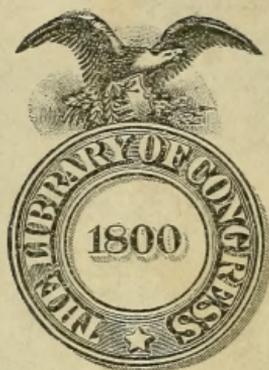


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Laws relating to
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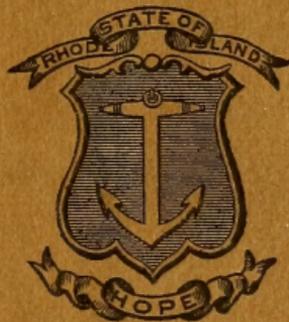
State of Rhode Island.

LAWS

RELATING TO

SHELL FISHERIES,

1912.



PROVIDENCE:

E. L. FREEMAN COMPANY, STATE PRINTERS.

1912.

State of Rhode Island.

11 Laws, Resolutions, etc.

LAWS

RELATING TO

SHELL FISHERIES,

1912.



PROVIDENCE:

E. L. FREEMAN COMPANY, STATE PRINTERS.

1912.

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COMMISSIONERS OF SHELL FISHERIES.

PHILIP H. WILBOUR..... Little Compton, R. I.
 JOHN H. NORTHUP..... Apponaug, R. I.
 EDWARD ATCHISON..... Slatersville, R. I.
 SAMUEL F. BOWDEN..... Barrington, R. I.
 JOHN G. WILCOX..... Westerly, R. I., R. F. D. No. 1.

Clerk.

BRAYTON A. ROUND..... Providence, R. I.

Engineer.

O. PERRY SARLE..... Providence, R. I.

Deputy Commissioners of Shell Fisheries.

CHARLES I. NORTHUP..... Apponaug, R. I.
 OLIVER G. HICKS..... Bristol Ferry, R. I.
 LEMAN WARDSWORTH..... Wickford, R. I.
 WILLIAM B. WELDEN..... Providence, R. I.
 JESSIE L. BOWDEN..... Warren, R. I.
 ISRAEL A. SMITH..... Pawtuxet, R. I.

Biologist and Bacteriologist.

FREDERIC P. GORHAM.....
Brown University, Providence, R. I.

Inspector of Oyster Houses.

LESTER A. ROUND..... Providence, R. I.

Inspector of Stakes and Buoys.

WALTER G. MASSIE..... Providence, R. I.

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L A W S

RELATING TO

SHELL FISHERIES.

CHAPTER 203.

OF PRIVATE AND SEVERAL OYSTER FISHERIES.

SECTION 1. There shall be elected by the general assembly, in grand committee, five commissioners of shell fisheries, one from each county, who shall hold office for the term of five years. The general assembly, in grand committee, at the January session in the year nineteen hundred ten, and in each fifth year thereafter, shall elect five members of said board, and the members so elected shall hold their offices until the first day of February in the fifth year after their appointment. Any vacancy that may occur in said offices while the general assembly is not in session may be filled by the governor until such time as some person elected by the general assembly, in grand com-

mittee, to fill such vacancy, shall be qualified to act. Any person elected by the general assembly to fill such vacancy shall hold office for the unexpired term of the person whose place he is elected to fill. They shall have power and authority to elect a clerk and prescribe his duties.

SEC. 2. The said commissioners, previous to entering upon the duties of their office, shall severally give a bond, with sureties satisfactory to the general treasurer, in the sum of one thousand dollars, with condition to faithfully perform the duties of the office according to law.

SEC. 3. The clerk of the commissioners of shell fisheries is hereby required to give a bond in such sum and with such surety or sureties as will be satisfactory to the general treasurer, with condition faithfully to perform the duties of the office according to law; the expense of procuring said board shall be defrayed by the state.

SEC. 4. The said commissioners shall make annual report to the general assembly at its January session of their doings and the condition of this department of the public service, including a detailed statement of all moneys

received and expended on account thereof; and also including the names of all of the lessees of said land, the number of acres leased each person, and the value thereof.

SEC. 5. The said commissioners shall have an office in the state house in the city of Providence, where the maps, charts, books, leases, and other property connected with said commission shall be kept.

SEC. 6. Each of said commissioners shall, by virtue of his office, make complaints for any violation of the laws of this state relating to shell fisheries, and of any subsequent amendments thereof, without giving recognizance or surety for costs

SEC. 7. The said commissioners may appoint such deputies as they shall deem necessary for the detection and prosecution of any violation of the laws of this state relating to shell fisheries. Each of said deputies so appointed shall be by virtue of his office, a special constable, and as such deputy may without warrant arrest any person found violating any of said laws and detain him for prosecution not exceeding forty-eight hours, and may seize any boat or vessel used in such violation, together with her tackle, apparel

and furniture, and all implements belonging thereto.

The said commissioners may also appoint such oyster guards as they may deem advisable for the detection and prosecution of any person committing depredations upon leased oyster ground. Each of said oyster guards shall be, by virtue of his office, a special constable, and as such oyster guard may without warrant arrest any person whom he may find taking oysters wrongfully from leased oyster ground and detain him for prosecution not exceeding forty-eight hours, and may seize any boat or vessel used in such wrongful taking of oysters, together with her tackle, apparel and furniture and all implements belonging thereto.

Said commissioners shall make all necessary regulations for enforcing the laws of the state relating to shell fisheries, and for executing the duties imposed upon them by law. The annual expense of enforcing said laws shall be paid by the general treasurer out of the moneys received for rentals of oyster grounds, on orders of the state auditor, who shall draw his orders on the general treasurer on properly presented vouchers approved by said commissioners. The said commissioners may expend in any

one year a sum not to exceed twelve thousand dollars in executing all the duties imposed upon them by law. The sum of twelve thousand dollars shall include all appropriations made for the use of the said commissioners under whatever provision of law, with the exception of such acts and resolutions as provide for the salaries of the commissioners of shell fisheries and their clerk and for such other clerical assistance as may be necessary: *Provided, however,* that the said commissioners shall not receive any compensation for any service rendered in executing said duties, in addition to the salary provided by law."

For the purpose of carrying into effect the provisions of this act the sum of ten thousand five hundred dollars be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated; and the state auditor is hereby directed to draw his orders upon the general treasurer for the payment of said sum or such portion thereof as may from time to time be required, upon receipt by him of proper vouchers approved by said commissioners.

SEC. 8. Said commissioners may, unless otherwise by statute prohibited, agree to lease

in the name of the state, by public auction or otherwise, to any suitable person, being an inhabitant of this state, or any corporation chartered under the laws of this state, for the purpose of oyster culture and the oyster business:—*Provided*, that said corporation shall have its principal place of business within this state for the opening, shipping, and selling of all oysters grown on ground leased to it within this state; *and provided, further*, that said corporation shall not ship out of this state any oysters in cargo lots direct from any of the oyster grounds leased to it; *and provided, further*, that, if at any time hereafter said corporation shall practically cease to carry on actively the business aforesaid, then and thereupon, said commissioners may cancel said lease or leases to said corporation—any piece of land within the state, covered by four feet of tide water at mean low tide, as delineated upon the plats in the office of the commissioners of shell fisheries, and not within any harbor line: *Provided*, that in Brightman's pond or Babcock's pond, so-called, in the town of Westerly, said commissioners may agree to lease any piece of land therein, below mean low-water mark, whether the same is covered by four

feet of tide water or not, to be used as a private and several oyster fishery for the planting and cultivation of oysters thereon, upon such terms and conditions as they may deem proper, but not for a longer term than ten years or for a shorter term than five years, nor for a rent of less than ten dollars per annum for every acre to be leased where the water is of the depth of less than twelve feet at mean low water, as shown on the plats in the office of the commissioners of shell fisheries, and not agreeing to lease more than one acre at a time in one lot or parcel to one person, firm, or corporation; but in drawing such leases said commissioners may include in the instrument of lease one or more acres of land so leased by them, and all such leases shall be made and executed free of expense to the lessee: *Provided, however,* that any lessee or holder of oyster ground, on the expiration of any lease thereof which is now or which may hereafter be granted, shall upon application to the commissioners of shell fisheries have the preference in the re-letting of said ground for a like term to that granted in the original lease, unless said applicant at the time for granting said application shall be in arrear for rent on said original lease of said

ground; and said application for such renewal or further lease shall be granted without notice or advertisement of the pendency thereof: *Provided, however,* that no renewal or further lease of said ground shall be granted when the commissioners of shell fisheries shall for cause cease to lease said ground for oyster culture. And such letting shall not be subject to the provision for letting by public auction; and neither of such commissioners shall at any time be interested in any lease of ground for planting oysters, or in the cultivation or product thereof: *Provided, however,* that in Little Narragansett Bay, and in Pawcatuck river, so-called, the said commissioners may let such land on terms as to time and rentals as may seem to them best.

SEC. 9. The said commissioners may let and lease any lands within the state covered by tide-water where the said water is of the depth of at least twelve feet according to the plats in the office of the commissioners of shell fisheries at the average low water, for the purpose of having the said land used in planting and cultivating oysters in the deep waters of Narragansett Bay and tributaries, at an annual rental of not less than five dollars per acre, for a

term not exceeding ten years from such letting.

SEC. 10. Any person who shall wrongfully make claim to any public oyster ground, of which he has no lease or title from the state, by erecting bounds or monuments thereon of any description, or otherwise claiming title to such land, shall for the first offence pay a fine of twenty dollars and costs, and for every subsequent offence pay a fine of fifty dollars and costs, one-half thereof to the use of the state and the other half to the complainant

SEC. 11. The said commissioners shall cause the original surveying and platting of all lands for planting and cultivating oysters under provisions of this chapter to be done at the expense of the state and without charge to the lessees; and the state auditor shall draw his order for the payment of said surveys and platting upon the general treasurer, upon properly presented vouchers approved by said commissioners, and the general treasurer shall pay said orders out of any moneys that may be in his hands not otherwise appropriated.

SEC. 12. The said commissioners may at the request of the lessee, for cause shown, cancel or modify any lease, or they may remit or abate the rent received therein, if it shall

appear to the satisfaction of the commissioners, that it would be equitable so to do: *Provided*, that in all cases where leases are cancelled, the commissioners shall give notice of such action within five days by publication, twice a week for two successive weeks, in some daily newspaper published in the city of Providence.

SEC. 13. The said commissioners shall not let any land north of a line extended across Providence river bearing S 40°-30' W, true meridan, from the copper bolt set in the rock near the end of Kettle Point, to Field's Point, or let any lands west of a line drawn from Warwick Neck Light bearing S 55°-16'-02" W, true meridan, to Pojack Point at Potowomut Neck; or let any lands in Sakonnet River south of the railroad bridge; or let any lands in shore of the four-foot line, as delineated on the plats in said commissioners' office, or any land lying between a line running due east and west through the middle point of the Rhode Island Yacht Club building, northerly of Pawtuxet Neck, and a line running due east and west through the center of Pomham beacon, and west of the channel; or let the channel between Long Neck and Marsh Island flats from the

channel in the Providence river to the bridge in Pawtuxet; or let any of the ponds in Little Compton, South Kingstown, New Shoreham, Tiverton, Portsmouth or Westerly, or the cove, so-called, in the town of Portsmouth, except Brightman's pond or Babcock's pond, so-called, in said Westerly: *Provided, however,* that said commissioners shall not let more than three acres in said Brightman's or Babcock's pond to any one person; *and provided, further,* that every person to whom any of the lands in said Brightman's or Babcock's pond shall be let under the provisions of this chapter shall have had his home and residence in this state for a period of three years next preceding the letting thereof; *and provided, further,* that nothing in this section shall be so construed as to affect any of the lands which have been leased or the re-leasing thereof.

SEC. 14. The said commissioners shall give notice of every application for a lease of land for the planting of oysters by publication twice a week for two successive weeks in some daily newspaper published in the city of Providence, and also once a week for two successive weeks in some newspaper published in the county nearest to which the ground is located, describ-

ing the land therein applied for and giving the name and residence of the applicant and the day, hour, and place where the land will be let; which day shall in all cases where the first hearing upon such an application is to be had be upon the first or third Friday of the month, and the commissioners may give such further notice of such application as they may deem to be necessary to inform persons interested of the pendency of such application, and the actual costs of publishing said notices shall be paid by the applicants.

SEC. 15. Said commissioners may adjourn such hearing from time to time, and may issue process to compel the attendance of witnesses for either party, and shall give notice to all parties who have appeared before them upon any application of the time and place when their decision will be given; and such decision shall be final, unless appellate proceedings are taken and prosecuted as hereinafter provided.

SEC. 16. Any person aggrieved by the decision of the commissioners upon any application for a private or several oyster-ground or oyster-fishery may petition the supreme court for a reversal or modification of such decision.

SEC. 17. Application for citation in such case shall be made to the clerk of said common pleas division within five days from the day such decision shall have been made, and the petitioner shall, at or before the time for filing his petition, file with said clerk a copy of the proceedings before the commissioners, and a bond, signed by him or by some one in his behalf, with sufficient surety, in the sum of fifty dollars, payable to said clerk for the use of the state, with condition to prosecute such petition to final judgment and to pay such witness fees and the costs of summons incurred by any party opposing such petition as the court shall award, in case the decision of the commissioners shall not be reversed.

SEC. 18. Such case shall be heard and tried in the same manner as other cases entered upon the docket of said court, and the judgment of the court (which shall be entered immediately upon the rendition of decision or verdict) shall be conclusive upon the question whether said land shall or shall not be leased, and the commissioners shall grant or refuse a lease accordingly.

SEC. 19. Such leases shall be executed by such lessee, as well as by said commissioners

in two parts, one part thereof to be delivered to such lessee and the other part thereof to be retained by said commissioners and recorded in a book kept for that purpose, and shall contain proper covenants for the payment of rent and the performance of the conditions and observance of the restrictions therein set forth, with proper clauses reserving to said commissioners a right to re-enter on behalf of the state and terminate said lease for breach of any of such covenants.

SEC. 20. Said commissioners shall, before granting any such lease, cause the land to be leased as aforesaid, to be surveyed and platted, and shall in all cases cause such land to be marked with proper bounds, stakes or buoys to define the limits thereof, with such marks thereon as they may direct. Such bounds, stakes or buoys, with the marks thereon, shall be renewed or removed whenever the commissioners shall direct.

All buoys used in connection with bounding or subdividing shell fish grounds or for any purpose whatsoever in connection with the enjoyment of the rights and privileges granted by the leasing of shell fish grounds, shall be

under the supervision and care of the said commissioners.

Said commissioners may designate the kind and style of stake or buoy which shall be used for the purpose of marking shell fish grounds and make any suitable regulations in reference to the same: *Provided, however,* that driven stakes shall not be used as bounds or other marks on such shell fish grounds, except on the inside or shoreward boundaries of said grounds, and in no case in more than six feet of water at mean low tide.

Said commissioners are hereby empowered to investigate all complaints brought to their notice and in their discretion to remove or cause to be removed any stake or buoy located on any leased shell fish ground and used for the purpose of bounding, subdividing or otherwise marking said ground, which in their judgment, is in an improper position or condition or does not conform to any regulation which they may make.

Also, said commissioners may in their discretion remove or cause to be removed all such stakes or buoys which may be on shell fish ground where the lease of the same has terminated.

Also, said commissioners may remove or cause to be removed any stake or buoy used for the purpose of marking or bounding shell fish beds which may be improperly located on land not leased.

In case the commissioners remove or cause to be removed any stake or buoy from leased ground, the cost of removal shall be collected from the lessee. Such cost shall become a charge against said lessee and subject to collection in the same manner as is the yearly rent under the lease for said ground.

Any person willfully violating the requirements, orders or regulations respecting bounds, stakes or buoys as determined by said commissioners shall for the first offence be fined not more than twenty dollars and for each subsequent offence shall be fined not more than one hundred dollars.

SEC. 21. The drawing and executing of such leases, the original surveying and platting, shall be done by said commissioners without expense to the lessees. The setting up of the bounds, stakes, or buoys shall in all cases be done by the lessee under the direction of the commissioners.

SEC. 22. Every person who shall willfully injure, deface, destroy, or remove such marks or bounds, or deface any mark thereon, or shall tie or fasten any boat or vessel to any such stake or buoy, shall be fined twenty dollars for each offence, one-half thereof to the use of the state and one-half thereof to the use of the complainant. Every such person shall, in addition thereto, be liable in an action of the case to pay double damages and costs to the person who shall be injured by having the marks and bounds, stakes, or buoys of their said lots injured, defaced, removed, or destroyed as aforesaid.

SEC. 23. The oysters planted or growing in any private oyster ground leased as aforesaid shall, during the continuance of the lease, be the personal property of the lessee of such oyster-ground. As a measure of value and in lieu of other taxation upon such personal property an annual tax equal to ten per centum of the rental payable by the lessees of all such oyster ground leased by said commissioners of shell fisheries is hereby imposed upon the lessees thereof respectively of record on the thirty-first day of December next preceding the payment of such tax. The commissioners of shell

fisheries shall annually on or before the first day of March return to the board of tax commissioners a list, certified by such commissioner of shell fisheries, showing the names and residences of such lessees, the acreage leased and the rentals payable respectively. The board of tax commissioners, on the first business day of June in each year, shall assess such tax and enter the amount thereof against the name of each lessee. Said board shall certify to the correctness of such assessment and deliver a duly attested copy thereof, as a public record, to the general treasurer, who shall receive and collect the taxes so assessed, and said board shall also forthwith mail a notice of the amount of the tax to each such lessee, but the failure to receive such notice shall not excuse the non-payment of said tax. Any tax assessed against any lessee which shall remain unpaid after the fifteenth day of July next succeeding such assessment shall bear interest from the first day of such July at the rate of eight per centum per annum until paid. The general treasurer shall forthwith after the fifteenth day of such July certify to the commissioners of shell fisheries a list of the lessees whose taxes have not been paid, together with the amount of the

tax assessed against each, and the commissioners of shell fisheries may proceed to enforce the collection of any tax assessed under this section, with accrued interest in like manner as provided in section twenty-six of this chapter for the collection of rents.

SEC. 24. Every person who shall work a dredge, pair of oyster tongs or rakes, or any other implement for the taking of shellfish of any description, upon any private and several oyster ground or bed without the consent of the lessee or owner thereof, or who shall, while upon or sailing over any such ground or bed, cast, haul, or have overboard any such dredge, tongs, rake, or other implement for the taking of shellfish of any description, under any pretense or for any purpose whatever, without the consent of such lessee or owner, shall for the first offence be fined not exceeding twenty dollars or be imprisoned not exceeding thirty days, and for every subsequent offence shall be fined not exceeding one hundred dollars or be imprisoned not exceeding six months.

SEC. 25. Said commissioners shall from time to time diligently inspect and ascertain whether or not the terms and restrictions of the leases are kept and performed in a just and

proper manner, and whether or not the rents are punctually paid; and in case said terms and restrictions are not kept and performed, or said rents are not punctually paid, the commissioners shall forthwith enter upon the land so leased and terminate the lease.

SEC. 26. The commissioners may, in the name of the state, institute any legal proceedings that may be necessary for the collection of such rent. The commissioners may take possession of any lot lease, upon which the rent shall not have been paid, and may dispose of said lot with all the oysters thereon at public auction to the highest bidder, first giving notice of the time and place of sale by publishing the same at least once each week for two successive weeks in some newspaper published in the city of Providence, with power to adjourn such sale from time to time, giving like notice of such adjournment; to make and execute to the purchaser at such sale a good and sufficient conveyance of all the right, title, and interest of said lessee in and to the lot leased, together with the oysters thereon; and to receive the proceeds of such sale, and from said proceeds to retain all sums due and owing the state for rent as aforesaid, together with all expenses

incident to such sale, rendering and paying the surplus of said proceeds of sale, if any there be over and above the amounts so to be retained as aforesaid, to said lessee, his heirs, executors administrators, or assigns.

SEC. 27. Every person who shall take oysters from any private and several oyster bed, except between the hours of sunrise and sunset, shall be fined twenty dollars for each offence, one-half thereof to the use of the state and one-half thereof to the use of the complainant; and every boat or vessel used or in any way employed in so doing shall, together with its tackle, apparel, furniture, and implements on board, be forfeited.

SEC. 28. Every person who shall wrongfully take and carry away oysters from a private oyster bed shall for the first offence be fined fifty dollars and be imprisoned for thirty days, and for every subsequent offence shall be fined one hundred dollars and be imprisoned for six months.

SEC. 29. Any police constable may in view of the commission of any offence against the provisions of this chapter upon any of the public waters of the state arrest the offender without

warrant and detain him for prosecution not exceeding twenty-four hours.

SEC. 30. Every person who shall wilfully break up, damage, or injure any bed of oysters, or any tract of land leased from the state for an oyster bed, by depositing thereon earth, stones, or dredgings or scoopings from the river or docks, or in any other manner, shall be fined not exceeding five hundred dollars, one-half thereof to the use of the state and one-half thereof to the use of the complainant; and shall forfeit his boat or vessel, with her tackle, apparel and furniture, and all the implements by him used in injuring such oyster bed.

SEC. 31. Every person convicted a second time of a violation of any of the provisions of this act shall, in addition to the penalties herein before mentioned, be deprived of the privilege of fishing for oysters in the waters of the state for the space of three years thereafter, under penalty of thirty days imprisonment for each offence.

SEC. 32. Every person who shall take more than two bushels of oysters during any one day from Trustan pond, in South Kingstown, shall be fined not less than five dollars nor more

than twenty dollars for every bushel so taken above two bushels.

SEC. 33. Each of said commissioners shall be by virtue of his office a special constable, and, as such commissioner, may arrest any person found violating any of the provisions of this act, and may seize any boat or vessel, with her tackle, apparel, and furniture, and all implements belonging thereto, when employed in taking oysters or in injuring any oyster bed in violation of the provisions of this act, and shall make complaint when called upon to do so for all such violations, and in any such complaint he shall not be required at the time of complaint or thereafter to enter into recognizance or in any way to become liable for the costs that may accrue thereon; and the attorney-general shall, when notified to do so by the complainant, prosecute all such complaints in the court where the same shall be made or be pending; and all cases of appeal thereof from the sentence of a district court, and all questions arising under the same, or under any complaint and warrant made under the provisions of this act, in either division of the supreme court, shall be conducted by said attorney-general.

SEC. 34. A surveyor may be employed to fix the place or otherwise to designate the locality of any violation of the provisions of this act, and reasonable charges of such surveyor for such service shall be allowed by the court, if said employment shall be by said court deemed to have been necessary; and such charges when allowed as aforesaid shall be taxed in the bill of costs.

SEC. 35. All leases of oyster grounds heretofore granted by the commissioners of shell fisheries to any party or parties residents of this state are hereby validated and confirmed.

CHAPTER 205.

OF THE PROTECTION OF QUAHAUGS.

SECTION 1. Every person who takes or has in his or her possession any quahaugs less than one and one-half inches in diameter, taking the largest diameter, taken from any waters of this state, shall be fined five dollars for each and every quart; but any person taking any quahaugs less than one and one-half inches in diameter, taking the largest di-

ameter, from any of the waters of this state, and immediately returning the same, unmutated, to the water from which they were taken, shall not be subject to such fine.

SEC. 2. Every person who shall take any quahaugs from the waters of this state by dredges or rakes operated or hauled by power-boats shall be fined twenty dollars for each bushel so taken.

SEC. 3. Fines incurred by violation of any of the foregoing provisions shall enure one-half thereof to the use of the state and one-half thereof to the use of the complainant.

CHAPTER 209.

OF THE SCOLLOP FISHERIES.

SECTION 1. Every person who shall take any scollops from any of the waters of this state between the hours of sunset and sunrise shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

SEC. 2. Every person who shall take, in any one day, from any of the waters of this state, more than twenty-five bushels of scollops, including the shells, for each boat actually

employed by him in taking the same, shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

SEC. 3. Every person who shall take any scollops from any of the waters of this state, by dredging or by any other means, at any time between the first day of January and the first day of September, shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence; but nothing in this section shall be so construed as to prevent any person from taking scollops, lawfully caught and bedded by him, from the grounds in which he has planted them, at any time between the first day of January and the fifteenth day of April; but it shall be lawfully for any person, at any time, to take scollops from the shores of this state by hand, for food for his own personal or family use and not for sale, said scollops not being covered by water at the time of the taking.

SEC. 4. Every person who shall take any seed scollops from any of the waters of this state, by dredging or by any other means, or shall have in his possession any seed scollops and shall fail immediately to restore them to their natural beds, shall be fined twenty dollars

and be imprisoned not more than thirty days for each such offence. For the purpose of this act a seed scollop shall be a scollop with a bright thin, slightly curved shell, with no foreign adherent, the shell having no sharply defined growth line, and the scollop being less than one year old.

SEC. 5. Every person, before engaging in the taking of scollops, shall obtain from the commissioners of shell fisheries a license for his boat or boats, the fee for which shall be five dollars for every boat thus engaged. And every person who shall take any scollops from any of the waters of this state without first obtaining such license from said commissioners shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence: *Provided, however,* that nothing in this section contained shall be so construed as to prevent any person from taking one bushel of scollops per day for his own use; *and provided, further,* that no boat shall be allowed to have more than two men, each of whom shall be allowed one bushel for his own use.

SEC. 6. All licenses shall expire on the thirty-first day of December of each year; and for every license issued by said commissioners

there shall be paid to the clerk thereof a fee of twenty-five cents for his own use: *Provided*, that every person to whom a license is granted under the provisions of this act shall have had his home and residence in this state for the period of one year next preceding the granting of such license or the renewal thereof.

SEC. 7. The commissioners of shell fisheries shall provide a number for every boat licensed by them; said number shall be black, eight inches in length, and shall be exposed in a conspicuous place upon each boat upon a white surface, and the deputies shall keep a record of all such licensed boats in a book kept for that purpose.

SEC. 8. Every person who shall open any scollops while catching them or throw the shells onto the scallop beds, and every person who shall throw back into the water any starfish, shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

SEC. 9. Any person who shall offer for sale any scollops between the 15th day of April and the 1st day of September shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

SEC. 10. The commissioners of shell fisheries shall appoint at least four deputies, whose duties shall be the enforcing of the provisions of this chapter; they shall be selected one from Bristol county, one from Kent county, one from Newport county, and one from Washington county. Each of said deputies appointed as aforesaid shall be by virtue of his office a special constable, and as such deputy may, without warrant, arrest any person found violating any of the provisions of this chapter and detain him for prosecution not exceeding twenty-four hours. The commissioners and their duly appointed deputies may search in suspected places, or go upon any boat or vessel that they may believe is used in the illegal taking or transportation of scollops, and may seize and remove scollops taken, held, or offered for sale in violation of the provisions of this chapter.

Said deputies shall not be required to enter into recognizance or become liable for costs.

SEC. 11. Fines incurred under any of the provisions of this act shall inure one-half thereof to the use of the complainant and one-half thereof to the use of the state.

SEC. 12. The several district courts shall have concurrent jurisdiction with the common pleas division of the supreme court over all offences under this chapter and to the full extent of the penalties therein specified; parties defendant, however, having the same right to appeal from the sentences of said district courts as is now provided by law in other criminal cases.

CHAPTER 577.

AN ACT IN AMENDMENT OF CHAPTER 206 OF THE GENERAL LAWS, ENTITLED "OF THE PROTECTION OF THE SHELL FISHERIES IN THE PUBLIC WATERS OF THIS STATE."

SECTION 1. Chapter 206 of the General Laws, entitled "Of the protection of the shell fisheries in the public waters of this state," is hereby amended to read as follows:

"Section 1. No person shall deposit in, or allow to escape into, or shall cause or permit to be deposited in, or allowed to escape into, any of the public waters of this state, any substance which shall in any manner injuriously affect the growth or sale of the shell-fish in or

under said waters, or which shall in any manner affect the flavor or odor of such shell-fish so as to injuriously affect the sale thereof, or which shall cause any injury to the public and private fisheries of this state.

“Sec. 2. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be fined not less than five hundred dollars or more than two thousand dollars, one-half thereof to the use of the complainant and one-half thereof to the use of the state: *Provided*, that in case of conviction upon prosecution by the commissioners of shell fisheries, the whole of any fine imposed shall go to the use of the state.

“Sec. 3. Every person violating any of the provisions of this chapter shall be liable to pay, to the party injured by such violation, double the amount of damages caused thereby, to be recovered in an action of the case in any court of competent jurisdiction. It shall not be necessary, before bringing suit for the recovery of such damages, for a criminal prosecution to have been first instituted for the violation of the provisions of this chapter, nor shall the recovery of damages under this section be a bar to such criminal prosecution.

“Sec. 4. It shall be the duty of the commissioners of shell fisheries to investigate all complaints made to them of the violation of any of the provisions of this chapter. For the purpose of such investigation said commissioners may make examination of the premises, hold public hearings, summon witnesses, and take testimony under oath, and they shall have power to punish, by fine or imprisonment or both, all contempt of their authority in any hearing before them. They may employ professional or expert services, as they may deem desirable.

“Sec. 5. It shall be the duty of the shellfish commissioners to prosecute any person in their opinion guilty of the violation of any of the provisions of this chapter, and in all such prosecutions said commissioners shall not be required to enter into any recognizance or to give surety for costs. It shall be the duty of the attorney-general to conduct the prosecution of all cases brought by said commissioners under the provisions of this chapter. Complaints may also be brought and prosecuted by any citizen for any violation of its provisions.

“Sec. 6. The expenses incurred by the commissioners of shell fisheries in the perform-

ance of the duties imposed upon them by this chapter shall be paid by the general treasurer, out of any funds in the treasury not otherwise appropriated, upon the presentation of vouchers therefor duly certified by their chairman.

“Sec. 7. The commissioners of shell fisheries shall inspect the premises designated in Section 8 of this chapter, at such times as they may deem advisable, for the purpose of determining whether said premises are kept in a proper sanitary condition for opening, handling, or packing shell-fish for the trade. Also said commissioners shall inspect the methods followed on the premises in opening, packing, or preparing shell-fish for the trade, to determine whether such methods are proper from a sanitary standpoint.

“Sec. 8. The premises which come within the scope of this act are all establishments where oysters or other shell-fish are opened, packed, or prepared for the trade. Retail or wholesale markets where shell-fish are sold which purchased from the original opening or packing houses designated in this section shall not come within the scope of this chapter.

“Sec. 9. Said commissioners shall inspect any or all the leased oyster grounds and other

shell-fish grounds within the state, at such times as they may deem advisable, to determine whether said grounds are in a proper sanitary condition for the production of shell-fish for consumption as food.

“Sec. 10. Said commissioners may make such regulations in regard to sanitation as they may deem advisable, from time to time, with reference to the sanitary handling of shell-fish and with reference to maintaining opening or packing houses in a proper sanitary condition.

“Sec. 11. Said commissioners may issue certificates from time to time to any person whose premises or grounds are found by them to be in a sanitary condition, setting forth that they have examined such opening or packing house or such shell-fish ground and that the methods followed in the preparation of oyster or other shell-fish in such opening or packing house are sanitary and that the grounds inspected are in proper sanitary condition for the production of shell-fish for consumption as food.

“Sec. 12. No person shall take shell-fish from any grounds which are not certified by said commissioners as being in a sanitary condition, except for the purpose of transplanta-

tion. No person shall prepare shell-fish for the trade except on premises and by methods certified by said commissioners as being sanitary.

“Sec. 13. Any person who shall violate any sanitary regulation made by said commissioners, as provided for in Section 10, shall be fined \$20 for the first offence, and for each subsequent offence \$100 and be imprisoned not more than ninety days in jail. Any person violating the provisions of Section 12 of this chapter shall be fined \$20 for the first offence, and for each subsequent offence \$100 and be imprisoned not more than ninety days in jail.

“Sec. 14. It shall be the duty of the commissioners of shell fisheries to prosecute any person in their opinion guilty of the violation of any of the provisions of this chapter, and in all such prosecutions said commissioners shall not be required to enter into any recognizance or to give surety for costs. It shall be the duty of the attorney-general to conduct the prosecution of all cases brought by said commissioners under the provisions of this act.”

SEC. 2. This act shall take effect upon its passage, excepting the above Sections numbered 12, 13, 14, which sections shall take effect

July 1, 1910, and the act numbered "Senate 136, Substitute A," passed at the January session, A. D. 1910, and approved April 26, A. D. 1910, and all other acts and parts of acts inconsistent herewith, are hereby repealed.

CHAPTER 852.

AN ACT REGULATING FISHING FOR SHELL FISH UPON THE FREE AND COMMON FISHERIES.

SECTION 1. No person shall take any oysters from the free and common oyster fisheries northerly of Field's Point and Kettle Point, in this state, between the first day of June in any year and the first day of April in the following year, or from the free and common oyster fisheries in any of the other waters of this state between the fifteenth day of May and the fifteenth day of September of any year. Any person who shall take any oysters or expose any oysters for sale taken from the free and common fisheries aforesaid in violation of the foregoing provisions shall be fined twenty dollars and costs for each offence.

SEC. 2. The commissioners of shell fisheries may, from time to time, issue a license to any

person, an inhabitant of this state, permitting him to take oysters, clams or quahaugs from the free and common fisheries, subject to the provisions of this chapter, and may also issue a license to the owners of any boat used in taking oysters, clams or quahaugs from the free and common fisheries, and may, for cause which appears sufficient to a majority of said commissioners, revoke and terminate any license issued as aforesaid. Said commissioners may make such rules and regulations, from time to time, as they may deem expedient for the issuing of said licenses, but no license issued under this chapter shall be valid, however, before the licensee shall endorse his name in his own hand-writing thereon, and no license shall be transferrable.

SEC. 3. No person shall take any oysters, clams or quahaugs from the free and common fisheries of this state, unless he shall, at the time, have a license from the commissioners of shell fisheries permitting him so to do: *Provided, however,* that nothing in this act shall be construed so as to prevent any person from taking, in any one day, without a license, not more than one bushel of oysters, clams or quahaugs for his own use.

No person shall use a boat in fishing for oysters, clams or quahaugs from the free and common fisheries of this state unless the owner of such boat shall, at the time, have a license from said commissioners permitting said boat to be so used: *Provided, however,* that a boat may be used, without a license, for the purpose of taking, in any one day, one bushel of oysters, clams or quahaugs for the use of each of the occupants thereof.

SEC. 4. Each person shall pay the said commissioners the sum of one dollar for a license to fish from the free and common fisheries; and the owner of each boat used in fishing for oysters, clams or quahaugs from the free and common fisheries shall pay to the said commissioners the sum of one dollar for a license to so use said boat.

SEC. 5. Every person holding a license as provided by this act shall have the same in his possession at all times while fishing from the free and common fisheries, and he shall present the same for inspection on demand to any police or special officer; and any person refusing to so present said license for inspection upon demand shall be fined not less than five nor more than twenty dollars for each offence.

SEC. 6. Every person who shall take, at any one time, more than one bushel of oysters, clams or quahaugs from the free and common fisheries of this state without a license as aforesaid, shall be fined twenty dollars and costs, or be imprisoned not more than thirty days or both.

SEC. 7. The commissioners of shell fisheries shall provide a number for each boat licensed by them and the same shall be displayed upon all boats licensed, in such manner as the commissioners may direct.

SEC. 8. No licensed person shall cast, haul or have overboard any dredge, while fishing for oysters, clams or quahaugs from the free and common fisheries, nor shall any licensed boat be used for fishing for oysters, clams or quahaugs with dredges, except as hereinafter provided.

Any person having a license for the taking of scollops, as provided by Chapter 209, may use a dredge for such purpose, provided said person shall immediately return all oysters or quahaugs caught by him, to the waters from whence taken while so fishing. Any licensed boat may be used in dredging for muscles by the licensee of said boat, the said licensee first obtaining a

permit from the commissioners of shell fisheries allowing him so to do. The said licensee, while dredging for muscles under the permit granted him by the said commissioners of shell fisheries, shall immediately return all oysters or quahaugs caught by him to the waters from whence taken. The fact of any licensed person being found with oysters or quahaugs in his possession while dredging for muscles or scollops, shall be *prima facie* evidence that such person is fishing in violation of the provisions of this chapter and shall be subject to the penalties and fines thereof.

SEC. 9. No person shall use any boat for the purpose of taking or catching any oysters, quahaugs or scollops from any of the free and common fisheries of this state except between sunrise and sunset on each day.

SEC. 10. No licensed person shall take more than twenty bushels of oysters, clams or quahaugs, including shells in either case, during any one day from the free and common fisheries, and any licensed person taking more than twenty bushels of oysters, clams or quahaugs, during any one day from the free and common fisheries, shall be fined twenty dollars for every bushel so taken over and

above said twenty bushels, or be imprisoned not more than thirty days, or both.

SEC. 11. Any person whose license has been revoked or cancelled, shall not receive another license to fish for oysters, clams or quahaugs upon the public fisheries of the state, or to use a boat therefor, for the period of one year from the date of such revocation or cancellation.

SEC. 12. All moneys received by said commissioners under this act and all fines incurred under any of the provisions of this act, shall be paid over to the general treasurer and held by him during the current year for use as herein provided, any balance remaining at the end of the year to be paid into the general fund.

The said commissioners are hereby authorized to expend so much of the money received, as herein provided, as may appear to be required for carrying out the provisions of this chapter.

SEC. 13. The deputies appointed under Section 7 of Chapter 203 of the General Laws are hereby required to enforce the provisions of this chapter. Each of said deputies appointed as aforesaid shall be by virtue of his office a special constable and as such deputy

may, without warrant, arrest any person found violating any of the provisions of this act and detain him for prosecution not exceeding forty-eight hours. The commissioners of shell fisheries and their duly appointed deputies may without warrant go upon any boat or vessel that they believe is used in the illegal taking or transporting of oysters, clams or quahaugs and may seize and remove such oysters, clams or quahaugs held or offered for sale in violation of the provisions of this act.

SEC. 14. No person shall be licensed to take any shell-fish from within the public fisheries of this state unless he and his employers are at the time, and have been for one year next preceding, inhabitants of this state.

SEC. 15. Any person violating any of the provisions of this act shall be fined twenty dollars and costs for each offence unless a specific penalty is provided herein for such violation.

SEC. 16. Any person convicted a second time of a violation of any of the provisions of this act shall, in addition to the penalties before mentioned, be deprived of the privilege of fishing, for shell-fish, within the state, for three years thereafter under a penalty of

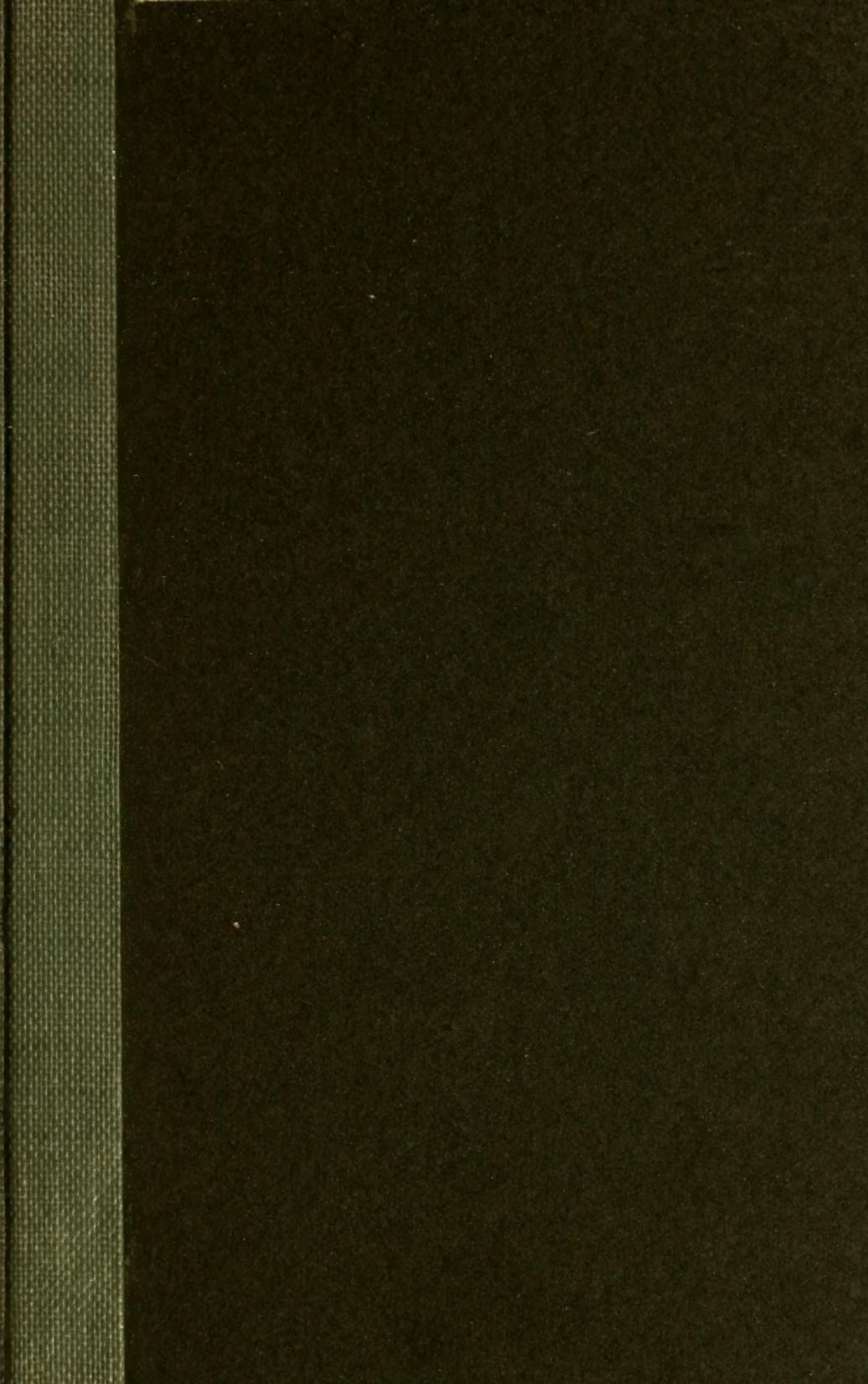
thirty days imprisonment for each offence.

SEC. 17. It shall be the duty of the commissioners of shell fisheries to prosecute any person in their opinion guilty of the violation of any of the provisions of this act, and said commissioners and their deputies shall not be required to enter into recognizance or become liable for costs. It shall be the duty of the attorney-general to conduct the prosecution of all cases brought by said commissioners under the provisions of this act.

SEC. 18. Chapter 202 of the General Laws is hereby repealed.

SEC. 19. This act shall take effect September 1st, A. D. 1912.





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