

# MAINE STATE LEGISLATURE

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# PRIVATE ACTS

OF THE

## STATE OF MAINE,

PASSED BY THE

### EIGHTH LEGISLATURE,

AT ITS

SESSION HELD IN JANUARY, 1828.

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Published agreeably to the Resolve of the 28th June, 1828

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PORTLAND.

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## CHAPTER DXXX.

AN ACT to regulate the taking of Alewives in Winslow's Stream and Leach's Stream, in the town of Penobscot.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That it shall and may be lawful for the inhabitants of said town of Penobscot, at their annual meeting, in the month of March or April, to sell or otherwise dispose of the privilege of taking the fish called Alewives, in Winslow's stream and Leach's stream, so called, in the town of Penobscot; and the emoluments arising from such sale or disposal, shall be appropriated by said town to such purposes and uses as the inhabitants thereof shall from time to time, in legal town meeting determine.

Town of Penobscot may dispose of the privilege of taking fish;

emoluments to be appropriated.

SECT. 2. *Be it further enacted,* That the days for taking said fish in said streams, shall be on Monday, Tuesday, Wednesday and Thursday of each week, and at no other time.

Days on which fish may be taken.

SECT. 3. *Be it further enacted,* That if any person or persons, except the purchaser or purchasers, or such other person as shall be duly authorized by said town of Penobscot, at their annual meeting in the month of March, or April, shall take any of said fish in either of said streams, or the ponds from which they take their source, he or they shall forfeit and pay for every fish so unlawfully taken a sum not exceeding ten nor less than four cents: *Provided,* That if the purchaser or purchasers aforesaid, or any person or persons employed by them, or any other person shall, at any time, take any of said fish in the tide waters of the northern Bay, so called, in said town, with wears, seines, drag or dip nets, he or they shall forfeit and pay the sum of ten cents for each fish so unlawfully taken.

Penalty for taking fish contrary to the provisions of this Act.

SECT. 4. *Be it further enacted,* That if the purchasers or managers of said privileges, or either of them, lawfully taking said fish as afore-

Persons authorized to take fish to supply those applying at a fixed price, under penalty.

said, shall when in his or their power neglect or refuse to supply any person, who may apply for the same, being an inhabitant of said town, at the rate of twelve and an half cents for one hundred of said fish, the purchaser or manager so refusing, shall forfeit and pay for each offence the sum of five dollars; and if any person or persons authorized to take said fish shall ask, demand, or receive more than at the rate aforesaid, for said fish, at the place where said fish are taken, whilst the same are fresh and green, of any person being an inhabitant of the town of Penobscot, he or they so offending shall forfeit and pay for each offence, the sum of five dollars.

Penalty for demanding a greater price.

SECT. 5. *Be it further enacted,* That the inhabitants of said town of Penobscot, shall at their annual meeting aforesaid, choose by ballot a committee consisting of three persons, freeholders of the town, who shall be sworn to the faithful discharge of the duties enjoined upon them by this Act, whose duty it shall be to open sluices or passage ways for said fish to pass or repass through all the dams on either of said streams and to remove all obstructions in the same, which might prevent said fish from ascending and descending said streams; all of which shall be done at the expense of said town.

Committee to be chosen;

their duties.

SECT. 6. *Be it further enacted,* That there shall be a gate or sluice way through each and every dam on either of said streams, one foot and a half wide, and one foot and a half high; the bottom of each gate a sluice way to be on the bed of said streams where the water naturally runs.

Gate or sluice way to be made through dams, &

SECT. 7. *Be it further enacted,* That the committee aforesaid shall have full power, and it shall be their duty to remove all logs, boards, slabs or other lumber, or whatever else might obstruct the free passage of said Alewives through the gates or sluice ways aforesaid; and it shall be the duty of said committee or any two

Powers of the Committee.

of them to traverse both of the streams aforesaid from the waters of the Northern Bay, so called, to the ponds from which said streams take their departure, once at least in each week, during the time said Alewives are ascending said streams, and see that all the gates or sluice ways on both of said streams are open, and that they are kept open at all times from the tenth of day of May annually, until the fish are done passing up; and said committee shall again open the gates and sluice ways on said streams, on the twentieth of August in each year, and keep them open till the twentieth of September, annually.

**SECT. 8.** *Be it further enacted,* That if any person chosen one of said committee on due notice thereof, shall refuse to accept thereof, and to qualify himself therefor, within seven days after such notice, every person so refusing shall forfeit and pay a fine of five dollars to the use of said town; and the Treasurer of the town is hereby authorized and directed, to prosecute and sue for the same; and in case of the refusal of any person so chosen the selectmen for the time being, shall have power, and are hereby directed to proceed to appoint some other person or persons in the room of those who shall refuse as aforesaid; and any person so appointed, who shall refuse as aforesaid, shall be liable to the same penalty; and if the selectmen shall neglect to proceed as aforesaid, they shall each of them forfeit and pay a sum of ten dollars; and no man shall be obliged to serve more than one year in three.

Persons chosen of the Committee refusing to accept, liable to penalty;

Treasurer to prosecute.

Selectmen to appoint, in case of refusal.

Persons to serve only one year in three.

Owners of mills, &c. liable to penalty, in case of refusal to let the Committee open gates, &c.

**SECT. 9.** *Be it further enacted,* That if the owners of mills or mill dams, on either of the streams aforesaid, shall refuse to let the committee chosen by said town, at their annual meeting aforesaid, open gates or sluice ways through the several dams on said streams, or in any way obstruct their operation in removing lumber, logs, or other timber that might prevent the fish from ascending said streams, or either of them, they shall each of

them forfeit and pay for each day they shall so offend, a sum not exceeding ten dollars, nor less than five.

SECT. 10. *Be it further enacted,* That all penalties incurred by any breach of this Act, except as specified in the eighth section hereof, shall be recovered by action of debt in any court competent to try the same, in the name of either of said committee, one moiety thereof to the use of the town, and the other moiety to the use of the plaintiff who may sue for the same. Penalties, how recovered

SECT. 11. *Be it further enacted,* That if any minor or minors shall offend against any part of this Act, and thereby incur any of the penalties aforesaid, the parents, masters, or guardians of such minor or minors, shall be answerable therefor, as if it were his or their personal offence. Parents, &c. liable for minors.

SECT. 12. *Be it further enacted,* That no purchaser or manager aforesaid, or any person employed by them, shall be deemed a trespasser in going on the lands and premises of any person in order to take said fish on their paying a reasonable compensation therefor, if required. Persons authorized to take fish, not deemed trespassers.

SECT. 13. *Be it further enacted,* That if said committee shall neglect or refuse to open the gates or sluice ways aforesaid, as directed in the seventh section of this Act, they shall forfeit and pay a fine not exceeding ten nor less than five dollars for each day they may so neglect to open said gates or sluice ways: *Provided,* That none of said fish shall be taken in said streams or ponds until May, one thousand eight hundred and twenty nine, under a penalty of ten cents for each Alewife so unlawfully taken. Committee liable to penalty for neglect of duty.

SECT. 14. *Be it further enacted,* That this Act shall be in force from and after the first day of March, one thousand eight hundred and twenty eight, and all Acts or parts of Acts, passed previous to the passage of this Act, regulating the taking of said fish in the Northern bay, so called, and its appendages, or in either of the streams or No fish to be taken until May, 1829. This Act, when to be in force. Former acts repealed.

ponds aforesaid, be, and the same are hereby, repealed.

[Approved by the Governor, February 16, 1828.]

## CHAPTER DXXXI.

AN additional ACT respecting the Fishery in the Seven Mile Brook, in Vassalborough.

Persons not authorized to take fish, liable to penalty.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That if any person or persons other than the Committee appointed by the town of Vassalborough, at their annual meeting, agreeably to the provisions of law, or some person or persons by them employed shall take any salmon, shad, or alewives, in the Seven Mile Brook, so called, in the town of Vassalborough, or shall obstruct or prevent the passage of said fish up said Brook, he or they, so offending, shall forfeit and pay for every such offence, a sum not less than five nor more than twenty dollars.

Owners, &c. of mills, &c. to erect weirs, &c. under penalty.

SECT. 2. *Be it further enacted,* That the owner or owners, occupant or occupants, of any mill or mill dam on said Brook, shall (unless the Selectmen of said town shall deem it inexpedient) be required to erect, keep up and maintain, below their said dam, weirs, racks, or other obstructions and impediments sufficient to prevent said fish from going under the mills, and such impediments shall be so constructed as to direct said fish into the sluice ways; and if any owner or owners, occupant or occupants as aforesaid shall neglect or refuse to erect, keep up and maintain such obstructions as aforesaid, he or they shall forfeit and pay for every day they so neglect, during the season said fish go up to spawn, the sum of ten dollars.

Manner in which penalties may be recovered;

SECT. 3. *Be it further enacted,* That the penalties incurred under the provisions of this Act, may be recovered by complaint on oath to any Justice of the Peace, within and for the county