

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-FOURTH LEGISLATURE

OF THE

**S T A T E O F M A I N E ,**

**A. D. 1844.**

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

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*AUGUSTA:*

W<sup>M</sup> R. SMITH & Co., PRINTERS TO THE STATE.

1844.

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PUBLIC LAWS

OF THE

STATE OF MAINE,

1844.

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of Lincoln, on the fourth Tuesday of February; at Topsbam, the fourth Tuesday of June; and the fourth Tuesday of October, at Warren. At Augusta, for the county of Kennebec, on the first Tuesday of April, the first Tuesday of August and the first Tuesday of December. At Norridgewock, for the county of Somerset, on the third Tuesday of March, the third Tuesday of July and the third Tuesday of November. At Ellsworth, for the county of Hancock, on the second Tuesday of April and the fourth Tuesday of October. At Machias, for the county of Washington, on the last Tuesday of February and the third Tuesday of September. At Paris, for the county of Oxford, on Monday preceding the second Tuesday of June, and on Monday preceding the first Tuesday of November. At Bangor, for the county of Penobscot, on the first Tuesday of January, the first Tuesday of October and the fourth Tuesday of May. At Belfast, for the county of Waldo, on the second Tuesday of February and the fourth Tuesday of August. At Farmington, for the county of Franklin, on the last Mondays of March and September. At Dover, for the county of Piscataquis, on the first Tuesday of May and the second Tuesday of November. At Houlton, for the county of Aroostook, on the second Tuesday of February and the first Tuesday of September.

All matters cognizable before said court, to be acted upon at the terms before specified.

SECT. 8. All matters and things which may be pending in, or returnable to said courts, shall be returned to, have day in, and be acted upon at the terms of said courts to be holden in pursuance of this act.

In force April 1, 1844.

SECT. 9. This act shall take effect and be in force on the first day of April next, and all acts and parts of acts contrary to the provisions of this act are hereby repealed.

[Approved March 22, 1844.]

### Chapter 126.

AN ACT for the preservation of salmon, shad and alewives, in Georges' river and tributary streams.

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

Fish wardens to be chosen.

SECT. 1. The towns of Thomaston, St. George and Cushing, shall, at their meeting for the choice of town officers in the months of March or April, annually, choose in each town by written ballot one person, and the town of Warren, shall in the same manner, choose two persons, to be called fish wardens; and in case of

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vacancy by death, resignation or neglect of the town to choose such fish wardens, then the selectmen of said town shall forthwith appoint such person to be fish warden ; and each person so chosen or appointed, shall be sworn faithfully to discharge the duties required of him by this act.

Vacancies, how filled.

Warden to be sworn.

SECT. 2. It shall be the duty of said board of fish wardens, to maintain a general supervision over the fisheries of salmon, shad and alewives, in the waters of Georges' river and streams emptying into the same.

Duties.

SECT. 3. The said fish wardens shall hold an annual meeting at Warren, on the fourth Monday of April, with power to adjourn to such places and times as they may think expedient. And three of said board shall constitute a quorum for the transaction of business. If any ten responsible persons, citizens of either of the towns of Warren, Thomaston, St. George or Cushing, shall, at any time, see cause to petition the fish wardens in relation to any matter of which they have jurisdiction by the provisions of this act, it shall be their duty to attend forthwith to the prayer of such petition, and hear the parties ; and if, in their opinion, such petition was for sufficient cause or for any violation of this act, the person so violating or causing such meeting, shall pay the expense of the same, otherwise, the expense shall be paid by the petitioners.

Times of meeting.

Quorum.

Duty to attend to petitions, &c.

Expenses, &c.

SECT. 4. The said board of fish wardens shall, from time to time, examine all dams and obstructions in said George's river and the streams emptying into the same, in which salmon, shad or alewives abound, and after notice in writing to one or more of the parties interested, and a hearing thereon, shall decide what would be a suitable fishway by or through such dams or obstructions ; and in deciding thereon, the said fish wardens shall consult, as far as practicable, the convenience and also the safety of the structures by or through which such fish way shall pass ; and said fish wardens shall define and prescribe such fish way as they may judge suitable and sufficient, not exceeding one foot in width, in fifteen of the length of the dam, running directly across any stream or river, and give written notice thereof to some owner or occupant of said dam, and in said notice to require the fish way to be made according to the description, at any time between the fifteenth day of July, and the first day of May, in the following year, so that the same shall be kept open from the first day of May, to the fifteenth day of July, of each year, for the passage of fish. And if such fish way shall not be made and opened to the satisfaction of said board of fish wardens, during the time specified in this section, then the said board are hereby authorized and empowered to cause the natural

Wardens' duty to examine dams and obstructions.

After due notice, to decide upon suitable fish ways.

Duty of wardens in such decisions and defining passage ways.

To give written notice requiring suitable fish ways to be made.

If owner or owners of such dam, &c. refuse compliance, further duty of wardens.

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course of the stream through which the said fish pass, to be kept open and without obstruction; to remove such as may be found therein, and shall have authority to go on the land or meadow of any person through which such streams run, without being considered trespassers; and shall open or cause to be opened, any sluiceway through any dam now erected, or that may hereafter be erected, on or over any of said rivers or streams, between the ponds where the fish usually cast their spawn, and the sea, at the expense of the owner or owners of such dam or sluice: provided, such owner or owners shall neglect or refuse to open the same when required by said fish wardens. And the dam or sluice so opened, shall continue open in every year, to such depth and width, and for such term of time, between the first day of May and the fifteenth day of July, as said fish wardens shall deem necessary. And the said fish wardens shall define and describe, in writing, the distance from said fish way at which fish shall be taken, and cause the same to be entered upon the records of the town in which said fishway is situated. And if any person shall take any of the fish aforesaid in any such fish way, or within the distance prescribed by said fish wardens, or shall, by placing any impediments in or near such fish way, or by any other means, hinder or obstruct the passage up, through or over such fish way or sluice, between the first day of May and the fifteenth day of July, in each year, the person so offending shall forfeit and pay a penalty of twenty dollars for each and every offence.

**SECT. 5.** Said board of fish wardens shall appoint deputy fish wardens, in such places as they may deem proper, not exceeding seven in all, who shall be sworn to the faithful discharge of the trust, and shall forward a certificate of said oath to the fish warden of his town, within ten days from the time of being notified of his appointment. All deputies shall be removable at the pleasure of the fish wardens; and it shall be the duty of said fish wardens, without delay, to fill all vacancies in the office of deputy wardens occasioned by death, resignation or otherwise.

**SECT. 6.** It shall be the duty of all fish wardens and deputy fish wardens, by all lawful means, to prevent the taking or destroying any of the fish aforesaid, in any of the waters, in violation of law, and also to institute prosecutions for all such offences against this act as shall come to their knowledge, and prosecute the same to final judgment. And in such prosecutions any fish warden or deputy fish warden is hereby made a competent witness, and shall be allowed for travel and attendance as such, although he may be a prosecutor in the suit. And any fish warden or deputy fish

**Powers.**

**Proviso.**

**Time sluice shall remain open.**

**Wardens to define where fish shall be taken.**

**Penalty for non-compliance, hindrance, &c. from May 1 to July 15, in each year.**

**Shall appoint deputies, who shall be sworn.**

**Removable at pleasure.**

**Vacancies to be filled.**

**Duty of wardens and their deputies.**

**To be witnesses in prosecutions. Their powers.**

warden shall have right and authority to visit any dam, weir, boat, net, trap or other machine erected or placed for the purpose of taking or destroying any of said fish, at any time or place where or when the taking or destruction of said fish is prohibited by law. And the power of each fish warden and deputy warden shall and is made to extend equally to every portion of the waters before described, in any town into which said waters extend.

SECT. 7. Between the first day of April and the fifteenth day of July, in each year, no person shall take or destroy, in any of said waters, any of the fish aforesaid, either by means of weirs, nets or any other implement, apparatus or machinery whatever, except between sunrise of Monday and sunrise on Saturday of any week. And any person committing any offence against this provision, or aiding or abetting the same, shall forfeit and pay for every such offence, the sum of ten dollars.

Limitations for taking fish.

SECT. 8. Every weir shall be provided with a gate or passage way at least three feet wide, and extending from the bottom or floor thereof to high water line, which gate or door shall be in the pound or apartment wherein said fish are secured and taken. And the said gate shall be left open without impediment to the passage of said fish, from sunrise on Saturday of each week, to sunrise on the succeeding Monday, between the first day of April and the fifteenth day of July, in each year; and any weir that shall be made without such gate or door, or if any such gate or door shall not be kept open as herein required, the owner or occupant of such weir shall forfeit for each offence, ten dollars.

Every weir to be provided with gate, &c.

When to be kept open.

Forfeiture for non-compliance.

SECT. 9. All weirs shall be stripped, so as to admit the free passage of alewives and other smaller fish through the same, on or before the fifteenth day of July in each year. And the owner or owners of any weir who shall neglect to strip the same, shall forfeit five dollars for every day until the same is stripped as aforesaid.

When weirs shall be stripped.

Forfeiture if neglected.

SECT. 10. Any fish warden or deputy fish warden, who shall be forcibly resisted in the discharge of any duty, prescribed by this act, is hereby authorized to require of any person or persons the assistance which may be requisite for his protection to enable him to discharge the duties aforesaid. And if any person, who shall be by him called upon for that purpose, shall unreasonably refuse or neglect to render the required assistance, he shall be liable to forfeit and pay the sum of ten dollars.

Powers of wardens or deputies if resisted in performance of duty.

SECT. 11. No person shall take or destroy any of the fish aforesaid, in any of said waters, between the fifteenth day of July

Prohibition against taking fish at certain seasons.

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**Forfeiture.** in one year, and the first day of April in the succeeding year. and each and every person violating this provision, shall forfeit and pay the sum of twenty dollars for each offence. Any of the fish aforesaid may be taken by the town of Warren on Mondays, Tuesdays, Thursdays and Fridays, of each week, and said town, in so taking fish, shall be subject to all the provisions of an act entitled "an act to regulate the shad and alewife fisheries in the town of Warren," passed March sixth, eighteen hundred and two, which are not inconsistent with the provisions of this act.

**Provisions respecting fisheries in town of Warren.**

**Forfeitures, how recoverable.** **SECT. 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 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 mittimus, 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.

**Powers of justice to impose penalties, on conviction.**

**Remedy if person convicted refuse to pay.**

**Complaints, how made.**

**Appropriation of penalties.**  
**Pay of wardens.**

**Proviso.**

**Pay of deputies.**

**Proviso.**

**Certain privileges exempted.**

**SECT. 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 employed in any of the duties devolving upon him by virtue of said office, to be paid from the treasury of the town in which he resides. Provided, however, that said fish warden shall first make oath to the truth and correctness of his account, which shall then be presented to the selectmen for allowance. And each deputy warden, for his services, shall be allowed one dollar, for each and every day by him actually employed in any of the duties devolving upon him in virtue of said office, to be paid by the town in which he resides. Provided, that said deputy warden shall first make oath to the truth of his account, which shall be presented to the selectmen or assessors for allowance.

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



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

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Inconsistent provisions repealed.

[Approved March 22, 1844.]

### Chapter 127.

AN ACT additional to an act for the preservation of salmon, shad and alewives, in the Penobscot river and bay, and their tributary streams.

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

Sections five and six of an act, entitled "an act for the preservation of salmon, shad and alewives, in Penobscot river and bay, and their tributary streams," approved March twenty-third, one thousand eight hundred and forty-three, so far as the same relate to the appointment and duties of deputy wardens, are hereby repealed.

Act of March 23, 1843, in part repealed.

[Approved March 22, 1844.]

### Chapter 128.

AN ACT establishing town courts.

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

SECT. 1. There shall be established, in every city, town and plantation in this state, a court or courts of trial, as hereafter provided, each court to consist of one justice of trials, who shall be appointed and commissioned by the governor, with the advice and consent of the council, and shall hold his office for the term of seven years, according to the provisions of the constitution. Said justice shall have all the powers of a justice of the peace, and original jurisdiction of all suits of a civil nature, where the debt or other matter in demand, does not exceed twenty dollars, concurrent jurisdiction with the district courts in suits from twenty to one hundred dollars, excepting those actions where the title of real estate is put in issue by the pleadings filed in the case, by either party, or where a town is a party in the action. And each justice shall keep full and fair records of his proceedings, and deliver fair copies thereof, when required : which, being duly certified, shall be evidence of as high character as the records of other courts now are by law ; provided, however, that none of the provisions of this act

Courts of trial established.

To consist of one justice, how appointed.

Tenure of office.

Powers of justice.

Records and copies.

Same to be evidence.

Proviso.