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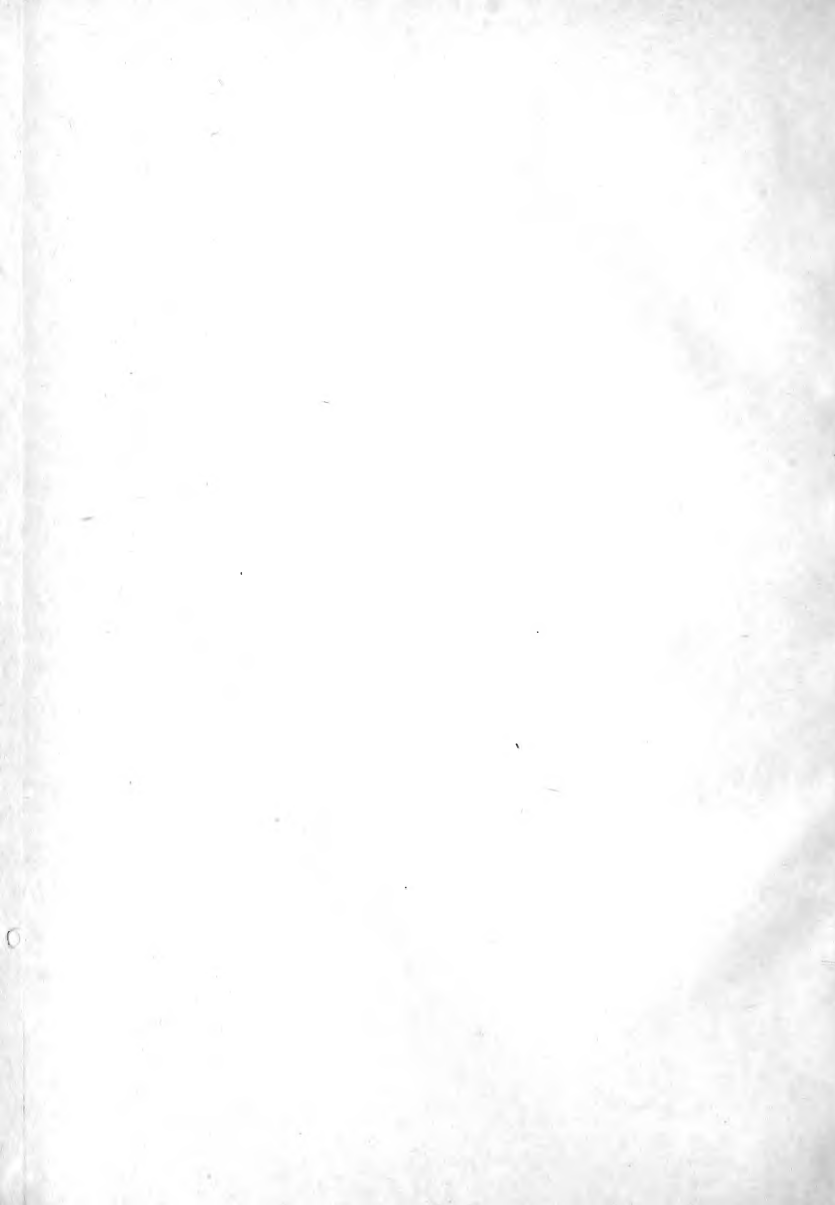


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1909







PUBLISHED BY AUTHORITY

LAWS OF OREGON

Pertaining to

Fish and the Fishing Industry

As Compiled by
H. C. McALLISTER
Master Fish Warden

INDEXED



SALEM, OREGON
WILLIS S. DUNIWAY, STATE PRINTER
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COMPILER'S NOTE

In the compilation of these laws, the sections have been arbitrarily numbered, care being had, however, to denote the sections of B. & C. Code shown in parentheses prefacing the text, and to also note in brackets at the end of each section the book and page of the session law where the act may be found.

Care has been taken to note after each penal section the portion of this compilation in which the penalty may be found.

SENATE CONCURRENT RESOLUTION No. 23

Be it resolved by the Senate, the House concurring:

That the Master Fish Warden is hereby authorized and directed to annotate and compile the laws pertaining to the fishing industry of the State of Oregon, and the State Printer is hereby authorized and directed to print in pamphlet form 3600 copies thereof; said compilation to contain all the laws in force relating to the fishing industry, including the enactment of this session of the Legislature. When printed they shall be delivered to the Secretary of State for gratuitous distribution to such persons as apply therefor.

Filed in the office of the Secretary of State February 23, 1909.

LAWS OF OREGON

Pertaining to

Fish and the Fishing Industry

BOARD OF FISH COMMISSIONERS.

§ 1. (B. & C. Code 4078.) *Authorized to Appoint Fish Warden, Deputy and Special Deputy—Duties and Compensation of Wardens.*

The Governor, Secretary of State, and State Treasurer are hereby created a Board of Fish Commissioners. It shall be the duty of such Fish Commissioners to appoint one Master Fish Warden, and also one deputy, who shall be known as Deputy Fish Warden, who shall have the same power and authority for enforcement of the law as the Master Fish Warden. They shall hold their offices at the pleasure of the Board of Fish Commissioners, who may summarily remove them whenever in their judgment they shall deem such a change for any cause advisable. Before entering upon the duties of his office, the said Master Fish Warden shall file with the Secretary of State a bond, to be approved by the board, in the sum of \$25,000, with two or more sureties, conditioned for the faithful performance of his duties as prescribed in this act. His compensation shall be \$2,500 per year, to be paid quarterly from the general fund, and he shall be allowed for hire of patrol boats and his actual traveling expenses,

office, and other necessary expenses in the performance of his duties, the sum of \$1700 per year, to be paid from the said fund. The Deputy Fish Warden shall, before entering upon his duties, execute a bond with one or more sureties, to be approved by the board, in the sum of \$1,000 to the State of Oregon, conditioned for the faithful performance of his duties. The Deputy Fish Warden shall devote his entire time and attention to the fish industry of the State, under the direction of the board and supervision of the Master Fish Warden, and shall receive a salary of \$1,000 per year, payable quarterly from said fund, and he shall be allowed for his actual traveling expenses while in the performance of his duties, the sum of \$500 per annum. The Board of Fish Commissioners is hereby authorized to appoint a special deputy for any stream in the State, who shall be known as "Water Bailiff," and who shall reside in the vicinity of said stream for which he is appointed. Such water bailiff shall have the power to enforce the fish laws in any part of the State, under the direction of the master or deputy wardens. The special deputy shall receive the sum of \$3.00 per day while in the actual performance of his duties, and shall receive for his actual traveling expenses, upon vouchers for the same, not to exceed \$2.00 per day, while in the performance of his duties, the same to be paid out of the "hatchery fund." [L. 1901, p. 334, § 16.]

§ 2. *Appointment of Deputy Fish Warden for Fishing District No. 2.*

For the purpose of enforcing the provisions of the laws protecting the fishing industry of the

State of Oregon, the Board of Fish Commissioners is hereby authorized to appoint one deputy fish warden for fishing district No. 2, who shall be a resident of said district, and shall have the same power and authority for the enforcement of the fishing laws of the State as the Master Fish Warden, and shall devote his entire time and attention to the fishing industry of the State, under the direction of board and supervision of the Master Fish Warden. He shall receive a salary of \$1,000 per annum, payable quarterly from the general fund, and shall be allowed for actual traveling expenses while in the performance of his duties, not to exceed the sum of \$500 per annum, payable from said fund. He shall hold his office at the pleasure of the Board of Fish Commissioners, who may summarily remove him whenever, in their judgment, they shall deem a change for any cause advisable. Before entering upon the duties of his office he shall file with the Secretary of State a bond to be approved by the board, in the sum of \$1,000, with one or more sureties, conditioned for the faithful performance of his duties. [L. 1907, p. 368, § 1.]

§ 3. *Appointment of Clerk.*

The Master Fish Warden of the State of Oregon is hereby authorized to appoint a clerk for the State Fish Warden's office, who shall keep the books of the office and the accounts with the different state hatcheries, and all other duties connected with the office, under the direct supervision of the Master Fish Warden. Such clerk shall devote his entire time and attention to the fishing industry of the State of Oregon, and shall receive therefor a salary of one thousand dollars (\$1,000)

per annum, payable quarterly from the general fund.

Before entering upon the duties of the office said clerk shall execute a bond with one or more sureties, to be approved by the Master Fish Warden, in the sum of \$2,000, to the State of Oregon, conditioned for the faithful performance of the duties thereof. Such clerk shall hold office at the pleasure of the Master Fish Warden, and may be summarily removed by him whenever, in his judgment, he shall deem such a change for any cause advisable. [L. 1907, p. 48, § 1.]

§ 4. *Patrol Boats for Columbia River and Tributaries.*

There is hereby appropriated from any moneys in the state treasury, not otherwise appropriated, the sum of \$5,000, or as much thereof as may be necessary, for the purpose of building, constructing, equipping, and furnishing one or more gasoline patrol boats, built especially for patrol work among the fishers on the Columbia River and its tributaries. [L. 1907, p. 49, § 1.]

§ 5. *Construction of Patrol Boats.*

The plan and construction of said patrol boat or boats shall be under the control and direction of the Board of Fish Commissioners, which board is hereby authorized, at its discretion, to purchase tools and supplies and employ a superintendent and workmen to construct and equip said boat or boats; or advertise and award contract or contracts for the construction, building, equipping, and furnishing said patrol boat or boats. Said construction shall begin as soon as practicable after the approval of this act. [L. 1907, p. 49, § 2.]

§ 6. *Patrol Boats to Be Under Supervision of Master Fish Warden.*

After said patrol boat or boats have been provided, they shall be under the care and direct supervision of the Master Fish Warden, who may, and he is hereby authorized, subject to the approval of the Board of Fish Commissioners, to appoint a master for each boat, who shall have charge of such boat, subject to orders from the Master Fish Warden or a deputy warden or a water bailiff. Such master shall receive such salary or compensation for services rendered as may be agreed upon by the Board of Fish Commissioners, the same to be paid out of any moneys in the hatchery fund for Fishing District No. 1, and shall hold his office at the pleasure of the said Board of Fish Commissioners. [L. 1907, p. 50, § 3.]

§ 7. *Maintenance of Patrol Boats.*

All necessary expenses for the operation, repairs and maintenance of said boat or boats shall be made by the Board of Fish Commissioners, under the direct supervision of the Master Fish Warden; the same to be paid for out of any moneys in the hatchery fund for Fishing District No. 1. [L. 1907, p. 50, § 4.]

§ 8. *Expense Claims to Be Approved and Audited.*

All expenses of whatever nature incurred by said Board of Fish Commissioners under the provisions of Sections 1 and 2 of this act* shall be paid upon properly certified vouchers being presented, and the Secretary of State shall, upon

*Sections 4 and 5 of this compilation.

approval of such bills by said Board of Fish Commissioners, draw his warrant upon the State Treasurer in payment of the same from the general fund, such warrants not to exceed in the aggregate the sum of \$5,000 and all expenses incurred under the provisions of Sections 3 and 4 of this act** shall be paid upon properly certified vouchers being presented and the Secretary of State is hereby authorized and directed to draw his warrant on the treasurer of the State of Oregon, payable out of the hatchery fund for Fishing District No. 1 for such sums as shall be approved by said Board of Fish Commissioners. [L. 1907, p. 50, § 5.]

§ 9. *Fish Warden to Keep Books and Devote Entire Time to His Office.*

The Fish Warden shall keep proper books showing the licenses issued, to whom issued, and amounts received, and all moneys disbursed and paid out for any cause. It shall also be his duty to devote his entire time and attention to the fishing interests and fishing industries of the State; and see that all laws for the protection, preservation and propagation of all salmon, and other anadromous fish and sturgeon, and oysters and shellfishes, in the waters and streams of this State and of the Columbia River are enforced. [L. 1907, p. 107, § 7.]

This section repeats by implication Section 4099 B. & C. Code, the substance of which is contained herein.

§ 10. *Annual Report of Warden and Suggestions to Board.*

Said Fish Warden shall annually, on December 31st, report to the Board of Fish Commissioners

**Sections 6 and 7 of this compilation.

of this State a full account of his actions, also of the operations and results of the law pertaining to fish and shellfish industries, the method of taking fish, the number of young fish hatched and where distributed, amount of expenses incurred, and make suggestions as to the needs to further legislation, if any, and full statistics of the fishing and shellfish industries, and amount of all money received and disbursed. [L. 1907, p. 107, § 8.]

This section repeals by implication Section 4100 B. & C. Code, the substance of which is contained herein.

§ 11. (B. & C. Code, § 4101.) *Arrests, Authority of Warden and Deputies to Make Without Process—Resistance a Misdemeanor.*

The fish warden or his deputies shall have authority to arrest without writ, rule, order or process, any person or persons detected by him or them in the act of committing a crime in violation of the fish laws of this State; and they are hereby made peace officers of this State for that purpose, and shall have authority to execute all criminal process issued for the arrest or detention of any person complained against for the violation of any of the fish laws of this State. Any person who knowingly or willfully resists or opposes such officer in discharge of his said duties shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as in this act hereinafter provided. [L. 1901, p. 344, § 40.]

For penalty see Section 117 of this compilation.

§ 12. *Inspection of Canneries, Cold Storage Houses, Etc., by Warden.*

The fish warden is hereby authorized to inspect all canneries, cold storage houses, packing estab-

lishments, business places, boats, nets, wheels, traps, and other fishing apparatus, and all property used in the catching and packing of fish, for the purpose of enforcing the provisions of this act, and to that end said fish warden is authorized to enter into said property and to make inspections thereof. [L. 1907, p. 107, § 9.]

This section repeals by implication Section 4102 B. & C. Code, the substance of which is contained herein.

§ 13. (B. & C. Code, § 4103.) *Attorney-General, Duty of, to Advise Commissioners—Prosecuting Attorneys to Act on Complaints.*

The Board of Fish Commissioners shall have the authority to apply to the Attorney-General for his official opinion upon any question touching the construction and interpretation of the statutes and the duty of the Board of Fish Commissioners wherein they shall need legal advice; and it shall be the duty of the prosecuting attorneys of the several districts to prosecute in their respective districts, on information and complaint of such Board of Fish Commissioners, fish warden, or any of his deputies, any person violating any of the provisions of this act. [L. 1901, p. 345, § 42.]

§ 14. (B. & C. Code, § 4104.) *Salary and Expenses of Wardens, How Audited and Paid.*

The salaries of the fish wardens, and the necessary expenses incurred by them in the performance of their duties, and all the expenses incurred under the provisions of this act, shall be audited by the Board of Fish Commissioners, upon bills being presented properly certified by the fish wardens; and the Secretary of State shall, upon the approval of such bills, draw his warrant upon

the State Treasurer in payment of the same from the general fund. [L. 1901, p. 345, § 43.]

§ 15. (B. & C. Code, § 4105.) *Fish Commissioners Shall Receive Only Expenses.*

Said Board of Fish Commissioners shall receive no compensation for their services as such board, but shall be allowed necessary actual traveling expenses. All accounts for expenditures incurred or made pursuant to the provisions of this section shall be audited and approved by said commission before presentation to the Secretary of State. [L. 1901, p. 345, § 44.]

FISH HATCHERIES.

§ 16. (B. & C. Code, § 4079.) *Commissioners to Locate and Wardens to Construct Hatcheries.*

It shall be the duty of such Fish Commissioners to select and locate, or direct the selection and location of, suitable sites for the construction of fish hatcheries, and direct the fish wardens to construct thereat such hatcheries as in the judgment of the board will be to the best interests of the fishing industry. Said Commissioners shall have the right to pay out all moneys in the hatchery fund provided by law for the construction and operation of fish hatcheries; also to audit all bills of the fish wardens before the same are paid, and to generally exercise a supervisory control over the fish wardens and all fish hatcheries of the State. [L. 1901, p. 335, § 17.]

§ 17. (B. & C. Code, § 4080.) *"Hatchery Fund,"
Money and Fines Collected to Constitute.*

For the purpose of this act the State of Oregon is hereby divided into fishing districts as follows: District No. 1 shall include that portion of the Columbia River and its tributaries over which the State of Oregon has jurisdiction. District No. 2 shall include all the coast streams and their tributaries in the State of Oregon south of the Columbia River. The fish warden shall collect and receive all license fees, fines or parts of fines, or proceeds arising from the sale of confiscated fish or fishing appliances, under the provisions of this act, and shall pay the same to the State Treasurer within thirty days after collection or receipt thereof, to be placed in the hatchery fund, said fund to be used for hatchery purposes under the direction of the Board of Fish Commissioners. All sums of money collected in any district shall be by the State Treasurer credited to the "hatchery fund" of such district, and in paying over moneys collected, the fish wardens shall designate the district in which all moneys were collected; he shall take a receipt, in duplicate, from the State Treasurer, one he shall file in his own office and the other in the office of the Secretary of State. The money collected in any district shall not be expended, except in the district in which it was collected. All moneys now in the "hatchery fund," after all outstanding accounts against said fund have been paid, shall be apportioned and transferred as follows: Two-thirds to the hatchery fund of District No. 1; one-third to the hatchery fund of District No. 2; and the Secretary of State shall issue his

warrants on the State Treasurer, making such transfer from the "hatchery fund." Upon the payment of any judgment that may have been obtained against any person or persons for the violation of any of the provisions of this act, the same shall be satisfied by the district attorney, upon the presentation of the receipt of the Master Fish Warden. [L. 1903, p. 234, § 10.]

§ 18. (B. & C. Code, § 4081.) *Private Salmon Hatchery, Payment to Out of License Money.*

When there shall be in operation on any river in this State, for the purpose of stocking said river or its tributaries with salmon, owned by any person or persons or corporation, the Board of Fish Commissioners, upon proper evidence that said salmon hatchery shall have been operated in any year in such a manner as to produce a benefit to such stream equal to that derived from the same amount of money expended at hatcheries maintained and operated by the Board of Fish Commissioners, the said Board of Fish Commissioners shall pay over to such person or persons or corporation not to exceed sixty per cent of the moneys received by such board for licenses from persons engaged in fishing or packing fish on such river or its tributaries; the same to be used by such person or persons, firm, or corporation in propagating salmon in such river or its tributaries. [L. 1901, p. 335, § 19.]

§ 19. (B. & C. Code, § 4082.) *Construction and Operation of Hatcheries in Adjoining States.*

The Board of State Fish Commissioners is hereby authorized to construct, maintain or oper-

ate salmon hatcheries in an adjoining state, and to expend a portion of the money in the "hatchery fund" for that purpose; *provided*, that no hatchery shall be constructed or operated on any stream in an adjoining state that is not a tributary of the Columbia River, or whose waters do not flow into said Columbia River. [L. 1901, p. 336, § 20.]

§ 20. (B. & C. Code, § 4083.) *Racks or Other Obstructions for Hatchery Purposes.*

The Fish Commissioner and the Fish Commission of the United States Government, or any individual operating hatcheries in this State, are hereby authorized to erect racks, traps, or other obstructions across any of the streams in this State for the purpose of obtaining salmon for propagating purposes, and it shall be unlawful for any person or persons to injure or destroy any such racks, traps, or obstructions by any means whatever, or take, kill, destroy, or molest any salmon within two miles below any such rack, trap, or obstruction across any stream in this State. [L. 1901, p. 336, § 21.]

For penalty see Section 117 of this compilation.

§ 21. (B. & C. Code, § 4106.) *Fish Commissioners May Propagate Food Fishes—Authority.*

The Board of Fish Commissioners is authorized by this act to propagate and stock the various waters and streams of this State with salmon, sturgeon, trout, or other food fishes, not inimical to or destructive of salmon; and for the purpose of protecting the same they are hereby authorized to close any stream or any designated portion thereof in this State frequented by salmon, or

any stream which they have stocked, and prevent any person taking or fishing for or catching any salmon or food fishes therein. Should the Board of Fish Commissioners desire to close any stream or designated portion thereof frequented by salmon, or any stream or designated portion thereof which they have stocked with food fish, they shall cause notice thereof to be filed in the office of the county clerk in each county in which such stream or designated portion thereof lies, and shall publish such notice in some public newspaper published at the county seat in such county or counties for four successive weeks. Such notice shall designate as nearly as practicable the streams or designated portion thereof to be closed, and shall state that on and after a date therein stated it will be unlawful to fish for or take or catch any salmon or other food fishes therein (which date shall not be less than thirty days from the date of the first publication), and shall cause like notices to be published for such time in three conspicuous places on the banks of such streams or designated portion thereof. Upon the completion of the publication of such notice, the same, with proof of the publication and posting thereof, shall be filed with the original notice in the office of the county clerk, and it shall be unlawful at any time after the expiration of the date specified in said notice for any person to fish for, catch, or take any salmon, or any food fishes stocked therein until notice shall be filed and likewise published by the Board of Fish Commissioners of the opening of such stream or designated portion thereof to the public for fishing. [L. 1901, p. 345, § 45.]

For penalty see Section 117 of this compilation.

§ 22. (B. & C. Code, § 4107.) *Placing Fish in Water Without Authority of Board Unlawful.*

It shall be unlawful for any person, without written authority from the Board of Fish Commissioners, to place in any water of this State, any species or variety of fish whatever. [L. 1901, p. 346, § 46.]

For penalty see Section 117 of this compilation.

§ 23. (B. & C. Code, § 4108.) *Justices' Courts Have Concurrent Jurisdiction.*

Justices of the peace shall have concurrent jurisdiction with the circuit courts of this State of all offenses mentioned in this act. [L. 1901, p. 346, § 48.]

§ 24. (B. & C. Code, § 4109.) *Fish May Be Taken Any Time by Proper Officers for Propagation.*

Nothing in this act shall be construed so as to prevent the taking of salmon at any time of the year by the Board of Fish Commissioners, or accredited officers of the United States Government for propagation. [L. 1901, p. 346, § 49.]

§ 25. *Private Propagation of Trout and Other Food and Game Fish and the Sale Thereof.*

Any person may establish a private trout hatchery for the cultivation of trout fishes, and any person lawfully conducting any such private trout hatchery and engaged in the artificial propagation, culture, and maintenance of fishes, may take them in his own enclosed waters wherein the same are so cultivated and maintained at any time and for any purpose. [L. 1909, p. 154, § 1.]

§ 26. *What Constitutes Conducting Hatchery.*

Any person, firm, or corporation engaged in the business of taking fish spawn and the artificial hatching thereof, or in the raising of fry and fish therefrom in any of the waters or streams of this State, shall be deemed to be conducting a private fish hatchery under the terms of this act. [L. 1909, p. 154, § 2.]

§ 27. *Sale of Hatchery Products—When Lawful.*

The product of such fish hatchery fry, and fish, may be sold at any time of the year by such hatchery or their then vendees after having first complied with the terms of this act and the regulations of the Master Fish Warden thereto. [L. 1909, p. 154, § 3.]

§ 28. *License Fee of Private Fish Hatchery.*

Each private fish hatchery, before it shall be entitled to the benefits of this act, shall pay an annual license fee of twenty-five dollars to the Master Fish Warden. [L. 1909, p. 155, § 4.]

For penalty see Section 33 of this compilation.

§ 29. *Private Hatchery to Make Quarterly Report.*

It shall be the duty of the superintendent or person in charge of any private fish hatchery to make a quarterly report to the Master Fish Warden of the amount of fry and number of fish sold, and the name and address of the party receiving the same. It shall be the duty of each person, firm, or corporation affected by the provisions of Section 1 to render to the Master Fish Warden of the State of Oregon a quarterly report giving a detailed statement showing the amount

of fry and number of fish received from any private hatchery, and giving the name and post-office address of the superintendent or manager of the same. [L. 1909, p. 155, § 5.]

For penalty see Section 33 of this compilation.

§ 30. *License for Persons Dealing in Trout and Food Fish Taken From Private Hatchery.*

Every person, firm or corporation engaged in the business of buying and selling, packing and preserving, or otherwise dealing in trout or other food fish obtained from private hatcheries of this State, shall procure a license for such business from the Master Fish Warden of the State and shall pay an annual license fee of two dollars and fifty cents. [L. 1909, p. 155, § 6.]

For penalty see Section 33 of this compilation.

§ 31. *Unlawful to Take Fish From Private Hatchery Without Consent of Owner.*

No person shall take fish in any manner from the water in which a private fish hatchery is located, or in which fish are artificially propagated, cultivated, and maintained under the provisions of this act, without permission of the owner or proprietor of such hatchery. [L. 1909, p. 155, § 7.]

For penalty see Section 33 of this compilation.

§ 32. *Disposition of License Fees and Fines.*

All moneys collected for licenses and fines under the provisions of this act shall be turned into the State Treasury and placed in the fish hatchery fund for the district in which such license is issued or such fine collected. [L. 1909, p. 155, § 8.]

§ 33. *Penalty.*

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine not more than five hundred dollars nor less than twenty-five dollars, or by both such fine and imprisonment. [L. 1909, p. 155, § 9.]

§ 34. *Propagation of Salmon.*

There is hereby appropriated from any money in the State Treasury, not otherwise appropriated, the sum of \$20,000 for the purpose of purchasing or otherwise acquiring the necessary lands for salmon hatchery sites, and for building, equipping, operating, and maintaining salmon fish hatcheries on the coast streams of the State of Oregon south of the Columbia River. [L. 1909, p. 105, § 1.]

§ 35. *Vouchers to Be Approved and Audited.*

No part of said sum hereby appropriated shall be used or expended for any purpose whatever, otherwise than as specified in Section 1 of this act* at such places as may be selected by the Board of Fish Commissioners. All vouchers covering expenses incurred in carrying out the provisions of this act shall be approved by the Board of Fish Commissioners, and the Secretary of State is hereby authorized and directed to draw his warrants on the State Treasurer, payable out of the general fund, for such sums as shall be approved by said Board of Fish Commissioners. [L. 1909, p. 105, § 2.]

*Section 34 of this compilation.

§ 36. *Protection of Salmon, Sturgeon, Etc.*

For the purpose of protecting salmon, sturgeon, and other anadromous fish, there is hereby appropriated out of the general funds in the State Treasury, not otherwise appropriated, the sum of \$1,000, to be expended under the supervision of the Master Fish Warden for the destruction of seals and sea lions in the Columbia River and within three miles outside of the mouth thereof. [L. 1909, p. 467, § 3.]

§ 37. *Central Hatchery.*

There is hereby appropriated from any money in the State Treasury, not otherwise appropriated, the sum of \$12,000, or so much thereof as may be necessary, for the purpose of establishing, erecting, constructing and equipping a suitable "Central Hatchery" for the propagation of salmon fish on the Columbia River, or its tributaries, in the State of Oregon, and purchasing, or otherwise securing the necessary lands for a site therefor. [L. 1909, p. 245, § 1.]

§ 38. *Claims to Be Approved and Vouchered.*

No part of said sum hereby appropriated shall be used or expended for any purpose whatever, otherwise than as specified in Section 1 of this act; all vouchers covering expenses incurred in carrying out the provisions of this act shall be approved by the Board of Fish Commissioners, presented to the Secretary of State for payment, and by him audited as other claims against the State. [L. 1909, p. 246, § 2.]

THE PROTECTION OF FOOD FISH.

§ 39. (B. & C. Code, § 4059.) *Salmon Defined.*

Wherever the word "salmon" is used in this act the same shall be deemed and held to include chinook, steelheads and all other anadromous species of salmon and trout. [L. 1901, p. 329, § 1.]

§ 40. (B. & C. Code, § 4060.) *Salmon Fishing by Act Following.*

It shall be unlawful to take or fish for salmon in any rivers or their tributaries in the State of Oregon, or any waters over which the State of Oregon has concurrent jurisdiction, except as hereinafter provided. [L. 1901, p. 329, § 2.]

For penalty see Section 78 of this compilation.

§ 41. (B. & C. Code, § 4061.) *Closed Season for Salmon on Columbia West of Deschutes.*

It shall be unlawful to take or fish for salmon, sturgeon, or other anadromous fish in the Columbia River, or in any of the waters or sloughs thereof west of its confluence with the Deschutes River, or within three miles outside of the mouth of said Columbia River, by any means whatever, between 12 o'clock noon, March 1st, and 12 o'clock noon, May 1st, and between 12 o'clock noon, August 25th, and 12 o'clock noon, September 10th, of any year, and between 6 o'clock P. M. on Saturday of each week and 6 o'clock P. M. on the Sunday following, from the first day of May to the 25th day of August, both inclusive, of any year. [L. 1909, p. 466, § 1.]

For penalty see Section 78 of this compilation.

§ 42. (B. & C. Code, § 4062.) *Salmon Fishing, Except With Hook and Line, on Columbia East of Deschutes Prohibited.*

It shall be unlawful to take or fish for salmon at any time by any means whatever, except with hook and line, commonly called angling, or to take or fish for salmon in any manner whatever during the spawning season on any spawning bed or shallow, where salmon are wont to lie and deposit their spawn, in the Columbia River or any of its tributaries east of its confluence with the Deschutes River. [L. 1901, p. 329, § 4.]

For penalty see Section 78 of this compilation.

§ 43. (B. & C. Code, § 4063.) *Willamette and Tributaries, Closed Season On.*

It shall be unlawful to take or fish for salmon in the Willamette River and its tributaries, north of the falls at Oregon City, by any means whatever, except with hook and line, commonly called angling, from March 15, noon, to April 15, noon, and from June 15, noon, to November 1, noon, in any year; or to take or fish for salmon by any means whatever after the passage of this act, except with hook and line, commonly called angling, in the Willamette River or any of its tributaries south of the lower part of the falls at Oregon City. [L. 1905, p. 238, § 2.]

For penalty see Section 78 of this compilation.

§ 44. (B. & C. Code, § 4115.) *Young Sturgeon, Unlawful to Take in Columbia River—Penal Provision.*

It shall be unlawful at any time to take or kill any young sturgeon under four feet in length,

or fish for the same with any device or appliance whatever in the waters of the State of Oregon, or in the waters of the Columbia River or its tributaries; and any person or persons fishing with a trap, weir, pound net, gill net, set net, fish wheel, seine or any other fishing apparatus in the waters of the State of Oregon, or in the waters of the Columbia River or its tributaries, who, on lifting, drawing, taking up, or removing any trap, weir, pound net, gill net, set net, fish wheel, seine, or other fishing apparatus, shall find young sturgeon under four feet in length entangled or caught therein, shall immediately, with care and the least possible injury to the fish, disentangle and release the same and transfer the fish to the water without violence. Any person or persons, firm or corporation, violating any of the provisions of this section, or receiving or having in his or their possession for consumption, sale, or transportation, or sells or offers for sale or for transportation, or transports young sturgeon under four feet in length, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$20 and not more than \$1,000 and costs of the action, or by imprisonment in the county jail not less than ten days nor more than one year, or by both such fine and imprisonment; *provided*, in case of fine only, that he be imprisoned in the county jail until such fine be paid, and he shall be credited on such fine the sum of \$2.00 for each day imprisoned. All moneys collected as fines shall be disposed of as follows: One-third shall be paid to the prosecuting witness other than the Master Fish Warden or the deputy fish warden;

the remaining two-thirds, or all, as the case may be, shall be paid to the Master Fish Warden, and by him deposited with the State Treasurer, to be placed in the hatchery fund for the district in which said fine was imposed. In all prosecutions under this section the possession by any person or persons, firm or corporation, of young sturgeon under four feet in length shall be construed as *prima facie* evidence that the same was taken from the waters of the State of Oregon, or from the waters of the Columbia River or its tributaries. [L. 1905, p. 278, § 2.]

§ 45. *Rogue River and Its Tributaries, Closed Season On.*

It shall hereafter be unlawful to take or fish for salmon fish of any kind, in any manner whatever, in Rogue River and its tributaries, at any point above the point where said Rogue River crosses the Jackson County line, except with rod and line, commonly called angling; or to take or fish for salmon fish in Rogue River and its tributaries between said last above named point and the mouth of the Illinois River, and in said Illinois River and its tributaries, by any means whatever, except with rod and line, commonly called angling, from February 15th to April 15th, and from August 1st to November 15th, in any year; or to take or fish for salmon fish in Rogue River and its tributaries by any means whatever west of its confluence with the Illinois River, from March 1st to April 5th, and from August 15th to September 5th in any year; or within three miles outside of the mouth of said Rogue River from March 1st to April 15th, and from August 1st to September 15th. [Laws 1907, p. 333, § 3.]

For penalty see Section 48 of this compilation.

§ 46. *Salmon Defined.*

Wherever the word "salmon" is used in this act the same shall be deemed and held to include chinook, silverside, steelhead, and all anadromous species of salmon and trout. [Laws 1907, p. 333, § 2.]

This section refers only to Sections 45, 47, 48, and 49 of this compilation.

§ 47. *Sale of Fish Taken From Rogue River.*

It shall be unlawful any one to sell or offer for sale, barter or exchange, or have in possession for the purpose of sale, barter or exchange, or to ship or cause to be carried or transported beyond the boundaries of Josephine or Jackson counties, for sale, barter, or exchange, any salmon fish, or steelheads caught or taken from the waters of Rogue River or its tributaries, or from the Illinois River or its tributaries above their confluence, with rod and line, or otherwise, from February 15th to April 15th, and from August 1st to November 15th, of any year. [L. 1907, p. 333, § 4.]

For penalty see Section 48 of this compilation.

§ 48. *Penalty.*

Any person, firm or corporation violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$200, and costs of the action, or by imprisonment in the county jail not less than twenty-five days nor more than one hundred days. In all actions for violations of the provisions of this act, one-third shall be paid to the informer or prosecuting witness; *provided*,

such informer or prosecuting witness is not a regularly salaried fish warden, the remaining two-thirds, or all, as the case may be, shall be paid to the Master Fish Warden, and by him deposited with the State Treasurer, to be placed in the hatchery fund for the district in which said fine was imposed. [L. 1907, p. 334, § 5.]

§ 49. *Justices to Have Concurrent Jurisdiction.*

Justices of the peace shall have concurrent jurisdiction in the first instance with the circuit courts of all offenses under this act. [L. 1907, p. 334, § 6.]

§ 50. *Obstructions in Rogue River.*

It shall be unlawful for any person or persons, firm or corporation, except for securing salmon for propagation purposes, to place any obstruction in Rogue River, which said obstruction will in any way or at all or in any wise obstruct or interfere with the progress of salmon in going up or down said river, and any person violating this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined the sum of not less than \$50 nor more than \$200, or be imprisoned in the county jail not less than thirty days nor more than four months, or by both fine and imprisonment in the discretion of the court. [L. 1907, p. 334, § 7.]

§ 51. *Regulation of Trout Fishing on Rogue River and Its Tributaries.*

It shall be unlawful for any person or persons, firm or corporation, to take from or fish for trout in the Rogue River or its tributaries, or to catch, injure, kill or destroy trout either in said streams

or any part thereof, at any time of the year in any other manner, except with hook and line, commonly called angling. [L. 1909, p. 384, § 1.]

For penalty see Section 54 of this compilation.

§ 52. *Sale, Barter or Exchange of Trout Taken From Rogue River.*

It shall at all times be unlawful for any person or persons, firm or corporation to sell, barter or exchange, or to have in possession for the purpose of sale, barter, or exchange, any trout that has been taken from the Rogue River or its tributaries, in any other manner than with hook and line, commonly called angling. And in all prosecutions under this section, the possession for the purpose of sale, barter or exchange of any trout recently taken from the said Rogue River or any of its tributaries shall be *prima facie* evidence in any court that the same was taken from said stream in manner other than by hook and line, commonly called angling. [L. 1909, p. 384, § 2.]

For penalty see Section 54 of this compilation.

§ 53. *Shipping Trout Taken From Rogue River.*

It shall be unlawful for any person or persons, firm or corporation to ship or transport, or offer to ship or transport, or to receive from any other person for the purpose of shipping or transporting beyond the boundaries of either Jackson, Josephine or Curry counties, any trout theretofore taken from the Rogue River or its tributaries, in any other manner than by hook and line, commonly called angling, and the possession of any trout theretofore taken from the Rogue River or its tributaries, for the purpose of such transportation shall be *prima facie* evidence that the said

trout was theretofore taken from said stream, in a manner other than with hook and line, commonly called angling; and for the purpose of this act*, every station agent, express agent and every other agent or employee of every firm or corporation violating the provisions of this law shall be deemed a principal with said firm or corporation and shall be punished as such. [L. 1909, p. 385, § 3.]

For penalty see Section 54 of this compilation.

§ 54. *Penalty.*

Any person or persons, firm or corporation violating any of the provisions of this act* shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$25 nor more than \$200 and the costs of the action for each such offense, or by imprisonment in the county jail not less than twenty-five days and not more than one year, or by both such fine and imprisonment; *provided*, in case of fine only, that he be imprisoned in the county jail until such fine and costs of action be paid; he shall be credited with such fine and costs in the sum of \$2 for each day's imprisonment. In all actions for violations of the provisions of this act* one-third of the moneys collected as fines shall be paid to the district attorney or his deputies who conduct the action, one-third shall be paid to the informer or prosecuting witness, providing such informer or prosecuting witness is not a regularly appointed and salaried fish warden deputy, the remaining one-third or two-thirds, or all, as the case may be, shall be paid

*The act referred to includes Sections 51, 52, 53, 54, 55, and 56 of this compilation.

to the Master Fish Warden, and by him deposited with the State Treasurer to be placed in the "Game Hatchery Fund," if there be such a fund, or in the "Hatchery Fund" if there be no game hatchery fund, for the district in which said fine was imposed. [L. 1909, p. 385, § 4.]

§ 55. *Trout to Include What.*

The word "trout" wherever used in this act*, shall be held to mean and include rainbow, cut-throat, dolly varden, eastern brook, salmon trout and all species and varieties of trout and char. [L. 1909, p. 385, § 5.]

§ 56. *Justices to Have Concurrent Jurisdiction.*

Justices of the peace shall have concurrent jurisdiction in the first instance with circuit courts of all offenses under this act.* [L. 1909, p. 385, § 6.]

§ 57. *Tillamook Bay and Tributaries, Closed Season On.*

It shall be unlawful to take or fish for salmon in the tributaries of Tillamook Bay, above tide-water, at any time, by any means whatever, except with hook and line, commonly called angling, or in any of the waters of Tillamook Bay or its tributaries, below the points hereinafter named, between March 20 and July 15, of each year; or in any of the following named streams, being tributaries of Tillamook Bay, except with hook and line, commonly called angling, from March 20 to December 10, above the points hereinafter named, namely:

*The act referred to includes Sections 51, 52, 53, 54, 55, and 56 of this compilation.

Miami River—At the intersection of said stream by the south line of section 11, in township 1 north, of range 10 west of Willamette Meridian.

Kilchis River—At the intersection of said stream by the east line of section 12, in township 1 south, of range 10 west of Willamette Meridian.

Wilson River—At the intersection of said stream by the quarter-section line running north and south through section 20, in township 1 south, of range 9 west of Willamette Meridian.

Hoquarton Slough—At the intersection of said slough by the west line of section 24, in township 1 south, of range 10 west of Willamette Meridian.

Trask River—At the intersection of said river by the quarter-section line running east and west through section 26, in township 1 south, of range 10 west of Willamette Meridian.

Tillamook River—At the intersection of said stream by the west line of section 7, in township 2 south, of range 9 west of Willamette Meridian. [L. 1907, p. 66, § 1.]

For penalty see Section 58 of this compilation.

This section repeals by implication Section 4065 B. & C. Code, the substance of which it contains.

§ 58. *Penalty.*

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$50 nor more than \$1,000, and costs, for each and every offense, and in addition thereto shall forfeit the net or nets, seine or seines, or any other device or devices so unlawfully used. [L. 1907, p. 66, § 2.]

This penalty applies only to Section 57 of this compilation.

§ 59. (B. & C. Code, § 4069.) *Umpqua River and Tributaries, Closed Season On.*

It shall be unlawful to take or fish for salmon in the Umpqua River, or any of the bays or tributaries thereof, below the points hereinafter named, from April 10 to May 10, and from November 20 to December 10 of any year, or to take or fish for salmon by any means whatever, except with hook and line, commonly called angling, and for propagating purposes, above the points specified in each stream, namely: *North Fork* above a point 600 feet below the dam at Winchester; *South Fork* above the south boundary of the town of Roseburg. [L. 1909, p. 384, § 1.]

For penalty see Section 78 of this compilation.

§ 60. (B. & C. Code, § 4070.) *Coos Bay, Coquille River, and Tributaries, Closed Season On.*

It shall be unlawful to take or fish for salmon in Coos Bay or Coquille River, or their tributaries, or Lower Ten-Mile Creek, at any time or by any means whatever, between 6 A. M. on the twentieth day of March and 6 P. M. on the fifteenth day of July, or between 6 A. M. on the twentieth day of November and 6 P. M. on the tenth day of December of any year. It shall be unlawful to take or fish for salmon at any time, except with hook and line, commonly called angling, in the South Fork of the Coquille River above the junction of the same at what is known as "Hoffman's Bridge," or in the north or east forks of said river above the junction of said north and east forks. It shall be unlawful to take or fish for salmon at any time, except with hook and line, commonly called angling, in the north or south

forks of Coos River, above the junction of the two streams, excepting during the season commencing at 6 P. M. on the tenth day of December and ending at 6 A. M. on the twentieth day of March, during which time salmon may be caught, other than with hook and line, as far as the forks of the north fork, commonly known as "Allegany," and as far as the island opposite the "Mark Cutlip" place, in the south fork. [L. 1905, p. 241, § 6.]

For penalty see Section 78 of this compilation.

§ 61. (B. & C. Code, § 4071.) *Coast Streams, Closed Season On.*

It shall be unlawful to take or fish for salmon in any of the following named streams, or any of their tributaries, above tide water, at any time by any means whatever, except with hook and line, commonly called angling, or any of their bays or tributaries, below tide water, between 6 A. M. on the twentieth day of March and 6 P. M. on the fifteenth day of July, or between 6 A. M. on the twentieth day of November and 6 P. M. on the tenth day of December of any year, namely: Windchuck River, Chetco River, Pistol River, Elk River, Sixes River, Upper Ten-Mile Creek, Alsea Bay and River, Beaver Creek, Siletz River, Salmon River, Nestucca Bay and River, Necanicum River, Elk Creek and Klamath River. It shall be unlawful to take or fish for salmon in the Siuslaw River, or its tributaries, at any time by any means whatever, except with hook and line, commonly called angling, above a point on said Siuslaw River 170 feet from the place where the north line of lot 12, section 2, township 18 south, of range 10 west of the Willamette Meridian, in

Lane County, Oregon, intersects the Siuslaw River, said point being down the said river in a southeasterly direction from the above named place of intersection, or to take or fish for salmon in any of its bays or tributaries below the above described point from 6 A. M. on the twentieth day of March to 6 P. M. on the fifteenth day of July, or from 6 A. M. on the twentieth day of November to 6 P. M. on the tenth day of December of any year, except with hook and line, commonly called angling. It shall be unlawful to take or fish for salmon in the Yaquina Bay, or its tributaries, at any time by any means whatever, except with hook and line, commonly called angling, at any point above the mouth of Mill Creek, or to take or fish for salmon in any of its bays or tributaries below the mouth of Mill Creek from 6 A. M. on the twentieth day of March to 6 P. M. on the sixteenth day of July, or from 6 A. M. on the twentieth day of November to 6 P. M. on the tenth day of December in any year. It shall be unlawful to take or fish for salmon in the Nehalem River, or its tributaries, at any time by any means whatever, except with hook and line, commonly called angling, above a point on said river three miles below its confluence with Foley Creek, or to take or fish for salmon below said point on said river from 6 A. M. on the twentieth day of March to 6 P. M. on the fifteenth day of July, or from 6 A. M. on the twentieth day of November to 6 P. M. on the tenth day of December of any year, except with hook and line, commonly called angling. [L. 1907, p. 247, § 1.]

For penalty see Section 78 of this compilation.

§ 62. *Yaquina Bay—Mill Creek—Angling.*

That hereafter it shall be unlawful to fish at any season of the year, at any point above the mouth of Mill Creek, on Yaquina Bay, or its tributaries, with any appliance whatever, except with fishhook and line, or what is commonly called angling. [L. 1903, p. 143, § 1.]

For penalty see Section 64 of this compilation.

§ 63. *Alsea Bay—Gravel Bar—Angling.*

That hereafter it shall be unlawful to fish at any season of the year, at any point above what is known as Gravel Bar, one-half mile below Tidewater postoffice, on the Alsea Bay, or its tributaries, except with fishhook and line, or what is commonly called angling. [L. 1903, p. 143, § 2.]

For penalty see Section 64 of this compilation.

SALEM, Oregon, August 29, 1907.

To the Master Fish Warden:

DEAR SIR: In response to your favor of the 28th instant, requesting the opinion of this office as to the point in the Alsea River above which it is unlawful at any time to take or fish for salmon and other anadromous fish, except with hook and line, commonly called angling, I beg to say that, in my opinion, the Law of 1903, found at page 143, is controlling in that respect, and fixes what is therein termed the dead line at what is known as Gravel Bar, one-half mile below Tidewater postoffice.

This is a special act relating to the Alsea and Yaquina bays and their tributaries, and since it covers the entire subject as to Alsea Bay and its tributaries, it takes the place of Section 4066 of B. & C. Code. The provisions of the two being irreconcilable, and relating to the same things, the special and latter act repeals the earlier act by implication, although there are no words of specific repeal. It is a well known rule of interpretation and has been repeatedly followed by the Supreme Court of this State, that repeals by implication are not favored by the courts; and where the provisions of two statutes are reconcilable both will be allowed to stand; but where they are in irreconcilable conflict, the latter will be presumed to repeal the earlier.

This rule should also be applied in considering the provisions of Section 4071 of B. & C. Code, as amended by the laws of 1905, Chapter 133, Section 7, page 241, and by Chapter 134 of the Laws of 1907, page 247, in connection with the provisions of the Law of 1903 above cited. The 1903 act forbids fishing

for salmon, except with hook and line, above Gravel Bar, which is below the head of tidewater, as you inform me. Section 4071 as amended forbids the same thing above tidewater, which includes and coincides with the provisions of the 1903 act as far as it goes, and is, therefore, not in conflict. Chapter 133 of the Laws of 1905 also expressly repeals Sections 3 and 4 of the 1903 act, relating to the closed season on the Alsea and Yaquina bays, but is silent as to the limit for fishing by other means than by hook and line, expressed in the 1903 act, thus indicating an intention on the part of the legislature that these provisions should stand. Except as to the close season provided in Section 4071, as amended, so far as it relates to the two bays above named and their tributaries, the act of 1903 provides the same thing, and in addition that only hook and line fishing shall be allowed above Gravel Bar, thus extending the limit some three or four miles further down the river than in Section 4071. Thus it will be seen that the provisions of the two acts are not in conflict, only the one going a little farther than the other, and not conflicting in any way as far as the two cover the same ground. Therefore, in my opinion, they both stand, the earlier not having been repealed by implication, and certainly not expressly. The law of 1903 being still in force, it follows that the limit placed by it is the one now in force.

Respectfully,

A. M. CRAWFORD,
Attorney-General.
(By I. H. V. W.)

§ 64. *Penalty for Violating.*

Any person or persons violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not less than \$25 nor more than \$100. [L. 1903, p. 143, § 5.]

This penalty applies to Sections 62 and 63 of this compilation.

§ 65. (B. & C. Code, § 4067.) *Fish Wheels, Traps, Etc., in Alsea Bay, River, and Tributaries Unlawful.*

It shall be unlawful for any person, association, or corporation to build, construct, or operate any fish trap or fish wheel, or any mechanical contrivance for the purpose of catching salmon, in any of the waters of the Alsea Bay, river, or its tributaries. [L. 1901, p. 134, § 2.]

For penalty see Section 66 of this compilation.

§ 66. (B. & C. Code, § 4068.) *Penalty for Violation of Foregoing Provision.*

Any person, association, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$50 nor more than \$500. [L. 1901, p. 134, § 3.]

This penalty applies only to Section 65 of this compilation.

§ 67. *Duties of Officers.*

It shall be the duty of every sheriff, constable, or peace officer to inform upon and prosecute any person or persons found violating any of the provisions of this act. [L. 1903, p. 143, § 6.]

The act referred to includes only Sections 62 and 63 of this compilation.

§ 68. (B. & C. Code, § 4072.) *Traps, Weirs, Fishing Dams, and Fish Wheels.*

It shall be unlawful for any person or persons to construct, maintain, or operate any trap, weir, fishing dam, or fish wheel in any of the following named streams, or to operate any set net or other fixed appliance which shall extend more than one-third across any of the waters thereof: Willamette River and its tributaries, Rogue River and its tributaries, Umpqua River and its tributaries, Tillamook Bay and its tributaries, Alsea Bay and its tributaries, Windchuck River, Chetco River, Pistol River, Elk River, Sixes River, Coquille River, Coos Bay, Lower Ten-Mile Creek, Upper Ten-Mile Creek, Siuslaw River, Beaver Creek, Yaquina Bay, Siletz River, Salmon River, Nestucca Bay, Nehalem River, Elk Creek, Necanicum River, Klamath River and tributaries; *provided*, that the

provisions of this section shall not be construed to apply to that portion of the Necanicum Creek, or river, below the lowermost bridge which is now constructed on said creek or river, or their tributaries. [L. 1901, p. 332, § 12.]

(An act passed in 1899 (L. p. 72) provided a close season for the waters of Sixes, Elk, Pistol, Chetco, and Windchuck rivers, and their tributaries and bays, and for any other stream in Curry County, and for Rogue River, the Illinois River, and their tributaries. The act is superseded by the fish law of 1901, except as to the next succeeding section (Section 2 of the act referred to), which gives to riparian owners the exclusive right of fishing with seines and nets on each "of said river," the rivers above mentioned.)

For penalty see Section 78 of this compilation.

§ 69. (B. & C. Code, § 4073.) *Riparian Owners, Exclusive Rights of.*

The owner or owners of tide lands, and riparian owners above tide water, on each side of said rivers, as appurtenances thereto, shall have the exclusive right and privilege of fishing for salmon fish with seines and nets and hauling and landing seines and nets on said lands, and no person or persons shall anchor said nets, or put or place any obstruction or obstructions whatever in the water fronting said tide lands in any place or places where said tide lands are used for hauling or landing seines. [L. 1899, p. 72, § 2.]

For penalty see Section 69a of this compilation.

§ 69a. (Omitted from B. & C. Code.) *Penalty for the Violation of the Foregoing Section.*

It shall be unlawful for any person or persons or corporation to violate any of the provisions of this act, or to fish for or catch or take salmon fish in any of said rivers, except during the seasons and in the manner herein provided, and any person or persons or corporation violating any

of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and costs of the action, or by imprisonment in the county jail not less than twenty-five days nor more than six months, or both such fine and imprisonment, in the discretion of the court; in case of fine only, that he be imprisoned in the county jail until such fine and costs of action be paid, and he shall be credited on such fine and costs the sum of \$2 for each day imprisoned. [L. 1899, p. 72, § 3.]

§ 70. *Necanicum River—Exception.*

It shall be unlawful hereafter for any person or persons to construct, operate, or maintain or place, or permit to be placed, constructed, operated, or maintained, in any of the waters of the Necanicum River, or any tributary thereof, any fish trap, pound net, or any fixed device howsoever constructed, excepting only a set net, to be constructed as hereinafter provided, for the purpose of, or which is capable of, taking or catching or impeding the run of fish of any kind up said stream. [L. 1903, p. 159, § 1.]

For penalty see Section 74 of this compilation.

§ 71. *Set Nets—Construction, Operation, Etc.*

It shall be unlawful for any person or persons to construct, operate, maintain, or place, or suffer or permit to be operated, maintained, or placed, in the waters of the Necanicum Creek, or any of its tributaries, any set net, excepting when the same shall be constructed, operated, maintained, and placed in the manner following, that is to say:

1. The meshes in each set net must not be less than seven and one-fourth ($7\frac{1}{4}$) inches.

2. A clear passageway of at least one-third, and, in any event, sixteen feet in the clear of the main channel shall be at all times maintained unobstructed by any such net or any contrivance placed thereon, or any wing placed thereon or leading thereto.

3. There shall be at least a distance of five hundred feet between each net. [L. 1903, p. 159, § 2.]

For penalty see Section 74 of this compilation.

§ 72. *Seine or Drag Net—Mesh.*

It shall be unlawful hereafter for any person or persons to operate, or cause to be operated or placed, in the waters of the Necanicum Creek, or any tributary thereof, any seine or drag net, or like contrivance, any mesh of which is less than seven and one-quarter ($7\frac{1}{4}$) inches. [L. 1903, p. 160, § 3.]

For penalty see Section 74 of this compilation.

§ 73. *Idem—Size of Mesh, How Determined.*

For the purpose of determining the size of any mesh in any seine or drag net or set net, or like contrivance, mentioned in this act, the mesh shall be measured diagonally from opposite corner to opposite corner, stretched taut. [L. 1903, p. 160, § 4.]

For penalty see Section 74 of this compilation.

§ 74. *Penalty for Violation.*

Any person violating any of the provisions of this act* shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50 nor more than \$250, or by imprisonment in the county jail not exceeding one hundred and twenty-five days, or both fine and imprisonment. [L. 1903, p. 160, § 5.]

§ 75. *Jurisdiction—Justice Courts.*

Justices of the peace shall have concurrent jurisdiction with the circuit court of any violation of the provisions of this act.* [L. 1903, p. 160, § 6.]

§ 76. (B. & C. Code, § 4074.) *Young Salmon in Tide Waters Protected.*

It shall be unlawful to take or fish for the young of salmon, under twelve inches in length, in any waters of the State of Oregon, or in the waters of any of the rivers or bays over which the State of Oregon has concurrent jurisdiction, at any time or in any manner whatever; or to take, fish for, stone, club, shoot, with any description of firearm, spear, fowl hook, or molest, wound, kill, or injure, in any manner at any time whatever, or to expose for sale or have in possession, except for the purpose of propagation, any gravid or spawning salmon. [L. 1903, p. 233, § 7.]

For penalty see Section 78 of this compilation.

§ 77. (B. & C. Code, § 4075.) *Gaffs, Spears, and Fowl Hooks, Prohibited.*

It shall be unlawful at any time whatever to take, fish for, or pursue salmon in any of the

*The act referred to includes Sections 70, 71, 72, 73, 74 and 75, of this compilation.

rivers and their tributaries in the State of Oregon, or in any waters over which the State of Oregon has concurrent jurisdiction, with spear, gaff, or fowl hook, or other device, whether used with rod and line or otherwise, for the purpose of fowl-hooking salmon; *provided*, that nothing in this act shall be construed to affect operations and rights of the North American Indians who have not severed their tribal relations. [L. 1903, p. 233, § 8.]

For penalty see Section 78 of this compilation.

§ 78. (B. & C. Code, 4076.) *Penalties for Violating Fish Act—Burden of Proof—Disposition of Contraband Fish.*

Any person or persons, firm or corporation found fishing or taking, catching, or transporting salmon fish or sturgeon in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction, or found making use of any boat or boats, vessel or vessels, or any fish trap, weir, pound net, gill net, set net, fish wheel, seine, or any other device intended for or which is capable of being used to catch or transport salmon fish or sturgeon, in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction; or who shall have in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction, or who shall leave or cause to be left in a condition to take or catch salmon fish or sturgeon, in or upon any of the waters of this State, or in or upon any of the waters over which this State has concurrent jurisdiction, any fish trap, weir, pound

net, gill net, set net, fish wheel, seine, or any other device intended for or which is capable of being used to catch salmon fish or sturgeon, during any existing closed season or any closed season that may hereafter be enacted; or who may purchase salmon fish or sturgeon, or have in its or their possession salmon fish or sturgeon unlawfully caught during any existing closed season, or any closed season that may hereafter be enacted, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$50 nor more than \$500, and costs, for each and every offense, and in addition thereto shall forfeit the boat or boats, vessel or vessels, fish trap or fish traps, weir or weirs, pound net or pound nets, gill net or gill nets, set net or set nets, fish wheel or fish wheels, seine or seines, or any other device or devices so unlawfully used and the salmon fish or sturgeon found in his or their or its possession. All salmon fish or sturgeon so unlawfully caught or taken and all property forfeited under the provisions of this section shall be immediately taken possession of by the fish warden, deputy warden, or water bailiff, and shall be confiscated by said warden, deputy warden, or water bailiff and immediately thereafter turned over to the master fish warden who may dispose thereof at his discretion. The money arising from the sale of salmon fish or sturgeon and all property forfeited under the provisions of this section shall be deposited with the State Treasurer to be placed in the "Hatchery Fund" for the district in which such seizure and confiscation was made. In all prosecutions under this section the possession by any person of salmon fish or stur-

geon during any close season or any close season that may hereafter be enacted for the protection of salmon fish or sturgeon, shall be construed as *prima facie* evidence that the same were unlawfully caught during said closed season, and it shall be no defense that the fish were caught or taken outside or within the State. [L. 1905, p. 426, § 1.]

This penalty applies to Sections 59, 60, 61, 68, 76 and 77, of this compilation.

§ 79. *Blasting Out Reefs in the Illinois and Rogue Rivers.*

The Master Fish Warden of the State of Oregon is hereby authorized and required to blast out the reefs of rock in the Illinois River and in Rogue River within the boundaries of Josephine County, wherever such rock and reefs interfere with the passage of salmon up the said streams. [L. 1907, p. 379, § 1.]

§ 80. *Idem; Appropriation for.*

There is hereby appropriated out of the general fund of the State of Oregon the sum of three hundred dollars (\$300) for the carrying out of said work upon the Illinois River and a further sum of two hundred dollars (\$200) for the carrying out of said work upon Rogue River. [L. 1907, p. 380, § 2.]

OBSTRUCTION OF STREAMS PROHIBITED.

§ 81. (B. & C. Code, § 4085.) *Obstruction in Fish Stream Prohibited—Taking Fish Within Six Hundred Feet of Fishway Unlawful.*

It shall be unlawful for any person to construct any mill-dam or artificial obstruction across any stream in this State frequented by salmon or trout, or to maintain any such mill-dam or obstruction heretofore erected without providing a passageway for such fish over such obstruction, such passageway for fish to be constructed as near the main channel as may be practicable. It shall be the duty of the fish warden to examine, from time to time, all mill-dams and artificial obstructions to all rivers and streams in the State frequented by salmon or other migratory fish, and if in his opinion there is not a free passage for fish over any mill-dam or artificial obstruction, to notify the owner or occupant thereof to provide the same within a reasonable time with a durable and efficient fishway, of such form and capacity and in such location as shall be determined by the fish warden. If such fishway is not completed to the satisfaction of said fish warden within the time specified, the owners or occupants of such mill-dam or artificial obstruction shall be deemed guilty of a misdemeanor, and on conviction shall be punished as in this act hereinafter provided. It shall be incumbent upon the owners and operators of all mill-dams or artificial obstructions, where the fish warden requires such fishway to be provided, to keep the same in repair and open and free from obstruc-

tion to the passage of fish at all times, and any owner or operator of any dam or artificial obstruction who neglects or refuses to keep such fishway in repair and open and free from obstruction to the passage of fish shall be guilty of a misdemeanor, and upon conviction shall be punished as in this act hereinafter provided; and the continuance from day to day of the neglect or refusal after notification in writing by the fish warden, shall constitute a separate offense; and it shall be unlawful for any person to willfully or knowingly destroy, injure, or abstract from such fishway, or to take or catch any salmon or other migratory fish within six hundred feet of any fishway. [L. 1901, p. 337, § 24.]

Penalty in Section 117 of this compilation.

§ 82. *Unlawful to Frighten or Drive Salmon.*

It shall be unlawful for any person to place in any stream of this State where salmon run or exist, within the distance from any dam, fishway or object in which the taking of salmon is prohibited by law, any blood or offal of salmon or fish, or any other substance or matter or contrivance that will frighten or drive salmon or with intent to drive or frighten from or out of that part of the waters of any stream in which it is unlawful to fish for or take the same. [L. 1905, p. 94, § 1.]

For penalty see Section 83 of this compilation.

§ 83. *Penalty for Violating Preceding Section.*

Any person violating the provisions of this act shall be punished by a fine of not less than \$50 or not more than \$1,000, or by imprisonment in the county jail not to exceed six months. [L. 1905, p. 94, § 2.]

This penalty applies only to Section 82 of this compilation.

FISHWAY OVER FALLS AT OREGON CITY.

§ 84. (B. & C. Code, § 4118.) *Hindering Passage of Fish Prohibited.*

It shall be unlawful for any one to hinder, annoy, or disturb the fish entering, passing through, or leaving said fishway, or to obstruct the passage of fish through the same at any time or in any manner, or for any one to place anything in said fishway or use any device for catching fish, or any wheel, or net, or hooks, or lines in said fishway, or anywhere within fifty feet thereof, or to catch fish at any time anywhere within fifty feet of said fishway, or any one to do any injury to said fishway. [L. 1893, p. 37, § 8.]

The concluding sentence of the act of 1901 (L. 1901, p. 337, Sec. 4), amends this section to read "within six hundred feet of said fishway." See Section 4085, B. & C. Code, Section 81 of this compilation.

Following is an opinion of the Attorney-General, construing Sections 4085 and 4181, rendered at the request of the Master Fish Warden:

SALEM, Oregon, December 17, 1904.

DEAR SIR: Replying to yours of the 2d instant requesting my opinion as to how near to the fishway recently built by the State over the falls of the Willamette River at Oregon City, people are allowed under the law to catch salmon, permit me to say that Section 4085 of Bellinger and Cotton's Annotated Codes and Statutes provides: "It shall be unlawful for any person to willfully or knowingly destroy, injure, or abstract from *such fishway* (those mentioned in the act) or to take or catch any salmon or other migratory fish within six hundred feet of *any fishway*."

"Any fishway" means a fishway built by the State as well as one built by private parties. Any person who violates the provisions of the section above referred to is punishable under Section 4113, as amended by the Laws of 1903, page 237. The law of 1893, I am inclined to think, is applicable, except where they conflict with the 1901 law, as the former was enacted with reference to a fishway to be constructed by the State of Oregon at Oregon City, and while it was not done under that act, it was constructed by virtue of a second act, and the penalties for obstructing the same were not repealed. However, the distance that salmon or other migratory fish may

be taken from the fishway is governed by the law of 1901, that being the later act, and any person who injures the fish in any manner can be punished under the former statute, or other statutes relative to injuries to property.

Respectfully,

A. M. CRAWFORD,
Attorney-General.

For penalty see Section 86 of this compilation.

§ 85. *Fishway Over Falls at Oregon City.*

The Board of Fish Commissioners of the State of Oregon are hereby directed and authorized to make such improvements and repairs to the fishway over the falls of the Willamette River at Oregon City as in their judgment may become necessary, from time to time, and to pay for the same out of any moneys in the hatchery fund for Fishing District No. 1, or if no funds are available when such improvements or repairs are made, then out of the first moneys which become available therefor in said fund after the improvements or repairs are made, and the Secretary of State is hereby authorized and directed to draw his warrant on the Treasurer of the State of Oregon for such sums as shall be approved by said Board of Fish Commissioners, incurred for said improvements or repairs, payable out of said fund. [L. 1907, p. 224, § 1.]

§ 86. (B. & C. Code, § 4119.) *Penalty for Violation of Act.*

Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment in the county jail not less than ten days nor more than one hundred days, or both, in the discretion of the court. [L. 1893, p. 37, § 9.]

This penalty applies only to Section 84 of this compilation.

§ 87. (B. & C. Code, § 4120.) *Justices' Courts Have Concurrent Jurisdiction.*

Justices of the peace shall have concurrent jurisdiction in the first instance with the circuit courts of all offenses under this act. [L. 1893, p. 37, § 10.]

§ 88. (B. & C. Code, § 4121.) *Authority to Remove Obstructions Above Falls.*

The board provided for in Section 3 shall have authority to remove any artificial obstructions placed in the river above the falls which would prevent the free passage of fish up the river. [L. 1893, p. 37, § 11.]

The board referred to in this section, as provided for in Section 3 of the act, consists of the Governor, Secretary of State, and State Treasurer. Section 3 is temporary in its operation, and is therefore omitted. The board created by that section continues in existence for the purpose specified in Section 4121.

This section refers to Section 84 of this compilation.

POSSESSION OF FISH DURING CLOSE SEASON PROHIBITED.

§ 89. (B. & C. Code, § 4084.) *Possession of Fish Caught During Closed Season Unlawful—Presumption From Possession.*

It shall be unlawful for any person or persons to receive, or have in his or their possession, or sell or offer for sale or transportation, or transport, during the closed season named in this act, any chinook, steelhead, blueback, silverside, or other species of salmon, caught or taken during any of the close seasons named in this act; and in all prosecutions under this section the possession by any person during the close season named in this act of any chinook, steelhead, blueback, silverside, or other species of salmon, shall be construed as *prima facie* evidence that the same were unlawfully caught during the close season. [L. 1901, p. 336, § 23.]

Under the former law it was held that it was not a violation of the law to have in one's possession during the closed season salmon caught out of the State or caught in the State during open season: *State v. McGuire*, 24 Or. 366, 33 Pac. 666, 21 L. R. A. 478.

Under a law prohibiting the possession of trout in closed season, however, this case is distinguished and it is held that the law was as much in force against trout lawfully caught in another State and shipped into the State, becoming a part of its general property, as to those caught within its limits: *State v. Schuman*, 36 Or. 16, 58 Pac. 661, 47 L. R. A. 153, 78 Am. St. Rep. 754.

It is also held that such a law is not invalid as being a regulation of interstate commerce: *In re Deininger*, 108 Fed. 623.

The wording of this section, however, seems to allow the possession of trout caught in another State or in an open season.

For penalty see Section 117 of this compilation.

LAWS PERTAINING TO THE FISHING INDUSTRY.

§ 90. (B. & C. Code, § 4087.) *Fish Wheel, Must Not Be Concealed—How Placed.*

It shall be unlawful for any person to place or cause to be placed in any of the rivers or waters of this State, or in any river or water over or upon which this State has concurrent jurisdiction, any fish wheel in a condition to take salmon, or in a position less than three feet above the surface of any such river or water, or covered or concealed in such manner that the position of the same cannot be clearly discerned from the nearest river bank, during any part of the close season specified in this act. [L. 1901, p. 338, § 26.]

For penalty see Section 117 of this compilation.

§ 91. (B. & C. Code, § 4090.) *Traps, Nets, Fish Wheels, Etc.; Unlawful to Fish Without License.*

It shall be unlawful for any person or persons to operate or maintain, or leave in a condition to take fish, in any of the waters of this State at any time hereafter, any fish traps, weir, pound net, set net, gill net, fish wheel, seine, or any device or apparatus or gear used in catching salmon, fish or sturgeon, without first having obtained from the fish warden a license therefor as hereinafter provided. [L. 1901, p. 338, § 29.]

For penalty see Section 117 of this compilation.

§ 92. (B. & C. Code, § 4098.) *Regulations to Govern Fixed Fishing Appliances.*

Any person, after first having obtained license from the fish warden to operate a pound net, trap,

or weir, shall indicate the location for such pound net, trap, or weir by erecting a permanent and conspicuous monument on the bank of the river or channel, and upon said monument shall cause to be placed and maintained the license number, preceded by an "O," designated by the fish warden at the time of issuing said license; said number to consist of black figures not less than six inches in length painted on white ground; after any such pound net, trap, or weir has been located and constructed the owner thereof shall file a map with the fish warden, giving the exact description and location thereof. During the fishing season, between sunset and sunrise, a bright and conspicuous white light shall be maintained on each pound net, trap, or weir. Any person having obtained a license from the fish warden to operate a fish wheel, shall cause to be placed and maintained in a conspicuous place on said wheel or on a permanent monument erected for that purpose the number, preceded by an "O," designated by the fish warden at the time of issuing said license; said number to consist of black figures not less than six inches in length painted on white ground. Any person having obtained a license from the fish warden to operate a set net shall cause to be placed and maintained on a substantial post or monument erected for that purpose on the bank of the river or channel, or upon a buoy securely anchored on the location claimed, the number, preceded by an "O," designated by the fish warden at the time of issuing said license, said number to consist of black figures not less than six inches in length painted on white ground; in addition thereto said person shall cause to be

branded on the corks of each end of said set net, and upon the cork nearest the center thereof the number designated in said license, said number to consist of figures not less than one inch in length. Any person having obtained a license from the fish warden to operate a seine shall cause to be placed and maintained in a conspicuous place on the wharf, scow, or float maintained at the seining ground claimed, the number, preceded by an "O," designated by the fish warden at the time of issuing said license, said number to consist of black figures not less than six inches in length painted on white ground; in addition thereto said person shall cause to be branded on the corks of each end of said seine, and upon the cork nearest the center thereof, the number designated in said license, said number to consist of figures not less than one inch in length. Any person having obtained a license from the fish warden to operate a gill net in any of the waters of this State or the Columbia River, or from the fish commissioner of the State of Washington, said State having concurrent jurisdiction on the Columbia River with this State as to gill nets and as to gill net fishermen, shall cause to be placed upon the corks of each end of such net, and upon the cork nearest the center thereof, the number designated in said license, said number to consist of figures not less than one-half inch in length; and shall also cause to be placed upon each side of the bow of the boat used to operate such net, the number designated in said license, preceded by an "O," if issued by the fish warden of the State of Oregon, or the number designated in said license, preceded by a "W," if issued by

the fish commissioner of the State of Washington, said number to consist of black figures not less than six inches in length painted on light ground, or white figures not less than six inches in length painted on dark ground. A separate license shall be required for each pound net, trap, weir, fish wheel, set net, or for any other fixed appliance, and for each seine, gill net, or other drift net. Any owner or operator of any fishing appliance or boat herein specified, who fails, neglects, or refuses to comply with any of the provisions of this section within five days from the date of license issued for such appliance, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50 and the costs of the action; a failure from day to day to comply with any of the provisions of this section shall constitute a separate offense and subject the owner or operator of said appliance or boat to additional punishment by such fine. [L. 1905, p. 429, § 4.]

§ 93. *Pound Net—Duty of Owner.*

It shall be the duty of the owner of each and every pound net constructed in the waters of the Columbia River, over which the State of Oregon has concurrent jurisdiction, to remove from the bed of the Columbia River all piling driven in the same, by pulling out said piling, within five days from the close of each fall fishing season, and to keep said piling out of the river until within ten days of the commencement of the fishing season in the following spring. [L. 1905, p. 271, § 1.]

For penalty see Section 94 of this compilation.

§ 94. *Violation of Preceding Section—Penalty.*

Any person who shall violate any of the provisions of this act, upon conviction thereof, shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail not less than twenty-five nor more than two hundred and fifty days, or by both such fine and imprisonment. [L. 1905, p. 271, § 2.]

This penalty applies only to Section 93 of this compilation.

§ 95. (B. & C. Code, § 4116.) *Chinese Sturgeon Lines, Use of Prohibited in Columbia River—Fish Commissioner to Destroy—Penal Provision.*

It shall be unlawful to cast, extend, set, use, or continue to assist in casting, extending or using, any Chinese sturgeon line, or lines of a similar character, in the waters of the State of Oregon, or in the waters of the Columbia River or its tributaries. The fish warden and any of his deputies or bailiffs, sheriffs, deputy sheriffs, constables, or other peace officers, are hereby authorized to seize and destroy any such lines found in said waters, and they are hereby authorized to arrest, without warrant, any person or persons detected in setting or using any Chinese sturgeon line or lines of a similar character in said waters. Any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$20 and not more than \$1,000 and costs of the action, or by imprisonment in the county jail not less than ten days nor more than one year, or by both such fine and imprisonment;

provided, in case of fine only, that he be imprisoned in the county jail until such fine and costs of action be paid, and he shall be credited on such fine and costs the sum of \$2.00 for each and every day imprisoned. All moneys collected as fines shall be disposed of as follows: One-third shall be paid to the prosecuting witness other than the Master Fish Warden or the deputy fish warden; the remaining two-thirds, or all, as the case may be, shall be paid to the Master Fish Warden, and by him deposited with the State Treasurer, to be placed in the hatchery fund for the district in which said fine was imposed. [L. 1905, p. 279, § 3.]

§ 96. *Powder, Gas, Lime, Cocculus Indicus, Poison, Etc.*

(a) It shall be unlawful to explode or cause to be exploded any giant powder, dynamite or other explosive in any lake, river, stream, pond, bay or other waters within the boundaries of this State without first obtaining an order permitting it to be done from the board of county commissioners of the county in which it is desired to use the explosives, as hereinafter provided.

(b) It shall be unlawful to place, or cast, or pass or allow to be cast, or flow, or passed, any gas, lime, cocculus indicus, or extract therefrom, or any other substance poisonous to fish, in any lake, river, stream, pond, bay or other waters within the boundaries of this State, without first obtaining an order permitting it to be done from the board of county commissioners of the county in which it is desired to use the poison, as hereinafter provided.

(c) It shall be unlawful to take, or kill, or injure any fish in any lake, river, stream, pond, bay or other waters within the boundaries of this State by means of giant powder, dynamite or other explosive, or by means of lime, cocculus indicus or extract therefrom, or other poison, without first obtaining an order of the county commissioners of the county permitting it to be done as hereinafter provided.

(d) Having in possession any trout, salmon, or other game fish under circumstances which make it reasonable to believe that they were taken and killed by means of lime or cocculus indicus or extract therefrom, or other poison, or by giant powder or dynamite, or other explosive, shall justify the arrest of the person or persons so having the fish in their possession; and it shall then be incumbent upon such persons to prove and show that the fish were taken and killed by lawful means.

(e) Every person who aids or abets in exploding any giant powder, dynamite or other explosive, or in putting any lime, cocculus indicus or extract therefrom, or other poison, in any lake, river, stream, pond, bay or other waters within the boundaries of this State contrary to the provisions of this section, or who aids or abets in taking or killing any fish in this State contrary to the provisions of this section, or who aids or abets in taking or securing any fish in this State which he knows or has reason to believe have been killed or injured contrary to the provisions of this section, shall be deemed guilty of violating this section, and upon conviction shall be punished as hereinafter provided.

(f) Whenever, in the course of removing any obstructions in any waters within this State, or in constructing any foundations for dams, bridges or other structures, any person shall desire to explode any giant powder, dynamite or other explosives in any waters within this State, before doing so he shall file a verified petition with the county commissioners of the county setting forth his plans and objects, and when he desires to use the explosives, and what necessity there is for using explosives. If the county commissioners approve of the necessity for using the explosives they may make an order granting the petitioner leave to use explosives, designating the place or places and period within which the explosives may be used, and prescribing such precautions as will save the fish from injury. If any such person disregards such order he shall be deemed to have violated this section, and upon conviction shall be punished accordingly.

(g) Whenever the owner of any lake or pond in this State desires to get rid of and kill the fish known as German carp in said lake or pond, he shall file a verified petition with the county commissioners of the county stating in what section, township and range the lake or pond is situated, and with what waters it connects, and his reasons for wishing to kill the fish. He shall truly and particularly state what other kinds of fish are in the lake or pond. If the county commissioners are satisfied that there are no fish other than German carp, catfish, suckers, and such like worthless fish in the lake or pond, and that the same has no outlet whereby the poison can escape into other waters, the commissioners shall make

an order permitting the person to put lime or other substance in the lake or pond for said purpose. If any person use lime or other poison in any water within the boundaries of this State, without first obtaining such order, or contrary to such order, he shall be deemed to have violated this section, and upon conviction shall be punished as hereinafter provided.

(h) Every person who desires to obtain permission to use explosives, or lime, or poison, under provisions of this section, shall serve upon the Fish Commissioner, or State Game and Forestry Warden of this State, a certified copy of his petition, not less than ten days before the hearing of the petition. Such service may be made personally upon the Fish Commissioner or State Game and Forestry Warden, or by registered mail, and the proof of service shall be filed with the commissioner. The Fish Commissioner or State Game and Forestry Warden or any person interested may oppose the granting of the order, and the same may be reviewed.

Any person or persons violating any of the provisions of this section shall be tried in the circuit court of the county wherein such offense shall have been committed, and upon conviction shall be both fined and imprisoned. If it is his first conviction for violating the provisions of said section he shall be fined not less than \$200, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment. If he is convicted of violating said section a second time, or oftener, he shall then be fined not less than \$1000 nor more than \$3000, and shall be

imprisoned in the penitentiary not less than one year nor more than three years for each repeated offense. [L. 1909, p. 421, § 50.]

§ 97. *Sawdust, Planer Shavings, Lumber Waste, Etc.*

It shall be unlawful for any proprietor or operator of any sawmill or other lumber manufacturing concern, or of any pulp mill, wood saw, other wood-sawing or manufacturing concern, or tannery, in this State, or any employee thereof, or any other person, to cast sawdust, planer shavings, wood pulp or other lumber waste, or suffer or permit such sawdust, shavings, other lumber waste or wastes from tannery, to be thrown or discharged in any manner into any waters flowing into the Pacific Ocean within this State, or the Columbia River, or other waters of this State, or to deposit the same where high waters will take the same into the Columbia River, or any other waters of the State.

Any person or persons, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$50 nor more than \$500 and costs for each and every offense. [L. 1909, p. 423, § 51.]

The question whether or not casting sawdust into rivers is injurious to fish is a question for the Legislature and not for the courts, and when the Legislature has passed a law prohibiting such act, the courts are precluded from examining that question: *State v. Shaw*, 22 Or. 290, 29 Pac. 1028.

This section by implication repeals Section 4086 of B. & C. Code.

§ 98. *Wire Screens Required at Inlets to Canals and Ditches.*

Any person or persons, firm or corporation, owning in whole or in part, or leasing, operating

or having in charge any millrace, irrigating ditch or canal, taking or receiving its waters from any river, creek or lake in which fish have been placed or may exist, shall place or cause to be placed and maintained over the inlet of the ditch, canal or millrace, when required by the Master Fish Warden, a wire screen or grating or such other device, of such construction, fineness, strength and quality as shall prevent any fish from entering such ditch, canal or millrace; the same to be placed in such ditch, canal or millrace on a slant not exceeding forty-five (45) degrees, and in such manner that the bottom thereof shall extend up stream against the flow of water; *provided*, that if a grating device be used the space between the bars shall not exceed one-half ($\frac{1}{2}$) an inch. Any person or persons, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 and not more than \$500 and the costs of the action, or by imprisonment in the county jail not less than ten days nor more than sixty days, or by both such fine and imprisonment; in case of fine only, that he be imprisoned in the county jail until fine and costs of action be paid and he shall be credited on such fine and costs the sum of \$2 for each day imprisoned. Justices of the peace shall have concurrent jurisdiction. [L. 1909, p. 431, § 66.]

LICENSE FOR FISHING, AND BUSINESS REGULATED.

§ 99. (B. & C. Code, § 4089.) *License, Fishing Without, Otherwise Than by Angling Prohibited.*

It shall be unlawful for any person or persons to take or fish for salmon fish or sturgeon in any of the waters of this State, or in any of the waters upon which this State has concurrent jurisdiction, by any means whatever, except with hook and line, commonly called angling, without first having obtained a license therefor, as in this act hereinafter provided. [L. 1901, p. 338, § 28.]

For penalty see Section 117 of this compilation.

§ 100. (B. & C. Code, § 4092.) *Citizens or Persons Having Declared Intentions, Fishing Restricted to—License From Washington State Sufficient—Where.*

It shall be unlawful for any person to take or fish for salmon, sturgeon, or other anadromous fish in any waters of this State unless such person be a citizen of the United States, or has declared his intention to become such, and has been a *bona fide* resident of the State of Oregon, or the states of Washington or Idaho, for the period of six months; *provided*, that a license issued by the State of Washington, such State having concurrent jurisdiction on the Columbia River with this State, shall be deemed valid as to gill nets, and as to gill net fishermen, for use on the Columbia River, as though issued by the

fish warden of this State. Any person desiring to fish for salmon, sturgeon, or other anadromous fish in any such rivers or waters, may go before any county clerk of any county in this State and furnish satisfactory evidence of his citizenship, or of the fact that he has declared his intention to become such one year prior thereto, and file his own affidavit and the affidavit of two other persons, to the effect that he is and has been for six months prior thereto an actual *bona fide* resident of this State, and thereupon such recorder or clerk shall issue to him a certificate briefly reciting those facts, and thereafter in any prosecution against such person for a violation of the provisions of this act, such certificate or duly authenticated copies of the record in the office of the clerk or recorder relative thereto, shall be *prima facie* evidence of his citizenship and residence as in this act required. But in all prosecutions under this act the burden of proof shall be on the defendant to establish the facts of his citizenship and residence. [L. 1909, p. 467, § 2.]

For penalty see Section 117 of this compilation.

§ 101. (B. & C. Code, § 4093.) *License, Procedure to Obtain—Amount of License Fees.*

Any person who is a citizen of the United States, or who has declared his intention to become such, and is a resident of the State of Oregon, or the states of Washington or Idaho, desiring to engage in the business of operating a fish trap, weir, pound net, set net, gill net, fish wheel, or seine, or other fishing appliance not prohibited by law, for the purpose of catch-

ing fish in any of the waters of this State, or over which the State of Oregon has concurrent jurisdiction, shall make application in writing to the fish warden of said State, specifying with convenient certainty the character of the appliance that the applicant desires to obtain license for, and the location, if for a stationary appliance, and upon payment of a license fee as hereinafter provided, said fish warden shall issue to such applicant a license to operate the character of appliance desired in said application; *provided*, that such license shall be good only in the district for which the same was issued. The following license fees for fishing appliance shall be paid by those owning or operating the same: For each drag seine, not exceeding 500 feet in length; \$15, for each additional foot in length the further sum of three cents; for each gill net, \$5.00; for each set net, \$2.50; for each pound net, trap, or weir, \$25; for each scow fish wheel, \$25; for each stationary fish wheel, \$35. All licenses issued under the provisions of this section shall expire on the thirty-first day of March following the issuance of such license. [L. 1905, p. 116, § 1.]

For penalty see Section 117, post, of this compilation.

§ 102. *Packing or Dealing in Salmon or Other Anadromous Fish or Sturgeon Without License Unlawful.*

It shall be unlawful for any person or persons, firm or corporation, to engage in the business of buying, selling, canning, packing, preserving, peddling or otherwise dealing in salmon fish or sturgeon or other anadromous fish within the State of Oregon, without first having obtained a

license therefor from the Fish Warden as hereinafter provided. In all prosecutions under this section, it shall be no defense that the person or persons, or firm or corporation, caught his or their or its own salmon fish or sturgeon or not. All licenses issued under the provisions of this section shall expire on the thirty-first day of March following the issuance thereof. [L. 1907, p. 100, § 1.]

For penalty see Section 112 of this compilation.

This section repeals by implication Section 4091, B. & C. Code.

§ 103. *Purse Net.*

Except as hereinafter provided, it shall be unlawful to operate or maintain within any of the rivers of this State, or in the Columbia River, or in the Pacific Ocean, within three miles of the mouth of any of the rivers of this State, or of the Columbia River, any purse net, or other like seines, for the purpose of catching or taking salmon or other anadromous fish or sturgeon. It shall be lawful to operate such purse net or seine in the waters of the Columbia River upon first securing a license from the Master Fish Warden therefor, in the same manner and to the same effect that other fishing licenses are obtained, and paying a license fee to the Master Fish Warden for such license in the sum of \$50. [L. 1909, p. 467, § 4.]

For penalty see Section 104 of this compilation.

§ 104. *Penalty.*

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a

sum not less than \$50, nor more than \$1,000 and costs, for each and every offense, and in addition thereto shall forfeit the purse net or other like seine or device or devices so unlawfully used. [L. 1907, p. 154, § 2.]

This penal section applies only to Section 103 of this compilation.

§ 105. *Canneries Classified—License Fees to Be Paid.*

Any person, firm, or corporation, engaged in the business of canning fresh salmon, or other anadromous fish or sturgeon, in hermetically sealed tins or cans in this State, shall pay license fees as follows: Those of the first class, \$100; second class, \$150; third class, \$200; fourth class, \$250; fifth class, \$300; sixth class, \$350; seventh class, \$400; eighth class, \$450; ninth class, \$500; tenth class, \$550; eleventh class, \$600; twelfth class, \$650; thirteenth class, \$700; fourteenth class, \$750; fifteenth class, \$800; sixteenth class, \$850; seventeenth class, \$900; eighteenth class, \$950; nineteenth class, \$1,000; twentieth class, \$1,050; twenty-first class, \$1,100; twenty-second class, \$1,150; twenty-third class, \$1,200; twenty-fourth class, \$1,300; twenty-fifth class, \$1,500. Cannerymen of the first class are those whose pack of fish for the year next preceding the year that the license is applied for did not exceed 5,000 cases, forty-eight pounds to the case. Those of the second class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 5,000 cases, but did not exceed 7,500 cases, forty-eight pounds to the case. Those of the third class are cannerymen whose pack for the year next preceding the year the license

is applied for exceeded 7,500 cases, but did not exceed 10,000 cases, forty-eight pounds to the case. Those of the fourth class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 10,000 cases, but did not exceed 12,500 cases, forty-eight pounds to the case. Those of the fifth class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 12,500 cases, but did not exceed 15,000 cases, forty-eight pounds to the case. Those of the sixth class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 15,000 cases, but did not exceed 17,500 cases, forty-eight pounds to the case. Those of the seventh class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 17,500 cases, but did not exceed 20,000 cases, forty-eight pounds to the case. Those of the eighth class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 20,000 cases, but did not exceed 22,500 cases, forty-eight pounds to the case. Those of the ninth class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 22,500 cases, but did not exceed 25,000 cases, forty-eight pounds to the case. Those of the tenth class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 25,000 cases, but did not exceed 27,500 cases, forty-eight pounds to the case. Those of the eleventh class are cannerymen whose pack for the year next preceding the year the license is applied for exceeded 27,500 cases, but did not exceed 30,000 cases, forty-eight pounds to the case. Those of the

twelfth class are canners whose pack for the year next preceding the year the license is applied for exceeded 30,000 cases, but did not exceed 32,500 cases, forty-eight pounds to the case. Those of the thirteenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 32,500 cases, but did not exceed 35,000 cases, forty-eight pounds to the case. Those of the fourteenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 35,000 cases, but did not exceed 37,500 cases, forty-eight pounds to the case. Those of the fifteenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 37,500 cases, but did not exceed 40,000 cases, forty-eight pounds to the case. Those of the sixteenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 40,000 cases, but did not exceed 42,500 cases, forty-eight pounds to the case. Those of the seventeenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 42,500, but did not exceed 45,000 cases, forty-eight pounds to the case. Those of the eighteenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 45,000 cases, but did not exceed 47,500 cases, forty-eight pounds to the case. Those of the nineteenth class are canners whose pack for the year next preceding the year the license is applied for exceeded 47,500 cases, but did not exceed 50,000 cases, forty-eight pounds to the case. Those of the twentieth class are canners whose pack for the year next preceding the year

the license is applied for exceeded 50,000 cases, but did not exceed 52,500 cases, forty-eight pounds to the case. Those of the twenty-first class are canners whose pack for the year next preceding the year the license is applied for exceeded 52,500 cases, but did not exceed 55,000 cases, forty-eight pounds to the case. Those of the twenty-second class are canners whose pack for the year next preceding the year the license is applied for exceeded 55,000 cases, but did not exceed 57,500 cases, forty-eight pounds to the case. Those of the twenty-third class are canners whose pack for the year next preceding the year the license is applied for exceeded 57,500 cases, but did not exceed 60,000 cases, forty-eight pounds to the case. Those of the twenty-fourth class are canners whose pack for the year next preceding the year the license is applied for exceeded 60,000 cases, but did not exceed 65,000 cases, forty-eight pounds to the case. Those of the twenty-fifth class are canners whose pack for the year next preceding the year the license is applied for exceeded 65,000 cases, forty-eight pounds to the case. When more than one cannery or plant is operated by the same person, firm, or corporation, each shall be licensed separately and according to its class. Any person, firm, or corporation desiring to engage in the business of canning fresh salmon or other anadromous fish or sturgeon in this State shall make an application in writing to the Master Fish Warden for a license therefor, which application shall describe the location of the cannery, as near as practicable, and shall be accompanied by the affidavit of the applicant, stating the number of cases of fish that were packed in such cannery

the year next preceding the year the license is to be issued, and shall deposit with said application the license fee, according to the class in which said cannery should be listed. No license shall be issued until such affidavit is made and filed and such license fee paid; *provided*, that if any person, firm, or corporation desires to obtain a license for a cannery which has not been operated the year preceding such application, such cannery shall, upon application, be classed by the Board of Fish Commissioners, and the license fee to be paid shall be three times the regular fee according to that class; excepting in a case where a cannery remained idle only one season, then in that case the license fee to be paid shall be double the regular fee. All licenses issued under the provisions of this section shall be good only in the district for which the same is issued, and shall expire on the thirty-first day of March following the issuance of such license. [L. 1907, p. 101, § 2.]

For penalty see Section 112 of this compilation.

This section repeals by implication Section 4094, B. & C. Code.

§ 106. *Dealers Classified—License Fees to Be Paid.*

Any person, firm or corporation, engaged in the business of buying, selling, packing, preserving or otherwise dealing in salmon or other anadromous fish or sturgeon, other than canning thereof, which is herein provided for, and whether said person, firm or corporation catches his or their or its own salmon or other anadromous fish or sturgeon or not, shall be and are classified as follows: First class, dealers or packers

handling less than three tons of fish per year; second class, dealers or packers handling three to six tons of fish; third class, dealers or packers handling six to ten tons of fish; fourth class, dealers or packers handling ten to fifteen tons of fish; fifth class, dealers or packers handling fifteen to twenty tons of fish; sixth class, dealers or packers handling twenty to twenty-five tons of fish; seventh class, dealers or packers handling twenty-five to thirty tons of fish; eighth class, dealers or packers handling thirty to forty tons of fish; ninth class, dealers or packers handling forty to fifty tons of fish; tenth class, dealers or packers handling fifty to sixty tons of fish; eleventh class, dealers or packers handling sixty to seventy tons of fish; twelfth class, dealers or packers handling seventy to eighty tons of fish; thirteenth class, dealers or packers handling eighty to one hundred tons of fish; fourteenth class, dealers or packers handling one hundred to one hundred and forty tons of fish; fifteenth class, dealers or packers handling one hundred and forty to one hundred and seventy-five tons of fish; sixteenth class, dealers or packers handling one hundred and seventy-five to two hundred twenty-five tons of fish; seventeenth class, dealers or packers handling two hundred and twenty-five to three hundred tons of fish; eighteenth class, dealers or packers handling three hundred to four hundred tons of fish; nineteenth class, dealers or packers handling four hundred to five hundred tons of fish; twentieth class, dealers or packers handling five hundred to six hundred tons of fish; twenty-first class, dealers or packers handling six hundred to seven hundred tons of fish; twenty-second class, dealers

or packers handling seven hundred to eight hundred tons of fish; twenty-third class, dealers or packers handling eight hundred to nine hundred tons of fish; twenty-fourth class, dealers or packers handling nine hundred to one thousand tons of fish; twenty-fifth class, dealers or packers handling one thousand to twelve hundred tons of fish; twenty-sixth class, dealers or packers handling twelve hundred to fourteen hundred tons of fish; twenty-seventh class, dealers or packers handling fourteen hundred to sixteen hundred tons of fish; twenty-eighth class, dealers or packers handling sixteen hundred to eighteen hundred tons of fish; twenty-ninth class, dealers or packers handling eighteen hundred to two thousand tons of fish; thirtieth class, dealers or packers are those who handle over two thousand tons of fish of the dressed product. Any person, firm or corporation desiring to obtain a license for the purpose of engaging in the business of buying, selling, packing, preserving, or otherwise dealing in salmon or other anadromous fish or sturgeon, other than canning thereof, which is herein provided for, and whether said person, firm or corporation catches his or their or its own salmon or other anadromous fish or sturgeon or not, shall file with the Master Fish Warden an application therefor, describing with convenient certainty the locality at which the applicant purposes to engage in business and the general character of such business, whether cold storage or otherwise, and shall accompany such application with an affidavit of the applicant stating the total number of tons of salmon and other anadromous fish and sturgeon handled by such applicant the year next preceding

the year the applicant desires the license and shall deposit with said application the license fee as hereinafter provided. Such person or persons, firm or corporation aforesaid of the first class shall pay a license fee of \$5.00; of the second class, \$7.50; of the third class, \$10.00; of the fourth class, \$15.00; of the fifth class, \$20.00; of the sixth class, \$25.00; of the seventh class, \$30.00; of the eighth class, \$40.00; of the ninth class, \$50.00; of the tenth class, \$60.00; of the eleventh class, \$70.00; of the twelfth class, \$80.00; of the thirteenth class, \$100.00; of the fourteenth class, \$125.00; of the fifteenth class, \$160.00; of the sixteenth class, \$200.00; of the seventeenth class, \$270.00; of the eighteenth class, \$360.00; of the nineteenth class, \$450.00; of the twentieth class, \$540.00; of the twenty-first class, \$630.00; of the twenty-second class, \$720.00; of the twenty-third class, \$810.00; of the twenty-fourth class, \$900.00; of the twenty-fifth class, \$1,080.00; of the twenty-sixth class, \$1,200.00; of the twenty-seventh class, \$1,350.00; of the twenty-eighth class, \$1,530.00; of the twenty-ninth class, \$1,710.00; of the thirtieth class, \$2,000.00; *provided*, that any person, firm or corporation desiring a license that during the year next preceding such application was not engaged in dealing in salmon or other anadromous fish or sturgeon as a packer of the cold storage process, or otherwise, shall, upon application, be classified by the Board of Fish Commissioners, and a license to be paid shall be three times the regular fee according to the class named, excepting in a case where a cold storage plant remained idle only one season, then in that case the license to be paid shall be double

the regular fee. Persons desiring to engage in the business of retailing salmon or other anadromous fish or sturgeon for home consumption or peddling such fish from house to house that have not heretofore engaged in such business shall be listed of the first class and shall pay a license therefor accordingly, whether such person caught his own salmon or other anadromous fish or sturgeon, or not; *provided*, that nothing in this section shall be so construed as to deny to any licensed fishermen whether the operator of a gill net, set net, weir, or pound net, the right to dispose of one or more salmon for personal or family use to individuals who are not dealers and who do not make a practice of buying salmon for retail purposes. Where more than one shop or plant is operated by the same person, firm or corporation, each shall be licensed separately and according to its class. A peddler's license shall be good for one person or wagon and no more. All licenses issued under the provisions of this section shall be good only in the district for which the same is issued, and shall expire on the thirty-first day of March following the issuance of such license. [L. 1907, p. 103, § 3.]

For penalty see Section 112 of this compilation.

This section repeals by implication Section 4095, B. & C. Code.

§ 107. *Record of License Applications to Be Kept by Fish Warden—Authority to Inspect Canneries, Places of Business, and Books—Appeals.*

The fish warden shall keep and preserve a record of all applications for license filed. The fish warden is not bound by statements therein

made as to the amount of fish canned, packed or handled, and for the purpose of ascertaining the true class in which any canner, packer or dealer in salmon or other anadromous fish or sturgeon, as herein provided, should be listed, such fish warden or any of his deputies has full authority and is hereby authorized to inspect the cannery, cold storage plant, packing establishment and places of business of such parties, and the books of such showing the amount of their pack or the amount handled (but the information derived therefrom shall not be made public), and if in the opinion of the fish warden the facts set forth in the affidavit of the applicant for a license are untrue, and the canner, packer, or dealer, as herein provided, is not properly classed, he shall immediately class the same and list the same properly, and cancel the license already issued, and demand from such canner, packer, or dealer, as herein specified, a new license fee necessary to bring it within the class it should have been listed in in the first instance; but any person, firm, or corporation feeling aggrieved by the decision of the fish warden may appeal from the decision of the fish warden to the circuit court of the State of Oregon for the county in which his or its business is situated. Such appeal is taken by a written notice of such appeal on the fish warden, or his deputy residing in the county, and filing same with proof of service indorsed thereon within ten days from receiving notice of such re-listing by such fish warden, together with a bond with one or more sufficient sureties, to be approved by the clerk of the circuit court, conditioned to pay whatever judgment may be rendered against him

on the appeal, in the office of the clerk of the State of Oregon for the county in which said business is located; and the case shall be tried in the said circuit court as a suit in equity, and judgment entered by the court accordingly, and the decision shall be final, and the judgment of the court shall be enforced as other judgments are, and shall have like force and effect. No costs shall be taxed against the fish warden in any event. Nothing in this section shall be construed to prevent the Board of Fish Commissioners, the Master Fish Warden, or any of the deputies, from giving in evidence at the trial of such appeal any fact or information derived by them from inspection of the books or papers of any canner, packer, or dealer in fish, or from offering in evidence in any court the affidavit of any person required by this act. [L. 1907, p. 105, § 4.]

For penalty see Section 112 of this compilation.

This section by implication repeals Section 4096, B. & C. Code.

§ 108. *License, Dated, Numbered, and What to Contain.*

Each and every license issued under the provisions of this act shall be numbered and dated by the fish warden, and the number of cannery, dealer, pound net, gill net, fish wheel, seine, trap, or other appliance, or business licensed, and the number of the district where the appliance or business is located, and shall also contain the name of the person or persons to whom such license is granted. All licenses for whatever appliance or business granted under the provisions of this act shall be valid only in the

district for which the same is issued, and shall expire and become null and void on the thirty-first day of March following the issuance of such license. [L. 1907, p. 106, § 5.]

This section by implication repeals Section 4097, B. & C. Code.

For penalty see Section 112 of this compilation.

§ 109. *Certificate Sufficient Proof of Issuance.*

In all prosecutions requiring proof as to the issuance or non-issuance of a license by the Master Fish Warden under any of the laws of this State, the certificate of the Master Fish Warden as to the issuance or non-issuance of such license by him shall be sufficient proof on that question to establish the fact, and such certificate shall be admitted in evidence as to the issuance or non-issuance of such license in any prosecution. [L. 1905, p. 206, § 1.]

§ 110. *Dealers Must Report Fish Purchased.*

It shall be the duty of all persons, firms, or corporations who purchase from fishermen or takers or catchers of fish, or who catch their own fish for the purpose of canning, packing, preserving, or selling them, or who can pack, preserve, retail or otherwise deal in fish, to report to the fish warden on or before the fifteenth day of December each year the number of every species of fish, including clams, crabs, crawfish, oysters, etc., stated separately, so purchased or taken by them during the year ending on said fifteenth day of December, and if purchased by weight, the number of pounds of each species so purchased or taken; and said report shall be accompanied by an affidavit as to the correctness of the same. Any

person, firm, or corporation who fails, neglects, or refuses to comply with the provisions of this section shall be deemed guilty of a misdemeanor. [L. 1907, p. 106, § 6.]

For penalty see Section 112 of this compilation.

This section by implication repeals Section 4088, B. & C. Code.

§ 111. *“Person” or “Persons” Defined.*

The term “person” or “persons” used in this act shall be deemed to include partnerships and corporations. [L. 1907, p. 107, § 10.]

This section refers to Sections 10, 11, 12, 102, 105, 106, 107, 108 and 110, of this compilation.

§ 112. *Penalty.*

Any person, or persons, firm, or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50, nor more than \$1,000, and the costs of the action, or by imprisonment in the county jail not less than 25 days nor more than one year, or by both such fine and imprisonment. All moneys received from fines and penalties under this act shall be disposed of in the same manner as is provided under the general laws pertaining to the fishing industry. [L. 1907, p. 107, § 11.]

This penalty applies to Sections 102, 105, 106, 107, 108, and 110, of this compilation.

§ 113. *Justices—Concurrent Jurisdiction.*

Justices of the peace shall have concurrent jurisdiction with the circuit courts of this State, of all offenses mentioned in this act. [L. 1907, p. 108, § 12.]

This section applies to Sections 102, 105, 106, 107, 108, 110 and 112, of this compilation.

§ 114. (B. & C. Code, § 4110.) *Fish Appliances Liable to Execution for Fines.*

Any and all gear and appliances used in violation of the provisions of this act, including boats, traps, nets, weirs, fish wheels, or other appliances, shall be subject to execution for the payment of fines and costs herein provided for. [L. 1901, p. 346, § 50.]

§ 115. (B. & C. Code, § 4111.) *Fishing Without License or Otherwise Unlawfully, Subjects Appliances to Seizure—Procedure Thereon.*

All fish traps, pound nets, gill nets, set nets, fish wheels, fishing boats, and vessels used in fishing, and apparatus, and any and all appliances or devices which shall be used or employed by any person or persons or corporations, including all such fishing appliances fished or operated by any person who has not obtained a license, or a license to operate such appliance, in fishing for or catching salmon fish at or during any [time or in any] of the waters in this act prohibited, and which by this act is made unlawful, whether being operated by any person or left in a condition to take fish, or abandoned but left in condition to take fish, shall be seized and be confiscated, condemned, and sold, and the proceeds of such sale shall be paid to the State Treasurer, and by him deposited in the hatchery fund for the district in which such appliance is seized; and it is hereby made the duty of the fish warden to seize and take into his possession all such fishing appliances hereinbefore mentioned, which shall be operated wrongfully or unlawfully by any person, or left by any person in a condition to take fish, or abandoned by any person but left in a

condition to take fish, shall be seized and be confiscated, condemned, and sold, and the proceeds of such sale shall be paid to the State Treasurer and by him deposited in the hatchery fund for the district in which such appliance is seized; and it is hereby made the duty of the fish warden to seize and take into his possession all such fishing appliances hereinbefore mentioned, which shall be operated wrongfully or unlawfully by any person, or left by any person in a condition to take fish, or abandoned by any person but left in a condition to take fish, at or during any time or in any of the waters in this act prohibited, and which is made unlawful by this act; and immediately upon such seizure the prosecuting attorney for the district in which such appliance is seized shall institute an action in the circuit court for that county to have such appliance confiscated, condemned, and sold; such petition shall contain a true description of the appliance sought to be confiscated, condemned, and sold, as nearly as practicable, together with all marks, brands, or any special features thereof, calculated to designate same from other appliances of like nature, and, if a fixed appliance, the number; and shall allege facts showing that the same was used in violation of the provisions of this act. The petition shall be duly verified by the oath of the fish warden, or one of the deputies, and in such action the State of Oregon shall be plaintiff, and the owner of such appliance, if known, shall be the defendant; and if unknown, then such unknown owner shall be designated as "John Doe," whose true name is unknown; and such like proceedings shall be had and such action shall be prosecuted to final determination as in actions

at law, excepting that the summons shall be issued by the clerk of the court, and shall require the defendant, if known, to appear and answer within fifteen days after the service of such summons upon him, and if he fails so to appear and answer, judgment of confiscation shall be entered as prayed for in the petition. Such summons shall contain a brief description of the appliance sought to be confiscated; and if such defendant shall be unknown or cannot be found, the summons shall require such unknown owners to appear within four weeks after the first publication thereof, as hereinafter provided; such summons shall be served upon the defendant, if known, personally in any county in the State; and if unknown and cannot be found, the summons shall be published for four weeks in some newspaper published in the county where the action is instituted. All persons owning or claiming any interest in such fishing appliance will be permitted to answer, setting forth their various interests, but it will be no defense to a judgment of confiscation that the owner or mortgagee or lienor of such appliance did not consent to have the same unlawfully operated. Upon the trial of said cause the matter to be determined shall be whether or not the appliance seized was unlawfully employed, or suffered or permitted to be unlawfully employed, in violation of the provisions of this act, or used or operated without a license or by one not licensed; and if judgment shall be entered, that the same was used or employed, or suffered or permitted to be used or employed, in violation of this act, a judgment shall be rendered confiscating each appliance and ordering the same to be sold at public auction to the highest bidder for

cash, and execution shall issue upon such judgment as in an ordinary action at law, and like proceedings shall be had under such execution as now provided by law. The money arising from the sale of such appliance shall be immediately deposited with the State Treasurer, and by him deposited in the hatchery fund for the district in which such appliance was seized. No fee shall be charged or collected from the Board of Fish Commissioners at the institution or during the prosecution of such action, and no judgment will be awarded against them or the State of Oregon for costs and disbursements. Should the Board of Fish Commissioners deem themselves aggrieved by the ruling or decision of the court at any time after the institution of said action, the right of appeal is hereby given the State of Oregon, to be prosecuted in the same manner as appeals in ordinary civil actions, excepting that no fee shall be charged the State and no bond shall be required on appeal. [L. 1901, p. 347, § 51.]

§ 116. (B. & C. Code, § 4112.) *The Term "Person" or "Persons;" What to Include.*

The term "person" or "persons" used in this act shall be deemed to include partnerships and corporations. [L. 1901, p. 349, § 52.]

§ 117. (B. & C. Code, § 4113.) *Penalty for Violating Provisions of Act.*

Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$1,000, and the costs of the action, or

by imprisonment in the county jail not less than twenty-five days nor more than one year, or by both such fine and imprisonment; *provided*, in case of fine only that he be imprisoned in the county jail until such fine and costs of action be paid, he shall be credited on such fine and costs the sum of \$2.00 for each day of imprisonment. In all actions for violations of the provisions of this act one-third of the moneys collected as fines shall be paid to the district attorney, or his deputies, who conducts the action; one-third shall be paid to the informer or prosecuting witness; *provided*, such informer or prosecuting witness is not a regularly appointed and salaried fish warden, or salaried deputy warden; the remaining one-third or two-thirds, or all, as the case may be, shall be paid to the Master Fish Warden and by him deposited with the State Treasurer, to be placed in the "hatchery fund" for the district in which said fine was imposed. [L. 1903, p. 237, § 15.]

§ 118. *Fire, Game and Fish Wardens, Ex Officio.*

That from and after the passage of this act the sheriffs, and deputy sheriffs of the counties and constables of the various precincts and districts of the State of Oregon, shall be and hereby are created *ex officio* fire, game, and fish wardens. [L. 1903, p. 140, § 1.]

§ 119. *Duties of Wardens.*

It shall be the duty of said fire, game, and fish wardens to enforce all statutes of the State now in force, or that may hereafter be enacted, for the protection of forests and timber lands from fire, and for the protection of game, game birds,

game mammals, song and insectivorous birds, and fish, and for the protection of chinook, silverside, steelhead, and all other anadromous species of salmon and other fish; and said sheriffs, deputy sheriffs, constables, or wardens, shall have authority to arrest, without warrant, any person or persons caught by them in the act of violating any of the aforesaid laws for the protection of forests and timber lands, game and food and game fish, and take such person or persons forthwith before a justice of the peace, or other magistrate having jurisdiction, who shall proceed without delay to hear, try, and determine the matter. Such arrests may also be made on Sunday, in which case the person or persons arrested shall be taken before the proper officer, and proceeded against as soon as may be on a week day following the arrest. [L. 1903, p. 140, § 2.]

§ 120. *Power to Search Without Warrant.*

Said sheriff, deputy sheriffs, constables, or wardens shall have power without warrant, to search and examine any boat, conveyance, vehicle, fish box, fish basket, game bag, or game coat, or other receptacle for game or fish, when they have good reason to believe that any of the laws for the protection of forests and timber land, game and food fish, have been violated; and the said sheriffs, deputy sheriffs, constables, or wardens shall at any time seize and take possession of any and all birds, animals, or fish which have been caught, taken, or killed at any time in a manner or for a purpose, or had in possession or under control, have been shipped or about to be shipped, contrary to any of the laws of this State; and

seize and take possession of any and all fishing appliances and boats fished, operated, or maintained in violation of any of the game or fish laws of the State. Any court having jurisdiction of the offense upon receiving proof of probable cause for believing in the concealment of any bird, animal, or fish, caught, taken, killed, had in possession, under control or shipped, or about to be shipped, contrary to the law, shall issue a search warrant and cause a search to be made in any place, and to that end may, after demand and refusal, cause any building, inclosure, or car to be entered, and any apartment, chest, box, locker, crate, basket, or package to be broken open and the contents thereof examined by any said sheriff, deputy sheriff, constable, or warden. All birds, animals, or fish, or nets or fishing appliance or apparatus, seized by any sheriff, deputy sheriff, constable or warden shall be disposed of in such manner as may be directed by the court before whom the offense is tried, and such sheriff, deputy sheriff, constable or warden shall not be liable for damages on account of any search, examination, or seizure, of the confiscation of any nets or fishing appliance or apparatus of any kind in accordance with the provisions of this act. [L. 1903, p. 141, § 3.]

§ 121. *Additional Fees From Fines.*

Any sheriff, deputy sheriff, constable, or warden, as informer or prosecutor, upon the arrest and prosecution of any offender to conviction under the provisions of this act, shall, in addition to the fees to which he may be entitled under existing laws, be entitled to receive one-third of

the money collected as fines in such action. [L. 1903, p. 141, § 4.]

This section applies only to Sections 119 and 120, of this compilation.

§ 122. *Violations—Returns of Officers—Penalty.*

Each of the said sheriffs, deputy sheriffs, constables or wardens shall, for the purpose of this act, have concurrent jurisdiction throughout his own proper county; and they shall in the first week of each term of the circuit court of their respective counties, make special returns to said court, under oath, of all violations occurring in their respective counties or districts, or which may come or be brought to their notice, of any of the provisions of any law now in force, or that may hereafter be enacted for the protection of the forests and timber lands, game, and fish; and it shall be the duty of the judge of said court to see that such returns are faithfully made, and any sheriff, deputy sheriff, constable, or warden willfully neglecting or refusing to make such returns, or to prosecute any offense under said laws of which he shall have personal knowledge, or of which he shall have notice in writing by any citizen, giving the name of the offender, together with the names of the witnesses, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of \$50, or to undergo an imprisonment in the county jail of two months, both or either, at the discretion of the court. [L. 1903, p. 142, § 5.]

OYSTER BEDS: PROPAGATION AND GATHERING.

§ 123. (B. & C. Code, § 4122.) *Natural Oyster Beds Free—Artificial Beds Private Property.*

The natural beds of oysters on the waters of this State shall be free to all citizens thereof who shall have resided in this State one year, and shall have been residents of the county where such beds are located for a period of six months immediately preceding the time of taking such oysters; but artificial plantations of oysters belonging to citizens of this State, if distinctly marked out by means which shall not obstruct navigation, and not exceeding the extent allowed by local regulations, shall be deemed and protected as private property; and the following portions of Yaquina Bay, in Benton County, are hereby designated and set apart for artificial plantations of oysters, to-wit: Brown's Flat, Pool's Slough, Lyman's Eddy and Green Point; and the size and dimensions of said oyster beds shall remain as they have been fixed by the local regulations of the oystermen's association, not exceeding two acres in any one plantation; and every person holding a claim for the cultivation of oysters shall in all respects comply with the local regulations applicable thereto. [L. 1862, D. Cd., p. 830, § 1; L. 1868, p. 14, § 1; L. 1870, p. 78, § 1; H. C. § 3844.]

* For penalty see Section 127 of this compilation.

§ 124. (B. & C. Code, § 4123.) *Close Season as to Natural Beds.*

No person shall remove oysters from natural beds between the fifteenth day of June and the tenth day of September in any year; *provided*, that nothing in this chapter shall be so construed as to prevent any person owning artificial beds from taking oysters from said beds at any time. [L. 1864, D. Cd., p. 830, § 2; H. C. § 3845.]

For penalty see Section 127 of this compilation.

§ 125. (B. & C. Code, § 4124.) *Who Privileged to Take Oysters.*

No person not a citizen of the United States or competent to become such under the laws of Congress, and actually domiciled within the State, and subject to state and county taxes, shall gather oysters in natural beds, for sale or transportation or for replanting, nor shall own any artificial oyster bed or any interest therein; nor shall any person purchase oysters for transportation or replanting except from persons so qualified. [L. 1862, D. Cd., p. 830, § 3; H. C. § 3846.]

For penalty see Section 127 of this compilation.

§ 126. (B. & C. Code, § 4125.) *Regulations for Taking Oysters From Natural Beds.*

No person shall gather or take oysters from natural beds within the waters of this State with a scoop, scrape, drag, or dredge where the water is of less depth than twenty-four feet at low tide; nor shall any person gathering oysters from natural or artificial beds commit or permit waste by casting young oysters or shells on shore or in

places unfavorable to their growth or increase.
[L. 1862, D. Cd., p. 830, § 4; L. 1868, p. 14, § 4;
L. 1876, p. 7, § 1; H. C. § 3847.]

For penalty see Section 127 of this compilation.

§ 127. (B. & C. Code, § 4126.) *Penalty for Violation of Provisions of Sections 4122, 4123, 4124, and 4125, B. & C. Code.*

Every person who shall be guilty of violating any provision of Sections 4122, 4123, 4124, and 4125, shall, on conviction thereof, be fined in any sum not exceeding \$1,000 for every such offense.
[L. 1862, D. Cd., p. 830, § 5; L. 1870, p. 67, § 1;
H. C. § 1951.]

PLANTED OYSTERS.

§ 128. *Unlawful to Gather or Have in Possession.*

From and after the passage of this act it shall be unlawful, for a period of four years, to gather or attempt to gather, to have in possession, or to offer for sale, any eastern, native, or other oyster, or their progeny, that have heretofore or may hereafter be deposited or planted by the State Biologist, or the United States Fish Commission, in the waters of Oregon; *provided*, that this section shall not apply to the taking, or having in possession any such oysters by said biologist. [L. 1905, p. 203, § 1.]

For penalty see Section 131 of this compilation.

§ 129. *State Biologist, Duty to Mark Location.*

It shall be the duty of the State Biologist, immediately after such oysters are planted, to designate the place, in such manner as he may deem sufficient, by placing or causing to be placed, stakes, post buoys, sign boards, or other devices, as the condition of the location may admit; *provided, however*, that the extent of any portion of the natural oyster beds of Yaquina Bay, Lincoln County, Oregon, which may now or hereafter be occupied for the purpose of planting eastern, native, or other oysters, by the State Biologist or the United States Fish Commission, shall not exceed one acre. [L. 1905, p. 204, § 2.]

§ 130. *Unlawful to Remove or Damage Devices Marking Oyster Beds.*

It shall be unlawful for any person or persons to willfully or maliciously remove or damage any stakes, post buoys, sign boards, or other devices placed in the water or upon shore for the purpose of designating the place where such oysters are planted. [L. 1905, p. 204, § 3.]

For penalty see Section 131 of this compilation.

§ 131. *Penalty for Violating Preceding Sections.*

Any person who shall violate any of the provisions of the foregoing sections of this act, shall, upon conviction, be fined not less than \$10 nor more than \$50, or be imprisoned not less than five days nor more than twenty-five days in the county jail. And it shall be the duty of the State Master Fish Warden, his deputies and water bailiffs, as well as peace officers, to make arrests and institute prosecutions for the violation of this act; and one-half of each fine collected shall be paid to the informer. [L. 1905, p. 204, § 4.]

§ 132. *Board of Fish Commissioners to Regulate*

The State Board of Fish Commissioners shall have control of all the natural oyster beds in the waters of this State and shall prescribe such rules and regulations for the protection of oysters, therein, and for the taking of oysters and oyster spat shells therefrom as shall in the judgment of the board be for the best interests of the industry; but no part of such natural beds shall be leased to any person or persons, firm or corporation; and *provided*, that no person or persons shall be allowed to take oysters, spat, or shells from said

natural beds except they have been a citizen of this State for one year and a citizen of the county wherein such beds are located for a period of six months next preceding the taking of such oysters, spat, or shells; and *provided, further*, that nothing in this act shall be construed so as to operate or interfere with any rights in, or ownership of, any private plantations of oysters or oyster beds acquired or held under existing laws. [L. 1907, p. 378, § 1.]

§ 133. *Board Shall Adopt Rules and Regulations: Publication.*

Within sixty days from the passage of this act the said State Board of Fish Commissioners shall adopt such rules and regulations and shall cause to have them published in a weekly newspaper published in the county wherein such natural beds are situated for four consecutive weeks and thereafter it shall be unlawful for any person or persons to take oysters from such natural beds unless they comply strictly with all of the regulations made by the board covering the same. [L. 1907, p. 378, § 2.]

For penalty see Section 140 of this compilation.

§ 134. *Fish Wardens to Have Jurisdiction.*

The Master Fish Warden, deputy fish wardens, and water bailiffs shall have the same authority for the carrying out and enforcing of the rules and regulations of the board in relation to the oyster beds as they have under the fishing laws of this State. [L. 1907, p. 378, § 3.]

For penalty see Section 140 of this compilation.

§ 135. *Unlawful to Take Oysters Planted by Another.*

It shall be unlawful for any person without due authority, or without permission from the owner thereof to take or carry away any oysters or other shellfish lawfully planted or cultivated in any waters of this State, or any oysters, clams, or other shellfish, being on any place duly designated for the planting or cultivation of oysters and other shellfish, or to remove oysters or other shellfish belonging to any person, either from private lands, private beds, cull beds, or from any bed, wharf, float, or water craft whatsoever. [L. 1907, p. 378, § 4.]

For penalty see Section 140 of this compilation.

§ 136. *Unlawful to Rake Oyster Beds.*

It shall be unlawful for any person while sailing or passing upon or over any oyster ground or oyster bed, to cast, haul, or heave overboard, any drag, tongs, rake, or other implement for the taking of oysters or shellfish of any description, under any pretense whatever, without the consent of the lessee or owner of such oyster grounds or oyster bed. [L. 1907, p. 379, § 5.]

For penalty see Section 140 of this compilation.

§ 137. *Substances Injurious to Oysters Unlawful to Deposit.*

It shall be unlawful for any person to deposit into, or allow to escape into, or cause or permit to be deposited into, or escape into any of the public waters of this State, any substance of any kind whatever, which will or shall in any manner injuriously affect the life, growth, or flavor of

oysters or other shellfish in or under said waters. [L. 1907, p. 379, § 6.]

For penalty see Section 140 of this compilation.

§ 138. *Unlawful to Injure Oyster Enclosure.*

It shall be unlawful to willfully injure any oyster enclosure, legally designated, marked out or enclosed, or to remove or injure any boundary monuments, stakes, or buoys used to mark out any oyster ground. [L. 1907, p. 379, § 7.]

For penalty see Section 140 of this compilation.

§ 139. *Word "Person" Includes Firms and Corporations.*

Wherever the word "person" is used in this act, it shall be deemed to mean, person, persons, firm, firms, corporation, or corporations. [L. 1907, p. 379, § 8.]

§ 140. *Penalty.*

Every person who shall be guilty of violating any of the provisions or sections of this act shall, upon conviction thereof, be punished by a fine in any sum not less than one hundred dollars, and not exceeding one thousand dollars, or imprisonment in the county jail for not less than one month, nor more than one year, or by both such fine and imprisonment. [L. 1907, p. 379, § 9.]

The act referred to in this section includes Sections 132, 133, 134, 135, 136, 137, 138, and 139, of this compilation.

§ 141. (B. & C. Code, § 4129.) *Oyster Plantations in Netarts Bay, Regulation of.*

That portion of Netarts Bay, in Tillamook County, Oregon, lying south of the quarter-section line running east and west through the center of section 19, in township 2 south, range 10 west of

the Willamette Meridian, is hereby designated as natural oyster beds; and that portion of said bay lying north of said quarter-section line is hereby designated and set apart for artificial plantations of oysters; and the sizes of such artificial plantations shall be as fixed by the local regulations of any oystermen's association now existing or hereafter to be formed on said bay, not exceeding two acres in any one plantation, and every person holding a claim for the cultivation of oysters on said bay shall in all respects comply with the local regulations applicable thereto; *provided, however,* that no person, firm, corporation, or association shall be entitled to locate more than one such claim. [L. 1901, p. 128, § 1.]

CRABS, CLAMS AND CRAWFISH.

§ 142. *Protection of Crabs in Coos County.*

It shall be unlawful for any person within the county of Coos, State of Oregon, or within or upon the waters thereof, including all bays, harbors and inlets of said county, to kill, take, capture or destroy any greater number than fifty salt water crabs in one day; and it shall be unlawful for any person or persons, firm or corporation within said county or upon the water thereof, to sell or offer for sale, exchange or transport outside of the said county, or have in possession, for the purpose of such sale or exchange or transportation from said county, any of the aforesaid salt water crabs; and it shall be unlawful for any steamboat, express company, or any other common carrier, or corporation, or the officers or agents thereof, or any other person, to transport or carry out of said county, or to receive or have in possession for the purpose of such transportation therefrom, any salt water crabs, except for the purpose of exhibition or propagation; *provided*, that this act shall apply to the canning product of salt water crabs within the said county and the exportation of the same therefrom. [L. 1907, p. 52, § 1.]

For penalty see Section 143 of this compilation.

§ 143. *Penalty.*

Any person or persons, or any manager, president, agent, or employee of any firm or corporation, who shall violate or assist in the violation of any of the provisions of this act, shall be deemed

guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$25, and not more than \$500, together with the costs of the prosecution, and in default of the payment of such fine, shall be imprisoned in the county jail one day for every two dollars of such fine until the whole thereof shall be paid. [L. 1907, p. 52, § 2.]

§ 144. *Justices to Have Concurrent Jurisdiction.*

Justices of the peace shall have concurrent jurisdiction with the circuit courts of this State of all offenses mentioned in this act. [L. 1907, p. 52, § 3.]

§ 145. *Closed Season for Crabs.*

It shall be unlawful for any person or persons, firm or corporation, or any person whatsoever, to take or fish from any of the waters of the State of Oregon, or have in their possession after the same has been taken, for the purpose of canning or shipping out of the county in which they are taken, any crabs during the months of July, August, and September of any year. [L. 1909, p. 374, § 1.]

For penalty see Section 150 of this compilation.

§ 146. *Number of Crabs to Be Taken in One Day.*

It shall be unlawful for any person or persons, firm or corporation, to kill, take, or fish from any of the waters of the State of Oregon any greater number than fifty crabs in one day. [L. 1909, p. 374, § 2.]

For penalty see Section 150 of this compilation.

§ 147. *Size of Crabs That May Be Taken.*

It shall be unlawful for any person or persons, firm or corporation, to take or have in their possession, for the purpose of sale or canning, where it is lawful to sell and can same, any male or female crab measuring less than six inches across its back. [L. 1909, p. 374, § 3.]

For penalty see Section 150 of this compilation.

§ 148. *Closed Season for Clams.*

It shall be unlawful for any person or persons, firm or corporation, or any person whatsoever, to take or dig clams from the sands on the ocean beach of the Pacific Ocean, in the State of Oregon, or to have in their possession after the same have been taken, for the purpose of canning, or shipping out of the county in which they are taken, between the first day of June and the thirty-first day of August, of any year. [L. 1909, p. 374, § 4.]

For penalty see Section 150 of this compilation.

§ 149. *Closed Season for Crawfish, Clatsop County Excepted.*

It shall be unlawful for any person or persons, excepting residents of Clatsop County, to take, fish for, or have in their possession any crawfish taken from the waters of the State of Oregon during the months of November, December, January, or February of any year. [L. 1909, p. 374, § 5.]

For penalty see Section 150 of this compilation.

§ 150. *Penalty.*

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine

of not less than \$50 nor more than \$100, and the costs of the action. Said fine to be paid to the Master Fish Warden and by him deposited with the State Treasurer to the credit of the hatchery fund for the district in which the fine was imposed. [L. 1909, p. 374, § 6.]

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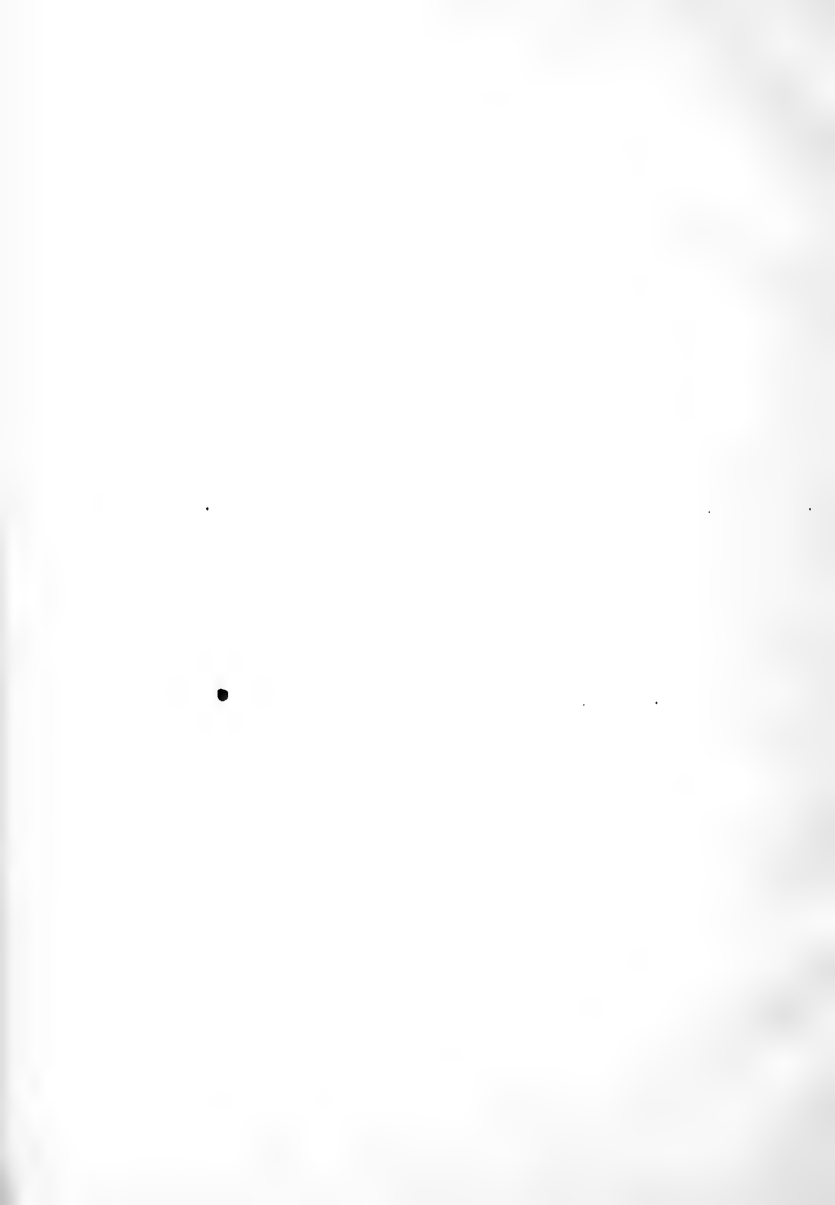
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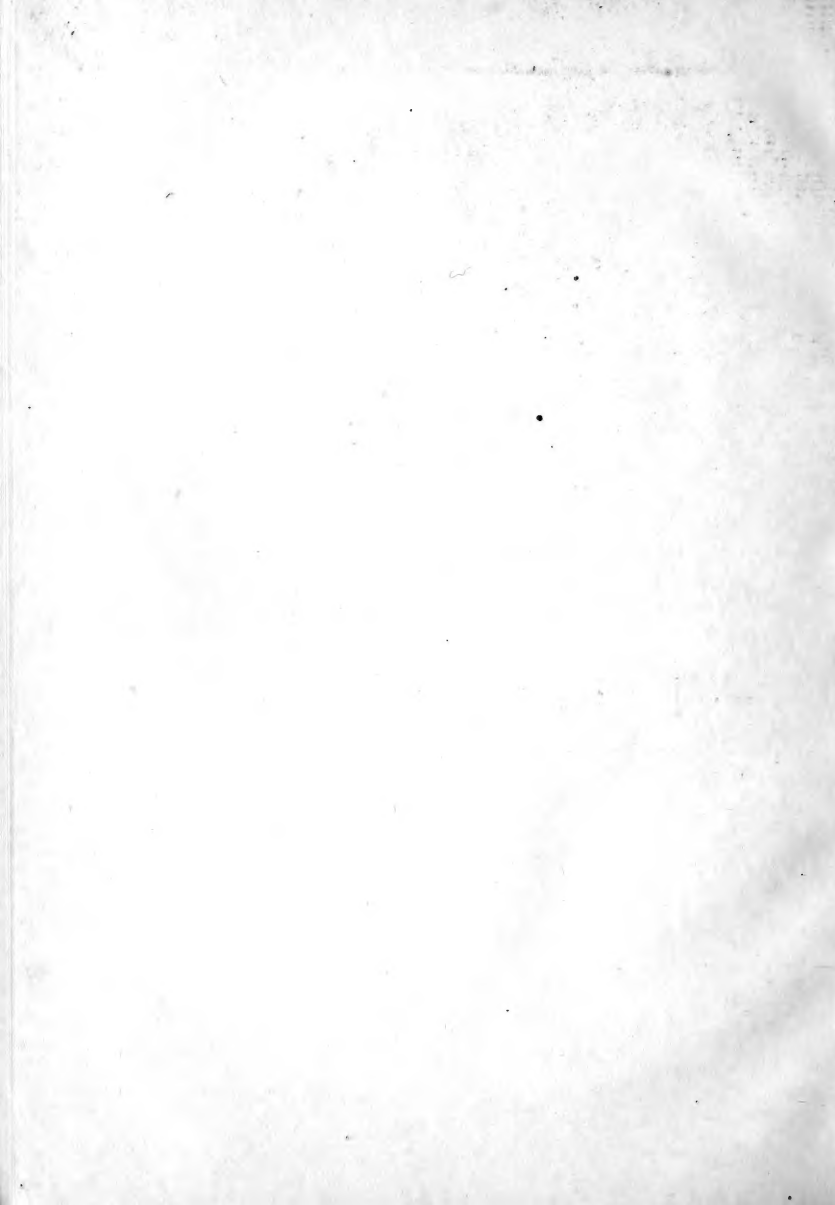
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