

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

appoint suitable persons to be provers of the barrels of all new or unused fire arms; and it shall be the duty of each prover to prove the strength of the barrels of all fire arms offered to him for that purpose, in such manner as to satisfy him of their strength; and he shall, in a permanent manner, mark and number every barrel by him proved, and deliver to the applicant a certificate thereof in the following form:

"I certify that on this — day of —, in the year 18—, I proved for — —, a musket," (pistol or rifle), "barrel," (as the case may be), "which is numbered and marked, as in the margin, and that the same is good and strong.

"A. B., *Prover of Fire Arms.*"

SEC. 30. If any person sells or offers for sale any new or unused musket, rifle, or pistol barrel, without having it proved, marked, and certified, as aforesaid, he shall forfeit ten dollars for each barrel to any person suing therefor, or by indictment to the use of the state; and if he falsely alters the mark or certificate of any prover of fire arms, he shall forfeit to the state not less than twenty, nor more than one hundred dollars, to be recovered by indictment.

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R. S., c. 62,
§ 1, 2, 3.

Penalty for
selling new
and unused
barrels, &c.
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CHAPTER 40.

FISH AND FISHERIES.

FISH.

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6. Dimensions, materials and branding of casks for pickled fish.
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8. How smoked herrings shall be assorted.
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11. Penalty for selling or exporting uninspected or damaged fish. Exceptions.
12. On shipping, master or owner to furnish collector with inspector's certificate, and make oath. Form of oath.
13. Penalty for attempting to export uninspected fish; forfeiture and seizure thereof; to be taken to inspector for inspection and detained till charges paid. Penalty for refusing to aid in seizure.
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15. Inspectors to make annual returns, and penalty for neglect.
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 20. All craft and apparatus employed in unlawful fishing liable to seizure to satisfy all fines and costs, but to be released on payment.
 21. Any inhabitant may, by consent, plant oyster beds and have exclusive right to take the same. Trespassers liable to damage and subject to penalty.
 22. On application of three persons, county commissioners shall examine dams and structures, and prescribe fishways, and cause record thereof on town books.
 23. And build the same, if owner fails, after twenty days notice; and if owner shall not pay expenses thereof in thirty days, county to pay and have a lien on mills and other property to secure the same, and an action to recover of owner.
 24. Party aggrieved by decision of county commissioners may appeal to S. J. Court.
 25. Commissioners of Penobscot and Hancock to have joint jurisdiction of waters in those counties. In case of equal division they shall certify to S. J. Court.
 26. Penalty for taking fish within certain limits between May 1 and July 15, and in Machias river between May 1 and October 1. Penalty for not stripping weirs by July 15 each year. Penalties, how recovered and appropriated.

TROUT IN GOOSE POND.

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28. Appointment, oath, tenure of office, annual meeting, and jurisdiction of fish wardens for said waters.
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30. Penalty for not making fishway, after twenty days notice. What may be shown in defence thereto.
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- SEC. 41. Election, oath, and jurisdiction of fish wardens and their deputies in Thomaston, St. George, Cushing and Warren.
42. Annual meeting of wardens. They shall have a hearing of parties on application of three persons, and decide which party shall pay cost.
43. Sections 26, 29, 31, 32, 33, 34 and 36 applicable to these waters, *mutatis mutandis*.
44. If fishway not made to satisfaction of wardens, in twenty days after notice, they shall open natural course of stream, and may rightfully go on adjacent land and open sluiceways at expense of owner, provided he shall refuse to do it. Such sluiceway to continue open from May 1 to July 15.
45. Wardens shall have two dollars, and deputies one dollar a day, to be paid from town treasury.
46. Privileges at Vaughan's mills and Batchelder's mills exempt therefrom. Exceptions in favor of town of Warren.

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47. Time of taking fish limited, penalty.
48. Weirs, how constructed.
49. Fish committee chosen, duties, penalties.
50. Fish committee how paid.
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FISH IN PONDS IN KENNEBEC AND SOMERSET.

52. Nets, seines and weirs, prohibited, penalty. Fish, how to be taken, penalty. Penalties how recovered.

FISH IN MOOSEHEAD LAKE.

53. Nets and seines prohibited. Penalty and how recovered.

FISH.

SEC. 1. The governor, with advice of council, shall appoint in each town where pickled fish, or smoked alewives and herrings are cured or packed for exportation, one or more persons skilled in the quality of the same, to be inspectors of such fish; who shall hold their offices during the pleasure of the governor not exceeding seven years, be duly sworn, and give bond to the treasurer of their towns, with sufficient sureties to the satisfaction of the municipal officers, in a sum of not less than five hundred, nor more than one thousand dollars, for the faithful performance of his duties, before entering thereon.

Appointment, tenure of office, oath and bond of inspectors of fish.
R. S., c. 54, § 1, 2.
1845, c. 134.

SEC. 2. Such municipal officers 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 after such notice, neglects to give a bond satisfactory to them, they shall give information thereof to the governor, and he shall remove such inspector from office.

Annual revision of bonds.
R. S., c. 54, § 3.

SEC. 3. Any person injured by the neglect or misdoings of any inspector, on tendering to such treasurer a reasonable indemnity against the costs, shall be entitled to bring an action on such inspector's bond, in the name of the treasurer, for his own use, and to have a copy of the bond therefor; and, if judgment is rendered thereon for the plaintiff, execution shall issue for the sum found due to such person, and it shall be entered by the

Remedy of parties injured by misdoings of inspectors.
R. S., c. 54, § 4.

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Any inspector of the county may act in towns where no inspector lives.

R. S., c. 54, § 5.

What kind of fish may be inspected for barreling, &c.

R. S., c. 54, § 6, 7, 8, 1843, c. 8.

Dimensions, materials and branding of casks for pickled fish.

R. S., c. 54, § 14.

In what casks small fish, whole, in dry salt, shall be packed, &c.

R. S., c. 54, § 18.

How smoked herrings shall be assorted.

1849, c. 91, § 1.

clerk of the court on the original bond, to remain in the custody of the treasurer.

SEC. 4. If at any time it is necessary, that fish should be inspected in any town where no inspector resides, any such officer in the county may inspect and brand the same in the same manner, and under the same obligations, as if in his own town.

SEC. 5. Every inspector who inspects any kind of fish pickled for barreling, shall see that they are in the first instance well struck with salt or pickle, and preserved sweet, free from rust, taint, or damage; and such of said fish, as are of good quality and in good order, shall be packed in tierces, barrels, half barrels, quarter barrels, and tenths of barrels, or kids; each tierce containing three hundred pounds; each barrel two hundred, and so in that proportion; and the same shall be packed in good, clean, coarse salt at the rate of thirty-five pounds for every two hundred of fish; and each cask shall then be filled with clear, strong pickle and headed up; and, when the contents are free from taint, rust, or damage, shall be branded by the inspector with the name of the fish therein; and those of the best quality not mutilated, and caught in the right season, shall be marked No. 1; the best and thickest of those that remain No. 2; and the residue No. 3; and No. 3 Block Island mackerel, so called, shall also be marked with the word south, and all mackerel less than ten inches long shall be marked No. 3 small. The inspector shall also brand in plain letters on the head of every such cask, the weight, the initials of his christian and his whole surname, the name of his town and of the owner, the letters Me., an abridgement of the month, and the year in figures, when packed.

SEC. 6. All tierces, barrels, or casks, used for the purpose of packing pickled fish, shall be made of sound, well seasoned white oak, white ash, spruce, pine, or chestnut, staves of rift timber, with headings of either of such kinds of wood, sound, well planed and seasoned, and the heads, if of pine, free from sap; the same to be well hooped with at least three strong hoops on each bilge, and three also on each chime; the barrel staves to be twenty-eight inches in length, and the heads to be seventeen inches between the chimes, and made in a workmanlike manner to hold pickle; and branded on the side near the bung with the name of the maker, or owner thereof. The tierces shall contain not less than forty-five nor more than forty-six gallons each; the barrels from twenty-nine to thirty gallons each; and the aliquot parts of a barrel in the same proportion.

SEC. 7. All small fish usually packed whole with dry salt, shall be put in good casks of the size and materials aforesaid, packed closely therein, and well salted; the casks to be filled full with the fish and the 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 and quality of the inspected fish as aforesaid.

SEC. 8. All smoked herring shall be sorted by the inspector according to their quality as follows; scaled herrings shall consist of all the largest, fattest, and best cured fish of not less

than seven inches in length; number one of well cured fish not less than six inches in length; and in both cases all those shall be taken out as refuse, which are belly broken, tainted, scorched, slack salted, or not sufficiently smoked.

SEC. 9. All boxes for packing smoked herrings, shall be made of good sound boards sawed and well seasoned; the top, bottom, and sides, of boards not less than three-eighths of an inch thick, and the ends, of boards not less than three-quarters of an inch thick; securely nailed; and seventeen inches in length, eight and one-half inches in breadth, and six inches in depth, in the clear; and each cask or box shall be filled with fish of the same kind and quality; and when inspected, shall be marked on the top, by the inspector, as in section five; and if the box contain Magdalen herring, that word abridged shall be marked thereon; and no alewives or herring shall be considered merchantable, unless salted and smoked sufficiently to cure and preserve them, and then closely packed, in boxes, in clear and dry weather.

Dimensions and materials of boxes, &c. 1849, c. 91, § 2, 3. R. S., c. 54, § 11, 13, 17.

SEC. 10. The owner of all smoked and pickled fish, when required by the inspector, shall furnish a brand containing the initials of his christian, and the whole of his surname, for stamping the casks and boxes containing such fish.

Owner of fish to furnish brand. R. S., c. 54, § 12.

SEC. 11. If any person sells in this state, or exports therefrom any fish in casks or boxes, not inspected, packed and branded, as aforesaid, or any tainted or damaged fish, known to be such, except good and wholesome fish packed in kegs of less than ten gallons, or pickled, dry or smoked fish imported into this state from some other state or country lawfully inspected and branded there, he shall forfeit ten dollars for every hundred weight thus sold or exported.

Penalty for selling or exporting uninspected or damaged fish. Exceptions. R. S., c. 54, § 19.

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

On shipping, master or owner to furnish collector with inspector's certificate, &c. R. S., c. 54, § 20, 21

"I, A. B., do 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 herrings, on board the —, —, master; and that no pickled fish, or smoked alewives or herrings are shipped on board said vessel for the ship's company, or on freight or cargo, but what are inspected and branded according to the laws of this state, or exempted by the provisions thereof. So help me God."

SEC. 13. If any person lades or receives on board any vessel or other carriage, for transportation from this state, any

Penalty for attempting to export unin-

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pected fish,
&c.

R. S., c. 54,
§ 22, 23, 24.

pickled fish, or cured or salted whole fish, packed or not packed, not inspected and branded as aforesaid, except such as is described in the exception of section eleven, he shall forfeit at the rate of not less than five, nor more than ten dollars for every hundred pounds thereof; and any justice of the peace may issue his warrant to the proper officer, directing him to seize and secure any such prohibited fish, and convey it to any inspector within a convenient distance for inspection; and every person refusing to give necessary aid in the service of such warrant, when required by the officer, shall forfeit five dollars to the person suing therefor in an action of debt; and such inspector shall open, inspect, pack, and brand such fish according to law and detain the same till all lawful charges of seizure and inspection are paid.

Penalty for
intermixing
inspected fish,
&c.

R. S., c. 54,
§ 25, 26.

1844, c. 83.

1849, c. 91, § 4.

SEC. 14. If any person takes from a cask or box any pickled, cured, or smoked fish, lawfully inspected and branded, and substitutes therefor or fraudulently intermixes other fish; or any inspector marks any cask or box out of his town, or which he has not inspected, packed, and prepared himself 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 shall forfeit twenty dollars for each cask or box so dealt with.

Inspectors to
make annual
returns; pen-
alty for neg-
lect.

R. S., c. 54,
§ 27, 28.

SEC. 15. The several inspectors of fish shall annually, in January, make a return under oath, into the office of the secretary of state, of all fish by them inspected up to the first day of December preceding, designating the number of boxes, barrels, or casks, the various sorts, and the place of inspection; and if they neglect to do so, they shall forfeit not less than thirty, nor more than one hundred dollars for each offence, one half to the use of the state, and the other to the person suing therefor.

Penalties, how
recovered and
appropriated.

R. S., c. 54,
§ 29.

SEC. 16. All the penalties aforesaid, not otherwise herein appropriated, may be recovered in an action of debt, half to the use of the person suing therefor, and half to the town where the offence is committed.

Fees, by whom
paid.

R. S., c. 54,
§ 30.

SEC. 17. The fees of inspectors in all cases shall be paid in the first instance by the owner of the fish; but he may recover the same of the person purchasing or receiving it, in addition to the price thereof.

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Penalty for
non residents
taking certain
fish, &c.

37 Maine, 472.
R. S., c. 61,

§ 1, 2, 3, 4, 7.

1848, c. 81,
§ 1, 3.

1852, c. 239,
§ 1, 3.

1855, c. 138,
§ 1, 2.

SEC. 18. No person, not a resident of this state, shall set or use any net, weir, seine, or other machine, in any of the waters of the state, for the purpose of taking salmon, shad, mackerel, shell-fish, lobsters, herrings, alewives, menhaden or poggies; nor shall residents set or use any seine for the purpose of taking mackerel, menhaden or poggies; but a net for meshing menhaden of only one hundred and twenty-five meshes deep, shall not be deemed a seine; nor shall any person take, or otherwise willfully destroy any shell fish, or obstruct their growth in their beds; or set any net crosswise of said waters but only lengthwise, under

a penalty of not less than twenty, nor more than five hundred dollars; except as hereinafter provided.

SEC. 19. The municipal officers of towns may grant written permits to residents of the state, to take, within their towns, shell-fish, menhaden or poggies, and to those not residents, to take the same and also lobsters, on the payment of an agreed sum for the use of their town, specifying therein the quantity to be taken, or the time to fish, the number of persons to be employed, and the purposes for which the fish may be used; but without any such permit any inhabitant within his own town, may take shell fish, except oysters in June, July, and August, for the consumption of his family; and any fisherman may take, any where, such fish, except oysters in said three months, suitable for bait, and necessary for his use, not exceeding seven bushels in the shell.

SEC. 20. All vessels, boats, craft, and apparatus of every kind, employed in unlawful fishing, or having on board any such fish unlawfully taken, shall be liable for any fines and costs here-in provided for; and any person 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.

SEC. 21. Any inhabitant of this state, by obtaining the consent of the adjacent riparian proprietors, may plant oysters below low water mark, in any of the navigable waters of the state, in places where there is no natural oyster bed; enclose such ground 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; and if any person trespasses on such enclosure, or in any way injures such oyster beds, he shall be liable in an action of trespass for all the damage; or if he takes any oysters therein without the consent of the owner, he shall forfeit not exceeding twenty-five dollars, or be confined in jail not exceeding three months.

SEC. 22. On the written application of three or more responsible persons, who shall be held to pay all the expenses if the decision is against them, the county commissioners shall, from time to time, examine all dams and structures in rivers or their tributaries, in which salmon, shad, and alewives abound; and after written notice to one or more of the parties interested, and a hearing, shall decide what would be a suitable fishway in said structure, not exceeding one foot in fifteen of the width of the water at that place, and define, in writing, the limits of such fishway, and cause the same to be entered on the records of the town where it is situated.

SEC. 23. If the owner of such structure, after twenty days notice published in a newspaper in the county, if any, otherwise in the state paper, does not build such fishway, the commissioners shall build it, and notify the owner of the expense thereof, and if

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Permits to take shellfish, menhaden, and lobsters, &c.
R. S., c. 61, § 5, 6.
1848, c. 81, § 1, 3.
1852, c. 239, § 1.

All craft and apparatus employed in unlawful fishing liable to seizure, &c.
R. S., c. 61, § 8.
1848, c. 81, § 2.
1852, c. 239, § 4.
1855, c. 138, § 3.

Any inhabitant, may by consent, plant oyster beds and have exclusive right to the same, &c.
1849, c. 142, § 1, 2.

On application of three persons, county commissioners shall examine dams, &c.
12 Maine, 222.
16 Maine, 303.
R. S., c. 61, § 10, 13.

And build the same, if owner fails, after notice, &c.
R. S., c. 61, § 11, 12.

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he does not pay it within thirty days to the county treasurer, the treasurer shall pay it, and the county shall have a lien on the mills and other property situated on such structure, whether belonging to said owner or not, commencing from the opening of said fishway, and the county attorney shall recover of said owner, in an action on the case, in the name of the county, all such expense, with costs, and twelve per cent. interest on the amount so paid.

Party aggrieved by decision of county commissioners may appeal to S. J. Court.
R. S., c. 61, § 16.

Commissioners of Penobscot and Hancock to have joint jurisdiction of waters in those counties, &c.
R. S., c. 61, § 17.

Penalty for taking fish within certain limits between May 1 and July 15, &c.
1852, c. 239, § 5.
R. S., c. 61, § 14, 15.
1842, c. 8, and c. 31, § 5.

SEC. 24. Any person aggrieved by the decision of the commissioners in such cases, may appeal to the supreme judicial court, which may reverse, modify, or confirm such decision. The party appealing shall recognize, as in other cases of appeal; and if he does not prosecute the same, the decision of the commissioners shall be final and in full force.

SEC. 25. The county commissioners of Hancock and Penobscot shall have joint jurisdiction of the rivers and streams within the limits of their respective counties; and in case said commissioners are equally divided in opinion, they shall certify that fact to the supreme judicial court at the next term thereof holden in the county where the dam or other structure complained of is situated; and the decision of said court thereon shall be final.

SEC. 26. If any person takes any salmon, shad, or alewives, in any such fishway, or within twenty feet on each side thereof, extending and keeping the same width fifty feet above or below such dam or other structure, or, by placing impediments in or near such fishway, hinders the passage of said fish through the same between the first day of May and the fifteenth day of July, or in the Machias river between said day of May and the first day of October, he shall forfeit not less than five nor more than ten dollars for each offence; and all weirs in any river or stream shall be annually stripped so as to admit a free passage of fish through them by the fifteenth day of July, under a penalty of not less than five, nor more than ten dollars for each day it is neglected; and all the penalties herein named may be recovered in an action of debt in the name and to the use of the county, or in the name of any person suing therefor, half to his own use, and half to the use of the town where the offence is committed.

TROUT IN GOOSE POND.

Penalty for taking trout, except by hook and line, &c.
1843, c. 22.

SEC. 27. If any person takes or destroys, except by hook and line, any trout in Goose pond in the towns of Swanville, Prospect, and Frankfort, between the first day of September and the last day of December, he shall forfeit three dollars for each trout, to be recovered by an action of debt, half to the town where the offence is committed, and half to the person suing therefor.

FISH IN PENOBSCOT RIVER, BAY AND TRIBUTARIES.

Appointment, oath, tenure of office, &c.

SEC. 28. The governor, with advice of council, when a vacancy occurs, shall appoint three suitable persons, one residing in each of the counties of Penobscot, Hancock, and Waldo,

designating a chairman, to be fish wardens; who shall be duly sworn; hold their offices three years unless sooner removed; meet annually at Bangor on the first Monday of April, with power to adjourn to such time and place, as they think proper; and have a general supervision over the fisheries of salmon, shad, and alewives in the waters of the Penobscot river, bay and tributary streams.

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1843, c. 25,
§ 1, 2, 3.

SEC. 29. They shall, from time to time, examine all dams and structures in said Penobscot river and its tributaries, in which salmon, shad, and alewives abound, and, after notice in writing to one or more of the parties interested, and a hearing thereon, shall decide what would be a suitable fishway through such structures, consulting, as far as practicable, the convenience and safety thereof; prescribe such fishway, as they judge suitable and sufficient, not exceeding one foot in width in fifteen of the length of the dam running directly across the stream, and give written notice thereof to some owner or occupant, requiring the fishway to be made according to said description without delay, at any time between the fifteenth day of July, and the first day of November following in any year, so that the same shall be kept open from the first day of May, to the fifteenth of July of each year, for the passage of fish.

They shall decide what are suitable fishways, &c.
1843, c. 25, § 4.

SEC. 30. And if such fishway is not made to the satisfaction of said board within twenty days from the giving of said notice, any owner or occupant of said dam, or of any mills or machinery benefited thereby, shall forfeit not exceeding five dollars for each day, between the first day of May, and the fifteenth day of July of each year, during which said neglect continues; but any person prosecuted for said penalty may show in defence, that the existing way is sufficient; the one prescribed unnecessary for the preservation of fish; or the requisition of the wardens, unreasonable, or impracticable within the time prescribed.

Penalty for not making fishway.
1843, c. 25, § 4.

SEC. 31. Said board shall define, in writing, the extent of such fishway, and the distance therefrom, at which fish shall be taken, and cause the same to be entered upon the records of the town where it is situated. And if any person takes any such fish within the limits aforesaid, or by any means obstructs the passage up said way, between the first day of May and the fifteenth day of July in each year he shall forfeit twenty dollars for each offence.

Wardens to prescribe such fishway, &c.
1843, c. 25, § 4.

SEC. 32. No person shall take or destroy any of the fish aforesaid in any of said waters by any means whatever, between the fifteenth day of July and the first day of April following, under penalty of twenty dollars for each offence; or between the first day of April and the fifteenth day of July following, except from sunrise Mondays to sunrise Fridays, under a penalty of ten dollars for each offence.

Penalty for taking fish in such waters, &c.
1843, c. 25,
§ 7, 12.

SEC. 33. Every weir shall be provided with a gate or passage way in the pound thereof, at least three feet wide, and extending from the bottom to high water line, which shall be left open for the free passage of said fish from sunrise each Friday to sunrise Monday following, between the first day of April and

How weirs shall be made, &c.
1843, c. 25,
§ 8, 9.

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the fifteenth day of July, and the owner or occupant of any weir not so made, or not so kept open, shall forfeit ten dollars for each offence; and the provision of section twenty-six in relation to stripping weirs shall be applicable to these waters.

Wardens to prevent unlawful taking of fish, &c.
1843, c. 25, § 6, 10.

SEC. 34. Such fish wardens shall endeavor to prevent the unlawful taking or destruction of fish; prosecute for all offences, that come to their knowledge; be entitled to their pay as witnesses in such cases, although they are complainants, and have a right at all times to visit any dam, weir, net, or other apparatus for taking such fish contrary to law; and when they are resisted in the discharge of any duties, they may require the aid of as many persons as they may deem necessary; and any person neglecting or refusing to render aid, when thus required, shall forfeit ten dollars.

Penalty for extending nets more than eighty fathoms.

1843, c. 25, § 11.

How recovered and appropriated.

1843, c. 25, § 13.

SEC. 35. No net or string of nets for taking said fish in any of the waters aforesaid shall extend more than eighty fathoms in length, nor more than fifteen feet in depth, under a penalty of ten dollars.

SEC. 36. All the penalties aforesaid not exceeding twenty dollars, shall be recovered by complaint before any justice of the peace, and all exceeding that sum, shall be recovered by indictment, one-half to the use of the county, and the other half to the use of the town where the offence is committed, when not otherwise provided.

Compensation of warden.

1844, c. 127.

1843, c. 25, § 14.

SEC. 37. Said wardens shall receive two dollars for each day they are actually occupied in their official duties, and their accounts shall be made under oath, and presented to the county commissioners, and by them be allowed and paid from the county treasury.

Certain streams and towns exempt from provisions hereof.

1843, c. 25, § 15.

SEC. 38. The mill privileges on Blackman's, Kenduskeag, Brewer's, and Cold, streams, the towns of Castine, Brooksville, Penobscot, and Orland, and the portion of the Penobscot river and its tributaries below Orphan's Island, are exempt from the foregoing provisions.

FISH IN NEW MEADOWS RIVER.

Election, oath, and jurisdiction of fish wardens, &c.
1844, c. 121, § 1, 2.

SEC. 39. The towns of Brunswick and West Bath shall each choose, at their annual meeting, by ballot, one fish warden, to have a supervision over the fisheries of New Meadows river and tributary streams, conveniently located; and in case of neglect thereof by said towns, or the occurrence of a vacancy otherwise, the selectmen shall appoint a fish warden, who, in either case, shall be sworn to the faithful discharge of his duties, and shall appoint deputies in such places in his town, as he thinks proper, not exceeding three, who shall be duly sworn and forward certificates thereof to the warden within ten days after notice of their appointment.

Penalty for taking fish in such waters from May 1 to Sept. 1, &c.
1844, c. 121, § 3, 4, 5.

SEC. 40. No person between the first day of May and the first day of September, shall take or destroy any shad or other fish in said waters, except from sunrise Mondays to sunrise Fridays, under penalty of ten dollars to be recovered by complaint, one half to the warden or deputy, when he is complainant, for

his services, and the other half to the town where the offence is committed.

CHAP. 40.

FISH IN GEORGES RIVER AND TRIBUTARIES.

SEC. 41. The towns of Thomaston, St. George, and Cushing shall, at their annual meetings, each choose by ballot one, and the town of Warren two, fish wardens to have a general supervision over the fisheries of salmon, shad, and alewives, in Georges river and tributaries, and to be sworn to the faithful discharge of their duties; and in case said towns fail to choose, or a vacancy otherwise occurs, the selectmen shall appoint such wardens; who shall appoint deputies, removable at pleasure, in such places, as they deem proper, not exceeding seven, who shall be duly sworn, and forward certificates thereof to the warden of their town, within ten days after notice of their appointment.

Election, oath, and jurisdiction of fish wardens and their deputies, &c.

29 Maine, 531. 1844, c. 126, § 1, 2, 5.

SEC. 42. Said wardens shall hold an annual meeting on the fourth Monday of April, with power to adjourn to such time and place as they choose; three of them shall constitute a quorum for business; and if ten responsible citizens of said towns petition them in relation to any matter within their jurisdiction, they shall forthwith hear the parties; and if in their opinion the petition was for sufficient cause, the expense shall be paid by the respondent, otherwise by the petitioners.

Annual meeting of wardens, &c.

1844, c. 126, § 3.

SEC. 43. Sections twenty-six, twenty-nine, thirty-one, thirty-two, thirty-three, thirty-four and thirty-six of this chapter, are applicable to these waters and are a part of this law to all intents and purposes, making such changes in the names of the waters, as may be necessary.

Sections 26, 29, 31, 32, 33, 34, and 36 applicable to these waters.

1844, c. 126, § 4, 6, 7, 8, 9, 10, 11, 12.

SEC. 44. If any fishway directed by said wardens, as provided in section twenty-nine, is not made to their satisfaction within twenty days after notice, they are authorized to cause the natural course of the stream, through which the fish pass, to be opened and kept open; and to go on the land of any person, through which such streams run, without being trespassers; and cause to be opened a sluice way through any dam on any of said rivers or streams between the ponds where the fish usually cast their spawn, and the sea, at the expense of the owner thereof; if such owner neglects or refuses to open the same, when required by said fish wardens. A dam or sluice so opened shall continue open in every year to such depth and width, and for such term of time, between the first day of May and the fifteenth day of July, as said fish wardens deem necessary.

Proceedings if fishway not made to satisfaction of wardens, &c.

1844, c. 126, § 4.

SEC. 45. Each warden shall receive two dollars and each deputy one dollar for each day he is actually occupied in his official duties, and his account shall be made under oath and presented to the selectmen of the town where he resides, and by them be allowed and paid from the town treasury.

Compensation of wardens.

1844, c. 126, § 13.

SEC. 46. The mill privileges at Vaughan's mills, and at Batchelder's mills in the town of Union, are exempt from the foregoing provisions; and any of the fish aforesaid may be taken by the town of Warren on Monday, Tuesday, Thursday, and Friday of each week, and said town in so taking fish shall be

Privileges at Vaughan's mills and Batchelder's mills, &c.

1844, c. 126, § 11, 14.

CHAP. 40.

subject to all the provisions of an act entitled, "An act to regulate the shad and alewife fisheries in the town of Warren," passed March sixth, eighteen hundred and two, which are not inconsistent with the provisions of this act.

FISH IN KENNEBEC RIVER.

Time of taking fish limited, penalty.
1850, c. 407, § 1.

SEC. 47. No person shall take any salmon, shad, or alewives, in the waters of the Kennebec river, or its branches, with any weirs, between the hours of sunrise on Saturday and of sunrise on Monday; and seines and nets between the hours of sunrise on Saturday, and sunset on Monday of each week, under a penalty of twenty dollars for each salmon, fifteen dollars for each barrel or less quantity of shad, and five dollars for each barrel or less quantity of alewives so taken; and nets or seines found in said waters contrary to the provisions hereof shall be forfeited to any person seizing the same.

Weirs, how constructed.
1850, c. 407, § 2.

SEC. 48. All weirs or pounds placed in said waters for the purpose of taking fish shall have a gate, not less than four feet square, in the pocket or small pound, to be placed directly opposite the entrance thereof; said gate to be kept open during the hours named in the preceding section, under a penalty of fifty dollars for each offence.

Fish committee chosen, duties, penalties.
1850, c. 407, § 3.

SEC. 49. Each town adjoining said river, as far up as the Augusta dam, at their annual meeting, shall choose three suitable persons as a fish committee, who shall be duly sworn; shall see that the foregoing provisions are carried into effect, and be liable to a fine not less than five, nor more than twenty dollars, for each neglect of their official duties; and any city or town neglecting to choose such fish committees shall forfeit not less than one hundred, nor more than two hundred dollars.

Fish committee how paid.
1850, c. 407, § 4.

SEC. 50. The committees shall receive at the rate of one dollar per day for their services to be paid by the town; and shall have jurisdiction in their respective towns only.

Fines, how recovered.
1850, c. 407, § 5.

SEC. 51. All fines and forfeitures herein provided for, may be recovered in an action of debt in any competent court, one half to the use of the person suing therefor, and the other half to the use of the town where the offence is committed.

FISH IN PONDS IN KENNEBEC AND SOMERSET COUNTIES.

Nets, seines, and weirs, prohibited, penalty.

SEC. 52. Whoever sets any net, seine, weir, or other obstruction in Snow, Great, Long, McGrath, North, or Richardson, ponds, or any stream flowing from or into them, in the counties of Kennebec or Somerset, for the purpose of taking or obstructing the free passage of fish therein, shall forfeit ten dollars; and whoever takes or destroys any fish therein except by dip nets, spears or hooks, shall forfeit five dollars for each fish so taken or destroyed; and these penalties may be recovered and appropriated as in section fifty-one.

Fish, how to be taken, penalty.

Penalties, how recovered.
1855, c. 459.

FISH IN MOOSEHEAD LAKE.

CHAP. 40.

SEC. 53. All persons are hereby prohibited from taking any fish from Moosehead lake, or from its coves, creeks, or inlets, with seines or nets, under a penalty not exceeding ten dollars for each offence, one half thereof to the prosecutor, and the other half to the state.

Nets and seines prohibited. Penalty, and how recovered. 1856, c. 201.

CHAPTER 41.

SURVEY AND SALE OF WOOD, BARK, COAL, HOOPS, STAVES AND LUMBER.

WOOD AND BARK.

- SEC. 1. Towns may regulate sale and measure of wood. Dimensions of a cord of wood.
2. Penalty for selling wood or bark before survey unless otherwise agreed.
3. How cord wood, brought by water, shall be piled and measured, and penalty for carrying it from wharf before measured.
4. Ticket stating quantity and name of driver, required before wood carried from wharf; penalty for carrying away without ticket, refusing to exhibit it, or to have the wood re-measured.
5. Penalty for fraudulent stowage of wood, bark or charcoal.

CHARCOAL.

6. How charcoal may be measured and sold.
7. Coal baskets to be sealed; dimensions thereof.
8. Penalty for measuring coal in baskets of less dimensions, or not sealed.
9. Seizure of unlawful baskets.
10. Penalty for measurer refusing to give certificate. Penalties, how recovered and appropriated.

BOARDS, PLANK AND OTHER LUMBER.

11. Towns to elect surveyors of boards, plank, timber, joist, shingles, clapboards, staves, hoops, and two or more cullers of staves and hoops. Municipal officers may appoint surveyors of logs. All to be sworn.
12. All boards, plank, timber and joist to be surveyed before delivery on sale. Mode of measuring and marking same, and allowances. What kind of pine boards are merchantable, and what may be shipped out of the United States.

SHINGLES AND CLAPBOARDS.

13. Dimensions and quality of shingles Nos. 1, 2, and 3.
14. How shingles shall be split or sawed and packed. Forfeiture of shingles if deficiency of five in any bundle of No. 1, or if offered for sale before they are surveyed and branded.
15. Dimensions and quality of clapboards.

STAVES AND HOOPS.

16. Dimensions and quality of staves, and how enumerated.
17. Dimensions and quality of hogshead hoops; how packed and enumerated; and forfeiture of deficient bundles.
18. The articles herein before named, not to be offered for sale, before they are surveyed and branded and certificate given, under a penalty of two dollars a thousand. Forfeiture for master of vessel unlawfully exporting same, for first and second offence, and appropriation thereof.