

# MAINE STATE LEGISLATURE

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# PUBLIC ACTS

OF THE

# STATE OF MAINE,

PASSED BY THE

# FIFTEENTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1835.

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Published agreeably to the Resolve of June 28, 1820.

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AUGUSTA:

WILLIAM J. CONDON.....PRINTER TO THE STATE.

1835.

**Chapter 193.**

AN ACT in addition to an Act hereinafter named.

**SECT. 1.** *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That the following provisions be added to an act for the regulation of Innholders, Retailers and Common Victuallers approved March 13, 1834, viz.—In addition to the mode of recovery provided in said act, any fine, forfeiture or penalty may be recovered by complaint or indictment before any Court of competent jurisdiction and prosecutions for the same may be by any person or persons, or in the name of the inhabitants of any town, plantation or city where the offence was committed. And no prosecuting officer shall discontinue any legal process commenced or to be commenced under this or the former act, except by direction of the Court.

Forfeitures may be recovered by complaint or indictment.

[Approved by the Governor, March 24, 1835.]

**Chapter 194.**

AN ACT for the preservation of the Salmon, Shad and Alewife Fisheries, in Penobscot Bay and River, and their tributary waters.

**SECT. 1.** *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That from and after the passing of this Act, all weirs erected for the purpose of taking salmon, shad and alewives in Penobscot river and bay, or the streams emptying into the same, shall be by the person or persons interested therein, entirely removed or demolished on or before the thirtieth day of July annually.—And in case the person or persons so interested shall fail to remove or demolish the same within the time before prescribed, he, she or they shall forfeit and pay the sum of fifty dollars.—And

Weirs, &c. in Penobscot Bay and River to be removed before 30th July annually.

Penalty for neglect.

Fish-wardens may remove the same after 30th July.

it shall be lawful for any fish warden duly appointed and sworn according to the provisions of this act, and they are hereby authorized to remove any such weir, so standing after the thirtieth day of July in each year, and to demand and recover by action of debt, from the person licensed to erect the same, or from the owner or owners thereof, a reasonable compensation therefor.

Weirs to be provided with gates

SECT. 2. *Be it further enacted,* That every such weir shall be provided with a gate or passage way for said fish at least three feet wide, and extending from the bottom or floor thereof to the high-water line, which gate shall be in the pound or apartment thereof where such fish are secured and taken. And said gate shall be left open and without impediment to the passage of said fish during the time required by this act, on penalty in either case, of twenty dollars.

Penalty for erecting or continuing weir without permission of Selectmen.

SECT. 3. *Be it further enacted,* That in case any weir be erected or continued in any of the waters aforesaid without the license of the Selectmen contiguous to the place where the erection or continuance of such weir is contemplated, any person who shall be interested or concerned in the erection thereof shall forfeit and pay one hundred dollars to the use of the county in which the offence occurs; to be recovered by indictment in any Court proper to try the same in such county.—And no weir shall be erected across any stream, or within six rods of any fish way so as to impede the passage of said fish at such times as are by this act prohibited, under like penalty.

Time allowed for taking fish in weirs.

SECT. 4. *Be it further enacted,* That the time during which any person or persons shall be allowed by this Act to take or impede the passage of said fish in weirs, or in salmon or shad nets attached to the shores of said waters, or by drifting therewith, or in dip-nets or otherwise—shall be between sunrise on Monday and sunset on Saturday in each week—

and between the first day of April and the tenth day of July; and if found so taking them at any other time he or they shall forfeit and pay the sum of ten dollars for each offence and costs of prosecution. And in addition thereto he or they shall incur a penalty of one dollar for each salmon so caught, for each shad twenty-five cents, and for each alewife two cents. And he or they shall also forfeit any boat or boats, net or other machine found employed for the purpose and in the business of taking such fish, together with such fish as may be found therein.

Penalties for taking at other times.

SECT. 5. *Be it further enacted,* That the several Courts of County Commissioners in the Counties of Hancock, Penobscot and Waldo, at their session next preceding the first day of May annually, shall appoint some suitable person in each of their respective counties to be a fish warden, who shall be sworn to the faithful discharge of his trust. And it shall be the duty of such fish wardens, or any two of them jointly, or (in case of refusal or neglect of such Court to appoint, or of any fish warden by them appointed to discharge the duties assigned him by this Act) of any one of them, as soon as may be after the tenth day of May annually, to examine if there be sufficient and convenient passage or fish ways for salmon, shad and alewives to pass and re-pass any dam or any other obstruction in or across said waters or any part of them wherein salmon, shad or alewives have usually passed northwardly of the southerly line of Northport and Castine, and if in the opinion of said fish-ward or wardens any passage or sluiceway by or through any dam or other impediment in said waters shall not be sufficient for the free passage of said fish, or if there be no passage or sluiceway at any dam or if there shall be any obstruction in said waters said fish ward or wardens shall forthwith give notice to the owner or occupant of such dam of such insufficiency, and of what is required to make such passage or sluiceway

County Commissioners of Hancock, Penobscot and Waldo to appoint Fish-Wardens.

Their powers and duties.

sufficient and convenient, or to make such new passage or sluiceway, and of the time in which the same shall be done, giving a reasonable time therefor; and if such owner or occupant shall not within the time allowed, make such passage or sluiceway, said fish ward or wardens may make or cause to be made such convenient and sufficient passage or sluiceway in a suitable and economical manner at the expense of such owner or occupant. And for the recovering of such expense shall have and maintain an action of debt in any Court proper to try the same in any county in which such passage or sluiceway may be.

**SECT. 6.** *Be it further enacted,* That each fish warden appointed and sworn as provided in the fifth section of this Act shall be entitled to receive as a compensation for each and every day he shall be employed in the duties required of him by this Act, two dollars and fifty cents from the county in which he resides.

**SECT. 7.** *Be it further enacted,* That the Selectmen of the several towns, and Assessors of plantations in which this Act is made to operate and take effect, shall on or before the first day of May annually, appoint one or more suitable person or persons, as in their opinion may be necessary, who shall be sworn to the faithful discharge of their trust; whose duty it shall be, and they are hereby authorized to sue for and recover all fines and forfeitures incurred by a violation of this Act (excepting as provided in the fifth section thereof,) before any Justice of the Peace, or in any Court of competent jurisdiction in the county where such fine or forfeiture is incurred. And also to seize any boat, net or other machine agreeably to the fourth section of this Act, and to sell the same at public vendue, first posting up a notice in writing in some public place in the town where seized, and where to be sold, specifying the time and place of sale; and the time,

Compensation  
of fish-warden.

Selectmen of  
towns to appoint  
some person to  
sue for penalties  
and seize boats,  
&c.

place and cause of seizure for the space of three days next after such seizure and before the sale as aforesaid. And of all such fines and forfeitures one moiety shall be for the use and benefit of the prosecutor, and the other for the use and benefit of the town in which such penalty is incurred or such seizure made.

Penalties how appropriated.

SECT. 8. *Be it further enacted*, That for each weir licensed by the Selectmen pursuant to the provisions of the third section of this Act, there shall be paid to them by the person to whom license is granted, the sum of fifty cents. And to each town or plantation fish warden appointed pursuant to the ninth section thereof, the sum of one dollar per day, for each and every day he shall be actually employed in the discharge of the duties pertaining to his said office, shall be paid by the town or plantation for which he is so appointed.

Sum to be paid Selectmen for granting license.

SECT. 9. *Be it further enacted*, That the lock and sluice through the dam belonging to the Eastern River Lock and Sluice Company at the mills on Eastern River in Orland, shall be taken and deemed a sufficient sluiceway or passage for salmon, shad and alewives as required by this Act, provided said company shall from the tenth day of May to the thirtieth day of June annually cause the lower great gates and the upper small gates in said locks to be kept open at all times excepting when boats or rafts are passing the same.

Lock and sluice on Eastern river to be sufficient sluice if kept open.

SECT. 10. *Be it further enacted*, That all Acts existing and in force prior to the passage of this Act, in relation to the aforesaid fisheries, be and hereby are repealed, *Provided however*, That "an Act to regulate the taking of alewives in Winslow's stream and in Leache's stream in the town of Penobscot," passed in the year of our Lord one thousand eight hundred and twenty-eight, shall be, and remain in full force, any thing in this Act to the contrary notwithstanding. And *Provided fur-*

Former Acts repealed.

Proviso.

Proviso.

*ther*, That the provisions of this Act shall not extend to that part of Piscataquis River at and above the Great Falls in the town of Dover.

[Approved by the Governor, March 24, 1835.]

### Chapter 195.

AN ACT for the relief of Poor Debtors.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That no person shall be arrested on any suit founded on contract express or implied, bond or other specialty, or on a judgment on contract where the sum demanded, nor on any execution issued on any judgment where the debt or damages are less than ten dollars, nor on any suit on a judgment or an execution issued on a judgment founded on any prior judgment, where the original debt or damages are less than ten dollars.

No person to be arrested in any suit where original debt is less than ten dollars.

SECT. 2. *Be it further enacted*, That in all other cases on contracts express or implied, bond or other specialty, or on a judgment in civil actions, no person shall be arrested or imprisoned on mesne process, and no such process shall run against the body of such debtor nor shall any person be arrested or imprisoned on any execution issued on any judgment, on such contract, bond, specialty or judgment, nor shall any such execution run against the body of such person, except as hereinafter excepted.

No person to be arrested or imprisoned in any case except as is herein provided.

SECT. 3. *Be it further enacted*, That any person may be arrested on mesne process, on any contract, bond, specialty or judgment, mentioned in the second section of this Act, and held to bail or committed to prison, when he is about to depart and establish his residence beyond the limits of this State, with property or means exceeding the amount re-

Any person about to go out of the State may be arrested if creditor makes oath, &c.