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REPORT

ON

THE COAST FISHERIES OF TEXAS

BY

I. P. KIBBE,

STATE FISH AND OYSTER COMMISSIONER.



AUSTIN:
VON BOECKMANN, MOORE & SCHUTZE, STATE CONTRACTORS,
1898.

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THE FISHERIES OF TEXAS AND THEIR IMPORTANCE.

From reports of the U. S. Fish Commission of 1880, the number of men employed in the fisheries of Texas was 601, the capital invested \$42,400, and the weight of the fish taken 3,858,875 pounds, valued at \$128,300.

In 1890, the number of men engaged in this industry was 1277, the value of property employed was \$315,427, and the weight of the products was 7,961,400 pounds, for which the fishermen received \$313,912.

Since the last date there has been quite an increase in the fish industry, in the number of men and capital employed, as well as the catch and price obtained. The full statistics will be published in a subsequent report.

While seining is the most important method of catching fish, the trot-line and hand-line add materially to the catch. The latter including extensive Red Snapper fishing in the Gulf of Mexico. This part of the industry being confined to a company in Galveston.

THE FISHING GROUNDS AND THEIR AREA.

The following is a list of bays along the Texas coast in which fishing is done:

	Square Miles.
Sabine Lake	94
Galveston Bay and tributaries.....	565
Matagorda Bay and tributaries.....	440
Esperetu Santo Bay and tributaries.....	61
San Antonio Bay and tributaries.....	129
Mesquite Bay and tributaries.....	23
Aransas Bay and tributaries.....	163
Corpus Christi Bay and tributaries	185
Laguna Madre Bay and tributaries.....	81
Total	2471

SHIPPING POINTS.

The main shipping points along the coast for fish and oysters are Galveston, Port Lavaca, Rockport, and Corpus Christi; yet a limited amount are sold at Sabine, Port Arthur, Velasco, Matagorda, St. Mary's, Aransas Pass, and Point Isabel.

KINDS OF FISH MARKETED.

The principal fish marketed are redfish, red-snapper, trout and sheep-

head, while Spanish mackerel, pompano, jack-fish, flounder, blue-fish, croakers, whiting, rock-fish, and bass are caught in limited quantities during the different seasons.

OYSTERS AND OYSTER-CULTURE IN TEXAS.

The subject of oyster culture is an old one, yet its importance demands our earnest consideration. While it has been agitated in Texas for many years, experiments have been limited, though small ones have been made which have proved profitable.

About the year 1890 the Galveston Oyster Company transplanted a large quantity of oysters, removing them from Matagorda Bay to Galveston Bay. It is reported that this effort proved a failure, and that they lost not only the plant but also the spat of that season. The total destruction of this bed has never been satisfactorily explained, though several theories have been advanced—a mud deposit from the Gulf, drainage from the creosote works at Galveston. Another plausible theory is that the bed was maliciously destroyed by persons opposed to the enterprise. The fact that oyster-beds in the same bay, less than 10 miles from this bed, were not injured in any way, points to the latter conclusion.

While this experiment was unsuccessful, it is no proof that oysters can not be cultivated in Texas as well as elsewhere, for it is a fact that they have been profitably cultivated in a small way in this State for more than forty years. These results were obtained by transplanting in the spring into bayous, channels, or coves, which offer a better supply of food than the natural reef or bed. Oysters handled in this way grow much larger, fatten sooner, and bring much better prices in the market.

The Tiger Island Oyster Company, of Port Lavaca, Texas, planted over 4,000 barrels of seed oysters in March, 1897, and in November these oysters were in fine condition. More than one-fourth were average-size, marketable oysters, which, if left on the reef, would not have been utilized at any time, as oysters from this reef had not been found in a marketable condition for years. The price of transplanting being less than 15 cents per barrel and the market price of good oysters being from 75 cents to \$1.25 per barrel, a good margin is left for the work of gathering and marketing.

It is claimed by some that oysters will grow in almost any locality and upon any bottom, a collector for the spat being the only essential. While this is true to some extent, my observation does not bear out this theory altogether. Food supply, as well as a limited amount of fresh water, are necessary elements. While they do well on some mud bottoms, on others they die as quickly as on sand. A deposit of foreign soil or mud will often kill out a bed, although a good bed will sometimes be entirely surrounded by a natural mud bottom. I am of the opinion that many failures can be attributed to this cause.

In changing oysters from one locality to another, depth and temperature of water should be observed as well as other natural surroundings. If any great change is necessary, it will be found that the young oysters will stand it much better than the grown.

Regarding the best artificial bottoms and collectors, I would say that these depend entirely upon the original bottom. If in deep mud and but little or no current or sea, brush, brush mats, old shoes, and leather

can be used. If in current or sea, the mats would have to be anchored and the brush stuck in the bottom as a stake. Upon hard bottom oyster shells are considered the best and cheapest collectors, but will not do in soft mud unless fine shell be used as a foundation. In the planting of oysters, as in other things, the nearer we approach nature the more certainty there is of success.

Owing to the mildness of the climate and the long growing seasons in this State, the oyster is very prolific. The spawn being less liable to injury from cold, a good spat for each year is more certain.

Many inquiries are made as to the maturity of a marketable oyster. Under favorable circumstances some mature in three years from the spat, but four years will ordinarily produce a good marketable oyster where favorably located on any part of our coast.

In this State the oyster has but few enemies, the drumfish being the only one dreaded. There are no starfish and but few worms and conchs.

Our present law gives to any citizen of the State the right of locating as much as 50 acres of land covered with water for an oyster-bed. The locator pays a surveying fee of \$10 and a rent of 10 cents per acre for the first five years and 25 cents per acre thereafter. As long as the rent is promptly paid he is amply protected. He is allowed to gather seed oysters from certain reefs for planting without culling.

We have along the coast of our State about forty bays, lakes and coves. But few if any of these are without a natural oyster-bed. Hence, there is no lack of seed oysters within easy reach of good grounds.

The above facts, with the climatic advantages and over 300 miles of coast, enable Texas to offer inducements in the oyster industry equal if not superior to any other State in the Union.

NATURAL OYSTER BEDS OR REEFS.

As far as can be ascertained the following will show the number of square miles of natural oyster beds or reefs, and the bays in which they are located.

	Square Miles.
Sabine Lake.....	1
Galveston Bays.....	50
Matagorda Bay.....	45
San Antonio Bay.....	1
Esperitu Santa Bay.....	6
Mesquite Bay.....	3
Aransas Bay.....	15
Corpus Christi Bay.....	13
Laguna Madre.....	3
Total	137

From the above tabulated statement it is observed that the natural oyster beds or reefs have an area of 137 square miles, or 87,680 acres.

Within the last few years there have been many new reefs formed and some old ones killed out. Others have been injured by being overcrowded and for want of food could not fatten for market. In some instances, where beds were located in shoal water, the continued upward growth of the reef, caused by the collection of all kinds of silt, as well as the natural

growth, the top of the reef is so near the surface of the water, at common tide, that at extreme low tides, and especially during our northers, a large per cent of this class of beds have been injured by cold. Hence, but few, if any, marketable oysters can be found on such a reef, yet quantities of small ones may be gathered every year.

This class of oyster beds would be greatly benefited by the use of the dredge. By this means the shallow beds or reefs would be deepened and spread, thus increasing the marketable oysters.

At present there is decrease in marketable oysters, yet a marked increase in inferior qualities. This is largely the case in Galveston, Nueces, and Aransas bays, but in Matagorda Bay there is not such difference. However, this may occur at any time.

The law prohibiting the use of any form of oyster dredge in the waters of this State has been a menace to the trade and detrimental to the growth of the industry. Dredges could be used with good results in many instances; not only where the water is too deep for tonging, but also where the oysters grow in ridges, for by the dredge the latter would be torn down and spread over a greater surface, thus furnishing a larger area for growth. An example of this is found in Maryland and other States where dredges are used. The result being that the area is not only increased but is also an inducement for capital to be invested in this industry. Many States with not one-fourth of the natural product are doing a much larger business in this line than Texas.

It has been the history of all nations that as the population increases the natural oyster beds diminish; nor can it be presumed that Texas is an exception to this rule. Many theories have been advanced for the perpetuation of public oyster beds.

While protection has proven advantageous, it has failed to accomplish the desired result. However, this in connection with the use of the dredge, if properly restricted in the cultivation of oysters, is, in my opinion, the most practical theory to this end. By this means the supply is increased to the extent of the cultivated beds established, thereby causing the reef oysters to be in better condition for marketing; for in taking the oysters for planting purposes, the inferior ones can be used, and in most instances to an advantage to the planter as well as to the oystermen, and in fact to all connected with the industry.

TURTLE.

In former years the catching of turtle was a growing industry in our State, there being five or six turtle canneries, besides large shipments of live turtle. At present there is but one canning establishment, and even this has a very limited trade. Also, the shipments of live turtle are but few, the decrease being caused by the scarcity of turtle found. This scarcity is largely due to the manner in which the turtle is caught in Mexico, Central America, the West Indies, and to some extent in Florida. The mode of catching them in these countries is by watching the shore and islands, and when the cow or female turtle comes ashore to deposit her eggs in the sand, she is caught and turned on her back, a means of securing them; then they are taken to market by the wagon load. Thus one man is enabled to catch hundreds of turtle in one day. Although the time for catching them in this manner is very limited and the work light, yet the destruction is fearful. The country not only loses those caught,

but also her eggs, or seed; and when it is considered that each turtle will lay from one to two hundred eggs annually, there is hardly a limit to the destruction, and unless this is stopped this valuable animal will be utterly exterminated. As the turtle lay their eggs almost exclusively in the above named countries, we can have no hope of rebuilding our trade in this industry, unless these countries can be persuaded to pass laws for the animals' protection, and unless such action is taken the turtle will be a thing of the past. Hence we would urge that some steps be taken at an early date to secure such action.

TERRAPIN.

The diamond-back terrapin is found in many parts of the State. As they require both fresh and salt water, they may be found near the mouth of fresh water streams—at least this is the portion of the bay in which they have their homes; yet they may wander off into almost any part in search of food, etc.

In former years there was a good supply in the lower end of Sabine Lake, Galveston, Matagorda, Aransas, and other bays. In 1894, heavy shipments were made from Sabine, Galveston, Matagorda, Port Lavaca, and Rockport; but since the freeze of that year they have been so scarce that the shipments have been nominal. However, the supply is now increasing, and we can hope for a profitable business in this industry in the near future.

The terrapin is susceptible of being grown in pens, if located near the mouth of a fresh water stream. Here they must have access to sand-beds for depositing their eggs, as well as soft banks in which to burrow and bed during the winter months. If properly cared for in this way they increase very rapidly.

As the market price ranges from sixteen to twenty-four dollars per dozen, while the seed terrapin can be bought for about twenty-five cents each, a very fine profit can be realized from this industry. Hence it occurs that the inducement is sufficient for capital.

SHRIMP.

This being a product of the Gulf, they are not found in paying quantities in other bays than Galveston and Corpus Christi; yet a limited supply of small shrimp may be found in most of the bays in certain seasons, but the catching of shrimp for market is confined to the above named points, where it is considered a profitable industry. By the use of proper seines and boats, shrimp can be caught near any pass on the Gulf, and I see no reason why this industry should be so limited, as there is a demand for shrimp throughout the year.

THE TARPON, OR SILVER KING.

This grand old monster of the deep seems to have taken the lead—that is, from the sportsman's standpoint. The tarpon, or grandcoy, as he is frequently called, has for many years inhabited the deep bays of Texas, but on account of his peculiarities, as well as his great strength, he has not been caught with hook and line until about eight or ten years ago. However, since that time, the desire of catching this game fish has steadily increased. During the summer seasons hundreds of sportsmen from all parts of the United States come to our coast towns. Here

they procure the necessary apparatus. The following is considered a tarpon tackle, and the cost of same: One 8-foot rod, costing from \$6.00 to \$15.00; one 200 yards line, costing from \$3.75 to \$6.00; one leader, costing from 75 cents to \$1.25; one reel, costing from \$8.00 to \$25.00; one gaff hook, costing \$1.50. Total, \$20.00 to \$48.75. Hence about \$35.00 for an average tackle.

The fishing is generally done from a skiff, in the current near a pass or channel, as these places are considered the most favorable tarpon grounds, as it is said they do not strike or bite in still water.

The tarpon weighs from 60 to 200 pounds, according to size, and ranging from two to six feet in length. They are not considered food fish, but there is no reason why they should not be, as many of the large fish of this species are used for canning purposes.

The tarpon scales are valuable for making fancy work, as each scale is partly covered with a coating resembling silver. The largest scales are sometimes used as souvenirs, also for visiting and business cards. They are worth from \$5 to \$7 per thousand, thus a value of from \$1 to \$2 is created for the scales alone of each fish.

This great sporting fish has attracted so much attention that a tarpon club house is being constructed by noted capitalists at Tarponville, on St. Joe Island. The cost of same is estimated at about \$50,000. Thus the attention that our coast has attracted promises to be a great benefit to our State.

THE PORPOISE.

This mammal is found in reasonable quantities along the entire coast. On account of his great strength, speed, and little value, he has never been caught exclusively. Now, as there is a demand for porpoise oil and leather, this State offers an opportunity for any one wishing to capture porpoise for market.

They can be caught by harpooning, shooting, or by using a set net of wire or rope, anchored with such weights as would drag from the pressure or strain of one or two porpoises. They would drag this for a time, but would finally give up, when they could easily be captured.

THE FRESH WATER STREAMS.

While writing on the fisheries of Texas, I cannot refrain from making a few remarks concerning the possibilities of the fresh water streams of Texas, and the scarcity of fish therein.

The scarcity, it appears, can be attributed to the wanton destruction of fish, by means of lime, dynamite, and other explosives, as well as set nets, traps, and other illegal devices. The nets and traps, however, being less objectionable than the former, as all the fish caught therein are used: while by the use of explosives only such fish as are immediately killed and float to the surface at once, are used, which, in fact, is only about one-fourth the number stunned, and may not rise to the surface for some time.

Nearly all of our western and some of our eastern streams are susceptible of raising the best variety of bass and perch, while some of the larger streams would grow cat-fish, buffalo, etc. As the United States government has established a fishery within our State, at San Marcos, where a reasonable supply of stock fish can be had, there is no reason why every

county bordering on a stream should not stock a portion of said stream. Then by the appointment of such officers as would enforce the laws of the State for the protection of fish and game, every stream in Texas would abound in fish within a few years.

By this means the food supply would not only be increased for those who really need it, but also it would offer sport to many who are deprived of this pleasure or else have to spend time and money to seek this sport elsewhere, and often disappointed after the loss of both. This suggestion is as much to the lawyer, doctor, and merchant as to the farmer and stockraiser, regardless of their political views; and I hope that in the near future it will be adopted throughout the State.

To operate any system successfully there must be a head, even so in this case; and by extending the jurisdiction of the Fish and Oyster Commissioner so that the fresh water streams would be under his supervision, a favorable result could be accomplished. By this means the State Commissioner could co-operate with the United States Commission, and advise and assist in stocking the various streams with fish best suited to each locality.

FISH AND OYSTER LAWS OF TEXAS.

An Act creating the office of Fish and Oyster Commissioner, and defining his duties, and for the protection of the fish, turtle and terrapin of the bays and coast waters of the State, and to protect natural oyster beds and reefs, and to provide for the location of private beds, and providing adequate penalties therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That the office of Fish and Oyster Commissioner is hereby created, and the Governor is hereby authorized to appoint a competent person as Fish and Oyster Commissioner for the State of Texas, who shall be qualified under section 2 of this act to fill said office.

Sec. 2. The person appointed to the office of Fish and Oyster Commissioner shall be a citizen of the United States and a resident and tax payer of this State. He must be familiar with the habits of fish and oysters and have some knowledge of navigation.

Sec. 3. The Fish and Oyster Commissioner shall reside in some town or city on the coast of Texas during his term of office, which shall be for two years.

Sec. 4. The Fish and Oyster Commissioner shall file with the Secretary of State a good and sufficient bond, to be approved by the Secretary of State, in the sum of ten thousand dollars, with two or more good and sufficient sureties, conditioned that he will faithfully perform the duties of his office, and he will take the oath prescribed for sheriffs, and when he shall have filed said bond and taken said oath he shall enter upon the duties of said office. Said bond shall not be void on the first recovery, but may be sued on from time to time in the name of the State or any person injured until the whole amount has been recovered.

Sec. 5. The said Commissioner shall have a seal, a star with five points, with the words, "Fish and Oyster Commissioner of Texas."

Sec. 6. The duties of the Commissioner are the execution of the fish and oyster laws of this State; in the execution of these laws he shall have and exercise the power given to sheriffs by the laws of this State.

Sec. 7. It shall be the duty of the Commissioner to inspect all fish.

green turtle, terrapin and oysters that are caught for sale or shipment.

Sec. 8. The Commissioner shall keep a record book, which shall be well bound, and in it he shall record:

1. All applications for private oyster beds, and date of filing same.
2. When and how such applications were executed, whether the examinations were made by tongs, dredges, or otherwise.
3. Whether such applications were allowed or disallowed; if allowed, an accurate description of same; if disallowed, the reason for refusal.
4. All applications for seine or set net licenses; if granted, the number and length of such seine or nets; if not granted, the reason for refusal.
5. All applications for tong licenses; if granted, the number; if not granted, the reason for refusal.
6. All amounts received for fees and licenses, from whom received, and what disposition was made of such amounts.
7. All amounts of all fines collected, for what purposes collected, and what disposition was made of such amounts.

8. These records shall be public records and admitted as evidence, as prescribed in article 2552, Revised Civil Statutes of Texas.

Sec. 9. The Commissioner shall make, upon the 30th day of June of each year, a report to the Governor of the fish and oyster trade of the Texas coast. It shall contain:

1. The name and class of all boats engaged in the oyster and fish trade.
2. The number, acreage, and place of location of all private oyster beds.
3. The number of seine and set net licenses issued during the year.
4. The number of tong licenses issued during the year.
5. The amounts for all fees received, and for what service.
6. The amounts of all fines collected during the year.
7. Observations and remarks.

The Fish and Oyster Commissioner shall have until October 1st to make such report, and failing to make such report within the time specified he shall be deemed guilty of contempt, and may be punished by a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars, or dismissed from office, or both such fine and dismissal, at the discretion of the court having jurisdiction.

Sec. 10. The Fish and Oyster Commissioner shall for his services be allowed all fees for locating private oyster beds, all fees collected for licenses for seines, set nets, and tongs. He shall be allowed out of the fish and oyster fund of the State twenty dollars for seal and record book, and said seal and record book shall be the property of the State; *Provided*, that the Commissioner shall not in any event receive for his services a sum in excess of eighteen hundred dollars per annum; and the deputy fish and oyster commissioners shall receive for their services a sum not to exceed six hundred dollars per annum, to be paid out of the revenues for their counties, and any excess of that amount shall be paid over to the State fish and oyster fund, as provided in section 11 of this act; *Provided further*, that the State shall not be liable in any sum for the services of such Commissioner or any of his deputies.

Sec. 11. All the money derived by the State from fines for infraction of the fish and oyster laws, fees for licenses, and taxes on private oyster

beds, shall be kept by the Comptroller separate under the head of "Fish and Oyster Fund."

Sec. 12. All moneys derived by counties from fines for infraction of the fish and oyster laws, fees, taxes, etc., shall go to the general fund of the county.

Sec. 13. Of all fines collected for infraction of the fish and oyster laws ten per cent shall go to the prosecuting attorney, and one-fourth shall go to the informer, and one-half of the residue shall go to the fish and oyster fund of the State, and the other half of the residue shall go to the county in which the case was tried.

Sec. 14. Out of the fees collected for licenses issued for seines, set nets, and tongs, the Fish and Oyster Commissioner and his deputies shall be paid the amounts allowed them under section 10 of this act, and the balance shall be divided equally, one-half to be paid into the State fish and oyster fund, as provided in section 11 of this act, and the other half to be paid into the general fund of the county in which such licenses were issued.

Sec. 15. The Commissioner is authorized to appoint one or more deputy commissioners for each coast county in the State. Such deputy or deputies shall have and exercise the same powers and duties as the Fish and Oyster Commissioner.

Sec. 16. Such deputy shall make a report by August first of each year of his official acts for the year ending June 30 prior to each report, which shall set forth and in detail such facts as are provided in section 9 of this act.

Sec. 17. Each deputy fish and oyster commissioner shall exercise the duties of his office in and for the county from which he was appointed.

Sec. 18. Before entering upon the duties of his office, each deputy fish and oyster commissioner shall file with the Fish and Oyster Commissioner a good and sufficient bond, with two or more sureties, in the sum of one thousand dollars, and take the same oath of office as the Fish and Oyster Commissioner, and said bond and oath shall be governed by the provisions of section 4 of this act.

Sec. 19. No person shall hold the office of deputy commissioner who is not a citizen of the United States and a resident and tax payer of the State and county in which he holds his office, and he shall hold his office at the pleasure of the Fish and Oyster Commissioner.

Sec. 20. In making arrests, summoning witnesses and serving processes, the Commissioner or his deputy shall be allowed the same fees and mileage as sheriffs, the same being charged as costs and collected the same as are sheriff's costs and fees.

Sec. 21. The Commissioner shall be responsible, on his bond, for the official acts of his deputies.

Sec. 22. It shall be unlawful for any person to catch fish, green turtle or terrapin in the bays or coast waters of this State by drag seines or set nets, except as provided for in this act.

Sec. 23. The catching of fish, green turtle and terrapin in said waters by poison, dynamite, nitro glycerine, giant powder or other explosives is hereby prohibited. Any person so offending shall upon conviction be fined not less than twenty-five dollars nor more than five hundred dollars, and each day shall constitute a separate offense.

Sec. 24. Any person wishing to engage in the business of fishing or

catching green turtle or terrapin must make application in writing to the Fish and Oyster Commissioner or his deputy for a license, stating under oath that he is a citizen of the United States and a resident and tax payer of the State of Texas, and stating also the name and class of his boat, the number and length and class of nets to be used, and he shall receive a license authorizing such person to engage in such business. Such license must be signed by the Fish and Oyster Commissioner or his deputy, and must be stamped with the seal of his office, and it shall state:

1. The name of applicant, and his place or residence.
2. The name, class and place of registry of his boat.
3. The number, length and class of nets to be used.
4. The date of issuance of such license.

Such license shall be good for all the purposes of this act for six months from the day of issuance of same, and for such license the applicant shall pay to the Fish and Oyster Commissioner or his deputy the sum of five cents per fathom for every fathom of drag seine, and two and one-half cents per fathom for every fathom of set nets, and the float line shall be deemed the length of such drag seine or set net; and it shall be the duty of the Fish and Oyster Commissioner or his deputy to measure such seine or nets, and attach securely to each one a metal tag with the letters "F. & O. C." stamped thereon.

Sec. 25. Any person shall be entitled to hold a license to catch fish, green turtle or terrapin, for sale or market, who is a citizen of the United States and a resident and tax payer of the State. Any one offending against this section shall, upon conviction, be fined not less than twenty-five dollars nor more than five hundred dollars.

Sec. 26. It shall be unlawful for any person to sell or ship any redfish of more than twelve pounds in weight, or less than one and one-half pounds in weight, any trout of less than one pound in weight, or any sheephead of less than one pound in weight. Any person offending against this section shall, upon conviction, be fined in any sum not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 27. It shall be unlawful for any person to sell or ship any green turtle of less than twelve pounds in weight, or terrapin of less than six inches in length of under shell; or to catch or sell any terrapin from the first day of May to the first day of August. Any person offending against this section shall, upon conviction, be fined in any sum not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 28. It shall be unlawful for any person during the breeding season, consisting of the months intervening between April first and October first, to catch any fish, green turtle, or terrapin by drag seine or set net in these waters, which are hereby declared to be breeding grounds for fish, green turtle and terrapin, to-wit:

1. All that portion of water in Cameron and Nueces counties lying west of a line starting from Griffin's Point and running in a northerly direction to the northeast bank of Laguna Madre, and marked on the United States coast survey chart as Baffins Bay and Agua Dulce.

2. All that portion of water in Nueces county lying north of the San Antonio and Aransas Pass railroad bridge, and marked on the United States coast survey chart as Nueces Bay.

3. All that portion of water in Aransas county north of a line starting from the town of Lamar and running south to the north end of Goose

Island; thence in a southwesterly direction to the extreme southeast point of Live Oak Peninsula, and marked on the United States coast survey chart as Copano Bay, Puerto and Mission Bay.

4. All that portion of water in Aransas county marked on the United States coast survey chart as St. Charles Bay.

5. All that portion of water in Refugio and Calhoun counties marked on the United States coast survey chart as Hynes Bay.

6. All that portion of water in Calhoun county north of a line starting from Marsh Point and running due east to the east bank of San Antonio Bay, and marked on the United States coast survey chart as Mission Bay and San Antonio Bay.

7. All that portion of Lavaca Bay in Calhoun county north and west of a line starting from Gallinipper Point on the south bank of said bay, running in a northerly direction along Gallinipper Bar to Point Comfort, or sometimes called Mitchell's Point.

8. All that portion of water in Calhoun county marked on the United States coast survey chart as Carankaway Bay.

9. All that portion of water in Matagorda county north of a line starting from Well Point and running east to Palacios Bayou, and marked on the United States coast survey chart as Turtle Bay and Trespalacios Bay.

10. All that portion of water in Brazoria county north and east of Mud Island Pass, and marked on the United States coast survey chart as Bastrop Bay and Oyster Bay.

11. All that portion of water in Galveston county north of a line starting from Red Bluff on the west bank of Galveston Bay and running in an easterly direction to the first beacon south of Morgan's Point; thence in a northeasterly direction to Mesquite Point.

12. All that portion of water in Chambers county marked on the United States coast survey chart as Turtle Bay.

Any person offending against this section shall, upon conviction, be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense; and in all prosecutions under this section the identification of the boat from which such violations occur shall be prima facie evidence against the owner, lessee, person in charge or master of such boat.

Sec. 29. Any person dragging a seine on shore shall return all fish not wanted for market to the water while they are yet alive, except sharks, gars, rays, sawfish and catfish. And the size of the meshes of any seines used shall not be less than one and one-half inches square. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 30. The United States coast survey charts numbers 203, 204, 205, 206, 207, 208, 209, 210, 211 and 212, covering the coast of Texas, shall be evidence in all prosecutions under this act.

Sec. 31. Oyster beds shall be public and private. All those not designated as private shall be public. All natural oyster beds and oyster reefs in the navigable waters of the State shall be deemed public.

Sec. 32. It shall be unlawful for any person to take or catch oysters from any public beds or reefs for sale or planting from the thirtieth day of April to the first day of September of each year; *Provided*, that part

of Laguna Madre west of Baffins Bay be exempted from the operation of this section. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Sec. 33. It shall be unlawful for any person to catch or take oysters from the public beds and reefs for sale who is not a bona fide citizen of the United States and a resident and tax payer of the State. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Sec. 34. It shall be unlawful for any person to gather oysters with tongs or otherwise from the public beds and reefs of the State for sale without a license from the Fish and Oyster Commissioner or his deputy for each and every pair of tongs that shall be used on his boat, and for such license he must pay to the Fish and Oyster Commissioner or his deputy the sum of five dollars for each pair of tongs, and any person shall be entitled to hold such license who is a citizen of the United States and a resident and tax payer of the State of Texas. Such license shall be good from day of issuance until April 30th next; such license shall be signed by the Fish and Oyster Commissioner or his deputy, and stamped with the seal of his office, and shall state the name of applicant and date of issuance: *Provided*, that any person holding such license in his own name may take or catch oysters from any boat. Any one offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Sec. 35. When oysters are gathered from the public beds they must be culled and the young oysters and dead shells must be returned to the original bed while the young ones are yet alive; and any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars for each and every offense.

Sec. 36. Any person offering for sale or who shall sell any cargo of oysters which shall contain more than five per cent of young oysters shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars. Any oyster that measures 2½ inches or less from hinge to mouth shall be deemed a young oyster for the purpose of this and the preceding section.

Sec. 37. It shall be the duty of the Fish and Oyster Commissioner or his legal deputy, when he thinks that any cargo of oysters offered for sale contain more than five per cent of young oysters, to take as many as he may deem necessary from such cargo, cull them, and measure the marketable oysters and then measure the young oysters, or those that measure less than 2½ inches from hinge to mouth, and ascertain to the best of his ability the proportion of the young oysters to the marketable oysters, and if the young oysters be in greater proportion than five per cent, the cargo shall be deemed unculled, and the owner shall be guilty of the offense prescribed in section 36 of this act.

Sec. 38. Any person who is a bona fide citizen of the United States and a resident and tax payer of the State of Texas, shall have the right of obtaining a location for planting oysters and making private oyster

beds within the navigable waters of the State other than those mentioned in section 40 of this act, by making written application to the Fish and Oyster Commissioner or his deputy, describing the location desired. A fee of ten dollars in cash must accompany such application. It shall then be the duty of the Fish and Oyster Commissioner, or his deputy, to, as soon as practicable, thoroughly examine the location described with tongs, dredge, or in other efficient manner, and if the same be not a natural oyster bed or reef, and not exempted from location by any section of this act, he shall mark off a space not exceeding fifty acres in area, by planting four buoys, one at each of the four corners, which buoys must not be less than twelve inches in diameter, and for which buoys and the labor of placing the same the locator must pay; and the locator must fasten securely to one or more of the buoys a notice of his location; and the Fish and Oyster Commissioner, or his deputy, shall give to the locator a certificate signed by such Commissioner, or his deputy, stamped with the seal of his office; such certificate shall show the date of application, date of survey, manner of marking, and a description by metes and bounds, with a reference to the points of the compass and natural or artificial objects by which the said location can be found and verified. At any time not exceeding sixty days after the date of such certificate of location, the locator must file the same with the county clerk of the county in which the location is situated, who shall record the same in a well bound book kept for the purpose, and the original, with a certificate of registration, shall be returned to the owner or locator. The clerk shall receive for the recording of such certificate the same fees as for recording deeds. The original or certified copies of such certificate shall be admissible in evidence under the same rules governing the admission of deeds or certified copies thereof. Any person so locating, shall be protected in his possession thereof against trespass thereon, in like manner as freeholders are protected in their rights, so long as he complies with section 39 of this act.

Sec. 39. Any person who secures a location for a private oyster bed shall keep the corners marked by securely anchored buoys of not less than twelve inches in diameter; and he shall further pay to the State a tax of ten cents per acre for each year of the first five years he occupies such location and twenty-five cents per acre for each year after the first five years that he occupies such location; this tax shall be paid to the legal tax collector of the county in which the location is situated, and it shall be due on January first of each year, as other ad valorem taxes, and if not paid before March first of the same year the locator shall forfeit all rights to the location and the same shall revert to the State.

Sec. 40. When any creek, bayou, lake or cove shall be included within the metes and bounds of any original grant or location in this State, the lawful occupant of such grant or location shall have the exclusive right to use said creek, lake, bayou or cove for gathering, planting or sowing oysters within the metes and bounds of the original grant or patent of said land. But if said creek, bayou, lake or cove is not included in the survey of said lands, then the exclusive rights of the riparian owner shall extend to the middle of said creek, bayou, lake or cove: *Provided*, said creek, bayou, lake or cove be not more than two hundred yards in width, but if said creek, bayou, lake or cove be more than two hundred yards in width, then the riparian owner's rights shall extend only one hundred yards from the shore. No person shall locate any water or ground cov-

cred with water for planting oysters along any bay shore in this State nearer than one hundred yards from the shore, which one hundred yards is declared to be the riparian right of the land owner for planting oysters. In determining such riparian right of any land owner the starting point must be at high water mark or where the land survey ceases, and measure out into the bay one hundred yards: *Provided*, that should a natural oyster bed or reef be on this one hundred yards riparian reservation, the land owner shall have no exclusive right to the same.

Sec. 41. It shall be unlawful for any person to take oysters from a private bed or to take oysters deposited by one making up a cargo for market or family use without the consent or permission of the owner thereof, and any one offending any provisions of this section shall be deemed guilty of theft, and upon conviction shall be punished by fine of not less than fifty dollars nor more than two hundred and fifty dollars, or by confinement in the county jail of not less than twenty days nor more than twelve months, or by both such fine and such imprisonment.

Sec. 42. In gathering oysters for market from the public oyster beds or reefs it shall be unlawful for any person to use a rake or dredge. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than five hundred dollars nor more than one thousand dollars.

Sec. 43. Any person who shall wilfully deface, injure, destroy or remove any buoy or any part thereof used to designate the corners or boundary of any private oyster bed, without the consent of the owner thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars.

Sec. 44. No person, firm, or corporation shall ever own, lease, or otherwise control more than six hundred and forty acres of land covered by water, the same being oyster location under this act, and within the navigable waters of this State, and any person, firm or corporation that now holds six hundred and forty acres of oyster location shall not be permitted hereafter to acquire, own, lease or otherwise control more: *Provided*, that no corporation shall own or lease or control any such lands covered by water unless such corporation shall be duly incorporated under the laws of this State.

Sec. 45. All laws or parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 46. Whereas, the oyster and fish industries on the coast of the State of Texas have no adequate protection, and the near approach of the end of this session creates an emergency and imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this bill be put upon its third reading and final passage, and it is so enacted.

An Act to amend Articles 529c, 529d, 529g, 529h, 529m, and 529n, of Chapter 5, Title 13, of the Revised Penal Code of the State of Texas, of 1895, and by adding Articles 529s and 529t to said Chapter 5, Title 13, of said Penal Code of the State of Texas, relating to offenses for the protection of fish, birds and game, and to repeal all laws in conflict herewith.

Section 1. Be it enacted by the Legislature of the State of Texas:

That Articles 529c, 529g, 529h, 529m, and 529n, of Chapter 5, of Title 13, of the Penal Code of the State of Texas, of 1895, be amended so as to hereafter read as hereinafter set forth, and that Articles 529s and 529t be added to said Chapter 5, of Title 13, of the Penal Code of the State of Texas, of 1895, as hereinafter set forth:

Article 529c. The catching of fish, green turtle, or terrapin, in any of the public waters in the State by poison, lime, dynamite, nitro-glycerine, giant powder, or other explosives, is hereby prohibited; and any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Article 529d. Any person who shall engage in the business of fishing or catching green turtle or terrapin without first having procured a license therefor, as prescribed in Article 2518k of the Revised Civil Statutes, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and any person who shall sell fish, green turtle, or terrapin, caught by drag seine or set net, shall be considered as engaged in the business above named.

Article 529g. It shall be unlawful for any person during the breeding season, consisting of the months intervening between April the first and September the first, to catch any fish, green turtle, or terrapin, by drag seine or set net, in these waters, which are hereby declared to be breeding grounds for fish, green turtle, and terrapin, to-wit:

1st. All that portion of water in Cameron and Nueces counties known and marked on the United States Coast Survey Chart as Baffins Bay and Aqua Dulce.

2nd. All that portion of water in Nueces county lying north of the San Antonio and Aransas Pass Bridge and marked on the United States Coast Survey Chart as Nueces Bay.

3rd. All that portion of water in Aransas County known and marked on the United States Coast Survey Chart as Copana Bay, Puerto Bay, Mission Bay, and St. Charles Bay.

4th. All that portion of Lavaca Bay in Calhoun County North and West of the line starting from the extreme East point of Gallinipper Point and running in a northerly direction along Gallinipper Bar to the extreme South point of Point Comfort, or sometimes called Mitchell's Point.

5th. All that portion of water in Refugio and Calhoun Counties marked on the United States Coast Survey Chart as Hynes' Bay.

6th. All that portion of water in Calhoun County north of a line starting from the extreme point of Marsh's Point and running due east to the east bank of San Antonio Bay, and marked on the United States Coast Survey Charts as Mission Bay and San Antonio Bay.

7th. All that portion of water in Calhoun County marked on the United States Coast Survey Chart as Carankaway Bay.

8th. All that portion of water in Matagorda County north of a line starting from the extreme point of Wells Point and running East to Palacios Bayou, and marked on the United States Coast Survey Chart as Turtle Bay and Trespalacios Bay.

9th. All that portion of water in Brazoria County marked on the United States Coast Survey Chart as Bastrop Bay and Oyster Bay.

10th. All that portion of water in Galveston and Harris Counties North of a line starting from the extreme Southern point of Red Bluff on the West bank of Galveston Bay and running in an easterly direction to the first beacon south of Morgan's Point, thence in a northeasterly direction to the extreme point of Mesquite Point.

11th. All that portion of water in Chambers County marked on the United States Coast Survey Chart as Turtle Bay.

12th. All that portion of water in Galveston and Harris Counties known as Clear Creek and Clear Lake, as far up as the G. H. & H. R. R. Bridge.

13th. All that portion of water in Chambers County starting from the mouth of the Trinity River, with all adjacent channels, bayous, and lakes, up said river to include Lake Charlotte.

14th. All that portion of water in what is known as Ingleside Bay or Ingleside Cove, North of a line starting from the extreme western point of Hatch's Peninsula, in a northerly direction to Donnel's Point on the mainland.

15th. All that portion of water lying west of a line drawn from the northwest point of Mustang Island at the old Revetment, placed there by the United States Government, to the first buoy south of the Lighthouse, and continuing in same direction to the East shore of Harbor Island; said body of water lies between Mustang and Harbor Islands, and is commonly known as the "Cove."

16th. All that portion of water known as Redfish Bay in Nueces County and Aransas County, and being all that body of water lying west of and between Shell Banks, Bird Island, Hog Island, Blackberry Island, and Panson's Island, on the East, and the mainland, on the West.

17th. All that body of water on the west shore of St. Joe Island, beginning at a point on St. Joe Island called Caesar's Point, thence in a southerly direction along the middle ground to a stake set 600 feet due West of Allyn's Wharf, thence East to the west shore of said Island, thence northerly with the meanders of said west shore to the place of beginning.

18th. All that body of water known as Galveston Bay.

Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense; and in any and all prosecutions under this article the identification of the boat from which such violation occurs shall be prima facie evidence against the person or persons in charge or on such boat.

Article 529h. Any person fishing with a drag seine or set net, for sale or market, shall return all fish, green turtle, or terrapin, of the sizes and weights specified in Articles 528e, and 529f, of the Penal Code, to the water while they are yet alive, except Sharks, Gars, Rays, and Sawfish; and the sizes of the meshes of fish seines used shall not be less than one and one-quarter inches square, not including the bag; and any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Article 529m. When oysters are gathered as prescribed in Article 529s of this act, from the public beds or reefs, except for planting, they must

be culled, and the young oysters and dead shells must be returned to the original reef or bed while the young oysters are yet alive, and not to exceed ten hours from the time of taking from the water bed or reef. Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars for each and every offense.

Article 529s. It shall be unlawful for any person to take or gather oysters from the public reefs or beds of the State for sale without having first procured a license from the Fish and Oyster Commissioner or his deputy. Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars; and any person offering for sale or selling oysters who is not a regular dealer or has not procured a license for gathering oysters, shall be considered as gathered for sale.

Article 529t. It shall be unlawful for any person gathering oysters for planting on locations obtained from the State, or on private property, to sell, market, or in any way dispose of oysters so gathered at the time of gathering for any other purpose than planting; provided, this shall not be considered as meaning the right to dispose of a location or oyster bed. Any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than five hundred dollars.

Sec. 2. Whereas, the fact that the penal laws are now inadequate for the protection of the subjects of the foregoing act, therefore, an imperative public necessity exists that this act be passed under a suspension of the constitutional rule requiring a bill to be read on three several days, and that it take effect from and after its passage, and it is so enacted.

Sec. 3. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

My observation while in office has been, that while the laws requiring the closed season in certain bays for breeding grounds, the restriction in sizes and weights of certain fish to be marketed, the culling restrictions of oysters with the closed season, and allowing only citizens of our State to engage in the business, are all of the greatest importance, and would prove beneficial if they could be enforced, yet certain amendments are necessary for the proper execution of the above and other parts of our laws.

I made efforts in 1895 to have the laws amended and partially succeeded, but failed in some of the most important points.

The fishermen along the coast, as a general thing, were in favor of a protective law, and, with few exceptions, willingly paid their license for the first two years. But as the amount paid in was not sufficient to give protection to those entitled to it, there has been some dissatisfaction since.

As is shown by my report ending August 1st, 1898, the total receipts was only \$2,080. This divided between five deputies and myself would not go very far towards protection. As the State has provided no facilities for enforcing the law, and the perquisites of the office are insufficient for the proper execution of same, as well as parts of the law being defective, the above discontent has arisen.

I am pleased to say that the majority of the fishermen along the coast

have complied with the law as well as could be expected, and only where badly advised have they attempted to give any trouble.

If the 28th Legislature, in its good wisdom, sees fit to make certain necessary amendments to the law, so that it can be properly enforced, I think that Texas will have as good, if not the best, fish and oyster laws of any State in the Union.

Respectfully submitted,

I. P. KIBBE,

Fish and Oyster Commissioner of Texas.

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