

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE.

1878.

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1878.

PUBLIC LAWS
OF THE
STATE OF MAINE.
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according to section thirty-five, chapter eighteen of the CHAP. 65. revised statutes. If no appeal is made, the case is to be continued to the next regular term after the regular term to which the return is made.

Approved February 21, 1878.

Chapter 65.

An act in relation to the duties of County Attorneys and additional to chapter seventy-nine of the Revised Statutes.

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

It shall be the duty of each county attorney to appear and act for the state with the attorney general, in the law court of his district, in all state cases coming into said court from his county ; but no additional compensation shall accrue to the county attorney by his increased duties as above.

County attorneys to act with attorney general in law court.

Approved February 21, 1878.

Chapter 66.

An act to regulate and protect the Shore Fisheries.

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

SECT. 1. The taking of mackerel, herring, porgies or menhaden, or fishing therefor by the use of purse and drag seines, is hereby prohibited in all of the small bays, inlets, harbors or rivers of this state, where any entrance to the same, or any part thereof from any land to land is not more than one mile in width, under a penalty upon the master or person in charge of such seine or seines, of not less than one hundred nor more than three hundred dollars, and there shall be a lien upon the vessels, steamers, boats and apparatus used in such unlawful pursuit until said penalty is paid ; but a net for meshing mackerel or porgies, of not more than one hundred meshes in depth, and a net for meshing herring, of not more than one hundred and seventy meshes in depth, shall not be deemed a seine.

Taking of certain fish with seines prohibited in certain waters.

—penalty.

CHAP. 66.

Penalties and forfeitures, how recovered.

SECT. 2. All penalties and forfeitures named in the preceding section may be recovered by indictment or action of debt; and one-fourth part of the penalty or forfeiture recovered or imposed shall be for the benefit of the complainant or party prosecuting, and the remaining three-fourths to the county in which the proceedings are commenced.

Officers required to execute law.

SECT. 3. All sheriffs, deputy sheriffs, constables and fish wardens, are hereby authorized and required to serve all warrants and precepts to them directed for the arrest and detention of all persons charged with violating any of the provisions of section one; also to seize all vessels, boats and apparatus used by the person or persons arrested for such illegal fishing, and to keep the same to abide the order of court thereon, subject to the exceptions hereinafter made.

—may require necessary aid.

All such officers shall have the same authority to require all necessary aid to execute such warrants and precepts, and to seize and keep such property as sheriffs now have in the service of criminal processes, and shall be allowed the same fees for said services as are now given by law to said officers, in addition to the emoluments hereinafter provided; and in all cases where an officer finds any person or persons violating section one, he is authorized to arrest such person or persons and seize such vessels, boats and apparatus without a warrant, and to safely keep such person or persons and property until he can procure a warrant. Said officer shall use due diligence in procuring such warrant, and making return of his doings thereon.

—fees.

Persons and property may be detained until warrant can be procured.

Property on board such vessels, how disposed of.

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

Proceedings where claimant desires to retain possession of property seized.

SECT. 5. At any time after such seizure, if the owner or claimant desires to retain possession of such vessels, boats, and other apparatus, he may notify such officer in writing of such fact, and request an appraisal of the same, whereupon

such officer shall immediately prepare a schedule of all property then detained by him, and cause three disinterested men, acquainted with the nature of the property detained, to be appointed, one to be selected by the owner or claimant, one by the officer making the seizure, and one by any trial justice or justice of the peace of the county where the property is detained; such justice to be notified to make such selection by the officer in charge.

SECT. 6. The appraisers shall be duly sworn by the officer, or some other proper person, and shall as soon as may be, appraise such property, to be shown them by such officer, and certify under their hands the cash value of the same, one copy of their appraisal to be by them given to the officer, and one copy to the owner or claimant. Said appraisers shall receive two dollars per day for said services, to be paid them by the officer, and to be by him charged with his fees on his warrant or precept; thereupon, at the request of such owner or claimant, the property shall be given up to him, provided said owner or claimant shall first deliver to said officer a bond in double the value of said appraisal, by him duly signed and sealed, with good and sufficient sureties, approved in writing on said bond by the clerk of the supreme judicial court for the county in which said appraisal is made, conditioned that said principal shall pay or cause to be paid to the treasurer of said county, or his successor in said office, the amount of said appraisal on demand of said treasurer or his successor, as soon as a judgment of said court decreeing a forfeiture of such property shall have been entered of record; said bond to be returned into court by the officer and placed on file by the clerk.

SECT. 7. On conviction of any person or persons of a violation of section one, the court before which such prosecution or indictment is had shall decree all property so seized by such officer to be forfeited, and shall order all such property, not enlarged by giving such bond, to be sold at public auction by the officer seizing the same, or by any sheriff or deputy sheriff within said county, subject to such conditions as to notice as the court may order; all sums realized from such sale, less the legal cost attending the seizure, forfeiture and sale of such property, shall be promptly paid to the treasurer of such county by such officer, to be by such

Appraisers to be sworn.

—pay for services.

Property shall be delivered on claimant giving bond for double value.

—conditions.

—where returned.

On conviction of person, property seized to be forfeited.

—to be sold at auction.

—proceeds, how appropriated.

CHAP. 66. treasurer appropriated and paid out, as is provided for herein.

Court may order property returned in certain cases.

SECT. 8. In cases where property has been seized where no prosecutions have been commenced, indictments found, or judgment for plaintiff rendered, or convictions on the indictments obtained, the court may at its discretion, order all property so seized to be returned by some officer to the owner or claimant on demand of such owner or claimant; and such order shall constitute a bar to any actions that have been or may be commenced against the officer for making such seizure or detaining such property; but in all cases where property has been seized, indictments found, or prosecutions commenced, and the party indicted or prosecuted is not in the custody or jurisdiction of the court, so that no conviction or judgment has been obtained, the court shall cause such notice as they deem proper to be given, notifying all persons interested to appear at a time and place designated in said notice, and show cause, if any they have, why a forfeiture of said property should not be decreed, and a sale of the same made as hereinbefore provided. At the time of such hearing the court may, on default, or otherwise, make a decree of forfeiture of said property, cause the same to be entered of record, and order a sale thereof, subject to the conditions hereinbefore made, or make such other decree as in its judgment justice demands relative to a return of the property, subject to the previous conditions as to an order of return.

Such order bar to action against officer.

Proceedings where party indicted is not in custody or jurisdiction of court.

Court may make decree of forfeiture of property and order sale.

On death of any officer having seized property in charge, any other officer in county may officiate.

SECT. 9. In case of the death of any officer making such seizure, or having such property in charge, any officer mentioned in this chapter, residing in the county where the property is detained, may take the possession of all property seized and detained, and do any other acts in the premises, the same as the original officer making said seizure.

Inconsistent acts repealed.

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

To take effect one year from approval.

SECT. 11. This act shall take effect one year from the date of its approval.

Approved February 21, 1878.