

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE

1903.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1903.

CHAP. 355**Chapter 355.**

An Act to protect Smelts during their spawning season in the tributaries of the Damariscotta River.

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

Close time for smelts in tributaries of Damariscotta river.

Section 1. It shall be unlawful to fish for smelts in the waters of any of the tributaries of the Damariscotta river, in the county of Lincoln, in any manner whatever, from the first day of April to the tenth day of May of each year, on any days excepting Monday and Thursday of each week, on either of which days any person may take or catch a quantity not exceeding fifteen pounds.

Penalty for violating provisions of section 1.

Section 2. The penalty for a violation of the provisions of section one of this act shall be a fine of not less than five nor more than twenty dollars, which shall, upon conviction, be paid one-half to the county of Lincoln and one-half to the person making the complaint; and in case of non-payment, the party convicted shall be confined in the county jail for a period not less than ten days nor more than sixty days.

Trial justices have jurisdiction under this act.

Section 3. Trial justices shall have jurisdiction in all cases coming under this act, and in case of an appeal from the decision of such a justice, the bond required shall in no case be less than three hundred dollars.

Section 4. This act shall take effect when approved.

Approved March 27, 1903.

Chapter 356.

An Act to amend Chapter four hundred and twenty-nine of the Private and Special Laws of nineteen hundred and one, entitled "An Act to establish a municipal court in the town of Winthrop."

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

Section 1, chapter 429, private and special laws of 1901, amended.

Section 1. Section one of chapter four hundred and twenty-nine of the private and special laws of nineteen hundred and one is hereby amended by adding, after the words "municipal court" in the fourth line, the words 'which shall be a court of record and have a seal,' and by adding after the word "quorum" in the eighth line the words 'for the state,' so that said section, as amended, shall read as follows:

Municipal court established.

'Section 1. A municipal court is hereby established in and for the towns of Winthrop, Monmouth, Wayne and Fayette, in the county of Kennebec, to be denominated as the Winthrop

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Municipal Court, which shall be a court of record and have a seal; said court shall consist of one judge, who shall reside during his continuance in said office, in said town of Winthrop or Monmouth and who shall be appointed, qualified and hold his office as provided in the constitution, and who shall be, ex-officio, a justice of the peace and of the quorum for the state, and have and exercise a concurrent authority and jurisdiction with trial justices over all matters and things by law within their jurisdiction and such authority and jurisdiction additional thereto as is conferred upon him by this act.'

—name of court.

—judge.

Section 2. Section two is hereby amended so as to read as follows:

Section 2, amended.

'Section 2. Said court shall have jurisdiction as follows: exclusive jurisdiction of all such criminal offenses and misdemeanors committed within said towns of Winthrop, Monmouth, Wayne and Fayette as are cognizable by trial justices and concurrent jurisdiction with trial justices in the county of Kennebec of all like offenses and misdemeanors, not herein placed within its exclusive jurisdiction, when committed in the towns of Readfield, Mount Vernon, Vienna, Rome, Belgrade and Manchester, in said county; exclusive original jurisdiction of all civil actions wherein the debt or damages demanded do not exceed twenty dollars, and both parties, or any plaintiff, and a person summoned as trustee, resides in either of said towns named in section one of this act, including prosecutions for penalties in which either of said towns are interested, and actions of forcible entry and detainer arising therein; and concurrent jurisdiction with trial justices in said county of all other civil actions and other proceedings cognizant by them, not within the exclusive jurisdiction of said court; provided that any action, civil or criminal, in which the judge may be interested or related to either of the parties by consanguinity or affinity within the sixth degree, according to the rules of the civil law, or within the degree of second cousin inclusive, but which otherwise would be within the exclusive jurisdiction of said court, may be brought in and disposed of by any other municipal or police court in said county in the same manner and with like effect as other actions therein; original jurisdiction concurrent with the superior court of the offenses committed in Winthrop, Monmouth, Wayne and Fayette, described in sections one, six, seven and nine of chapter one hundred and twenty of the revised statutes, when the alleged value of the property exceeds twenty dollars, but does not exceed fifty dollars; of the offenses described in section twenty-eight of chapter one hundred and eighteen of the revised statutes; of the offenses described in sections one and four of chapter one

Exclusive jurisdiction.

—exclusive original jurisdiction.

—proviso.

—original jurisdiction concurrent with superior court.

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-proviso.

hundred and twenty-six of the revised statutes, when the alleged value of the property fraudulently obtained, mortgaged or sold, or fraudulently removed or concealed, does not exceed fifty dollars, and on conviction may punish for either of said offenses by fine not exceeding one hundred dollars and by imprisonment in the county jail for not more than six months; and also of the offense described in section six of chapter one hundred and twenty-four of the revised statutes, and on conviction may punish therefor by fine not exceeding fifty dollars and by imprisonment in the county jail not more than thirty days; and also of the offenses described in section four of chapter one hundred and forty-one of the revised statutes, and on conviction may sentence therefor to imprisonment in the county jail not more than ninety days; and of the offenses described in sections seventeen and twenty-two of chapter one hundred and twenty-eight of the revised statutes, as amended, relating to tramps, and on conviction may punish therefor as therein provided; original jurisdiction concurrent with the superior court in said county of all civil actions in which the debt or damages demanded, exceed twenty dollars, but do not exceed three hundred dollars and the defendant or a person summoned as trustee resides within Kennebec county; provided, however, that any action wherein the debt or damage demanded exceeds twenty dollars, brought in said court, shall be removed by order of the judge, or in his absence, by order of the recorder, into the superior court, on motion of the defendant, filed at the return term, if he files therewith, at the same time, an affidavit that he believes he has a good defense to said action, in whole or in part, and in good faith intends to make such defense, and deposits with the judge or recorder the fee of the clerk of the court above for entering said action therein; and when such removal has been ordered, the judge shall file in the superior court, at its next term in the county, an attested copy of the writ in such action, and of said motion and affidavit, and order of court thereon, and pay to the clerk of said court the fee for entering the same, for which services he shall be entitled to the same fees allowed for the necessary copies in actions carried up by appeal, to be paid to him by the defendant and recovered by him with his costs, if he prevailed in the suit; in any action in which either of the towns named in section one of this chapter is a party, or is summoned as a trustee, this court shall not lose jurisdiction by reason of the residence or the ownership of property in such town by the judge or recorder; but in such case the action may, upon written motion of either party, filed at the return term, be removed to the superior court.'

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Section 3. Section five of said chapter is hereby amended by adding, after the word "judge" in the fifth line, the words 'or by the recorder and be of equal force and validity when signed by either,' so that said section, as amended, shall read as follows:

Section 5,
amended.

'Section 5. Writs in civil actions commenced in said court shall be in the usual forms, and all such writs and all other precepts and processes, civil or criminal, issued by said court, shall bear teste of the judge under seal of said court, and be signed by the judge, or by the recorder and be of equal force and validity when signed by either. All such writs shall be made returnable at one of the next four terms of said court held after seven days from their date, and service thereof may be made at any time not less than seven days before the return day thereof, except that when any defendant or trustee named in any such writ is a corporation, service upon such corporation must be made at least thirty days before the return day.'

Form of
writs.

—return of
writs.

—service of
writs.

Section 4. Section six of said chapter is hereby amended by striking out in the thirteenth and fourteenth lines the words "if said judge is prevented by any cause from attending at the time said court is to be held for civil business" and inserting in place thereof, the words 'if at any regular or adjourned term of said court to be held for civil business, neither the judge nor the recorder is present at the place used for holding said court within two hours after the time for opening said court, then' and also by striking out in the seventeenth line the word "he" and inserting in place thereof the words 'either the judge or recorder,' so that said section, as amended, shall read as follows:

Section 6,
amended.

'Section 6. Said court shall be held on the first and third Mondays of each month, for the entry, trial and determination of civil actions of all kinds that may lawfully be brought before it, and for the transaction of other civil business, and upon each other Monday for the entry, trial and determination of actions of forcible entry and detainer only, at ten of the clock in the forenoon, at such suitable place as the judge may determine, until the town of Winthrop shall provide a court room, when the court shall be held therein, and all civil processes shall be made returnable accordingly; and it may be adjourned from time to time by the judge, at his discretion, but it shall be considered in constant session for the cognizance of criminal actions. Provided that, if at any regular or adjourned term of said court to be held for civil business, neither the judge nor the recorder is present at the place used for holding said court within two hours after the time for opening said court, then it may be adjourned from day to day by a constable of Winthrop or a deputy sheriff of the county of Kennebec, without detriment to any action then return-

Terms of
court, when
held.

—proviso.

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able or pending, until the judge or recorder can attend, when said action may be entered or disposed of with the same effect as if it were the first day of the term; and it may be so adjourned without day when necessary, in which event, pending actions shall be considered as continued, and actions then returnable may be returned and entered at the next term with the same effect as if originally made returnable at said term.'

Section 7,
amended.

Section 5. Section seven of said chapter is hereby amended by adding, in the fifth line, after the words "said judge" the words 'or recorder,' by striking out in the fifth, sixth, seventh and eighth lines the following: "the judge may appoint, in writing, a recorder, who shall be a trial justice for the county of Kennebec, duly qualified, who shall be sworn by said judge," and inserting in place thereof the following words: "The governor, by and with the advice and consent of the council, may appoint a recorder of said court, who, at the time of his appointment shall be a resident of said Winthrop, duly qualified,' and also by adding in the seventeenth line after the words "the judge" the words 'without any recital of the act hereinbefore named authorizing him to act,' and also by striking out the twentieth line and inserting in place thereof the words 'for four years,' so that said section, as amended, shall read as follows:

Records of
court.

'Section 7. It shall be the duty of said judge of said court to make and keep the records thereof or cause the same to be made and kept, and to perform all other duties, required of similar tribunals in this state; and copies of said records duly certified by said judge or recorder, shall be legal evidence in all courts. The governor, by and with the advice and consent of the council, may appoint a recorder of said court, who, at the time of his appointment, shall be a resident of Winthrop, duly qualified, who shall keep the records of said court when requested so to do by the judge; and in case of absence from the court room, or sickness of the judge, or when the office of judge shall be vacant, the recorder shall have and exercise all the powers of the judge, and perform all the duties required of said judge by this act, and shall be empowered to sign and issue all processes and papers, and to do all acts as fully and with the same effect as the judge could do were he acting in the premises; and the signature of the recorder, as such, shall be sufficient evidence of his right to act instead of the judge without any recital of the act hereinbefore named authorizing him to act. When the office of judge is vacant, the recorder shall be entitled to the fees; in all other cases he shall be paid by the judge, and shall hold his said office for four years.'

—recorder,
appointment
of.

Section 14,
amen ded.

Section 6. Section fourteen of said chapter is hereby amended by adding after the word "use" in the fourth line, the words

'and it shall be deemed and denominated as the court room, though used also for other purposes, if approved by the judge,' so that said section, as amended, shall read as follows:

'Section 14. It shall be the duty of the town of Winthrop to provide a suitable court room in said Winthrop, conveniently situated and appropriately fitted up and furnished, in which to hold said court, and keep the same in proper condition for use, and it shall be deemed and denominated as the court room, though used also for other purposes, if approved by the judge, and also to provide for said court an appropriate seal, and all blanks, blank books, dockets, stationery and other things necessary in the transaction of its business; and said town is hereby authorized to appropriate money therefor.'

Court room, how provided, furnished and equipped.

Section 7. Section fifteen of said chapter is hereby amended by adding, after the word "quorum" in the fifth line, the words 'and except that they may issue warrants on complaints for criminal offenses committed in said towns to be returned before said municipal court,' so that said section, as amended shall read as follows:

Section 15, amended.

'Section 15. Trial justices are hereby restricted from exercising any jurisdiction in the towns of Winthrop, Monmouth, Wayne and Fayette, over any matter or thing, civil or criminal, except such as are within the jurisdiction of justices of the peace and quorum and except that they may issue warrants on complaints for criminal offenses committed in said towns to be returned before said municipal court; provided, that such restrictions shall be suspended until the judge of said court shall enter upon the duties of his office. Nothing in this act shall be construed to interfere with actions which have been brought and are pending before trial justices in the towns of Winthrop, Monmouth, Wayne and Fayette at the time when the judge of said court shall enter upon the duties of his office, but all such actions shall be disposed of by such trial justices the same as if this act had not passed.'

Jurisdiction of trial justices restricted.

Section 8. All acts and parts of acts, inconsistent with this act, are hereby repealed.

Section 9. This act shall take effect when approved.