

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1844.**

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*AUGUSTA:*  
WM. R. SMITH & Co., PRINTERS.

1844.

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TWENTY-FOURTH LEGISLATURE.

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No. 13.]

[SENATE.

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AN ACT

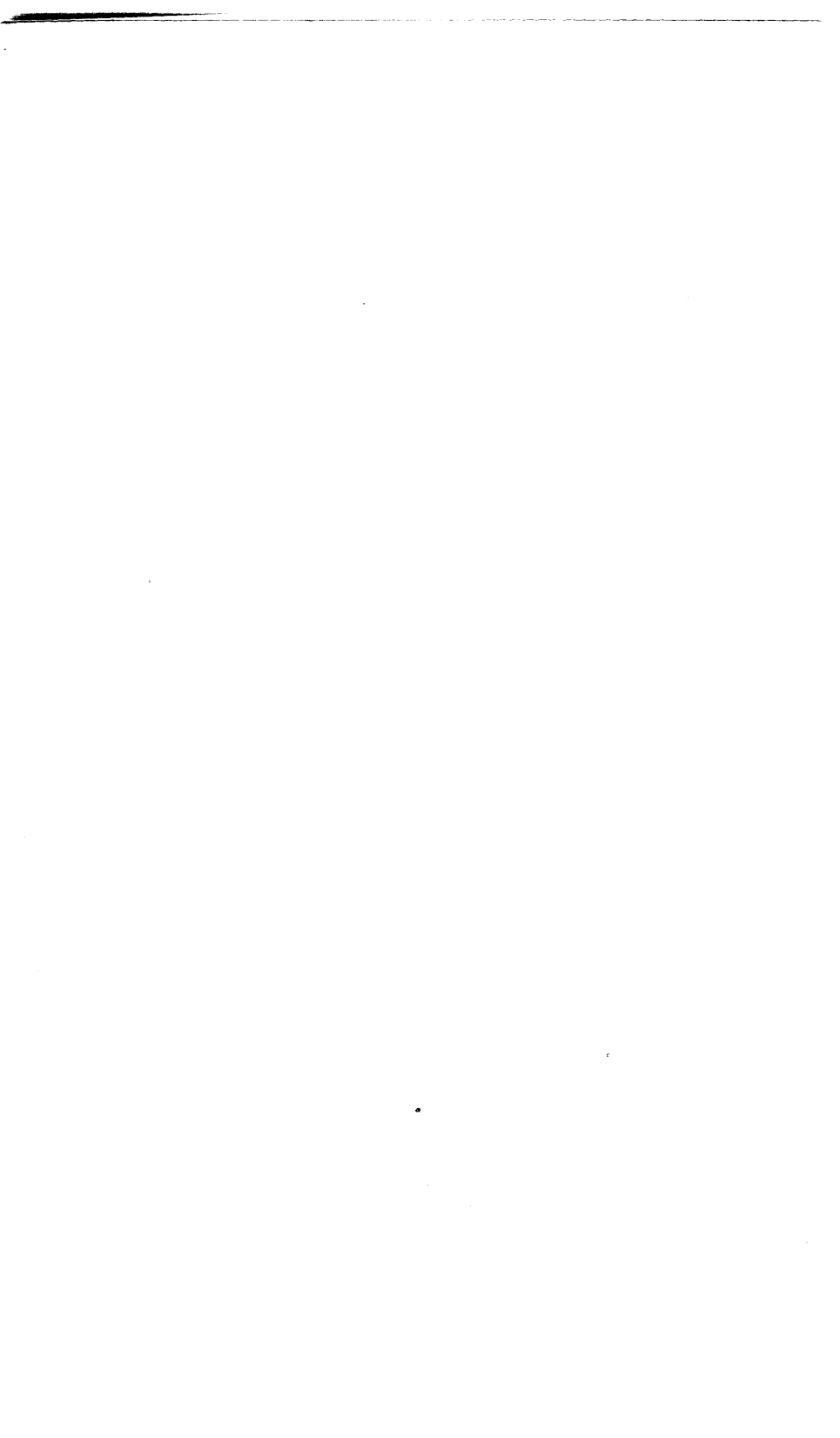
IN RELATION TO THE

PRESERVATION OF FISH.

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[Wm. R. SMITH & Co....Printers to the State.]



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# STATE OF MAINE.

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

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AN ACT for the preservation of Salmon, Shad and  
Alewives in George's river and tributary streams.

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*Be it enacted by the Senate and House of Represen-  
tatives in Legislature assembled*—as follows :

3 SECTION 1. The towns of Warren, Thomaston,  
4 St. George and Cushing, shall be and hereby are em-  
5 powered and directed at their meeting for the choice  
6 of town officers in the month of March or April, an-  
7 nually, to choose in each town by written ballot, one  
8 person to be called a Fish Warden, who shall be so  
9 situated in such town as to be able with convenience  
10 to detect in the most efficient manner, any breaches  
11 of this act; and in case of vacancy by death, resig-  
12 nation, or neglect of the town to choose a fish war-  
13 den, then the selectmen of said town shall forthwith  
14 appoint such person to be fish warden; and each  
15 person so chosen or appointed, shall be sworn faith-  
16 fully to discharge the duties required of him by this  
17 act.

SEC. 2. It shall be the duty of said board of fish  
2 wardens to maintain a general supervision over the

3 fisheries of salmon, shad and alewives, in the waters  
4 of George's river and streams emptying into the same.

SEC. 3. The said fish wardens shall hold an an-  
2 nual meeting at Warren, on the fourth Monday of  
3 April, with power to adjourn to such places and times  
4 as they may think expedient. And two of said board  
5 shall constitute a quorum for the transaction of busi-  
6 ness.

SEC. 4. The said board of fish wardens shall from  
2 time to time examine all dams and obstructions in  
3 said George's river and the streams emptying into the  
4 same, in which salmon, shad or alewives abound, and  
5 after notice in writing to one or more of the parties  
6 interested, and a hearing thereon, shall decide what  
7 would be a suitable fish way by or through such dams  
8 or obstructions; and in deciding thereon the said fish  
9 wardens shall consult as far as practicable, the con-  
10 venience and also the safety of the structures by or  
11 through which such fish way shall pass; and said fish  
12 wardens shall define and prescribe such fish way as  
13 they may judge suitable and sufficient, not exceeding  
14 one foot in width in fifteen of the length of the dam,  
15 running directly across any stream or river, and give  
16 written notice thereof to some owner or owners, oc-  
17 cupant or occupants of said dam, and in said notice  
18 to require the fish way to be made (if made at all)  
19 according to the description, without delay, at any  
20 time between the fifteenth day of July and the first  
21 day of November following in any year, so that the

22 same shall be kept open from the first day of May to  
23 the fifteenth day of July of each year, for the passage  
24 of fish. And if such fish way shall not be made and  
25 opened to the satisfaction of said board of fish war-  
26 dens during the time specified in this section, then the  
27 said board are hereby authorized and empowered to  
28 cause the natural course of the streams through which  
29 the said fish pass, to be kept open and without ob-  
30 struction; to remove such as may be found therein,  
31 and shall have authority to go on the land or meadow  
32 of any person through which such streams run, with-  
33 out being considered trespassers; and shall open or  
34 cause to be opened, any sluiceway through any dam  
35 now erected, or that may hereafter be erected, on or  
36 over any of said rivers or streams, between the ponds  
37 where the fish usually cast their spawns, and the sea;  
38 at the expense of the owner or owners of such dam or  
39 sluice: *provided*, such owner or owners shall neglect  
40 or refuse to open the same when required by said fish  
41 wardens. And the dam or sluice so opened shall con-  
42 tinue open in every year to such depth and width,  
43 and for such term of time between the first day of  
44 May and the fifteenth day of July, as said fish war-  
45 dens shall deem necessary. And the said fish wardens  
46 shall define and describe in writing the distance from  
47 said fish way at which fish shall be taken, and cause  
48 the same to be entered upon the records of the city,  
49 town or plantation in which said fish way is situated.  
50 And if any person shall take any of the fish aforesaid

51 in any such fish way, or within the distance prescribed  
52 by said fish wardens, or shall by placing any impedi-  
53 ments in or near such fish way, or by any other means,  
54 hinder or obstruct the passage up, through or over such  
55 fish way or sluice, between the first day of May and  
56 the fifteenth day of July in each year, the person so  
57 offending shall forfeit and pay a penalty of twenty dol-  
58 lars for each and every offence.

SEC. 5. Said board of fish wardens shall appoint  
2 deputy fish wardens in such places as they may deem  
3 proper, not exceeding seven in all, nor more than  
4 three in any town or plantation, who shall be  
5 sworn to the faithful discharge of the trust, and shall  
6 forward a certificate of said oath to the fish warden  
7 of his town, within ten days from the time of being  
8 notified of his appointment. All deputies shall be  
9 removable at the pleasure of the fish wardens; and it  
10 shall be the duty of said fish wardens, without delay,  
11 to fill all vacancies in the office of deputy wardens  
12 occasioned by death, resignation or otherwise.

SEC. 6. It shall be the duty of all fish wardens and  
2 deputy fish wardens, by all lawful means, to prevent  
3 the taking or destroying any of the fish aforesaid, in  
4 any of the waters, in violation of law, and also to in-  
5 stitute prosecutions for all such offences against this  
6 act as shall come to their knowledge, and prosecute  
7 the same to final judgment. And in such prosecutions  
8 any fish warden or deputy fish warden is hereby made  
9 a competent witness, and shall be allowed for travel



10 and attendance as such, although he may be a prose-  
11 cutor in the suit. And any fish warden or deputy  
12 fish warden shall have right and authority to visit any  
13 dam, weir, boat, net, trap, or other machine erected  
14 or placed for the purpose of taking or destroying any  
15 of said fish, at any time or place where or when the  
16 taking or destruction of said fish is prohibited by law.  
17 And the power of each fish warden and deputy war-  
18 den shall and is made to extend equally to every por-  
19 tion of the waters before described, in any city, town  
20 or plantation into which said waters extend.

SEC. 7. Between the first day of April and the fif-  
2 tenth day of July in each year, no person shall take  
3 or destroy, in any of said waters, any of the fish  
4 aforesaid, either by means of weirs, nets or any other  
5 implement, apparatus or machinery whatever, except  
6 between sunrise of Monday and sunrise on Saturday  
7 of any week. And any person committing any of-  
8 fence against this provision, or aiding or abetting the  
9 same, shall forfeit and pay for every such offence, the  
10 sum of ten dollars.

SEC. 8. Every weir shall be provided with a gate  
2 or passage way at least three feet wide, and extending  
3 from the bottom or floor thereof to high water line,  
4 which gate or door shall be in the pound or apartment  
5 wherein said fish are secured and taken. And the  
6 said gate shall be left open without impediment to the  
7 passage of said fish, from sunrise on Saturday of each  
8 week, to sunrise on the succeeding Monday, between

9 the first day of April and the fifteenth day of July in  
10 each year ; and any weir that shall be made without  
11 such gate or door, or if any such gate or door shall  
12 not be kept open as herein required, the owner or  
13 occupant of such weir shall forfeit for each offence,  
14 ten dollars.

SEC. 9. All weirs shall be stripped so as to admit  
2 the free passage of fish through the same, on or be-  
3 fore the fifteenth day of July in each year. And the  
4 owner or owners of any weir who shall neglect to strip  
5 the same, shall forfeit five dollars for every day until  
6 the same is stripped as aforesaid.

SEC. 10. Any fish warden or deputy fish warden,  
2 who shall be forcibly resisted in the discharge of any  
3 duty, or in the exercise of any right prescribed by this  
4 act, is hereby authorized to require of any person or  
5 persons the assistance which may be requisite for his  
6 protection to enable him to discharge the duty or  
7 exercise the rights aforesaid. And if any person,  
8 who shall be by him called upon for that purpose,  
9 shall unreasonably refuse, or neglect to render the  
10 required assistance, he shall be liable to forfeit and  
11 pay a penalty of ten dollars.

SEC. 11. No person or persons shall take or destroy  
2 any of the fish aforesaid in any of said waters, be-  
3 tween the fifteenth day of July, in one year, and the  
4 first day of April, in the succeeding year. And each  
5 and every person violating this provision, shall forfeit  
6 and pay the sum of twenty dollars for each offence.

SEC. 12. All forfeitures prescribed by this act exceeding twenty dollars, shall be recoverable by indictment in Supreme Judicial Court, or District Court, and all forfeitures not exceeding twenty dollars, shall be recoverable by complaint in behalf of the State, before a justice of the peace for the county of Lincoln. And such justice is hereby empowered, on conviction, to impose said penalties to an amount not exceeding the sum of twenty dollars, and in case any person convicted and sentenced by such justice, shall neglect or refuse to pay such penalty with costs of prosecution, the justice, by his writ of habeas corpus, may cause said offender to be committed to the jail of the county, there to be detained, till discharged by order of law, reserving however to every person accused, the right to appeal to the District Court, on entering into recognizance as in other cases of appeal from justices of the peace, in criminal suits. Complaints for any of the offences mentioned in this act, may be made by any fish warden or deputy warden or any other person, and all forfeitures and penalties recovered for any such offences, shall go to the use of the town in which the same was committed.

SEC. 13. Each fish warden for his services shall be entitled to receive the sum of two dollars for each and every day by him actually occupied in any of the duties and employments devolving upon him by virtue of said office, to be paid from the Treasury of the town in which he resides. Provided however, that

7 said fish warden shall first make oath to the truth and  
8 correctness of his account, which shall then be pre-  
9 sented to the selectmen for allowance. And each  
10 deputy warden, for his services, shall be allowed one  
11 dollar for each and every day by him actually em-  
12 ployed in any of the duties devolving upon him in  
13 virtue of said office, to be paid by the city, town or  
14 plantation in which he resides. Provided, that said  
15 deputy warden shall first make oath to the truth of  
16 his account, which shall be presented to the selectmen  
17 or assessors for allowance.

SEC. 14. The mill privileges at Vaughan's mills, so  
2 called, and at Batcheller's mills in the town of Union,  
3 are exempt from the provisions of this act.

SEC. 15. All acts or parts of acts, inconsistent with  
2 this act, are hereby repealed.



## STATE OF MAINE.

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IN SENATE, January 26, 1844.

ORDERED: That 300 copies of the foregoing Bill, be printed for the use of the Legislature.

JERE HASKELL, *Secretary.*