

## 1802. — Chapter 54.

[January Session, ch. 16.]

AN ACT TO REGULATE THE TAKING OF ALEWIVES, IN THE SEVERAL STREAMS LEADING FROM IPSWICH RIVER TO PRICHARD'S POND, IN TOPSFIELD.

SECT. 1. *Be it enacted by the Senate & House of Representatives, in General Court assembled, and by the authority of the same,* That it shall & may be lawful for the town of Topsfield, annually, at any legal meeting of the Inhabitants of the said town, to sell, or otherwise dispose of the privilege of taking Alewives in the several streams leading from Ipswich River to Prichards Pond in said Topsfield, at such times, not exceeding three days, in a week, and at such places, and under such regulations, as the said town shall direct; and the emolument arising from said privilege shall be appropriated by the said town, to such purposes and uses as the Inhabitants thereof, shall, in town meeting, from time to time, determine.

Privilege of the fishery may be disposed of.

Penalty for taking fish at improper times and places.

SECT. 2. *And be it further enacted,* That if the Purchaser or purchasers, manager or managers, or those employed by them, shall presume to take any of the said Fish, at any other time, or place, in the said town, than shall be by said town determined; and if any other person or persons whatever, except the purchaser or purchasers, manager or managers of the said privileges, or those employed by them, in either of the streams aforesaid, shall take any Alewives, said person or persons, 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 same shall be tried.

Fish committee to be chosen.

SECT. 3. *And be it further Enacted,* That the said town of Topsfield shall, at their annual meeting in March or April, choose, by ballot, 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 remove, or cause to be removed, all obstructions & impediments, out of the natural course of said streams or other passageways, as they, or the major part of them, shall judge obstruct & impede

Their duty.

the passage of said Fish, during the time of their passing up and down in each year; And the said Committee, or the major part of them, are empowered to open the natural course of the said streams, by making them wider and deeper, as well as other passageways which they may judge necessary for the passage of the said Fish. And the said Committee, or any two of them, paying a reasonable compensation therefor, if demanded, shall have authority, in discharging the duty enjoined upon them by this act, to go on the lands and meadows of any person, through which said streams run, or into any building, Mill, or other water-works, on said stream, without being considered as trespassers; and any person who shall molest or hinder said Committee, or either of them, in the execution of the business of his or their Office, or shall obstruct any of the aforesaid streams or passageways, otherwise than may be allowed by the said Committee, or the major part of them, he or they, so offending, shall forfeit & pay, for every such offence, a sum not exceeding ten 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 other water works, further than is necessary, in order to give the said Fish, a good & sufficient passage-way up the said stream.

Penalty for molesting any of the committee.

SECT. 4. *And be it further Enacted*, That if the purchaser or purchasers, manager or managers of the said privilege, shall, when in his or their power, neglect or refuse to supply any person or persons with said Fish, when Green, in any quantity, not exceeding one hundred to any one person, who may apply therefor, at such rates as shall be determined by the said town, not exceeding twenty-five Cents for one hundred of said fish, he or they, so offending, shall forfeit & pay the sum of one Dollar; and if any person or persons shall ask, demand, and receive, more than twenty-five Cents, for one hundred of said fish, and in that proportion for a less number, at the place of taking said fish, he or they, so offending, shall, for each offence, forfeit & pay the sum of one Dollar.

Price of the fish to be established.

SECT. 5. *And be it further enacted*, That it shall be the duty of the said Committee to prosecute all breaches of this Act, and for any two of them to seize & detain in their Custody, any net which may be found in the hands

The committee to prosecute for breaches of this act.

of any person using the same, contrary to the true intent & meaning of this act, untill the person so offending makes satisfaction for his offence, or is legally acquitted therefrom; and also to seize, to the use of the said town, all such fish as they shall suspect to have been taken contrary to the provisions of this Act, unless the person or persons in possession thereof can give satisfactory evidence to such Committee, that said fish were lawfully taken.

Recovery and appropriation of fines.

SECT. 6. *And be it further enacted*, That all penalties incurred by any breach of this act, shall be recovered by an action on the case, before any Justice of the Peace, within and for the County of Essex, allowing an appeal to the Court of Common Pleas for the same County. And all sums of money recovered as forfeited by this act, shall be for the support of the poor of the said town; and no person, by reason of his being one of the said Committee, or an Inhabitant of the said Town, shall thereby be disqualified, from being a witness in any prosecution for a breach of this Act.

Closing fish-ways.

SECT. 7. *And be it further enacted*, That the Fish Committee, or the major part of them, are hereby authorised to give liberty to any owner of any grist-mill, standing on either of the aforesaid streams, to close the fish ways, or either of them, after the first day of June annually, if they, or the major part of them, shall judge said fish have done passing up.

Repeal of former laws.

SECT. 8. *And be it further Enacted*, That all Laws heretofore made relative to taking Alewives in the aforesaid Streams in said Topsfield, and relating to closing the fish ways after the first day of June annually, are hereby repealed.

*Approved February 9, 1803.*

## 1802. — Chapter 55.

[January Session, ch. 17.]

AN ACT TO AUTHORIZE THE RAISING A FUND FOR THE SUPPORT OF THE MINISTRY, AND A GRAMMAR SCHOOL IN THE TOWN OF TURNER IN THE COUNTY OF CUMBERLAND.

SECT. 1ST. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, that Ichabod Bonney esqr., William Bradford, Benjamin Evans, John Turner esqr. Daniel Carey, Luther Carey and John Loring be, & hereby are

Names of trustees.