

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

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BY THE AUTHORITY OF THE LEGISLATURE.



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**ERRATA:**

**The following two leaves are  
inserted because one or more pages  
in this chapter have errors  
noticed and corrected here.**

# ERRORS.

## ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

## ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

## ERROR IN THE COMMISSIONER'S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

## ERRORS IN THE MARGINAL REFERENCES.

- Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”
- “ 66, § 24.—Erase “*Resolve of 1837*, c. 52.”
- “ 69, § 44.—Supply “*Resolve of 1840*, c. 107.”
- “ 72, § 68.—Erase “*See c. 6*, §§ 40-67.”
- “ “ § 70.—Erase “*R. S.*, c. 2, § 66.”
- “ 79, § 12, (note b).—“*See c. 18*, § 73” should read “*See c. 18*, § 75.”  
“ “ “ “ “*See c. 30*, § 15” should read “*See c. 30*, § 16.”
- “ “ § 14.—Supply “*See c. 18*, § 75.”
- “ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”
- “ 84, § 46.—“*See c. 18*, § 67” should read “*See c. 18*, § 59.”
- “ 86, § 59, ¶ i, (note b).—“*See c. 17*, §§ 25-29” should read “*See c. 17*, §§ 27, 28.”
- “ “ “ ¶ vi, (note e).—“*See c. 18*, § 15” should read “*See c. 18*, § 17.”
- “ 92, note.—“*c. 18*, §§ 39, 103” should read “*c. 18*, §§ 39, 97.”
- “ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”
- “ 108, § 86.—“*Art. ii*, § 2” should read “*Art. ii*, § 1, ¶ 2.”
- “ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”
- “ 176, § 27.—“*Resolve of 1883*, c. 20” should read “*Resolve of 1883*, c. 86.”
- “ 183, § 5.—“*See § 93*, ¶ 6” should read “*See § 93*, ¶ v.”
- “ 202, § 102.—“1883, c. 229” should read “*See c. 115*, § 1.”
- “ 209, § 1.—Supply “1880, c. 215.”
- “ 210, § 7.—Supply “1880, c. 215.”
- “ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”
- “ 270, § 16.—Supply “1880, c. 215.”
- “ 330, § 26.—“*See c. 40*, § 77” should read “*See c. 40*, § 74.”
- “ “ § 28.—“*See c. 40*, § 38” should read “*See c. 40*, §§ 33, 40.”
- “ 374, § 23.—“*See § 17*” should read “1880, c. 234, § 1.”
- “ 384, § 74.—Add “1883, c. 138, § 3.”  
“ “ “ “ “1883, c. 144, § 4.”
- “ 506, § 1.—Supply “*See 1880*, c. 215.”
- “ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”
- “ 709, § 105.—“*See c. 134*, § 13” should read “*See c. 134*, § 19.”
- “ 773, § 42.—Supply “1883, c. 198, § 2.”
- “ 804, § 35.—“*See c. 134*, § 26” should read “*c. 134*, § 26.”
- “ 861, § 1.—“*R. S.*, c. 2, § 20,” } should read “1883, c. 221.”  
“ “ “ “*R. S.*, c. 115, § 1.” }
- “ 862, § 4.—“*See c. 63*, §§ 32 to 39” should read “*See c. 63*, § 35.”

## ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."  
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."  
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."  
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."  
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."  
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."  
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."  
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."  
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."  
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."  
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."  
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."  
 " " § 9.—Erase "60 *Me.*, 533."  
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."  
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."  
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."  
 " 728, § 12.—Erase "68 *Me.*, 30."  
 " 750, § 5.—Erase "20 *Me.*, 325."  
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."  
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."  
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."  
 " 885, § 1.—Erase "62 *Me.*, 285."  
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."  
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

## OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

file, and cause the same and all assignments of trade-mark rights to be recorded at length in his office, and is entitled to a fee of three dollars for each certificate, and one dollar for each assignment so filed and recorded. Copies of the record of any such certificate, attested by him under the seal of the State, are prima facie evidence of the right of the party filing such certificate to the exclusive use of the trade-mark therein described for the periods limited in the preceding section.

SEC. 41. Whoever reproduces, copies, counterfeits, or imitates any such recorded trade-mark, knowing the same to have been recorded, and affixes such reproduction, copy, counterfeit, or imitation to goods resembling or designed to resemble those to which such trade-mark is so appropriated, shall pay to the owner of such trade-mark double damages, besides such sum, not exceeding five hundred dollars, as the court before which the action is brought orders to be added to the damages found by the verdict or judgment.

SEC. 42. Whoever fraudulently and with intent to deceive, affixes any trade-mark recorded under this chapter, or any such imitation thereof as is calculated to deceive, to any goods, receptacle or package similar in descriptive properties to those to which such trade-mark is appropriated, or who fraudulently and with intent to deceive, places in any receptacle or package to which is lawfully affixed a recorded trade-mark, goods other than those which said trade-mark is designed and appropriated to protect; or who fraudulently and with intent to deceive, deals in or keeps for sale any goods with a trade-mark fraudulently affixed, as above described, or any goods contained in any package or receptacle having a lawful trade-mark, but not being such goods as said trade-mark was designed and appropriated to protect, shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both.

SEC. 43. This chapter does not abridge rights to any existing trade-marks, whether the same are hereafter recorded or not, nor any remedies or rights of action otherwise or heretofore existing in favor of owners of trade-marks.

## CHAP. 39.

ments, where recorded.  
—fees.  
1883, c.215, § 5.  
—copies are evidence of right to use trade-mark.

Penalty for counterfeiting such trade-marks.  
1883, c.215, § 6.

Penalty for fraudulent use of such trade-marks.  
1883, c.215, § 8.

Rights to existing trade-marks not abridged.  
1883, c.215, § 7.

## CHAPTER 40.

## FISH AND FISHERIES.

## INSPECTION OF FISH.

- SEC. 1. Inspectors of fish to be appointed by governor and council, for five years, wherever needed.
2. Oath and bond. Town officers to examine bond yearly.
3. Inspectors to make annual return to secretary of state by December tenth, to be published in state paper.
4. Remedy on bond, for neglect or misconduct of inspector.

- CHAP. 40. SEC. 5. Duty of inspectors. What quality of fish may be inspected for barrelling; size of casks, and weight of fish.
6. Mackerel, branding and inspection of.
7. Casks, quality and dimensions of, and how made.
8. Pickled alewives and herring, how packed and branded.
9. Inspectors' fees to be advanced by owners, but finally paid by buyer.
10. Smoked herring, dimensions and materials of boxes for, to be filled with same kind of fish and branded. \* What herrings are merchantable. Need not be inspected, but must be branded; otherwise forfeited.
11. Owner of smoked and pickled fish to furnish his own brand. Exception.
12. Penalty for selling or exporting uninspected or damaged fish. Exceptions.
13. On shipping, master or owner to furnish collector with inspector's certificate, and make oath. Form of oath.
14. Penalty for attempting to export uninspected fish; forfeiture and seizure; to be taken to inspector for inspection and detained until charges are paid. Penalty for refusing to aid in seizure.
15. Penalty for shifting or intermixing inspected fish; for inspector marking fish out of his town, or not inspected by him, permitting others to use his brands or using them himself after his commission expires.
16. Penalties how recovered and appropriated.

## SEA FISHERIES AND SHELL-FISH.

- SEC. 17. Seining of mackerel, herring or porgies, forbidden in smaller bays, inlets, harbors, and rivers. Penalty. Lien on vessels and seines. Seine defined.
18. Herring, taking of, for canning purposes, and packing or canning of sardines, between December fifteenth and April fifteenth. Penalty.
19. Lobsters, close time for, between August fifteenth and Nov. fifteenth.
20. Lobsters not to be canned between August first and April first. Penalty.
21. Close time for female and young lobsters, between April first and August first. Penalty.
22. Penalties, how recovered and applied.
23. Penalty for non-residents taking certain fish in any way, for residents taking them with net or seine; for destroying shell-fish; or setting nets across any stream; except as provided.
24. Permits to take shell-fish, menhaden, and lobsters for certain sum and with limitations. Inhabitants and fishermen may, at any time, for their own use, take such fish, except oysters in June, July and August.
25. Clams, towns may regulate the taking of. Otherwise, residents may take without permit. Not to apply to hotel-keepers, nor to taking for bait.
26. Owners of coast may extend temporary weirs below low water. Proviso.
27. All craft and apparatus employed in unlawful fishing, liable to seizure to satisfy all fines and costs, but to be released on payment.
28. Any inhabitant may, by consent of adjoining proprietor, plant oyster beds and have exclusive right to take oysters. Trespassers liable for damage and subject to penalty.

## INLAND FISHERIES.

- SEC. 29. Application of the following sections. Salmon, shad, alewives and white perch in certain waters, exempted.
30. This chapter does not apply to the St. Croix, and the upper St. John, nor to the taking of blue back trout. Exceptions.
31. Other waters exempted from the provisions of this chapter.
32. Definition of terms used in this chapter.

## COMMISSIONERS OF FISHERIES AND FISH WARDENS.

- SEC. 33. Commissioners of fisheries to be appointed for three years. Their duties.
34. Fish-ways to be provided and kept in repair. Appeal to county commissioners. Costs.
35. Penalty for neglect to build fish-way.
36. Time when fish-ways must be kept open. Penalty.
37. Repairs and alterations.
38. Dams owned by several persons; proceedings.
39. If owner resides out of state, proceedings.
40. Fish wardens may be appointed by governor and council. Their duties and powers. Penalty. May require aid. Their term of office.

## PROTECTION OF FISH.

- SEC. 41. Salmon, shad and other migratory fish, not to be fished for at certain points on Penobscot and Kennebec rivers. No fishing near any fish-way.
42. Close time for salmon from July fifteenth to April first. Penalty. Proviso.
43. Weekly close time for salmon, shad, alewives and bass between April first and July fifteenth. Seines, nets, &c., to be removed. Weirs to be opened. Penalty. Certain localities excepted.
44. Close time for alewives from July fifteenth to April first. Penalties.
45. Weekly close time for salmon, shad, alewives and bass on Penobscot river and branches. Penalties.
46. Smelts, taking of, restricted. Proviso as to dip-nets. Excepted localities.
47. Annual close time for land-locked salmon, trout, togue, bass and perch.
48. Penalties for violations of preceding section. Proviso.
49. Penalty for selling, or transporting land-locked salmon, trout, togue, bass or perch, during close time.
50. Possession of such fish at such times, conclusive evidence of guilt.
51. The taking of such fish by grapnel, spear, seine, or other apparatus, how punished. Apparatus forfeited, and may be destroyed.
52. Taking of salmon and other fish, with net, seine, weir or trap, except in tide waters, how punished.
53. Killing small salmon or trout, how punished. Possession, evidence of guilt.
54. Transportation of more than fifty pounds at a time, how punished. Possession, evidence of guilt.
55. Forfeiture for taking black bass in April, May and June, or from spawning beds.

## MISCELLANEOUS PROVISIONS.

- SEC. 56. Only dip-nets allowed between April first and October first.
57. The introduction of live fish or spawn of certain fish prohibited.
58. Penalty for unlawful introduction of other fish into certain waters.
59. Fish seized for violation of law may be returned to owner on bond. Condition of bond.
60. Commissioners may take or introduce fish anywhere.
61. May set apart waters for fish culture. Fine for taking fish after notice.
62. Any proprietor may inclose waters for fish culture under certain conditions.
63. Fish may be taken by owner of inclosed waters. Penalties, if he sells same for food during close times.
64. Provisions for artificial propagation of trout and salmon. Exceptions.
65. Penalties for fishing in waters where fish are artificially cultivated.
66. Sheriffs, constables, police officers and fish wardens to prosecute. Proceedings. Fees. Unlawful implements and fish, forfeited.
67. Fines and penalties how recovered. Full costs in all cases. Jurisdiction of magistrates.
68. Limits of stationary fixtures for taking fish. Exceptions.
69. How weirs shall be made and kept. Proviso. Standard of low water for Kennebec river. Weirs on sea coast and tide waters excepted.
70. Use of weir, hedge, trap, trawl, &c., in capture of fish, restricted.
71. Boats, implements and materials in unlawful use, forfeited.
72. Commissioners may delegate their powers to wardens, or other officers.
73. Penalty for throwing menhaden or herring offal into navigable waters. Penalties and forfeitures, how recovered. Vessels, boats and apparatus liable to seizure.
74. Fines and penalties for violation of certain sections, how disposed of.

## INSPECTION OF FISH.

SEC. 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, appointment of, and term of office. 1875, c. 2, § 1.



CHAP. 40.

Shall be sworn.—bond. 1875, c. 2, § 2.

—bond to be examined by town officers once a year.

—inspector to be removed, if he neglects to give sufficient bond.

He shall make return to secretary of state. 1875, c. 2, § 3.

Remedy for neglect or misdoings of inspector. 1875, c. 2, § 4.

Duty of inspectors. 1875, c. 2, § 5.

—fish, how put up.

—how branded.

Mackerel, how branded. 1875, c. 2, § 5.

—number 1.

—number 2.

—number 3, large.

—number 3.

—number 3, small.

SEC. 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 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 thereafter neglects to give a satisfactory bond, they shall give information thereof to the governor, who shall remove him from office.

SEC. 3. Every inspector shall, by the tenth day of December, annually, make a return into the office of the secretary of state of all fish by him inspected during the year preceding the first day of such December, designating the quantities, kinds and qualities of pickled fish, and the secretary shall immediately publish the same in the state paper.

SEC. 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 therefor; 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.

SEC. 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 tierces, barrels, half barrels, quarter barrels, and tenths of barrels, or kids; each tierce containing three hundred pounds, each barrel 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.

SEC. 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 "M.E.," and an abridgment in figures, of the month and the year, when packed.

SEC. 7. All tierces, 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, and branded on the side near the bung with the name of the maker or owner thereof. 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. 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, but in no case shall the inspector brand the casks unless the fish contained therein have been packed and prepared under his immediate supervision.

SEC. 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.

SEC. 10. Boxes for packing smoked herring, shall be made of sound boards sawed and seasoned; the top, bottom, and sides, of boards not less than three eighths of an inch thick, and the ends, of boards three quarters of an inch thick, securely nailed; and sixteen inches in length, eight inches in breadth, and five inches in depth, by outside measurement; *provided*, that any change in the dimensions above named does not operate to reduce their capacity, which shall not be less than four hundred and sixty-four cubic inches in the clear for each box; and each box shall be filled with the same kind and quality of fish; and no such fish are merchantable unless salted and smoked sufficiently to cure and preserve them, and then closely packed in boxes, in clear, dry weather. No inspection of smoked herring is required, but all smoked herring put up in boxes or casks for sale in the state, shall be branded on the cask or box inclosing them with the first letter of the christian name and the whole of the surname of the person putting up the same, and with the name of the state and of the place where such person lives, and all such fish offered for sale or shipping not thus branded are forfeited, half to the town where the offence is committed, and half to the person libelling the same.

CHAP. 40.  
—casks, how  
branded.

Quality of  
casks, and  
how made.  
1875, c. 2, § 6.

—dimen-  
sions.  
R. S., c. 40, § 8.

Pickled ale-  
wives, and  
herring, how  
packed and  
branded.  
1875, c. 2, § 7.  
R. S., c. 40, § 9.

Fees for in-  
spection and  
branding to  
be advanced  
by owner, and  
finally paid  
by buyer.  
1875, c. 2, § 8.

Smoked  
herring,  
dimensions  
and materials  
of boxes for.  
R. S., c. 40, § 11.

—inspection  
of smoked  
herring not  
required.  
1871, c. 209.

—boxes to be  
branded with  
names of per-  
son putting  
them up.

## CHAP. 40.

Owner to furnish brand.  
R.S., c. 40, § 12.  
1871, c. 209.

Penalty for selling or exporting uninspected or damaged fish.  
R.S., c. 40, § 13.

On shipping, master or owner to furnish collector with inspector's certificate and to make oath.  
R.S., c. 40, § 14.  
1871, c. 209.

R.S., c. 40, § 14.

—form of oath.

1871, c. 209.

R.S., c. 40, § 14.

Penalty for attempting to export uninspected fish.  
R.S., c. 40, § 15.

—trial justice may issue warrant for seizure of fish.

Penalty for intermixing inspected fish.  
R.S., c. 40, § 16.  
1871, c. 209.

—for fraud of inspector.

SEC. 11. The owner 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.

SEC. 12. Whoever sells in the state, or exports therefrom any fish in casks 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 any fish known by him to be tainted or damaged, forfeits ten dollars for every hundred weight thus sold or exported.

SEC. 13. No pickled fish in casks, and no smoked alewives in boxes, shall be shipped from the state, unless the master or owner of the vessel 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 tierces, 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 herrings, 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 branded, and no smoked herring but such as are branded, according to the laws of this state, or exempted by the provisions thereof. So help me God."

SEC. 14. 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.

SEC. 15. If any person takes from a cask or box, any pickled, cured, or smoked fish, lawfully inspected and branded, or any smoked herrings lawfully branded, and substitutes therefor or fraudulently intermixes other fish; or if an inspector marks any cask or box out of his town, or which he has not inspected, packed, and himself prepared according to law; permits other persons unlawfully to use his brands; or wilfully and

fraudulently uses the same himself after the expiration of his commission, he forfeits twenty dollars for each cask or box so dealt with.

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

## CHAP. 40.

Penalties, how recovered and appropriated. R.S., c. 40, § 17.

## SEA FISHERIES AND SHELL-FISH.

SEC. 17. The taking of mackerel, herring, porgies, or menhaden, and the fishing therefor by the use of purse and drag seines, is prohibited in all small bays, inlets, harbors or rivers, where any entrance to the same, or any part thereof from land to land, is not more than two nautical miles in width, under a penalty upon the master or person in charge of such seines, or upon the owners of said vessel, or seines, of not less than one hundred nor more than three hundred dollars, to be recovered by indictment or action of debt; one fourth of the penalty to the complainant or prosecutor, and three fourths to the county in which the proceedings are commenced; and there shall be a lien upon the vessels, steamers, boats and apparatus used in such unlawful pursuit until said penalty, with costs of prosecution, is paid; but a net for meshing mackerel or porgies, of not more than one hundred meshes in depth, and a net for meshing herring, of not more than one hundred and seventy meshes in depth, shall not be deemed a seine.

Taking or fishing for mackerel, herring and porgies, with seines, prohibited in certain waters. 1880, c. 234, § 1. —penalties, how recovered and for whose benefit. 1880, c. 234, § 3. See § 23. 1880, c. 234, § 1.

—lien upon vessels, etc. 59 Me., 291. —seine defined.

SEC. 18. Whoever catches, takes, preserves, sells, or offers for sale any herring for canning purposes less than eight inches long, measured from one extreme to the other, or packs or cans sardines of any description, between the fifteenth days of December and the following April, forfeits twenty dollars for every hundred cans so packed or canned, and for every hundred herring so taken.

Taking of herring for canning, regulated. 1883, c. 120, § 1. —packing sardines. 1883, c. 120, § 2. —penalty. 1883, c. 120, § 3.

SEC. 19. There shall be a close time for lobsters between the fifteenth days of August and November, during which no lobster shall be fished for; taken, caught, killed, bought, sold, exposed for sale, or in possession, in cars, pounds or otherwise, under a penalty of fifty dollars for the offence, and one dollar for every lobster so taken, caught, killed, bought, sold, exposed for sale, or in possession as aforesaid.

Close time for lobsters between Aug. 15 and Nov. 15. 1883, c. 138, § 1.

—penalty.

SEC. 20. No person or corporation shall can or preserve any lobsters between the first days of August and the following April, under a penalty of five dollars for every lobster so canned or preserved, and a further penalty of three hundred dollars for each day on which such unlawful canning or preserving is done.

Lobsters not to be canned between Aug. 1 and Apr. 1. 1879, c. 96, § 1. —penalty.

SEC. 21. It is unlawful to fish for, catch, buy, sell, expose for sale, or possess for canning purposes, or otherwise, between the first days of April and August, any female lobster in spawn or with eggs attached, or any young lobster less than nine inches in length, measuring from head to tail extended, exclusive of claws or feelers; and such lobsters when caught shall be liberated alive at the risk and cost of the party taking them, under a penalty of one dollar for each lobster so caught, bought, sold, exposed for sale, or in possession, not so liberated.

Close time for female and young lobsters between April 1 and Aug. 1. 1883, c. 138, § 2.

—penalty.

SEC. 22. The penalties of the four preceding sections may be recovered.

Fines, how recovered.

CHAP. 40.  
1879, c. 96, § 3.

Penalty for non-residents taking certain fish.  
R.S., c. 40, § 19.  
37 Me., 484.  
See § 17.

—or residents using nets or seines.

—destruction of shell-fish, and setting nets across streams, how punished.

Permits to take shell-fish, menhaden and lobsters.  
R.S., c. 40, § 20.  
37 Me., 484.

—who may take without permit, when and in what quantities.

Towns may regulate the taking of clams.  
1883, c. 178, § 1.

—otherwise, residents may take without permit.

—not to apply to hotel-keepers, nor taking for bait.

—penalty.  
1883, c. 178, § 2.

Owners of shore or flats may extend temporary weirs.

1883, c. 239, § 3.  
See c. 3, § 63.

All craft and apparatus employed in unlawful fishing, liable to seizure.  
R.S., c. 40, § 21.

Any inhabitant, may, by consent,

ered by indictment or action of debt, half to the complainant or prosecutor, and half to the town in which the offence is committed.

SEC. 23. No person, not a resident of the state, shall set or use any net, weir, seine, or other machine, for the taking of salmon, shad, mackerel, shell-fish, lobsters, herrings, alewives, menhaden or porgies; nor shall residents set or use any seine for the taking of mackerel, menhaden or porgies; nor shall any person take, or otherwise wilfully destroy any shell-fish, or obstruct their growth in their beds; or set any net cross-wise 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. 24. 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 seventeen, and to those not residents, to take the same and also lobsters, 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 purposes 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.

SEC. 25. A town may at any town meeting fix the times in which clams may be taken within its limits, and the prices 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 or 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 section, shall, for each offence, be fined not more than ten dollars, or imprisoned not more than thirty days, or both.

SEC. 26. Owners of shores or flats bordering on the sea coast may extend their fish weirs, the materials of which are wholly or partly removed annually, into tide waters below low water mark; *provided*, that they do not obstruct navigation nor interfere with the rights of others.

SEC. 27. All vessels, boats, craft, 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 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. 28. 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 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. Whoever trespasses on such inclosure, or injures such oyster beds, is liable in an action of trespass for all the damage; 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.

## CHAP. 40.

plant oyster beds and have exclusive right thereto. 1878, c. 75, § 12. —penalty for trespass.

## INLAND FISHERIES.

SEC. 29. The following sections apply to all fresh waters above the flow of the tide, and to all tidal waters frequented by the various species of fresh water and migratory fishes, except to the capture of salmon, shad and alewives in Denny's river and its tributaries, and Pinmaquan river and its tributaries, and to the taking of white perch in tide waters, or in the stream between Grand lake on the St. Croix waters and Syslodobsis lake, known as Dobsis stream, or within two hundred yards of the head and mouth of said stream, and except as provided in the two following sections.

Provisions following not applicable to certain waters. R.S., c. 40, § 23. —white perch in tide waters exempt. 1878, c. 75, § 18. —and in Dobsis stream. 1879, c. 98.

SEC. 30. This chapter does not apply to that portion of the St. John river and its tributaries lying above Grand Falls in New Brunswick; nor to fish taken in the weirs on St. Croix river; and does not repeal the laws relating to the St. Croix, Denny, Pemmaquam, Cobscook, East Machias and Narraguagus rivers; nor does it apply to the taking of blue-back trout; except that no person shall fish for, catch, take, kill, or destroy the same, with net, seine, weir or trap, under a penalty of five dollars for the attempt, and one dollar for each blue-back trout so taken, caught, killed or destroyed, to be recovered by complaint.

Other waters exempt. R.S., c. 40, § 49. —weirs in St. Croix river. 1878, c. 75, § 28. 70 Me., 197. Restrictions, as to blue-back trout. 1878, c. 75, § 27. 1880, c. 180. 1883, c. 130.

SEC. 31. The following waters and their tributaries are exempt from provisions relating to migratory fishes, and the supervision of fish-ways by the commissioners, that is to say: Royall's river in North Yarmouth; Sewall's pond or its outlet in Arrowsic; Nequasset stream in Woolwich; so much of the waters of Damariscotta river as are west of the railroad bridge near Damariscotta Mills; Duck trap stream in Lincolnville and Belmont; the eastern Penobscot river in Orland; Winslow's and Leach's streams in Penobscot; all waters in Vinalhaven, Bluehill, Tremont, Mount Desert, Eden, Franklin and Sullivan; Tunk river in Steuben; Pleasant river in Washington county; East Machias river, and Cobscook or Orange river in Whiting.

Other waters exempted from provisions relating to migratory fish. 1878, c. 23. See special acts, 1822, c. 46, 1836, c. 153, 1828, cc. 530, 541, 546; 1830, c. 117; 1834, cc. 155, 402; 1858, c. 147.

SEC. 32. For the purpose of the following sections the term "salmon" means the common migratory salmon of the sea coast and rivers; the term "land-locked salmon" means any of the species or varieties of salmon that do not periodically and habitually run to the sea, being the same locally known as "salmon trout" and "black-spotted trout;" the term "alewife" means the small species of migratory fish commonly called "alewife," but known also by the local names of "herring" and "gaspereau," and also includes the similar species found in tidal waters and

Definition of terms used in the remainder of this chapter. R.S., c. 40, § 24.

CHAP. 40. known as "blue-back;" and the term "bass" means the striped bass of tidal waters:

COMMISSIONERS OF FISHERIES AND FISH WARDENS.

Commissioners of fisheries how appointed. 1878, c. 75, § 1.  
—term of office.  
—duties.

SEC. 33. The governor, with the advice and consent of council, shall appoint one or two persons, as they think best, to be commissioners of fisheries, who shall hold office for three years unless sooner removed, and have a general supervision of the fisheries, regulated by the following sections. Commissioners shall examine dams and all other obstructions existing in all rivers and streams, and determine the necessity of fish-ways and the location, form and capacity thereof; visit those sections where fisheries regulated by this chapter are carried on, and examine into the working of the laws; introduce and disseminate valuable species of fish into waters where they do not exist, and perform all other duties prescribed by law. They shall report annually on or before the thirty-first day of December, to the governor, who shall cause three thousand copies to be printed. They shall see that violations of the fish laws are duly prosecuted.

—report.

Fish-ways to be provided. 1878, c. 75, § 2.

SEC. 34. The owner or occupant of every dam or other artificial obstruction in any river or stream naturally frequented by salmon, shad or alewives, shall provide the same with a durable and efficient fish-way, of such form and capacity, and in such location as may, after notice in writing to one or more of said owners or occupants and a hearing thereon, be determined by the commissioners of fisheries, by written notice to some owner or occupant, specifying the location, form and capacity of the required fish-way, and the time within which it shall be built; and said owner or occupant shall keep said fish-way in repair, and open and free from obstruction for the passage of fish, during such times as are prescribed by law; *provided*, that in case of disagreement between the commissioners of fisheries and the owner or occupant of any dam, as to the propriety and safety of the plan submitted to the owner or occupant of such dam for the location and construction of the fish-way, such owner or occupant may appeal to the county commissioners of the county where the dam is located, within twenty days after notice of the determination of the fishery commissioners, by giving to the fishery commissioners notice in writing of such appeal within that time, stating therein the reasons therefor, and at the request of the appellant or the fishery commissioners, the senior commissioners in office of any two adjoining counties shall be associated with them, who shall appoint a time to view the premises and hear the parties, and give due notice thereof, and after such hearing they shall decide the question submitted, and cause record to be made thereof, and their decision shall be final as to the plan and location appealed from. If the requirements of the fishery commissioners are affirmed, the appellant shall be liable for the costs arising after the appeal, otherwise they shall be paid by the county.

—hearing and notice. R.S., c. 40, § 27.

—fish-ways to be kept in repair. 1878, c. 75, § 2.

—appeal to county commissioners.

—costs.

Penalty for neglect to build fish-way. 1878, c. 75, § 3.

SEC. 35. If a fish-way thus required is not completed to the satisfaction of the fishery commissioners within the time specified, every owner or occupant forfeits not more than one hundred nor less than

twenty dollars for every day of such neglect between the first days of May and November. CHAP. 40.

SEC. 36. On the completion of a fish-way to the satisfaction of said commissioners, or at any subsequent time, they shall prescribe in writing the time during which the same shall be kept open and free from obstruction to the passage of fish each year, and a copy thereof shall be served on the owner or occupant of the dam. The commissioners may change the time as they see fit. Unless otherwise provided, fish-ways shall be kept open and unobstructed from the first day of May to the fifteenth day of July. The penalty for neglecting to comply with this section, or with any regulations made in accordance herewith, is not less than twenty nor more than one hundred dollars for every day of such neglect.

Time during which fish-ways shall be kept open. 1878, c. 75, § 4.

—penalty.

SEC. 37. Whenever the commissioners find a fish-way out of repair or needing alterations, they may, as in case of new fish-ways, require the owner or occupant to make such repairs or alterations; and all proceedings in such cases, and the penalty for neglect, shall be as provided in the three preceding sections, without appeal.

Repairs and alterations of fish-ways. 1878, c. 75, § 5.

SEC. 38. If the dam is owned or occupied by more than one person, each is liable for the cost of erecting and maintaining such fish-way, in proportion to his interest in the dam, and if any owner or occupant neglects or refuses to join with the others in erecting or maintaining such fish-way, the other owners or occupants shall erect or repair the same, and have an action on the case against such delinquent for his share of the expenses.

Proceedings where dam is owned or occupied by more than one person. 1878, c. 75, § 6.

SEC. 39. If the owner or occupant of such dam resides out of the state, said penalties may be recovered by a libel against the dam and land on which it stands, filed in the supreme judicial court in the county where it is located, in the name of the commissioners of fisheries or of any fish warden, who shall give to such owner or occupant, and all persons interested therein, such notice as the court, or any justice thereof in vacation, orders, and the court may render judgment therein against said dam and lands for said penalties and costs, and order a sale thereof to satisfy such judgment and costs of sale, subject, however, to all said requirements for the erection, and maintenance or repair of said fish-way.

Proceedings, if owner or occupant resides out of state. 1878, c. 75, § 7.

SEC. 40. The governor, with the advice and consent of council, may appoint wardens, who shall enforce all laws relating to game and the fisheries, arrest all violators thereof, and prosecute all offences against the same; they shall have the same power to serve criminal processes against such offenders, and shall be allowed the same fees as sheriffs for like services; they shall have the same right as sheriffs and their deputies to require aid in executing the duties of their office; and whoever refuses or neglects to render such aid when required, forfeits ten dollars, to be recovered upon complaint. Fish wardens shall hold office for three years, unless sooner removed.

Appointment of wardens, duties and powers. 1880, c. 208, § 2.

—may require aid.

—penalty for refusal.

—term of office. 1878, c. 75, § 8.

#### PROTECTION OF FISH.

SEC. 41. No salmon, shad, or other migratory fish shall be taken or

Salmon, shad, &c.,



## CHAP. 40.

not to be taken or fished at certain points on Penobscot and Kennebec rivers from April 1 to Nov. 1—except by ordinary angling. 1879, c. 143, § 1.  
—no fishing near any fish-way.  
—penalty.

Yearly close time for salmon from July 15 to April 1. 1880, c. 187. 70 Me., 197.  
—penalty.  
—proviso.

Weekly close time of forty-eight hours from April 1 to July 15. R.S., c. 40, § 33.

—seines, nets, &c., to be removed; weirs to be opened.

—weekly close time not to apply to certain rivers. 1874, c. 157.

Close time for alewives from July 15 to April 1. 1881, c. 77.

—dip-nets. See § 56.

Weekly close time for taking salmon, shad, alewives or bass, on Penobscot river and branches.

fished for within five hundred yards of any fish-way, dam or mill-race; nor between the Bangor and Brewer bridge over the Penobscot river 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, 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 fish-way, dam or mill-race. The penalty for violation of this section is a fine of not more than fifty nor less than ten dollars for each offence, and a further fine of ten dollars for each salmon, and one dollar for each shad, so taken.

SEC. 42. 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.

SEC. 43. 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 intent that during said close time the fish may have a free and unobstructed passage through such 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 offence. This section does not apply to the Kennebec, Androscoggin, or Penobscot rivers or their tributaries, or to the St. Croix river, below the breakwater, at the ledge.

SEC. 44. No alewives shall be taken, killed or fished for, between the fifteenth day of July and the first day of the following April, nor at any time in non-tidal or non-navigable waters, by any net other than the ordinary hand dip-net, under penalty of ten dollars for each offence, and one dollar additional for each fish so taken or killed.

SEC. 45. Between the first day of April and the fifteenth day of July, there shall be a weekly close time of four days, from sunrise on Sunday to sunrise on Thursday, during which no salmon, shad, alewives or bass shall be taken from or destroyed in the Penobscot river or its branches above the water works dam at Treat's Falls on said river; but

between said Thursdays and Sundays at sunrise, any of said fish may be taken in said waters above said bridge. Violators of this section forfeit fifteen dollars for each salmon, and five dollars for each other fish aforesaid, taken from or destroyed in said waters during the period above interdicted.

SEC. 46. No smelts shall be taken or fished for in tidal waters, except by hook and line, between the first days of April and October, under a penalty of not less than ten, nor more than thirty dollars for each offence, and a further penalty of twenty cents for each smelt so taken; and all weirs for the capture of smelts shall be opened, and so remain, and all nets used in the smelt and tom-cod fishery shall be taken from the water on or before said first day of April, under a penalty of not less than twenty, nor more than fifty dollars, and a further fine of five dollars for each day that any such weir or net remains in violation of law; but weirs with catch-pounds, covered with net, the meshes of which are one inch square in the clear, or greater, are not subject to this section. *Provided, however,* that dip-nets may be used between the first and twentieth days of April. *Provided, further,* that this section does not apply to smelts taken in the Androscoggin river above the Merrymeeting Bay bridge, between the first days of October and November, nor to smelts taken in the Penobscot river and its tributaries, between the first and fifteenth days of April.

SEC. 47. There shall be an annual close time for land-locked salmon, commonly so called, trout, togue, black bass, Oswego bass and white perch, as follows, viz.: For land-locked salmon, trout and togue, between the first days of October and the following May, except on the St. Croix river and its tributaries and all the waters in Kennebec county, in which the close time is between the fifteenth day of September and the first day of the following May; and for black bass, Oswego bass and white perch, between the first days of April and July.

SEC. 48. No person shall take, catch, kill or fish for, in any manner, any land-locked salmon, trout or togue, in any of the waters aforesaid, between said first days of October and the following May, nor in the St. Croix river and its tributaries, between the fifteenth day of September and the first day of the following May; or black bass, Oswego bass or white perch between the first days of April and July, under a penalty of not less than ten nor more than thirty dollars, and a further fine of one dollar for each fish thus caught, taken or killed. *Provided, however,* that during February, March and April, citizens of the state may fish for and take land-locked salmon, trout and togue, and convey the same to their own homes, but not otherwise.

SEC. 49. No person shall sell, expose for sale or have in possession with intent to sell, or transport from place to place, any land-locked salmon, trout or togue, between the first days of October and the following May; or any black bass, Oswego bass or white perch, between the first days of April and July, under a penalty of not less than ten nor more than fifty dollars for each offence.

SEC. 50. Any person having in possession, except alive, any land-

## CHAP. 40.

1876, c. 67.  
70 Me., 196,  
199.—when law-  
ful to take  
said fish.

—penalty.

Smelts,  
taking of,  
restricted.  
1881, c. 67.

—penalty.

—proviso.  
1879, c. 108.  
See § 56.—excepted  
localities.  
1879, c. 122.Close time  
for land-  
locked sal-  
mon, trout,  
togue, bass,  
and perch.  
1879, c. 123, § 2.  
—except in  
certain  
waters.Penalties for  
violations of  
the foregoing  
section.  
1879, c. 123, § 3.

—proviso.

Penalty for  
selling, or  
offering for  
sale, trout,  
bass, &c.,  
during  
close times.  
1879, c. 123, § 4.

Persons hav-

**CHAP. 40.**

ing in possession or transporting from place to place, trout and fish named,—deemed guilty of violating law. 1879, c.123, § 5.

Taking salmon and other fish with grapnel, spear, net, seine, and similar devices, prohibited. 1873, c.75, § 14.—penalty. 63 Me., 266.—nets, seines, &c., forfeited and liable to be destroyed.

Fishing with net, seine, weir or trap, save in tide waters, punished. 1883, c.144, § 1. Killing small salmon or trout, how punished. 1883, c.144, § 2.—possession, evidence of guilt.

Transportation of more than fifty pounds at a time, how punished. 1883, c.144, § 3.

—possession, conclusive evidence of guilt.

Fine for taking black bass in April, May or June. R.S., c.40, § 57.

Migratory fishes protected.

locked salmon, trout or togue, between the first days of October and the following May, or any black bass, Oswego bass or white perch, between the first days of April and July, or who transports from place to place within the state any land-locked salmon, trout or togue, between the first days of October and May following, or black bass, Oswego bass or white perch, between the first days of April and July, shall be deemed to have killed, caught or transported the same contrary to law, and be liable to the penalties aforesaid.

SEC. 51. Whoever at any time catches, takes, kills, or fishes for any sea salmon or land-locked salmon, trout, togue, black bass, Oswego bass, or white perch, by means of grapnel, spear, trawl, weir, net, seine, trap, spoon, set line, or with any device or in any other way than by the ordinary mode of angling with a single baited hook and line, or with artificial flies, forfeits not less than ten nor more than thirty dollars for each offence, besides one dollar for each fish so caught, taken or killed. And all set lines, grapnels, spears, trawls, weirs, nets, seines, traps, spoons, and devices other than fair angling as aforesaid, are prohibited in all fresh water lakes, ponds and streams; and when found in use or operation in said waters, they are forfeit and contraband, and any person finding them in use therein may destroy them.

SEC. 52. Whoever fishes for, takes, catches, kills or destroys any fish, except in tide waters, with net, seine, weir or trap, forfeits fifty dollars for the offence and ten dollars for each salmon or land-locked salmon, so taken, caught, killed or destroyed.

SEC. 53. Whoever kills or destroys any sea salmon or land-locked salmon less than nine inches in length, or any trout less than five inches in length, forfeits five dollars for the offence and fifty cents for every land-locked salmon or trout so killed or destroyed. Whoever has in possession any salmon or trout of less than the above dimensions shall be deemed to have taken them in violation of this section.

SEC. 54. No person shall take, catch, kill, or have in possession at any one time for the purpose of transportation more than fifty pounds of land-locked salmon or trout, or of both, nor shall any such be transported except in the possession of the owner thereof, under a penalty of fifty dollars for the offence and five dollars for every pound of land-locked salmon or trout, or both, so taken, caught, killed, in possession, or transportation, in excess of fifty pounds; and all such fish transported in violation of this section, may be seized, on complaint, and shall be forfeited to the prosecutor. Whoever has in possession more than fifty pounds of such fish, shall be deemed to have taken them in violation of this section.

SEC. 55. Whoever takes any black bass during April, May and June, or at any time from their spawning beds, forfeits for each offence not more than twenty nor less than five dollars, besides one dollar for each black bass so taken.

## MISCELLANEOUS PROVISIONS.

SEC. 56. No net other than a dip-net, the meshes of which are smaller than one inch square in the clear, shall be used in any waters frequented

by migratory fishes except the St. Croix river, between the first days of April and October, under a penalty of not more than twenty nor less than ten dollars for each offence.

SEC. 57. No muscullonge, pickerel, pike, sunfish or bream, yellow perch or black bass shall be introduced, by means of live fish or spawn, to any waters where they do not now severally exist, except as hereinafter provided, under a penalty of not more than two hundred nor less than fifty dollars.

SEC. 58. Whoever introduces fish of any kind, except trout, fresh and salt water salmon, fresh water smelts, blue-back trout, and minnows, by means of live fish or otherwise, into any waters now frequented by trout or salmon, except as hereinafter provided, forfeits not less than fifty nor more than five hundred dollars.

SEC. 59. Any person whose fish has been seized for violation of a fish law, shall have such returned to him on his giving to the officer a bond with sufficient sureties, residents of the state, in double the amount of the fine for the same; conditioned, that if the final judgment is guilty, he will, within thirty days thereafter pay such fine and costs. If he neglects or refuses to give such bond and to take the fish so seized, he shall have no action against the officer for such seizure or loss thereof.

SEC. 60. The commissioners of fisheries may take fish of any kind when, where, and in such manner, as they choose, for the purposes of science and of cultivation and dissemination; and they 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.

SEC. 61. They may set apart any waters for the cultivation of fish, and after notice for three weeks successively in some newspaper published in the county where such waters are located, no person shall take, kill or fish for any fish therein, under a penalty of not less than ten nor more than one hundred dollars, besides one dollar for each fish so taken or killed.

SEC. 62. Any riparian proprietor may, within the limits of his own premises, inclose the waters of a stream not navigable, for the cultivation of useful fishes; *provided*, that he furnishes suitable passages for migratory fishes naturally frequenting such waters, and does not obstruct the passage of boats and other craft and materials in places where the same have a right to pass.

SEC. 63. Any person legally engaged in the artificial culture and maintenance of fishes, may take them in his own inclosed waters wherein the same are so cultivated and maintained, as and when he pleases, and may at all times sell them for cultivation and propagation, but he shall not sell them for food at seasons when the taking thereof is prohibited, under a penalty of not less than ten nor more than one hundred dollars, and a further penalty of not less than one dollar for each fish so sold.

SEC. 64. Any person engaged in the artificial propagation of trout, or fresh and salt water salmon, when the parent fish are taken from public waters in the state, shall retain not less than twenty-five per cent. of all eggs taken from said parent fish and cause the same to be properly

## CHAP. 40.

1874, c. 248.  
1875, c. 11.  
See § 44.

Introduction of live fish or spawn of certain fish, prohibited.  
R.S., c. 40, § 41.

Penalty for unlawful introduction of fish into trout or salmon waters.  
1878, c. 75, § 19.

Fish seized for violation of law may be returned to owner on bond.  
—condition.  
1883, c. 153.  
See c. 30, § 14.

Com'rs may take fish at any time for cultivation, or may introduce fish anywhere.  
1878, c. 75, § 20.

They may set apart waters for cultivation of fish.  
1879, c. 143, § 3.  
—fishing or killing fish there, after notice, punished.

Waters may be inclosed for cultivation of fish.  
R.S., c. 40, § 51.  
73 Me., 450.  
—proviso.

Fish may be taken by owner of inclosed waters.  
1878, c. 75, § 22.

—penalty for selling for food during close times.

Provisions for artificial propagation of certain fish.  
1879, c. 126.

## CHAP. 40.

—penalty for violation of foregoing provisions.  
—exception.

—further exception.

Fine for fishing in water where fish are artificially cultivated.  
1878, c. 75, § 24.

1874, c. 170.

Sheriffs, constables, police officers and wardens to prosecute.  
1878, c. 75, § 25.  
—proceedings.  
—fees.

See c. 116, § 5.  
—unlawful implements and fish forfeited.  
R.S., c. 40, § 47.

Fines and penalties, how recovered.  
1878, c. 75, § 26.

—costs.

—jurisdiction of municipal and police courts and trial justices.  
1883, c. 130.

Limit of weirs and other stationary fixtures for taking fish.  
R.S., c. 40, § 34.

—exception.

cared for and hatched, and when hatched and in proper condition, to be returned to a place suitable for such young fish in the original waters from which the parent fish were taken, and shall cause said parent fish to be returned to safe locations in such waters, under a penalty of not less than fifty nor more than five hundred dollars for each offence. But this section does not apply to cases in which the parent fish are taken in the manner and at the time and place permitted for the capture of such fish for food; nor to operations in fish-culture conducted for public purposes by permission of the commissioners of fisheries, who may affix such conditions to their permits as they see fit, requiring in no case less than twenty-five per cent. of the young fish to be returned, as provided in this section.

SEC. 65. No person, without permission of the proprietor, shall fish in that portion of a pond or other water in which fish are artificially cultivated or maintained by written permission of the fish commissioners, under a penalty of not less than ten nor more than one hundred dollars, besides two dollars for each fish so taken or killed; and in default of payment such offender shall be imprisoned at the expense of the prosecutor, until said forfeiture is paid or otherwise discharged by due process of law.

SEC. 66. It shall be the duty of all sheriffs, deputy sheriffs, constables and police officers, as well as fish wardens and their deputies, to cause any person violating either of the sections from thirty-four to sixty-five inclusive, to be promptly prosecuted, either by complaint, or by giving information to the county attorney. Said officers shall be allowed for said services the same fees as sheriffs and their deputies. They may seize any implement used in illegal fishing, and may render any weir, unlawfully built or maintained, incapable of taking fish, and may, on view, seize any fish taken or possessed in violation of law.

SEC. 67. All fines and penalties named in sections thirty-five to sixty-five, inclusive, unless otherwise provided, may be recovered by complaint, indictment, or action of debt; and in all actions of debt commenced in the supreme judicial or superior court, the plaintiff prevailing recovers full costs, without regard to the amount recovered. Judges of municipal and police courts and trial justices, have concurrent jurisdiction of all offences described in said sections, when the penalty does not exceed thirty dollars. Where the offence is alleged to have been committed in any river, stream, pond or lake forming a boundary between two counties, or where the fish are caught in one county and carried to another, the action, complaint, or indictment may be commenced and prosecuted in either.

SEC. 68. 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 depth 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 the Penobscot river, bay or tributaries.

SEC. 69. The limit of depth prescribed for weirs in the preceding section shall be measured at the entrance of the weir, *provided*, that no part of such weir known as the leader, is in more than two feet of water at low water mark. Weirs may exceed the limit of two feet depth, measured as aforesaid, under the following conditions, namely; 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 section do not apply to fish weirs built on the sea shore.

SEC. 70. No weir, hedge, trap, trawl, or any net other than a dip-net shall be used for the capture of any fresh water fish under a penalty of not more than fifty nor less than ten dollars, besides one dollar for every fish so taken. And such structure or implement used in any fresh water above the flow of the tide, shall be deemed to be used in violation of this section unless it is shown to be authorized by some special act or to have been used in a bona fide fishery for salmon, shad or alewives.

SEC. 71. All boats, implements and materials used, and all fish taken in violation of this chapter, are forfeited.

SEC. 72. The commissioners of fisheries may delegate to any fish warden or other lawful officer of fisheries any of the powers given to said commissioners in relation to the construction of fish-ways.

SEC. 73. Whoever casts or deposits, or causes to be thrown or deposited into any navigable waters any pomace, scraps or other offal arising from the making of oil or slivers for bait from menhaden or herring, forfeits not less than fifty, nor more than one thousand dollars for each offence, to be recovered by indictment or action of debt in the name and to the use of the county in which the offence is committed; and there shall be a lien on all boats, vessels, crafts and apparatus of every kind in the possession of any person violating this section, whether owned by him or not; they may be attached in such action, and held to respond to the judgment for the penalties, forfeitures and costs as in other cases, and any trial justice on complaint, may cause the arrest of the accused, and seizure of the property alleged to be forfeited, and may detain the same until a trial may be had; and on conviction, said property shall be decreed forfeited to the uses aforesaid, to be sold in the same manner as goods taken on execution, and the balance, after deducting fines and costs, shall be paid to the person legally entitled to receive it.

SEC. 74. All fines and penalties recovered for violations of sections thirty, forty-one to forty-six, inclusive, forty-eight to fifty-eight, inclusive, sixty-one, sixty-three to sixty-five, inclusive, sixty-eight and seventy shall be paid, half to the prosecutor and half to any game and fish

## CHAP. 40.

How weirs shall be made and kept.  
—proviso.  
1880, c. 175.

—standard of low water for Kennebec river.

—exception.  
1883, c. 239, § 3.

No weir, hedge, trap, or trawl to be used in capture of fresh water fish.  
R.S., c. 40, § 40.

Forfeitures.  
R.S., c. 40, § 44.

Commissioners may delegate powers over fish-ways.

R.S., c. 40, § 48.

Penalty for throwing menhaden or herring offal into navigable waters.  
R.S., c. 40, § 55.

—penalties and forfeitures, how recovered.  
R.S., c. 40, § 56.

Fines and penalties for violation of certain sections, how disposed of.

CHAP. 40. protective society or other association or associations, or to the fish commissioners as provided in section twenty-six of chapter thirty, and under the conditions therein imposed; and all other fines and penalties imposed in this chapter, shall be paid, half to the prosecutor, and half to the county where the proceedings are commenced and prosecuted.

1883, c. 130.

1878, c. 75, § 26.

NOTE. The following public acts relating to the taking of fish are not incorporated in this chapter, being of local interest only, viz. :—in

Kennebec and Somerset counties, ponds in, 1859, c. 65; see 1868, c. 493, (special).  
Moosehead lake, 1858, c. 20.  
Oxford and Franklin counties, certain lakes in, 1867, c. 86.

See also the following special laws on the same subject, viz. :—in reference to

Androscoggin river, certain tributaries of, 1874, c. 550.  
Bagaduce river and tributaries in Hancock county, 1878, c. 44; 1883, c. 280.  
Barrell's Mill pond in York, 1881, c. 72.  
Blunt's pond in Lamoine, 1875, c. 163.  
Casco Bay, 1877, cc. 331, 374. (Seals.)  
Cathance lake, 1867, c. 179.  
Chandler's river, 1860, c. 470; 1865, c. 434.  
Chase's pond in York, 1875, c. 180.  
Cobbossee Contee Great pond, 1862, c. 142.  
Cupsuptic or Mooselucmaguntic lakes in Franklin county, 1863, c. 260.  
Damariscotta pond, 1862, c. 155; 1874, c. 471; 1881, c. 101.  
Damariscotta pond and river, 1878, c. 34.  
Damariscotta river, 1821, c. 50; 1848, c. 161; 1862, c. 171; 1867, cc. 190, 320; 1874, c. 420.  
Denny's river, (Salmon,) 1841, c. 110; 1864, c. 364; 1881, c. 90; (Alewives) 1865, c. 502; 1879, c. 105; 1881, c. 26.  
East Machias waters, 1833, c. 320; 1859, c. 317; 1867, c. 186; 1869, c. 226.  
Fore river in Cumberland county, 1879, c. 150.  
Fryeburg Academy Grant, ponds in, 1876, c. 221.  
Georges river and tributary streams, 1881, c. 106. (Oysters.)  
Goose pond, 1864, c. 377.  
Grand lake stream, 1867, c. 304.  
Hewes pond in Hermon, 1876, c. 200, as amended by 1881, c. 62.  
Hobbs' Mill pond in Farmington, 1876, c. 229.  
Kennebago, Rangely, Cupsuptic, Mooselucmaguntic, Mollychunkamunk, and Welokennebacook lakes, 1881, c. 21.  
Kennebec river, 1878, c. 57.  
Low's mill stream or waters of St. Croix river, 1859, c. 258.  
Lovejoy pond in Albion, 1872, c. 101; 1880, c. 245.  
Maguerrawock or Beaver lakes, 1867, c. 333.  
Medomak river in Lincoln county, 1874, c. 509; 1876, c. 204; 1879, c. 123; 1881, c. 73.  
Messabesic pond and its outlet, in Alfred, 1883, c. 233.  
Middle river in Marshfield, 1860, c. 461.  
Millbridge, waters in, and Narraguagus bay, 1881, c. 119.  
Monson, Elliotsville and Willimantic, certain lakes and ponds in, 1883, c. 219.  
Monsweag bay, 1876, c. 279, as amended by 1877, c. 361.  
Narraguagus bay, 1881, c. 119.  
Narraguagus river, 1828, c. 503; 1876, c. 254.  
Orneville, ponds and streams in, 1866, c. 121.  
Orrington and Bucksport, certain ponds in, 1878, c. 65.  
Otter ponds in Standish, 1877, c. 347.  
Patten's bay in Surry, 1876, c. 203.  
Penamaquon and Borden's lake and tributary waters, 1857, c. 66.  
Penamaquon river in Pembroke, 1871, c. 660.  
Piscataqua river or its tributaries, 1866, c. 136; 1874, c. 573.  
Pushaw lake and tributaries in Penobscot county, 1866, c. 109; 1876, c. 226.  
Range and Tripp ponds in Poland, 1866, c. 137.  
Raymond, ponds and streams in, 1874, c. 465.  
St. Croix river, 1849, c. 25; 1858, c. 206.  
Salt pond, and at Thurston's Mills in Hancock county, 1880, c. 208.

Sanborn Brothers' pond in Baldwin, 1878, c. 46.

Shoodiac waters, 1857, c. 59.

Sebago lake, Brandy pond, Long pond, Crooked river, Thompson pond, Saturday pond, Moose pond, 1858, c. 232; 1861, c. 89.

Sewall's pond or its outlets, 1858, c. 147.

Twenty-Five Mile pond in Waldo county, 1872, c. 60.

Warren, to amend an act to regulate the shad and alewife fishery in the town of, passed March 6, 1802, 1868, c. 574; 1878, c. 49.

Winnegance creek, 1865, c. 472; 1878, c. 43; 1881, c. 150.

Worthley pond and brook in Poland, 1872, c. 171.

See also special laws, relating to pickerel, 1846, c. 353; 1852, c. 506; 1869, c. 76; 1854, c. 280, 355; 1859, cc. 285, 354; 1862, c. 144; 1864, c. 328.

The special laws given below expire by express limitation as follows:—in

1884, Pleasant pond in Garland, 1881, c. 79, expires July 1.

1885, Certain lakes in Aroostook county, 1880, c. 253.

Hosmer pond in Camden, 1881, c. 22.

Sunday pond in Oxford county, 1876, c. 212.

(This act expired in 1880 but was extended on certain conditions.)

Wilson pond in Greenville, 1880, c. 278.

1886, Berry, Dexter and Wilson ponds, 1876, c. 235.

Bunganeaut pond, in Alfred and Lyman, 1883, c. 269.

Cold Stream pond in Enfield, 1881, c. 32.

Great Watchic pond in Standish, 1881, c. 88.

Jose's brook, in Standish, 1883, c. 302.

Lufkin pond in Philips, 1881, c. 52.

Tuft's pond, and Grindstone pond, in Kingfield, 1883, c. 205.

Wilson pond in Auburn, 1881, c. 89.

1888, Bryant's brook and Beaver brook, in Scarborough, 1883, c. 245.

Pennesseewassee and Hobbs' ponds, in Norway, 1883, c. 213.

Perkins brook in North Berwick, Wells and Sanford, 1878, c. 35.

1889, Letter B pond in Upton, 1874, c. 539.

1890, Rangely, South Bog, Bemis, Cupsuptic, and Kennebago streams, 1880, c. 280.

## 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.
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 measurement.
4. Ticket, stating quantity and driver's name, required before wood is 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.

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

#### HARD COAL.

- SEC. 11. Hard coal to be sold by weight, and two thousand pounds to be a ton.
12. Weighers of hard coal to be appointed by town officers, and sworn.
13. Coal, unless sold by the cargo, on request of buyer, to be weighed by a sworn weigher; or pay not recoverable.