

MAINE STATE LEGISLATURE

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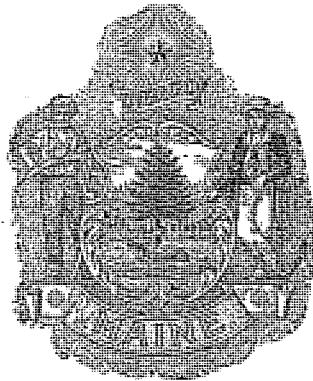
SIXTH REVISION

THE
REVISED STATUTES

OF THE

STATE OF MAINE

PASSED SEPTEMBER 29, 1916, AND TAKING
EFFECT JANUARY 1, 1917



By the Authority of the Legislature

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Sec. 43. Metallurgical cabinet shall be established. R. S. c. 40, § 61. It shall establish a metallurgical cabinet of exhibit of the state in such room in the state house, as the superintendent of public buildings may direct, and in such cabinet they shall properly arrange samples and specimens of ores, valuable rocks and metals of the state collected by them, for the safe keeping and preservation of same.

Sec. 44. Report. R. S. c. 40, § 62. It shall biennially issue a pamphlet containing such reliable information concerning the mineral resources of the state as it has collected, and shall distribute at least one thousand copies of such pamphlet among the business men and capitalists of other states.

CHAPTER 45.

Sea and Shore Fisheries.

- Sections 1-4 Department of Sea and Shore Fisheries.
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Department of Sea and Shore Fisheries.

Sec. 1. Commissioner of sea and shore fisheries, appointment, term, duties, report; record of prosecutions. R. S. c. 41, § 1. 1905, c. 16, § 1. 1913, c. 131. The governor, with the advice and consent of the council, shall appoint a commissioner who shall have general supervision of the sea and shore fisheries and shell-fish regulated by this chapter and shall hold his office for three years and until his successor is appointed and qualified. He shall exercise supervision over all the fisheries and their products taken from tide-waters within the state, including the proper enforcement of all laws relating to the catching, packing, curing, manufacturing, branding and transportation of all kinds of pickled, salt, smoked, fresh, canned, or frozen shell or other fish. He shall make a detailed biennial report in the month of December, showing the amount of capital invested in, number of men employed in, value of products of, and any other information that he may be able to obtain relating to the sea and shore fisheries, excepting the sardine fishery, concerning which no statement or estimate of the number of cases packed shall be made. He shall keep a record of all prosecutions for violations of this chapter; the names of persons or firms prosecuted, the fines imposed and collected in each case, and the final disposition of the same, and submit the same in his report to the governor.

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Sec. 2. Appointment of fish wardens; term; powers and duties; bond. Appointment of deputy wardens. R. S. c. 41, § 2. The governor with the advice and consent of the council upon the recommendation of the commissioner of sea and shore fisheries, may appoint suitable persons as fish wardens, who shall hold office for the term of three years unless sooner removed, and shall enforce all laws and the rules and regulations relating to sea and shore fisheries, arrest all violators thereof, and prosecute all offenses against the same; they shall have the same power to serve criminal processes against such offenders, and shall be allowed the same fees as sheriffs for like services; they shall have the same right as sheriffs to require aid in executing the duties of their office. They shall, before being qualified to discharge the duties required by this chapter, give bond with two good and sufficient sureties or with a surety company authorized to do business in the state, as surety, in the penal sum of two thousand dollars, approved by the commissioner of sea and shore fisheries, to the treasurer of state, conditioned for the faithful performance of the duties of their office. The commissioner of sea and shore fisheries may appoint deputy wardens, for whose official misconduct and neglect he shall be answerable, and said deputy wardens shall be sworn. Their appointment and discharge shall be in writing. Such deputy wardens shall be subject to all the laws pertaining to wardens appointed by the governor and council, and have the same powers. And said commissioner may revoke such appointment at any time.

99 Me. 229; 107 Me. 349.

Sec. 3. Authority of commissioner, wardens and deputy wardens to enforce laws relating to sea and shore fisheries; use of search warrants. R. S. c. 48, § 3. 1905, c. 108. 1915, c. 235, § 1. Fish wardens and deputy wardens shall be held to be officers with all the powers of sheriffs within the meaning of that term as used in the general law, and shall have jurisdiction and authority in all the counties of the state, and in all the waters within the jurisdiction of the state. They shall enforce all laws relating to the sea and shore fisheries, and may enforce any provisions of law relating to the lobster industry, either with or without a warrant, but shall obtain a warrant thereafter within twenty-four hours. The commissioner of sea and shore fisheries and fish wardens may, with or without a warrant arrest any person whom they may have reasonable grounds to believe guilty of violating any of the provisions of this chapter, and may with or without a warrant, but subject to the provisions of section forty-two, enter upon, open and search any vessel, boat, building, car, trap or other receptacle or place where they have reasonable grounds to believe that fish or lobsters liable to seizure are to be found, and seize and carry away all fish or lobsters liable to seizure found therein, and any lobster car, trap, net, barrel, box or package in which the same are found or which are liable to seizure under any of the provisions of this chapter, the fish, lobsters or other property thus seized to be disposed of according to law; but no dwelling-house or hotel shall be searched without a warrant issued for that purpose, and then only in the day time. Any magistrate may issue warrants to search within his jurisdiction any dwelling-house or hotel in the day time, or any

building, vessel, boat, or receptacle for fish or lobsters, or any place or places used therefor to the commissioner of sea and shore fisheries, or fish warden appointed and qualified as provided in this chapter. Such warrants shall issue subject to the requirements of section thirteen of chapter one hundred and thirty-four.

94 Me. 132.

Sec. 4. Wardens shall make monthly report. R. S. c. 41, § 4. Each warden shall make a detailed monthly report to the commissioner of sea and shore fisheries of all that has come to his knowledge relating to the fisheries within his county, or in any county where he has rendered services, from the first day of one month to the first day of the following month, in such manner and on such blanks as the commissioner may prescribe and furnish, and shall do such other acts as the commissioner may require for the purpose of gaining information and for the proper enforcement of the law.

Inspection of Fish.

Sec. 5. Appointment of inspectors of fish; term. R. S. c. 41, § 5. In each town where pickled fish are cured or packed for exportation, the governor, with the advice and consent of the 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.

Sec. 6. Inspectors shall give bond. R. S. c. 41, § 6. Every such inspector, before entering upon his duties, shall give bond 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 for thirty days thereafter he neglects to give satisfactory bond, they shall give information thereof to the governor who shall remove him from office.

See Const. of Me. Art. ix, § 1.

Sec. 7. Inspectors shall make return annually of all fish inspected. R. S. c. 41, § 7. Every inspector shall, by the thirtieth day of November, annually, make a return into the office of the commissioner of sea and shore fisheries of all fish by him inspected during the year preceding the thirtieth day of such November, designating the quantities, kinds and qualities of pickled fish, and said commissioner shall embody the substance thereof in his next official report.

Sec. 8. Any person injured by neglect of inspector may bring action on bond. R. S. c. 41, § 8. 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

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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. 9. Duty of inspector as to inspection and packing of fish. R. S. c. 41, § 9. Every inspector who inspects any kind of fish that are split and pickled for packing, shall see that they are, in the first instance, free from taint, rust or damage, and well struck with salt or pickle; and such of said fish as are in good order and of good quality, shall be pickled in barrels, half barrels, quarter barrels and tenths of barrels or kits; each barrel containing two hundred pounds, and so on in that proportion; and the same shall be packed in good, clean coarse salt, sufficient for their preservation; and then each cask shall be headed up and filled with clear, strong pickle, and shall be branded by the inspector with the name and quality of the fish therein.

Sec. 10. Mackerel shall be branded. R. S. c. 41, § 10. 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, free from taint or damage, not less than ten inches, measured as aforesaid, shall be branded "Number three small." The inspector shall brand or stencil in plain letters on the head of every such cask, the weight, the initials of his christian name, the whole of his surname, the name of his town, and the letters "Me.," and an abridgment in figures, of the year when packed.

Sec. 11. Quality of casks and how made; dimensions. R. S. c. 41, § 11. All barrels and casks used for packing pickled fish, shall be made of sound, well-seasoned white oak, white ash, spruce, pine, chestnut or poplar staves with heading of either of such kinds of wood, sound, well planed and seasoned, and when of pine, free from sap, and the barrels hooped with at least three strong hoops on each bilge, and three also on each chime; the barrel staves shall be twenty-eight inches in length, and the heads not less than sixteen and one-half inches between the chimes, and made in workmanlike manner, to hold pickle. The barrels shall contain from twenty-eight to thirty gallons each, and the aliquot parts of a barrel in the same proportion.

Sec. 12. Pickled alewives and herring, how prepared and packed. R. S. c. 41, § 12. 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 fish and salt, putting no more salt with the fish than is necessary for their preservation; and the inspector shall brand or stencil all such casks with the name of the inspected fish as aforesaid.

Sec. 13. Fees for inspection and branding. R. S. c. 41, § 13. 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 brand aforesaid, and in addition to the price thereof.

Sec. 14. Penalty for selling or exporting uninspected or damaged fish. R. S. c. 41, § 14. Whoever sells in the state, or exports therefrom any fish in barrels or boxes, not inspected, packed and branded, as aforesaid, except good and wholesome fish packed in kegs of less than ten gallons, or pickled, dry or smoked fish imported into the state from some other state or country lawfully inspected and branded there, and whoever sells or exports unlawfully any fish known by him to be tainted or damaged, unless sold as such, forfeits ten dollars for every hundredweight thus sold or exported.

Sec. 15. Penalty for attempting to export uninspected fish; warrant for seizure; penalty for refusing to aid officer. R. S. c. 41, § 15. Whoever ships or receives on board any vessel or other carriage for transportation from the state, any pickled fish in barrels, parts of barrels or casks, not inspected and branded or stenciled as aforesaid, forfeits not less than fifty dollars for each offense, 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. 16. Penalty for intermixing inspected fish; for fraud of inspector. R. S. c. 41, § 16. If any person takes from a cask or barrel, any pickled fish lawfully inspected and branded, and substitutes therefor or fraudulently intermixes other fish; or if any inspector marks any cask or barrel out of his own town, or which he has not inspected, packed, and himself prepared according to law; permits other persons unlawfully to use his brands, or wilfully and fraudulently uses the same himself after the expiration of his commission, he forfeits one dollar for each cask or barrel so dealt with; but an inspector may, after a satisfactory examination, brand such packages, thereby becoming responsible for the quality of the contents as represented by his brand.

Regulation of Lobster Industry.

Sec. 17. Lobster fishermen and persons purchasing lobsters and holding or transporting for sale shall be licensed; exception of common carriers; penalty. 1915, c. 235, § 2. No person, firm or corporation, either by themselves as principal or by their servants or agents, shall, at any time, catch, take, hold, buy, ship, transport, carry, give away, remove, sell or expose for sale, or have in his or its possession, except for the immediate consumption of himself and family, any lobster from any of the waters within the jurisdiction of this state, or place, set, keep, maintain, supervise, lift, raise or draw in or from any of said waters, or caused to be placed, set, kept, maintained, supervised, lifted, raised or drawn in or from any of said waters

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any pot, trap, trawl, car, boat, smack, vessel or other contrivance designed or adapted for the catching, taking, holding or for removal or transportation of lobsters, unless licensed to do so as hereinafter provided; except that common carriers engaged in carrying general freight on fixed schedules may, without license, transport, within or without the state, lobsters legally caught; provided that said lobsters are received by said common carriers at one of their regular established places of business upon land for receiving freight; and provided the receptacle containing said lobsters is plainly marked showing the contents to be lobsters, together with the full and correct name and address of both consignor and consignee. Every person, firm or corporation who shall violate any of the provisions of this section, or aid in doing so, upon conviction in any court of competent jurisdiction, as defined in section thirty-four, shall be fined twenty-five dollars for the first offense; for the second offense, fifty dollars; and for any subsequent offense, fifty dollars, and shall be sentenced to imprisonment for thirty days, in addition to said fine; and no such party convicted of a third offense shall, either by themselves or their servants or agents, be entitled to receive a license during the period of one year from the date of said conviction.

Sec. 18. Applications for licenses and issuance thereof; fees; report by commissioner. 1915, c. 235, § 3. The commissioner of sea and shore fisheries shall grant and issue licenses to any citizen of this state, or to any person who has resided in this state for one year immediately preceding the date of application for license, or to corporations or firms engaged in the lobster business located in this state or other states, to catch, take, hold, buy, ship, transport, carry, give away, remove, sell or expose for sale, within this state, and have in his or its possession, lobsters from the waters within the jurisdiction of this state, in the manner, at the time and subject to the regulations provided in sections seventeen to thirty-four, both inclusive. Applications for licenses shall be made upon special forms provided by the commissioner of sea and shore fisheries, and the said commissioner shall keep the clerks of the various cities, towns and plantations bordering on the seashore, and other clerks who request them, supplied with blank applications; said clerks shall keep a supply of the same on hand and furnish them to all applicants. All applications, when filled out, shall be forwarded to the office of said commissioner, together with the fees for same. Such licenses shall be granted to expire on the last day of November next succeeding the granting of the same, unless sooner revoked, as provided in section twenty, and each person, firm or corporation to whom licenses shall be granted, shall, for each license, pay to said commissioner the sum of one dollar for the use of the state, to be forwarded to the treasurer of state; which amounts shall be credited to and be a part of the funds to be used for operating expenses in the department of sea and shore fisheries. The commissioner, in his biennial report shall state the number of licenses granted, the names of the parties licensed and the amount of money received therefor. He shall issue to each person, firm or corporation licensed as aforesaid a certificate, stating the name of the person, firm or corporation to whom such license has been granted, the number of said license and the date of expiration of such license.

Sec. 19. Agent of person licensed may use license under certain conditions. 1915, c. 235, § 3. If any person, firm or corporation to whom such license shall be granted shall be incapacitated for any reason, except for the violation of the laws of the state relating to the lobster industry, from using said license, said person, firm or corporation may permit his agent or employee, if a citizen of this state, to perform such duties under the license as may be necessary during the period of his or its incapacity; provided that said agent or employee shall, when performing said duties so licensed, exhibit, upon demand of any authorized person, the certificate issued to his superior, as provided in the preceding section.

Sec. 20. License may be revoked for violation of law; new license cannot be obtained for one year. 1915, c. 235, § 3. If any person, firm or corporation, by themselves or their agents, licensed as aforesaid, shall, at any time, be adjudged guilty of any violation of the provisions of law relating to the lobster industry, except as otherwise provided herein, after a full hearing before any court of competent jurisdiction as defined in section thirty-four, the commissioner of sea and shore fisheries may revoke the license issued to such party, and such party shall thereupon cease to have any authority thereunder; and no such party, or their servants or agents, shall be entitled to receive a license during the period of one year from the date of any second conviction, but the license shall be suspended from the date of offense charged until final determination by the court. The commissioner of sea and shore fisheries shall revoke the license of any person, under this section, when he has evidence that such person has violated any provision of the laws relating to lobsters, and the license issued to such person shall be void.

Sec. 21. Commissioner may restore licenses; on refusal, application to court. 1915, c. 235, § 3. The commissioner may, in his discretion, on sufficient evidence, restore a license revoked by him, and, if he refuses so to do, the license may be restored by any justice of the supreme judicial or superior courts; provided the said justice finds that said commissioner erred in his conclusion of facts, and application is made to the said justice within ten days after the refusal of the said commissioner to restore said license.

Sec. 22. License shall be surrendered to officer making arrest; licenses issued through fraud or error shall be void; penalty for the fraud. 1915, c. 235, § 15. Any license which has been revoked for the violation of any law of this state relating to the lobster industry, shall be void, and shall immediately be surrendered to the officer who serves the warrant or indictment, or who secures the conviction of the offender; said officer shall forthwith forward said license to the commissioner of sea and shore fisheries, who shall cancel the same. Any license issued to any party through error or fraud, or within one year from the date a license was revoked or forfeited, shall be void, and shall be surrendered on demand of any officer authorized to enforce any law governing the lobster industry of this state, and any party who fraudulently obtains a license under sections seventeen to thirty-four, both inclusive, shall be fined one hundred dollars and imprisoned sixty days in addition, for each offense.

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Sec. 23. Penalty for refusing to show certificate. 1915, c. 235, § 4. Each person, firm or corporation licensed under the provisions of section eighteen, shall, at all times while engaged in the pursuit so licensed, exhibit, upon demand of any authorized person, the certificate issued to him or them, as provided in said section. Every person, firm or corporation violating this section shall, for each offense, upon conviction, be fined twenty-five dollars.

Sec. 24. Negative allegation need not be proved; license a defense. 1915, c. 235, § 5. No negative allegations of any kind need be averred or proved in any prosecution brought under sections seventeen to thirty-four, both inclusive, but the respondent in any such action may show his license by way of defense.

Sec. 25. Permission to set traps on trawls must be obtained. 1915, c. 235, § 6. When pots or traps are set on trawls, when conditions make it impossible to set otherwise, buoys plainly marked, as provided in the laws of this state, governing the lobster industry, shall be set at both ends of the trawls; but permission for setting such trawls must be obtained from the commissioner of sea and shore fisheries, and so stated on the licenses issued under section eighteen.

Sec. 26. Method of marking pots, traps, boats and other contrivances used by lobster fishermen; penalty. 1915, c. 235, § 7. No person, firm or corporation licensed under section eighteen or section thirty shall use any pots, traps, boats, trawls or other contrivance used for the catching or taking of lobsters, or cars or other contrivance used for holding or keeping lobsters before transporting or selling, unless the same and the buoys attached thereto are plainly marked, as provided by the laws of the state governing the lobster industry, with the name or names of the owners thereof, or the person or persons using the same. In each instance the surname with initials shall be marked together with the license number or numbers of such party or parties. Every person, firm or corporation violating the provisions of this section shall be fined, upon conviction, twenty dollars, or imprisoned not more than thirty days; the license shall be suspended pending the decision of the court, and, on conviction, the license shall be forfeited, and the respondent shall not be entitled to receive a new one for the period of one year from date of conviction; all pots, traps, cars, buoys, trawls and other contrivance, together with the contents thereof, used contrary to the provisions of the laws of this state governing the lobster industry, shall be seized by any officer engaged in the enforcement of said laws and disposed of as provided by law.

Sec. 27. Only owner or authorized persons shall interfere with contrivances used in lobster industry. 1915, c. 235, § 8. No person, except the commissioner of sea and shore fisheries, his wardens and deputy wardens, or other officers qualified to enforce the laws of the state governing the lobster industry, shall lift or raise any pot or trap, car, trawl or other contrivance used in the lobster industry belonging to any person, firm or corporation licensed under section eighteen, and set for catching or taking and holding lobsters, except with the permission of the owners thereof.

Sec. 28. Right of search and seizure given to officers enforcing lobster law. 1915, c. 235, § 9. For the purpose of enforcing the provisions relating to the protection of lobsters, as provided by the laws of the state relating to the lobster industry, the commissioner of sea and shore fisheries and his wardens and deputy wardens may search, at any time, in suspected places, including buildings of every description, or any pot, trap, trawl, car, boat, smack, vessel or other vehicle that they may believe is used in the catching, taking, holding or transporting of lobsters, and may seize and remove lobsters taken, held or offered for sale in violation of the provisions of any law of the state relating to the lobster industry. The commissioner may appoint as many persons as he wishes, who hold licenses under section eighteen, as deputy wardens, but so long as they hold licenses they shall serve without pay.

See § 3.

Sec. 29. Lobsters bought for shipment out of state must conform to the law. 1915, c. 235, § 10. No person shall acquire any property in lobsters caught in the waters under the jurisdiction of this state, for the purpose of shipping the same beyond the limits of this state, unless such lobsters conform to the law, and are shipped in accordance with the provisions of sections seventeen to thirty-four, both inclusive.

Sec. 30. Lobster smacks and other means of transportation must be licensed; terms of the license; bond. 1915, c. 235, § 11. No lobsters shall be transported beyond the limits of this state, whether of legal length or otherwise, except by common carriers as provided in section seventeen, unless by persons licensed to transport lobsters outside the limits of the state under the following conditions: the commissioner of sea and shore fisheries shall issue a license, which shall not be transferable, to the owner or party in control of any smack, vessel or other means of transportation, either foreign or domestic, authorizing him to purchase and to transport lobsters within or beyond the limits of the state upon the following conditions: The license in each instance shall state the name of the smack, vessel or other conveyance to be used in so purchasing or transporting lobsters, and will give no authority to purchase or transport in any other smack, vessel or other conveyance except that named in the license. The name of the smack, vessel or other conveyance may, however, be changed by the licensee upon application to said commissioner, within the license period, without further charge. The fee for issuing said license shall be five dollars, and a record shall be kept of the same, similar to that provided for other licenses in section eighteen. Besides the name of the conveyance, the license shall bear the date of taking effect and the termination thereof, which last named date shall be the last day of November next after it becomes effective, and shall state that such license, together with the bond hereinafter provided for, shall be forfeited upon the violation of any law of this state relating to lobsters; and it shall further provide that such smack, vessel or other conveyance shall, at all times, be subject to inspection and search by the commissioner of sea and shore fisheries, or his wardens or deputy wardens, with warrant or without, in which inspection and search they shall in no way be obstructed. Before said license is issued,

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the applicant shall file with the said commissioner a bond in the penal sum of five hundred dollars, conditioned that the same shall be forfeited to the state upon conviction of the licensee of any breach of any laws of this state pertaining to lobsters. All licensees under this section shall be required to load all smacks, vessels or other contrivances within the waters over which this state has jurisdiction, and any licensee loading outside the jurisdictional waters of this state, or who refuses to come within the jurisdictional waters of this state when ordered so to do by the commissioner, or any of his wardens or deputy wardens, shall be deemed to have violated the provisions of this section, and his bond shall be forfeited. Any license issued under this section shall become void on conviction for the breach of any law of this state pertaining to lobsters. No new license shall be issued for a period of one year to any party whose license has been revoked because of such conviction. Any license issued contrary to the provisions of this section is void and of no effect.

Sec. 31. Punishment of persons not licensed for violation of section 30. 1915, c. 235, § 12. Whoever violates the preceding section, not having obtained a license, shall be punished by a fine of not less than twenty-five, nor more than two hundred fifty dollars, and the owner or parties in charge of any smack, vessel or other contrivance used in illegally transporting lobsters outside the state, as aforesaid, shall become indebted and pay to the state the sum of five hundred dollars, which sum shall be a lien upon said smack, vessel or other contrivance, and may be enforced in the name of the state by any appropriate process.

Sec. 32. Punishment of licensee for violation of provisions of sec. 30. 1915, c. 235, § 12. Any licensee convicted of violation of section thirty shall be punished by a fine of not less than twenty-five, nor more than two hundred fifty dollars, and, in addition thereto, shall forfeit the bond given by him to the state; and any person in charge of any smack, vessel or other contrivance used in illegally transporting lobsters out of this state, as aforesaid, shall be punished by a fine of not less than twenty-five, nor more than two hundred fifty dollars.

Sec. 33. Money received from fines and forfeited bonds, how expended. 1915, c. 235, § 12. All fines collected and money received from bonds forfeited shall be turned over to the commissioner of sea and shore fisheries, who shall forward the same to the treasurer of state; which amounts shall be credited to and be a part of the funds used for operating expenses in the department of sea and shore fisheries.

Sec. 34. Jurisdiction of courts; proceedings against parties not found. 1915, c. 235, § 13. The several municipal and police courts shall have concurrent jurisdiction with the supreme judicial court and superior courts over all offenses under the seventeen preceding sections, and to the full extent of the penalties therein specified. In case any warrant is issued or indictment found against any licensee under section thirty, and any officer qualified to serve said warrant or indictment shall certify to the court from which it issued that he has made diligent search and has been unable to locate the respondent, the court shall cause a written notice to be sent to the respondent at the address given in the application for license, setting forth the fact that said warrant or indictment had issued against

him, and naming a time and place for hearing on same, which shall not be less than fourteen, nor more than thirty days from date of mailing the notice; the notice shall state that, in the event of his failure to appear, his bond given to the state shall be forfeited. If he appears, the court will proceed under the warrant or indictment as though he had been apprehended. In the event that he does not appear, the court shall order his bond forfeited; but the order of the court forfeiting said bond shall not otherwise affect the warrant or indictment. Any warrant issued by any such court shall cover offenses occurring in the county where said court is established or in any adjoining county. Parties defendant, however, have the same right of appeal from the sentences of said inferior courts as is now provided by law in other criminal cases.

Sec. 35. Unlawful to have in possession lobsters less than four and three-fourths inches long; possession of mutilated lobsters, evidence; lobsters must be sold in shell; liability of common carriers; meat liable to seizure. R. S. c. 41, § 17. 1907, c. 49. 1909, c. 67. No person shall buy or sell, give away or expose for sale or possess for any purpose any lobster less than four and three-fourths inches in length, alive or dead, cooked or uncooked, measured in manner as follows: Taking the length of the back of the lobster measured from the end of the bone of the nose to the center of the rear end of the body shell; and any lobster shorter than the prescribed length when caught shall be immediately liberated alive at the risk and cost of the parties taking them, under a penalty of one dollar for each lobster so caught, bought, sold, given away, or exposed for sale or in possession. The possession of mutilated lobsters, cooked or uncooked, shall be prima facie evidence that they are not of the required length. All lobsters or parts of lobsters sold for use in this state or for export therefrom must be sold and delivered in the shell, under a penalty of twenty dollars for each offense; and whoever ships, transports, carries, buys, gives away, sells or exposes for sale lobster meat after the same shall have been taken from the shell shall be liable to a penalty of one dollar for each pound of meat so shipped, transported, carried, bought, given away, sold or exposed for sale. Any person or corporation in the business of a common carrier of merchandise, who shall knowingly carry or transport from place to place lobster meat after the same shall have been taken from the shell shall be liable to a penalty of fifty dollars upon each conviction thereof. All lobster meat so illegally shipped, transported, carried, bought, given away, sold or exposed for sale shall be liable to seizure and may be confiscated. Nothing contained herein shall be held to prohibit the sale of lobsters that have been legally canned.

79 Me. 55, 163; 80 Me. 87; 83 Me. 180; 85 Me. 121; 87 Me. 109; 93 Me. 420; 94 Me. 129; 99 Me. 227; 101 Me. 351; 102 Me. 294.

Sec. 36. Lobsters, with eggs attached, may be purchased by commissioner of sea and shore fisheries. R. S. c. 41, § 18. The commissioner of sea and shore fisheries may purchase at a rate not exceeding twenty-five per cent above the market price, lobsters with eggs attached, caught along the coast of the state. Whoever catches any such lobsters with eggs attached, may safely store the same in lobster cars or sections of cars used for that purpose only, and may keep them separate from other lobsters

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until such time as the said commissioner or some person or persons designated by him can gather and pay for them. The commissioner or his agent shall liberate them in the vicinity of the location where they were caught; or said commissioner may at his discretion sell any portion or all of them to the officer in charge of the United States fish hatchery for artificial propagation, the proceeds to be applied to the appropriation made for carrying out the provisions of this section.

Sec. 37. Close time on female lobsters. R. S. c. 41, § 19. No person shall destroy, catch, buy, sell, expose for sale or possess any female lobsters in spawn or with eggs attached at any season of the year, under a penalty of ten dollars for each lobster so destroyed, caught, bought, sold, exposed for sale or possessed, provided, however, if it appears that it was intended to dispose of them in accordance with the preceding section, or to liberate them in accordance with the provisions of this chapter, the person having such lobsters in possession shall not be liable to any of the penalties herein provided, though he may have failed, for any cause not within his control, to so liberate them.

Sec. 38. Length of lobsters that may be canned; penalty for violation. R. S. c. 41, § 20. 1909, c. 65. No person shall can lobsters less than four and three-fourths inches in length, alive or dead, measured in accordance with section thirty-five; and for every lobster canned contrary to the provisions of this section, every person, firm, association or corporation so canning shall be liable to a penalty of one dollar for every lobster so canned, and a further penalty of three hundred dollars for every day on which such unlawful canning is carried on.

Sec. 39. Shipment of lobsters regulated; notice to commissioner of place of business for shipping lobsters. 1915, c. 271, § 1. Every person, firm, association or corporation, that hereafter opens a place of business in this state for shipping lobsters, or shall change said place of business after once it is established, shall thirty days before shipping any lobsters therefrom notify the commissioner of sea and shore fisheries, of such location from which lobsters are to be shipped, or change of location, together with the information as to where and how said lobsters are to be kept before packing, by what carrier the shipments are to be made and the customary hours of said shipments.

Sec. 40. Arrangements for examination before shipment. 1915, c. 271, § 2. Whenever the commissioner shall receive from any person, firm, association or corporation that now has or hereafter may open such place of business, or may change said place of business after once it is established, the notice referred to in the preceding section, he shall, if arrangements can be made with said person, firm, association or corporation for the suitable inspection of lobsters before shipment from said place of business, inspect such lobsters before shipment; but before such arrangements are made all lobsters shall be subject to examination in transit.

Sec. 41. Lobster shipping cases, how marked. 1915, c. 271, § 3. All lobsters to be shipped shall be packed in barrels, boxes, or packages marked with the word "Lobsters" in capital letters at least one inch in length, together with the full name of the shipper, and said marking shall be

placed in a plain and legible manner on the outside of said barrels, boxes or other packages.

Sec. 42. Lobsters subject to examination before shipment; not thereafter without consent; disposal of lobsters seized. R. S. c. 41, § 21. 1915, c. 271, § 4. All lobsters so packed shall be open for the inspection of the commissioner or his wardens, at or before the time of the packing thereof, but after the same are packed and marked, as required by the preceding section, and by the shipper delivered to the transportation company the said barrels, boxes or packages shall not be opened for inspection by anyone without the consent of the shipper; and in case of seizure by any duly authorized officer, of any barrels, boxes or other packages in transit, containing lobsters, which are not so marked, or in case of seizure by such officer, of barrels, boxes or other packages, containing lobsters, less than the prescribed length, such lobsters as are alive and less than the prescribed length shall be liberated, and all such lobsters as are of the prescribed length, found in such barrels, boxes or packages shall be forfeited and disposed of under the provisions of section forty-seven.

83 Me. 211.

Sec. 43. Penalty for shipping lobsters not properly marked; penalty on common carriers. R. S. c. 41, § 22. 1915, c. 271, § 5. Every person, firm, association or corporation who ships lobsters without having the barrels, boxes or other packages in which the same are contained, marked as prescribed in section forty-one, shall upon conviction be punished by a fine of twenty-five dollars, and upon subsequent conviction thereof by a fine of fifty dollars; and any person or corporation in the business of a common carrier of merchandise, who shall carry or transport from place to place lobsters in barrels, boxes or other packages not so marked, shall be liable to a penalty of fifty dollars upon each conviction thereof.

Sec. 44. Cars in which lobsters are kept shall be branded; penalty. R. S. c. 41, § 23. All cars in which lobsters are kept and all lobster cars while in the water, shall have the name of the owner or owners thereof on the top of the car, where it may be plainly seen, in letters no less than three-fourths of an inch in length, plainly carved or branded thereon, and all traps, nets or other devices for the catching of lobsters, shall have, while in the water, the owner's name carved or branded in like manner on all the buoys attached to said traps or other devices, under a penalty of ten dollars for each car, and five dollars for each trap or device not so marked; and if sufficient proof to establish the ownership of such cars or traps cannot readily be obtained they may be declared forfeited.

Sec. 45. Traps not to be set near fish weir. R. S. c. 41, § 24. No person shall set any lobster trap within three hundred feet of the mouth or outer end of the leaders of any fish weir, under a penalty of ten dollars for each offense.

Sec. 46. Penalty for interference with lobster traps; does not apply to unmarked traps. R. S. c. 41, § 25. Whoever, except as provided in sections three and twenty-eight of this chapter, takes up, or attempts to take up, or in any way knowingly and wilfully interferes with any lobster trap while set for use, without the authority of the owner thereof, shall be pun-

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ished by a fine of not less than twenty, nor more than fifty dollars; provided, however, that no action, complaint or indictment shall be maintained under this section unless the name of the owner of all such traps shall be carved or branded in legible letters, not less than three-fourths of an inch in length, on all the buoys connected with such traps.

Sec. 47. How lobsters seized, shall be disposed of; officer shall file libel in behalf of the state; contents; procedure; proceeds shall finally be paid to treasurer of state; appeal by claimant; fees and costs. R. S. c. 41, § 26. When any lobsters are seized by virtue of the provisions of this chapter, the officer making such seizure shall cause such lobsters, so seized, as he is not required by law to liberate, to be appraised within twenty-four hours after the time of such seizure by three disinterested men residing in the county where such seizure is made, to be selected by him, and the lobsters so seized and appraised shall thereupon be sold by the officer making the seizure thereof, at such time and in such manner as shall by him be deemed proper. The officer making such seizure and sale shall within ten days after the time of such seizure file a libel in behalf of the state before a trial justice, or a judge of a police or municipal court of the county in which such seizure was made, setting forth the fact of such seizure, appraisal and sale, the time and place of the seizure, the number of lobsters so seized and sold and the amount of the proceeds of such sale; and such trial justice or judge shall appoint a time and place for the hearing on such libel, and shall issue a notice of the same to all persons interested to appear at the time and place appointed, and show cause why the lobsters so seized and sold, and the proceeds of such sale, should not be declared forfeited, which notice shall be served upon the owner, if known, and by causing an attested copy of such libel and notice to be posted in two public and conspicuous places in the town in which the seizure was made, seven days at least before the time of hearing. If any person appears at the time and place of hearing and claims that the lobsters so seized and sold were not liable to forfeiture at the time of seizure, and that he was entitled thereto, the trial justice or judge shall hear and determine the cause, and if he shall decide that such lobsters at the time of seizure were not liable to forfeiture and that the claimant was entitled thereto, he shall order the proceeds of such sale to be paid to the claimant; if no claimant shall appear, or if such trial justice or judge shall decide that such lobsters, at the time of seizure were liable to forfeiture, or that the claimant was not entitled thereto, he shall decree a forfeiture of such lobsters and of the proceeds of sale, and shall order the proceeds of sale, after deducting all lawful charges, to be paid to the treasurer of state, to be used as directed in section ninety-three, and shall render judgment against the claimant for costs to be taxed as in civil suits, and issue execution therefor against him in favor of the state, which costs, when collected, shall be paid to the treasurer of state, to be added to and made a part of the appropriation for sea and shore fisheries. The claimant shall have the right of appeal to the next supreme judicial or superior court in the county, upon recognizing as in criminal cases. The fees and costs of seizure, appraisal and sale, and of all other proceedings in the case, shall be as provided by law in criminal cases, and,

in case a forfeiture shall be declared, shall be paid out of the proceeds of the sale, otherwise shall be paid by the county, as in criminal cases.

94 Me. 133.

Regulation of Packing Fish.

Sec. 48. Rules governing sale or packing of herring; enforcement by commissioner. 1905, c. 16, § 2. Whoever takes, preserves, sells or offers for sale between the first day of December and the fifteenth day of the following April, 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 first day of December and the fifteenth day of the following April, forfeits twenty dollars for every hundred cans so packed or canned, and for every hundred herring so taken. All cans shall be decorated, stamped or labeled with quality, packer's name and place of business, or merchant's name for whom the same are packed, except sardines packed in plain cans and shipped for buyers' labels or cartons. Whoever sells or offers for sale any sardines in cans not so decorated or labeled, shall forfeit one dollar for every can so sold or offered for sale, to be recovered by complaint, indictment or action of debt. No person shall use in the herring fishery, in any of the waters of this state, torches or any artificial light, of any kind, for the purpose of catching herring, under a penalty of ten dollars for each offense. The commissioner of sea and shore fisheries shall insist upon the strict observance of the provisions of this section and enforce the penalties for violation thereof.

98 Me. 547.

Sec. 49. Size of smoked herring boxes regulated. 1913, c. 91. No person, firm or corporation engaged in the state in buying, selling and packing of smoked herring, shall sell or offer for sale smoked herring in boxes of less than the following dimensions, viz: two inches in depth, six inches in width, inside measure, and twelve inches in length, outside measure. Whoever packs, sells or offers for sale, smoked herring in boxes in violation of this section shall forfeit twenty-five cents for each box so packed, sold or offered for sale; but this section does not apply to boxes of boneless herring.

Fish Culture and Development of Fishing Industry.

Sec. 50. Commissioner of sea and shore fisheries may take land; not to exceed two acres in one location; proceedings; by lease, etc., may acquire more than two acres. 1905, c. 88, § 2. The commissioner of sea and shore fisheries may, for the purposes of this and the following section, take any shore rights, flats and waters not exceeding an area of two acres in extent at any one location, and hold the same for a period not exceeding ten years; such location when so taken may be used by said commissioner, or by the United States commissioner of fish and fisheries, in the prosecution of the work of fish culture and scientific research relative to shell-fish, or other fish over which said commissioner now has supervision; and whenever said commissioner shall deem it necessary in the furtherance of the objects and purposes of this and the following section to take any such shore rights, flats and waters, he shall proceed in accordance with the

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provisions of section five of chapter thirty-three; and in addition thereto shall cause a copy of so much of the proceedings as will show the character and extent of the shore rights, flats and waters taken, and also the location thereof, and time for which taken, to be posted near the location, and shall also cause suitable marks or ranges to be set upon the adjacent upland so as to define, as far as practicable, the limits and boundaries of the location to be used in such experiments; and shall cause public notice of the taking of such shore rights, flats or waters to be given by publishing the fact of such taking once a week for three successive weeks in a newspaper published in the county where the shore rights, flats or waters are situated. Said commissioner may, by agreement, lease or grant, and under such terms and conditions as may be agreed upon with the owner thereof, take possession of suitable shell-fish grounds, flats, waters and water-rights, not limited to two acres in area, with necessary shore rights, and may use and operate the same under the provisions of and for the purposes of this section.

Sec. 51. Shores and flats set apart for shell-fish industry; proceedings. 1905, c. 88, § 3. The commissioner, upon the application of any person or corporation interested or engaged in scientific research relating to shell-fish, or other fish over which the commissioner has supervision, or in the cultivation and development of the shell-fish industry for economic purposes, setting forth their desire to make experiments relative to the cultivation and conservation of shell-fish, or such other fish over which the commissioner now has supervision, shall, after being satisfied of the facts set out in said application, and that the applicant either owns or has the consent, so far as the same can be granted, of the owner of the flats, shore rights and waters where such work is to be undertaken, and that the granting of such rights will not unreasonably interfere with navigation, give notice of a hearing on such application, by causing the same to be published at least two weeks in some newspaper published in the county where the proposed location is situated, and stating therein the time and place where such hearing will occur; and if, upon such hearing, the commissioner is satisfied that the interests of the state will be promoted by such experiments, he shall issue a certificate setting apart so much of such shores, flats and water privileges, not exceeding one acre in extent, to any one of such applicants, and for such length of time, not exceeding the period of six years, as in his judgment may be necessary and proper to accomplish the ends sought to be obtained. Such certificate shall be recorded in the registry of deeds of the county or registry district in which the location is situated, and the applicant shall also cause public notice of the issuance of such certificate to be given by publishing the same in a newspaper published in the county where such location is situated, and by posting in a conspicuous place near said location a copy of such certificate, and also by placing stakes or other monuments upon the adjoining upland, so as to designate the locations so set apart, as the commissioner shall, in his certificate specify.

Sec. 52. All persons forbidden to take fish on shores taken; penalty. 1905, c. 88, §§ 4, 5. No person shall, during the period that such shores, flats and waters are taken for the purposes of the two preceding sections,

take, dig, fish or in any manner destroy or interfere with such fish, or interfere with the shores, flats and waters so set apart, under a penalty of not less than fifty, nor more than one hundred dollars, for each offense, or by imprisonment not exceeding thirty days, or by both fine and imprisonment. All fines and penalties recovered under this section shall, after restoring the damages sustained by the person holding such certificate, be paid to the treasurer of state, and added to and made a part of the appropriation for sea and shore fisheries.

Regulation of Shell-Fish Industry.

Sec. 53. Towns may grant licenses for propagation and cultivation of clams; term; license may be assigned. 1911, c. 69, § 1. Upon application in writing, the mayor and aldermen of a city or the selectmen of a town shall grant a written license, to any person who has resided in the state or who has been a taxpayer in the city or town for not less than one year preceding the date of his application, for the purposes of planting and cultivating clams upon and in not exceeding one-fourth of the flats and creeks of their respective cities and towns and within the limits to be specified in the license, for a term of not more than ten, nor less than five years; all such licenses shall be subject to such rules and regulations as are approved by the city council of the city, or by the voters of the town at an annual or special town meeting, and may be assigned by the licensee to any person who has been a resident of the state or a taxpayer in the city or town for not less than one year preceding the date of the assignment, but shall not be assigned or transferred without the written consent of the mayor and aldermen of such city or the selectmen of such town.

Sec. 54. Proceedings before licenses shall be granted; preference shall be given to riparian owner of adjacent property. 1911, c. 69, § 2. No license shall be granted if the exercise thereof would materially obstruct navigable water, nor until after a public hearing, due notice of which has been posted in three or more public places, and published in a newspaper, if there be any, published in the city or town in which the premises are situated, at least ten days before the time fixed for the hearing, stating the name and residence of the applicant, the date of the filing of the application, and the location, area, and description of the grounds applied for. In granting said licenses preference shall be given to the riparian proprietors of the adjacent property, when there are two or more applicants for the same territory and the adjacent riparian proprietor is one of them.

Sec. 55. Survey and plan of territory covered by license shall be made; territory shall be marked. 1911, c. 69, § 5. Before granting any license, the mayor and aldermen of a city or the selectmen of a town shall cause a survey and plan of the territory within which licenses are to be granted, to be made, and shall cause the territory covered by any license issued by them to be marked upon a copy of such plan to be kept in the office of the city or town clerk. The licensee upon receiving his license shall cause the territory covered thereby to be plainly marked out by stakes, buoys, ranges or monuments which shall be maintained by him during the term of the

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license. Failure to place or maintain the same shall be sufficient cause for revocation of the license by the authority granting the same.

Sec. 56. License shall describe territory covered and shall be recorded; records open to public inspection. 1911, c. 69, § 4. A license granted hereunder shall describe by metes and bounds the waters, flats and creeks, to which the license is applicable, and shall have no force until it is recorded with the clerk of the city or town granting the same, in a book to be kept for the purpose in the office of the clerk of the city or town, and such books shall be open to public inspection; the licensee shall pay annually to the city or town a fee of not less than one dollar nor more than five dollars per acre for the license, as the mayor and aldermen of the city and the selectmen of the town may determine. Forms for licenses and for assignments shall be provided by the mayor and aldermen of a city or the selectmen of a town at the expense of the city or town.

Sec. 57. Unlawful to take clams on licensed territory except by license; licensee shall have exclusive use of territory covered by license. 1911, c. 69, §§ 3, 7. No person, except the licensee or his agents or assignees, shall dig or take clams or clam seed within the territory covered by a license granted hereunder, or remove the same from said territory. The licensee, his heirs or assignees shall for the purposes described in the license have the exclusive use of the territory described therein during the term of the license and may in an action of tort recover treble damages of any person who, without his or their consent, digs or takes clams or other shell-fish in the territory covered by the license or removes the same therefrom. Whoever so digs, takes or removes clams or other shell-fish shall, in addition, be subject to a penalty of twenty dollars for each offense.

Sec. 58. Proceedings if licensee fails to occupy and use territory covered by license. 1911, c. 69, § 6. Whenever it appears to the mayor and aldermen of a city or selectmen of a town who have granted such a license, that the licensee or his assignee does not actually occupy and use in good faith for the purposes specified in sections fifty-three and fifty-four, the territory covered by the license, they shall petition the supreme judicial court or the superior court in the county where the territory is situated, to appoint a commission to investigate and report to the court, as to the use and occupancy of such territory; the court shall appoint a commission of one or more persons who, after twelve days' notice to the petitioners and the respondent, shall hear the petitioners and respondent and shall transmit their findings to the court. If it shall appear to the court that the said territory is not used and occupied in good faith for the purposes stated in the license, the court may order that use of the territory shall revert to the city or town and that all stakes or buoys and other appliances marking the same shall be removed. Costs upon said petition may be recovered in the discretion of the court.

Sec. 59. Towns may regulate taking of clams. R. S. c. 41, § 34. 1905, c. 161. 1907, c. 125. 1909, c. 60. Any town may at its annual 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 persons therein, may take clams for the consumption of himself and family. This section does not apply to hotel keepers taking clams for the use of their hotels, nor does it interfere with any law relating to the taking of shell-fish for bait by fishermen. Whoever takes clams contrary to municipal regulations authorized by this section, shall, for each offense, be fined not more than ten dollars, or imprisoned not more than thirty days. This section shall not be construed to effect the repeal of chapter three hundred and seventeen of the private and special laws of the year nineteen hundred and three, nor of any law applicable to a particular locality enacted by the legislature in the year nineteen hundred and five; but any town to which any special law applied may in addition have all the advantages of this section, if such town shall so vote.

89 Me. 543; 98 Me. 388; 102 Me. 231; 103 Me. 329; 105 Me. 81; see P. & S. L. 1905, c. 351, c. 372, c. 386.

Sec. 60. Size of bait barrels. 1909, c. 60. In all contracts relating to the sale of clam bait, fresh or salt, by the barrel, and clam bait barrels, such barrel shall be twenty-five and one-fourth inches long and fifteen and one-half inches head diameter, outside measure. Whoever violates this provision shall be liable to a penalty not exceeding fifty dollars for each offense.

Sec. 61. Close time for clams. R. S. c. 41, § 35. The canning, packing and barreling of clams, either fresh or in salt, and the digging of clams for the purpose of canning, packing or barreling, between the first day of June and the fifteenth day of September following, is hereby prohibited under a penalty of one dollar a bushel in the shell. But this section shall not apply to the barreling of clams in the shell for consumption in this state.

Sec. 62. Transportation of clams regulated. R. S. c. 41, § 36. The shipping or transportation of clams in any manner beyond the limits of the state, between the first day of June and the fifteenth day of September following, except clams which had been canned, packed or barreled between the fifteenth day of September and the first day of June, is hereby prohibited under a penalty of three dollars for each bushel so shipped or transported.

Sec. 63. Any inhabitant may plant oysters and have exclusive right to take same; penalty for trespassing on such beds. R. S. c. 41, § 37. 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; enclose such grounds with stakes, set at suitable distances, and extending at least two feet above high-water mark, but so as not to obstruct the free navigation of such waters; and have the exclusive right of taking such oysters. Whoever trespasses on such enclosure or injures such oyster-beds, is liable in an action of trespass for all damages; and if he takes any oysters therein without the consent of the owner, he shall forfeit not less than twenty, nor more than fifty dollars, or be imprisoned not exceeding three months.

101 Me. 354.

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Sec. 64. Authorized selection of proper locations for experiments in propagation of shell-fish. 1909, c. 265, § 1. The commissioner of sea and shore fisheries may from time to time, as his judgment may determine, select proper locations below low-water mark on the coast of Maine for the propagation of oysters and quahaugs, and between high and low-water mark for the propagation of clams, cause the same to be properly stocked with oysters, quahaugs, and clams, and erect proper and sufficient marks or bounds to indicate the locations thus made. But this section shall not be construed to authorize the taking of flats, which by the colonial ordinance of sixteen hundred and forty-one are possessed by the adjacent up-land owners, without the consent of such owners and the payment of proper damages to such owners for such taking.

Sec. 65. Locations protected for three years. 1909, c. 265, § 2. No person shall dig, fish for, take or carry away any oysters, quahaugs or clams within any location so selected, for a period of three years after such location was stocked as aforesaid, without the permission in writing of the commissioner of sea and shore fisheries; nor shall any person wilfully injure, deface, destroy or remove any such bounds or marks, nor tie or fasten any boat or vessel thereto.

Sec. 66. Penalty. 1909, c. 265, § 3. Whoever violates any provision of the two preceding sections shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days, or by both fine and imprisonment.

Sec. 67. Close time on scallops; boat and equipment may be seized and detained; prima facie evidence of violation. 1911, c. 2. 1915, c. 92. No person shall catch, buy or sell, expose for sale, give away or have in his possession for any purpose any scallops, shelled or in the shell, between the fifteenth day of April and the first day of November of each year. But this section shall not apply to any of the waters of Penobscot bay, lying between lines running south from Naskeag point on the east, and from Dice's Head, by the eastern shore of Islesboro, on the west, and including the waters of Bagaduce river; where scallops may be taken between June fifteenth and September fifteenth of each year. It shall be unlawful to ship scallops so taken, out of the state. Whoever violates this section shall be liable to a penalty of fifty dollars, and in addition shall pay a penalty of five dollars for each and every gallon or part thereof of shelled scallops, so bought, sold, exposed for sale, given away or in his possession; and shall pay a penalty of five dollars for each one hundred scallops or any part thereof, in the shell, so bought, sold, exposed for sale, given away or in his possession; and any boat with its equipment, engaged and used in such unlawful catching or selling of scallops may be seized and detained by an officer or warden, not exceeding twenty-four hours, in order that it may be attached or taken by due process of law, to satisfy any judgment that may be recovered; but said boat and equipment shall be released at any time on payment of penalty and costs legally due. Scallop gear found on board any boat in close time shall be prima facie evidence of a violation of this section.

Note. Swelling of scallop meats by artificial means forbidden, c. 130, § 14.

Use of Seines, Weirs, Nets and Artificial Flies.

Sec. 68. Unlawful to use purse or drag seines in certain waters; regulation of fishing therein. R. S. c. 41, § 38. 1905, c. 143. No person shall use any purse or drag seines in the following waters: In Casco bay north of a line drawn easterly from Prince's point in the town of Yarmouth to Bear island in the town of Phippsburg, excepting for smelts, bluebacks and spurling; in Kennebec river above a line drawn across said river from Fort Popham in the town of Phippsburg to a point opposite at the lower end of Long island in the town of Georgetown; in Sheepscot river above a bridge leading from Wiscasset to Edgecomb; in Damariscotta river above a line drawn from Farnham's head in the town of Boothbay to a point opposite on the shore in the town of Bristol, excepting the use of drag seines between the above line and The Ledges, for all fish excepting alewives; in Medomak river, above a line drawn from Martin's point in the town of Friendship, westerly by the northeast end of Hog island to a point opposite in the town of Bremen, or take smelts in said river and its tributaries in any other way than by hook and line; in Georges river, above a line drawn from Hooper's point in the town of St. George, westerly past the northerly end of Caldwell's island to a point opposite on the shore in the town of Cushing, or take smelts in said river and its tributaries in any other way than by hook and line, or dip-nets, and no individual shall take more than one-half bushel of smelts within a period of twenty-four hours with dip-net; in all bays, inlets, rivers and harbors east of the west shore of the Penobscot bay and river where any entrance to the same or any part thereof from mainland to mainland is not more than three nautical miles in width, but purse and drag seines may be used for the purpose of taking smelts in these waters, except in Bluehill bay. The taking of herring, or fishing therefor, by the use of purse or drag seines and all other seines or nets, except the use of seines or nets in weirs, from the first day of June to the first day of November in the waters of Machias bay and its approaches inside of or to the northward of a direct line drawn straight from the highest summit of the island called The Brothers, easterly to a point one-half mile distant and due south from Libby island lighthouse, thence from said point easterly to the southerly extremity of the southern island called Double Head Shots, is hereby prohibited. The use of purse or drag seines within a distance of one-half of a nautical mile from any fish weir in any of the waters of the state east of White Head on the west shore of Penobscot river is hereby prohibited; but such seines may be used for the taking of smelts and for the purpose of taking fish in weirs, but shall not be used in any water in which their use is prohibited by special or general law. Whoever violates any provision of this section shall be liable to a penalty not exceeding five hundred dollars for each offense, to be recovered by complaint, indictment or action of debt.

85 Me. 192.

Sec. 69. Regulation of places and times of taking salmon, shad and alewives in certain rivers. R. S. c. 41, § 39. 1915, c. 180. No salmon, shad or other migratory fish shall be taken or fished for within five hundred yards of any fishway, dam or mill race; nor in the Penobscot river between

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the mouth of the Kenduskeag stream and the water-works dam at Treat's falls on said river, nor between the Augusta highway bridge over the Kennebec river and the Augusta dam; nor in Mill river, a tributary of Georges river, in Thomaston, Maine, between said Georges river and the old dam at head of tide-waters in said Mill river; nor any salmon five hundred feet above Ferry point bridge on the St. Croix river in Calais, between the first days of April and November, except by the ordinary mode of angling with single hook and line or artificial flies; nor shall hook and line or artificial flies be used at any time within one hundred yards of any fishway, dam or mill race; but this section shall not apply to the taking of alewives by the town of Warren in the Georges river, and by the town of Waldoboro in Medomak river, under the authority granted said towns by a private and special law of Massachusetts, passed the sixth day of March, eighteen hundred and two, and amendments thereof, passed by the legislature of this state; nor shall it apply to the taking of alewives by the town of Woolwich in Nequasset stream; nor shall it apply to the taking of alewives by the West Harbor Ice Company in the water below its fishway, erected under authority given by chapter one hundred forty of the private and special laws of nineteen hundred five. Fly-fishing shall be allowed up to the bridge across the Denny's river at Lincoln's mill, but not between said bridge and Lincoln's mill dam. This section shall not apply to the Laconia falls and the Lower falls, so called, of the Saco river, located at Biddeford and Saco; and upon the first three days of each week, from the first of June to the first of September of each year, all persons may dip for salmon, shad and alewives at the falls last named above. Any person may take any salmon, shad or alewives in the waters of Orange river, in the town of Whiting, in the county of Washington, up to one hundred and thirty yards of the fishway at the lower dam in said river, subject, however, to all the laws of the state, and laws regulating the taking of such fish in said river. The penalty for any violation of this section is a fine of not more than fifty, nor less than ten dollars for each offense, and a further fine of ten dollars for each salmon and one dollar for each shad so taken.

78 Me. 394.

Sec. 70. Protection of weirs. R. S. c. 41, § 40. 1907, c. 95. No person shall set any net or seine within one thousand feet of the mouth of any weir under a penalty of fifty dollars for each offense.

101 Me. 354.

Sec. 71. Owner may use. R. S. c. 41, § 41. The owner or person in charge of any weir is hereby permitted to use nets and seines in such weir.

Sec. 72. Close time for salmon. R. S. c. 41, § 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. But any person may take salmon by weirs on the Saint

Croix river below the breakwater at the ledge between the fifteenth day of May and the first day of September.

Sec. 73. Weekly close time of salmon, shad, alewives and bass established; how it shall be observed. R. S. c. 41, § 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 enclosure where the fish are taken is furnished with a board floor, an opening extending from the floor to the top of the weir is equivalent to one extending from the bottom to the top. The penalty for the violation of this section is twenty dollars for each offense. This section does not apply to the Kennebec, Androscoggin or Penobscot rivers or their tributaries, or to the Saint Croix river below the breakwater at the ledge. Provided, however, that the weekly close time on the Damariscotta river below the bridge at Damariscotta shall be from sunset on each Saturday night to twelve o'clock on the following Sunday night.

78 Me. 394; 81 Me. 395.

Sec. 74. Regulation of smelt fishing. R. S. c. 41, § 44. 1905, c. 20; c. 30; c. 91. 1907, c. 12; c. 35; c. 123; c. 136. 1909, c. 165. 1913, c. 113. 1915, c. 144. No smelts shall be taken or fished for in tidal waters, nor in any brook, stream or river emptying into tide-waters, within one thousand feet of tide-water, except by hook and line, between the first days of April and October, under a penalty of not less than ten, nor more than thirty dollars for each offense, and a further penalty of twenty cents for each smelt so taken, and all weirs for the capture of smelts shall be open and so remain, and all nets used in the smelt and tomcod 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 the law. But weirs with catch pounds covered with nets, the meshes of which are one inch square in the clear, or greater, and weirs with catch pounds covered with nets which are erected and used for the catching of herring are not subject to this section. But no smelts caught in such weirs after the first day of April, shall be sold or offered for sale in this state, nor shall smelts caught in any manner between the first day of April and the first day of October following be offered for sale, sold or shipped from the state under a penalty of twenty-five dollars for each offense; provided, however, that dip-nets may be used between the first day of April and the first day of May, and all smelts caught by dip-nets between said days may be lawfully offered for sale and sold in this state; provided, further, that

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this section does not apply to smelts taken in the Androscoggin river above the Merrymeeting bay bridge, or in Narraguagus bay or river between the first days of October and November, nor to smelts taken in the Penobscot river and its tributaries between the first and thirtieth days of April, nor to smelts taken in Casco bay between the fifteenth day of September and the first day of October, nor to smelts taken in Franklin bay between the first day of April and the first day of May, nor to smelts taken in Little Kennebec bay, so called, or in Narraguagus bay or river, in the county of Washington, between the first day of April and the twentieth day of May, nor to smelts taken in West bay and West Bay stream, so called, in the town of Gouldsboro, Hancock county, nor to smelts taken in Tunk stream and Parritt and Whitten stream, so called, in the town of Steuben in Washington county, between the first day of April and the first day of May, nor to smelts taken in Passamaquoddy bay, St. Croix river and Cobscook bay and the coves and inlets tributary to these bays between the first day of September and the first day of October.

Sec. 75. Taking smelts in Narraguagus river regulated. 1909, c. 224. No person shall take any smelts by means of purse, or by drag seines of any kind, in the tide-waters of Narraguagus river or bay, so called, in the county of Washington, under a penalty of fifty dollars for each offense, to be recovered by complaint or indictment, one-half to the use of the complainant, and one-half to the inhabitants of the town in which said offense is committed, for the benefit of schools.

Sec. 76. Smelt fishing in certain tidal waters along coast, regulated. 1911, c. 90. 1915, c. 116. No smelts shall be taken or fished for in the tidal waters along the coast of Maine within one-half mile of the coast line at mean high-water mark starting from Cape Small Point on the west bank of the Kennebec river and continuing easterly along the coast of Maine to Owl's Head in Penobscot bay, except by hook and line or weirs or set-nets through the ice, under penalty of not less than ten, nor more than fifty dollars for each offense, to be recovered by complaint or indictment. This section shall not apply to the waters along the coast of Maine between Martin's Point and White Head in the county of Knox.

Note. As to protection of smelts in inland waters, above tide-waters, see c. 33, § 26.

Sec. 77. Nets with meshes smaller than one inch prohibited. R. S. c. 41, § 45. No net, the meshes of which are smaller than one inch square in the clear shall be used in any waters frequented by migratory fishes, except the Saint Croix river, between the first days of April and October, under a penalty of not more than twenty, nor less than ten dollars for each offense; but this section shall not apply to dip-nets.

Sec. 78. Stationary contrivances regulated. R. S. c. 41, § 46. No weir, hedge, set-net or any other contrivance for the capture of fish, which is stationary while in use, shall extend into more than two feet of water at ordinary low water, under a penalty of not more than one hundred, nor less than fifty dollars, and forfeiture of all apparatus and material so unlawfully used. This provision applies to any seine or drift-net which is at any time attached to a stationary object, but not to fykes or bag-nets used in the winter fishery for smelts and tomcods, nor to any implements lawfully used above the flow of tide, nor to any portion of Penobscot river,

bay or tributaries, nor to the Saint Croix river five hundred feet above Ferry's point, in Calais.

85 Me. 121, 164.

Sec. 79. Depth of weirs, how measured; standard for low water on the Kennebec river. R. S. c. 41, § 47. 1909, c. 246. 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 the 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 in depth, measured as aforesaid, under the following conditions; first, the distance from the before mentioned two feet limit to the entrance of such weir shall not exceed one hundred feet; second, no such weir shall obstruct more than one-eighth of the channel, except that in the Cathance, Abbagadasset and Eastern rivers, such weirs may extend twenty-five feet beyond the one-eighth aforesaid, provided such extension shall not exceed one-fourth of the width of the channel in the Abbagadasset and Eastern rivers; third, every such weir shall be stripped so as to render it incapable of taking fish between the fifteenth day of June and the fifteenth day of August of each year; 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 new United States coast survey, allowance being made at the various points for the difference in time. The provisions of this and the preceding sections do not apply to weirs built for the purpose of taking herring, or other salt-water fish.

Sec. 80. Forfeitures. R. S. c. 41, § 48. All boats, implements and materials used and all fish taken in violation of the two preceding sections are liable to forfeiture.

Sec. 81. Taking alewives in Damariscotta river regulated. R. S. c. 41, § 49. Whoever shall construct, set, maintain or use any net, weir, seine or other device, in the waters of the Damariscotta river, northerly of the bridge between the villages of Newcastle and Damariscotta, for the purpose of taking or catching alewives, or whoever shall take or catch any alewives within said limits, except by hook and line, shall be punished by a fine of two hundred dollars for each offense; all nets, weirs, seines or other machines or devices, prohibited as aforesaid, shall be deemed forfeited and contraband, and any member of the fish committee of the towns of Newcastle and Nobleborough finding them in such use, may destroy them. But nothing in this section shall be construed to abridge or affect in any manner, the rights and privileges now held by law, by said towns of Newcastle and Nobleborough in the alewife fishery in the said Damariscotta river.

Sec. 82. Fishing about Pemaquid falls restricted. R. S. c. 41, § 51. All fishing for alewives at or about Pemaquid falls below the mill dam, shall be restricted to four days in each week, and the fishing season shall be from the first day of April to the fifteenth day of July of each year, for the term aforesaid, and all fishing shall be under such regulations and further restrictions as the fish committee of the town of Bristol shall decide upon.

Sec. 83. Persons not authorized shall not catch alewives in Pemaquid river. R. S. c. 41, § 52. No person not authorized by the fish committee

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of the town of Bristol, shall be allowed to catch or disturb any alewives in Pemaquid river above the flow of the tide, and no person unless authorized by said fish committee, shall set traps, or use any other contrivance, for catching eels, or any other fish, that shall in any way interfere with the passage, either way, of alewives old or young; whoever violates this section shall be subject to a fine of twenty-five dollars and one dollar for each fish so taken or destroyed.

General Provisions.

Sec. 84. Dead or injured fish shall not be cast on shores, nor released in harbors. 1905, c. 77, §§ 1, 2. No person shall cast or deposit upon the shores, or release and deposit in the bays, harbors or rivers of this state any dead fish, or fish that have been smothered or injured so that they will die. Whoever wilfully violates this section, or aids therein, shall be punished by fine of one hundred dollars, or by imprisonment not exceeding thirty days, or by both fine and imprisonment.

Sec. 85. Shooting seals in Casco bay regulated. 1905, c. 67. No person shall during the months of June, July and August destroy seals in the waters of Casco bay by shooting with rifle or other long-range weapon, which might endanger human life, under a penalty of fifty dollars for each offense.

Sec. 86. Use of dynamite or poisonous substance for destroying fish, sale of fish so taken, and carrying such substances or explosives in fishing boat forbidden. 1915, c. 217. No person shall use dynamite or any poisonous or stupefying substance whatever, for the purpose of destroying or taking any kind of fish in tidal waters. No person shall buy, sell, give away or expose for sale, or possess for any purpose, any fish taken by use of dynamite or any poisonous or stupefying substance; and no person while engaged in fishing shall carry in his fishing-boat or vessel, any dynamite or other explosives, or any poisonous or stupefying substance. Whoever violates any provision of this section shall be punished by fine of one hundred dollars and costs, and in addition thereto shall be imprisoned for a term of sixty days.

Sec. 87. Persons deriving special benefit from protected waters shall post notices of such protection. R. S. c. 41, § 54. All persons who derive special benefits from legislation for the protection of fish in any waters of this state, in excess of what is or may be derived by others, shall publish such protection by posting and maintaining notices substantially as hereinafter provided. Said notices shall be placed on the banks or shores of such protected waters not more than ten feet nor less than six feet above the ground, in a conspicuous position; and if on running water such notices shall be not more than one-half mile apart on the banks of such waters; and if on a pond or lake, not more than one mile apart on the shores of such pond or lake.

78 Me. 486.

Sec. 88. Form of such notices; no liability unless notices are posted. R. S. c. 41, §§ 55, 57. Said notices shall be painted on wood in black Roman letters not less than two inches in length and not less than one-

half inch in breadth, so that such letters shall be plainly legible, and such notices shall state the number of the act and the date of the same giving the said protection to such waters. In case no notices as herein provided are posted and maintained on waters that are protected by any special law, no one violating such law shall be liable thereunder to any penalties therein set forth.

Sec. 89. Mutilation. R. S. c. 41, § 56. Any one mutilating or destroying such notices, shall be subject to the same penalties as set forth in section thirty-two of chapter one hundred and twenty-nine.

Sec. 90. Application of sections 87-89. R. S. c. 41, § 58. The three preceding sections shall not apply to towns which by special act have acquired vested rights in any fishery in said towns.

Sec. 91. Vessels owned by non-residents liable for unlawful fishing. R. S. c. 41, § 59. All vessels, boats, craft, owned and officered by non-residents, and apparatus of every kind, employed in unlawful fishing, or having on board any fish unlawfully taken, are liable for all fines and costs herein provided for; and any officer may seize and detain said property not exceeding twenty-four hours, in order that it may be attached and taken by due process of law to satisfy any judgment that may be recovered, but it shall, at any time be released on payment, by the owner or master, of the fine, costs and reasonable expenses.

Sec. 92. Jurisdiction of offenses. R. S. c. 41, § 60. In all prosecutions under this chapter municipal and police judges and trial justices within their counties have by complaint original and concurrent jurisdiction with the supreme judicial and superior courts.

79 Me. 17, 160; 80 Me. 85; 89 Me. 42.

Sec. 93. Fines and penalties, how recovered; settlement of offenses; commissioner shall report to treasurer of state. R. S. c. 41, § 61. 1909, c. 99. All fines and penalties under this chapter may be recovered by complaint, indictment or action of debt made or brought in the county where the offense was committed. The action of debt shall be brought in the name of the commissioner of sea and shore fisheries, and all offenses under, or violations of, the provisions of this statute, may be settled by the commissioner of sea and shore fisheries, upon such terms and conditions as he deems advisable. All fines, penalties and collections under this chapter, except when otherwise expressly provided, shall forthwith be paid to the commissioner of sea and shore fisheries and by him be paid to the treasurer of state to be added to and made a part of the appropriation for sea and shore fisheries. And the commissioner shall report to the treasurer of state the amount of each fine, penalty and collection itemized and the name of the party paying the same which shall be kept on record in the treasurer's office.

See §§ 52, 75, 76; c. 33, § 87; 87 Me. 206; 89 Me. 42; 99 Me. 229; 101 Me. 352.

Note. Notices on petition to legislature for special legislation relating to fish, c. 2, § 40.

Use of dynamite or other explosives or any poisonous or stupefying substance, for purpose of destroying or taking fish forbidden, c. 33, § 24.

Cultivation of fish for purposes of science by commissioners of inland fisheries and game, c. 33, § 5.

Cultivation of useful fishes by riparian proprietors, c. 33, § 33.

Trespass on islands in salt water for purpose of hunting thereon, c. 100, §§ 12-15.

Penalty for swelling scallop meats by artificial means, c. 130, § 14.