

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE  
REVISED STATUTES

OF THE  
STATE OF MAINE

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## CHAPTER 50.

## Sea and Shore Fisheries.

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## Sea and Shore Fisheries Commission.

Sec. 1. Terms defined. 1917, c. 293, § 1. The word "commission" as used in this chapter shall mean the sea and shore fisheries commission. The word "commissioner" as used in this chapter shall mean a member of the commission above defined. The word "director" as used in this chapter shall mean the executive officer of the commission provided for by section three of this chapter.

Sec. 2. Sea and shore fisheries commission; appointment, qualifications, tenure, removal, vacancies, power, duties, etc.; rules and regulations; penalty for violating same. 1917, c. 293, §§ 3, 4, 6. 1921, c. 82. 1929, c. 200. The sea and shore fisheries commission shall consist of three persons who shall not all be members of the same political party and who expect as hereinafter provided shall be chosen from the two political parties casting the largest number of votes for governor at the last preceding election. They shall be appointed by the governor, with the advice and consent of the council, in successive years upon expiration of the terms of the present commissioners, and each commissioner shall hold office for a term of three years unless sooner removed. Commissioners may at any time be removed from office for cause by the governor with the advice and consent of the council after notice and hearing. In case of a vacancy the governor, with the advice and consent of the council, shall appoint a person of the same political party as the retiring commissioner, who shall hold office for the remainder of the unexpired term. The sea and shore fisheries commission shall have general supervision of the sea and shore fisheries and shell-fish regulated by this chapter. They shall exercise supervision over all the fisheries and their products taken from the tide-waters within the state, including the proper enforcement of all laws relating to the catching, packing, curing, manufacturing, selling, branding, and transportation of all kinds of pickled, salt, smoked, fresh, canned, or frozen shell or other fish. They shall have authority to make rules and regulations governing the time, manner, and conditions of taking fish, shell-fish, and lobsters and may declare a close time on such varieties and in such localities as they may determine; but such rules and regulations shall be made and such close time declared only after hearing, reasonable notice of which shall have been given by publication or otherwise to all parties interested. Rules and regulations so made and close time so declared shall be held to take precedence over any then existing provisions of statute inconsistent therewith.

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Whoever violates the rules and regulations so made or the close time so declared shall be liable to the same fines and penalties as are provided in section twenty of this chapter relating to engaging in the lobster business without a license.

\*121 Me. 450.

**Sec. 3. Director of sea and shore fisheries; powers and duties.** 1917, c. 293, § 7. 1923, c. 207. The commission shall appoint a director of sea and shore fisheries who may be removed by them at their pleasure. He may employ, subject to the approval of the commission, one or more clerks and may also incur a reasonable expense for traveling expenses, office rent, postage, printing, stationery, telephone, and express. He shall have and exercise personal supervision of the work of the department and of the enforcement of the laws relating to sea and shore fisheries by the wardens and shall himself possess all the powers of a warden, and shall possess all the powers and perform all the duties hereinafter specified in this chapter. He shall make a detailed biennial report showing the amount of capital invested in, number of persons employed in, value of products of, and any other information that he may be able to obtain relating to the sea and shore fisheries. He shall keep a record of all prosecutions for violations of the laws relating to the sea and shore fisheries, 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, which shall be made to the commission and by them transmitted to the governor and council, with such additional statement as they may see fit to make.

**Sec. 4. Fish wardens, appointment; powers; bond.** R. S. c. 45, § 2. 1917, c. 293, § 8. Fish wardens shall be appointed by the director of sea and shore fisheries, and shall be removable by him at pleasure. They 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 violators and 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 director of sea and shore fisheries, to the treasurer of state, conditioned for the faithful performance of the duties of their office, provided that in case of emergency, under direction of the director of sea and shore fisheries, they may discharge their official duties for a period not exceeding two weeks after their appointment and before the filing and approval of said bond.

99 Me. 229; \*107 Me. 349.

**Sec. 5. Authority of director and wardens in enforcing laws relating to sea and shore fisheries; use of search warrants.** R. S. c. 45, § 3. Fish 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 director 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-five, 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 director 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 fourteen of chapter one hundred forty-four.

\*94 Me. 132.

**Sec. 6. Concurrent jurisdiction with commissioner of inland fisheries and game over migratory fish.** 1923, c. 213. All sea salmon, shad, alewives, and smelts that migrate from the ocean into fresh water, wherever found, shall be under the concurrent jurisdiction of the sea and shore fisheries commission and the commissioner of inland fisheries and game.

See c. 38.

**Sec. 7. Wardens to make monthly report.** R. S. c. 45, § 4. Each warden shall make a detailed monthly report to the director 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 director may prescribe and furnish, and shall do such other acts as the director may require for the purpose of gaining information and for the proper enforcement of the law.

### Inspection of Fish.

**Sec. 8. Appointment of inspectors of fish; term.** R. S. c. 45, § 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. 9. Inspectors to give bond.** R. S. c. 45, § 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 dollars, 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. 10. Inspectors to make returns annually of all fish inspected.** R. S. c. 45, § 7. Every inspector shall, by the thirtieth day of November, annually, make a return into the office of the director of sea and shore fisheries of all fish

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by him inspected during the year preceding the said thirtieth day of November, designating the quantities, kinds, and qualities of pickled fish, and said director shall embody the substance thereof in his next official report.

**Sec. 11. Any person injured by neglect of inspector may bring action on bond.** R. S. c. 45, § 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 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. 12. Duty of inspector as to inspection and packing of fish.** R. S. c. 45, § 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. 13. Mackerel to be branded.** R. S. c. 45, § 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;" all other mackerel, free from taint or damage, 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. 14. Quality of casks and how made; dimensions.** R. S. c. 45, § 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. 15. Pickled alewives and herring, how prepared and packed.** R. S. c. 45, § 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. 16. Fees for inspection and branding.** R. S. c. 45, § 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. 17. Penalty for selling or exporting uninspected or damaged fish.** R. S. c. 45, § 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. 18. Penalty for attempting to export uninspected fish; warrant for seizure; penalty for refusing to aid officer.** R. S. c. 45, § 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. 19. Penalty for intermixing inspected fish; for fraud of inspector.** R. S. c. 45, § 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 brand, 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. 20. Lobster fishing, transportation, and sale without license prohibited; exceptions; penalty.** R. S. c. 45, § 17. 1917, c. 182. 1919, c. 184, § 1. 1921, c. 98, § 1. 1929, c. 211. 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 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 from any of said waters, or cause to be placed, set, kept, maintained, supervised, lifted, raised, or drawn in or from any of said waters any pot, trap, trawl, car, boat, smack, ves-

sel, or other contrivance designed or adapted for the catching, taking, holding, or for removal or transportation of lobsters unless licensed to do so as herein-after 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 full and correct name and address of both consignor and consignee. Any person who makes the catching of lobsters his occupation shall have the right to market such lobsters caught by him without taking out additional license for that purpose. 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-seven, shall be punished by a fine of 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. No person, firm, or corporation convicted of the violation of any law relating to lobsters or to the lobster industry, either by themselves, their servants or agents, shall be entitled to any renewal of said license until after the lapse of six months from the time of such conviction, and on second conviction such renewal shall not be permitted until after the lapse of one year, and upon a third conviction any application for license by such applicant shall be denied for three years.

Sec. 21. Licenses; fees; report by director. R. S. c. 45, § 18. 1917, cc. 23, 233. 1919, c. 184, § 11. 1921, c. 98, § 2. 1923, c. 87. 1929, c. 212. The director of sea and shore fisheries shall grant and issue licenses in the lobster industry to such persons, except as is herein otherwise provided, who may make written application therefor on blanks furnished by said director, but no such license shall be issued to any class of applicants unless all questions asked or information sought or called for in said application shall have been completed to the satisfaction of said director. Such licenses shall be divided into four classes, namely: first class, fishermen's licenses; second class, selling licenses; third class, shipping licenses; fourth class, smackmen's licenses. Licenses of the first class fishermen's licenses, shall be issued only to such persons as have been, for three years prior to the date of application, a resident of the state of Maine, except that any person who has heretofore been a resident of this state, but for a time resident elsewhere, and returns to the state of Maine for the purpose of establishing and maintaining a bona fide residence therein may, if otherwise entitled, receive such license in which case such non-residence may be taken as a part of said three years. Licenses of the second class, selling licenses, shall be issued only to persons, firms, or corporations conducting hotels, restaurants, or boarding-houses, or to persons, firms or corporations engaged in the business of buying and selling lobsters. Licenses of the third class, shipper's licenses, shall be issued only to persons, firms or corporations engaged in the lobster business in this state or other states to buy, sell and ship lobsters. Licenses of the fourth class, smackmen's licenses, shall be issued only to smackmen to buy, sell and transport lobsters by smack or boat. Applications for licenses shall be made upon special forms provided by the director of sea and shore fisheries as above set forth. Violations of the agreements of the application shall render the license thereon void. Dumping, destroying or removing any bag, box or other receptacle after command of the director of



sea and shore fisheries or his wardens, or when pursued by the director of sea and shore fisheries, or his wardens, shall be evidence of violation of the agreement of his application and the license of such person shall be revoked, after public hearing before the director or a member of the commission. The said director shall keep the clerks of 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 them on hand and furnish them to applicants. All applications when filled out shall be forwarded to the office of said director together with fees for same, which fee shall be one dollar for any license or for any renewal thereof. All licenses shall expire annually on the last day of June unless sooner revoked as provided in section twenty-three. The director, in his biennial report, shall state the number of licenses granted. 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 shall be granted, the number of said license and the date of the expiration thereof.

**Sec. 22. Agent of person licensed; employment of person whose license has been revoked prohibited; penalty.** R. S. c. 45, § 19. 1921, c. 98, § 3. 1923, c. 80. 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. No person whose license has been revoked or suspended shall assist in the catching of lobsters in any way. Every person who shall violate the provisions of this section shall upon conviction be subject to the fines and penalties provided in section twenty.

**Sec. 23. Revocation and suspension of licenses.** R. S. c. 45, § 20. 1919, c. 184, § 2. 1921, c. 98, § 4. If any person, firm, or corporation, their servants or agents, licensed as provided in this chapter, shall be adjudged guilty of violation of any law relating to lobsters, the director of sea and shore fisheries may revoke the license of such person, firm, or corporation so adjudged guilty and upon such revocation all rights under the license so revoked shall cease, and no such person, firm, or corporation so adjudged guilty shall be entitled of right to receive a license for the period of one year, and the license shall be suspended from the date of complaint or indictment until the final determination by the court. The director of sea and shore fisheries in his discretion may, before conviction, suspend the license of any person, firm, or corporation whenever he has evidence that such person has violated any of the laws relating to lobsters. Upon the suspension of license all traps, cars, gear, and all devices used in connection with catching lobsters shall be taken from the water within five days after suspension. Any person with traps, cars, or any other device remaining in the water, after the expiration of the five days, shall be fined five dollars per day for each trap, car, or other device remaining in the water, and any car, smack, vehicle, or other device used in the holding, carrying, or transporting lobsters by any person whose license has been revoked or suspended shall be forfeited and become the property of the state.

\*122 Me. 450.

**Sec. 24. Director may restore licenses; on refusal, application to court.** R. S. c. 45, § 21. The director 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 superior court; provided the said justice finds that said director erred in his conclusion of facts, and application is made to the said justice within ten days after the refusal of the said director to restore said license.

**Sec. 25. Licenses revoked to be surrendered; licenses issued through fraud or error void; penalty for fraud.** R. S. c. 45, § 22. 1919, c. 184, § 3. 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 director of sea and shore fisheries, who shall cancel the same. Any license issued to any party through error or fraud, shall be void, and shall be surrendered on demand of any officer authorized to enforce any law governing the lobster industry in this state, and any party who fraudulently obtains a license under sections twenty to thirty-seven, both inclusive, shall be punished by a fine of one hundred dollars and by imprisonment for sixty days for each offense.

**Sec. 26. Penalty for refusing to show certificate.** R. S. c. 45, § 23. Each person, firm, or corporation licensed under the provisions of section twenty-one, 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 punished by a fine of twenty-five dollars.

**Sec. 27. Certificate of director of sea and shore fisheries admissible in evidence.** R. S. c. 45, § 24. 1917, c. 99. Any certificate of the director of sea and shore fisheries in regard to the records of his office, shall be admissible in evidence in all prosecutions under this chapter.

**Sec. 28. Traps on trawls; permission to be obtained; penalty.** R. S. c. 45, § 25. 1927, c. 36. 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 director of sea and shore fisheries, and so stated on the licenses issued under section twenty-one. Whoever violates the provisions of this section shall be punished by a fine of not more than twenty-five dollars and costs.

**Sec. 29. Method of marking pots, traps, boats, and other contrivances; penalty.** R. S. c. 45, § 26. No person, firm, or corporation licensed under section twenty-one or section thirty-three 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. 30. Only owner or authorized person to interfere with contrivances.** R. S. c. 45, § 27. No person, except the director of sea and shore fisheries and his 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 twenty-one, and set for catching or taking and holding lobsters, except with the permission of the owners thereof.

**Sec. 31. Right of search and seizure; licensees may be appointed wardens without pay.** R. S. c. 45, § 28. 1917, cc. 180, 293, § 11. 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 director of sea and shore fisheries and his 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, according to the provisions of section five, 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. But nothing herein shall be held to confer the right to search a dwelling-house without a warrant. The director may appoint as many persons as he wishes, who hold licenses under section twenty-one as wardens but so long as they hold licenses they shall serve without pay.

See § 5.

**Sec. 32. Lobsters bought for shipment out of state must conform to law.** R. S. c. 45, § 29. 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 twenty to thirty-seven, both inclusive.

**Sec. 33. Transportation of lobsters; licenses of smacks and vessels; bonds; regulations; forfeitures.** R. S. c. 45, § 30. 1919, c. 184, § 4. No person, firm, or corporation by itself, its servants, or agents, save common carriers as provided in section twenty of this chapter, shall transport or cause to be transported lobsters beyond the limits of this state, unless licensed and having given bond as herein provided. The owner or owners of any smack, vessel, or other means of transportation shall make written application for license to the director of sea and shore fisheries who is hereby authorized to grant licenses to purchase and transport lobsters within and beyond the limits of this state. The application shall state the name of the smack, vessel or other means of transportation together with a description sufficient to identify it, the name and address of the owner or owners, the name and address of the master, the port of enrolment and registry. The application shall further contain agreements by the applicant therein: to load the smack, vessel, or other means of transportation in the waters over which this state has jurisdiction, and there only between sunrise and sunset, to allow without let or hindrance, inspection and search of such smack, vessel, or other means of transportation by the director of sea and shore fisheries or his wardens, to stop when underway and return to harbor on command of the director of sea and shore fisheries or his wardens, to return to the waters of the state when so ordered by the director of sea and shore fisheries or his wardens, to abide by all the laws of this state relating to lobsters. The application shall further contain an agreement that the full penal sum of the bond

herein provided for shall be forfeited to the state on breach of any term in said application. The license issued on said application shall state the terms on which the license is issued and that it is issued in consideration of the agreements of the application. Before said license is issued, the applicant shall file with the director of sea and shore fisheries a bond with surety approved by the director of sea and shore fisheries in the penal sum of five thousand dollars conditioned that said sum shall be forfeited to the state upon breach of any agreement in the application and license. 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 twenty-one. In addition to the statement of the terms on which the license is issued, the license shall bear the date of the taking effect and the termination thereof, which last named date shall be the last day of November next after it becomes effective. The license shall give no authority to purchase or transport in any smack, vessel, or other means of transportation except that named in the license but the name of the smack, vessel, or other means of transportation may be changed by the licensee upon application to said director within the license period without further charge. Conviction of the licensee of violation of any statute of Maine relating to lobsters or breach of any agreement of application and license shall render the license void and make the full penal sum of the bond due to the state of Maine, and no licensee so convicted shall be entitled of right to license during the remainder of license year. The director of sea and shore fisheries may revoke said license when he has evidence that such owner or owners have violated any of the provisions of the law relating to lobsters.

No person shall act as master or captain of any smack, vessel, or other means of transportation engaged in transporting lobsters without the state unless licensed and having given bond as herein provided. The master or captain of any smack, vessel, or other means of transportation shall make written application for license to the director of sea and shore fisheries, who is hereby authorized to grant licenses to such captain or master to purchase and transport lobsters within and beyond the limits of this state. The application shall state the name of the smack, vessel, or other means of transportation together with a description sufficient to identify it, the name and address of the owner or owners, the name and the address of the master or captain, the port of enrolment or registry. The application shall further contain agreements by the applicant therein: to load the smack, vessel, or other means of transportation in the waters over which this state has jurisdiction, and there only between sunrise and sunset, to allow, without let or hindrance, inspection and search of such smack, vessel, or other means of transportation by the director of sea and shore fisheries or his wardens, to stop when under way and return to harbor on command of the director of sea and shore fisheries or his wardens, to return to the waters of the state when so ordered by the director of sea and shore fisheries or his wardens, to abide by all the laws of this state relating to lobsters. The application shall further contain an agreement that the full penal sum of the bond herein provided for shall be forfeited to the state on breach of any term in said application. The license issued on said application shall state the terms on which the license is issued and that it is issued on consideration of the agreements of the application. Before said license is issued, the applicant shall file with the director of sea and shore fisheries a bond with surety approved by the director of sea and shore fisheries in the penal sum of five hundred dollars conditioned that said sum shall be forfeited to the state upon breach of any agreement in the application and license. 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 twenty-one. In addition to the statement of the terms on which the license is issued, 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. The license shall give no authority to purchase or transport in any smack, vessel, or other means of transportation except that named in the license but the name of the smack, vessel, or other means of transportation may be changed by the licensee upon application to said director within the license period without further charge. Conviction of the licensee of violation of any statute of Maine relating to lobsters or breach of any agreement of application and license shall render the license void and make the full penal sum of the bond due to the state of Maine. And no licensee so convicted shall be entitled of right to license during the remainder of license year. The director of sea and shore fisheries may revoke said license when he has evidence that such master or captain has violated any of the provisions of the law relating to lobsters and no new license shall be issued for a period of one year to any party whose license has become void because of conviction or has been revoked by the director of sea and shore fisheries.

\*115 Me. 142; \*117 Me. 269.

Sec. 34. Penalty for violation of § 33 by one not licensed. R. S. c. 45, § 31. 1919, c. 184, § 5. Whoever, as master or owner, transports lobsters without the state, not having obtained the license provided in the preceding section shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, and both the owner and the master shall become indebted to and pay to the state the sum of five thousand dollars, which sum shall be a lien upon said smack, vessel, or other contrivance, the lien to be enforced in the name of the state by appropriate process.

115 Me. 142.

Sec. 35. Penalty for violation of § 33 by one having license. R. S. c. 45, § 32. 1919, c. 184, § 6. Any owner or master, licensed to transport lobsters without the state as provided in section thirty-three who shall either load said smack, vessel, or other contrivance between sunset and sunrise or hinder or obstruct the director of sea and shore fisheries or his wardens either directly or by refusal to stop and commit search, or violate any of the state laws relating to lobsters, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars. And loading said smack, vessel, or other contrivance outside the waters over which the state has jurisdiction or refusal to return to the jurisdictional waters of the state on the order of the director of sea and shore fisheries or his wardens shall be deemed a violation of the terms of the bond provided in section thirty-three and evidence of violation of the laws of the state relating to lobsters.

Sec. 36. Money received from fines and forfeited bonds, how expended. R. S. c. 45, § 33. All fines collected and money received from bonds forfeited shall be turned over to the director 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. 37. Jurisdiction of courts; notices; trial to be in nearest court; when; appeal. R. S. c. 45, § 34. 1919, c. 184, § 7. The several municipal and police courts shall have concurrent jurisdiction with the superior court over all offenses against the laws of the state relating to lobsters and to the full extent of the penalties therein specified. In case any warrant is issued or indictment

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found against any licensee under section thirty-three, and any officer qualified to serve said warrant or indictment shall certify to the court from which it is 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 has been issued against him and naming a time and place for hearing on the same, which shall not be less than fourteen days nor more than thirty days from the date of mailing said notice; and 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, but no party shall be tried in an adjoining county, unless the court in such adjoining county is nearer the place where the crime was committed than the court of the county where the offense is alleged to have been committed. 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.

\*118 Me. 86.

**Sec. 38. Legal size of lobsters and method of measurement; penalty; prohibitions; penalties.** R. S. c. 45, § 35. 1919, c. 184, § 8. 1921, c. 98, § 5. No person shall buy, or sell, give away, or expose for sale, or possess for any purpose any lobsters less than three and one-half inches in length, alive or dead, cooked or uncooked, measured from the rear of the eye socket along a line parallel to the center line of the body shell to 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 it, under a penalty of five dollars for each lobster so caught, bought, sold, given away, 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. Measures for determining the legal length of lobsters shall be provided by the state and may be obtained from the director of sea and shore fisheries at cost. No evidence shall be received in any of the courts of the state in any matter in which the length of a lobster is in question unless such length has been determined by such a measure. All lobsters or parts of lobsters sold for use in this state or for export therefrom must be sold or 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 ten dollars 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 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, carried, bought, given away, sold, or exposed for sale shall be liable to seizure and may be confiscated. Nothing herein contained shall be held to prohibit the sale of lobsters that have been legally canned.

79 Me. 55; 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. 293; \*118 Me. 233, 487; \*119 Me. 45; 125 Me. 9.

**Sec. 39. Lobsters with eggs attached may be purchased by director; limit of price; lobsters to be liberated; property of state; penalty.** R. S. c. 45, § 36. 1917, c. 255. The director of sea and shore fisheries may purchase at the rate of fifteen per cent above market price, lobsters with eggs attached, caught in the waters of this state. Whoever catches any lobsters with eggs attached may safely store the same in lobster cars, or traps used for that purpose only, and may keep them separate from other lobsters until such time as the director or some person or persons designated by him can gather and pay for them. The director or his agent shall liberate any lobsters so purchased in the vicinity where they were caught, after having marked such lobsters by punching a hole in the middle flipper. Such lobsters shall be deemed the property of the state, and, if again caught shall immediately be returned to the waters by the person catching them. The possession of any such marked lobster or mutilated lobster shall be deemed prima facie evidence of violation of this section. Any person violating the provisions of this section shall be punished by a fine of fifty dollars.

**Sec. 40. Close time on female lobsters; penalty.** R. S. c. 45, § 37. 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. 41. Canning of short lobsters prohibited; penalty.** R. S. c. 45, § 38. 1929, c. 132. No person shall can lobsters less than three and one-half inches in length, alive or dead, measured in accordance with section thirty-eight; and for every lobster canned contrary to the provisions of this section, every person, firm, association or corporation so canning shall be punished by a fine of five dollars 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. 42. Shipment of lobsters regulated; notice to director of location.** R. S. c. 45, § 39. Every person, firm, association or corporation, that hereafter opens a place of business in this state for shipping lobsters, or that changes said place of business after once it is established, shall thirty days before shipping any lobsters therefrom notify the director 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. 43. Arrangement for inspection; lobsters subject to inspection in transit.** R. S. c. 45, § 40. 1917, c. 281, § 1. Whenever the director shall receive from any person, firm, association, or corporation that now has or hereafter may open such place of business, or that changes said place of business after once it is established, the notice referred to in the preceding section, he shall, if in his judgment it is practicable to do so, arrange with said person, firm, association, or corporation for the suitable inspection of lobsters before shipment from said place of business, and cause such lobsters to be inspected; but unless such arrangements are made all lobsters shall be subject to examination in transit.

**Sec. 44. Lobster shipping cases, how marked.** R. S. c. 45, § 41. 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. 45. Inspected packages to bear mark prescribed by director; if so marked, not to be opened for inspection in transit without consent of shipper. R. S. c. 45, § 42. 1917, c. 281, § 2. All lobsters so packed shall be open to the inspection of the director or his wardens, at or before the time of the packing thereof, and if inspected each barrel, box, or package containing lobsters so inspected shall bear some mark to be prescribed by the director indicative of such inspection; but after the same are packed and marked, as required by the preceding section, if bearing the mark indicative of inspection prescribed by the director 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 as required by the provisions of the preceding section, or in case of seizure by such officer, of barrels, boxes, or other packages, containing lobsters, other than the prescribed length, such lobsters as are alive and other 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-nine.

83 Me. 211.

Sec. 46. Penalty for shipping lobsters not properly marked; penalty on common carriers. R. S. c. 45, § 43. Every person, firm, association, or corporation who ships lobsters without having the barrels, boxes, or other packages in which the same are contained, marked as prescribed in section forty-four, 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 punished by a fine of fifty dollars upon each conviction thereof.

Sec. 47. Traps not to be set near fish weir; penalty. R. S. c. 45, § 45. 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. 48. Penalty for interference with lobster traps; does not apply to unmarked traps. R. S. c. 45, § 46. Whoever, except as provided in sections two and thirty-one 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 punished by a fine of not less than twenty dollars, 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. 49. Lobsters, seizure, disposal; libel, contents; procedure; disposal of proceeds; appeal; fees and costs. R. S. c. 45, § 47. 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-five, 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 superior court 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.

Close time on lobsters in certain waters. Machias bay, P. & S. L. 1917, c. 89; 1923, c. 28. Monhegan island, P. & S. L. 1921, c. 58; P. L. 1929, c. 30. Hancock county waters, P. & S. L., 1921, c. 108. Pigeon Hill bay, P. & S. L. 1923, c. 27; 1923, c. 36. Petit Manan, P. & S. L. 1923, c. 75; 1925, c. 14. Cutler, Trescott and Lubec, P. & S. L. 1923, c. 32; 1925, c. 19. Gouldsboro, Eden, Trenton, Hancock, Sullivan and Sorrento, P. & S. L. 1923, c. 29. Jonesboro and Roque Bluffs, P. & S. L. 1923, c. 30. Jonesport and Addison, P. & S. L. 1923, c. 31. Winter Harbor, P. & S. L. 1923, c. 110; P. L. 1929, c. 148. Gouldsboro and Winter Harbor, P. L. 1929, c. 148. Georges river, P. L. 1929, c. 278.

**Sec. 50. Forfeiture of lobster gear or vehicle transporting illegally caught lobsters; seizure; libel; procedure; appeal; costs.** 1929, c. 225. Any trip, car, gear, or any other device used in connection with the catching of lobsters, and any car, smack, vehicle or other device used in the holding, carrying or transporting of lobsters shall be forfeited to the county in which the seizure was made when seized by an officer on an appropriate warrant therefor for violation of the lobster law.

Upon such seizure said officer shall immediately file with the magistrate before whom such warrant is returnable a libel against such trap, car, gear, or other device used in connection with the catching of lobsters and against any car, smack, vehicle or other device used in the holding, carrying or transporta-

tion of lobsters, setting forth the seizure by him, describing such articles so seized, the place of seizure, and that the same were then used by persons in the catching, holding or transporting of lobsters whose license therefor had been suspended or revoked, and pray for a decree of forfeiture thereof. Such magistrate shall thereupon fix a time for a hearing upon said libel and shall issue his monition and notice of the same to all persons interested, citing them to appear at the time and place appointed and show cause why said articles named in said monition should not be forfeited to the county in which seizure was made, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in such town where such articles were seized, ten days at least before the day to which said libel is returnable. The magistrate may also cause notice to be given to any other party he may think entitled thereto at least seven days before the time to which said libel is returnable.

If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare same forfeited to the county in which seizure was made. If any person appears and claims said articles or any part thereof, as having right to possession thereof at the time same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed and the foundation thereof, the articles so claimed, the time and place of seizure, the name of the officer by whom the same were seized and in it shall declare that said articles were not kept or used for violation of any lobster law on account of which they were seized as alleged in said libel and monition; such claimant shall also state his residence and place of business and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellant or claimant. If the magistrate is, upon the hearing, satisfied that said articles, or any part thereof so seized by virtue of said warrant were not used or kept in violation of said lobster law as alleged in the complaint on which said warrant was issued and that said claimant is entitled to all or any part thereof, he shall give him an order in writing directed to the officer having the same in custody, commanding him to deliver to said claimant the articles in said libel to which he is so entitled, within forty-eight hours after demand. If the magistrate finds the claimant entitled to none of said articles he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said articles forfeited to the county in which seizure was made. The claimant may appeal and shall recognize with sureties as on appeals in civil cases from a magistrate.

### Fish Packing.

Sec. 51. Rules governing sale or packing of herring; penalty; enforcement by director. R. S. c. 45, § 48. 1925, c. 94. 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 mer-

chant'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 except in so much of Sheepscot bay as is comprised within the following lines: beginning at the northerly point of Green island, thence southerly by the coast line to the Cuckolds light station; thence westerly to Pond island light station, thence northeasterly by the coast line to the northerly point of MacMahan island, thence easterly to the point of beginning, torches or any artificial light, of any kind, for the purpose of catching herring, under a penalty of ten dollars for each offense. The director 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. 52. Size of smoked herring boxes regulated. R. S. c. 45, § 49. 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. 53. Sea and shore fisheries commission may take land; not to exceed two acres in one location; proceedings; by lease, etc., may acquire more than two acres. R. S. c. 45, § 50. 1917, c. 293, § 12. The sea and shore fisheries commission 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 commission, or by the United States bureau of fisheries, in the prosecution of the work of fish culture and scientific research relative to shell-fish, or other fish over which said commission now has supervision; and whenever said commission 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, it shall proceed in accordance with the provisions of section nine of chapter thirty-eight; 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 commission 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. 54. Shores and flats set apart for shell-fish industry; proceedings.** R. S. c. 45, § 51. 1917, c. 293, § 12. The commission, upon the application of any person or corporation interested or engaged in scientific research relating to shell-fish, or other fish over which the commission 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 commission 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 commission 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 commission shall in its certificate specify.

**Sec. 55. All persons forbidden to take fish on shores taken; penalty.** R. S. c. 45, § 52. 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 water so set apart, under a penalty of not less than fifty dollars, nor more than one hundred dollars, for each offense, or by imprisonment for not more than 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. 56. Towns may grant licenses for propagation and cultivation of clams; license may be assigned.** R. S. c. 45, § 53. 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 less than five years, nor more than ten 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. 57. Proceedings before licenses shall be granted; preference to be given to riparian owner of adjacent property.** R. S. c. 45, § 54. 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. 58. Survey and plan of territory covered by license to be made; territory to be marked.** R. S. c. 45, § 55. 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 license. Failure to place or maintain the same shall be sufficient cause for revocation of the license by the authority granting the same.

**Sec. 59. License to describe territory covered; to be recorded; records open to public inspection.** R. S. c. 45, § 56. 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. 60. Taking of clams on licensed territory except by licensee prohibited; licensee to have exclusive use of territory covered by license; penalty.** R. S. c. 45, § 57. 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 punished by a fine of twenty dollars for each offense.

**Sec. 61. Proceedings if licensee fails to occupy and use territory covered by license.** R. S. c. 45, § 58. Whenever it appears to the mayor and aldermen

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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-six and fifty-seven, the territory covered by the license, they shall petition the superior court 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.

122 Me. 450.

Sec. 62. Towns to regulate taking of clams; penalty for taking clams contrary to municipal regulations. R. S. c. 45, § 59. 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 punished by a fine of not more than ten dollars, or by imprisonment for not more than thirty days. This section shall not be construed to effect the repeal of any special privileges enjoyed by the inhabitants of certain towns by virtue of any public or private and special law in force at the date of adoption of these statutes; but any town to which any such 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.

Special privileges: Scarborough, P. & S. L. 1903, c. 317 (see P. & S. L. 1905, c. 386). North Haven and Vinahaven, P. & S. L. 1905, c. 351. Phippsburg, P. & S. L. 1905, c. 372; 1919, c. 41; P. L. 1929, c. 29. Yarmouth, North Yarmouth and Cumberland, P. & S. L. 1907, c. 276; 1921, c. 115. York, P. & S. L. 1913, c. 161. Harpswell, P. & S. L. 1915, c. 26. Lamoine, P. & S. L. 1915, c. 134. Newcastle and Damariscotta, P. & S. L. 1917, c. 29. Swan's Island, P. & S. L. 1919, c. 39. Capitol Island Village Corporation, P. & S. L. 1919, c. 88. Sorrento, P. & S. L. 1923, c. 48. Machiasport, P. & S. L. 1923, c. 63; 1925, c. 80. Roque Bluffs, P. & S. L. 1923, c. 65. Kennebunkport, P. & S. L. 1923, c. 87. Perry, P. & S. L. 1925, c. 26. Addison, P. L. 1927, c. 9. Cutler, P. L. 1927, c. 10. Wells, P. L. 1929, c. 47. Biddeford, P. L. 1929, c. 99. Trenton, P. L. 1929, c. 130.

Sec. 63. Size of bait barrels; penalty. R. S. c. 45, § 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 punished by a fine of not more than fifty dollars for each offense.

Sec. 64. Close time for clams for canning, packing and barreling; penalty. R. S. c. 45, § 61. 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. 65. Transportation of clams; penalty.** R. S. c. 45, § 62. 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. 66. Planting of oysters by inhabitants of state; exclusive rights; penalty for trespassing.** R. S. c. 45, § 63. 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 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 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 dollars, nor more than fifty dollars, or be imprisoned not exceeding three months.

101 Me. 354.

**Sec. 67. Authorized selection of proper locations for experiments in propagation of shell-fish.** R. S. c. 45, § 64. 1917, c. 293, § 12. The commission of sea and shore fisheries may from time to time, as its 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 upland owners, without the consent of such owners and the payment of proper damages to such owners for such taking.

**Sec. 68. Locations protected for three years.** R. S. c. 45, § 65. 1917, c. 293, § 12. 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 commission 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. 69. Penalty for violating §§ 67, 68.** R. S. c. 45, § 66. Whoever violates any provision of the two preceding sections shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or by both fine and imprisonment.

**Sec. 70. Close time on scallops; penalty; boat and equipment may be seized and detained; prima facie evidence of violation; scallops taken outside waters of state excepted.** R. S. c. 45, § 67. 1917, c. 22. 1923, cc. 83, 130. 1927, c. 15. 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, or in the waters of Bagaduce river to a point at the mouth of said river marked by a line and bound, extending from Dice's Head in Castine through the southernmost point of Nautilus island to the Brooksville shore, between the fifteenth day of April and the first day of January next following of each year. It shall be unlawful to ship scallops so taken out of the state. Whoever violates this sec-

tion 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. So much of this section as relates to buying or selling or exposing for sale or the possession of scallops shall not apply to scallops taken outside of the waters of the state of Maine.

Swelling of scallop meats by artificial means forbidden, c. 140, § 13.

### Use of Seines, Weirs, Nets, and Artificial Flies.

Sec. 71. Use of purse or drag seines in certain waters, prohibited; regulation of fishing therein; penalty. R. S. c. 45, § 68. 1927, c. 92. 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, except the use of seines 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 of not more than five hundred dollars for each offense, to be recovered by complaint, indictment, or action of debt.

85 Me. 192.

**Sec. 72. Regulation of places and times of taking salmon, shad, and alewives in certain waters; penalty.** R. S. c. 45, § 69. No salmon, shad, or other migratory fish shall be taken or fished for within five hundred yards of any fishway, dam, or mill race; nor in the Penobscot river between the mouth of the Kenduskeag stream and the water-works dam at Treat's falls on said river, nor between the Augusta highway bridge over the Kennebec river and the Augusta dam; nor 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 less than ten dollars nor more than fifty dollars for each offense and a further fine of ten dollars for each salmon and one dollar for each shad, alewife or other migratory fish so taken.

Special regulations. Patten's Pond stream and Flood stream in Surry, Hancock county, P. & S. L. 1909, c. 305, § 1; 1921, c. 99. Patten's bay, town of Surry, Hancock county, P. & S. L. 1913, c. 36; 1917, c. 36. Pleasant river, Washington county, P. & S. L. 1901, c. 401; 1909, c. 351; 1919, c. 56. Denny's river in Edmunds and Dennysville, P. & S. L. 1921, c. 54; Thomaston, St. George and Cushing, P. L. 1844, c. 126, § 1; P. L. 1917, c. 142. Orland, P. & S. L. 1927, c. 30. East Machias waters, P. & S. L. 1833, c. 320; P. L. 1929, c. 38.

Certain acts void unless towns take action, P. L. 1923, c. 128.

78 Me. 394.

**Sec. 73. Taking of alewives in Damariscotta river regulated; penalty.** R. S. c. 45, § 81. 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

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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. 74. Taking of alewives about Pemaquid falls and other fishing regulated.** R. S. c. 45, § 82. 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. 75. Persons not authorized forbidden to catch or disturb alewives in Pemaquid river; penalty.** R. S. c. 45, § 83. No person not authorized by the fish committee 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 punished by a fine of twenty-five dollars and one dollar for each fish so taken or destroyed.

**Sec. 76. Protection of weirs; penalty.** R. S. c. 45, § 70. 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. 77. Owner may use.** R. S. c. 45, § 71. The owner or person in charge of any weir is hereby permitted to use nets and seines in such weir.

**Sec. 78. Close time for salmon; penalty.** R. S. c. 45, § 72. 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 less than ten dollars, nor more than fifty 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. 79. Weekly close time for salmon, shad, alewives, and bass; how observed; penalty; exceptions.** R. S. c. 45, § 73. 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.

Regulation of shad fishing in Nonesuch river, Scarborough, P. L. 1929, c. 48.

**Sec. 80. Regulation of smelt fishing; penalty.** R. S. c. 45, § 74. 1917, c. 71. 1923, cc. 27, 132. 1925, cc. 32, 89, 120. No smelts shall be taken or fished for in any of the tidal waters of the state not covered by private or special laws between the first day of April and the first day of October of each year except by hook and line. Anyone violating any provision of this section shall be punished by a fine of one hundred dollars for each offense. Nothing in this section shall apply to smelts taken in fish weirs or traps maintained and operated for the catching of sardines or herring.

Special regulations. Casco bay, P. L. 1925, c. 89; 1929, c. 109. Penobscot river, P. L. 1925, c. 32; Egypt bay, Franklin bay and Taunton bay waters, P. & S. L. 1917, c. 9; Saco river and Saco bay, P. & S. L. 1917, c. 54. Piscataqua river, P. & S. L. 1921, c. 32. Damariscotta river, P. & S. L. 1923, c. 71. Passagassawaukeag river, P. L. 1925, c. 152. Eastern river, P. L. 1925, c. 157. Cathance river, P. L. 1925, c. 158. Stonington and Deer Isle, P. L. 1929, c. 63. Washington and Hancock county waters, P. L. 1929, c. 46. Winnegance creek, P. L. 1929, c. 56.

Protection of smelts in inland waters above tide-waters, see c. 38, § 29.  
Tomcod and smelts in Whitten Paritt stream, Tunk stream, Steuben bay and Joys bay, P. & S. L. 1919, c. 78.

**Sec. 81. Stationary contrivances regulated; penalty; exceptions.** R. S. c. 45, § 78. 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 less than fifty dollars, nor more than one hundred 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; 124 Me. 365.

**Sec. 82. Depth of weirs, how measured; standard for low water on the Kennebec river.** R. S. c. 45, § 79. 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

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the aforesaid limit of depth. The standard for low-water mark on the Kennebec river, is in all cases the nearest bench-mark of the United States coast survey, allowance being made at the various points for the difference in time. The provisions of this and the preceding sections do not apply to weirs built for the purpose of taking herring, or other salt-water fish.

**Sec. 83. Forfeitures.** R. S. c. 45, § 80. All boats, implements and materials used and all fish taken in violation of the two preceding sections are liable to forfeiture.

**Sec. 84. Use of trawls of more than 4000 hooks in certain waters prohibited; penalty.** P. & S. L. 1919, c. 91. 1921, c. 105. The use of more than four thousand hooks of trawl or more than ten nets by the crew of any foreign dory, boat or vessel in one day within the following line is hereby prohibited: inside of a direct line drawn from Little River Head to Cummings Head, Great Wass island; from Cummings Head to Schoodic point; and from Schoodic point to east head of Isle au Haut; from east head of Isle au Haut to Pemaquid point; from Pemaquid point to Cape Elizabeth and from said point following the federal coast line to its destination at the state boundary line.

Although the above is a private and special law, it is inserted here because of its general application.

**Sec. 85. Use of beam trawls in Sedgwick harbor prohibited; penalty.** 1923, c. 34. The use of beam trawls or any similar device is hereby prohibited in Sedgwick harbor, known as Benjamin's river, under a penalty of not less than five dollars, or more than fifty dollars; provided, however, that this section shall not be construed as prohibiting the taking of smelts in the usual manner by the use of purse seines during the time when the use of seines for this purpose is lawful in other waters of the state.

### General Provisions.

**Sec. 86. Dead or injured fish not to be cast on shore nor released in harbors; penalty.** R. S. c. 45, § 84. 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 a fine of one hundred dollars, or by imprisonment for not more than thirty days, or by both fine and imprisonment.

**Sec. 87. Shooting seals in Casco bay regulated; penalty.** R. S. c. 45, § 85. 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. 88. Use of dynamite or poisonous substance for destroying fish, prohibited; sale of fish so taken and carrying such dynamite or substance in fishing boat prohibited; penalty.** R. S. c. 45, § 86. 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. 89. Persons deriving special benefit from protected waters to post notices of such protection.** R. S. c. 45, § 87. 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. 90. Form of notices; no liability unless notices posted.** R. S. c. 45, § 88. 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. 91. Mutilation of such notices prohibited; penalty.** R. S. c. 45, § 89. Any one mutilating or destroying such notices, shall be subject to the same penalties as set forth in section thirty-three of chapter one hundred thirty-five.

**Sec. 92. Application of §§ 89-91.** R. S. c. 45, § 90. The three preceding sections shall not apply to towns which by special act have acquired vested rights in any fishery in said towns.

**Sec. 93. Vessels owned by non-residents liable for unlawful fishing.** R. S. c. 45, § 91. 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. 94. Jurisdiction of offenses.** R. S. c. 45, § 92. 1919, c. 184, § 10. In all prosecutions under this chapter municipal and police courts and trial justices have by complaint original and concurrent jurisdiction with the superior court. Any warrant issued shall cover offenses in the county where said court is established or any adjoining county, but no party shall be tried in an adjoining county, unless the count in such adjoining county is nearer the place where the crime was committed than the court of the county where the offense is alleged to have been committed.

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

**Sec. 95. Fines and penalties, how recovered; settlement of offenses; commission to report to treasurer of state.** R. S. c. 45, § 93. 1923, c. 219. 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 state of Maine. All fines, penalties, and collections under this chapter, except when otherwise expressly provided, shall forthwith be paid to the commission of sea and shore fisheries and by them the same shall be paid to the treasurer of

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state to be added to and made a part of the appropriation for sea and shore fisheries. And the said commission 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 § 55. 87 Me. 206; 89 Me. 42; \*99 Me. 229; 101 Me. 352.

Notices on petition to legislature for special legislation relating to fish, c. 2, § 53.

Use of dynamite or other explosives or any poisonous or stupefying substance, for purpose of destroying or taking fish forbidden, c. 38, § 28.

Cultivation of fish for purposes of science by commissioners of inland fisheries and game, c. 38, § 9.

Cultivation of useful fishes by riparian proprietors, c. 38, § 37.

Trespass on islands in salt water for purpose of hunting thereon, c. 109, §§ 12-15.

Sea food protective commission. P. L. 1919, c. 183.

## CHAPTER 51.

### Survey and Sale of Wood, Bark, Coal, Hoops, Staves, and Lumber.

Sections 1- 5 Wood and Bark.

Sections 6- 9 Charcoal.

Sections 10-12 Coal and Coke.

Sections 13-24 Boards, Plank, and Other Lumber.

Sections 25-27 Logs.

#### Wood and Bark.

**Sec. 1. Dimensions of a cord of wood; penalty.** R. S. c. 46, § 1. 1919, c. 74, § 1. All cord-wood offered for sale shall be four feet long including half the scarf, and well and closely laid together. A cord of wood or bark shall measure eight feet in length, four feet in width, and four feet in height, or otherwise contain one hundred and twenty-eight cubic feet; the measurer shall make due allowance for refuse or defective wood and bad stowage. Any person or persons exposing for sale as a cord of wood anything less shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each offense. Cities and towns by ordinance may assign location for teams to sell said cord-wood and bark.

See c. 5, § 136, ¶ v; 14 Me. 406; 82 Me. 318.

**Sec. 2. Penalty for selling wood or bark before survey.** R. S. c. 46, § 2. If any fire-wood or bark, brought into any town by land, is sold and delivered, unless otherwise agreed to by the purchaser, before it is measured by a sworn measurer, and a ticket signed by him and given to the driver, stating the quantity that the load contains, the name of the driver, and the town in which he resides, such wood or bark is forfeited, and may be libeled and disposed of according to law.

72 Me. 119; 82 Me. 574.

**Sec. 3. Measure of cord-wood brought by water; penalty.** R. S. c. 46, § 3. All cord-wood brought by water into any town for sale shall be corded on the wharf or land on which it is landed in ranges making up in height what is wanting in length; then it shall be so measured and a ticket given to the purchaser, who shall pay the stated fees; and no such wood shall be carried away by any wharfinger or carter, before it has been so measured, under a penalty of one dollar for every load.