

TITLE LI.

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SEC. 4391. The master of any vessel of the burden of twenty tons or upward, qualified according to law for carrying on the bank and other cod fisheries, or the mackerel-fishery, bound from a port of the United States to be employed in any such fishery, at sea, shall, before proceeding on such fishing-voyage, make an agreement in writing with every fisherman who may be employed therein, except only an apprentice or servant of himself or owner, and, in addition to such terms of shipment as may be agreed on, shall, in such agreement, express whether the same is to continue for one voyage or for the fishing-season, and shall also express that the fish or the proceeds of such fishing-voyage or voyages which may appertain to the fishermen shall be divided among them in proportion to the quantities or number of such fish which they may respectively have caught. Such agreement shall be indorsed or countersigned by the owner of such fishing-vessel or his agent. (See §§ 4320-4321.)

SEC. 4392. If any fisherman, having engaged himself for a voyage or for the fishing-season in any fishing-vessel and signed an agreement therefor, thereafter and while such agreement remains in force and to be performed deserts or absents himself from such vessel without leave of the master thereof, or of the owner or his agent, such deserter shall be liable to the same penalties as deserting seamen are subject to in the merchant service, and may in the like manner, and upon the like complaint and proof, be apprehended and detained; and all costs of process and commitment, if paid by the master or owner, shall be deducted out of the share of fish or proceeds of any fishing-voyage to which such deserter had or shall become entitled. Every fisherman, having so engaged himself, who during such fishing-voyage refuses or neglects his proper duty on board the fishing-vessel, being thereto ordered or required by the master thereof, or otherwise resists his just commands to the hinderance or detriment of such voyage, besides being answerable for all damages arising thereby, shall forfeit to the use of the owner of such vessel his share of any public allowance which may be paid upon such voyage.

SEC. 4393. Whenever an agreement or contract is so made and signed for a fishing-voyage or for the fishing-season, and any fish caught on board such vessel during the same are delivered to the owner or to his agent, for cure, and sold by such owner or agent, such vessel shall, for the term of six months after such sale, be liable for the master's and every other fisherman's share of such fish, and may be proceeded against in the same form and to the same effect as any other vessel is by law liable, and may be proceeded against for the wages of seamen or mariners in the merchant service. Upon such proceeding for the value of a share or shares of the proceeds of fish so delivered and sold it shall be incumbent on the owner or his agent to produce a just account of the sales and division of such fish according to such agreement or contract; otherwise the vessel shall be answerable upon such proceeding for what may be the highest value of the shares demanded.

Agreement for fishing voyage.

19 June, 1813, c. 2, s. 1, v. 3, p. 2.
3 March, 1865, c. 117, v. 13, p. 535.

Penalty for violating agreement.

19 June, 1813, c. 2, s. 1, v. 3, p. 2.

Recovery of shares of fish under agreement.

19 June, 1813, c. 2, s. 2, v. 3, p. 2.

But in all cases the owner of such vessel or his agent, appearing to answer in such proceeding, may offer thereupon his account of general supplies made for such fishing-voyage and of other supplies therefor made to either of the demandants, and shall be allowed to produce evidence thereof in answer to their demands respectively; and judgment shall be rendered upon such proceeding for the respective balances which upon such an inquiry shall appear.

Discharge of vessel upon bond by owner.

19 June, 1813, c. 2, s. 2, v. 3, p. 2.

SEC. 4394. When process shall be issued against any vessel so liable, if the owner thereof or his agent will give bond to each fisherman in whose favor such process shall be instituted, with sufficient security, to the satisfaction of two justices of the peace, of whom one shall be named by such owner or agent, and the other by the fisherman or fishermen pursuing such process, or if either party shall refuse, then the justice first appointed shall name his associate, with condition to answer and pay whatever sum shall be recovered by him or them on such process, there shall be an immediate discharge of such vessel. Nothing in this or the preceding section shall prevent any fisherman from having his action at common law for his share or shares of fish or the proceeds thereof.

Appointment of commissioner of fish and fisheries.

9 Feb., 1871, Res. No. 22, s. 1, v. 16, p. 594.

SEC. 4395. There shall be appointed by the President, with the advice and consent of the Senate, from among the civil officers or employés of the Government, a commissioner of fish and fisheries, who shall be a person of proved scientific and practical acquaintance with the fishes of the coast, and who shall serve without additional salary.

Duties of the commissioner.

9 Feb., 1871, Res. No. 22, s. 2, v. 16, p. 594.

SEC. 4396. The commissioner of fish and fisheries shall prosecute investigations and inquiries on the subject, with the view of ascertaining whether any and what diminution in the number of the food-fishes of the coast and the lakes of the United States has taken place; and, if so, to what causes the same is due; and also whether any and what protective, prohibitory, or precautionary measures should be adopted in the premises; and shall report upon the same to Congress.

Executive Departments to aid investigations.

Ibid., s. 3.

Powers of commissioner.

Ibid., s. 4.

SEC. 4397. The heads of the several Executive Departments shall cause to be rendered all necessary and practicable aid to the commissioner in the prosecution of his investigations and inquiries.

SEC. 4398. The commissioner may take or cause to be taken at all times, in the waters of the sea-coast of the United States, where the tide ebbs and flows, and also in the waters of the lakes, such fish or specimens thereof as may in his judgment, from time to time, be needful or proper for the conduct of his duties, any law, custom, or usage of any State to the contrary notwithstanding.