

SEC. 5TH. *And be it further enacted,* That it shall be the duty of the said Agents, or any other person chosen by the said towns of Middleborough and Rochester respectively, to sue for the recovery of any forfeiture incurred by the breach of the regulations provided in this Act, and also of such further regulations as may from time to time be provided and established by said Agents; and all fines and forfeitures recovered for any breaches aforesaid, except such as are mentioned in the third Section of this Act, shall, together with the net proceeds of said fishing, be equally divided between said towns; and the Treasurers of the towns aforesaid respectively, may in behalf of their respective towns, recover in an action on the case of any person or persons, corporation or corporations withholding the same, one moiety thereof, in any Court proper to try the same.

Agents to sue for fines.

Appropriation of fines, &c.

SEC. 6TH. *And be it further enacted,* That the purchasers of the privilege of taking said fish as aforesaid, shall in all respects conform themselves to such regulations and conditions as said Agents shall publish in their conditions of sale as aforesaid, and in failure thereof, shall forfeit and pay for each offence a fine not exceeding one hundred, nor less than ten Dollars.

Purchasers to conform to regulations.

SEC. 7TH. *And be it further enacted,* That either of the Agents for the said towns of Middleborough & Rochester, may be admitted as competent Witness, in any prosecution for the breach of any regulations as aforesaid, and said Agents, previous to entering upon the execution of their office, shall be sworn to the faithful discharge of their duty, as other town officers are sworn.

Agents admissible as witnesses.

Approved March 6, 1802.

1801. — Chapter 66.

[January Session, ch. 42.]

AN ACT TO REGULATE THE SHAD AND ALEWIFE FISHERY IN THE TOWN OF WARREN, IN THE COUNTY OF LINCOLN.

SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall and may be lawful for the town of Warren, in the County of Lincoln, annually, at any legal meeting of the inhabitants of said town, to sell, or otherwise dispose of the privilege of taking the fish called shad and alewives in any river, or place within

Privilege of fishing to be disposed of.

the limits of said town, not exceeding three days in each week, under such regulations as the said town shall direct ; and the emolument arising from said privilege shall be appropriated, by said town, to such purposes and uses as the inhabitants thereof shall, in town meetings, from time to time, determine.

Penalty for illegally taking the fish.

SEC. 2. *And be it further enacted*, that, if the purchaser, or purchasers, manager or managers of the said privilege, or those employed by them, shall presume to take any of the said fish at any other time or place in said town than shall be determined by said town, and if any other person whatever shall presume to take or catch any of said fish in any river or stream within the boundaries of said town without permission from the inhabitants thereof in legal town-meeting, he or they, so offending, shall, for each offence, forfeit and pay a sum not exceeding thirteen dollars nor less than one dollar, at the discretion of the Justice before whom the offence shall be tried.

Penalty for refusal to sell the alewives.

SEC. 3. *And be it further enacted*, That if the purchaser, or purchasers, manager or managers of said privilege shall, when in his, or their power, refuse to supply any person, or persons, inhabitant or inhabitants of any town lying on St. Georges River with any quantity of alewives, when green, not exceeding five hundred to any one person, who may apply therefor, at such rates, as shall be determined by said town, not exceeding twenty cents for an hundred, he or they, so offending, shall, for each offence, forfeit and pay the sum of one dollar, and if any person or persons shall ask, demand or receive, more than twenty cents for an hundred of alewives, and in that proportion for a less number at the landing where said fish are taken, he or they shall forfeit and pay the sum of one dollar.

Price regulated.

SEC. 4. *And be it further enacted*, that the said town of Warren shall, at their annual meeting in March or April, choose a Committee, not exceeding seven, nor less than three freeholders of said town, who shall be sworn or affirm to the faithful discharge of the duties enjoined upon them by this act, and it shall be the duty of the said committee to cause the natural course of the rivers, or streams, thro' which the said fish shall pass, to be kept open and without obstruction, during the whole time the said fish pass up, and down said rivers, or streams in each year ; and to remove any such obstruction as shall be found

A fish-committee to be chosen ; and their duty prescribed.

therein ; and the said committee or a majority of them, in the discharge of their duty, and also, those, who are lawfully employed in catching the said fish, or in buying the same, shall be permitted at all times to go upon, and pass over the lands of any person, thro' or by which said rivers, or streams run, without being considered as trespassers ; and any person, who shall hinder or molest the said Committee in the buisness of his or their office, or shall obstruct any passage way in any of the said Rivers or Streams ; otherwise than may be permitted by said Committee, or a majority of them, he or they, so offending, shall forfeit and pay, for every such offence, a sum not exceeding thirteen dollars, nor less than one dollar, at the discretion of the Justice, before whom the same shall be tried: *Provided nevertheless*, That nothing in this act shall be considered as authorizing the said committee to injure the proprietor of any mill, or water works, further than is necessary to give the said fish a good and sufficient passage up and down the rivers, and streams aforesaid.

Committee are not unnecessarily to injure mills, &c.

SECT. 5. *Provided also, and be it further enacted*, That whereas a passage way for the said fish has been made around certain mills situated at the great falls in St. Georges River, so called, in said town, and it is necessary to ascertain whether the same is sufficient for the passage of said fish, before the time for holding the next court of General Sessions of the peace in the County of Lincoln, David Fales, John McKellar, and Moses Copeland, Esquires, be, and they are hereby appointed a Committee to repair, in the ensuing Spring, at the request, and expence of the proprietors of the said mills, to the place where said passage-way is, before the usual time for the running of said fish, and to ascertain, and determine, whether the same is sufficient for the passage of said fish ; and if it shall be considered sufficient by the said Committee, and shall be kept, by the proprietor of said Mills, during the Spring, and Summer next ensuing, in the same state as when viewed by the said Committee ; it shall be considered as sufficient for the passage of said fish, for the present year ; and it shall be lawful for any owner, or occupant of any mill, or dam already built, or hereafter to be built upon St. Georges River, or any stream communicating there with, within the limits of said town, who is or may be obliged to open any passage for said fish, to apply to the Court of General Sessions of the Peace, next to be holden in, and

Application may be made to the Court of Sessions for a committee to inspect any passage way.

for said County; and the Justices of the said Court on such application, are hereby authorized and directed to appoint a Committee of three discreet, and disinterested freeholders of said County, under oath, to repair to the dam, or place where such passage is, or is proposed to be opened, and carefully to view and examine the same, and in the best manner, they are able, inform themselves, of the proper place for the passage of the said fish up, and down the said river & stream, of what dimensions the same shall be; and what part of each year and how long the same shall be kept open; and the said Committee shall return the same under their hands or the hands of the majority of them, to the said Court, as soon as may be, which return, so made, if accepted, by said Court, shall be deemed, and adjudged the lawfull rule of proceeding in making, and keeping open the passage or passages for said fish in passing up and down the said river or streams for the future.

Inspecting committee to report.

Fish committee to prosecute for fines.

SEC. 6. *And be it further enacted*, That it shall be the duty of the fish committee appointed by said town, to prosecute for all breaches of this act, and for any one of them to seize, and detain in their custody, any net, which may be found in the hands of any person using the same contrary to the true intent and meaning of this act, until the person so offending makes satisfaction for his offence, or is legally acquitted therefrom; and also to sieze to the use of said town, all such fish as they shall suspect to have been taken contrary to the provisions of this act, unless the person in possession thereof can give satisfactory evidence to said committee, that said fish were lawfully taken.

Recovery and appropriation of fines.

SEC. 7. *And be it further enacted*, that all the penalties incurred by any breach of this act, shall be recovered by an action on the case, or by an action of debt, before any Justice of the Peace within and for the County of Lincoln, allowing an appeal to the next Court of Common Pleas to be holden in, and for said County, and all sums of Money recovered in consequence of any breach of this act, shall be to the use of said town, and no person by reason of his being one of said Committee, or an inhabitant of said town, shall be, thereby, disqualified from being a witness in any prosecution, or suit for the breach of this act.

Approved March 6, 1802.