

MAINE STATE LEGISLATURE

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Charles F. Rice

DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1840.

AUGUSTA:

WM. R. SMITH & CO., PRINTERS TO THE STATE.

1840.

TWENTIETH LEGISLATURE.

NO. 10.

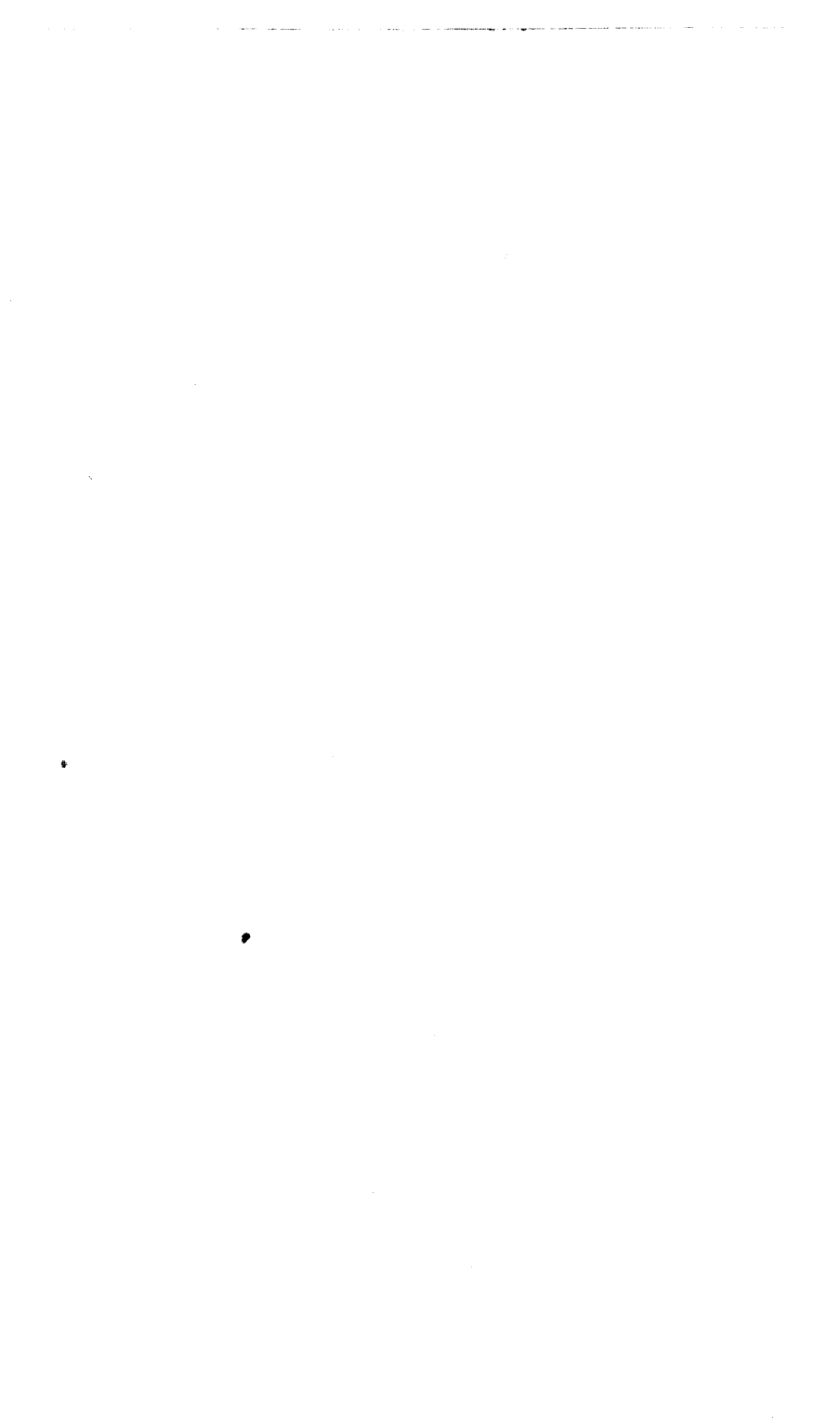
SENATE.

AN ACT

FOR THE

PRESERVATION OF FISH.

[SMITH & ROBINSON,.....Printers to the State.]



STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FORTY.

AN ACT to regulate the taking of fish, and for
the preservation thereof, in the several rivers and
streams emptying into rivers in this State.

SECT. 1. *Be it enacted by the Senate and
2 House of Representatives in Legislature
3 assembled,* That the County Commissioners in
4 the several Counties in this State, shall have the
5 care of enforcing the regulations for taking and
6 preserving the Salmon, Shad and Alewives in
7 all rivers and streams when they may deem it
8 for the general good within their respective
9 counties; and it shall be their duty from time to
10 time to examine all dams and obstructions in
11 rivers and streams emptying into rivers where
12 Salmon, Shad or Alewives abound and deter-
13 mine after due notice in writing to one or more

14 of the parties interested and a hearing thereon,
15 what would be a suitable fish way or passage-
16 way for fish in such dam or obstruction, not
17 exceeding one foot in fifteen of the width of the
18 river or stream at the dam. And after their
19 determination, and twenty days notice, to be
20 published in a newspaper printed in the county,
21 if any, and if not, in the state paper, to the
22 owner or owners thereof, to build such fishway
23 and to keep the same open; and the refusal or
24 neglect of such owner or owners to prepare and
25 open such fishway, then the County Commis-
26 sioners may, and it shall be their duty to have
27 prepared and opened a sufficient passage way
28 for fish through such dam or obstruction, at the
29 expense of the owner or owners thereof. And
30 in case of refusal of the owner or owners of
31 such dam or obstruction to pay the expenses
32 incurred in opening such passage way within
33 thirty days, the same shall be paid by the
34 County Treasurer; and the County Attorney
35 shall commence an action against such owner or
36 owners for the same, and the damage recovera-
37 ble shall be the amount paid and interest, at
38 the rate of twelve per cent. until paid, and a

39 lien for the payment of said damages is hereby
40 created on the Mills and other property of what-
41 ever description, situated on said dam, whether
42 belonging to the owners of said dam or to other
43 persons, and commencing from the time said
44 passage-way shall be opened aforesaid; *Pro-*
45 *vided* that any person aggrieved by any decision
46 of the County Commissioners, by entering into
47 recognizance as in other cases of appeal, may
48 have an appeal to the Supreme Court, who
49 shall have power to reverse, modify or confirm
50 such decision; and if the appeal be not prose-
51 cuted at the next term of the Supreme Court,
52 the decision of the County Commissioners shall
53 be final and in full force.

SECT. 2. *Be it further enacted*, That the
2 County Commissioners aforesaid, shall define
3 and describe in writing, the extent and limits of
4 such fish way, and cause the same to be entered
5 in the records of the city, town or plantation in
6 which the said fishway is situated; and if any
7 person shall take any of the fish aforesaid, in any
8 such fishway, or within the space of six feet on
9 each side thereof, and extending of the same
10 width fifty feet below such fishway, or shall by

11 placing any impediments in or near such fish-
12 way, or by any other means hinder or obstruct
13 the passage of fish up, through or over such
14 fishway, between the first day of May and the
15 fifteenth day of July in each year, the person
16 so offending shall forfeit and pay a penalty of
17 not less than five dollars nor more than ten dol-
18 lars for each and every offence; and by the
19 fifteenth day of July of each year, all wiers
20 shall be stripped so as to admit of a free passage
21 of fish through the same; and in case of refusal
22 or neglect, the owner or owners thereof, shall
23 forfeit a sum not exceeding ten dollars nor less
24 than five dollars, to be recovered in an action of
25 debt, to the use of the County within which
26 such offence is committed.

SECT. 3. *Be it further enacted,* That all
2 Acts and parts of Acts in relation to taking and
3 preserving Pickerel and Trout in ponds and
4 streams, be, and the same are hereby repealed:
5 And that all Acts and parts of Acts, heretofore
6 existing in this State, in relation to the taking
7 and preservation of Salmon, Shad and Ale-
8 wives in all rivers and streams, be, and the
9 same are hereby repealed, except where an

10 interest therein has been vested in any town.

11 And this Act shall take effect and be in force

12 from and after its approval by the Governor.

