shell fish for the consumption of his family, and any fisherman may take, anywhere, such fish suitable for bait and necessary for his use, not exceeding seven bushels in the shell, except that oysters shall not be taken by any one in June, July and August.

Sect. 17. Any town may at its annual meeting fix the times in which clams may be taken within its limits, and the prices

Georges river.

—all bays, rivers and harbors east of west shore of Penobscot river and bay.

—smelts may be taken with purse seines except in Bluehill bay.

—penalty.

—taking of herring with drag seines, between June 1 and November 1, in Machias bay, prohibited.

—penalty for violation.

Permits may be granted residents of the state to take shell fish, etc.

—residents may take shell fish for family use without permit.

Town may regulate taking of clams within its limits.

CHAP. 285

—clams may be taken for family use without permit.

—section does not apply to hotels, nor taking of clams for bait.

—penalty for taking clams.

—size of clam bait barrels.

Cities and towns authorized to raise money for propagation of fish.

Fish weirs and wharves shall be erected in accordance with this act.

—penalty for erecting weirs in front of shore of another without consent of owner.

—act does not apply to weirs which are removed annually.

Vessels of all kinds owned by non-residents, liable for unlawful fishing.

—any officer may

for which its municipal officers shall grant permits therefor; and unless so regulated by vote, residents of the town may take clams without written permit. But without permit any inhabitant within his own town, or transient person therein, may take clams for the consumption of himself and family. This section does not apply to hotel keepers taking clams for the use of their hotels, nor does it interfere with any law relating to the taking of shell fish for bait by fishermen. Whoever takes clams contrary to municipal regulations authorized by this act, shall, for each offense, be fined not more than ten dollars, or imprisoned not more than thirty days, or both. In all contracts relating to the sale of clam bait by the barrel, and clam bait barrels, unless otherwise specified in the contract, a barrel shall be twenty-seven and one-half inches long, sixteen inches head diameter, outside measure, holding not less than twenty-one gallons and not more than twenty-three gallons.

Sect. 18. Cities, towns and plantations are authorized to raise annually, by a two-thirds vote at their annual meeting, a sum not exceeding five hundred dollars, to be expended by the municipal officers thereof or by a commission elected by the cities, towns or plantations for the propagation and protection of fish in public waters located wholly or partially within their respective limits. A report of the expenditures thereof shall be made at the next annual meeting by the officer or officers authorized to expend such appropriation.

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

Sect. 20. All vessels, boats, craft, owned and officered by non-residents, and apparatus of every kind, employed in unlawful fishing, or having on board any fish unlawfully taken, are liable for all fines and costs herein provided for; and any officer may seize and detain said property not exceeding twenty-four hours, in order that it may be attached, and taken by due process of law to satisfy any judgment that may be recovered; but

it shall, at any time, be released on payment, by the owner or master, of the fine, costs, and reasonable expenses.

Sect. 21. Any inhabitant of the state, with consent of the adjacent riparian proprietors, may plant oysters below low water mark in any navigable waters, in places where there is no natural oyster bed; inclose such grounds with stakes, set at suitable distances, and extending at least two feet above high water mark; but so as not to obstruct the free navigation of such waters, and have the exclusive right of taking such oysters. Whoever trespasses on such inclosure, or injures such oyster beds, is liable in an action of trespass for all damages; and if he takes any oysters therein without the consent of the owner, he shall forfeit not less than twenty nor more than fifty dollars, or be imprisoned not exceeding three months.

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

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

Sect. 24. It shall be the duty of the commissioner of sea and shore fisheries to exercise supervision over all the fisheries and its products taken from tide waters within the state, including the proper enforcement of all laws relating to the catching, packing, curing, manufacturing, branding and transportation of all kinds of pickled, salt, smoked, fresh, canned, frozen shell and other fish.

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

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

CHAP. 285

detain such property 24 hours in order that it may be attached.

Any inhabitant may plant oysters and have exclusive right to take the same.

—penalty for trespassing on such beds.

Waters that are exempt from provisions relating to migratory fish.

Commissioner of sea and shore fisheries, appointment and term of.

Duties.

Shall report biennially.

Salary.

CHAP. 285

Wardens shall enforce all laws.

—jurisdiction.

—may without consent, enter any place or search any car, etc.

Fish wardens, appointment and tenure.

—duties, powers and privileges.

—shall give bond.

Salmon, shad and other migratory fish shall not be taken within 500 yards of any fishway or dam.

—nor certain portion of Penobscot river.

—Kennebec river.

—St. Croix river.

Sect. 27. It shall be the duty of the fish wardens to enforce all laws relating to the sea and shore fisheries within the counties in which they separately reside, but they shall not exercise jurisdiction in any other county unless so instructed in writing by the commissioner of sea and shore fisheries. The commissioner of sea and shore fisheries and fish wardens may, with or without warrant, enter upon any vessel, boat, receptacle for fish, or any place or places used therefor, and seize and carry away all fish liable to seizure found therein, and may, with or without warrant, search any car or pound used for the keeping of fish, and seize any car or pound used for the keeping of fish, and seize and carry away all fish liable to seizure found therein, the fish in each case to be disposed of according to law.

Sect. 28. The governor with the advice and consent of council, upon the recommendation of the commissioner of sea and shore fisheries, may appoint suitable persons as fish wardens, who shall hold office for the term of three years unless sooner removed, who shall enforce all laws and the rules and regulations relating to sea and shore fisheries, arrest all violators thereof, and prosecute all offenses against the same; they shall have the same power to serve criminal processes against such offenders, and shall be allowed the same fees as sheriff for like services; they shall have the same right as sheriffs to require aid in executing the duties of their office. They shall before being qualified to discharge the duties required by this act, give a bond with two good and sufficient sureties in the penal sum of two thousand dollars, approved by the commissioner of sea and shore fisheries, to the treasurer of the state, conditioned for the faithful performance of the duties of their office.

Sect. 29. No salmon, shad or other migratory fish shall be taken or fished for within five hundred yards of any fishway, dam, or mill race; nor in the Penobscot river between the mouth of the Kenduskeag stream and the water works dam at Treat's falls on said river, nor between the Augusta highway bridge over the Kennebec river and the Augusta dam; nor any salmon five hundred feet above Ferry point bridge on the Saint Croix river in Calais, between the first days of April and November, except by the ordinary mode of angling with single hook and line or artificial flies, nor shall hook and line or artificial flies be used at any time within one hundred yards of any fishway, dam or mill race; but this section shall not apply to

the taking of alewives by the town of Warren in the Georges river, and by the town of Waldoboro in Medomak river, under the authority granted said towns by the private and special laws of Massachusetts, passed March six, eighteen hundred and two, and amendments thereof, passed by the legislature of this state; nor shall it apply to the taking of alewives by the town of Woolwich in Nequasset stream, provided that fly fishing shall be allowed up to the bridge across the Denny's river at Lincoln's mill, but not between said bridge and Lincoln's mill dam; and provided also, that fishing with an artificial fly or single baited hook and line shall be allowed up to within fifty feet of the dam across the Aroostook river in the town of Caribou. But this section shall not apply to the Laconia falls and the Lower falls, so called, of the Saco river, located at Biddeford and Saco; and upon the first three days of each week, from the first of June to the first of September of each year, all persons may dip for salmon, shad and alewives at the falls last named above. The penalty for violation of this section is a fine of not more than fifty nor less than ten dollars for each offense, and a further fine of ten dollars for each salmon and one dollar for each shad so taken.

Sect. 30. From the fifteenth day of July to the first day of April following, there shall be a close time for salmon during which no salmon shall be taken or killed in any manner, under a penalty of not more than fifty nor less than ten dollars, and a further penalty of ten dollars for each salmon so taken or killed. Provided, however, that between the fifteenth days of July and September, it is lawful to fish for and take salmon by the ordinary mode, with rod and single line, but not otherwise.

Sect. 31. Between the first day of April and the fifteenth day of July there shall be a weekly close time of forty-eight hours from sunrise on each Saturday morning to sunrise on the following Monday morning, during which no salmon, shad, alewives or bass, shall be taken. During the weekly close time, all seines, nets, and other movable apparatus shall be removed from the water. Every weir shall have, in that part where the fish are usually taken, an opening three feet wide, extending from the bottom to the top of the weir, and the netting or other material which closes the same while fishing, shall be taken out, carried on shore, and there remain during the weekly close time, to the extent that during said close time the fish may have a free and unobstructed passage through such

—use of hook and line and flies within 100 yards of fishway, prohibited.

—does not apply to taking alewives in town of Warren.

—nor in the town of Waldoboro.

—shall not apply to taking of alewives in Woolwich.

—fly fishing allowed in Denny's river.

—in Aroostook river.

—act does not apply to certain portions of Saco river.

—penalty for violation of this section.

Close time for salmon between July 15, and April 1.

—penalty.

—salmon may be taken by ordinary mode, between July 15, and September 15.

Weekly close time of 48 hours between April 1, and July 15, established.

—how it shall be observed.

—penalty for violation.

CHAP. 285

—rivers to which act does not apply.

Close time for smelts between April 1 and Oct. 1.

—penalty for violation.

—weirs shall be opened and nets removed by April 1.

—penalty.

—certain weirs excepted.

—dip nets may be used between the 1st and 15th days of April.

—Certain waters excepted.

Dip nets with meshes smaller than one inch, prohibited.

—St. Croix river between April 1 and Oct. 1, excepted.

—penalty.

No weir, etc., shall extend into more than two feet of water.

weir or other structure, and no contrivance which tends to hinder such fish shall be placed in any part thereof. If the inclosure where the fish are taken is furnished with a board floor, an opening extending from the floor to the top of the weir is equivalent to one extending from the bottom to the top. The penalty for the violation of this section is twenty dollars for each offense. This section does not apply to the Kennebec, Androscoggin or Penobscot rivers or their tributaries, or to the Saint Croix 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 offense, 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 Merry-meeting 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 Saint 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 offense.

Sect. 34. No weir, hedge, set net or any other contrivance for the capture of fish, which is stationary while in use, shall extend into more than two feet of water at ordinary low water, under a penalty of not more than one hundred, nor less than

fifty dollars, and forfeiture of all apparatus and material so unlawfully used. This provision applies to any seine or drift net which is at any time attached to a stationary object, but not to fykes or bag-nets used in the winter fishery for smelts and tom-cods, nor to any implements lawfully used above the flow of tide, nor to any portion of Penobscot river, bay or tributaries, nor to the Saint Croix river five hundred feet above Ferry's point in Calais.

Sect. 35. The limit of depth prescribed for weirs in the preceding sections shall be measured at the entrance of the weir, provided that no part of the weir known as the leader, is in more than two feet at low water mark. Weirs may exceed the limit of two feet depth, measured as aforesaid, under the following conditions: first, the distance from the before mentioned two feet limit, to the entrance of such weir, shall not exceed one hundred feet; second, no such weir shall obstruct more than one-eighth of the width of the channel; third, every such weir shall be stripped so as to render it incapable of taking fish on and after the twenty-fifth day of June; but these conditions apply only to weirs that exceed the aforesaid limit of depth. The standard for low water mark on the Kennebec river, is in all cases the nearest bench mark of the United States coast survey, allowance being made at the various points for the difference in time. The provisions of this and the preceding sections do not apply to fish weirs built on the sea shores.

Sect. 36. All boats, implements and materials used, and all fish taken in violation of sections thirty-four and thirty-five, are forfeited.

Sect. 37. It shall be the duty of each warden to make a detailed monthly report to the commissioner of sea and shore fisheries of all that has come to his knowledge relating to the fisheries within his county, or in any county where he has rendered services from the first day of one month to the first day of the following month, in such a manner and on such blanks as the commissioner may prescribe and furnish, and to do such other acts as the commissioner may require for the purpose of gaining information and the proper enforcement of the law.

Sect. 38. A bounty of one dollar for each and every seal killed in the waters of this state shall be paid by the treasurer of the town in which such seal is killed, to the person exhibiting to said treasurer the nose of such seal within thirty days after said seal was killed. Such treasurer shall destroy it, and shall

—penalty.

—how this provision shall apply.

Depth of weirs, how measured.

—conditions under which limit may be exceeded.

—standard for low water mark on Kennebec.

—act does not apply to sea shore fish weirs.

Boats, etc., used and fish taken in violation of sections 34 and 35, forfeited.

Wardens shall report to commissioner, monthly.

Bounty on seals.

CHAP. 285

—carcasses shall not be left derelict in any waters.

—seals shall not be destroyed with long range weapon in Casco bay, during the months of June, July and August.
—penalty.

Unlawful to take, etc., lobsters less than 10½ inches.

—how measured.

—short lobsters shall be liberated.

—penalty.

Close time for female lobsters.

—penalty for violation.

—exception.

Unlawful to can, etc., lobsters less than 10½ inches.

—penalty for violation.

then proceed as in sections six and seven of chapter thirty of the revised statutes. The carcasses of such seals when destroyed shall not be left derelict in any waters of the state, but shall be removed therefrom and properly disposed of by the persons destroying them; provided, however, that it shall be unlawful during the months of June, July and August to destroy seals in the waters of Casco bay by shooting with rifle or other long range weapon, which might endanger human life, under a penalty for a violation of either of the provisions of this section, of fifty dollars, to be recovered upon complaint or indictment before any court of competent jurisdiction.

Sect. 39. It is unlawful to catch, buy or sell, or expose for sale, or possess for any purpose, any lobster less than ten and one-half inches in length, alive or dead, cooked or uncooked, measured in manner as follows: Taking the length of the back of the lobster, measured from the bone of the nose to the end of the bone of the middle flipper of the tail, the length to be taken with the lobster extended on the back its natural length, and any lobster shorter than the prescribed length when caught, shall be liberated alive at the risk and cost of the parties taking them, under a penalty of five dollars for each lobster so caught, bought, sold, exposed for sale, or in the possession not so liberated. The possession of mutilated, uncooked lobsters shall be prima facie evidence that they are not of the required length.

Sect. 40. It is unlawful to destroy, buy, sell, expose for sale or possess any female lobsters in spawn or with eggs attached at any season of the year, under a penalty of ten dollars for each lobster so destroyed, caught, bought, sold, exposed for sale or possessed, provided, however, if it appears that it was intended to liberate them in accordance with the provisions of this act, the person having such lobsters in possession shall not be liable to any of the penalties herein provided for, though he may have failed, for any cause not within his control, to so liberate them.

Sect. 41. It shall be unlawful to can, preserve or pickle lobsters less than ten and one-half inches in length, alive or dead, measured as aforesaid; and for every lobster canned, preserved or pickled contrary to the provisions of this section, every person, firm, association or corporation so canning, preserving or pickling, shall be liable to a penalty of five dollars for every lobster so canned, preserved or pickled contrary to the provisions of this section, and a further penalty of three hun-

dred dollars for every day on which such unlawful canning, preserving or pickling is carried on.

Sect. 42. All barrels, boxes or other packages in transit containing lobsters, shall be marked with the word lobsters in capital letters, at least one inch in length, together with the full name of the shipper; said marking shall be placed in a plain and legible manner on the outside of such barrels, boxes or other packages; and in case of seizure by any duly authorized officer, of any barrels, boxes or other package in transit, containing lobsters, which are not so marked, or in case of seizure by such officer, of barrels, boxes or other packages in transit, containing lobsters less than the prescribed length, such lobsters as are alive and less than the prescribed length shall be liberated, and all such lobsters as are of the prescribed length found in such barrels, boxes or packages, together with such barrels, boxes or packages, shall be forfeited and disposed of under the provisions of section forty-seven of this act.

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

Sect. 44. All cars in which lobsters are kept, and all lobster cars while in the water, shall have the name of the owner or owners thereof on the top of the car, where it may be plainly seen, in letters not less than three-fourths of an inch in length, plainly carved or branded thereon, and all traps, nets, or other device for the catching of lobsters, shall have, while in the water, the owner's name carved or branded in like manner on all the buoys attached to said traps, or other devices, under a penalty of ten dollars for each car, and five dollars for each trap or device not so marked, and if sufficient proof to establish the ownership of such cars or traps cannot be readily obtained, they may be declared forfeited, subject to the provisions of section forty-seven of this act.

Sect. 45. All persons are hereby prohibited from setting any lobster traps within three hundred feet of the mouth or outer

How barrels, etc., in transit, containing lobsters shall be marked.

—how lobsters seized in barrels, etc., not properly marked, shall be disposed of.

How persons shipping lobsters in barrels, etc., not lawfully marked, shall be punished.

—how carriers of such lobsters, shall be punished.

Lobster cars, and all traps, etc., shall be marked with owners' name.

—penalty.

Lobster traps shall not be set within 300

CHAP. 285

feet of fish
weirs.
—penalty.
Willful in-
terference
with traps,
how pun-
ished.

—proviso.

How lob-
ster cars,
etc., seized
under this
act shall be
disposed of.

—officer
shall file
libel in be-
half of the
state.

—what
shall be set
forth in
libel.

—judge
shall ap-
point time
and place
for hearing.

If a claim-
ant appear,
judge shall
determine
the cause.

end of the leaders of any fish weir, under a penalty of ten dollars for each offense.

Sect. 46. Whoever takes up, or attempts to take up, or in any way knowingly and willfully interferes with any lobster trap, while set for use, without the authority of the owner thereof, shall be punished by a fine of not less than twenty nor more than fifty dollars; provided, however, that no action, complaint or indictment shall be maintained under this section unless the name of the owner of all such traps shall be carved or branded in legible letters, not less than three-fourths of an inch in length, on all the buoys connected with such traps.

Sect. 47. When any lobsters are seized by virtue of the provisions of this act, it shall be the duty of the officer making such seizure to cause such lobsters, so seized, as he is not required by law to liberate, together with the cars, traps, barrels, boxes or other packages in which they are contained, to be appraised within twenty-four hours after the time of such seizure, by three disinterested men residing in the county where such seizure is made, to be selected by him, and the lobsters, cars, traps, barrels, boxes or other packages so seized and appraised, shall thereupon be sold by the officer making the seizure thereof, at such time and in such manner as shall by him be deemed proper. The officer making such seizure and sale shall within ten days after the time of such seizure file a libel in behalf of the state before a trial justice, or a judge of a police or municipal court of the county in which such seizure was made, setting forth the fact of such seizure, appraisal and sale, the time and place of the seizure, the number of lobsters, cars, traps, barrels, boxes or other packages so seized and sold, and the amount of the proceeds of such sale; and such trial justice or judge shall appoint a time and place for the hearing on such libel, and shall issue a notice of the same to all persons interested to appear at the time and place appointed, and show cause why the lobsters, cars, traps, barrels, boxes or other packages so seized and sold, and the proceeds of such sale, should not be declared forfeited, which notice shall be served upon the owner, if known, and by causing an attested copy of such libel and notice to be posted in two public and conspicuous places in the town in which the seizure was made, seven days, at least, before the time of hearing.

If any person appears at the time and place of hearing, and claims that the lobsters, cars, traps, barrels, boxes or other packages so seized and sold were not liable to forfeiture at the time of

CHAP. 285

seizure, and that he was entitled thereto, the trial justice or judge shall hear and determine the cause, and if he shall decide that such lobsters, cars, traps, barrels, boxes or other packages, at the time of seizure were not liable to forfeiture and that the claimant was entitled thereto, he shall order the proceeds of such sale to be paid to the claimant; if no claimant shall appear, or if such trial justice or judge shall decide that such lobsters, traps, cars, barrels, boxes or other packages, at the time of seizure, were liable to forfeiture, or that the claimant was not entitled thereto, he shall decree a forfeiture of such lobsters, cars, traps, barrels, boxes or other packages and of the proceeds of sale, and shall order the proceeds of sale, after deducting all lawful charges, to be paid to the county treasurer, and by him to the state treasurer, to be used as directed in section forty-eight of this act, and shall render judgment against the claimant for costs to be taxed as in civil suits, and issue execution therefor against him in favor of the state, which costs, when collected, shall be paid in to the treasurer of the county, and by him to the treasurer of the state, to be added and made a part of the appropriation for sea and shore fisheries. The claimant shall have the right of appeal to the next supreme judicial court or superior court in the county, upon recognizing and paying the fees for copies and entry as in cases of appeal in criminal cases. The fees and costs of seizure, appraisal and sale, and in all other proceedings in the case, shall be as provided by law in criminal cases, and, in case a forfeiture shall be declared, shall be paid out of the proceeds of the sale, otherwise shall be paid by the county, as in criminal cases.

—if claim is allowed, proceeds shall be paid claimant.

—if no claimant shall appear, judge shall decree a forfeiture.

—proceeds shall be paid finally to state treasurer.

—claimant may appeal to supreme judicial court.

—fees and costs, how paid.

Sect. 48. All fines and penalties under this act may be recovered by complaint, indictment or action of debt made or brought by any person in the county where the offense is committed, and shall be paid into the treasury of the county in which the offense is committed, and by such treasurer, to the state treasurer, to be added and made a part of the appropriation for sea and shore fisheries.

Fines and penalties, how recovered and disposed of.

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

Commissioner may take fish at will for certain purposes.

CHAP. 286

Certain acts and inconsistent acts, repealed.

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; 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.

When act shall take effect.

Sect. 51. This act shall take effect on the first day of May, eighteen hundred and ninety-seven.

Approved March 26, 1897.

Chapter 286.

An Act to amend chapter one hundred and sixteen of the Public Laws of eighteen hundred and ninety-five, relating to the Schooling of Children in unorganized townships.

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

Section 1, chapter 116, public laws, 1895, amended.

Sect. 1. Section one of chapter one hundred and sixteen of the public laws of eighteen hundred and ninety-five is hereby amended, so as to read as follows:

Schooling of children in unincorporated townships, provided for.

'Whenever in any unorganized township in this state there shall be two or more children between the ages of four and twenty-one years, the state superintendent of schools shall cause an enumeration of said children to be made and returned to him, and shall provide for the schooling of said children either by establishing a school in the township or by sending the children to schools in adjoining towns or plantations, or both, as shall by him be deemed expedient. In case any of said children are, by the state superintendent, sent to schools in adjoining towns or plantations said children so sent shall have the same right in such school as children resident in said town or plantation. Provided, however, that in case the interest on the reserved fund in any unorganized township is not sufficient to provide schooling for the children of said township for at least twenty weeks in a year, a sum per scholar equal to that apportioned by the state treasurer to each scholar in the state shall be set apart by the state treasurer to pay the expenses of schooling the children in said unorganized township and the state treasurer shall pay the same to the state superintendent of schools upon war-