

1788. — Chapter 68.

[December Session, ch. 29.]

AN ACT TO PREVENT THE DESTRUCTION OF THE FISH CALLED SHAD AND ALEWIVES IN MYSTIC RIVER, SO CALLED WITHIN THE TOWNS OF CAMBRIDGE, CHARLESTON AND MEDFORD, & FOR REPEALING ALL LAWS HERETOFORE MADE FOR THAT PURPOSE.

Whereas the fishery in Mystic river, in the County of Middlesex, if properly regulated, will be of great public utility, as it serves to promote the Cod fishery, & is also of advantage to the particular towns thro' which the river runs, affording in some measure subsistence, & support to the Inhabitants thereof, & is therefore necessary to be preserved.

Preamble.

Be it enacted by the Senate & House of Representatives in General Court assembled and by the authority of the same, that the inhabitants of the towns of Cambridge, Charlestown and Medford respectively, at a town meeting to be held in the months of March or April annually, at the time of choosing other town officers in their respective towns, be, and they hereby are authorised & directed to choose for each of said towns, three suitable persons, in their respective towns, as a "Committee for the preservation of Fish," who shall be sworn to the faithful discharge of their duty; & the said Committee, or the major part of them, in their own town, shall have full power & authority, to cause the natural course of the said river, & the streams runing into it to be kept open and without obstruction, & to remove all such obstructions as may be found therein; & to make the passage way wider or deeper if they shall find it necessary. And the said committee or a major part of them, in their respective towns, shall have authority for such purposes, to go on the land of any person which may border on said river or streams, without being considered as guilty of a trespass, & to remove across such land any such obstructions, implements, or tools as may in any way impede, obstruct or hinder any fish from passing freely up & down said river or streams, otherwise than by this act is provided. And any person who shall hinder or obstruct said Committee or a majority of them, whether in crossing such lands, or in executing any part of the business by this act assigned them, shall forfeit & pay for every such offence, a sum not exceeding

Towns empowered to choose a Committee annually.

Their power and authority.

Three Pounds, nor less than *Twenty Shillings*, to be recovered in any Court proper to try the same.

No fish shall be caught, except as provided by this act, &c.

And be it further Enacted by the authority aforesaid, that no shad or Alewives shall be caught in any of the above mentioned towns, above *Medford Bridge*, in the said river or streams, or in *Mistic Pond*, or *Spy Pond*, whether with a seine, drag net, marsh net, basket, or any other implement of that kind, or made to answer such purpose, except as is hereafter in this act provided: And every person offending herein, shall upon due conviction, forfeit & pay the sum of *Three Pounds* for every such offence, & shall also forfeit the implements or tools used in committing the offence. And no person shall at any time, place any kind of obstruction in said river, streams or ponds, which may obstruct or hinder any shad or alewives from passing up or down the same. And no person shall be permitted, by disturbing the waters aforesaid, or by any other means, to restrain or interrupt any of those fish, in their passage up & down said river & streams. And every person offending in either of these particulars, shall upon conviction forfeit & pay the sum of *Three pounds* for every such offence; and every ware, net, or other obstruction, matter, or thing placed or used for such purpose, shall also be forfeited, if found in any of the waters aforesaid, & shall be disposed of by said committee or a majority of them, for the same purpose as the other forfeitures are to be applied to by this act, so far as the proceeds of the sale shall not be necessary for the particular appropriations in this act.

Penalty for offending.

Times set for inhabitants to fish.

Be it further Enacted by the authority aforesaid that in order to secure to said towns of *Cambridge*, *Charlestown*, and *Medford*, their equal benefit from said fishery, the Inhabitants of the town of *Cambridge*, shall within the limits of that town, have full right to catch with any kind of net, seine, or other fishing implement, any Shad or Alewives, on *monday*, *tuesday* & *friday* in every week, from the first day of *March* to the last day of *June* inclusively; and the inhabitants of *Charlestown* and *Medford* shall in like manner, in their respective towns, have full right to catch any shad or alewives, in the waters aforesaid, on *monday*, *wednesday* and *friday*, in every week included in said term.

Every inhabitant shall, in his own town, have the right of catching fish,

Be it further enacted by the authority aforesaid, that every person being an inhabitant of either of those towns, shall, each in his own town, in the river, streams & ponds

aforesaid, with any kind of fishing implement, on those days only which are with respect to each of said towns beforementioned, have the right of catching said fish, between sun rising on said days beforementioned, until sun rising on the next day; and no obstruction, instrument or tool, shall be set, placed, or used for the purpose of hindering or catching of the fish aforesaid, in the waters aforesaid, till the sun shall be risen on said days, nor shall any such instrument, be permitted to remain, or be used, in said river, streams or ponds, after the rising of the sun as afore mentioned; and no such obstruction shall be allowed to be placed, used, or to remain in said river, streams, or ponds, on any other days or times, than is herein limited and prescribed, under the same penalties & forfeitures, to be incurred by any & every person, placing or using the same, as are provided by this act, to be forfeited & paid by persons catching said fish, except as this act provides.

on the days mentioned.

Be it further enacted by the authority aforesaid, that if any inhabitant of any other town, shall at any time take or hinder shad or alewives, within the limits of either of said towns, without leave first obtained from the Selectmen of the town in which he shall take or hinder those fish, or unless the person taking or hindering them shall be immediately in the employ or service, & labouring for the benefit of some inhabitant of such town, every person so offending, shall upon a due conviction, forfeit & pay the same penalties & forfeitures as by this act are provided against persons taking, obstructing, or hindering said fish, at any other times than those particularly permitted.

Penalty if inhabitants of any other towns, take or hinder shad or alewives, without leave.

Be it further enacted by the authority aforesaid, that the said Committee or a majority of them in their respective towns, shall have full authority, to execute this act, so far as relates to seizing, removing, & selling any implements, or tools, used for hindering, taking, disturbing or turning back the fish in said river, streams or ponds, and in, and after, the execution of said trust, they shall not be considered, as guilty of a trespass therein, nor shall any action lie against them, or either of them, for any necessary damage done to the lands or fences, of any person in executing said trust, but if the proceeds of the sale of said implements or other materials shall be found insufficient to defray all the necessary charges, and the reasonable fees of the committee, not exceeding *four shillings* to each committee man, for each day so spent by him, and also all reasonable & necessary assistance, then the remainder of

Committee authorized to seize, remove, or sell any implements, used for hindering or taking fish, &c.

such damages & costs shall be recovered in an action of debt to be bro't by the persons to be benefited by the same; whether committee men, or persons owning the lands or fences damaged, with all the costs of suit against the person, committing the offence, in any Court proper to try the same, within the County of *Middlesex*. And the said committee, or any other person may sue for & recover upon due & legal conviction, in any Court proper to try the same, all penalties which shall arise or become due in their respective towns, for any breach of this act, either upon action of debt, or upon indictment, or information; one half of the penalty to accrue to the person recovering the same, the other half to be paid to the Treasurer of the town where the offence was committed, for the use of the poor of the same town.

Penalties, how recovered.

Be it further enacted by the authority aforesaid, that all fines & penalties, that may be incurred for a breach of this act, not exceeding *Four Pounds*, may be sued for & recovered, before any Justice of the Peace, for the County of *Middlesex*, saving the right of appeal to any person aggrieved, by the sentence of said Justice, to the Court of General Sessions of the Peace, next to be holden for said County.

Limitation.

This act to be in force for the space of five years from the first day of *March* next, and no longer.

*February 16, 1789.**

1788. — Chapter 69.

[December Session, ch. 21.]

AN ACT FOR SETTING OFF *BENJAMIN HODGES* FROM THE TOWN OF *STOUGHTON* & ANNEXING HIM TO THE TOWN OF *SHARON*.

Be it enacted by the Senate & House of Representatives in General Court assembled, & by the authority of the same, that *Benjamin Hodges* with his family & estate lying in *Stoughton* adjoining to *Sharon* line, be, & are hereby set off from the town of *Stoughton* & annexed to & incorporated with the town of *Sharon*.

Proviso.

Provided nevertheless, that he the said *Hodges* pay to the town of *Stoughton* his proportion of the debts that the

* Approved February 16, 1789.