

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

PASSED BY THE

## THIRTY-NINTH LEGISLATURE

OF THE

## STATE OF MAINE.

1860.

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Published by the Secretary of State, agreeably to Resolves of June 23, 1820, February 26,  
1840, and March 16, 1842.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1860.

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**CHAP. 184.**Timber held for  
payment.Advance  
payment.Surveyors,  
appointment,  
oath and duty  
of.

ties for the payment of the stumpage, and for the performance of all the conditions of the permit or contract.

SECT. 5. All timber cut under permits, as aforesaid, shall be and remain the property of the state until the stumpage is paid in full.

SECT. 6. On each team to be employed under permits, as aforesaid, there shall be paid in advance, to the land agent, fifty dollars, which money shall be the property of the state, provided, the privileges granted under such permits, shall not be improved; otherwise the amount so paid shall be allowed in payment of the stumpage on final settlement.

SECT. 7. The surveyors or scalers shall be appointed by the land agent, and shall be sworn to the faithful discharge of their duty; they shall scale all timber cut under permits granted, as aforesaid, superintend the cutting of the same, and make return to the land agent of the number and quality of the logs cut, whether hauled or not, and the number of feet board measure, and shall see that the timber be cut clean, and without strip or waste.

[Approved March 19, 1860.]

### Chapter 184.

An act additional to "an act to regulate the fisheries on the Kennebec river" approved April four, eighteen hundred fifty-nine.

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

Wardens to  
examine dams.—may pre-  
scribe fishways,  
after notice and  
hearing.Fishway,  
description of.—how to be  
made and kept  
open.—penalty for  
neglect to  
make, as  
ordered.

SECT. 1. Said wardens under the act to which this is additional shall from time to time examine all dams or structures in the Kennebec river and its tributaries in which salmon, shad and 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 or passage through, over or by such dam or structure, consulting as far as practicable the convenience and safety thereof, prescribe such fishway or passage as they shall judge suitable and sufficient, not exceeding one foot in width to fifteen of the width of the river or stream at the place of the dam or structure, and give written notice thereof to some owner or occupant requiring the fishway to be made, according to said description without delay or within a specified time; so that the same shall be kept open from the first day of May to the fifteenth of July of each year for the passage of fish.

SECT. 2. If any fishway or passage directed to be made by said wardens is not made satisfactory to said board by the time specified in the order of notice given by said board to said owners or

occupants of said dams or structures, they shall forfeit ten dollars for each day between the first day of May and the fifteenth day of July in said year during which said neglect continues.

SECT. 3. Said board shall define in writing the extent of such fishway and the distance therefrom at which fish shall be taken and cause the same to be entered upon the records of the town where it is situated. And if any person takes any salmon, shad or alewives within the limits aforesaid or by any means obstructs the passage up said way between the first day of May and the fifteenth day of July in each year, he shall forfeit twenty dollars for each offence.

—extent of, to be defined in writing, and recorded.

Penalty for taking and obstructing fish.

SECT. 4. No person shall take or destroy any salmon, shad or alewives in the waters of the Kennebec river or its tributaries with any weirs or seines between the hours of sunrise on Saturday morning and sunset on Sunday in each week between the first day of May and the fifteenth day of July in each year under a penalty of ten dollars for each salmon, one dollar for each shad, and five cents for each alewife.

Fish not to be taken with weirs or seines except on certain days, penalty.

SECT. 5. All weirs or pounds placed in said waters for the purpose of taking said fish, shall have a gate or passage way not less than two and one-half feet wide, and extending from the bottom of the weir up at least four feet, and shall be placed directly opposite the entrance thereof, and be kept open during the hours named in the preceding section, and the owner or occupant of said weir or pound not so made and kept open, shall forfeit twenty dollars for each and every offence.

Weirs and pounds to have passage.

—may be kept open, penalty.

SECT. 6. Said wardens shall endeavor to prevent the unlawful taking or destruction of fish, prosecute for all offences that come to their knowledge, be entitled to their pay as witnesses in said cases although they are complainants, and have a right at all times to visit any dam, weir or other apparatus for taking such fish contrary to law, and when they are resisted in the discharge of any duties, they may require the aid of as many persons as they deem necessary, and any person neglecting or refusing to render aid when thus required shall forfeit ten dollars.

Wardens, their duties, rights, and powers.

SECT. 7. All penalties aforesaid not exceeding twenty dollars, shall be recovered by complaint before any justice of the peace, and all exceeding that sum shall be recovered by indictment to the use of the county where the offence is committed.

Penalties.

—how to be recovered.

SECT. 8. Said wardens shall receive two dollars per day for each day they are occupied in their official duties, and their accounts shall be made under oath and presented to the county commissioners, and by them allowed and paid by the county treasurer.

Compensation of wardens.

SECT. 9. All acts and parts of acts inconsistent with this act are hereby repealed.

Acts repealed.

CHAP. 185. SECT. 10. This act shall take effect from and after its approval by the governor.

[Approved March 20, 1860.]

### Chapter 185.

An act additional to chapter one hundred and thirteen of the revised statutes.

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

Debtor twice refused discharge, must apply to judge of S. J. court.

Judge may appoint commissioner.

Commissioner to notify creditor.

—proceedings of.

—may administer oath and grant discharge.

Provisions of chap. 113, R. S. applicable.

Judge to fix compensation of commissioner.

Depositions may be used as evidence.

SECT. 1. Any debtor who, under the provisions of said chapter, shall have twice been refused his discharge from an arrest or imprisonment, shall not be entitled to his discharge from such arrest or imprisonment on any future examination, excepting upon application to a judge of the supreme judicial court, who, either in vacation or term time may, after notice to the creditor or his attorney and a hearing of the parties, if he thinks proper, appoint a commissioner to take the examination and disclosure of such debtor. Such commissioner shall give seven days previous notice to the creditor or his attorney, of the time and place appointed by him for such hearing, and in taking such disclosure and in all other proceedings in regard thereto, and the evidence to be received by him, shall be governed by the laws in force at the time regulating the disclosures of poor debtors; if satisfied of the truth of such disclosure, and that there is nothing inconsistent with the debtor's taking the oath provided in said chapter, the commissioner shall administer the same to him, and thereupon grant him a certificate of discharge under his hand and seal, which shall have the same effect as similar certificates granted under the provisions of said chapter by justices of the peace and quorum. The provisions of said act respecting property disclosed by said debtor, and all other provisions not inconsistent with the provisions of this act, shall be applicable, as far forth as is practicable to the proceedings before said commissioner. The judge, at the time of appointing said commissioner, shall fix the compensation for his services, which shall be paid by the debtor before commencing his disclosure.

SECT. 2. Depositions taken according to the provisions of law may be used as evidence at the hearing for the discharge of a debtor from his arrest or imprisonment, and the same depositions may be used in all subsequent hearings or proceedings for such debtor's discharge from such arrest or imprisonment, or any subsequent arrest or imprisonment upon the same cause of action.

[Approved March 20, 1860.]