

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 82

H. P. 70

House of Representatives, January 2, 1975

Filed January 2, 1975 under Joint Rule 6 by Mr. Jackson of Yarmouth. To be printed and delivered to the House of Representatives of the 107th Legislature.

EDWIN H. PERT, Clerk

Presented by Mr. Jackson of Yarmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

**AN ACT Combining the Towns of Yarmouth and North Yarmouth
as One Municipality for Shellfish Conservation Purposes.**

Be it enacted by the People of the State of Maine, as follows:

12 MRSA, § 4252, sub-§ 4, as enacted by PL 1965, c. 33, § 7, is amended to read:

4. **Municipality defined.** For the purposes of this section and section 4251, municipality includes a village corporation and the combined territory of the Towns of Yarmouth and North Yarmouth as one municipality.

STATEMENT OF FACT

On September 22, 1680 the Township of North Yarmouth was established as the 8th township of the province of Maine. It then included the land from Brunswick to Falmouth and what is now the Town of Yarmouth. In 1743, the proprietors of the township conveyed all the flats, sedge banks and muscle beds in the township in trust for the then and future inhabitants of the town to be forever used and occupied, in common, by said inhabitants to "have free and full liberty - - - to dig all sorts of shellfish . . ."

The Town of Yarmouth was separated from North Yarmouth under the private and special laws of 1849, c. 264, "An Act to Incorporate the Town of Yarmouth" which in section 5 specifically provides that:

“The inhabitants of said towns shall continue to hold and enjoy all the rights and privileges hitherto belonging to the Inhabitants of North Yarmouth in any and all public landings and cemeteries, gravel pits, muscle beds, flats and fisheries of every kind, within the limits of said towns.”

Yarmouth’s present shellfish conservation program and its companion Shellfish Digging Ordinance, which has been enacted pursuant to Title 12, sections 4251 and 4252, in substance limits the issuance of its shellfish digging licenses to its present residents in violation of the historical right of the inhabitants of North Yarmouth to the use of the now, so called, Yarmouth clam flats.

Therefore, the purpose of this legislation is to give both towns joint jurisdiction over the Yarmouth clam flats for shellfish conservation as contemplated by the ancient deed of the private and special laws of 1849, c. 264.