

MAINE STATE LEGISLATURE

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Fifty-Seventh Legislature.

HOUSE.

No. 132.

STATE OF MAINE.

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

AN ACT to regulate and protect the shore fisheries.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows :*

SECTION 1. The taking of mackerel, herring, pogies
2 or menhaden, or fishing therefor by the use of purse
3 and drag seines, is hereby prohibited in all of the
4 small bays, inlets, harbors or rivers of this state, where
5 any entrance to the same, or any part thereof from any
6 land to land is not more than two miles in width, under
7 a penalty upon the master or person in charge of such
8 seine or seines, of not less than one hundred nor more
9 than three hundred dollars, and the forfeiture of all
10 vessels, boats and apparatus used in such unlawful pur-
11 suit ; but a net for meshing mackerel or pogies, of not

12 more than one hundred meshes in depth, and a net for
13 meshing herring, of not more than one hundred and
14 seventy meshes in depth, shall not be deemed a seine.

SECT. 2. All penalties and forfeitures named in the
2 preceding section, may be recovered by indictment or
3 action of debt; and one-fourth part of the penalty or
4 forfeiture recovered or imposed shall be for the benefit
5 of the complainant or party prosecuting, and the re-
6 maining three-fourths to the county in which the pro-
7 ceedings are commenced.

SECT. 3. All sheriffs, deputy sheriffs, constables and
2 fish wardens, are hereby authorized and required to
3 serve all warrants and precepts to them directed for
4 the arrest and detention of all persons charged with
5 violating any of the provisions of section one; also to
6 seize all vessels, boats and apparatus used by the per-
7 son or persons arrested for such illegal fishing, and to
8 keep the same to abide the order of court thereon,
9 subject to the exceptions hereinafter made. All such
10 officers shall have the same authority to require all
11 necessary aid to execute such warrants and precepts,
12 and to seize and keep such property as sheriffs now
13 have in the service of criminal processes, and shall be
14 allowed the same fees for said services as are now given
15 by law to said officers, in addition to the emoluments

16 hereinafter provided ; and in all cases where an officer
17 finds any person or persons violating section one, he is
18 authorized to arrest such person or persons and seize
19 such vessels, boats and apparatus without a warrant,
20 and to safely keep such person or persons and property
21 until he can procure a warrant. Said officer shall use
22 due diligence in procuring such warrant, and making
23 return of his doings thereon.

SECT. 4. Any officer making such arrest and seizure,
2 and finding any fish or property on board such vessels
3 or boats, other than the apparatus used in fishing, shall
4 immediately notify the owner or person in charge of
5 such vessels and boats, to remove such fish and other
6 property, and if the same is not removed within twelve
7 hours after said notice, such officer may make such
8 disposition of all fish on board as he may deem proper,
9 and shall remove such other property to some proper
10 place on shore, and it shall then be at the risk of the
11 owner.

SECT. 5. At any time after such seizure, if the
2 owner or claimant desires to retain possession of such
3 vessel, boats, and other apparatus, he may notify such
4 officer in writing of such fact, and request an appraisal
5 of the same, whereupon such officer shall immediately
6 prepare a schedule of all property then detained by

7 him, and cause three disinterested men, acquainted
8 with the nature of the property detained, to be ap-
9 pointed, one to be selected by the owner or claimant,
10 one by the officer making the seizure, and one by any
11 trial justice or justice of the peace of the county where
12 the property is detained ; such justice to be notified to
13 make such selection by the officer in charge.

SECT. 6. The appraisers shall be duly sworn by the
2 officer, or some other proper person, and shall as soon
3 as may be appraise such property, to be shown them
4 by such officer, and certify under their hands the cash
5 value of the same, one copy of their appraisal to be
6 by them given to the officer, and one copy to the
7 owner or claimant. Said appraisers shall receive two
8 dollars per day for said services, to be paid them by
9 the officer, and to be by him charged with his fees on
10 his warrant or precept ; thereupon, at the request of
11 such owner or claimant, the property shall be given up
12 to him, provided said owner or claimant shall first
13 deliver to said officer a bond in double the value of
14 said appraisal, by him duly signed and sealed, with
15 good and sufficient sureties, approved in writing on said
16 bond by the clerk of the supreme judicial court for the
17 county in which said appraisal is made, conditioned
18 that said principal shall pay or cause to be paid to the

19 treasurer of said county or his successor in said office,
20 the amount of said appraisal on demand of said treas-
21 urer or his successor, as soon as a judgment of said
22 court decreeing a forfeiture of such property shall have
23 been entered of record ; said bond to be returned into
24 court by the officer and placed on file by the clerk.

SECT. 7. On conviction of any person or persons of
2 a violation of section one, the court before which such
3 prosecution or indictment is had shall decree all prop-
4 erty so seized by such officer to be forfeited, and shall
5 order all such property, not enlarged by giving such
6 bond, to be sold at public auction by the officer seizing
7 the same, or by any sheriff or deputy sheriff within
8 said county, subject to such conditions as to notice as
9 the court may order; all sums realized from such sale,
10 less the legal cost attending the seizure, forfeiture and
11 sale of such property, shall be promptly paid to the
12 treasurer of such county by such officer, to be by such
13 treasurer appropriated and paid out as is provided for
14 herein.

SECT. 8. In cases where property has been seized
2 where no prosecutions have been commenced, indict-
3 ments found, or judgment for plaintiff rendered, or
4 convictions on the indictments obtained, the court may
5 at its discretion, order all property so seized to be
6 returned by some officer to the owner or claimant on

7 demand of such owner or claimant; and such order
8 shall constitute a bar to any actions that have been or
9 may be commenced against the officer for making such
10 seizure or detaining such property; but in all cases
11 where property has been seized, indictments found, or
12 prosecutions commenced, and the party indicted or
13 prosecuted is not in the custody or jurisdiction of the
14 court, so that no conviction or judgment has been ob-
15 tained, the court shall cause such notice as they deem
16 proper to be given, notifying all persons interested to
17 appear at a time and place designated in said notice,
18 and show cause, if any they have, why a forfeiture of
19 said property should not be decreed, and a sale of the
20 same made as hereinbefore provided. At the time of
21 such hearing the court may, on default, or otherwise,
22 make a decree of forfeiture of said property, cause the
23 same to be entered of record, and order a sale thereof,
24 subject to the conditions hereinbefore made, or make
25 such other decree as in its judgment justice demands
26 relative to a return of the property, subject to the pre-
27 vious conditions as to an order of return.

SECT. 9. In case of the death of any officer making
2 such seizure, or having such property in charge, any
3 officer mentioned in this chapter residing in the county
4 where the property is detained, may take the posses-
5 sion of all property seized and detained, and do any

7 other acts in the premises, the same as the original
8 officer making said seizure.

SECT. 10. All acts and parts of acts, inconsistent
2 with this act, are hereby repealed.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 8, 1878. }

Reported by Minority of the Committee on Fisheries, and pending acceptance, on motion of Mr. KIMBALL of Bath, report tabled, bill ordered printed, and Tuesday next assigned for consideration.

ORAMANDAL SMITH, *Clerk.*