

REPORT

Of the Viewing Committee.

To the Senate and House of Representatives of the Commonwealth of Massachusetts, in General Court assembled, at their January Session, A. D. 1834.

Pursuant to an order of the last General Court, upon the petition of Bartlett Murdock and others, praying for the repeal of all laws heretofore enacted for regulating the Alewife Fishery in the Weweantit River,—the subscribers, a Committee therein appointed, after due notice to the parties of the time and place of their meeting, met in Wareham, for the purpose of attending to the subject committed to them, on the sixteenth day of April last, and proceeded on that day to view the works, dams, and sluice-ways on the Weweantit River, and also the “Agawam Works,” on the River of that name, and the sluice-way constructed at those works for the passage of the fish; and having heard the parties on the eighteenth and nineteenth days of April, they respectfully submit the following

STATEMENT :

The Town of Wareham is bounded by Buzzards' Bay and the Towns of Rochester, Middleborough, Carver, and Plymouth. The soil, if soil it may be called, is com-

paratively poor, being for the most part sandy and barren. According to the last valuation, it contains something more than seventeen thousand acres—about thirteen thousand of which were returned as unimproved and unimprovable land; but notwithstanding the unproductiveness of the soil, through the enterprize and industry of the inhabitants, and the profitable use which they have made of other privileges furnished by the Author of all good, it has become a place of very considerable wealth. And the various manufacturing establishments on the Weweantit River, have contributed in no small degree to the increase both of its wealth and population. In 1820, the population was, by the census, nine hundred and fifty-two—and in 1830, it had increased to eighteen hundred and eighty-five, nearly one hundred per cent. One branch of the Weweantit, has its source in the Town of Carver; and across this branch, in the Town of Wareham, and within the distance of about two miles from the head of tide waters, are six dams; and the works which have been erected, and which at the time of the view, were for the most part in full operation, are three Rolling Mills—one large, and built of stone; four Nail Factories, one large Paper Mill, two Machine Shops, one Grist Mill, a Stave Mill, Fulling Mill, Cotton Factory, Carding Machine, Blast Furnace, Forge, and Saw Mill. The different works on the stream, afford employment for more than two hundred persons, exclusive of teamsters, coalmen, &c. &c. Several vessels are also employed in carrying the products to market. The value of articles manufactured daily at all the establishments, as stated by the petitioners, and not contradicted by the testimony, is more than two thousand dollars.

By a special law passed March 1, 1798, the Towns of

Rochester, Wareham, and Carver, were authorized to choose annually a Committee from each of said Towns, whose duty it should be, among other things, to sell the fish taken in the Weweantit River, for the benefit of said Towns ; and by the fifth section of said law, it is provided, “ That the owner or occupier of any Dam on said River, shall annually, betwixt the first day of April, and the twenty-fifth day of May, following, for such term and in such manner as said Committee shall direct, open a sufficient sluice-way for the passage of said fish ; and the owner or occupier of such Dam, neglecting to open or to continue open a sluice-way, as aforesaid, shall forfeit and pay the sum of fifty dollars ; and the Committee, aforesaid, shall have power to open such Dam, when neglected, as aforesaid, at the expense of the owner or occupier.”

Sluice-ways have been constructed at all of the works, but not to the satisfaction of the Committees appointed by the several Towns interested. On the contrary, they have been the cause of vexatious quarrels, and of no inconsiderable expense, both to the Towns and to the owners of the works ; and if sluice-ways are to be kept open to the bed of the River, which some of the Fish Committee appeared to think necessary, then it would undoubtedly be true, that the works must stop nearly two months, if the Committee should think so long a period necessary, and that in the best part of the season in each year, to the great injury not only of the owners, but of all persons to whom those works afford employment. But, it did not appear in evidence, on the hearing, that this had ever been the case. It was proved, however, that some of the works had been stopped for short periods.

Your Committee are aware that the time is not far distant, and perhaps it has already arrived, when it will be the duty of the Legislature to settle the important question, whether the Herring Fishery in the Rivers in the Commonwealth, shall continue to be protected by legal enactments, to the great injury of the many and various manufacturing interests. That the Herring Fishery has heretofore been of great benefit to the people of this Commonwealth, will probably not be denied. And, notwithstanding the obstructions in the Weweantit River, and which for the most part have been placed there since the enactment of the aforesaid law of 1798, the Towns of Wareham and Carver (Rochester having sold its privilege) continue to derive from it an annual revenue, which, in this case, as in others under similar circumstances, appears to be gradually decreasing.

Under all the circumstances, your Committee cannot recommend an unconditional repeal of said laws, as prayed for by the petitioners. They think a more preferable course would be, for the owners of the works to purchase the privilege of the Towns of Wareham and Carver, and thus have the control of the Fisheries themselves. With regard to the amount of compensation which those two Towns should receive, the Committee forbear to express an opinion, believing their commission does not extend so far.

Entertaining the opinion, that sluice-ways may be so constructed, as to afford a passage-way for the fish, without requiring the bed of the River, the Committee recommend that in case the parties cannot agree for the owners of the works to have the control of the Fisheries in said River, by paying a suitable compensation there-

for, that the said law of 1798 be so modified, as that in future the Fish Committee shall be appointed by some authority other than the Towns particularly interested. That their duties be particularly defined, with authority in no case to open sluice-ways, so as unreasonably to stop the works, and with liberty for either party to appeal from the decision of said Committee, to some judicial tribunal.

The Committee are induced to recommend this course, in the appointment of a Fish Committee, believing that, as now chosen, they may not, and probably will not always be the most suitable men; that they may be sometimes inclined to exercise somewhat arbitrarily the authority with which they may be invested.

All which is respectfully submitted.

DAVID WILDER,
NATHAN C. BROWNELL, } *Committee.*
THOMAS LORING,

January 17, 1834.

IN THE HOUSE OF REPRESENTATIVES, Jan. 17, 1834.

Laid on the table, and ordered to be printed.

L. S. CUSHING, *Clerk.*

