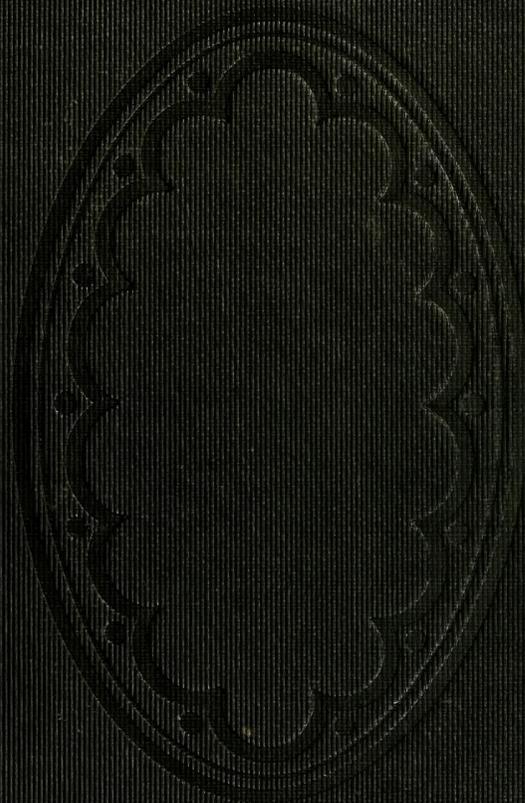
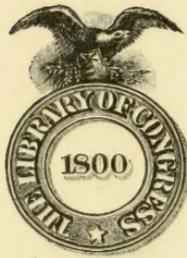


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1901-1902

REPORT OF THE COMMISSIONER OF FISHERIES
AND GAME WARDENS
OF THE STATE OF MASSACHUSETTS

1903

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LAWS

RELATING TO

INLAND FISHERIES

IN

MASSACHUSETTS.

1623-1886.

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INLAND FISHERIES,

1623-1886.

A

COLLECTION OF THE LAWS OF MASSACHUSETTS

RELATING TO

INLAND FISHERIES,

1623—1886.

PLYMOUTH COLONY FISH LAWS.

1623.

(Page 30.) ARTICLE 8. That fowling, fishing and hunting be free to all the inhabitants of this government: *provided*, that all orders from time to time made by this General Court for the due regulating of fishing and fowling be observed in place or places wherein special interest and propriety is justly claimed by the court or any particular person.

1633.

(Page 34.) *It is enacted by the Court*, That fishing, fowling and hunting bee free: provided, if any damage comes to any particulare by the prosecution of such exercise, restitutions bee made or the case actionable. But if any man desire to improve a place and stocke it with fish of any kind for his private use, it shalbee lawfull for the court to make any such graunt and for bid all others to make use of it.

[Re-enacted in 1636 and 1658.]

1637.—October.

(Page 57.) OF FISH.—*It is enacted by the Court*, That six score and twelve fishes shall be accounted to the hundred of all sorts of fishes.

[Re-enacted in 1658.]

1670.

(Page 161.) Whereas the providence of God hath made Cape Cod comodious for us for fishing with saines; and some careles

psons have anoyed the same by casting their ballast neare the shore where such conveniency is ; or by leaveing the garbidge of fish or dead fish to lye there rotting, whereby such anoyace is :

This Court doth therefore order, That whosoever shall treaspas in any of the said kinds of annoyance shall pay the sume of forty shillings to the Collonie's use for every such default unto the pson that the county doth appoint to looke after the same ; alsoe, this court doth further order, that whosoever of our inhabitants that draw mackerell on shore there, shall pay to the Collonie's use sixpence p. barrell for every barrell soe taken or the quantity that may amount to a barrell ; and for every barrell or the quantitie thereof soe taken by any forraigners in the aforesaid place shalbe payed one shilling and sixpence to the Collonie's use by the pson or psons that soe fish there ; and at the begining of any voyage attempted there, the pson or persons soe doing shall att the entrance an the voyage put in sufficient securitie unto the pson appointed by the court under this trust for the payment of the aforesaid sume or sumes. (Continued on page 162.)

(Page 162.) Whereas wee have formerly seen great inconvenience of taking mackerell att unseasonable times, whereby there encrease is greatly deminished, and that it hath bine proposed to the court of the Massachusetts that some course might be taken for preventing the same, and that they have lately drawne up an order that henceforth noe mackerell shalbee caught, except for spending while fresh, before the first of July annually, on penaltie of the losse of the same, the one halfe to the informer and the other halfe to the use of the Collonie ; and this order to take place from the 20th of this instant June.

1682.

(Page 197.) The law prohibited the catching of fish before they have spaumed is to be revived by the Comissioners att their next session.

(Page 283.) For the better improving of fishing for mackrel at the Cape with saynes or nets ; that the fish be not wholly destroyed or driven off the shoar, with constant beating and shooting at them with their nets and saynes :

It is ordered by this Court, &c., That none shall set, shoot or hall sayne on shore with mackrel at the Cape before the fifteenth day of October yearly, nor after the twentieth day of November, on penalty of forfeiting for any mackrel so taken, without the compass of this time, eight shillings a barrel to the Colonie's use.

And that so good a commodity be not spoiled nor impaired by gripple persons that only minde their present benefit ; but that it may

be kept sweet and well preserved for a market, and so kept a commodity :

It is further ordered, That all such mackrel taken by saynes or nets at the Cape shall be there salted up in good sufficient cask, and not in lumber, neither on shoar nor on board of any boat, barque or other vessel, on penalty of forfeiting to the Colonie's use the one-half of what is so salted in lumber and not in tight casks.

And forasmuch as the lands where such benefit is made by fishing with saynes or nets hath been purchased by the Colony and are truly theirs :

It is also ordered, That no stranger, or such as are no inhabitants of this government, shall make use of our lands or shoar for sayning or halling of fish, but such as this court give license to, on penalty of forfeiting all the fish of any kinde so taken by any without leave.

And all strangers that shall be allowed there to fish as abovesaid, whether taken in as partners with any of ours or otherwise, shall pay unto our water baily, or such as the court shall appoint to receive it, for the use of this Colony, two shillings for every barrel or quantity of a barrel of mackrel there caught in such away ; and such of our own inhabitants as do so fish there, shall pay one shilling a barrel ; and all such payments, whether by our own or strangers, shall be made in money to the said baily, or who is appointed.

And that peace and good order may be kept by all that fish there, and that the Colony may not be defrauded of their due by any :

It is further ordered, That the master of any vessel that shall come there to fish, or some known person of their company, shall presently upon their arrival there, before they take any fish, give under his hand to the baily, or his deputy, for their peaceable carriage there, and their due observance of the orders of the court concerning their fishing, who shall thereupon give them a ticket under his hand for their improving the season as abovesaid.

And if any man do refuse so to do, he or they shall be discharged from making use of our land on shoar there, at their peril ; and if any prove troublesome, or disturb their peace, sell liquor to the Indians, prophane the Sabbath, or be otherwise disorderly, the baily or his deputy is hereby impowered to carry such before the next magistrate, who may issue the case, send the offenders to prison, or take bond for their appearance at court, as he shall see cause, and the whole charge thereof be born by him or them that do so offend.

And that the water baily be under oath, as other publick officers, as for the faithful discharge of his trust, so for his due and seasonable ordering, and giving an account to the treasurer, for what is the Colonie's upon fishing account, within one month after the said voyage is ended, or sooner if it may be.

And for every barrel of herring at any time caught by nets on the said Cape Cod shoar, six pence per barrel be paid by any inhabitant that shall so take them, and twelve pence per barrel by strangers.

And whosoever shall take any basse on the aforesaid shoar with nets, shall pay to the Colonie's use six pence per quintal, according to a former order, and to be paid also in money.

SECT. 5. *And it is ordered, &c.*, That if any swine, belonging either to English or Indians, do there annoy or trespass such as there fish as abovesaid in the mackerel seasons, it shall be lawful for any to make seizure of such swine, paying one-half of the value of such swine to the said baily or his deputy for the Colonie's use. * *

ANCIENT CHARTERS.

(Page 113, ch. 46.) SECT. 5. This court being informed that the taking of mackrel at unseasonable times do greatly diminish their increase, and will in the issue tend to the spoil of the trade thereof:

Do order and enact, That henceforth no mackerel shall be caught, except for spending whilst fresh, before the first of July annually, on penalty of the loss of the same, the one half to the informer, and the other half to the use of the country. And any magistrate or county court is empowered to act herein, to all intents and purposes, for the execution of this law.

[Repealed March 5, 1693. Page 254, sect. 7, A. Charters. Revived Massachusetts Perpetual Laws, page 143, ch. v., 1702.]

(Page 148, ch. 63.) SECT. 2. Every inhabitant who is an householder shall have free fishing and fowling in any great ponds, bays, coves and rivers, so far as the sea ebbs and flows within the precincts of the town where they dwell, unless the freemen of the same town or the General Court have otherwise appropriated them.

Provided, That no town shall appropriate to any particular person or persons, any great pond containing more than ten acres of land, and that no man shall come upon another's propriety without their leave, otherwise than as hereafter expressed.

The which clearly to determine :

SECT. 3. It is declared that in all creeks, coves, and other places about and upon salt water, where the sea ebbs and flows, the proprietor, or the land adjoining, shall have propriety to the low water mark, where the sea doeth not ebb above a hundred rods, and not more wheresoever it ebbs further.

Provided, That such proprietor shall not by this liberty have power to stop or hinder the passage of boats or other vessels, in or through any sea, creeks or coves, to other men's houses or lands.

SECT. 4. And for great ponds lying in common, though within the bounds of some town, it shall be free for any man to fish and fowl

there, and may pass and repass on foot through any man's propriety for that end, so they trespass not upon any man's corn or meadow.

COLONY OF PLYMOUTH.

1684.

(Page 205.) *This Court doth therefore enact, and be it heerby enacted by the authoritie thereof,* That no p'rson or p'rsons whatsoever, after the publication heerof, shall catch or draw on shore any mackerell, with nett or netts, sayne or saines, in any p'рте of this Collonie, and if any p'rson or p'rsons shall heerafter presume to catch any mackerell by setting or shoolding any nett or saye, every such p'rson or p'rsons soe offending as aforsaid, shall forfeitt for his or there said offence all such netts or saines as shalbe soe improved, and all such mackerell as shalbe soe caught by him or them; and shall alsoe forfeite every such vessell and all such vessells or boates as shalbe employed therin, whether catch sloop or boate as shalbe employed in taking or carrying away any such fish, if att any time the p'rson or p'rsons soe offending be taken within the govrment, or the value thereof, the one moiety to the Collonie and the other moyety to the informer that shall prosecute the same.

And for the better execution of the said law, power shall be given by some one or more of the magistrates by warrant to some fitt man to act as a water bayliff to make seasure of any such forfeitures as aforsaid.

PERPETUAL LAWS.

1702.

(Page 143, ch. 5.) *Be it enacted,* That the clause above recited, shall be, and is hereby revived and re-enacted: and that henceforth no person or persons whatsoever shall presume to catch or cause to be caught any mackerel (except for spending whilst fresh) before the first of July annually; on penalty of forfeiting all the mackrel so caught contrary to the true intent and meaning of this act, and twenty shillings per barell over and above for each barrel of the same: the one half of the said forfeiture to be to her majesty, for, and towards the support of this her government; and the other half to him or them that shall inform and sue for the same in any of her majesty's courts of record within this province.

1709.

AN ACT to prevent Nuisances by Hedges, Wears, and other incumbrances obstructing the passage of Fish in Rivers.

(Page 162, ch. 3.) *Be it enacted,* That no wears, hedges, fish-garths, stakes, kiddles, or other disturbance or incumbrance shall be set, erected or made, on or across any river, to the stopping, obstruct-

ing, or straitning of the natural or usual course and passage of fish in their seasons, or spring of the year, without the approbation and allowance first had and obtained from the general sessions of the peace in the same county ; who are hereby authorized and impowered, on application made to them at their sessions, to grant liberty for the same, or to deny it, as they shall see it to bee either a public good or damage : and so yearly from time to time, to be allowed or disallowed, as they shall direct.

And that all wears, hedges, fish-garths, stakes, kiddles, or other incumbrance whatsoever, set up and made, or hereafter to be levied, set up or made in, on or across any river, to the straitning, obstructing and stopping the natural, common or usual passage of fish in the spring or proper seasons of the year, without approbation or allowance first had and obtained for the same, in manner as in and by this act is directed, are declared to be a common nuisance, and shall be demolished and pulled down, not to be again repaired or amended. And that on complaint made to the general sessions of the peace, or to any two justices of the peace, *quorum unus*, in their respective counties ; a writ shall be granted to the sheriff or constable of the town where the nuisance is done, to cause the party or parties complained of to be examined ; and upon conviction to remove the same ; and to command suitable assistance therefor, at the cost and charge of the person or persons so offending.

Provided, That nothing herein contained, shall be construed to extend to the pulling down or demolishing of any mill-dam already made, or that shall hereafter be lawfully and orderly made.

1727.

AN ACT for rendering more effectual the Act intituled An Act to prevent Nusances by Hedges, Weares, and other incumbrances obstructing the passage of Fish in Rivers.

(Page 239, ch. 9.) Whereas, in and by an act made and pass'd in the eighth year of the reign of Queen Anne, intituled An Act to prevent nusances by hedges, weares, and other incumbrances obstructing the passage of fish in rivers, all such incumbrances in the rivers are disallowed and forbidden without the approbation of the courts of general sessions of the peace in the respective counties, and ordered to be demolished and pulled down, but no penalty is provided in the said act :

Wherefore, for the more effectual preventing such nusances :

Be it enacted, That whosoever after the publication of this act, shall set up, erect or make any weares, hedges, fish-garths, stakes, kiddles, or other incumbrances whatsoever, on or across any river for straitning, obstructing or stopping the natural, usual or common passage of the fish in the spring or other proper seasons of the year,

without the approbation of the court of general sessions of the peace, shall for every such offence forfeit and pay the sum of ten pounds, to be sued for and recovered by plaint, bill, or information, in any of his majesty's courts of record within the county where the offence is committed; one-half thereof to be to him that shall inform and sue for the same, and the other half to the poor of the town or towns where such incumbrances have been made or set up.

1741.

AN Act in addition to an Act made to prevent the Destruction of the Fish called Alewives, and other Fish.

(Page 297, ch. 6.*) Whereas, notwithstanding the several acts made for the preservation of the fish, and to give them free passage up and down the rivers in their seasons, yet by reason of the many dams erected, and often erecting across such rivers and streams where the several sorts of fish pass up into the natural ponds to cast their spawns, said fish are diverted in their passage, to the great decay and ruin of such fishery :

Be it therefore enacted, That whosoever shall hereafter erect or build any dam across any such river or stream where the salmon, shad, alewives, or other fish usually pass up into the natural ponds to cast their spawn, shall make a sufficient passage-way for the fish to pass up such river or stream, through or round such dam, and shall keep it open for the free passage of the fish from the first day of April to the last day of May annually, and all the owners or occupants of any mill-dam or other dams heretofore erected and made across any such river or stream where the fish can't conveniently pass over, shall make a sufficient way either round or through such dam for the passage of such fish, at or before the first day of September next, and after that to keep such passage way open from the first day of April to the last day of May annually, on pain that every person offending in any of the particulars aforesaid, shall forfeit and pay the sum of fifty pounds for each offence.

Provided, nevertheless, Whereas, in some of the rivers or streams, the said fish do not pass up to spawn in the times by this act provided for, that it shall be in the power of the several towns wherein such streams are, or are adjoining, or the selectmen of such towns, or the major part of them, to appoint or order the times of keeping open such sluice-ways as in their judgment may be agreeable, to the natural time of said fish passing up to spawn, so as it does not exceed sixty days annually.

And be it further enacted, That the owners or occupants of such dam or dams, shall allow sufficient water passage round, through or over such dams, for the passage of such fish or their young spawn, in

* Chap. 7, 1741, supplementary.

the season of their going down such rivers or streams, on penalty of forfeiting the sum of fifty pounds for every offence.

Provided, nevertheless, That whosoever is an owner or occupant of such dam or dams erected before the year one thousand seven hundred and nine, and by this act is obliged to make such passage-way for the fish as aforesaid, shall, after he has effected the same, present his account of the reasonable charge thereof, to the court of general sessions of the peace of the same county for their allowance, who are hereby impowered to proportion the several towns' parts thereof who are advantaged thereby, and order each of said towns to assess and pay the same to such owner or occupant accordingly, and the owners or occupants of such dam, shall afterwards maintain such passage-way at his or their own cost and charge.

And be it further enacted, That it shall be in the power of any town at their annual meeting in March, to chuse one or more persons, whose business it shall be to see that the said passage-ways are open pursuant to this act, and that said fish may not be obstructed in their usual passing up and down stream, and to appoint the proper place or places for the taking such fish with scoop nets, and to limit the particular times and days for the taking the same.

Provided, also, That this act shall not be construed so as to affect the order of this Court, pass'd in January, one thousand seven hundred and thirty-eight, relating to Watertown mill-dam.

And that the several fines and penalties arising by virtue of this act, shall be sued for and recovered in any court of record proper to try the same, by any person that shall prosecute and sue for the same, one half of such sum to be to and for the use of the prosecutor, and the other half to be to and for the use of the poor of the town where the offence shall be committed.

AN ACT in Supplement of an Act intituled "An Act in addition to an Act made to prevent the destruction, of the Fish called Alewives and other Fish." (1741, ch. 6.)

(Page 298, ch. 7.) Whereas, * * * * * no penalty is therein ordered to be imposed on such as shall take alewives or other fish at other times or places, than such as shall be appointed in pursuance of said act:

Be it therefore enacted, That whosoever shall presume to take any of the kinds of fish in said act enumerated (whether with scoop-nets or otherwise) in any river or stream within or adjoining to any town within this province, at any other place or time than such as has been or shall be limited and appointed by any town in pursuance of said act, such offender or offenders shall forfeit and pay the sum of ten shillings for each offence; one moiety thereof shall be for the use of the poor of the town where the offence shall be committed, the other

moiety to be to him or them who shall inform and sue for the same before one or more of his majesty's justices of the peace in the same county.

Provided, That this act be not construed to affect any person taking fish in any town where such town shall not in manner as aforesaid, appoint the time and place for taking the fish aforesaid.

1743.

AN ACT in addition to an Act made in the fifteenth year of his present Majesty's reign, intituled "An Act in addition to an Act made to prevent the Destruction of the Fish called Alewives and other Fish."

(Page 313, ch. 5.) Whereas, * * * * * by reason that no direction is therein given with respect to the sufficiency of the sluice or passage so to be made or left open, there arises great difficulty to the owner or occupant of such dams in complying therewith: And whereas, by reason that in some streams and rivers the said fish pass sooner, and in others later in the year than the time is prescribed in said additional act, as well as that the time of their passing up and down is in some streams and rivers longer, and in some shorter, so that it is found by experience that the general rule in the aforesaid cases by law provided, does not only fail of the good ends proposed thereby, but also exposes the owners and occupants of such dams to trouble and damage not necessary to answer the good purposes of said additional act: Wherefore,

Be it enacted, That it shall and may be lawful for any owner or occupant of any such dam or dams already built, or that may hereafter be built, and who are or may be obliged by said additional act to open or leave open such passage as aforesaid, to apply to the next court of general sessions of the peace, to be holden in and for the county where such mill-dam is, and the justices of the court respectively, on such application, are impowered, and directed to appoint a committee of three sufficient and as much as may be disinterested persons, under oath, to repair to the dam where the passage is proposed to be opened, and carefully view the same, and in the best manner they are able, to inform themselves of the most proper place for the passage of such fish up and down stream, of what dimensions the same shall be made or appointed to be, and what part of each year, and how long the same shall be kept open; and return the same under their hands, or the hands of the major part of them, to the said court for their acceptance; which return so made and accepted, shall be deemed and adjudged the lawful rule of proceeding in making and keeping open the passage and passages for the fish in passing up and down the rivers and streams for the future: anything contained to the contrary in said additional act notwithstanding.

Provided, nevertheless, That if at any time after such determination, either party shall think themselves aggrieved by such determination, it shall and may be lawful for the owner or owners, occupant or occupants of such mill-dam or dams, or any other five persons of the other party, who may expect benefit by said fish passing up such rivers or streams, once more to apply to the said court for a new view, and report on the premises in manner aforesaid, which being by said court accepted, shall be final; the charge of such application to be born by the persons applying, in case no material alteration on the first return is made, but otherways be born by the owners of the dam, in proportion to their interest, to be first stated and allowed by the said court of general sessions, and may be recovered by action or actions of debt in any court proper to try the same.

 1745.

AN ACT in addition to and for rendring more effectual the Laws already in being for preventing the Destruction of the Fish called Alewives, and other Fish. (Page 320, ch. 2.)

(Preamble. The two preceding acts are here quoted.)

And whereas, it may happen that in some rivers or streams, across which dams are built, it may be doubtful whether the fish may be said to usually pass or cast their spawn, and so as to render it necessary that a way should be left open in such dams for their free passage, and many inconveniences may arise from such doubt or uncertainty :

Be it therefore enacted, That when and so often as application shall be made to the court of sessions by the owner or occupant of any mill-dam or dams, either of such dams as have no passage-way, or of such dams through which a passage-way has been already made, and a committee shall thereupon be appointed by such court pursuant to the last recited act, and such committee shall repair to any dam or dams, and it shall appear to them upon inquiry, that the fish do not, or in case of a passage being made or kept open, would not usually pass up the river or stream across which such dam is or shall be built in such numbers as that it is necessary a passage-way through such dam should be made or kept open, or that the passing of the fish up such river will not be of greater general benefit than the leaving open of passage-ways in such dams will be of damage to the owners of the mills and other persons. then, and in either of such cases, said committee shall be impowered to make a report that such passage-way is not necessary, and such report being accepted by the court of sessions, the owner or occupant of such dam, shall thereupon be freed from all obligation to make or keep open any pas-

sage ; any thing in the aforementioned acts to the contrary notwithstanding. And the charge of the application that shall be made by the owner or occupant of any mill-dam or dams, and all proceedings of the court thereupon, pursuant to this act, or to the said last recited act, shall be born and paid by such owner or occupant.

Provided, always, That if at any time after such determination, any person apprehending it necessary that a passage-way should be opened in such dam, shall thereupon make application to the court of sessions, said court shall be empowered to appoint a new committee, who shall have the same power the first committee by law had, or might have had, and upon such committee's reporting that a passage-way is necessary in such dam or dams, and the demensions thereof, and the time it shall be kept open, and upon such report being accepted by the court of sessions, the owner or occupant of such mill or dam shall be as fully obliged to keep open such passage as if the former report had never been made and accepted ; any thing in this act to the contrary notwithstanding ; the charge of such application and all proceedings thereupon, to be paid by the person or persons making the same, or by the owner or occupant of such dam, as the court of sessions shall order.

And whereas, in some counties within this province, the justices of the court of sessions have refused to admit any application from the owner or occupant of any mill or mill-dam, by reason that such application has not been made at the court next immediately following the publication of the last recited act :

Be it further enacted, That the several courts of sessions within this province be, and hereby are empowered and directed to admit, proceed and determine upon any such application at any court at any time held for the county, and all such proceedings shall be deemed as valid to all intents and purposes as if they had been acted upon at the court next immediately following the publication of said act.

And whereas, in many rivers and streams within this province, neither shad, salmon nor alewives usually swim, or would pass up such river or stream, altho' a passage-way was made and kept open through the several dams built across such rivers or streams, and the advantage of other fish that pass up such rivers or streams, is not equal to the damage that may arise by keeping open a passage-way through such dams :

Be it enacted, That no owner or occupant of any mill-dam or dams built or to be built within this province, shall be liable to any penalty for not making or keeping open a passage-way through such dam or dams, except those dams only which are built across such rivers or streams where either of the aforementioned fish, viz., salmon, shad or

alewives usually swim or pass ; any former law, usage or custom, to the contrary notwithstanding.

Provided, always, That it shall be in the power of any person at any time, to make application to the court of sessions, setting forth that the passage of other fish up such rivers or streams, is of such advantage as to render a passage-way through any dam or dams necessary, and the justices of the court of sessions are empowered on such application to appoint a committee to repair to such dam or dams, and upon such committee's reporting that a passage-way or ways for the fish is necessary, the dimensions thereof, and the time for keeping it open, and upon such report's being accepted, the owner or occupant of such dam or dams, shall be as fully obliged to make and keep open such passage-way or ways as if shad, salmon or alewives usually passed up such river or stream.

And whereas, the mill-dam in the town of Watertown, referred to in the aforesaid act of the fifteenth of his present majesty, has not been subjected in like manner with the other mill-dams within this province :

Be it therefore enacted, That if any person or persons whatsoever, shall cause the dam of said mill to be raised, so as to prevent the passage of the fish over the same, at any time between the breaking up of the ice in the winter or spring, and the first day of May annually, and in any year hereafter, without the express leave or consent of the selectmen of the towns of Watertown and Newtown, every person so offending, shall forfeit and pay the sum of five pounds for each offence, to be recovered in any court of record proper to try the same, and for the use of him or them that shall inform and sue therefor.

1781.

AN ACT more effectually to prevent the Destruction of Alewives in their passage up the Rivers and Streams in the Towns of Salem and Danvers.

Whereas it is necessary for the preservation of the fish called alewives, in their passage up the rivers and streams in the towns of Salem and Danvers, into the ponds at the head of those streams, that the committees hereafter to be appointed in those towns, to see that the passage-ways for said fish be not obstructed, should have their respective jurisdiction enlarged, and further authority given them for the purposes aforesaid.

Sp. Laws, vol. 1, p. 5. SECT. 1. That the towns of Salem and Danvers shall be, and they are hereby respectively empowered and directed at their meetings in March annually, each town to choose three or more persons to see that the laws respecting the passage-ways for said fish be observed. And each person so chosen shall take an

oath faithfully to discharge the duties required of him by law. And the committees of said towns shall meet together annually, on or before the tenth day of April, at such time and place as the person first chosen by the town of Salem shall appoint, to be by him duly notified. And the major part of the committees present at such meeting are hereby authorized and empowered to order the times, places and manner in which said fish may be taken within the limits of either of said towns, and also the number any one person may be allowed to take on any one day. And the members of the committees aforesaid shall have joint and concurrent jurisdiction in either of said towns; and the doings of said committees, or either of them, or the members of either of them, shall have full power to act as such, in either of said towns. And in case either of said towns shall neglect to choose such committee, the committee chosen by the other town shall be as fully empowered as though such town had not neglected. And the said committees, or either of them (on neglect as aforesaid) shall have power to cause the whole natural course of the streams through which said fish pass to, in both the said towns, to be kept open and without obstructions, to remove any such as may be found therein, to make the passage-ways of such streams wider or deeper, if they find it necessary. And the said committees, or either of them, or any member thereof, shall have authority to go on the land of any person through which any such river or stream runs, or on which such land may be bounded, for those purposes, without being considered as trespassers. And any person who shall molest or hinder said committees, or either of them, or any member thereof, in the execution of the business of his or their office or offices, or shall obstruct any passage-way in such river or stream, otherwise than may be allowed by such committees or committee, he or she shall forfeit and pay a sum not exceeding fifty pounds, nor less than ten pounds.

SECT. 2. *Be it further enacted*, That the said committees, or the major part of them present at any meeting duly notified, being not less than three in number, shall be, and they are hereby authorized and empowered to open any dam or sluice-head of any mill erected or that may be erected on or over any such river or stream, at the expense of the owner or owners of such dam or sluice, provided such owner or owners shall neglect to open the same, when thereto required by said committees or such major part of them as aforesaid; and the dam or sluice so opened shall continue open to such depth and width as the committees or said major part may judge necessary, from the tenth day of April to the tenth day of June in every year. And in case any person or persons shall obstruct the passage-way allowed or ordered by said committees, or such major part of them, in any

dam or sluice, each person so offending shall forfeit and pay a sum not exceeding fifty pounds, nor less than ten pounds.

SECT. 3. *Be it further enacted*, That the owner or owners of any tide-mill erected, or that may hereafter be erected on any such river, shall keep a sluice-gate hoisted, or passage-way opened, of three feet in width and two feet high, three hours at least before high water in each tide, from the said tenth day of April to the tenth day of June annually, on penalty of forfeiting for each tide that it shall not be hoisted or the passage-way opened, a sum not exceeding three pounds, nor less than five shillings. And the bottom of the passage-way so opened shall be as low as the said committees, or the major part as aforesaid shall judge necessary.

SECT. 4. *Be it further enacted*, That if any person or persons shall take any of said fish, on any day, or in any place, or in any manner, or in greater numbers than shall be allowed by said committees as aforesaid, each person so offending shall forfeit and pay a sum not exceeding forty shillings, nor less than five shillings; and no seines shall at any time be made use of to take said fish, nor shall they be taken in any manner more than three days in any one week.

SECT. 5. *Be it further enacted*, That if the committees aforesaid, or either of them, or any member thereof, shall detect any person or persons attempting to take any of said fish on any day, at any place, in any manner, or in a greater quantity, otherwise than is allowed by said committees, and shall find fish with such person or persons, such person or persons shall be doomed to have taken said fish, and be subject to the penalties of this act accordingly.

SECT. 6. *Be it further enacted*, That all the penalties incurred by the breach of this act, may be sued for and recovered in any court of record in the county of Essex proper to try the same. And all sums as recovered as forfeited by this act, shall be appropriated, one moiety thereof to the prosecutors and the other moiety equally divided between the said towns of Salem and Danvers. And no person, by reason of his being one of either of the committees aforesaid, shall be thereby disqualified from being a witness in any prosecution for breach of this act. — [February 19, 1781.

AN ACT to provide more effectually for the Preservation of the fish called Alewives, in the Streams running into Merrimack River, within the Town of Andover.

[Made perpetual March 7, 1797. Another Act but not repealing this one, March 9, 1792. This limited to four years, but extended afterwards.] (See 1765.)

Whereas it is found that the laws already made are not sufficient to prevent the destruction of the fish called alewives, in the streams within the town of Andover, which run into Merrimack River :

Sp. Laws, vol. 1, p. 10. SECT. 1. That an act made in the year of our Lord one thousand seven hundred and fifty-five, entitled "An Act for preventing the unnecessary destruction of Alewives and other fish within this Province," be, and it is hereby extended to the streams herein before mentioned. And the selectmen of the town of Andover are hereby empowered to determine what number of barrels of said fish may be caught for market, and to let out the same in manner as is in said act prescribed, at any time in the months of April and May annually, as well as in the month of March therein specified.

SECT. 2. *Be it further enacted*, That if any person shall catch, or shall attempt to catch, any of the before mentioned fish, in any part of the streams herein before recited, at any time between the hours in the evening and five in the morning, every person so offending shall forfeit the sum of not less than twenty shillings, nor more than three pounds, for every offence. And the oath of any officer chosen at the annual meeting in March to see that the passage-ways for fish are kept open, testifying any fact that may be considered as a violation of this or any former act of the General Court made for the preservation of fish, shall be received as sufficient evidence of the same.

SECT. 3. *Be it further enacted*, That each and every of the officers aforesaid be, and he is hereby empowered to make search for, and to seize any parcel of said fish which he has reason to suspect were taken at any time or place, or in any way by law prohibited. And if any such officer shall have reason to suspect that any of said fish so taken are secreted under lock, or in any other way, he is hereby empowered in obedience to a warrant (which any justice of the peace in the same county is empowered to grant), on application therefor from such officer, to break open such lock or other obstruction, in the day-time, and having seized such fish, to take them into his custody; and the same officer shall give public notice of such seizure, by posting an advertisement of the same at the public house nearest to the place where such seizure was made; and if no person shall appear to said officer to claim said fish within twenty-four hours after posting said advertisement, such fish, and any cask in which they may be packed, shall be forfeited. And if any person shall appear as aforesaid, to claim said fish, then the said officer shall require the claimer to appear before some justice of the peace of the same county, who shall hear and determine the cause, except the value of the fish seized exceed forty shillings. in which case he shall require the said claimer or claimers to recognize, to appear before the next court of general sessions of the peace for the same county; and if sufficient evidence be not offered to satisfy the justice or the court, that the fish so seized were taken at some other time and place, and for some other purpose than by law is prohibited, then the said fish, and any cask in which

they may be packed, shall be forfeited; and all fish that may be forfeited in consequence of this act, shall be sold by the officer who seized them; and all forfeitures in consequence of this act, after paying charges, shall enure one-half to the said officer, and the other half to the poor of the town of Andover.

SECT. 4. *Be it further enacted*, That the officers before mentioned be, and they hereby are empowered to require suitable aid to enable them to execute their office; and any person who shall refuse or neglect to give aid when thereto required, as herein provided, he shall, on conviction thereof before any justice of the peace of the same county, forfeit the sum of three pounds.

This act to continue and be in force for the space of four years from the first day of next November, and no longer.

This act passed May 8, 1781.

1786.

AN ACT to prevent the Destruction of Salmon, Shad and Alewives, and other Fish in the Agawam or Westfield River.*

Sp. Laws, vol. 1, p. 126. SECT. 1. That from and after the first day of March next, no person or persons be allowed to catch any salmon, shad, or alewives with seines, nets, pots, or in any other way, in any part of said river, within two† miles of the entrance thereof into Connecticut River, nor in Connecticut River within half a mile south, or forty rods north of the mouth, or entrance of said Agawam into Connecticut River; and no person or persons shall catch any salmon, shad or alewives, in any other part of said Agawam River, at any other time, than between sunset on Monday evening, and sunset on Thursday evening in each week; and if any person or persons shall presume to catch any fish in the said rivers, contrary to the true intent of this act, he or they so offending, shall for each offence, forfeit and pay a fine of four pounds; and the seine, net or machine, used in catching said fish, shall be forfeited.

SECT. 2. *Be it further enacted*, That all wears, fences, and other incumbrances now erected, or that shall hereafter be erected, in any part of the said Agawam River, so as to stop the free course or passage of the said fish up the said river, shall be deemed common nuisance, and as such shall be pulled down and demolished; and any person or persons that shall hereafter erect any such wears, fences or other incumbrance, or shall continue such already erected, on conviction thereof, shall forfeit and pay the sum of three pounds.

SECT. 3. *Be it further enacted*, That all fines and forfeitures incurred by any breach of this act, shall and may be recovered by action or

* Altered as to Connecticut River, March 26, 1788.

† Reduced to one mile by Act March 8, 1796.

information before any justice of the peace within the county where such offence shall be committed ; one half of such fines shall enure to him or them who shall sue or prosecute for the same, and the other half to the poor of the town where the offence shall be committed.

This act passed June 27, 1786.

1787.

AN ACT to prevent the Destruction, and to regulate the Catching of the Fish called Alewives, in their passage up the Rivers and Streams in the Town of Harwich, in the County of Barnstable.

Sp. Laws, vol. 1, p. 166. SECT. 1. That the town of Harwich shall be and hereby are empowered and directed, at their meeting for the choice of town officers in March or April annually, to choose three or more persons, being freeholders in the said town, to see that this act be duly observed ; and each person so chosen shall be sworn faithfully to discharge the duties required of him by this act ; and the said committee shall meet together annually, on or before the twentieth day of April, at such time and place as they, or a majority of them, shall appoint, and the major part of the committee present at such meeting, are hereby authorized and empowered to order the times, places and manner in which the said fish may be taken ; and the said committee, or a majority of them, are hereby fully authorized and empowered to cause the natural course of the streams through which the said fish pass, to be kept open and without obstruction, to remove any such as may be found therein, and to make the said passage-ways wider or deeper if they shall judge it necessary ; and the said committee or either of them, paying a reasonable consideration therefor if demanded, shall have authority for those purposes to go on the land or meadow of any person through which said streams run, without being considered as trespassers ; and any person who shall molest or hinder the said committee or either of them in the execution of the business of his or their office, or shall obstruct any passage-way in the said rivers or streams, otherwise than may be allowed by the said committee, he or they shall forfeit and pay a fine for every such offence, not exceeding forty shillings, nor less than twenty shillings.

SECT. 2. *Be it further enacted*, That the said committee, or the major part of them present at any meeting duly notified, being not less than three in number, shall be and hereby are authorized and empowered, to open or cause to be opened any dam or sluice of any other dam now erected, or that may be hereafter erected on, or over any of the said rivers or streams (between where such rivers or streams empty themselves into the sea at low water, and the ponds in which the said fish usually cast their spawns) at the expense of the owner or owners of such dam or sluice : *provided* such owner or

owners shall neglect to open the same when thereto required by the said committee or the major part of them, immediately after being thus required so to do ; and the dam or sluice so opened shall continue open in every year, to such depth and width, and for such term of time between the fifteenth day of April and the tenth day of June, as the major part of the said committee shall judge necessary ; and if any person or persons shall obstruct the said passage-ways allowed or ordered by the said committee, or the major part of them, in any dam or sluice, such person so offending shall on conviction before any justice of the peace in the county of Barnstable, pay a fine for every such offence not exceeding forty shillings, nor less than twenty shillings, and the said committee shall cause every such obstruction to be forthwith removed.

SECT. 3. *Be it further enacted*, That if any person or persons shall take any of the said fish in the rivers, streams or ponds aforesaid, before they shall have cast their spawns, at any time, in any place, or in any manner other than shall be allowed by the said committee as aforesaid, each person so offending, for each and every such offence shall, on conviction, as aforesaid pay a fine not exceeding twenty shillings, nor less than five shillings, if the quantity of fish so taken is less than one barrel ; but if the quantity so taken shall be one barrel or more, such person or persons so offending shall forfeit and pay for each and every barrel of fish so taken, the sum of twenty shillings.

SECT. 4. *Be it further enacted*, That if the committee aforesaid, or either of them, shall detect any person or persons in attempting to take any of the said fish at any time, or in any place, or in any manner otherwise than is allowed by the said committee, or shall find such fish with such person or persons, such person or persons shall be deemed to have taken the said fish unlawfully, and shall be subject to the penalties of this act accordingly, unless such person or persons can make it appear on trial, that they came by the said fish in some other way.

SECT. 5. *Be it further enacted*, That the committee to be chosen as aforesaid, or the major part of them, shall determine what days in the week the said fish shall be taken, also on the certain parts of the said rivers and streams where the said fish may be taken, to be particularly bounded or described, so that the said places may be easily known ; and shall notify the inhabitants thereof, by posting up notifications in several public places in the said town of Harwich, within ten days after their being chosen as aforesaid.

SECT. 6. *Be it further enacted*, That all penalties incurred by any breach of this act, shall be recovered by complaint before a justice of the peace, in the county of Barnstable, where the said penalty doth

not exceed forty shillings, allowing an appeal to the court of general sessions of the peace in the county aforesaid; and where the penalty prosecuted for shall exceed the sum of forty shillings, it may be sued for and recovered in any court in the county of Barnstable proper to try the same, and all sums recovered as forfeited by this act, shall be for the support of the poor in the town of Harwich; 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 breach of this act.

SECT. 7. *Be it further enacted*, That it shall be the duty of the committee aforesaid, to take care that a sufficient passage-way be kept open annually for the young alewives to pass from the ponds to the sea.—[July 4, 1787.

[1813, 57, 115; 1824, 107; 1844, 67.]

1788.

AN ACT for the Preservation of the Fish called Alewives in Mattapoiset River, in Rochester, in the County of Plymouth, and for the regulating the taking of the said Fish, in the said River.

Sp. Laws, vol. 1, p. 180. Whereas the law which was heretofore made for the preservation of the fish called alewives, in Mattapoiset River, in the town of Rochester, and for regulating the taking the said fish, in the said river, has been found insufficient to answer the said purposes:

SECT. 1. That the owner or owners of each and every mill-dam on the said river, shall make, provide and continue a sluice-way of three feet wide, and eight inches deep, for the said fish to pass their respective dams, as low as the said selectmen of the said town of Rochester shall judge convenient for the said fish to pass in. And the selectmen of the said town of Rochester are hereby authorized, on the second Monday of April annually, to open the said sluice-ways which, when opened by them, shall remain open until the twentieth day of May annually; and the owner or owners of any dam on the said river who shall neglect or refuse to make, provide and continue a sluice-way as aforesaid, shall shut or obstruct the same during the term the said sluice-way is to be kept open as aforesaid, shall forfeit and pay the sum of forty pounds for each offence.

SECT. 2. *Be it further enacted*, That the said town of Rochester, at their annual meeting for the choice of town officers, in the months of March or April annually, are hereby authorized to choose a committee consisting of not more than twelve, nor less than two suitable discreet persons, for inspectors of the said river, whose duty it shall be, within four days after their appointment, to post up in four public places in the said town nearest the said river, a notification under their hands, or the major part of them, pointing out the times when,

and the places where the said fish may be taken in the said river; and if any person shall pull down or deface such notification, he or she shall for each offence forfeit and pay ten shillings; and if such committee shall neglect or refuse to post up such notification within the said term of four days, such committee shall forfeit and pay ten shillings; and any person who shall presume to take any of the said fish in the said river, except at the times and places appointed by the said committee as aforesaid, shall forfeit and pay three pounds for each offence.

SECT. 3. *Be it further enacted*, That if any person or persons shall make any wears, or any other obstruction, to hinder the passage of the said fish up the said river, each person so offending shall forfeit and pay the sum of five pounds; and any person who shall take or catch any of the said fish in said river, with any other instrument than a dip-net, shall forfeit and pay four pounds for each offence.

SECT. 4. *Be it further enacted*, That if any person shall set or draw any seine, drag-net, or marsh-net in the said river, or within the following bounds of the harbor adjoining it, viz.: beginning at the south-westwardly end of the inland, owned by the Rev. Mr. La Barron, and from thence to the mouth of the creek which runs out of Barlow's Pond (so called), from and after the tenth day of April to the twentieth day of May annually, each person so offending shall forfeit and pay ten pounds.

SECT. 5. *Be it further enacted*, That all the forfeitures mentioned in this act shall accrue to the said town of Rochester, to be recovered by the treasurer of the said town in an action of debt in any court proper to try the same; and no person shall be considered as disqualified from giving evidence in any such action on account of his living in or being an inhabitant of the said town of Rochester.

SECT. 6. *Be it further enacted*, That the agreement made and entered into between the said town of Rochester and the owners of the lower dam, on the said river, with regard to the premises, shall be good and valid in law.— [March 1, 1788.

[Sp. Laws, vol. 1, p. 247, 290; vol. 3, p. 91; 1810, 60; 1814, 99; 1817, 136; 1820, 70; 1829, 41.]

AN ACT to prevent the Destruction of Fish called Shad and Alewives, in Ten and Three-Miles Rivers, in the County of Bristol.

Sp. Laws, vol. 1, p. 183. Whereas it is necessary for the preservation of the fish called alewives, in their passage up the rivers, called and known by the name of Ten-Mile and Three-Mile River, in the county of Bristol, that some further provision should be made for the said purpose:

SECT. 1. *Be it enacted*, That the several towns through which the said Ten-Mile and Three-Mile River run, shall be, and they are

hereby empowered and directed, in the month of March or April annually, to choose three or more persons in each town respectively, being freeholders within the same, as a committee, who shall take an oath to the faithful discharge of his or their duty; and the said committee, or the major part of them, shall have power to cause the natural course of the said streams through which the said fish pass, to be kept open, and without obstruction, and to remove all such obstructions as may be found therein, and to make the passage-ways wider or deeper if they shall find it necessary; and the committee, or a major part of them, shall have authority for such purposes, to go on the land of any person through which the said Ten and Three-Mile Rivers run, without being considered as a trespasser or trespassers; and any person who shall hinder the said committee, or either of them, in the execution of the business of his or their office, or who shall obstruct any passage-way in the said rivers, otherwise than may be allowed by the said committee, he or they shall forfeit and pay a fine not exceeding the sum of fifteen pounds, nor less than five pounds.

SECT. 2. *Be it further enacted*, That the said committee, or a major part of them, at any meeting by them duly notified, shall be and hereby are authorized and empowered to open any dam or sluice-way of any mill erected, or that may be erected on, over or across the said rivers, at the expense of the owner or owners of such dam, provided such owner or owners shall neglect to open the same when they are required by said committee; and the said dam or dams, or sluice-way or ways, so opened, shall continue open to such width and depth, and for such length of time betwixt the first day of April and the last day of May annually, as the major part of the said committee shall judge necessary; and in case any person or persons shall be found to obstruct the passage-ways allowed or ordered by the said committee in any dam or sluice, such person or persons so offending shall forfeit and pay a fine not exceeding the sum of ten pounds, nor less than five pounds.

SECT. 3. *Be it further enacted*, That all penalties incurred by a breach of this act may be sued for and recovered in any court in the county of Bristol proper to try the same; and all sums so recovered or forfeited by a breach of this act, shall be appropriated, one moiety thereof to the prosecutor or prosecutors, and the other moiety thereof to the use of the poor in such town where the offence is committed; and no person, by reason of his being one of the said committee or an inhabitant of either of said towns, shall thereby be disqualified from being a witness in any prosecution for a breach of this act. — [March 10, 1788.]

[Repealed as regards Three-Mile River Sp. Laws, vol. 1, p. 287.]

[Sp. Laws, vol. 1, p. 126.]

AN ACT for altering a certain clause in an Act entitled, "An Act to prevent the destruction of Salmon, Shad and Alewives, and other Fish in Agawam or Westfield River."

Sp. Laws, vol. 1, p. 188. Whereas by the said act no person or persons are allowed to catch any salmon, shad or alewives, with seines, nets, pots, or in any other way, within two miles of the entrance of the said river into Connecticut River, nor in Connecticut River within half a mile south or forty rods north of the mouth or entrance of the said Agawam into Connecticut River :

SECT. 1. *Be it enacted*, That the clause in the said act respecting catching fish in Connecticut River be, and the same is hereby so far altered and repealed as that any person or persons may catch fish in Connecticut River with seines, nets, pots, or in any other way or place, excepting within one hundred rods directly south of the entrance of the said Agawam into Connecticut River ; anything in the said act to the contrary notwithstanding.— [March 26, 1788.

AN ACT to prevent the Destruction of Alewives and other Fish in Ipswich River, and to encourage the increase of the same.

Sp. Laws, vol. 1, p. 191. SECT. 1. *Be it enacted*, That the owner or owners, occupier or occupiers of the dam across Ipswich River commonly called Warner's mill-dam, and also the owner or owners, occupier or occupiers of the dam of Farley's mill, so called, be and they are hereby required, henceforward, at their own cost and charge, in proportion to their several interests, to make and keep open a passage for the fish through their respective dams, from the twentieth day of April to the thirteenth day of June annually ; and that the said passages be within four feet of the northerly end of each of the said dams, five feet wide, to enter from the under side of the cap-piece, which cap-piece shall be level with the said dam, and as low as the upper side of the mud-sills of the same ; and that during the said time the bottom of the said passage be covered with flat stones or gravel in such manner as that the bottom be not raised higher than the sills ; and that nothing shall be kept, put or placed on the upper side of either of said dams, nor anything put or placed below either of them, within six feet of the sluice-way on the southerly side of them, except a brace on the southerly side of each of the said sluice-ways, to guard the said cap-pieces, on penalty that the owner or owners, occupier or occupiers of either of the aforesaid mills neglecting to observe the directions of this act in any of the instances before mentioned, shall for every such offence forfeit the sum of twenty pounds, to be recovered of them, or either of them, by action of debt in any court of record proper to try the same, in the county where the offence shall be committed, to be disposed of as follows, viz. : one

moiety to him who shall sue for the same; the other moiety to the poor of the town where the offence shall be committed.

SECT. 2. *Be it further enacted*, That the owner or owners, occupier or occupiers of Dodge's Mills, so called, at the Little Falls on the said river, be and they are hereby required to keep open the passage over the said falls, from the grist-mill to a large rock in the angle of the falls or dam, down to the mud-sill, from the twentieth day of April to the thirteenth day of June annually, on penalty that the owner or owners, occupier or occupiers of the aforesaid mills neglecting to observe the direction of this act, shall for every such offence forfeit and pay the sum of twenty pounds, to be recovered of them, or either of them, by action of debt, in any court of record within the same county proper to try the same, one moiety thereof to him who shall sue for the same, the other moiety to the poor of the town where the offence shall be committed.

SECT. 3. *Be it further enacted*, That the sluices or passages through or by all other mill-dams now erected, or that shall hereafter be erected upon said river, or by any stream or streams running from any natural pond into the same, provided the said mill-dam be below the same ponds, shall be open, and kept open; and that the owner or owners, occupier or occupiers of such mill-dam, shall make, maintain and keep open the said sluices or passages at their own cost and charge, in the same manner as heretofore in this act is provided with regard to the passages through Warner's and Farley's mill-dam, and under the said penalty for every neglect, to be recovered and disposed of in the same manner.

SECT. 4. *Be it further enacted*, That every person who shall, after the twentieth day of April, which will be in the year of our Lord one thousand seven hundred and eighty-eight, presume to take any fish of any kind in the said river or its branches, or any of the ponds emptying themselves into the same, with seines or drag-nets of any kind, shall forfeit for every such offence, the sum of twenty pounds, to be recovered in any court of record proper to try the same, one moiety to him who shall sue for the same, the other moiety to the poor of the town where the offence is committed.

And whereas it has been found by experience, that saw-dust floating in streams where fish pass, obstruct their passage:

SECT. 5. *Be it further enacted*, That none of the saw-mills on said river, or any of the streams running from natural ponds into the said river, shall be suffered to go between the last day of April and the first day of June annually, for cutting any wood or timber; and every owner or occupier of such mill, who within the term aforesaid shall use or suffer the same to be used or employed for such purposes afore-

said, shall incur the penalty of twenty pounds, to be recovered and disposed of in the same manner as aforesaid.

SECT. 6. *Be it further enacted*, That from and after the passing this act, every town bordering on Ipswich River, where alewives and other fish go up to cast their spawn, shall, at their meeting in March or April, for the choice of town officers annually, choose at least three fit and suitable persons, whose duty it shall be, jointly or severally, to see that this act be duly observed, and to inform against any person or persons that shall offend against the same; and all persons so chosen, shall be sworn to the faithful discharge of their duty in such office; and if any person chosen as aforesaid, shall refuse or neglect to be sworn, after due notice given, he shall forfeit and pay the sum of forty shillings, for the use of the poor of the town to which he belongs, to be recovered by the treasurer of such town in any court proper to try the same; and such town shall proceed to a new choice, and so *toities quoties*.

SECT. 7. *Be it further enacted*, That each and every person, who shall, from and after the twentieth day of April, to the thirteenth day of June annually, presume to take any of the said fish in the river aforesaid, or any of the streams running into the same, except on Monday, Wednesday and Friday, in each week during the time limited by this act, and in that case, not to be taken within two rods of any of the sluices aforesaid, shall forfeit and pay for every such offence a sum not exceeding forty shillings, nor less than twenty shillings, to be recovered on complaint or information, one moiety to the prosecutor, the other moiety to the poor of the town where the offence is committed: and the said committee shall be admitted as witness or witnesses on the trial.

SECT. 8. *Be it further enacted*, That all the laws heretofore made, relative to fish passing up Ipswich River, and for regulating the taking of the said fish, be and they hereby are repealed and made null and void.— [March 28, 1788.

[Sp. Laws, vol. 1, p. 451; vol. 2, p. 128; vol. 3, pp. 431, 524; 1810, ch. 117; 1812, 127; 1814, 22; 1823, 33; 1839, 134; 1845, 79; 1855, 171; 1856, 14, 52, 248.]

AN ACT to prevent the Destruction, and regulate and limit the Catching of Fish in the Rivers and Streams in the Town of Westport, in the County of Bristol.

Sp. Laws, vol. 1, p. 197. SECT. 1. *Be it enacted*, That no seine or net shall be drawn at any time of the year anywhere in the rivers within the said town of Westport, below the south end of an island called Lake's Island, striking a line of an east and west course from the south end of said island, or within half a mile from the entrance of the harbor of said town; and that in the months of October and November, yearly, and every year, no seine or net shall be drawn any where in either of the rivers, arms or creeks within the said town;

and if any person or persons, after the passing of this act, shall presume to draw any seine or net at any place or time, which is not allowed as above mentioned and described, he or they so offending, shall forfeit and pay the sum of three pounds for each offence, to be recovered by action of debt in any court proper to try the same; the one moiety thereof to him or them who shall sue for the same, and the other moiety to the use of the town of Westport; and every such seine or net, with its appendages so drawn, shall be forfeited to the use of said town.

SECT. 2. *Be it further enacted*, That the town of Westport shall be, and hereby are empowered and directed at their meeting for the choice of town officers in March or April, annually, to choose three or more suitable persons in the said town, to see that this act be duly observed; and each person so chosen, shall be sworn faithfully to discharge the duties required of him, agreeably to this act. — [June 18, 1788.

AN ACT for preventing the Destruction of Alewives in the town of Wellfleet, and regulating the Fishery of them in the said Town.

Sp. Laws, vol. 1, p. 200. SECT. 1. *Be it enacted*, That it shall and may be lawful for the freeholders and other inhabitants of the town of Wellfleet, qualified by law to vote in town affairs, at their annual meeting by law appointed for the choice of town officers, to choose a committee of three or more persons, being freeholders of said town, to inspect the said fishery of alewives, who shall be duly sworn to the faithful discharge of their duty; and the said committee shall have full authority and power to meet, agree and determine upon rules and regulations respecting the taking the said fish, at what time, place or places the same shall be taken within the limits of the said town; and of the rules and regulations, agreed and determined upon by the said committee, or the major part of them, they shall cause fair copies to be posted up in three different parts of the said town, within fourteen days at the least, after their having been chosen as aforesaid, and shall also fix marks or bounds in the place or places allowed for fishing.

SECT. 2. *Be it further enacted*, That if any person or persons shall take any of the said fish in the rivers, streams or ponds, within the said town, at any other time or place than shall be allowed by the said committee as aforesaid, each person so offending, for each and every such offence, shall on conviction thereof, pay a fine not exceeding twenty shillings, nor less than five shillings, if the quantity of fish so taken is less than one barrel; but if the quantity so taken shall be one barrel or more, such person or persons so offending, shall forfeit

and pay for each and every barrel of fish so taken, the sum of twenty shillings.

SECT. 3. *Be it further enacted*, That if the committee aforesaid, or either of them, shall detect any person in attempting to take any of the said fish, at any time, or in any place other than is allowed by the said committee as aforesaid, or shall find such fish with such person or persons, he or they shall be deemed to have taken the fish unlawfully, and shall be subject to the penalties of this act, as before mentioned, unless such person or persons can make it appear on trial, that they came by the said fish in some other way.

SECT. 4. *Be it further enacted*, That no person shall presume to take, catch, or haul on shore, any of the said fish within the limits of the said town, with any other nets than with scoop or dip nets, on pain and penalty of forfeiting for each and every offence, a sum not exceeding forty shillings, nor less than thirty shillings. And the said committee shall, during the passing of the said fish up the rivers and streams within the said town, as well as during the return of the said fish, and of the passing of their fry from the ponds to the sea, cause all obstructions to their passage, whether by weirs, fences, walls, or otherwise, to be removed, and may make wider or deeper the said passage-ways, when they shall judge it necessary, the said committee paying a reasonable consideration therefor, if demanded; and shall have authority for those purposes, to go on the land or meadow of any person through which any of the said streams run, without being considered as trespassers; and any person who shall molest or hinder the said committee in the execution of their duty, or shall in any way or manner obstruct the passing of the said fish by weirs, fences, walls, or otherways, shall forfeit and pay a sum not exceeding forty shillings, nor less than thirty shillings.

SECT. 5. *Be it further enacted*, That no inhabitant of any other town than the said town of Wellfleet, shall catch or take any of the said fish in any of the rivers, streams or ponds within the said town of Wellfleet, without leave had therefor in writing, of the said town of Wellfleet, or of their said committee.

SECT. 6. *Provided, nevertheless*, That during the fishing season, any inhabitant of the neighbouring towns shall be supplied by the committee or some person by them appointed for that purpose, to the number of three hundred of the said fish, or any less quantity, if thereto requested, such inhabitant paying therefor at a rate not exceeding one shilling per hundred; and in case of neglect or refusal to supply such inhabitant as aforesaid, upon application of the aggrieved person to any justice within the county of Barnstable, not an inhabitant of Wellfleet, such justice may authorize and appoint some suitable person to catch and take the said fish, and supply the inhabitants of

the neighbouring towns therewith, the person so appointed to conform to the rules established by the said committee, respecting the time and place of taking the said fish, and to be allowed by the said justice, from the sale of the fish he shall so take, a reasonable sum for his time and trouble; and if any overplus remain after being paid as aforesaid, the same shall be by him paid to the treasurer of the town of Wellfleet.

SECT. 7. *Be it further enacted*, That all fines and forfeitures incurred by any breach of this act, may be sued for and recovered before any justice of the peace in the said county of Barnstable; and all fines recovered for any breach of this act, shall enure, one moiety thereof to the said town of Wellfleet, and the other moiety thereof to him or them that shall sue for and recover the same. And no person, by reason of his being one of the said committee or an inhabitant of the town of Wellfleet, shall thereby be disqualified from being a witness in any prosecution for a breach of this act. — [June 19, 1788.

[Repealed 1836, 56.]

1789.

AN ACT to prevent the Destruction of Fish called Shad and Alewives, in Mystic River, so called, within the towns of Cambridge, Charlestown and Medford, and for repealing all laws heretofore made for that purpose.*

[An Act for continuing this Act and including Woburn and Malden, Feb. 27, 1794.
Separate provision for Medford, Feb. 11, 1803.]

Sp. Laws, vol. 1, p. 238. Whereas the fishery in Mystic River, in the county of Middlesex, if properly regulated, will be of great public utility, as it serves to promote the cod fishery, and is also of advantage to the particular towns through which the river runs, affording, in some measure, subsistence and support to the inhabitants thereof, and it is, therefore, necessary to be preserved:

SECT. 1. *Be it enacted*, That the inhabitants of the towns of Cambridge, Charlestown and Medford, respectively, at a town meeting, to be held in the months of March or April, annually, at the time of choosing other town officers in their respective towns, be and they hereby are authorized and directed, to choose, for each of said towns, three suitable persons, in their respective towns, as a "Committee for the preservation of Fish," who shall be sworn to the faithful discharge of their duty: and the said committee, or the major part of them, in their own town, shall have full power and authority to cause the natural course of the said river, and the streams running into it, to be kept open and without obstruction, and to remove all such obstructions, as may be found therein; and to make the passageway wider or deeper, if they shall find it necessary. And the said

committee, or a major part of them, in their respective towns, shall have authority for such purposes, to go on the land of any person which may border on said river or streams, without being considered as guilty of a trespass; and to remove across such land any such obstructions, implements or tools, as may, in any way, impede, obstruct or hinder any fish from passing freely up and down said river or streams, otherwise than by this act is provided. And any person who shall hinder or obstruct said committee, or a majority of them, whether in crossing such land, or in executing any part of the business by this act assigned them, shall forfeit and pay for every such offence, a sum not exceeding three pounds, nor less than twenty shillings, to be recovered in any court, proper to try the same.

SECT. 2. *Be it further enacted*, That no shad or alewives shall be caught in any of the above mentioned towns, above Medford bridge, in the said river or streams, or in Mystic Pond or Spy Pond, whether with a seine, drag-net, marsh-net, basket, or any other implement of that kind, or made to answer such purpose, except as is hereafter in this act provided. And every person offending herein, shall, upon due conviction, forfeit and pay the sum of three pounds, for every such offence, and shall also forfeit the implements or tools used in committing the offence. And no person shall, at any time, place any kind of obstruction in said river, streams or ponds, which may obstruct or hinder any shad or alewives from passing up or down the same. And no person shall be permitted, by disturbing the waters aforesaid, or by any other means, to restrain or interrupt any of those fish in their passage up and down said river and streams. And every person offending in either of these particulars, shall, upon conviction, forfeit and pay the sum of three pounds for every such offence; and every wear, net, or other obstruction, matter or thing, placed or used for such purpose, shall also be forfeited, if found in any of the waters aforesaid; and shall be disposed of by said committee or a majority of them, for the same purpose as the other forfeitures are to be applied to by this act, so far as the proceeds of the sale shall not be necessary for the particular appropriations in this act.

SECT. 3. *Be it further enacted*, That, in order to secure to said towns of Cambridge, Charlestown and Medford, their equal benefit from said fishery, the inhabitants of the town of Cambridge shall, within the limits of that town, have full right to catch with any kind of net, seine, or other fishing implement, any shad or alewives, on Monday, Tuesday and Friday, in every week, from the first day of March to the last day of June inclusively; and the inhabitants of Charlestown and Medford shall, in like manner, in their respective towns, have full right to catch any shad or alewives, in the waters

aforsaid, on Monday, Wednesday and Friday, in every week included in said term.

SECT. 4. *Be it further enacted*, That any person being an inhabitant of either of those towns, shall, each in his own town, in the river, streams and ponds aforesaid, with any kind of fishing implement, on those days only, which are, with respect, to each of said towns before mentioned, have the right of catching said fish, between sun-rising on said days before mentioned, until sun-rising on the next day; and no obstruction, instrument or tool, shall be set, placed or used, for the purpose of hindering or catching of the fish aforesaid, in the waters aforesaid, till the sun shall be risen on said days; nor shall any such instrument be permitted to remain or be used in said river, streams or ponds, after the rising of the sun as afore-mentioned; and no such obstruction shall be allowed to be placed, used, or to remain in said river, streams or ponds, on any other days or times than is herein limited and prescribed; under the same penalties and forfeitures, to be incurred by any and every person placing or using the same, as are provided by this act, to be forfeited and paid by persons catching said fish, except as this act provides.

SECT. 5. *Be it further enacted*, That, if any inhabitant of any other town shall, at any time, take or hinder shad or alewives, within the limits of either of said towns, without leave first obtained from the selectmen of the town in which he shall take or hinder those fish, or unless the person taking or hindering them, shall be immediately in the employ or service and laboring for the benefits of some inhabitant of such town; every person so offending, shall, upon a due conviction, forfeit and pay the same penalties and forfeitures, as by this act are provided against persons taking, obstructing or hindering said fish, at any other times than those particularly permitted.

SECT. 6. *Be it further enacted*, That the said committee, or a majority of them, in their respective towns, shall have full authority to execute this act, so far as relates to seizing, removing, and selling any implements or tools, used for hindering, taking, disturbing or turning back the fish in said river, streams or ponds; and in and after the execution of said trust, they shall not be considered as guilty of a trespass therein; nor shall any action lie against them, or either of them, for any necessary damage done to the lands or fences of any person, in executing said trust; but if the proceeds of the sale of said implements, or other materials, shall be found insufficient to defray all the necessary charges, and the reasonable fees of the committee, not exceeding four shillings to each committee-man, for each day so spent by him, and all reasonable and necessary assistance; then the remainder of such damages and costs shall be recovered in an action of debt, to be brought by the persons to be benefited by the

same; whether committee-men, or persons owning lands or fences damaged, with all the costs of suit against the person committing the offence, in any court proper to try the same, within the county of Middlesex. And the said committee, or any other person, may sue for and recover, upon due and legal conviction, in any court proper to try the same, all penalties which shall arise, or become due in their respective towns, for any breach of this act, either upon action of debt, or upon indictment or information; one-half of the penalty to accrue to the person recovering the same, the other half to be paid to the treasurer of the town where the offence was committed, for the use of the poor of the same town.

SECT. 7. *Be it further enacted*, That all fines and penalties that may be incurred for a breach of this act, not exceeding four pounds, may be sued for and recovered before any justice of the peace for the county of Middlesex, saving the right of appeal, to any person aggrieved by the sentence of said justice, to the court of general sessions of the peace, next to be holden for said county.

This act to be in force for the space of five years, from the first day of March next, and no longer.— [February 16, 1789.

[1820, 67.]

[Sp. Laws, vol. 1, p. 180.]

1789.

AN ACT in addition to an Act passed the last year, entitled “ An Act for the preservation of the Fish called Alewives, in Mattepoiset River, in Rochester, in the County of Plymouth, and for regulating the taking the said Fish in the said River.”

Sp. Laws, vol. 1, p. 247. Whereas it is provided in and by the said act, that the owner or owners of each and every mill-dam on said river, shall make, provide and continue a sluice-way of three feet wide and eight inches deep, for the said fish to pass their respective dams, as low as the selectmen of the said Rochester shall judge convenient for the said fish to pass in; and the selectmen of the said town of Rochester be authorized to open said sluice-ways on the second Monday of April, annually, in order to let the said fish pass the said dams. And whereas it is found, by experience, that the keeping of said sluice-ways shut till the second Monday in April, annually, greatly impedes the course of said fish:

SECT. 1. *Be it enacted*, That from and after the passing this act, the selectmen of the said town of Rochester are hereby authorized, on any day between the last day of March and the second Monday of April, annually, to open the said sluice-ways, which, when opened by them, shall remain open until the twentieth day of May, annually, under the same penalty as is provided in said act, for said sluice-ways being stopped between the second Monday of April and the twentieth day of May.

SECT. 2. *Be it further enacted*, That, if any person shall presume to take any of said fish in the brook, leading out of Little Long Pond (so-called) into Sniptuet Pond, such person shall be subject to the same penalty as is provided in said act for taking fish in said Mattoiset River at a time not allowed by the committee of said town to take said fish in said river. And whereas there is no provision made in said act to prevent persons taking said fish in said river, or by seines in a part of the harbor therein described, before the tenth day of April, annually :

SECT. 3. *Be it further enacted*, That if any person shall presume to take any of said fish in said river, or to stretch any seine in that part of the harbor into which said river empties which is described in said act, between the last day of March and the tenth day of April, annually, such person or persons shall be subject to the same penalty as is provided by said act for doing the same between the tenth day of April and the twentieth day of May.

SECT. 4. *Be it further enacted*, That the inhabitants of the said town of Rochester, at a legal town-meeting warned for that purpose, may sell, or dispose of, on such terms and in such manner as they may think proper, the exclusive right of taking said fish in said river, for any number of days, not exceeding three in each week, no one sale to be for a longer term than one year. And, whereas, by reason of the swamp and thickets through which said river runs, it may be very difficult to procure proof of the violations of this act, and the act to which this is an addition : Therefore,

SECT. 5. *Be it enacted*, That if the committee of said town, or any member thereof, shall detect any person attempting to take said fish, on any day, in any place or in any manner other than is allowed by said committee, and said person has any of said fish in his or her custody, or if the said committee, or other member of said town, shall find any such fish in any person's custody, near to, or coming from said river, such person shall be deemed to have taken such fish illegally, and shall be subject to the penalties provided by this act, and the act to which this is an addition, unless such person can give a satisfactory account how he or she came by such fish.

SECT. 6. *Be it further enacted*, That any member of the committee of said town of Rochester, appointed in consequence of said act, may bring forward an action of debt, for the recovery of the penalty or penalties provided in said act, or in this act, in his own name, and the name of the said town of Rochester, and shall be entitled to one-half the sum or sums so recovered, anything in said act to the contrary notwithstanding. — [June 15, 1789.

[Sp. Laws, vol. 1, p. 290; vol. 3, p. 91; 1810, ch. 60; 1814, 99; 1817, 136; 1820, 70; 1829, 41.]

AN ACT for reviving and continuing Sundry Laws that are expired or near expiring.

Sp. Laws, vol. 1, p. 249. Whereas, the several acts hereafter mentioned, which are now expired, or near expiring, have been found useful and beneficial, viz. : An Act made in the year of our Lord one thousand seven hundred and seventy-three, entitled "An Act for regulating the Alewife fishery in the town of Halifax, in the county of Plymouth."

AN ACT regulating the taking of the Fish called Alewives, in the Town Brook, so called, in the Town of Plymouth.*

Sp. Laws, vol. 1, p. 250. **SECT. 1.** *Be it enacted,* That said fish may be taken between the two grist-mills now standing on said brook, and shall not be taken in any other part thereof, and at such time or times only as a committee who may be appointed by said town, as is hereafter provided, may direct.

SECT. 2. *Be it further enacted,* That the inhabitants of said town of Plymouth, at their meeting for the choice of town officers in March or April annually, be and they hereby are authorized and directed to appoint five or seven persons a committee to oversee the taking said fish as aforesaid, which committee shall distribute the said fish taken by them, or under their direction, as equally as circumstances will admit, to such of the inhabitants of said town as may apply for the same, and for the fish so supplied and delivered the committee aforesaid shall demand and receive, of the person or persons applying therefor, payment at such rate or rates as the inhabitants of the said town at their annual meeting in March or April may direct, excepting of such poor persons as may be named in a list annually to be made out by the selectmen of said town, and who, in the opinion of the selectmen, are unable to pay for the same, which list shall be given to the committee, and the person or persons borne on the same shall be supplied with such quantities of said fish, gratis, as the committee may think expedient. And the committee aforesaid shall have such allowance for their services as the inhabitants of said town, at the time of appointing said committee, shall determine, and shall annually, in the month of September next following their appointment, exhibit their accounts to the selectmen of said town for settlement and allowance, and pay the balance remaining in their hands, if any, to the treasurer of the town of Plymouth, for the town's use.

SECT. 3. *Be it further enacted,* That the said committee, or the major part of them be and are hereby authorized and empowered to open any dam, or the sluice of any mill or other water-works erected, or that may be erected on or over said brook, at the expense of the owner or owners of such dam or sluice, provided such owner or owners

* Extended to Fresh Pond Brook, June 25, 1798.

shall neglect to open the same when thereto required by said committee, or the major part of them as aforesaid; and the dam or sluice that may be so opened, shall continue open to such depth and width, and for so long a time, as the said committee, or the major part of them may judge necessary; and if any person or persons shall obstruct the passage-ways allowed or ordered by said committee, or the major part of them, in any dam or sluice-way, or shall obstruct the passage of said fish in any part of said brook than is permitted by this act, such person or persons so offending, shall forfeit and pay a sum not exceeding fifty pounds, nor less than ten pounds.

SECT. 4. *Be it further enacted*, That if any person or persons, other than the said committee, or such persons as shall be by them employed shall take any of the said fish in the said brook, or any part of it, at any time, or by any ways or means whatsoever, each person so offending shall forfeit and pay a sum not exceeding forty shillings, nor less than ten shillings, for every such offence.

SECT. 5. *Be it further enacted*, That all penalties incurred by the breach of this act may be sued for and recovered by the treasurer of the town of Plymouth, for the time being, in any court in the county of Plymouth proper to try the same; and all sums so recovered shall be appropriated to the use of the said town; and in case any minor or minors shall offend against any part of this act, and thereby incur any or either of the penalties aforesaid, in all such cases the parents, master or guardians of such minor or minors shall be answerable therefor; and in case of a prosecution of such minor or minors for any such offence, the action shall be commenced against the parents, masters or guardians of such minor or minors, respectively, and judgment be rendered against any parent, master or guardian in such case, in the same manner as for his or their personal offence.

SECT. 6. *Be it further enacted*, That no person by reason of being an inhabitant of said town, or one of said committee, shall be thereby disqualified from being a witness in any prosecution for a breach of this act. — [June 20, 1789.

1790.

AN ACT empowering the Town of Pembroke to regulate and order the taking and disposing of the Fish called Alewives, within the limits of the said Town.

Sp. Laws, vol. 1, p. 269. Whereas the town of Pembroke, in the county of Plymouth, hath been at considerable expense and charge in opening a passage for the fish called alewives, from the sea into the ponds called the Indian Ponds, being wholly within the bounds of the said town, it is but reasonable and just that the ordering of the taking of the said fish, and the disposition of them, when taken, should be wholly vested in the said town. And whereas, an act heretofore

made for that purpose has been found inadequate to the purposes thereby intended :

SECT. 1. *Be it enacted*, That it shall and may be lawful for the inhabitants of the said town of Pembroke, at a meeting legally and regularly assembled for that purpose, from time to time, and at all times hereafter, to determine and order how, in what manner, by whom and at what place or places, time or times in the year, said fish may be taken within the town aforesaid, and shall cause a copy of such order, attested by the town clerk, to be posted up in some public place in said town, whereunto all persons shall conform with regard to the taking and disposing of said fish, on penalty that the offender against the same shall forfeit and pay a sum not exceeding three pounds, nor less than forty shillings, for each offence, at the discretion of the justice before whom the same shall be tried.

SECT. 2. *Be it further enacted*, That the inhabitants of the town of Pembroke shall be, and hereby are, empowered and directed annually to choose three or more persons, being freeholders in the said town, to see that this act be duly observed, agreeably to the directions of said town ; and each person so chosen shall be sworn faithfully to discharge the duties required of him by this act ; and the said committee are hereby authorized and empowered to cause the natural course of the stream, through which the said fish pass, to be kept open and without obstruction, and to remove any such as may be found therein ; and the said committee, or either of them, shall have authority, for those purposes, to go on the land or meadow of any person through which such stream runs, without being considered as trespassers ; and any person who shall hinder or molest said committee, or either of them, in the execution of his or their office, or shall obstruct any passage-way in said rivers or streams within the said town of Pembroke, otherwise than may be allowed of by the said town, he or they shall forfeit and pay a fine for every such offence, not exceeding the sum of five pounds, nor less than three pounds.

SECT. 3. *Be it further enacted*, That if the committee, or either of them, shall detect any person or persons in attempting to take any of the said fish at any time, or in any place, or in any manner, otherwise than is allowed by the said town, or shall find such fish with such person or persons, they shall be deemed to have taken the said fish unlawfully, and shall be subject to the penalties of this act accordingly, unless such person or persons can make it appear on trial that they came by the said fish in some other way.

SECT. 4. *Be it further enacted*, That the said committee be empowered, and are hereby empowered and authorized, to open the sluice-ways through any dam or dams that are or may be erected

within the town of Pembroke, on the stream leading out of the great ponds, at the expense of the owner.

SECT. 5. *Be it further enacted*, That no person shall be considered as disqualified from being a witness on any trial that may be had pursuant to this act, on account of his belonging to or being an inhabitant of the said town of Pembroke.

SECT. 6. *Be it further enacted*, That if any servant or minor shall be found taking any of said fish in anywise contrary to this act, or contrary to the rules and orders of said town of Pembroke as aforesaid, the parents, masters or guardians of such minors or servants shall be liable for the fines and forfeitures incurred by a breach of this act, or the rules and orders of the town aforesaid.

SECT. 7. *Be it further enacted*, That in case any poor or indigent person or persons shall be found taking any of the said fish contrary to this act, or contrary to the rules and orders of said town of Pembroke, it shall be lawful for the committee or overseers of said brook, chosen as aforesaid, to take from such poor or indigent person or persons their net or nets, with which they may be found taking said fish, and detain them in their custody for the space of one month, or until they do appear and pay the fines and forfeitures arising by the breach of this act and the orders of the town aforesaid; and in case the said poor person or persons do not appear and pay the fines and forfeitures as aforesaid, within one month as aforesaid, the said net or nets shall be forfeited to and for the use of the poor of the said town of Pembroke.

SECT. 8. *Be it further enacted*, That no person or persons, at any time between the first day of April and the fifteenth day of June annually, shall enter the river commonly called and known by the name of Barker's River, above where said river adjoins to Indian Head River, so called, with an intent to drive, seine or otherwise disturb the fish in said river where the tide ebbs and flows, on penalty of five pounds for each offence, to be recovered in manner hereafter mentioned.

SECT. 9. *Be it further enacted*, That no person or persons shall presume to set, draw or cast any seine, drag or set-net, of any dimensions whatsoever, in the North River, so called, except on the Monday and Friday of each week, and that between the sun's rising and setting of each day; and that no seine, drag or set-net shall be set, drawn or cast in said river above what is commonly called and known by the name of the Third Herring Brook, or Smelt Brook.

SECT. 10. *Provided, nevertheless*, That the inhabitants of the several towns adjoining the said river are hereby permitted and allowed to set set-nets or scoop-nets at North River Bridge, so called, on the

Monday and Friday evenings of the said days in each week, from eight of the clock in the afternoon to ten of the clock in the evening of the same day, between the first day of April and the fifteenth day of May annually, on the penalty of five pounds for each offence.

SECT. 11. *Be it further enacted*, That all fines and forfeitures accruing for any breach of this act shall be one half to the use of the poor of the said town of Pembroke, and the other half to him or them who shall sue and prosecute for the same, to be recovered by action of debt in any court proper to try the same. And all former laws heretofore made for the regulation of the alewife fishery in the town of Pembroke, are hereby repealed. — [February 26, 1790.

[Sp. Laws, vol. 1, p. 236; 1811, 72; 1814, 123; 1840, 45; 1843, 116; 1853, 350; 1856, 83; 1865, 47.]

[Sp. Laws, vol. 1, p. 10.]

AN ACT to regulate the catching of Shad, Salmon and Alewives, and to prevent Obstructions in Merrimack River, and in the other Rivers and Streams running into the same, within the Commonwealth, and for repealing several Acts heretofore made for that purpose.

Sp. Laws, vol. 1, p. 272. SECT. 1. *Be it enacted*, That an act passed in the year of our Lord one thousand seven hundred and eighty-three, entitled “An Act to regulate the catching Salmon, Shad and Alewives, and to remove and prevent obstructions in Merrimack River, and in the other rivers and streams running into the same within this Commonwealth, and for repealing several acts heretofore made for that purpose,” together with the several subsequent acts in addition thereto, be and are hereby repealed, except so far as may relate to any action, indictment or information which have been already commenced for the breach of the same.

SECT. 2. *Be it further enacted*. That no person or persons whatever be allowed, from and after the passing this act, to catch any salmon, shad or alewives in any part of the Merrimack River, or in any river or stream centering to and running into the same, within this Commonwealth, oftener or more than three days in a week, the days to be Monday, Tuesday and Wednesday in each week, and from sunrise on Monday morning to sunrise on Thursday morning. And if any person or persons shall catch any salmon, shad or alewives in Merrimack River, or any river or stream centering to or running into the same, or shall drag any seine or drag-net, or set any net or pot, or use any other machine for the purpose of catching any of the said fish in the said rivers and streams, and within this Commonwealth, at any other time or place than by this act is allowed, each and every person so offending shall forfeit and pay for each offence a fine not less than thirty shillings, nor more than four pounds, at the discretion of the court before which trial shall be had, according to the aggravation of

the offence, and the seine, net, pot or other machine so used shall be forfeited.

SECT. 3. *Be it further enacted*, That if any person or persons shall erect any obstruction or incumbrance in or across the said Merrimack River, or in any of the rivers or streams running into the same, or continue such as are already erected, so as to prevent the free passage of the said fish up and down the said rivers and streams, he or they so offending shall forfeit and pay a fine of twenty pounds.

SECT. 4. *Be it further enacted*, That no person or persons, from and after the passing of this act, shall at any time catch any salmon, shad or alewives with seines, nets, pots or in any other way, at the mouth or entrance of the aforesaid streams or rivers (or within eighty rods of the same, up such rivers or streams, nor in the mouth of Concord River below Tyler's or Spaulding's mill-dam), in which such fish usually go up to cast their spawn, nor in any pond from which such rivers or streams proceed, nor in any brook or rivulet that run into such ponds; and any person or persons so offending shall for each offence forfeit and pay a fine not less than thirty shillings, nor more than four pounds, at the discretion of the court before which trial shall be had, according to the aggravation of the offence; and the seine, net, pot or other machine used in catching the same shall be forfeited.

SECT. 5. *Be it further enacted*, That if any person or persons shall fish with a seine or net exceeding eighteen rods in length, or extend more than one seine or net on the same fishing ground, at one and the same time, he or they shall for each offence forfeit and pay a fine of four pounds, and such seines or nets shall be forfeited.

SECT. 6. *Be it further enacted*, That from and after the passing this act, every town in this Commonwealth bordering on Merrimack River, and in which there are any ponds, rivers or streams centering to or emptying themselves into Merrimack River, where salmon, shad or alewives do or would (if not obstructed) go up to cast their spawn, shall at their annual meeting in the month of March or April annually, choose by ballot, at least four suitable and fit persons as fish-wardens, whose duty it shall be jointly and severally to see that this act, and the act for keeping open sluice-ways in dams, be carried into effect, and to inform against any person or persons that shall offend against the said acts, and to examine and measure seines and nets used in catching the said fish, and to see that all obstructions in the rivers and streams aforesaid be removed, and to prosecute all breaches of the said acts. And all persons chosen fish-wardens as aforesaid shall be sworn to the faithful discharge of the duties of their office; and when so sworn, they shall have power to pursue, and they are hereby authorized to pursue and execute the duties of their

said office, in any town or place within this Commonwealth where this act can operate or have force. And if any person chosen as aforesaid shall refuse or neglect to be sworn to the faithful discharge of the duties of the said office, he shall forfeit and pay a fine of forty shillings for the use of the poor of such town, to be recovered by the town treasurer; and such town shall proceed to a new choice, and so *toties quoties*. And any person who shall prevent any fish-warden from measuring any seine or net which shall be used for the purpose of taking fish in the said rivers and streams, shall forfeit and pay the sum of four pounds. And if any of the towns aforesaid shall neglect to choose fish-wardens annually, agreeably to the true intent of this act, such town shall forfeit and pay a fine of fifty pounds, for the use of the county in which such delinquent town lies.

SECT. 7. *Be it further enacted*, That if any fresh salmon, shad or alewives shall be found with or in the possession of any person or persons whatever within three miles of any of the said rivers or streams, and within this Commonwealth, at any other time than that allowed by law for catching the said fish in the said rivers and streams, such person or persons shall be held and accounted in law to be guilty of catching such fish contrary to the true intent and meaning of this act, and shall pay a fine accordingly; unless such person or persons shall make oath in the court before whom the trial is had, that the said fish were actually caught within the time allowed by law for catching the same, or make proof who was the person or persons that caught such fish, or who sold the same.

SECT. 8. *Provided, always*, That every justice of the peace to whom complaint shall be made against any person or persons for having in his or their possession any fresh shad, salmon or alewives, as aforesaid, shall, before he issues his warrant against the person or persons claimed of, cause the complainant to make oath to his complaint, and that he really believes such fish were caught at a time prohibited by law for catching the same.

SECT. 9. *And be it enacted*, That any of the said fish-wardens, grand jurors, sheriffs, deputy sheriffs, or constables, shall have a right to seize any seine, net, pot or other machine, employed in any of the said rivers or streams for the purpose of catching the said fish at any other time or place than such as are allowed by this act. And any person or persons that shall prevent such fish-warden, grand juror, sheriff, deputy sheriff, or constable, from such seizure, or shall rescue any seine, net, pot or other machine from such officer, when seized, shall, on conviction thereof before a justice of the peace, pay a fine not less than thirty shillings nor more than four pounds, and shall be

liable to answer to the seizing officer, in an action of trespass, for double the value of such seine, net, pot or other machine.

SECT. 10. *Be it further enacted*, That when any seine, net, pot or other machine shall be employed for the purpose of catching fish, at any time or place not allowed by this act, and shall be seized by any of the officers aforesaid, it shall be the duty of such officer to give information to some justice of the peace within the county wherein such seine, net, pot or other machine was found employed as aforesaid; a copy of which information, containing the times when and the place where such seine, net, pot or other machine was seized, shall, by order of such justice, be posted up in some public place in each of the two towns next adjoining the place where such seine, net, pot or other machine was seized; and also a notification to all persons interested in such seine, net, pot or other machine, to appear before the said justice, at a time therein named (which shall be within fourteen days, and shall not be less than seven days from the time of posting up the notification), to show cause, if any they have, why such seine, net, pot or other machine should not be forfeited; and if, upon trial, the claimer or claimers shall produce sufficient evidence that he and they were ignorant of the unlawful use of their seine, net, pot or other machine, and shall give information of the person or persons unlawfully using the same, the seine, net, pot or other machine, seized as aforesaid, shall be restored to the claimer or claimers thereof. And the person or persons convicted of using the same without the consent of the owner, shall, in addition to the penalty in this act provided for fishing on days not herein allowed of, pay another fine of twenty shillings each, or suffer imprisonment in the common gaol, not exceeding twenty days; but in all cases where the owner or owners shall not produce evidence of the person or persons offending, their seine, net, pot or other machine shall be adjudged forfeited.

SECT. 11. *Be it enacted*, That on complaint, made to any justice of the peace for the county where any offence against this act shall be committed, against any person or persons for breach of this act, or upon view of any justice of the peace, such justice is hereby empowered to issue his warrant, directed to a proper officer, to apprehend such offender or offenders, and bring him or them before him, or some other justice of the peace in the same county, to answer for the offence.

SECT. 12. *Be it further enacted*, That all fines and forfeitures, incurred by breach of this act, where the fine, exclusive of the net, seine, pot or other machine used in such breach, doth not exceed four pounds, shall be recovered before any justice of the peace in the county where the offence is committed; an appeal being allowed, to either party, to

the court of general sessions of the peace, next to be holden in and for the same county: *provided*, such appeal is claimed in open court, within one hour after judgment is declared; *provided, also*, that the appellant recognize with sufficient sureties to prosecute his appeal to effect, and abide the final judgment thereon; and the justice shall bind over the witnesses against such offending person or persons; and in case of conviction before the justice, and no appeal had, the person or persons so convicted, shall, upon neglect to pay to the justice the fine so laid on him or them, and legal costs, be committed to the gaol of the county, there to remain until payment be made; and all fines, upwards of four pounds, exclusive of the seine, net, pot or other machine, shall be recovered by bill, plaint or information in any court within this Commonwealth proper to try the same.

SECT. 13. *Be it enacted*, That it is hereby made the duty of all grand jurors, sheriffs, deputy sheriffs and constables, diligently to inquire after and duly to prosecute all breaches of this act. And the testimony of any fish-warden, duly chosen and sworn as aforesaid, grand jurors, sheriff, deputy sheriff or constable under oath, in court, shall be sufficient evidence to convict any person of a breach of this act, unless such testimony be invalidated by other sufficient witnesses.

SECT. 14. *And be it enacted*, That all fines and forfeitures incurred by breach of this act, not otherwise appropriated, shall enure, one moiety thereof to the poor of the town where the offence shall be committed, and the other moiety to him or them who shall make information of the same.

SECT. 15. *Provided, always*, That the said fish may be taken in the mouth of Concord River, with nets and seines, below Tyler's and Spaulding's mill-dam, two days in a week, the days to be Tuesday and Wednesday, from sunrise on Tuesday to sunrise on Thursday.

SECT. 16. *And be it enacted*, That the fish officers which may be chosen, by virtue of the acts which this act repeals, by any town prior to their knowledge of this act, shall have and exercise the same powers as are delegated to fish-wardens by this act. — [March 4, 1790.

[Sp. Laws, vol. 1, pp. 442, 511; vol. 2, p. 35; vol. 3, pp. 43, 441, 577; 1806, 28; 1808, 94; 1811, 175; 1812, 84; 1819, 4, 20; 1820, 22, 70; 1822, 75; 1832, 56; 1846, 92; 1856, 289; 1865, Res. 45; 1866, 238; 1867, 289; 1869, 422; 1872, 235; 1874, 144; 1876, 50; 1881, 103, 104; 1882, 166; 1883, 31, 121; 1884, 317.]

[Sp. Laws, vol. 1, p. 269.]

AN ACT for the Preservation and Increase of the Fish called Alewives, in Acquesnet River, in the town of New Bedford, in the County of Bristol, and for regulating the taking the said Fish in the said River.

Sp. Laws, vol. 1, p. 283. **SECT. 1.** *Be it enacted,* That the owner or owners of each and every mill-dam on the said river, shall make, provide and continue a sluice-way of two feet wide and eight inches deep, for the said fish to pass their respective dams, as low as the selectmen of the said town of New Bedford shall judge convenient for the said fish to pass in; and the selectmen of the said town of New Bedford are hereby authorized, on the second Monday of April, annually, to open the said sluice-ways, which, when opened by them, shall remain open until the twentieth day of May, annually; and the owner or owners of any dam on the said river, who shall neglect or refuse to make, provide and continue a sluice-way as aforesaid, or who, after such sluice-way is opened as aforesaid, shall shut or obstruct the same during the term the said sluice-way is to be kept open as aforesaid, shall forfeit and pay the sum of forty pounds for each offence.

SECT. 2. *Be it further enacted,* That the said town of New Bedford, at their annual meeting for the choice of town officers, in the months of March or April, annually, are hereby authorized to choose a committee, consisting of not more than twelve nor less than three suitable, discreet persons, for inspectors of the said river; whose duty it shall be, within four days after their appointments, to post up, in four public places in the said town nearest the said river, a notification, under their hands, or the major part of them, pointing out the times when and places where the said fish may be taken in the said river; and if any person shall pull down or deface such notification, he or she shall, for each offence, forfeit and pay ten shillings; and if such committee shall neglect or refuse to post up such notification within the said term of four days, such committee shall forfeit and pay ten shillings; and any person who shall presume to take any of the said fish, in the said river, except at the times and places appointed by the said committee, as aforesaid, shall forfeit and pay three pounds for each offence.

SECT. 3. *Be it further enacted,* That if any person or persons shall make any wears or other obstructions to hinder the passage of the said fish up the said river, each person so offending shall forfeit and pay the sum of four pounds; and any person who shall take or catch any of the said fish in the said river with any other instrument than a dip net, shall forfeit and pay forty shillings for each offence.

SECT. 4. *Be it further enacted,* That all the forfeitures mentioned in this act shall accrue to the said town of New Bedford, to be recovered by the treasurer of the said town, in an action of debt, in any

court proper to try the same; and no person shall be considered as disqualified from giving evidence in any such action, on account of his living in or being an inhabitant of the said town of New Bedford.

SECT. 5. *Be it further enacted*, That any agreement which may be made and entered into, between the said town of New Bedford and the owner or owners of any dam on the said river, with regard to the premises, shall be good and valid in law. — [June 19, 1790.]

1791.

[Sp. Laws, vol. 1, p. 185.]

AN ACT to repeal in part an Act, entitled "An Act to prevent the Destruction of Fish called Shad and Alewives, in Ten and Three Miles Rivers, in the County of Bristol."*

Sp. Laws, vol. 1, p. 287. Whereas the act entitled "An Act to prevent the destruction of fish called shad and alewives, in Ten and Three Miles Rivers, in the County of Bristol," appears not to be of public utility, so far as the same act respects the said river called Three Miles River:

SECT. 1. *Be it therefore enacted*, That the said act to prevent the destruction of the fish called shad and alewives, in Ten and Three Miles Rivers, shall be and the same is hereby repealed and declared null and void, from the time of passing this act, as to all matters therein required or authorized to be done respecting the river called Three Miles River, saving only, that all acts and doings heretofore lawfully performed by virtue of the said act shall and may be justified thereby, this repeal notwithstanding. — [Feb. 11, 1791.]

[Sp. Laws, vol. 1, p. 180.]

AN ACT for the more effectual Carrying into Execution the Laws regulating the Alewife Fishery in Mattepoiset River, in the Town of Rochester. †

Sp. Laws, vol. 1, p. 290. SECT. 1. *Be it enacted*, That each and every person who, according to law, shall be chosen an inspector of Mattepoiset River, shall, within six days after his being notified by a constable of the town of Rochester of his being so chosen, take the following oath before the clerk of said town, or some justice of the peace for the county of Plymouth, viz.:

You, A. B., being chosen an inspector of Mattepoiset River for the year ensuing, do swear that you will prosecute all breaches of the laws for the regulating the alewife fishery in said river, the year ensuing, which shall come to your knowledge. *So help you God.*

SECT. 2. *Be it further enacted*, That if any person who shall be chosen an inspector of said river, as aforesaid, shall neglect to take said oath for the space of six days after he is notified of his being so chosen as aforesaid, he shall forfeit to the use of the said town of Rochester thirty shillings, to be recovered by the treasurer of said

* March 10, 1788.

† June 15, 1789, and March 1, 1788.

town in an action of debt, in any court proper to try the same.—
[Feb. 23, 1791.

[Sp. Laws, vol. 3, p. 91; 1810, 60; 1814, 99; 1817, 136; 1820, 70; 1829, 41; 1865, 183.]

An Act for regulating the Fishery in Connecticut River.

Sp. Laws, vol. 1, p. 296. SECT. 1. *Be it enacted*, That no person or persons shall, between the fifteenth day of March and the fifteenth day of June, in any year, set or draw any seine or seines, or any other machine, for the purpose of catching fish in Connecticut River, or in any river or stream falling into the same, from the rising of the sun on Saturday morning until the rising of the sun on Tuesday morning. And every person that shall be convicted of any breach of this act shall forfeit the sum of ten pounds, and also the value of the seine and other machines or utensils used in fishing as aforesaid, to be recovered by any person who shall sue for the same before any court having jurisdiction thereof. And all acts heretofore made for regulating the fishery in the rivers and streams aforesaid are hereby repealed. [March 7, 1791.

[Sp. Laws, vol. 1, p. 518; vol. 2, p. 154; 1812, 103; 1818, 157; 1835, 137; 1852, 122; 1864, 62; 1865, Res. 45; 1866, Res. 80; 1866, 238; 1868, 130; 1869, 422; 1870, 369; 1874 144; 1875, 39; 1878, 124; 1881, 47, 103.]

1792.

An Act to regulate the taking of Fish called alewives in the Town of Middleborough, in the County of Plymouth, and for repealing a certain Law made for that purpose, in the year of our Lord one thousand seven hundred and forty-nine.

[Additional Acts July 8, 1798; Jan. 21, 1802. Repeals Act of 1749; revived and made perpetual March 7, 1797. Again repealed June 22, 1797. The Act 1764 made perpetual March, 7, 1797.)

Sp. Laws, vol. 1, p. 313. Whereas the laws already made for regulating the taking fish called alewives, at the places called the Old Stone Ware and Assawomset Brook, in said town, are found inconvenient. For remedy whereof,

SECT. 1. That from and after the passing this act, it shall and may be lawful for the inhabitants of said town, annually, to farm or hire out the privilege of taking said fish at the place called the Old Stone Ware, and at such place in Assawomset, in said town, as the inhabitants thereof shall vote and order, to such person or persons as shall appear to give most for said privilege, four days in a week, at said Stone Ware, viz.: Tuesday, Wednesday, Thursday and Friday; and at Assawomset Brook three days in a week, viz.: Monday, Tuesday and Wednesday, beginning at midnight preceding Tuesday, and ending at midnight succeeding Friday, at said Stone Ware, and at midnight preceding Monday, and ending at midnight succeeding Wednesday, at said Assawomset Brook; said fish to be

taken at said Stone Ware with scoop-nets only ; and at said Assawomset Brook with scoop-nets or set-nets only.

SECT. 2. *Be it further enacted*, That the purchasers of said privilege shall not ask or receive for said fish when taken, more than one shilling per hundred,* and in that proportion for a greater or smaller quantity ; and that the purchasers of said privilege shall be obliged to sell said fish at that rate, at all times when they shall have any on hand, when applied to, upon the penalty of five pounds, to be recovered by action of debt, in any court proper to try the same, for each neglect or refusal ; one moiety thereof to the use of the poor of said town, and the other moiety to the use of any person who shall prosecute for the same ; and it shall be the duty of the inhabitants of the said town, annually, to provide for such of the poor inhabitants thereof as shall be unable to procure them for themselves, such quantities of said fish as shall be thought necessary, who shall receive the same gratis ; and in order thereto.

SECT. 3. *Be it further enacted*, That said inhabitants shall choose a committee of nine discreet, judicious men, one in each constable's district in said town, in the fall of the year annually, who shall report to the overseers of the poor of said town, previous to the ensuing spring, the number and names of such poor inhabitants, the number in each family, and their situation ; and it shall be the duty of such overseers to apportion to every such family such quantity of said fish as they in their discretion shall think necessary, and shall draw their orders on the purchasers of said privilege for the same, which orders shall be taken and received by said purchasers, equal to money, and shall be received of them by the treasurer of said town equal to money, in discharge of the purchase money of the privilege aforesaid.

SECT. 4. *Be it further enacted*, That any person who shall presume to take any of the said fish in any other way, at any other time, or any other place in said river or brook, or any parts or dependencies thereof, than those prescribed by this act, every person concerned therein shall forfeit and pay for each offence the sum of forty shillings, to be recovered by action of debt in any court proper to try the same, one moiety thereof to the treasurer of said town for the use of the poor thereof, and the other moiety to the party who shall sue therefor.

SECT. 5. *Be it further enacted*, That the scoop-net, or other instrument by which any person shall take or attempt to take any of said fish contrary to the true intent and meaning of this act, shall be forfeit, and any other person shall have liberty to seize and secure the same to his own use ; and if said scoop-net or other instrument, forfeited as aforesaid, shall be carried away, concealed or withheld, so that

* The price fixed by this Act repealed Feb. 8, 1798.

the party attempting cannot take or come at the same, said party so attempting to take said instrument may sue for and recover the value thereof in a special action of the case, before any court having proper jurisdiction thereof, against the owner or possessor thereof to his own use.

SECT. 6. *Be it further enacted*, That if any person shall be found near said river or brook, or going from thence, with any quantity of said fish exceeding sixty in number, which are suspected to have been taken in violation of this act, it shall be the duty of every person who shall then suspect said fish to have been taken illicitly to examine the possessor thereof respecting the means of his procuring them; and if he cannot make it appear that he came by them legally, he shall forfeit the whole of said fish that he shall so be possessed of, to be recovered in the same way and manner as scoop-nets and other instruments are recovered, as provided in this act, and be subject to the penalty of forty shillings for taking fish contrary thereto, to be recovered in the same way as is herein before provided in that particular; and to prevent difficulty and unnecessary expense to persons purchasing said fish, it shall be the duty of the clerk of, or some one of the purchasers of said privilege to give a certificate under his hand, to all persons who purchase any quantity of said fish, exceeding sixty in number, of the time when, and the place where, and the quantity purchased, and his producing said certificate shall be evidence of his obtaining said fish legally.

SECT. 7. *Be it further enacted*, That if any children or servants shall offend against this act, unless their parents, masters or guardians, or some other person in their behalf, shall pay the penalty set against such offenders within twelve hours after notice being given them of such offence, such children or servants shall be proceeded against by complaint before any justice of the peace in and for said county, and upon conviction thereof shall be committed to the house of correction, there to remain not less than five nor more than twenty days, according to the nature of said offence, in the judgment and at the discretion of the court or justice before which said conviction may be had.

SECT. 8. *Be it further enacted*, That all persons not otherwise disqualified shall be considered and taken to be competent and legal witnesses in any prosecution upon this act, they being inhabitants of said town of Middleborough, notwithstanding.

SECT. 9. *Be it further enacted*, That an act passed in the year of our Lord seventeen hundred and forty-nine, entitled "An Act to prevent the unnecessary destruction of alewives in the town of Middleborough," be and hereby is repealed.

SECT. 10. *Provided, nevertheless*, That no clause in this act shall

extend to or be considered so as to effect an act passed in the year of our Lord seventeen hundred and sixty-four, entitled "An Act in addition to an act entitled 'An Act to prevent the unnecessary destruction of alewives in the town of Middleborough.'"—[Jan. 30, 1792.

[Sp. Laws, vol. 2, pp. 192, 469; 1815, 111; 1819, 137.]

[Sp. Laws, vol. 1, p. 269.]

AN ACT for regulating the taking the Fish called Alewives, in their passage up Indian Head River, so called, between the Towns of Pembroke and Hanover, in the County of Plymouth, into a pond in said Town of Pembroke, known by the name of Indian Head Pond.

Sp. Laws, vol. 1, p. 326. **SECT. 1.** *Be it enacted*, That there shall be sluice-ways made and opened through, or passage-ways made round all and each of the dams standing on or across the river aforesaid, sufficient in the judgment of the major part of the committee or committees of the aforesaid towns of Pembroke and Hanover, to be chosen as is hereafter provided, for the passage of the said fish up the said river to the aforesaid Indian Head Pond, in the town of Pembroke.

SECT. 2. *Be it enacted*, That the owner or owners of the several dams that now are, or hereafter may be erected on said Indian Head River, shall make and provide such sluice-ways or passage-ways as are by this act required to be opened and kept open from the tenth day of April to the twentieth day of May annually.

SECT. 3. *Be it further enacted*, That if any owner or owners of any dams that now are, or may hereafter be erected on or across said river, shall refuse or neglect to open and keep open such good and sufficient sluice-way or passage-way for the term aforesaid, he shall forfeit and pay the sum of fifty pounds, to be recovered by action of debt in any court proper to try the same, one moiety to him or them that shall sue and prosecute for the same, and the other moiety to the aforesaid towns of Pembroke and Hanover.

SECT. 4. *Be it further enacted*, That the towns of Pembroke and Hanover, at their respective town-meetings for the choice of town officers, in the month of March or April annually, shall choose at least three persons, freeholders in each of said towns, who shall be a committee to carry this act into effect, any four of whom shall be a quorum, and shall be sworn as other town officers are, to the faithful discharge of the duties of their office; and if any person chosen as aforesaid, and accepting of the said trust, shall neglect to take an oath as aforesaid within seven days from his being so chosen, he shall forfeit and pay the sum of ten shillings; or being chosen and sworn, if he shall neglect to perform his duty he shall forfeit and pay the sum of five pounds; the said forfeitures to be sued for and recovered

by the treasurer of the town where such offender belongs, for the use of such town.

SECT. 5. *Be it further enacted*, That any three of said committee shall have full power and authority to open, or cause to be opened and kept open, such sluice or passage-ways at the expense of the owner or owners of any dam or dams that now are, or hereafter may be erected on or across said stream or river: *provided*, said owner or owners shall refuse or neglect to open the same by the tenth day of April annually. And said committee are hereby empowered to remove all and every obstruction to the passage of said fish up or down said river, that may be in or across the same; and if, for the purposes mentioned in this act, it shall be necessary for said committee, or either of them, to go on the land of any person or persons through which said river runs, it shall not be deemed a trespass; and if any person or persons shall hinder or molest said committee, or either of them, in the execution of his or their office, the person so offending shall forfeit and pay a sum not exceeding twenty shillings, nor less than ten shillings, to be sued for and recovered by and to the use of the officer against whom the offence is committed; and said committee shall not be liable to prosecution for any doings in the necessary discharge of the duties of their office.

SECT. 6. *Be it further enacted*, That the time when and the places where said fish shall be taken in said river, or any brook or stream discharging into said Indian Head River or Pond, shall be agreed upon by and be under the regulations of the committees of the said towns of Pembroke and Hanover, or the major part of them: *provided*, the said committee shall not authorize the taking said fish more than three days in a week in any of the places before mentioned; and the said committee shall post up notifications in two of the most public places in each of the said towns of Pembroke and Hanover, specifying the times and places when and where said fish shall be taken, six days at least before the said tenth day of April annually.

SECT. 7. *Be it further enacted*, That if any person or persons shall presume to take any of said fish, on the river or streams aforesaid, in any other way or manner than such as shall be directed by the aforesaid committee, or the major part of them, he shall forfeit and pay a sum not exceeding three pounds nor less than forty shillings, at the discretion of the justice before whom the same shall be tried; one moiety to him who shall prosecute and sue for the same, and the other moiety to the use of said towns of Pembroke and Hanover.

SECT. 8. *Be it further enacted*, That no person shall be disqualified from being a witness on any trial that may be had pursuant to this act, on account of his being an inhabitant of or belonging to either

of the said towns of Pembroke or Hanover. And if any person or persons shall be found having said fish in his or their possession, and there be reasonable grounds of suspicion that such person or persons took said fish unlawfully, he or they shall be subject to the penalties of this act, unless sufficient evidence be adduced that said fish were taken agreeably to the spirit and meaning of the same. — [Feb. 22, 1792.

[1811, 72; 1859, 90.]

AN ACT to enable the Town of Framingham to regulate and order the taking of the Fish called Shad and Alewives, within the limits of said Town.

Sp. Laws, vol. 1, p. 352. **SECT. 1.** *Be it enacted*, That from and after the publication of this act, it shall and may be lawful for the inhabitants of the said town of Framingham, at their annual meeting in March or April, during the continuance of this act, to determine and order in what manner and by whom the said fish called shad and alewives may be taken within the limits of said town. And the said inhabitants shall cause a copy of such order, attested by the town clerk, to be posted up in some public place in said town; whereunto all persons shall conform with respect to the taking said fish called shad and alewives, within said town of Framingham, on penalty that each and every offender against the same shall forfeit and pay the sum of twenty shillings, to be sued for and recovered before any court proper to try the same; one moiety to the informer, and the other moiety to the poor of said town of Framingham.

SECT. 2. *Be it further enacted*, That any of the inhabitants of the said town of Framingham, not concerned in violating this act, shall and may be admitted as witnesses to testify in any action that may be brought for the above penalty; they being inhabitants of said town notwithstanding. — [March 8, 1792.

[1821, 15.]

AN ACT to prevent the Catching of Fish in the Mouth of Agawam River.

Sp. Laws, vol. 1, p. 353. **SECT. 1.** *Be it enacted*, That from and after the first day of April next, no person or persons be allowed to catch any salmon, shad or alewives, with seines, nets, pots or in any other way, in any part of said river within one mile of the mouth or entrance thereof into Connecticut River. And if any person or persons shall presume to take or catch any fish in the said Agawam River, contrary to the true intent of this act, each person so offending shall, for each offence, forfeit and pay a fine of four pounds.

SECT. 2. *Be it further enacted*, That all nets or seines used in taking fish as aforesaid, shall be and hereby are forfeited to any person or persons who shall seize the same, to his or their own use.

SECT. 3. *Be it further enacted*, That all fines and forfeitures in-

curred by any breach of this act shall and may be sued for and recovered, by action of debt or information, before any justice of the peace within the county of Hampshire; one half of such fines shall enure to him or them who shall sue or prosecute for the same, and the other half to the poor of the town where the offence shall be committed. — [March 8, 1792.

[1813, 147; 1826, 100; 1838, 19; 1844, 65; 1853, 377.]

AN ACT in addition to an Act passed February the twenty-second, one thousand seven hundred and ninety, entitled "An Act to prevent the Destruction of the Fish called Alewives in Taunton Great River (so called), in the county of Bristol, and to regulate the Catching of said Fish therein for the future."

Sp. Laws, vol. 1, p. 354. Whereas the provision made in the said act for preventing the destruction of the said fish has been found insufficient for that purpose:

SECT. 1. *Be it enacted*, That from and after the publication of this act, it shall not be lawful for any person, with scoop-nets or any other instruments, nor at any other time or place than is allowed by said act, to molest, hinder or take said fish, on the penalties made and provided in said act.

SECT. 2. *Be it further enacted*, That it shall be the duty of the persons chosen by the towns on said river, to enforce said act; to remove or cause to be removed all hinderances and obstructions in said river; and to prevent all unlawful catching of said fish as aforesaid, in their towns respectively, on the penalties made and provided in and by said act. — [March 8, 1792.

[Sp. Laws, vol. 1, p. 422.]

AN ACT regulating the taking of the Fish called Alewives, in the several Streams emptying into the Merrimack River, in the Town of Andover.

Sp. Laws, vol. 1, p. 365. SECT. 1. *Be it enacted*, That it shall and may be lawful for the inhabitants of said town of Andover, from time to time, at their annual meeting in the month of March or April, to determine and order, by whom, and in what place or places, the said fish may be taken in the several streams emptying into Merrimack River within the town aforesaid; and shall cause a copy of such order, attested by the town clerk of said town, to be posted up in some public place in said town, and in the town of Methuen; and any person who shall violate such order, upon conviction thereof, shall forfeit and pay a sum not exceeding twenty shillings, nor less than ten shillings: *provided*, the quantity so taken is less than one barrel; but for every barrel so taken, they shall forfeit and pay the sum of forty shillings, to be recovered before any justice of the peace in the county of Essex before whom the complaint shall be made, one moiety to the informer, the other moiety to the poor of said town.

SECT. 2. *Be it further enacted*, That the times and manner prescribed for taking fish in an act passed 4th March, 1790, entitled "An Act to regulate the catching of salmon, shad and alewives, and to prevent obstructions in Merrimack River, and in the other rivers and streams running into the same within this Commonwealth, and for repealing several acts heretofore made for that purpose," shall be observed as the times and manner for taking said fish in the said streams in the town of Andover; and if any person shall take any of said fish at any other time or in any other manner than is prescribed in the act last recited, he shall for each offence be subject to such penalty as is provided in the said act for the same offence, to be recovered and appropriated in the same manner as is therein directed.

SECT. 3. *Be it further enacted*, That any of the inhabitants of said town of Andover, not concerned in violating this act, may be admitted as witnesses in any action that may be brought for the penalty aforesaid, they being inhabitants of said town notwithstanding.

SECT. 4. *Be it further enacted*, That the inhabitants of said towns at their annual meeting in the month of March or April, shall be and hereby are empowered to choose a committee or committees, being freeholders in said town; and each person so chosen shall be sworn faithfully to discharge the duties required of them by said town, agreeable to this act; and the committee or committees, or the major part of them, are hereby authorized and empowered to open such sluice or passage-way, through or round any dams erected, or that shall be erected across said streams, as they shall judge necessary for the free passage of said fish, and to remove lumber and every other obstruction to the free passage of said fish; to erect racks or wooden frames, as they shall judge necessary, in the stream or streams through which the said fish pass, they being restricted, in such opening and clearing, to do the same as little to the damage of the owner or owners as may be; such passage so opened by the committee aforesaid, shall continue open, if they shall judge it necessary, from the tenth day of April to the last day of May, annually. And if any person or persons shall unlawfully obstruct the passage or passages for said fish, remove or injure any rack or racks that shall be erected by said committee on said streams, such person or persons so offending, upon conviction thereof shall forfeit and pay a sum not exceeding thirty pounds nor less than ten pounds, to be recovered in any court proper to try the same, one moiety to the informer and the other moiety to the poor of said town.

SECT. 5. *Be it further enacted*, That the said committee or committees be and hereby are authorized and directed to distribute the fish that may be taken by them, or any person under them, as equally

as circumstances will admit, to such persons as apply for the same ; and for the fish so supplied, the committee or committees shall demand a sum not exceeding one-fifth of a dollar for each hundred of fish so delivered, excepting of certain poor persons of said town of Andover, who, in the opinion of the selectmen of said town, are unable to pay for the same, and such persons shall be supplied gratis with such quantities as the committee or committees shall judge expedient. And the said committee or committees so appointed, shall, on the first town-meeting after the month of May annually, exhibit an account of all the fish by them disposed of, and the balance, if any remains, after paying them a reasonable compensation for their services, shall be paid into the treasury of said town, for the benefit thereof.

SECT. 6. *Be it further enacted*, That it shall and may be lawful for any of said committee or their assistants, while in the execution of their office, to go upon the land adjoining to said streams without being considered as trespassers ; and any person or persons that shall attempt to molest or hinder said committee, or either of them, in the execution of their office, shall forfeit and pay a sum not exceeding four pounds, nor less than three pounds, to be recovered in any court proper to try the same, to be disposed of as is provided for in other breaches of this act.

SECT. 7. *Be it further enacted*, That if any person is found attempting to take any of said fish at any time or place otherwise than is provided in this act, or if any of said fish shall be found in the possession of any person, such person or persons shall be deemed to have taken them unlawfully, and shall be subject to the penalty of this act, unless he or they shall make it appear upon trial that they came lawfully by said fish. — [March 9, 1792.

[Sp. Laws, vol. 2, p. 155.]

AN ACT securing the free passage of Fish called Alewives, in the Rivers in the Town of Dartmouth, in the County of Bristol, and for the preservation of the same.

Sp. Laws, vol. 1, p. 376. SECT. 1. *Be it enacted*, That the owner or owners of each and every mill-dam on the River Pasquamanset (so called), and other rivers situate in the town aforesaid, shall make, provide and continue a sluice-way of three feet wide and eight inches deep, for the said fish to pass their respective dams, as far as the selectmen of the said town shall judge convenient and proper for the said fish to pass in ; and the selectmen of the said town of Dartmouth are hereby authorized and empowered, on the second Monday of April annually, to open the said sluice-ways, which, when opened by them shall remain open until the tenth day of May annually ; and the owner or owners, proprietor or proprietors of any dam or dams on the said

respective rivers, who shall neglect or refuse to make, provide and continue a sluice-way as aforesaid, or that, after such sluice-way is opened as aforesaid, shall shut or obstruct or cause the same to be shut or obstructed during the term the said sluice-way is to be kept open as aforesaid, shall forfeit and pay the sum of forty pounds for each offence.

SECT. 2. *Be it further enacted*, That the said town of Dartmouth, at their annual meeting for the choice of town officers in the month of March or April annually, are hereby authorized and empowered to choose a committee consisting of not more than twelve nor less than two suitable persons for inspectors of the said river, whose duty it shall be, within four days after their appointment, to put up in four public places nearest the said river, a notification or notifications under their hands or under the hands of the major part of them, pointing out the time when and designating the places where the said fish may be taken in the said river; and if any person or persons shall pull down, mar or deface such notification or notifications, he or she shall for each offence forfeit and pay ten shillings; and if such committee shall refuse or neglect to put up such notification or notifications, within the said term of four days, such committee shall forfeit and pay ten shillings. And any person who shall presume to take any of the said fish in the said rivers, except at the times and places pointed out and designated by the said committee as aforesaid, shall forfeit and pay three pounds for each offence.

SECT. 3. *Be it further enacted*, That if any person or persons shall make any wear or wears, or any other obstruction to hinder the passage of said fish up the said rivers, each person so offending shall forfeit and pay the sum of five pounds; and any person who shall take or catch any of the said fish in the said rivers, with any other instrument than a dip-net, shall forfeit and pay four pounds for each offence.

SECT. 4. *Be it further enacted*, That if any person or persons shall set or draw any seine, drag-net or marsh-net in the said rivers, from and after the tenth day of April to the twentieth day of May annually, each person so offending shall forfeit and pay ten pounds.

SECT. 5. *Be it further enacted*, That if any person or persons shall set or draw any seine, drag-net or marsh-net in the said rivers or ponds belonging to the said town of Dartmouth, for the taking any fish (menhaden excepted) at any time whatsoever, he or they so offending shall forfeit and pay the sum of twenty pounds.

SECT. 6. *Be it further enacted*, That all the forfeitures incurred by this act shall accrue to the said town of Dartmouth, to be recovered by the treasurer of the said town, in an action of debt, in any

court proper to try the same; and no person shall be considered as disqualified from giving evidence in any such action on account of his living in or being an inhabitant of the said town of Dartmouth. — [June 27, 1792.

1793.

AN ACT to enable the town of Newbury to Regulate and Order the taking of fish called Shad, Bass and Alewives, in the River Parker, within the limits of said Town.

Sp. Laws, vol. 1, p. 408. SECT. 1. *Be it enacted*, That from and after the publication of this act it shall and may be lawful for the inhabitants of said town of Newbury, at their annual meeting in March or April, during the continuance of this act, to determine and order in what manner and at what time the said fish called shad, bass and alewives, in the River Parker, may be taken within the limits of said town. And the said inhabitants shall cause a copy of such order, attested by the town clerk, to be posted up in some public place in said town, whereunto all persons shall conform with respect to the taking said fish called shad, bass and alewives, in the River Parker, within said town of Newbury, on penalty that each and every offender against the same shall forfeit and pay the sum of twenty shillings, to be sued for and recovered before any court proper to try the same; one moiety to the informer and the other moiety to the poor of said town of Newbury. — [March 2, 1793.

[Sp. Laws, vol. 1, p. 354.]

AN ACT to prevent the Destruction of the Fish called Alewives, in Taunton Great River, so called, in the County of Bristol, and also to regulate the Catching of the said Fish therein for the future.

Sp. Laws, vol. 1, p. 422. Whereas the law made for regulating the alewife fishery in Taunton Great River, so called, in the county of Bristol, is found to operate unequally upon and to the disadvantage of several towns situated on said river, and has not answered the salutary purpose of preserving and increasing the said fish as intended:

SECT. 1. *Be it enacted*, That from and after the twentieth day of March, instant, it shall not be lawful for any person or persons whatever, at any time after the twentieth day of March, instant, as aforesaid (except as is hereinafter provided), to catch alewives or any other fish with seines or drag-nets in said river: *provided*, that it shall and may be lawful for the inhabitants of the several towns situated on the said river to catch alewives and other fish, within the bounds of their own town, and nowhere else, with seines or drag-nets, part of four days in each week only, viz.: on Monday, Tuesday, Wednesday and Thursday, from sunrising till sunseting on each of said days in each week: *and provided*, each town situated on said river as aforesaid, draw or sweep with two seines or drag-nets only;

except the town of Taunton, which town is hereby allowed and permitted to draw or sweep with three seines or drag-nets, in said river, on the days and within the time mentioned as aforesaid; and neither of the towns aforesaid, nor the inhabitants thereof, are permitted at any time whatever to set their seines or drag-nets across said river, or any part thereof, or make use of any seine or drag-net which is or shall at the time be more than twenty rods in length: *provided, also*, that each of said towns shall, at a legal town meeting, ascertain and establish annually, by vote, the places where the said seines or drag-nets may be drawn within the bounds of their respective towns, as aforesaid, exclusively; and at the same meeting, or at an adjournment thereof, dispose of and grant for that year, and so on from year to year, the sole privilege of catching alewives or other fish, with seines or drag-nets, on the parts of the days of the week above mentioned and specified, at the places ascertained and established as aforesaid, to such person or persons as shall offer or give most for the same, and give sufficient security for the payment of the same so offered and agreed on, at such time and in such manner as the inhabitants of the respective towns shall assign and order; said person or persons so agreeing and giving security as aforesaid to have right to fish, and no other person whatever.

SECT. 2. *Be it further enacted*, That if any person or persons shall presume to draw any seine or drag-net, on any day or time except the parts of days before mentioned, or at any place other than the one ascertained and established by the town, as aforesaid, or shall on any day or at any place set a seine or drag-net in or across said river, or any part thereof, he shall forfeit and pay fifteen pounds for each and every such offence, with costs of suit; one half thereof to the use of the poor of the town where the offence shall be committed, and the other half thereof to him or them who shall sue for the same, to be recovered by action of debt in any court proper to try the same.

SECT. 3. *Be it further enacted*, That if any person or persons shall be found sweeping with any seine or drag-net, or if any seine or drag-net shall be made use of by any person or persons whatever, contrary to the true intent and meaning of this act, or any part thereof, it shall and may be lawful for any person or persons to seize and take such seine or drag-net to his or their own use and benefit; and if prosecuted therefor, to plead the general issue and give this act in evidence, as though the same was especially pleaded.

SECT. 4. *Be it further enacted*, That the several towns on Taunton Great River aforesaid shall, at their annual meeting in the month of March or April in each year, choose three or more persons, being freeholders in their respective towns, to see that this act be duly

observed; and each person so chosen shall be sworn to discharge faithfully the duties herein required; and if any person so chosen shall refuse to serve, he shall forfeit and pay, to and for the use of the poor of the town to which he belongs, the sum of twenty shillings, to be sued for and recovered by the town clerk, and the said town shall immediately proceed to a new choice.

SECT. 5. *Be it further enacted*, That an act made and passed the twenty-second day of February, in the year of our Lord one thousand seven hundred and ninety, entitled, “An Act to prevent the destruction of the fish called Alewives, in Taunton Great River, so called, in the county of Bristol, and to regulate the catching said fish therein for the future,” be and it is hereby repealed (excepting the repealing clause thereof): *provided*, that all acts and things done and performed already, by virtue of said act, are hereby and shall be considered good and valid as though this present law had never been made; and all sales of privilege and ascertaining of places for catching alewives and other fish for the present year, shall be considered good and valid as though done under and by virtue of this present act.

SECT. 6. *Be it further enacted*, That the purchasers of the privileges aforesaid shall sell said fish to any person or persons who shall apply therefor, when they have any on hand, at the rate of two shillings per hundred, for the first three weeks after fish begin to run; and at the rate of one shilling and sixpence per hundred afterwards, and no more, upon the penalty of forfeiting twenty shillings for every hundred of said fish they shall sell over and above said prices; to be recovered by action of debt in any court proper to try the same: *provided*, this act shall not operate so as to establish any price at which said fish shall be sold by the purchasers of the privileges in said towns the present year. — [March 19, 1793.

[Sp. Laws, vol. 2, p. 381; 1815, 119; 1819, 133; 1822, 38; 1829, 55; 1832, 44; 1832, Res. 120; 1843, 120; 1844, 62; 1855, 401; 1855, Res. 22; 1863, 73; 1866, 54; 1871, 258; 1875, 71; 1876, 208; 1879, 83.]

AN ACT permitting the Inhabitants of that part of the Town of Wareham which was formerly part of Rochester, to take Alewives with Seines or Drag-nets, at a place called the Narrows, in Wareham River, on a certain Day in each Week.

Sp. Laws, vol. 1, p. 441. SECT. 1. *Be it enacted*, That any inhabitant of that part of the town of Wareham which was formerly part of Rochester, be and they are hereby allowed and permitted to take for their own use, with one seine or drag-net only, the fish called alewives, at a place called the Narrows, in Wareham River, on the west side thereof, and to the northward of Nathan Bassett's now dwelling-house, one-half day in each week, from sunrising until

twelve of the clock on every Monday, and at no other time ; any law or usage to the contrary notwithstanding.

SECT. 2. *Be it further enacted*, That no person or persons, inhabitants as aforesaid, shall sell or dispose of any of said fish, caught as aforesaid, to any person or persons not inhabitants as aforesaid.

SECT. 3. *Be it further enacted*, That if upon complaint made before any justice of the peace for the county of Plymouth, any person or persons shall be convicted of a breach of this act, he shall forfeit and pay, for every such offence, a fine of four pounds ; one half thereof to the complainant, and the other half thereof to the poor of the town of Wareham. — [March 26, 1793.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to an Act passed the fourth day of March, one thousand seven hundred and ninety, entitled "An Act to regulate the catching of Salmon, Shad and Alewives, and to prevent obstructions in Merrimack River, and in the other Streams running into the same, within this Commonwealth."

Sp. Laws, vol. 1, p. 442. Whereas it is found by experience that the catching of fish at or near the mouth of the rivers and streams emptying in Merrimack River, within the town of Andover, greatly obstruct and impede fish entering and passing up said rivers and streams : therefore,

SECT. 1. *Be it enacted*, That no person or persons shall, after passing this act, be allowed to catch salmon, shad or alewives, or drag any seine, or set any net, pot or other machine, for the purpose of taking or catching said fish, or any other ways obstruct said fish in their passage, within fifty rods below or twenty rods above the mouth of any river or stream in the town of Andover emptying into Merrimack River aforesaid ; nor draw any seine, for catching of alewives, between the mouths of Shawshine River and Cochecho Brook, on penalty of four pounds ; and the seine, net, pot or other machine so used to be forfeited ; and the fine aforesaid to be recovered and applied in the same manner as the fines are for the breach of the act to which this is in addition. — [March 27, 1793.

[Sp. Laws, vol. 1, p. 191.]

AN ACT in addition to and for repealing a certain Clause in an Act passed March the twenty-eighth, in the year of our Lord one thousand seven hundred and eighty-eight, entitled "An Act to prevent the Destruction of Alewives, and other Fish, in Ipswich River, and to Encourage the Increase of the same."

Sp. Laws, vol. 1, p. 451. Whereas it appears by the petition of Thomas Burnham, and a certificate of the selectmen of the towns of Ipswich, Topsfield and Middleton accompanying the same, that a repeal of a certain clause in the aforementioned act, so far as it respects the using and improving the said Burnham's saw-mill, from the last day of April to the first day of June, annually, provided the

same be subjected to the regulation hereinafter mentioned, will not be injurious to the public :

SECT. 1. *Be it enacted*, That the future using and improving the said Burnham's lower saw-mill, standing on Ipswich River, within the town of Ipswich, from the last day of April to the first day of June annually, shall be under the directions, regulations and restrictions of the major part of the selectmen of the towns of Ipswich, Topsfield and Middleton, for the time being ; such directions, regulations and restrictions being made in writing, under the hands of the major part of the selectmen aforesaid, delivered to the said Burnham, from time to time, as shall be found necessary.

SECT. 2. *Be it further enacted*, That for every omission or violation of such directions, regulations or restrictions as aforesaid, the said Burnham shall be subjected to such penalties and forfeitures as is incurred by the aforementioned act, for using and improving said saw-mill, within the term aforesaid, to be sued for, recovered and applied in manner as is prescribed in the said act.

SECT. 3. *Be it further enacted*, That the sixth clause of the aforementioned act, so far as it respects the using and improving the said Burnham's lower saw-mill, within the term therein mentioned, shall be and hereby is repealed. — [March 28, 1793.

AN ACT for regulating the Opening of Sluice-Ways in the several Mill-Dams on River Meadow Brook, in the Town of Chelmsford and District of Carlisle.

Sp. Laws, vol. 1, p. 452. SECT. 1. *Be it enacted*, That the owners of mills on River Meadow Brook, so called, in the town of Chelmsford and district of Carlisle, be and they are hereby permitted to keep the sluice-ways in their respective mill-dams shut such part of the time heretofore provided by law for keeping them open for the passage of fish up the said brook, as shall, by the selectmen of the town of Chelmsford and the selectmen of the district of Carlisle, for the time being, be judged will not prevent the passage of the fish up the said stream, and most conducive to the public good: *provided*, the said selectmen of Chelmsford and Carlisle make their determination in writing, under their hands, and such determination be kept constantly posted up in some conspicuous place at each of the mills on the said brook ; any law to the contrary notwithstanding. — [March 28, 1793.

1794.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to an Act, entitled "An Act to regulate the Catching of Salmon, Shad and Alewives, and to prevent Obstructions in Merrimack River, and in the other Rivers and Streams running into the same, within this Commonwealth, and for repealing several Acts heretofore made for that purpose."

Sp. Laws, vol. 1, p. 511. SECT. 1. *Be it enacted*, That all pecuniary fines or forfeitures for the breach of an act passed in the year of our Lord one thousand seven hundred and ninety, entitled "An Act to regulate the catching salmon, shad and alewives, and to prevent obstructions in Merrimack River, and in the other rivers and streams running into the same within this Commonwealth; and for repealing several acts heretofore made for that purpose," which by the said act are set at more than four pounds, may be recovered by indictment, either in the supreme judicial court or court of general sessions of the peace in the county where the offence shall be committed.

SECT. 2. *Be it further enacted*, That where any person or persons shall be convicted in either of the said courts, of erecting or continuing any obstructions or incumbrance in or across any of the rivers or streams mentioned in the said act, so as to prevent the free passage of the said fish up and down the said rivers and streams, the court before whom such conviction shall be, besides rendering judgment for such fine and cost, shall order such obstruction or incumbrance to be removed, and the materials thereof to be sold at vendue, to pay the expense of such removal, with the officer's fees, and if the same shall not be sufficient, may order the deficiency to be raised and levied on the goods and chattels of the person or persons convicted of erecting or continuing the same; and the warrant for removal shall be directed to the sheriff, deputy sheriff or coroner of the same county, as the case may require.

SECT. 3. *Be it further enacted*, That the fines and forfeitures which shall be recovered by indictment, pursuant to this act, shall be wholly to the use of the county in which the recovery shall be, towards discharging the expenses of such county; anything in the said act whereto this addition is made to the contrary notwithstanding.— [Feb. 26, 1794.]

AN ACT for continuing an Act made in the year of our Lord one thousand seven hundred and eighty-nine, entitled "An Act to prevent the Destruction of the Fish called Shad and Alewives, in Mistic River, so called, within the Towns of Cambridge, Charlestown and Medford, and for repealing all laws heretofore made for that purpose," and also for extending the said Act to the Towns of Woburn and Malden.

Sp. Laws, vol. 1, p. 512. SECT. 1. *Be it enacted*, That the said act, in every article and clause, matter and thing, shall continue and

be in force after the first day of March next; anything in the said act to the contrary notwithstanding.

SECT. 2. *Be it further enacted*, That the said act shall extend to the towns of Woburn and Malden, in the same manner as it would have extended in case the said towns had been expressly named in the said act. — [Feb. 27, 1794.

[Sp. Laws, vol. 2, p. 431; vol. 3, p. 399; 1815, 43.]

[Sp. Laws, vol. 1, p. 296.]

AN ACT to prevent the Taking of Fish near the Dam at the Canal at South Hadley Falls, in Connecticut River.

Sp. Laws, vol. 2, p. 518. SECT. 1. *Be it enacted*, That no person or persons, at any time hereafter, shall take any salmon or shad within one hundred rods of any part of the dam in Connecticut River, near the canal at South Hadley, with any net, seine, pot, scoop-net or any other instrument or machine whatever; and if any person or persons shall take or catch any salmon or shad, contrary to the true intent and meaning of this act, each person so offending shall, for every such offence, forfeit and pay a fine of four pounds.

SECT. 2. *Be it further enacted*, That all nets, seines or other instruments or machines used in taking salmon or shad as aforesaid, shall be and hereby are forfeited to any person or persons who shall prosecute for the same, with costs of suit, to his or their own use, upon complaint or information to any justice of the peace in and for the said county of Hampshire, who may thereupon issue his warrant to seize the same, to be kept until trial of the said complaint or information, which the said justices are hereby fully authorized to hear and determine.

SECT. 3. *Be it further enacted*, That all sums of money forfeited by any breach of this act, shall and may be sued for and recovered by action or information, with costs of suit, before any justice of the peace within the county of Hampshire; and one half of such fine shall enure to him or them who shall sue or prosecute for the same; the other half thereof for the use of the county of Hampshire; and any person or persons aggrieved at the sentence of any justice of the peace, given in pursuance of this act, may appeal therefrom to the next court of general sessions of the peace to be holden in said county.

SECT. 4. *Provided, always*, That nothing in this act shall be construed to justify the erecting or continuance of the said dam; but the propriety of erecting and continuing the same, whenever this may be called in question, shall be determined on the same principles as though this act had never been made. — [Feb. 27, 1794.

[1817, 157.]

1795.

[Sp. Laws, vol. 1, p. 272.]

AN ACT to prohibit, during the months of December, January and February, the taking of Salmon in Merrimack River, and in the waters running into the same.

Sp. Laws, vol. 2, p. 35. **SECT. 1.** *Be it enacted,* That from and after the passing of this act, no person shall be allowed to catch any salmon in Merrimack River, or in the waters running into the same, during the months of December, January and February, and any person who shall offend herein, or who shall be found during those months with any salmon which shall have been caught contrary to the intent of this act, shall forfeit and pay a sum not exceeding twenty dollars nor less than three dollars, to be recovered by action of debt to the use of any person who will sue for the same, or by indictment, to the use of the county in which the offence shall be committed. — [June 20, 1795.

1796.

AN ACT to enable the Town of Natick to regulate and order the taking of the Fish called Shad and Alewives, within the limits of said Town.

Sp. Laws, vol. 2, p. 53. **SECT. 1.** *Be it enacted,* That from and after the publication of this act, it shall and may be lawful for the inhabitants of said town of Natick, at their annual meeting in March or April, during the continuance of this act, to determine and order in what manner and by whom the said fish called shad and alewives may be taken within the limits of said town; and the said inhabitants shall cause a copy of such order, attested by the town clerk, to be posted up in some public place in said town, whereunto all persons shall conform with respect to the taking said fish called shad and alewives within said town of Natick, on penalty that each and every offender against the same shall forfeit and pay the sum of three dollars and thirty-three cents, to be sued for and recovered before any court proper to try the same; one moiety to the informer, and the other moiety to the poor of said town of Natick. — [February 5, 1796.

1797.

AN ACT for regulating the Alewife Fishery in the town of Bridgewater, in the County of Plymouth, and for repealing all Laws heretofore made for that purpose.

Sp. Laws, vol. 2, p. 105. **SECT. 1.** *Be it enacted,* That all laws heretofore made for regulating the alewife fishery in said Bridgewater, be and they hereby are repealed; and it shall and may be lawful for the said town of Bridgewater, at any legal meeting of the inhabitants of the said town, to choose a committee to sell or otherwise dispose of the privilege of taking said fish, as the town shall direct, at the several weirs in said town, or either of them, for the most it will

fetch, on the days following, viz. : at the wear by the town mills, so called, on Monday and Tuesday of each week ; at the Great River mills, so called, on Wednesdays and Thursdays in each week ; and at the wear by Whitman's mills, so called, on Mondays, Tuesdays and Wednesdays in each week ; and the emoluments arising from said privilege shall be appropriated by said town to such purposes and uses as the inhabitants thereof shall, in legal town meeting, from time to time determine.

SECT. 2. *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 said town than is in this act provided, and if any other person or persons whatever, except the purchaser or purchasers, manager or managers of said privilege, or those employed by them, shall presume to take or catch any of said fish, in any of the rivers or streams within the boundaries of said town, 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 same shall be tried.

SECT. 3. *Be it further enacted,* That if the said purchaser or purchasers, manager or managers of said privilege, shall, when in his or their power, neglect or refuse to supply any person or persons with said fish, who may apply therefor, at the rate of twenty-five cents for a hundred of said fish, he or they so offending shall, for each offence, forfeit and pay the sum of five dollars ; and if any person or persons shall ask, demand and receive more than twenty-five cents for a hundred of said fish, and so in that proportion for a greater or less number, he or they so offending shall, for each offence, forfeit and pay the sum of five dollars.

SECT. 4. *Be it further enacted,* That the said town of Bridgewater shall, at their annual meeting in March or April, choose a committee not exceeding nine nor less than three freeholders of said town, who shall be sworn to the faithful discharge of the duties enjoined upon them by this act ; and it shall be the duty of said committee to cause the natural course of the rivers, passage-ways or streams through which the said fish pass, to be kept open and without obstruction during the whole time the said fish pass up in said rivers, passage-ways and streams in each year, and to remove any such as shall be found therein, and to make the said passage-ways wider or deeper, if they or the major part of them shall judge it necessary ; and the said committee, or any two of them, paying a reasonable compensation therefor, if demanded, shall have authority (in discharging the duties enjoined upon them by this act) to go on the lands or meadows of any person through which such rivers, passage-ways or streams run, or into any

mill, forge or other water-works on said rivers or streams, without being considered as trespassers; and any person who shall molest or hinder the said committee, or either of them, in the execution of the business of his or their office, or shall obstruct any passage-way in the said rivers and streams, otherways than may be allowed by the said committee, or a major part of them, he or they so offending shall forfeit and 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 said committee to injure the proprietor of any mill or water-works, further than is necessary in order to give the fish a good and sufficient passage up said rivers.

SECT. 5. *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 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 that each and every person who shall be chosen on the committee, pursuant to this act, shall, within six days after his being notified by a constable of such choice, take the following oath before some justice of the peace for the county of Plymouth, or the clerk of said town of Bridgewater, who is hereby authorized to administer the same, viz. : —

You, A. B., being chosen one of the committee to inspect the alewife fishery in the town of Bridgewater, for the year ensuing, do solemnly swear that you will faithfully discharge the duties of said office, and duly prosecute all breaches of the law respecting said fishery that shall come to your knowledge. So help you GOD.

And that if any person chosen one of the said committee, and notified as aforesaid, shall neglect to take the foregoing oath for the space of six days after his being so notified, he shall forfeit and pay the sum of five dollars, to be recovered by action of debt in any court proper to try the same; one moiety thereof to be applied to the use of the said town of Bridgewater, the other moiety to the person or persons who shall sue for the same.

SECT. 6. *Be it further enacted*, That all the penalties incurred by any breach of this act, shall be recovered by complaint, before any justice of the peace within and for the county of Plymouth aforesaid, allowing an appeal to the court of general sessions of the peace for said county; and all sums of money recovered to the town as forfeited by this act, shall be for the support of the poor of the town of Bridgewater aforesaid. 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 prosecutions for a breach of this act. — [Feb. 10, 1797.

[Sp. Laws, vol. 2, pp. 433, 495.]

AN ACT to prevent the Destruction of the Fish called Bass, in the River Parker, in Newbury; and in Rowley River; and in the streams and Waters running into the same, in the County of Essex.

Sp. Laws, vol. 2, p. 117. **SECT. 1.** *Be it enacted*, That on and after the first day of December next, if any person or persons shall catch, in any manner whatever, any of the fish called bass, in any part of the River Parker, in Newbury, or in Rowley River, or in any of the streams or waters running into the same, or shall offer them for sale, between the first day of December and the first day of March annually, he or they so offending shall forfeit and pay one dollar for each of the bass so caught or offered for sale as aforesaid.

SECT. 2. *Be it further enacted*, That all fines and penalties which may be incurred by a breach of this act, shall be recovered before any justice of the peace of the county of Essex, with cost of suit, for the use and benefit of the prosecutor. And it shall be the duty of the fish-wardens of said towns of Newbury and Rowley to see that this act is carried into effect; and any other person may complain and prosecute for breaches of this act.

SECT. 3. *Be it further enacted*, That the inhabitants of the town of Rowley aforesaid, shall, at their annual meetings, legally assembled, choose one or more fish-wardens, whose duty it shall be to see that this act is carried into effect, as aforesaid, and who shall be sworn to the faithful discharge of that trust, in the same manner as other town officers are sworn. — [Feb. 22, 1797.

[Sp. Laws, vol. 1, p. 422.]

AN ACT to regulate the Price of Fish called alewives, in the Town of Taunton.

Sp. Laws, vol. 2, p. 117. **SECT. 1.** *Be it enacted*, That from and after the passing of this act, the selectmen of the town of Taunton, for the time being, together with any two justices of the peace in and for the county of Bristol, *quorum unus*, be and they are hereby authorized and empowered, from time to time, as they shall judge proper, to regulate the price of the fish called alewives, taken in Taunton Great River, so called, which price, when so regulated, shall be recorded on the book of records of said town by the clerk thereof.

SECT. 2. *Be it further enacted*, That if any person, after the passing of this act, shall presume to sell such fish at a greater price than may be established, for the time being, as aforesaid, he shall forfeit and pay, to the use of said town, for each hundred of such fish so sold, a fine of five dollars; and so in proportion, for a greater or less num-

ber, to be sued for and recovered before any justice of the peace in and for said county, or any other court proper to try the same, by the town treasurer of said town. And no person shall be disqualified from being a witness in any such suit, by reason of his or her being an inhabitant of said town.

SECT. 3. *Be it further enacted*, That so much of an act passed on the nineteenth day of March, in the year of our Lord one thousand seven hundred and ninety-three, as regulates the price of said fish taken in said river, be and the same is hereby repealed. — [Feb. 23, 1797.

[Sp. Laws, vol. 1, p. 191.]

AN ACT in addition to and for repealing a certain clause in an Act passed March the twenty-eighth, in the year of our Lord one thousand seven hundred and eighty-eight, entitled "An Act to prevent the Destruction of Alewives and other Fish in Ipswich River, and to encourage the increase of the same."

Sp. Laws, vol. 2, p. 128. SECT. 1. *Be it enacted*, That the future using and improving of Andrews' saw-mill, standing on Ipswich River, at Farley's mill-dam, so called, within the town of Ipswich, from the last day of April to the first day of June annually, shall be under the directions, regulations and restrictions of the major part of the selectmen of the towns of Ipswich, Topsfield, Middleton and Reading, for the time being; such directions, regulations and restrictions being made in writing, under the hands of the major part of the selectmen aforesaid, and delivered to the said Andrews from time to time, as shall be found necessary.

SECT. 2. *Be it further enacted*, That for every omission or violation of such direction, regulations or restrictions as aforesaid, the said Andrews shall be subject to such penalties and forfeitures as are incurred by the aforementioned act, for using and improving said mill within the term aforesaid; to be sued for, recovered and applied in manner as is prescribed in the said act.

SECT. 3. *Be it further enacted*, That the sixth clause of the aforementioned act, so far as it respects the using and improving the said Andrews' saw-mill within the term therein mentioned, shall be and hereby is repealed. — [March 7, 1797.

AN ACT for regulating the taking of Shad, Alewives and other Fish in Neponset River, and the several Streams from the Pond called Puncapog and Massopog.

Sp. Laws, vol. 2, p. 148. SECT. 1. *Be it enacted*, That there shall be sluice-ways through Leeds' dam and McLane's dam, on Neponset River, each eight feet in width, and in depth within eighteen inches of the mud-sill; the former within fifteen feet of Leeds' grist-mill floom, and the latter where the sluice-way now is. And the owners of all

other dams across said River Neponset shall make sluice-ways of the width of eight feet, and in depth within eighteen inches of the mud-sill; and all dams on the brook from Massapog Pond to Neponset River shall have a sluice-way six feet wide and as low as the natural stream; and all dams on the brook from Puncapog Pond to said Neponset River shall have a sluice-way three feet wide and as low as the natural stream.

SECT. 2. *Be it further enacted*, That the court of general sessions of the peace for the county of Norfolk shall, at their spring sessions, annually appoint a committee of three disinterested freeholders, and not inhabitants of Stoughton, Sharon, Canton, Dorchester or Milton, who shall be sworn to the faithful discharge of their duty, and who shall determine the time when the sluice-ways shall be opened and also when they may be shut; and may also, if they think it expedient and not injurious to the passing of said fish, direct one-half of any sluice-way or sluice-ways to be shut; and may open any such sluice-way on said rivers and streams, at the expense of the owner, provided the owner neglects to do it for the space of twenty-four hours after being notified by said committee; and if upon trial the present depth of said sluice-ways shall prove insufficient, may, after hearing the parties, order the same to be made deeper: *provided*, the depth of said sluices shall never be lower than twelve inches above the mud-sill. And the said committee, or any two of them, may in the execution of their office, when necessary, enter on the land or lands adjoining said streams, without being considered as trespassers; and the reasonable expense of said committee shall be paid, one half by the owners of the dams on the rivers and streams aforesaid, and the other half by the towns of Sharon, Stoughton and Canton.

SECT. 3. *Be it further enacted*, That if any owner or owners, occupant or occupants of any dam, shall unreasonably refuse to open his or their sluice-way, when required by the committee, for the space of twenty-four hours, or shall refuse for the space of six days after being required by said committee to make their sluice-way deeper, as provided for by this act, he or they so offending shall for each offence forfeit and pay one hundred dollars.

SECT. 4. *Be it further enacted*, That in case any owner or owners, occupant or occupants of any dam shall shut the same, or cause or suffer any obstruction during the time assigned by such committee for the passing of the fish, or if any person shall, during said term, cause any obstructions in any part of said streams, or use any seine or drag-net in taking said fish, or shall take any of said fish except on Mondays, Wednesdays and Fridays in each week, and betwixt sunrising and sunsetting on each of said days, or shall so divert the water as to prevent the return of young fish, he or they so offending

shall for each offence forfeit and pay the sum of twenty dollars, and shall forfeit all seines and nets so used.

SECT. 5. *Be it further enacted*, That the several towns adjoining the aforesaid river and streams may, at their annual meeting in March or April, choose three freeholders each, to inspect said fishery, who shall be sworn to the faithful discharge of their duty, and shall complain of all breaches of this act that come to their knowledge, and shall, when directed by the committee of sessions, remove obstructions in said river or streams at the expense of the person causing the same; and any person chosen one of said committee, and being notified thereof, and who shall neglect to take his oath for the space of seven days, shall forfeit and pay the sum of five dollars.

SECT. 6. *Be it further enacted*, That if any person shall hinder or molest either of said committee in the execution of their office, he or they so offending shall forfeit and pay a sum not more than seven nor less than three dollars.

SECT. 7. *Be it further enacted*, That each of the towns adjoining said river and streams, may, at the aforesaid annual meeting, choose a special committee to farm out or sell the privilege of taking said fish, and establish the rates at which fish so taken shall be sold, and the money arising from the sale of said fishery, or proceeds thereof, shall be paid into the respective town treasuries for the use of the respective towns, saving to Stoughton an equal share with the town of Canton; and if any person, in any town aforesaid, after the farming or selling the privilege in said town, shall take any of said fish, not being legally authorized so to do, or if any person being authorized to take said fish, shall, when in his power, refuse to sell, or shall receive for said fish more than the established rate, he or they so offending shall forfeit and pay a sum not more than twelve nor less than two dollars.

SECT. 8. *Be it further enacted*, That it may be lawful for Jonathan Leonard and Adam Kinsley to keep down their dam the whole of the year, they to make such a canal or passage-way round their dam in Canton as the committee of the sessions aforesaid may approve of as being sufficient for the passage of said fish; and also make a wear to prevent said fish from passing up to the slitting mill.

SECT. 9. *Be it further enacted*, That all forfeitures incurred by a breach of this act shall be recoverable by action of debt, with costs of suit, before any justice of the peace for said county of Norfolk, excepting the penalty of one hundred dollars, which may be in like manner recovered in the court of common pleas for said county; one half of each penalty shall be to the use of the prosecutor and the other to the town where the offence is committed.

SECT. 10. *Be it further enacted*, That all laws heretofore made for the preservation of or taking the said fish in the said river and streams, be and they hereby are repealed. — [March 10, 1797.

[Sp. Laws, vol. 2, p. 271.]

[Sp. Laws, vol. 1, p. 296.]

AN ACT to repeal an Act passed the twentieth day of June, one thousand seven hundred and eighty-eight, entitled "An Act to prevent the Destruction of Salmon and Shad in Connecticut River."

Sp. Laws, vol. 2, p. 154. Whereas the beneficial effects contemplated by the act aforesaid have not been produced thereby, and the further continuance thereof is unnecessary: therefore,

SECT. 1. *Be it enacted*, That the act aforesaid, and every part thereof, from and after the passing of this act shall be and the same is hereby repealed. — [March 11, 1797.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to an Act passed March ninth, seventeen hundred and ninety-two, entitled "An Act regulating the taking of the Fish called Alewives in the several Streams emptying into Merrimack River, in the Town of Andover."

Sp. Laws, vol. 2, p. 155. SECT. 1. *Be it enacted*, That such part of the fifth enacting clause in the afore-recited act as limits and determines the price of the aforesaid fish to one-fifth of a dollar for each hundred taken and distributed, be and hereby is repealed.

SECT. 2. *Be it further enacted*, That the inhabitants of said Andover, at their annual meeting in the month of March or April, be and are hereby authorized and empowered to determine and state the price of the aforesaid fish per hundred; and the committee or committees, as in said act are directed, to supply the persons applying for said fish at such rates as the town may determine and direct, under the penalties provided in the act to which this is in addition: *provided*, such stated price be posted up in manner as directed in the afore-recited act respecting the places of taking said fish. — [March 11, 1797.

AN ACT to prevent the Destruction of the Eel Fishery in the Town of Orleans, in the County of Barnstable, and to preserve and regulate the same in the several Coves and Salt Ponds within the said Town.

Sp. Laws, vol. 2, p. 162. SECT. 1. *Be it enacted*, That from and after the first day of September next, it shall not be lawful for any person to take from any of the coves and salt ponds in the town of Orleans, more than three dozen of eels on any one day, without a permit in writing from the major part of the selectmen of said town, expressing the quantity permitted to be taken; and every person who shall take any of said eels from any of said coves and salt ponds, exceeding the number of three dozen in any one day without such

permit, shall forfeit and pay for each and every additional dozen so taken the sum of twenty-five cents.

SECT. 2. *Be it further enacted*, That if any boat or craft shall be found within the limits of any of the coves or salt ponds with any more eels on board than this act allows to be taken for each person on board on any one day, or than they are authorized to take by a permit from the selectmen aforesaid, it shall be the duty of such person or persons as shall be chosen by the said town of Orleans to see to the execution of this law, to seize on such boat or craft and detain the same not exceeding forty-eight hours, in order that the same be attached or arrested by due process of law, and made answerable for said fines and forfeitures, with cost of suit: *provided, however*, that as soon as the owner or master of such boat or craft shall pay such fines and forfeitures to the treasurer of said town, if he shall pay the same before being sued, such boat or craft shall be discharged, with the effects therein.

SECT. 3. *Be it further enacted*, That the said town of Orleans are hereby authorized to choose annually such number of fish-wardens as they may judge necessary, who shall be sworn to the faithful discharge of their duty, whose duty it shall be to prosecute for all offences against this act; and all fines and forfeitures that shall be incurred by virtue thereof shall be one half to the use of him or them who shall sue for the same, and the other half to the use of the said town of Orleans; and the same shall be recovered with legal costs of suit by an action of debt, in any court proper to try the same. — [June 17, 1797.

AN ACT to prevent the Catching Fish with Seines in Fresh Pond (so called) in the Towns of Cambridge and Watertown.

Sp. Laws, vol. 2, p. 165. SECT. 1. That from and after the passing of this act it shall not be lawful to catch any fish with seines in Fresh Pond (so called), situate in the towns of Cambridge and Watertown; and any person who shall be found so catching fish, or who shall use a seine in the same pond in any manner whatsoever, shall for each offence forfeit a sum not exceeding fifty nor less than five dollars, to be recovered by an action of the case to the use of the person who shall sue for the same. — [June 17, 1797.

1798.

[Sp. Laws, vol. 1, p. 313.]

AN ACT to empower the Inhabitants of the Town of Middleborough, in the County of Plymouth, to regulate the Price of the Fish called Alewives, taken in said Town, and for Repealing all Laws heretofore made, so far as they respect the regulation of the Price of said Fish taken in said Town.

Sp. Laws, vol. 2, p. 192. SECT. 1. *Be it enacted*, That from and after the passing of this act, the inhabitants of the town of Middle-

borough aforesaid are hereby empowered annually, at any town meeting legally warned for that purpose, to establish the price of said fish taken in said town, provided said price be not above the rate of twenty-five cents per hundred.

SECT. 2. *Be it further enacted*, That all the laws heretofore made, so far as they respect the regulation of the price of said fish taken in said town, be and are hereby repealed. —[Feb. 8, 1798.

AN ACT to prevent the Destruction of Fish in Concord River, in the County of Middlesex.

Sp. Laws, vol. 1, p. 213. SECT. 1. *Be it enacted*, That if any person or persons, after the first day of April next, shall take or catch any fish in Concord River, in the county of Middlesex, or in any pond or stream which empties into the same, after sunset and before sunrise, with the use of either torch or spear, every person so offending shall forfeit and pay for each offence a sum not exceeding five dollars, nor less than two dollars, to be recovered in an action of debt, one half to him who shall sue for the same and the other half to the town in which the fish shall be so caught or taken.

SECT. 2. *Be it further enacted*, That if any person or persons shall erect any wear across any of said waters, and thereby take any of said fish, or obstruct them in their passage through the same, every person so offending shall forfeit a sum not less than three dollars nor more than ten for each offence, to be recovered in manner and to the use aforesaid. —[March 1, 1798.

[1835, 89.]

AN ACT for the Preservation of the Fish called Alewives, in Wewantit River, in the County of Plymouth, and for Regulating the Taking said Fish, and for Repealing all Laws heretofore made for that purpose.

Sp. Laws, vol. 2, p. 214. SECT. 1. *Be it enacted*, That the several towns of Rochester, Wareham and Carver shall, at their town meeting in the fall of the year annually, respectively choose a committee of three persons in each town, whose duty it shall be, in the month of March annually, to sell at public vendue the privilege of taking said fish at such places, not exceeding three in said towns, and on such days, not exceeding three in each week, as said committee shall agree upon and publish in their conditions of sale, in which conditions said committee shall also express the price at which it may be lawful for said purchasers to sell said fish when taken, not exceeding the rate of twenty-five cents for one hundred of said fish; and said committee, before they enter upon the execution of their office, shall be sworn to the faithful and impartial performance of their duty in the same manner as other town officers.

SECT. 2. *Be it further enacted*, That the committee of the town of Rochester the first year, the committee of the town of Wareham the

second year, and the committee of the town of Carver the third year, and so on in rotation forever, shall notify the town clerks of the other towns concerned in said fishery of the time and place in which said committee shall meet; said notice to be served ten days at least before the time of meeting, at which meeting as well as all subsequent meetings, the majority present shall have the power and authority of the whole committee.

SECT. 3. *Be it further enacted*, That all persons, except the purchaser or purchasers, or those employed by them, who shall take any of said fish in Weweantit River, or in any pond or stream having communication therewith, Sippican River excepted, shall forfeit and pay the sum of twenty dollars.

SECT. 4. *Be it further enacted*, That if either of the towns of Rochester, Wareham or Carver shall neglect to choose their proportion of said committee, as they are required by this act, or if the committee, when chosen, whose duty it shall be to notify the clerks of the other towns of the proposed time for the whole committee to meet, as aforesaid, shall neglect to give such notice, the town or committee offending as aforesaid shall, for each offence, forfeit and pay to the use of the town or towns performing the duties required by this act, the sum of one hundred dollars.

SECT. 5. *Be it further enacted*, That the owner or occupier of any dam on said river shall, annually, betwixt the first day of April and 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.

SECT. 6. *Be it further enacted*, That if any person shall make any wear or other obstruction to the free passage of said fish, or shall make use of any seine in said river or in any pond or stream communicating therewith, the person offending shall forfeit and pay the sum of fifty dollars; and said committee shall have authority to remove such wear or obstruction at the expense of the person causing the same; and also to seize any seine used as aforesaid, and to dispose of the same to the use of the said towns.

SECT. 7. *Be it further enacted*, That the treasurers of the aforesaid towns respectively, are hereby empowered, upon the complaint of any of the committee aforesaid, to sue for the recovery of any forfeitures incurred by the breach of any of the regulations provided in this act; and also of such further regulations as may, from time to time, be provided by the committee as aforesaid. And all fines and forfeitures

recovered for any breaches aforesaid, except such as are mentioned in the fourth section of this act, shall, together with the proceeds of said fishery, be equally divided between the aforesaid towns; and the treasurers aforesaid respectively may, in behalf of their respective towns, recover in an action on the case, of any person or persons, corporation or corporations holding the same, one-third part thereof in any court proper to try the same.

SECT. 8. *Be it further enacted*, That the purchasers of the right of taking said fish, shall in all respects conform themselves to such regulations as the committee aforesaid shall publish in their conditions of sale, and for each offence in breaking said regulations, shall forfeit and pay the sum of twenty dollars.

SECT. 9. *Be it further enacted*, That any of the committee aforesaid may be admitted as witnesses in any prosecution for the breach of any regulations respecting said fishery; and said committee shall receive for their services, out of the proceeds of said fishery, seventy cents to each person for each day's service.

SECT. 10. *Be it further enacted*, That all laws heretofore made respecting said river, be and the same are hereby repealed, excepting so far as may affect any penalties already incurred for the breach of said laws. — [March 1, 1798.

[1819, 118; 1836, 218.]

AN ACT for the better Preservation of the Fish called Alewives, in Mill River, so called, in Taunton, in the County of Bristol, and for regulating the Taking of said Fish in said River.

Sp. Laws, vol. 2, p. 220. SECT. 1. *Be it enacted*, That from and after the passing of this act, the selectmen of the said town of Taunton, for the time being, shall be and they are hereby constituted inspectors of the said Mill River, whose duty it shall be, within ten days after being chosen to their said office of selectmen, to take an oath for the faithful discharge of their said trust as inspectors, before some justice of the peace for said county of Bristol, or the clerk of the said town of Taunton; and also, within the same ten days, to post up at some public places in said town, near said river, an advertisement under the hands of the major part of them, pointing out the manner, time and place, in which said fish may be taken in said river (provided that the time of taking said fish shall not exceed three days in each week). And if any person shall pull down or deface such advertisement, he or she shall forfeit and pay the sum of one dollar. And if any person shall presume to take any of said fish in said river, at any other time or place, or in any other manner, than those mentioned in said advertisement, he or she so offending shall forfeit and pay for each offence a sum not less than one dollar nor more than twenty dollars.

SECT. 2. *Be it further enacted*, That the inhabitants of said town, at any town meeting legally warned for that purpose, may, in such manner as they shall think proper, sell the exclusive right of taking said fish in said river under such regulations as they may judge necessary: *provided, always*, that no one sale shall be for more than one year, and that the purchasers of said right shall not be allowed to sell fish for more than twenty-five cents per hundred.

SECT. 3. *Be it further enacted*, That in any year when the said inhabitants shall sell the exclusive right of taking said fish as aforesaid, the said inspectors shall post up their advertisement as aforesaid, forbidding all persons, other than the said purchasers or their agents, to take any of said fish in said river, at any time or place whatever; and also forbidding the said purchasers to take any of said fish, save at the times and places and in the manner mentioned in the conditions of sale.

SECT. 4. *Be it further enacted*, That the said inspectors, or the major part of them, be and they are hereby authorized and empowered to open any dam or the sluice of any mill or other water-works erected or that may be erected on or over the said river, so that there shall be a passage-way of such width (not exceeding twelve feet) and depth as shall be sufficient for the passing of said fish up said river at the expense of the owner or owners of such dam or sluice: *provided*, such owner or owners shall neglect to open the same when thereto required by the inspectors or the major part of them; and the dam or sluice that may be so opened, shall continue open for so long a time in the months of April and May annually, as the said inspectors or the major part of them shall judge necessary; and if any person or persons shall obstruct the passage-ways allowed or ordered by the said inspectors or the major part of them, in any dam or sluice-way, or shall obstruct the passage of said fish in any other part of said river than shall be permitted by the said selectmen, conformably to this act, such person or persons so offending shall forfeit and pay a sum not exceeding three hundred dollars nor less than ten dollars.

SECT. 5. *Be it further enacted*, That all penalties incurred by the breach of this act may be sued for and recovered by any of said inspectors in any court in the county of Bristol proper to try the same; and all sums so recovered shall be one half to the use of the prosecutor and the other half to the use of the said town of Taunton; and in case any minor or minors shall offend against any part of this act, and thereby incur any of the penalties aforesaid, in all such cases the parents, masters or guardians of such minor or minors shall be answerable therefor in an action to be brought against such parents, masters or guardians as for his or their personal offence.

SECT. 6. *Be it further enacted*, That the several laws heretofore

passed authorizing the proprietors of the slitting mills, standing on the said river, to stop the water and make use of the same three days in each and every week during the months of April and May annually, be and the same are hereby repealed.— [March 2, 1798.

AN ACT to prevent the Destruction and to regulate the Catching of the Fish called Alewives, in the Rivers and Streams in the Town of Falmouth, in the County of Barnstable.

Sp. Laws, vol. 2, p. 222. SECT. 1. *Be it enacted*, That the town of Falmouth shall be and hereby are empowered and directed, at their meeting for the choice of town officers in March or April annually, to choose five or more persons, being freeholders in the said town, to see that this act be duly observed; and each person so chosen shall be sworn faithfully to discharge the duties required of him by this act: and the said committee shall meet together annually, on or before the thirtieth day of March, at such place as they or a majority of them shall appoint; and the major part of the committee present at such meeting, being not less than three in number, are hereby authorized and empowered to order the times when (which shall not exceed three days in a week), the places where, and the manner in which said fish may be taken; and shall notify the inhabitants thereof, by posting up notifications in several public places in said town of Falmouth, within ten days after their being chosen as aforesaid; and the said committee or the major part of them are hereby fully authorized and empowered to cause the natural course of the streams through which the said fish pass to be kept open and without obstruction, to remove any such as may be found therein, and shall have authority for those purposes to go on the land or meadow of any person through which such streams run, without being considered as trespassers; and shall open or cause to be opened any sluice-way through any dam now erected, or that may be hereafter erected on or over any of the said rivers or streams (between the ponds where the said fish usually cast their spawns and the sea), at the expense of the said town of Falmouth: *provided*, the owner or owners of any such dam shall neglect to open the same when thereto required by the said committee; and the dam or sluice so opened shall continue open in every year to such depth and width as shall be necessary for a passage for said fish, and for such term of time between the first day of April and the tenth day of June, as the major part of the said committee shall judge necessary; and if any person or persons shall molest or hinder the said committee or either of them in the execution of his or their said office, or shall obstruct the passage-ways or sluice-ways allowed or ordered by the said committee, or the major part of them, each person so offending shall, on conviction before any justice of the peace for the county of Barn-

table, pay a fine for every such offence not exceeding ten dollars nor less than three dollars.

SECT. 2. *Be it further enacted*, That if any person or persons shall take any of the said fish in the said rivers, streams or ponds aforesaid, at any time, in any place, or in any manner other than shall be allowed by the said committee as aforesaid, each person so offending for each and every offence shall, on conviction thereof, pay a fine not exceeding three dollars nor less than one dollar, if the quantity of fish so taken is less than one barrel, but if the quantity so taken shall be one barrel or more, such person or persons so offending shall forfeit and pay for each and every barrel of fish so taken, the sum of three dollars.

SECT. 3. *Be it further enacted*, That if the committee aforesaid, or either of them, shall detect any person or persons in taking any of the said fish, at any time, in any place, or in any manner otherwise than is allowed by the said committee, or shall find such fish with such person or persons, such person or persons shall be deemed to have taken the said fish unlawfully, and shall be subject to the penalties of this act accordingly; unless such person or persons can make it appear, on trial, that they came by the said fish in some other way.

SECT. 4. *Be it further enacted*, That all the forfeitures incurred by virtue of this act, shall be to the use of the said town of Falmouth, to be recovered by an action on the case, in any court proper to try the same, to be brought by the treasurer thereof. — [March 2, 1798.

[Sp. Laws, vol. 2, p. 289; 1825, 63; 1847, 94; 1851, 98; 1858, 130.]

AN ACT authorizing the Inhabitants of the Towns of Watertown, Weston and Waltham, in the County of Middlesex, to regulate the Taking of the Fish called Shad and Alewives within the Limits of the said Town.

Sp. Laws, vol. 2, p. 224. SECT. 1. *Be it further enacted*, That from and after the ninth day of February, which will be in the year of our Lord seventeen hundred and ninety-nine, it shall be lawful for the inhabitants of the towns aforesaid to sell the right, and regulate the times, places and manner of taking the said fish, within the limits of said towns, not exceeding, in point of time, three days in each week; and the inhabitants of said towns respectively, at their annual meeting in March, are hereby authorized and empowered to appoint agents, whose duty it shall be to carry into execution the purposes of this act.

SECT. 2. *Be it further enacted*, That there shall be a meeting of the agents of said towns, holden annually on the last Monday in March, at two of the clock in the afternoon, at the public house in said Watertown which may be situated the nearest the bridge, in same town, over Charles River; at which meeting the agents so chosen

may agree on the place of holding and the manner of calling any intermediate meeting; may choose a clerk, whose duty it shall be to record in a book, kept for that purpose, all votes, regulations and orders which may be passed by said agents, or the major part of them, during the period for which they are chosen; and at the end of said period, it shall be the duty of said clerk to transfer said book to the person who may be chosen to succeed him in said office.

SECT. 3. *Be it further enacted*, That the agents aforesaid, at any meeting established by this act, or called pursuant to any agreement of said agents, may, in behalf of said towns, and for their use and benefit, sell the right, and regulate the times, places and manner of taking said fish within the towns aforesaid, not exceeding the time aforesaid; and the proceeds of the sale of said right shall, from time to time, be divided between said towns, according to the sums they shall, respectively, pay towards the maintenance of the bridge, in said Watertown, over Charles River; and the said agents shall forthwith, after establishing such rules and regulations, and determining by whom said fish may be taken, cause a copy thereof, under their hands, to be posted in some public place in each of said towns; and if any person or persons, other than those to whom said right shall be sold as aforesaid, shall take any fish of the description aforesaid, within the towns aforesaid; or if any person to whom said right shall be sold as aforesaid, shall take any of said fish at any other time, in any other place, or in any other manner than shall be expressed in the conditions of the sale to him, such person so offending shall forfeit and pay treble the value of the fish so taken, to be recovered in an action on the case, to the use of any person who may sue for the same.

SECT. 4. *Be it further enacted*, That if the agents of either of the towns aforesaid shall neglect to attend at any meeting, called as aforesaid or appointed by this act, the votes passed, and the orders and regulation established by the major part of the agents who shall attend said meeting, shall be as binding on said towns, and as good and valid to all intents and purposes, as they would be were the whole of said agents present at said meeting. And in deciding any question which may come up before said agents, in executing the duty assigned them by this act, one vote only shall be allowed to each town.— [March 2, 1798.

[1815, 56; 1826, 76.]

[Sp. Laws, vol. 1, p. 250.]

AN ACT in addition to an Act entitled "An Act regulating the Taking of the Fish called Alewives, in the Town Brook, so called, in the Town of Plymouth," passed the twentieth day of June, in the year of our Lord one thousand seven hundred and eighty-nine.

Sp. Laws, vol. 2, p. 241. **SECT. 1.** *Be it enacted*, That the said act to which this is an addition, and all parts, clauses and provisions thereof, shall extend to include one other brook in said town of Plymouth, known by the name of Fresh-Pond Brook, in the second precinct of said town; and the taking of the fish aforesaid in Fresh-Pond Brook is hereby authorized in the same manner and under the same rules, regulations and restrictions, in every respect, as the same is authorized in and by the act to which this is an addition, in the aforesaid town brook, and no otherwise, anything in said former act notwithstanding: *provided, nevertheless*, that the inhabitants of the town of Plymouth may, at their annual meeting in March or April, fix and determine at what place in Fresh-Pond Brook said fish may be taken. — [June 25, 1798.]

AN ACT in addition to the several Acts respecting the Proprietors of Middlesex Canal.

Sp. Laws, vol. 2, p. 241. [A clause from Sect. 1.] — *Provided, nevertheless*, that nothing herein shall be construed to repeal or annul the restrictions under which the said proprietors and corporation are laid by former acts, respecting the waters of Shawshine River, or the ponds, brooks or streams emptying their waters into the same. — [June 25, 1798.]

[Sp. Laws, vol. 2, p. 148.]

AN ACT in addition to an Act entitled "An Act for regulating the Taking of Shad, Alewives and other Fish, in Neponset River, and the several Streams from the Ponds called Punkapog and Massapog." (March 16, 1797.)

Sp. Laws, vol. 2, p. 271. **SECT. 1.** *Be it enacted*, That the town of Stoughton, in the county of Norfolk, may choose a committee to inspect the fishery in Neponset River, and the streams aforesaid, in the same manner, and who shall be under the same regulations, subject to the same duties, and have the same powers, as the like committees for the several towns adjoining the aforesaid river and streams: and said town of Stoughton shall have their proportionable part with the town of Canton, of all profits arising from said fishery, and also of all fines and forfeitures incurred by the breaches of the act to which this is an addition, in the same manner, and to the same extent it would have had, had the act, passed the twenty-third day of February, in the year of our Lord one thousand seven hundred and ninety-seven, entitled "An Act to divide the town of Stoughton, in the county of Norfolk, and to incorporate the northerly

part thereof into a town by the name of Canton," never have been passed; anything in either of the aforesaid acts to the contrary notwithstanding. — [Feb. 19, 1799.

[1823, 41.]

1799.

AN ACT to regulate the taking of the said Fish called Alewives, in Monatiquot River, in the town of Braintree.

Sp. Laws, vol. 2, p. 285. **SECT. 1.** *Be it enacted,* That the town of Braintree, at their meeting in March or April annually, may and they are hereby authorized to regulate the taking of the fish called alewives, in Monatequot River by fixing upon the times, places and manner of taking said fish, and the price at which said fish when taken may be sold, not exceeding twenty-five cents for one hundred fish; and also to direct their committee to farm out or sell the privilege of taking said fish; which regulations, when made, shall remain in force for one year next ensuing, and afterwards until new regulations in manner aforesaid shall be adopted by the town. And it shall be the duty of said town, at their aforesaid meeting annually, to choose three discreet persons, whose duty it shall be to inspect said river, to cause the regulations respecting said fishery to be carried into effect, and to prosecute all violations thereof that shall come to their knowledge, and who shall also be sworn to the faithful performance of their duty, in like manner and under like penalties as other town officers.

SECT. 2. *Be it further enacted,* That the owners or occupiers of dams across said river shall, during the time said fish are passing up, open a passage through, over or round their respective dams, sufficient for the passage of said fish, in the opinion of the committee, under penalty of ten dollars for each and every twenty-four hours that they shall neglect to open a passage as aforesaid, from and after said owner or occupier has been notified and required, in writing, by said committee, for the space of two days, so to do.

SECT. 3. *Be it further enacted,* That if any person shall make any wear across said river, or cause any obstruction to the free passage of said fish, or if any person shall presume to take any of said fish, except at the places and on the days allowed by the town, or if any person other than the purchasers or farmers of the said privilege, or those employed by them, shall presume at any time to take any of said fish, or if the person taking said fish shall sell them at a higher rate than the town shall allow, the person so offending shall for each offence forfeit and pay a sum not more than five dollars nor less than one dollar, at the discretion of the justice before whom the same may be tried.

SECT. 4. *Be it further enacted*, That all penalties incurred by a breach of any regulations respecting said fishery, may be sued for before any justice of the peace for the county of Norfolk, by the treasurer of said town; and the committee aforesaid may be competent witnesses in any prosecution for a breach of this act, notwithstanding they may be complainants in said prosecution.

SECT. 5. *Be it further enacted*, That all fines recovered for the breach of this act shall be for the use of the town of Braintree.

SECT. 6. *Be it further enacted*, That the committee chosen by virtue of this act shall be compensated for their service by the town of Braintree, at such rate as the town shall agree upon at the time they are chosen. — [March 1, 1799.

[1812, 154; 1817, 151.]

[Sp. Laws, vol. 2, p. 222.]

AN ACT in addition to and for the Amendment of an Act entitled "An Act to prevent the Destruction and to regulate the Catching of the Fish called Alewives, in the Rivers and Streams in the Town of Falmouth, in the County of Barnstable."

Sp. Laws. vol. 2, p. 289. *Be it enacted*, That the committee to be chosen conformably to the act to which this is in addition, be and they hereby are authorized to permit the taking of said fish five days in a week, if they see fit, during the period provided by said act for said rivers and streams to be kept open, anything in said act to the contrary notwithstanding. — [March 1, 1799.

AN ACT regulating the Taking of the Fish called Alewives in Island Creek Brook (so called), in the Town of Duxbury.

Sp. Laws, vol. 2, p. 289. SECT. 1. *Be it enacted*, That the fish called alewives may be taken from two rods below the bridge over said brook, and as far up said brook as the width of the road, commonly called Plymouth road, and shall not be taken in any other part thereof, and at such times only as the committee, who may be appointed by said town as is hereafter provided, may direct.

SECT. 2. *Be it further enacted*, That the inhabitants of said town of Duxbury, at their meeting for the choice of town officers in March or April annually, be and they hereby are authorized and directed to appoint three or five persons a committee to oversee the taking said fish as aforesaid, which committee shall distribute the fish taken by them, or under their direction, as equally as circumstances will admit, to such of the inhabitants of said town as may apply for the same; and for the fish so supplied and delivered, the committee aforesaid shall demand and receive of the person or persons applying therefor, payment at such rate or rates as the inhabitants of the said town, at their annual meeting in March or April, may direct, excepting of such poor persons as may be named in a list to be annually made out by

the selectmen of said town, and who, in the opinion of the selectmen, are unable to pay for the same, which list shall be given to the committee, and the person or persons borne on the same shall be supplied with such quantities of said fish gratis, as the committee may think expedient. And the committee aforesaid shall have such allowance for their services as the inhabitants of said town, at the time of appointing said committee, shall determine; and shall annually, in the month of September next following their appointment, exhibit their accounts to the selectmen of said town for settlement and allowance, and pay the balance remaining in their hands, if any, to the treasurer of the town of Duxbury, for the town's use.

SECT. 3. *Be it further enacted*, That the said committee, or the major part of them, be and hereby are authorized and empowered to open any dam or the sluice of any mill or other water-works erected, or that may be erected, on or over said brook, at the expense of the owner or owners of such dam or sluice, provided such owner or owners shall neglect to open the same when thereto required by said committee, or the major part of them as aforesaid; and the dam or sluice that may be so opened shall continue open to such depth and width, and for so long a time as the said committee or the major part of them shall judge necessary; and if any person or persons shall obstruct the passage way allowed or ordered by the said committee or the major part of them, in any dam or sluice-way, or shall obstruct the passage of said fish in any other part of said brook than is permitted by this act, such person or persons so offending shall forfeit and pay a sum not exceeding one hundred and fifty dollars nor less than thirty dollars.

SECT. 4. *Be it further enacted*, That if any person or persons, other than the said committee, or such persons as shall be by them employed, shall take any of the said fish in the said brook, or any part of it, at any time, or by any means whatsoever, each person so offending shall forfeit and pay a sum not exceeding ten dollars nor less than two dollars for every such offence.

SECT. 5. *Be it further enacted*, That all penalties incurred by the breach of this act may be sued for and recovered by the treasurer of the town of Duxbury, for the time being, in any court in the county of Plymouth proper to try the same; and all sums so recovered shall be appropriated to the use of said town; and in case any minor or minors shall offend against any part of this act, and thereby incur any or either of the penalties aforesaid, in all such cases the parents, masters or guardians of such minor or minors shall be answerable therefor; and in case of a prosecution of such minor or minors for any offence, the action shall be commenced against the parent, master or guardian of such minor or minors respectively, and judgment be

rendered against any parent, master or guardian in such case, in the same manner as for his or their personal offence.

SECT. 6. *Be it further enacted*, That no person, by reason of being an inhabitant of said town, or one of said committee, shall be hereby disqualified from being a witness in any prosecution for a breach of this act.

SECT. 7. *Be it further enacted*, That all laws heretofore made and provided for regulating the alewife fishery on said brook, be and the same are hereby repealed. — [March 1, 1799.

1800.

AN ACT for regulating the Alewife Fishery in the Gulf Stream, so called, that runs between the towns of Scituate in the County of Plymouth, and Cohasset in the County of Norfolk.

Sp. Laws, vol. 2, p. 375. Whereas the town of Scituate has legally granted to Elisha Doane, his heirs and assigns forever, all their right, title and interest in and to the said Gulf Stream, on certain conditions in that grant specified; and whereas the town of Cohasset hath legally granted to the said Elisha Doane and Isaac Smith, their heirs and assigns forever, all their right and title in and to the said Gulf Stream, on certain conditions in their grant mentioned; which said conditions, stipulated by said towns, appear to have been complied with on the part of said Doane and Smith: and whereas the said Doane hath agreed "that if the flood-gates of the said Doane's mill-dam should not, in the passage of the said fish up the stream, open during the flood-tide, by reason of the water above, the proprietors of said mill shall draw off so much water from the mill-pond as to cause said gates to open on the flood-tide; and if the proprietors of said mill shall refuse or neglect to draw off said water from said pond sufficient for the gates to open as aforesaid, the fish-wardens hereafter mentioned, duly authorized for that purpose, they shall have authority to draw off from said pond so much water as to cause said gates to open as aforesaid, in such manner as shall be least detrimental to the proprietors of said mill":

SECT. 1. *Be it enacted*, That from and after the passing this act, the selectmen of the towns of Scituate and Cohasset shall be fish-wardens, and shall be sworn as other town officers, and shall be under like penalties in case of refusal; said wardens shall have authority to regulate the times and places and manner of taking said fish; and also the prices at which said fish may be sold, not exceeding twenty-five cents for each hundred; also to farm out or sell for one year, after giving public notice in each of said towns, the privilege of taking said fish, under such regulations as the wardens shall previously establish; and it shall be the duty of said wardens to cause to be removed all

obstructions to the passage of said fish up to the pond where they usually cast their spawn, and to open, or cause to be opened, sufficient sluice-ways or passages for said fish through the mill-dams that now are or that hereafter may be directed above said Doane's mill, at the expense of the owners thereof: *provided*, that the said wardens shall exercise no authority at said Doane's mill than what is conceded by said Doane, and is contained in the preamble of this act.

SECT. 2. *Be it further enacted*, That if any person shall shut any sluice-ways, or make any weirs or other obstruction to the free passage of said fish, during such parts of the months of April and May annually, as the wardens shall determine to be necessary for the free passage of said fish, the person so offending shall forfeit and pay a sum not exceeding one hundred dollars, and if any person shall break any of the regulations established by said wardens, the person offending therein shall forfeit and pay a sum not exceeding ten dollars.

SECT. 3. *Be it further enacted*, That it shall be the duty of the fish-wardens to prosecute for all breaches of this act, and for all such regulations as shall be established in pursuance thereof, in any court proper to try the same, either in the county of Plymouth or Norfolk.

SECT. 4. *Be it further enacted*, That the proceeds of said fishery, as well as the amount of all fines recovered by said wardens, shall equally accrue to the said towns of Scituate and Cohasset, and be paid to the respective treasurers of said towns.

SECT. 5. *Be it further enacted*, That any fish-warden, as well as any inhabitant of the respective towns of Scituate and Cohasset, may be a competent witness in any prosecution under this act. — [March 4, 1800.

[Sp. Laws, vol. 2, p. 450.]

[Sp. Laws, vol. 1, p. 422.]

AN ACT in addition to an Act, entitled "An Act to prevent the Destruction of the Fish called Alewives, in Taunton Great River, so called, in the County of Bristol, and also to regulate the Catching the said Fish therein for the future."

Sp. Laws, vol. 2, p. 381. SECT. 1. *Be it enacted*, That no two seines or drag-nets shall be set, used or drawn in said river, so that in drawing or sweeping with said two seines or drag-nets, any two points of said river, lying and being within twenty rods of each other, shall by different seines or drag-nets be drawn over, or swept on the same day. And any person or persons who shall offend herein by approaching within twenty rods of any part of the river, that shall have been occupied by another seine or drag-net on the same day, shall forfeit and pay for each offence the same sum, to be recovered in the same manner, and to the same uses as is provided for using seines and drag-nets, contrary to the act to which this is in addition. — [March 4, 1800.

1801.

[Sp. Laws, vol. 1, p. 512.]

An Act for providing a Passage for Fish from Mystic River to Ell Pond, so called, in the Town of Malden.

Sp. Laws, vol. 2, p. 431. Whereas sundry inhabitants of the town of Malden, and Samuel Tufts, have made an agreement respecting the passage of fish in the waters leading from Mystic River to Ell Pond, in said town :

SECT. 1. *Be it enacted*, That it shall and may be lawful for Cotton Sprague and others, being sundry inhabitants of the westerly part of Malden, who have petitioned this court to adopt some measure for securing a passage for shad and alewives from Mystic River to Ell Pond, so called, in said Malden, at their own expense, to construct a passage-way for said fish, over the mill-dam of Samuel Tufts, which stands on the stream leading from said pond, and for that purpose to cut away so much of the waste-board between the two easternmost posts of said dam as to reduce the same four inches below his right to flow, so as to admit of said passage-way to pass over said dam in that place, and so up said stream ; which said passage-way shall be built and kept in repair, for the term of five years from the passing of this act, from the tenth day of April to the twentieth day of May inclusive, in each year, at the expense of said petitioners, unless at any time said passage-way should be wantonly or maliciously injured or destroyed, in which case it shall be the duty of the inhabitants of said town of Malden to repair the same ; and if the inhabitants of said town shall neglect or refuse to repair the same accordingly, within seven days after the same shall have been injured as aforesaid, it shall be lawful for any one or more of said petitioners forthwith to repair the same, and to recover of said inhabitants double the expense of such repairing, with costs of suit, by an action on the case, in any court proper to try the same.

SECT. 2. *Be it further enacted*, That it shall be the duty of the said Samuel Tufts, during the said term of five years, to keep his said dam in as good repair as it now is ; and if at any time the same shall be out of repair, and he shall not repair the same in a reasonable time, that it shall and may be lawful for any one or more of the petitioners to repair the same, and to recover of said Samuel Tufts double the amount of the expense thereof with costs of suit, by an action of the case, in any court proper to try the same ; and also, that the said Samuel Tufts shall not improve any mill, from the fifteenth day of April to the fifteenth day of May annually, except his mills for grain.

SECT. 3. *Be it further enacted*, That it shall be lawful for said town of Malden, at their annual meeting in March or April annually, during said term, to choose a committee of three, five or seven freeholders of said town, whose duty it shall be, and they or the major part of them are hereby empowered to keep the stream aforesaid free and clear of all obstructions to the passage of said fish through the whole course of said stream from Mystic River to Ell Pond: *provided*, that nothing herein contained shall give said committee any right to destroy or impair said mill-dam: *provided, also*, that nothing in this act contained shall be so construed as in any manner to affect any interest in said stream, or the privileges or appurtenances thereto belonging, claimed by said town or said Samuel Tufts.

SECT. 4. *Be it further enacted*, That during the said term of five years, it shall not be lawful for any person to take any shad or alewives in said stream, oftener or more than two days in each week, viz.: from sunrise on Monday to sunrise on Tuesday morning; and from sunrise on Friday morning to sunrise on Saturday morning, in each week. And if any person shall offend against this prohibition, he shall forfeit and pay the sum of ten cents for each fish which he may so take, to be recovered, with costs of suit, by any one or more of said committee who may first sue for the same, by action of debt in any court proper to try the same; one half of which forfeiture shall enure to the use of said town, and the other half to him or them who may sue therefor.

SECT. 5. *Be it further enacted*, That this act shall continue and be in force for and during the term of five years next after the passing the same, and no longer, except as to any prosecutions for any penalties, or actions for recovery of any expenses which may then be depending according to the provisions thereof. — [March 7, 1801.]

[Sp. Laws, vol. 2, p. 105.]

An Act in addition to an Act, entitled "An Act to regulate the Alewife Fishery in the Town of Bridgewater, in the County of Plymouth, and for repealing all Laws heretofore made for that purpose," passed in the year of our Lord one thousand seven hundred and ninety-seven.

Sp. Laws, vol. 2, p. 433. Whereas it is represented to this court, that by reason of the broken state of the dam, at a place called the Great River Mills, in Bridgewater, it is impracticable to take fish at said place; therefore,

SECT. 1. *Be it enacted*, That it shall and may be lawful for the town of Bridgewater, the present year only, to take said fish at such times and places as were provided by an act entitled "An Act for regulating the Alewife Fishery in the Town of Bridgewater, in the County of Plymouth, and for repealing all laws heretofore made for

that purpose," passed the ninth day of March, in the year of our Lord one thousand seven hundred and ninety-one, the law to which this is an addition to the contrary notwithstanding: *provided*, said town shall at their annual meeting in March instant, vote the same, which the town are hereby authorized to do at said meeting; any law to the contrary notwithstanding. — [March 7, 1801.

An Act for regulating the Taking and Disposing of the Fish called Alewives within the limits of the Town of Weymouth, and for the more effectually securing to the said Town the advantages thereof.

Sp. Laws, vol. 2, p. 434. Whereas the town of Weymouth, in the county of Norfolk, at a very considerable expense, purchased and opened a passage for the fish called alewives into Whitman's Pond and the Great Pond, so called, being wholly within said town, and conveyed into them a number of said fish, whereby a great increase has arisen; it is therefore but just and reasonable that the benefits arising from the taking and disposing of the said fish should be wholly vested in the said town; wherefore,

SECT. 1. *Be it enacted*, That the taking and disposing of the said fish called alewives shall be under the care and management of a committee of the said town, who shall dispose of them in such manner, for the benefit of said town, as they shall judge best, and account with the treasurer of said town for the proceeds thereof, on or before the first day of November annually, and the money arising therefrom shall be appropriated to the use of schooling in said town; and the said committee shall have a reasonable allowance for their service, and lay their accounts before the selectmen of said town for allowance and approbation; and the said committee shall consist of five freeholders, chosen by ballot in the months of March or April annually, who shall be sworn to the faithful discharge of their duty; and if any person chosen to serve on the said committee shall refuse to serve, or if chosen shall neglect to take said oath for the space of seven days after being legally notified of such choice, he shall forfeit and pay to the use of said town the sum of ten dollars.

SECT. 2. *Be it further enacted*, That the said committee, or either of them, shall have full power and authority to remove from or out of the river, brooks or streams leading to the said ponds, any obstructions that may be made to the free passing of the said fish into the said ponds, or repassing from them into the sea; and the said committee's going, or either of them, on to the land of any person or persons for this purpose, shall not be deemed or held as a trespass; and the said committee, or the major part of them, shall determine the particular places where the said fish shall be taken, and give public notice thereof by posting up one or more notifications in some

conspicuous place or places in the said town, on or before the first day of May annually : *provided, however*, that the said fish shall not be taken on any other days than Mondays, Wednesdays and Fridays, between the rising and setting of the sun on said days, nor by any other instrument or ways than by a scoop or dip-net.

SECT. 3. *Be it further enacted*, That no person shall catch or take any of the said fish in any of the rivers, brooks or streams leading to or from the said ponds, without the direction or leave of the said committee, or the major part of them ; and whoever shall presume, at any time hereafter, to take, kill or haul ashore any of the said fish, with seines or drag-nets, in either of the ponds aforementioned, or in Weymouth Back River, so called, or in the river, brooks or streams through which the said fish pass into the said ponds, or shall with any seines or drag-nets, or in any other way obstruct the passage of the said fish to or from the said ponds, or either of them, or shall obstruct the said committee, or either of them, in the execution of their duty, in all and every of these cases the offender shall for each offence forfeit and pay a sum not exceeding thirteen dollars nor less than ten dollars ; and in case the offence be committed in the night, a sum not exceeding thirty dollars nor less than twenty dollars.

SECT. 4. *Be it further enacted*, That it shall be the duty of the said committee to give notice to the treasurer of the said town of Weymouth of all offences committed against this act that shall come to their knowledge ; and the treasurer thereof is hereby vested with full power and authority to sue for and recover, from time to time, all fines and forfeitures incurred by any breach of this act, in any court proper to try the same ; and such fines and forfeitures shall be to the use of the said town, saving where any person shall give information of any breach of this act, the informer, upon conviction of the offender, shall be entitled to one-third part of the forfeiture ; and no person shall be considered as disqualified from being an evidence on any trial that may be had pursuant to this act on account of his being an inhabitant of the said town of Weymouth, or of his being one of the committee aforesaid.

SECT. 5. *Be it further enacted*, That an act passed in the year of our Lord one thousand seven hundred and eighty-eight, entitled " An Act empowering the town of Weymouth to regulate and order the taking and disposing of the fish called shad and alewives within the limits of that town," be and the same is hereby repealed, except for the purpose of recovering any fines or forfeitures that may have been incurred under the said act. — [March 7, 1801.

[1825, 48; 1836, 198; 1846, 92.]

AN ACT to regulate the Alewife Fishery in the Brook running out of Wakepee Pond (so called) into the Sea, in the Indian Plantation, called Marshpee, in the County of Barnstable.

Sp. Laws, vol. 2, p. 436. SECT. 1. *Be it enacted*, That the overseers of the Indian plantation of Marshpee, or any two of them, shall annually appoint one or more suitable person or persons to inspect said brook, and to open, or cause to be opened, a sufficient passage-way for the fish to pass and repass through any mill-dams that now are or may be hereafter erected: *provided*, the owners of any such dams shall refuse or neglect to open such sufficient passage-way themselves, and cause the same to be kept open from the first day of April to the twenty-fifth day of May annually, and to prevent any wears or obstructions of any kind which may be made across said brook, or any part thereof, which may impede the passage of said fish. And said committee shall regulate the times and places for taking said fish, giving liberty to the Indian inhabitants to take as many of said fish as may be needful for their own use.

SECT. 2. *Be it further enacted*, That if any person or persons shall erect any wear, or obstructions of any kind, across said brook, so as to obstruct the passage of said fish, he or they so offending shall forfeit and pay a sum not exceeding ten dollars nor less than three dollars for each offence:

SECT. 3. *Be it further enacted*, That any person not an inhabitant of the said plantation, who is desirous of purchasing any of the said fish, such person shall pay a sum not exceeding twenty-five cents for each hundred, to be delivered them by such person or persons as the said committee shall appoint, and the proceeds of the same shall be applied to the exclusive benefit of the said Indian and mulatto inhabitants of said plantation.

SECT. 4. *Be it further enacted*, That all forfeitures and penalties which may be incurred by any breach of this act, shall be recovered by any one or more of the said board of overseers of the said Indian plantation, in any court in the said county of Barnstable proper to try the same; and all such forfeitures shall be applied to the exclusive benefit of the said Indian and mulatto inhabitants of said plantation of Marshpee. — [June 13, 1801.

[Sp. Laws, vol. 3, p. 111.]

[Sp. Laws, vol. 2, p. 375.]

AN ACT repealing part of an Act entitled "An Act for Regulating the Alewife Fishery in the Gulf Stream, so called, which runs between the Towns of Scituate, in the County of Plymouth, and Cohasset, in the County of Norfolk," passed the fourth day of March in the year of our Lord eighteen hundred.

Sp. Laws, vol. 2, p. 450. Whereas the beneficial effects contemplated by the act aforesaid have not been produced thereby :

SECT. 1. *Be it enacted*, That the aforesaid act, so far as it provides that the selectmen of the towns of Scituate and Cohasset shall be fish-wardens, and so far as it respects the opening sluice-ways through the mill-dams that now are, or that may hereafter be erected, above the mill-dam erected by Elisha Doane and others, be and hereby is repealed. — [June 19, 1801.

1802.

[Sp. Laws, vol. 1, p. 313.]

AN ACT in addition to the several Acts now in force, regulating the Taking of the Fish called Alewives in the Town of Middleborough.

Sp. Laws, vol. 2, p. 469. Whereas doubts have arisen whether the inhabitants of the said town of Middleborough are authorized by law to agree with and hire any person or persons to take said fish and sell them at the price stipulated by law, and to account with the said inhabitants for the net proceeds of the same: therefore,

SECT. 1. *Be it enacted*, That from and after the passing of this act it shall and may be lawful for the inhabitants of said town, at any legal meeting called for that as well as other purposes, by themselves or a committee chosen by them for that purpose, to agree with and hire such person or persons as they may deem proper, to take said fish at any and all of the fishing places in said town, and to dispose of them at the price stipulated by law, being accountable to the inhabitants of said town for the net proceeds of the same. — [Jan. 21, 1802.

[Sp. Laws, vol. 2, p. 105.]

AN ACT in further addition to an Act entitled "An Act to regulate the Alewife Fishery in the Town of Bridgewater, in the County of Plymouth, and for repealing all Laws heretofore made for that purpose," passed in the year of our Lord one thousand seven hundred and ninety-seven.

Sp. Laws, vol. 2, p. 495. SECT. 1. *Be it enacted*, That it shall and may be lawful for the town of Bridgewater, in the county of Plymouth, hereafter to take the fish called alewives in said town, at such times and places as were provided in an act entitled "An Act for regulating the alewife fishery in the town of Bridgewater, in the county of Plymouth, and for repealing all laws heretofore made for that purpose," passed the ninth day of March, in the year of our Lord one thousand seven hundred and ninety-one; any law to which this is in addition to the contrary notwithstanding. — [February 27, 1802.

AN ACT to prevent the Destruction of the Fish called Alewives, in their passage up and down in the River and other Streams in the Town of Kingston, in the County of Plymouth, and for regulating the Taking and Disposing of said Fish, and for repealing an Act entitled "An Act to prevent the Destruction of the Fish called Alewives, in their passage up the Rivers and Streams in the Town of Kingston, in the County of Plymouth."

Sp. LAWS, vol. 2, p. 502. **SECT. 1.** *Be it enacted*, That the inhabitants of said town of Kingston, at their annual meeting in March or April, be and are hereby authorized and empowered to choose a committee of five or more persons, to see that the laws respecting the passages for said fish be observed; and each person so chosen shall take an oath faithfully to discharge the duties required of him by law; and the said committee shall oversee the taking of said fish in said town, and shall distribute the fish taken by them, or under their direction, as equally as circumstances will admit, to such of the inhabitants of said town as may apply for the same; and for the fish so supplied and delivered, the committee aforesaid shall demand and receive of the person or persons receiving said fish, payment therefor, at such rate or rates as the inhabitants of said town, at their annual meeting in March or April, may direct; excepting of such poor persons as may be named in a list, annually to be made out by the selectmen of said town, and who in the opinion of the selectmen are unable to pay for the same; which list shall be given to the committee, and such persons borne on the same shall be supplied with such quantities of said fish, gratis, as the committee may think expedient. And the committee aforesaid shall have such allowance for their services as the inhabitants of said town, at the time of appointing said committee shall determine; and shall annually, in the month of September next following their appointment, exhibit their accounts of the selectmen of said town for settlement and allowance, and pay the balance remaining in their hands, if any there be, to the treasurer of the town of Kingston for the town's use.

SECT. 2. *Be it further enacted*, That the said committee, or the major part of them, be and are hereby authorized and empowered to open any dam, or the sluice of any mill or other water-works, erected or that may be erected on or across the river, or any of the streams in said town, at the expense of the owner or owners of such dam or sluice: *provided*, such owner or owners shall neglect to open the same when thereto required by said committee, or the major part of them, as aforesaid. And the said committee shall also have full power to remove any other obstructions that may be made to the free passage of said fish, in the rivers and other streams into the several ponds in said town, and for their repassing from said ponds into the sea. And the said committee, or either of them, going or passing on

or across the lands of any person, for any of the aforementioned purposes, shall not be deemed or held as a trespass; and any dam, or sluice, or passage-way that may be opened as aforesaid, shall continue open, to such depth and width, and for such length of time, as shall be necessary for the passing and repassing of the said fish as aforesaid. And if any person or persons shall obstruct the passage-way allowed or ordered by said committee, or the major part of them, in any dam or sluice-way, or shall obstruct the passage of them in the river, or any of the streams in said town, such person or persons so offending, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars.

SECT. 3. *Be it further enacted,* That if any person or persons, other than the said committee, or such persons as shall be by them employed, shall take any of the said fish, in the river or in any part of any of the streams in said town, at any time, or by any ways or means whatsoever, each person so offending shall forfeit and pay a sum not exceeding twenty-five dollars, nor less than five dollars for every such offence.

SECT. 4. *Be it further enacted,* That the town of Kingston, at their meeting in March or April annually, shall appoint particular places in each stream in said town where said fish may be taken; and no committee-man or person by them employed, or purchaser, shall be deemed a trespasser in going on the lands of any person in order to take said fish, on their paying a reasonable compensation therefor, if required. And the committee chosen as aforesaid, shall appoint certain days in each week, from the first day of April annually, not exceeding four for four weeks successively, when the said fish shall be taken; and shall put up notifications in two public places in said town, of the times and places for taking said fish, before the tenth day of April annually.

SECT. 5. *Be it further enacted,* That all penalties incurred by a breach of this act, may be sued for and recovered by the treasurer of the town of Kingston, for the time being, in any court in the county of Plymouth proper to try the same; and all sums so recovered shall be appropriated to the use of said town. And in case any minor or minors shall offend against any part of this act, and thereby incur any of the penalties aforesaid, in all such cases the parents, masters or guardians of such minor or minors shall be answerable therefor; and in case of a prosecution of such minor or minors for any such offence, the action shall be commenced against the parents, masters or guardians of such minor or minors respectively, and judgment be rendered against any parent, master or guardian in such case, in the same manner as for his or their personal offence. And no person by reason of being an inhabitant of said town, or one of said committee,

shall be thereby disqualified from being a witness in any prosecution for a breach of this act.

SECT. 6. *Be it further enacted*, That an Act entitled "An Act to prevent the destruction of the fish called alewives, in their passage up the rivers and streams in the town of Kingston, in the county of Plymouth," passed on the eighth day of November, in the year of our Lord one thousand seven hundred and eighty-five, be and the same is hereby repealed. — [March 3, 1802.

[1819, 125; 1857, 85.]

AN ACT to regulate the Alewife Fishery in the Towns of Lynn, Lynnfield and Reading, in the Counties of Essex and Middlesex, and for repealing all Laws heretofore made for that purpose.

Sp. Laws, vol. 2, p. 504. SECT. 1. *Be it enacted*, That it shall and may be lawful for the towns of Lynn and Lynnfield respectively, in the county of Essex, and the town of Reading, in the county of Middlesex, annually, at any legal meeting of the inhabitants of said towns, to sell or otherwise dispose of the privilege of taking the said fish within their respective limits, at such times, not exceeding three days in a week, and places, and under such regulations as the said towns shall respectively direct; and the emolument arising from said privilege shall be severally appropriated by said towns to such purposes and uses as the inhabitants thereof shall in town meeting from time to time determine.

SECT. 2. *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 said towns, or any of them, than shall be by said towns respectively determined; and if any other person or persons whatever, except the purchaser or purchasers, manager or managers of said privilege, or those employed by them, shall presume to take or catch any of said fish in any of the rivers or streams within the boundaries of said towns respectively, otherwise than may be by said towns respectively determined, 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 same shall be tried.

SECT. 3. *Be it further enacted*, That if the purchaser or purchasers, manager or managers of 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 said towns respectively, not exceeding twenty-five cents for one hundred of said fish, he or they so offending shall for each offence forfeit and pay the sum of one dollar; and if any person 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

landing where said fish are taken, he or they so offending shall, for each offence, forfeit and pay the sum of one dollar.

SECT. 4. *Be it further enacted,* That the said towns of Lynn, Lynnfield and Reading shall, at their respective annual meetings in March or April, severally choose a committee, not exceeding nine, nor less than three, freeholders of said towns, 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, passage-ways or streams through which said fish pass, to be kept open and without obstruction, during the whole time said fish pass up or down in said rivers, passage-ways or streams in each year, and to remove any such as shall be found therein; and to make the said passage-ways wider and deeper, if they or the major part of them shall judge it necessary; and the said several committees, or any two of either of them, paying a reasonable compensation therefor, if demanded, shall have authority, in discharging the duties enjoined upon them by this act, to go on the lands and meadows of any person through which such rivers, passage-ways or streams run, or into any building, mill or other water-works on said rivers or streams, without being considered as trespassers; and any person who shall molest or hinder the said committees, or either of them, in the execution of the business of his or their office, or shall obstruct any passage-way in the said rivers or streams, other-ways than may be allowed by the said committees, or a major part of them respectively, he or they so offending shall forfeit and 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 committees to injure the proprietor of any mill or water-works further than is necessary in order to give the said fish a good and sufficient passage up the said rivers.

SECT. 5. *Be it further enacted,* That it shall be the duty of the said committees respectively, to prosecute all breaches of this act, and for any two 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 seize to the use of their respective towns, 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 such committee that said fish were lawfully taken.

SECT. 6. *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 where the

offence shall be committed, allowing an appeal to the court of common pleas of the same county; and all sums of money recovered to either of the said towns as forfeited by this act, shall be for the support of the poor of the said towns respectively; and no person by reason of his being one of either of the said committees respectively, or an inhabitant of either of the said towns, shall be thereby disqualified from being a witness in any prosecutions for a breach of this act.

SECT. 7. *Be it further enacted*, That all laws heretofore made for regulating the fishery in the said towns of Lynn, Lynnfield and Reading, with joint or separate authority, are hereby repealed.—[March 3, 1802.

[Sp. Laws, vol. 3, p. 198; 1823, 97; 1852, 48.]

[Sp. Laws, vol. 1, p. 313.]

AN ACT for the preservation and regulating the taking of Fish called Alewives, in the Brook running from the West Quitticus Pond to the East Quitticus Pond, near the line between the Towns of Middleborough and Rochester, in the County of Plymouth.

Sp. Laws, vol. 2, p. 516. SECT. 1. *Be it enacted*, That the said towns of Middleborough and Rochester shall annually, at a regular town meeting, respectively choose an agent, whose duty it shall be annually to sell at public auction the privilege of taking said fish at said brook, on Tuesdays, Wednesdays and Thursdays in each week, and publish their conditions of sale, wherein said agents shall express the price at which the purchasers shall sell said fish, which shall be at the rate of twenty-five cents per hundred, and also the manner of taking and disposing of the same.

SECT. 2. *Be it further enacted*, That the agent of the said town of Middleborough the first year, and the agent of the said town of Rochester the second year, and so on alternately forever, shall notify the town clerk of the other town concerned in said fishery, of the time and place in which said agents shall meet, ten days at least before the time of meeting.

SECT. 3. *Be it further enacted*, That if either of said towns shall neglect to choose their respective agents as aforesaid, or if either of such agents shall neglect to give notice to the other, as above required, such delinquent town or agent shall forfeit and pay, to the use of the town which shall choose such agent, for each offence the sum of thirty dollars.

SECT. 4. *Be it further enacted*, That all persons who shall take any of said fish in said brook, and be thereof convicted before any court proper to try the same, shall forfeit and pay a sum not less than two nor more than ten dollars; except the purchaser or purchasers as aforesaid, or those employed by them, who shall have liberty to take said fish on said days.

SECT. 5. *Be it further enacted*, That it shall be the duty of the said agents, or any other person chosen by the said towns of Rochester and Middleborough 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 breach 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.

SECT. 6. *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.

SECT. 7. *Be it further enacted*, That either of the agents for the said towns of Middleborough and 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. — [March 6, 1802.

[1862, 202.]

AN ACT authorizing the Erection of a Dam for certain purposes, and to regulate the Taking of Shad and Alewives in the Town of Middleton.

Sp. Laws, vol. 3, p. 5. Whereas the waters running from the Great Pond in the town of Middleton, in the county of Essex, to Ipswich River, becomes so low during the summer season that shad and alewives cannot pass down to said river, but are detained in said pond, and great numbers of them perish during the winter season, to the great loss and damage of the inhabitants of said town:

SECT. 1. *Be it enacted*, That the inhabitants of the town of Middleton aforesaid, may erect and keep in repair a dam, sluice and gate-way in the brook, at the beginning thereof, near the pond leading from said pond to said river, for the purpose of keeping so much water in said pond as may be sufficient to fill said brook, so that the young shad and alewives may pass down from said pond into said river: *provided*, that the water shall not be kept in said pond by means of said dam after the twentieth day of October in every year: *and provided, also*, that the gate in the sluice hereby authorized to be

erected, shall not be shut down before the twentieth day of April in every year.

SECT. 2. *Be it further enacted*, That the inhabitants of the said town of Middleton be hereby empowered to choose, at any legal meeting of the inhabitants of said town, committees for the purpose of regulating, as they may think proper, the taking of shad and alewives in the waters of the said pond, and the waters running into and from the same, and preventing obstructions to the said fish passing down said brook, with fines and penalties not exceeding three dollars for each offence, to be recovered in any court proper to try the same, one moiety to the person who may recover the same, and the other moiety to the use of the said town. — [June 18, 1802.

[1856, 52.]

1803.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to an Act entitled "An Act to regulate the Catching of Salmon, Shad and Alewives in Merrimack River, and the Streams emptying into the same."

Sp. Laws, vol. 3, p. 43. Whereas it is found by experience that catching of fish at or near the mouth of Johnston's Brook, so called, emptying into Merrimack River, within the town of Bradford, in the county of Essex, greatly impedes and obstructs the fish from entering and passing up the said stream :

SECT. 1. *Be it enacted*, That from and after the passing of this act no person or persons shall be allowed to drag any seine or set any net, pot or other machine, for the purpose of catching salmon, shad or alewives, or any other ways obstruct said fish in their passage within thirty rods below or twenty rods above the mouth of said stream, in Merrimack River, on penalty of thirteen dollars and thirty-three cents for each offence, and the seine, net, pot or other machine so used, to be forfeited ; and the fine or fines aforesaid shall be recovered and applied in the same manner as fines for breaches of the act to which this is an addition. — [February 7, 1803.

[Sp. Laws, vol. 3, p. 72.]

AN ACT to regulate the taking of Alewives in the several Streams leading from Ipswich River to Prichard's Pond, in Topsfield.

Sp. Laws, vol. 3, p. 48. SECT. 1. *Be it enacted*, That it shall and 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 Prichard's 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, from time to time, in town-meeting determine.

SECT. 2. *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.

SECT. 3. *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 or impediments out of the natural course of said streams or other passage-ways, as they, or the major part of them, shall judge obstruct and impede 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 passage-ways 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 streams, 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 passage-ways, otherwise than may be allowed by the said committee, or the major part of them, he or they so offending shall forfeit and 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 and sufficient passage-way up the said stream.

SECT. 4. *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 and 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 and pay the sum of one dollar.

SECT. 5. *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 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 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.

SECT. 6. *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.

SECT. 7. *Be it further enacted*, That the fish-committee, or the major part of them, are hereby authorized 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.

SECT. 8. *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. — [February 9, 1803.

AN Act regulating the Taking the Fish called Alewives, in the several Streams emptying into Merrimack River, in the town of Haverhill.

Sp. Laws, vol. 3, p. 54. SECT. 1. *Be it enacted*, That it may and shall be lawful for the inhabitants of the said town of Haverhill, from

time to time, at their annual meeting in the month of March or April, to choose, by ballot, a committee of freeholders in said town, whose duty it shall be to determine and order by whom and in what place or places the said fish may be taken in the several streams emptying into the Merrimack River, within the town aforesaid; and shall cause a copy of such order, signed by said committee, or any two of them, to be posted up in some public place in said town. And any person who shall violate such order, upon conviction thereof shall forfeit and pay a sum not exceeding five dollars nor less than two dollars: *provided*, the quantity of fish so taken be less than one barrel. But for every barrel of fish so taken contrary to this law, any person convicted thereof shall forfeit and pay the sum of seven dollars, to be recovered before any justice of the peace in the county of Essex before whom the complaint shall be made.

SECT. 2. *Be it further enacted*, That the committee aforesaid, or the major part of them, are hereby authorized and empowered to open such sluice or passage-ways through or round any dams erected, or that shall be erected across said streams, as they shall judge necessary for the free passage of said fish, and to remove lumber and every other obstruction to the free passage of said fish; to erect racks or wooden frames, as they shall judge necessary, in said streams through which said fish pass, they being restricted in such opening and clearing to do the same as little to the damage of the owner or owners as may be; and such passage so opened by the committee aforesaid, shall continue open, if they judge it necessary, from the tenth day of April to the last day of May annually. And if any person or persons shall unlawfully obstruct the passage or passages for said fish, remove or injure any rack or racks that shall be erected by said committee on said streams, such person or persons so offending, upon conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars nor less than forty dollars, to be recovered in any court proper to try the same.

SECT. 3. *Be it further enacted*, That it shall and may be lawful for any of said committee, or their assistants, while in the execution of their office, to go upon the land adjoining to said streams without being considered as trespassers; and any person or persons who shall attempt to hinder or molest said committee, or either of them, in the execution of their office, shall forfeit and pay a sum not exceeding twenty dollars, nor less than ten dollars, to be recovered in any court proper to try the same.

SECT. 4. *Be it further enacted*, That the said committee be and hereby are authorized and directed to distribute, or cause to be distributed, the fish that may be taken by them, or any person or persons under them, as equally as circumstances will admit, to such persons

as apply for the same; and for the fish so supplied, the committee aforesaid, or their agent or agents, shall demand a sum not exceeding twenty-five cents for each hundred of said fish so delivered, excepting of certain poor persons of said town of Haverhill, who in the opinion of the selectmen of said town, are unable to pay for the same, and such persons shall be supplied, gratis, with such quantities, as the said committee shall judge expedient. And the said committee shall on the first town-meeting after the month of May annually, exhibit an account of all the fish disposed of by them, and the balance, if any remains, after paying them a reasonable compensation for their services, shall be paid into the treasury of said town, for the benefit thereof.

SECT. 5. *Be it further enacted*, That the committee so chosen shall, before they enter upon the duties of their office, be sworn faithfully to discharge the duties required of them by said town, agreeable to this act.

SECT. 6. *Be it further enacted*, That any of the inhabitants of said town of Haverhill, not concerned in violating this act, may be admitted as witnesses in any action that may be brought for any penalties aforesaid, they being inhabitants of said town notwithstanding.

SECT. 7. *Be it further enacted*, That no person or persons shall, after passing this act, be allowed to catch salmon, shad or alewives, or drag any seine, or set any net, pot or other machine, for the purpose of taking or catching said fish, or any otherwise obstruct said fish in their passage within thirty rods below, or twenty rods above the mouth of any streams in the town of Haverhill, emptying into Merrimack River, where said fish usually pass up, on penalty of thirteen dollars, to be recovered before any court proper to try the same; and the seine, net, pot or other machine, so used to be forfeited.

SECT. 8. *Be it further enacted*, That the times and manner prescribed for taking said fish in an act passed March 4th, 1790, entitled "An Act to regulate the catching of salmon, shad and alewives, and to prevent obstructions in Merrimack River, and in the other rivers and streams running into the same, within this Commonwealth; and for repealing several acts heretofore made for that purpose," shall be observed as the times and manner for taking said fish in the said streams in the town of Haverhill; and if any person shall take any of said fish at any other time or in any other manner than is prescribed in the act last recited, he shall, for each offence, be subject to such penalty as is provided in the said act for the same offence, to be appropriated in the same manner as the other forfeitures in this act.

SECT. 9. *Be it further enacted*, That if any person is found attempting to take any of said fish at any time or place, otherwise than is provided by this act, or if any of said fish shall be found in the

possession of any person, such person or persons shall be deemed to have taken them unlawfully, and shall be subject to the penalties by this act prescribed, unless he or they shall make it appear upon trial that they came by said fish lawfully.

SECT. 10. *Be it further enacted*, That all fines and forfeitures incurred by breach of this act, shall enure, one moiety thereof to him or them who shall complain or make information of the same, and the other moiety to the said town of Haverhill. — [February 9, 1803.]

[Sp. Laws, vol. 3, p. 43.]

AN ACT to regulate the taking of the Fish called Alewives in Johnston's Brook, so called, emptying into Merrimack River, in the Town of Bradford, and for clearing the passage-way of said fish, from said Merrimack River to Johnston's Pond, and from thence to Little Pond, so called.

Sp. Laws, vol. 3, p. 73. SECT. 1. *Be it enacted*, That from and after the passing of this act, the said fish may be taken between where the said Johnston's Brook crosses the road, near Benjamin Morse's and Carlton's grist-mill dam, and in no other place in said brook or passage-way from Merrimack River to Little Pond, so called, and on such days only as are allowed by law for catching fish in Merrimack River; and on such of those days, and in such place or places within those limits, as a committee who may be appointed by the town, as is hereinafter provided, may direct.

SECT. 2. *Be it further enacted*, That the inhabitants of the town of Bradford, at their meeting for the choice of town officers in March or April annually, be and they are hereby authorized and empowered to choose by ballot, three or five persons, being freeholders in said town, a committee to oversee the taking of the said fish as aforesaid; which committee shall be sworn to the faithful discharge of their trust, and shall distribute the fish taken by them, or under their direction, as equally as circumstances will admit, to such of the inhabitants of the said town, or other persons, as may apply for the same; and for fish so supplied and delivered, the committee aforesaid shall demand and receive of the person or persons applying therefor payment, at such rate or rates as the inhabitants of said town at their annual meeting in March or April may direct; excepting of such poor persons as shall be named in a list to be annually made out by the selectmen of the town, and who, in the opinion of said selectmen, are unable to pay for the same; which list shall be given to the committee, and the person or persons borne on said list shall be supplied with such quantities of said fish gratis as the committee think expedient; and the committee aforesaid shall have such allowance for their services as the inhabitants of said town, in open town meeting, may determine; and shall annually, in the month of September next after their appointment, exhibit their accounts to the selectmen for settlement,

and pay the balance, if any there is, into the town treasury, for the benefit of said town.

SECT. 3. *Be it further enacted*, That the committee to be chosen as aforesaid, or the major part of them, be and they are hereby authorized to clear any obstructions, or open any dam, or the sluice of any mill or other water-works that is or may be erected on or over said brook or passage-way, at the expense of the owner or owners of such dam or sluice-way: *provided*, such owner or owners shall neglect to open the same when thereto required by said committee, or the major part of them, as aforesaid; and the dam or sluice-way so opened shall continue to such width and depth, and for such length of time (not exceeding sixty days in one year), as said committee, or the major part of them, may think necessary, with the least possible damage to the proprietor or proprietors of such mill or water-works; and if any person or persons shall obstruct the passage-ways allowed or ordered by the said committee, or the major part of them, in any dam or sluice-way, or shall obstruct the passage of the said fish in any other part of said brook or passage-way than is permitted by this act, such person or persons so offending shall forfeit and pay a sum not exceeding one hundred and fifty dollars, nor less than thirty dollars.

SECT. 4. *Be it further enacted*, That if any person or persons other than the committee, or such person or persons as shall be by them employed, shall take any of said fish in said brook or passage-way, or any part of it, at any time or by any ways or means whatsoever, each person so offending shall forfeit and pay a sum not exceeding seven dollars, nor less than four dollars for each offence.

SECT. 5. *Be it further enacted*, That the committee chosen as aforesaid, or either of them, or any person employed by them, shall have authority, for the purposes aforesaid, to go on the land or meadow of any person through which such brook or passage-way passes, without being considered as trespassers; and any person who shall molest or hinder said committee, or any of them, or any person employed by them, in the execution of their duty, shall be subject to the same penalties as by this act is incurred for placing obstructions on said brook or passage-way.

SECT. 6. *Be it further enacted*, That if the committee or either of them shall detect any person or persons in attempting to take any of said fish, at any time or place, or in any manner otherwise than is allowed by the said committee, or shall find any such fish with any such person or persons, they shall be deemed and considered to have taken such fish unlawfully, and shall be subject to the penalties of this act accordingly, unless such person or persons can make it appear (on trial) that they came by said fish in some other way.

SECT. 7. *Be it further enacted*, That if any minor or servant shall

be found taking any of said fish in anywise contrary to this act, or contrary to the rules and regulations of said town of Bradford, or their committee as aforesaid, the parents, guardians or masters of such minors or servants shall be held to pay all fines incurred by them for any breach of this act or the rules and orders of the town aforesaid.

SECT. 8. *Be it further enacted*, That it shall be the duty of the committee of the town, chosen as aforesaid, and of the selectmen, to prosecute for any breach of this act, and all prosecutions on this act shall be brought in the name of the town treasurer for the time being, and all fines or forfeitures recovered thereby shall accrue one moiety to the complainant and the other moiety to the use of the town.

SECT. 9. *Be it further enacted*, That no person shall be considered as disqualified from being a witness on any trial that may be had pursuant to this act, on account of his belonging to the town of Bradford.
— [February 12, 1803.]

[Sp. Laws, vol. 1, 290.]

AN ACT in addition to the several Laws heretofore made for the Preservation of the Fish called Alewives, in Mattapoisset River, in Rochester, in the County of Plymouth, and for regulating the Taking said Fish in said River.

Sp. Laws, vol. 3, p. 91. SECT. 1. *Be it enacted*, That if any person shall take any of said fish in said river, or in the brook running out of Little Long Pond, so called, into Snipticit Pond, in said Rochester, excepting the purchaser or purchasers of the exclusive right of taking said fish in said river, according to the laws now in force with regard to said river, and those who are employed by said purchaser or purchasers of said privilege, shall forfeit and pay fourteen dollars for each offence, to be recovered in the same manner and to the same uses as are already provided in the laws now in force with regard to said river.

SECT. 2. *Be it further enacted*, That if any purchaser of said privilege, or any person employed by such purchaser or purchasers, shall take any of said fish in said river, or in said brook, at any other place or on any other day than the places or days contained in such privilege, such purchaser or person shall for each such offence forfeit and pay the sum of fourteen dollars, to be recovered as aforesaid, for the uses aforesaid.

SECT. 3. *Be it further enacted*, That the owners of dams on said river shall continue their sluice-ways open, when opened by the selectmen, until the twenty-fifth day of May annually, under the same penalty as is provided in said laws for not keeping them open until the twentieth day of May.

SECT. 4. *Be it further enacted*, That the selectmen of the said town of Rochester are hereby authorized to open, in each and every dam in said river, wherever they may think proper, sufficient passages for the young fish to pass down said river; and if any person shall obstruct any such passage so opened as aforesaid, without the consent of the selectmen, shall for each offence forfeit and pay the sum of fourteen dollars, to be recovered as in said law provided for taking fish contrary to law, and for the same use. — [February 16, 1803.]

[Sp. Laws, vol. 1, p. 512.]

AN ACT to enable the Town of Medford to dispose of the Privilege of Taking Fish called Shad and Alewives, in Mistick River, within the limits of said Town, and to regulate the same.

Sp. Laws, vol. 3, p. 98. SECT. 1. *Be it enacted*, That it shall and may be lawful for the town of Medford, in the county of Middlesex, annually, at any legal meeting of the inhabitants of said town, to sell or otherwise dispose of the privilege of taking fish in Mistick River, within the limits of said town, so far as said town bounds on both sides of said river, at such times only as is already provided by the law to prevent the destruction of shad and alewives in said river; 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 meeting from time to time determine.

SECT. 2. *Be it further enacted*, That if the purchaser or purchasers, manager or managers, or those employed by them, shall presume to take any of said fish at any other place in 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 said privilege, or those employed by them, shall presume to take or catch any of the said fish in Mistick River, within the town of Medford, otherwise than may be by said town determined, he or they so offending shall for each offence forfeit and pay a sum not exceeding thirteen dollars nor less than two dollars, at the discretion of the justice before whom the same shall be tried.

SECT. 3. *Be it further enacted*, That the said town of Medford 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 to the faithful discharge of their duty, enjoined upon them by this act, and also the act to prevent the destruction of shad and alewives in Mistick River, within the towns of Cambridge, Charlestown and Medford; and it shall be the duty of said committee to cause the natural course of said river to be kept open and without obstruction during the whole time said fish pass up or down said river, and remove any such as may be found therein; and the said

committee, or any two of them, paying a reasonable compensation therefor, if demanded, shall have authority in discharging the duties enjoined upon them by this act, to go on the lands of any person bounding on said river, without being considered trespassers; and any person who shall molest or hinder said committee, or either of them, in the execution of their duty, he or they so offending shall forfeit and pay for every such offence a sum not exceeding ten dollars nor less than two dollars, at the discretion of the justice before whom the same shall be tried.

SECT. 4. *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 and detain in their custody any net or seine 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 make satisfaction for his offence, or is legally acquitted therefrom; and also to seize, to the use of the 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 such committee that said fish were lawfully taken.

SECT. 5. *Be it further enacted*, That the penalties incurred by any breach of this act shall be recovered by an action on the case, before any justice of the peace within said county, allowing an appeal to the court of common pleas of said county; and all sums of money recovered as forfeited by this act, shall be for the support of the poor of said town; and no person by reason of his being one of the said committee, shall be thereby disqualified from being a witness in any prosecution for a breach of this act. — [February 21, 1803.

[Amended 1879, 65.]

[Sp. Laws, vol. 2, p. 436.]

AN ACT in addition to an Act entitled an Act to regulate the Alewife Fishery in the Brook running out of Wakepee Pond, into the Sea, in the Indian Plantation called Marshpee, in the County of Barnstable, passed June the thirteenth, A. D. 1801.

Sp. Laws, vol. 3, p. 111. Whereas the provision in the first section of the above recited act, designating the time for the passage-ways to be opened for said fish to pass and repass is found inconvenient: therefore,

SECT. 1. *Be it enacted*, That from and after the passing of this act, the time for the passage-way or ways to be kept open for the said fish to pass and repass through any mill-dam or dams mentioned in said act, shall be from the twentieth day of April to the fifteenth day of June annually, instead from the first day of April to the twenty-fifth of May.

SECT. 2. *Be it further enacted*, That any person or persons who shall take any such fish in the brook aforesaid, without permission

from the person or persons that shall be appointed by the said board of overseers, as in said act is provided, shall, for every such offence, forfeit and pay one dollar for every hundred of fish so taken; so in proportion for a greater or lesser quantity; to be recovered and applied in manner provided by the fourth section of the above-recited act; anything in the above-recited act to the contrary notwithstanding. — [February 22, 1803.

1804.

An Act to regulate the taking of Alewives within the Town of Boxford, and for other Purposes therein mentioned.

Sp. Laws, vol. 3, p. 365. **SECT. 1.** *Be it enacted*, That it shall and may be lawful for the town of Boxford to take alewives within the limits of said town, in the streams leading from Rush Pond, Little Pond, and Johnson's Pond to Merrimack River, on such days as are allowed by law for taking said fish in Merrimack River and streams emptying into the same; and on such of those days, and in such place or places within their limits, as the town, or a committee who may be appointed as by this act is provided, may direct.

SECT. 2. *Be it further enacted*, That the inhabitants of the town of Boxford, at their meeting for the choice of town officers, in March or April annually, be and they are hereby authorized and empowered to choose, by ballot, not less than three nor more than seven persons, being freeholders in said town, a committee to direct and oversee the taking the said fish as aforesaid; which committee shall be sworn to the faithful discharge of their trust, and shall distribute the fish taken by them or under their direction, as equally as circumstances will admit, to such of the inhabitants of said town or other persons as may apply for the same. And for fish so supplied and delivered, the committee aforesaid shall demand and receive of the person or persons applying therefor, payment at such rate or rates as the inhabitants of said town at their annual meeting in March or April, may direct; excepting of such poor persons which shall be named in a list to be annually made out by the selectmen of the town, and who in the opinion of the selectmen are unable to pay for the same; which list shall be given to the committee, and the person or persons borne on said list shall be supplied with such quantities of said fish gratis, as the committee may consider expedient. And the committee aforesaid shall have such allowance for their services as the inhabitants of said town, in open town meeting may determine; and shall annually, in the month of September next after their appointment, exhibit their accounts to the selectmen for settlement, and pay the balance, if any remains, into the town treasury, for the benefit of said town.

SECT. 3. *Be it further enacted*, That the town of Boxford may

erect and keep in repair a dam, sluice and gate-way, in the stream below Rush Pond, and raise the water in said pond six inches above the usual height, from the first day of June to the first day of December annually, or for such part of that time as shall by the committee aforesaid be considered necessary to facilitate the passing of the fish, at the time of their going down the stream to Johnson's Pond. And if any person shall in any way destroy or injure the said dam, sluice and gate-way as aforesaid, or shall open the same so as to draw off the water from said pond, otherwise than shall be done by the committee aforesaid, or by their direction, such person so offending shall forfeit and pay for every such offence a sum not exceeding one hundred and fifty dollars nor less than thirty dollars.

SECT. 4. *Be it further enacted*, That the committee to be chosen as aforesaid, or the major part of them, be and they are hereby authorized to clear any obstructions, and to open the natural course of said streams, by making them wider and deeper, or to open any dam, or the sluice-way of any mill or other water-works, that is or may be erected over said streams or passage-ways: *provided*, such owner or owners shall neglect to open the same when thereto required by said committee, or the major part of them as aforesaid; and the dam or sluice-way so opened shall continue open to such width and depth, and for such length of time (not exceeding sixty days in one year) as said committee, or the major part of them, may think necessary, with the least possible damage to the proprietor or proprietors of such mill or water-works; and if any person or persons shall obstruct the passage-ways allowed and ordered by said committee, or the major part of them, or shall obstruct the passage of said fish in any other parts of said streams or passage-ways than is permitted by this act, such person or persons so offending shall forfeit and pay a sum not exceeding one hundred and fifty dollars, nor less than thirty dollars.

SECT. 5. *Be it further enacted*, That if any person or persons, other than the committee, or such person or persons as shall be by them employed, shall take any of said fish in said streams or passage-ways, or any part thereof, at any time, or by any way or means whatsoever, each person so offending shall forfeit and pay a sum not exceeding seven dollars, nor less than four dollars for each offence.

SECT. 6. *Be it further enacted*, That the committee chosen as aforesaid, or either of them, or any person employed by them, paying a reasonable compensation therefor, if demanded, shall have authority, for the purposes aforesaid, to go on the land or meadow of any person through which such streams or passage-ways pass, without being considered as trespassers; and any person who shall molest or hinder said committee, or any of them, or any person employed by them, in

the execution of their duty, shall be subject to the same penalties as by this act is incurred for placing obstructions on said streams and passage-ways.

SECT. 7. *Be it further enacted*, That if the committee or either of them shall detect any person or persons in attempting to take any of said fish at any time and place, or in any manner, otherwise than is allowed by said committee, or shall find any such fish with any person or persons, they shall be considered and deemed to have taken such fish unlawfully, and shall be subject to the penalties of this act accordingly, unless such person or persons can make it appear, on trial, they came by said fish in some other way.

SECT. 8. *Be it further enacted*, That if any minor or servant shall be found taking any of said fish, in any way contrary to this act, or contrary to the rules and regulations of the said town of Boxford, or their committee as aforesaid, the parents, masters or guardians of such servants or minors shall be held to pay all fines incurred by them for any breach of this act, or the rules and orders of the town aforesaid.

SECT. 9. *Be it further enacted*, That it shall be the duty of the committee of the town, chosen as aforesaid, to prosecute for any breach of this act; and all prosecutions shall be brought in the name of the town treasurer for the time being, by an action on the case, in any court proper to try the same; and all fines or forfeitures recovered thereby shall accrue, one-half thereof to the complainant, and the other half to the use of the town; and no person, by reason of his being one of the said committee or an inhabitant of said town, shall thereby be disqualified from being a witness in any prosecution for a breach of this act. — [March 3, 1804.

AN ACT to preserve and regulate the Fishery in the towns of Rehoboth and Swanzey, in the County of Bristol, and for repealing an Act entitled "An Act to prevent the Destruction of the Fish called Shad and Alewives, in their passage up the Rivers and Streams in the town of Rehoboth, in the county of Bristol," passed June 27, 1786.

Sp. Laws, vol. 3, p. 378. SECT. 1. *Be it enacted*, That from and after the passing of this act there shall not be any seine or drag-net set or drawn at any time in Palmer's River, in said Rehoboth; and that no seine or drag-net shall be set or drawn in said river within the town of Swanzey, between the first day of April and the twentieth day of June annually, only on Monday, Tuesday and Wednesday, between the rising of the sun and the setting of the same on each of said days.

SECT. 2. *Be it further enacted*, That if any person or persons shall at any time draw or set any seine or drag-net in said Palmer's River, in said town of Rehoboth, or shall draw or set any seine or drag-net in said river in said town of Swanzey, between the first day of April and the twentieth day of June annually, except as abovesaid on

Monday, Tuesday and Wednesday, between the rising and setting of the sun on each of said days, he or they so offending shall forfeit and pay a fine of seven dollars for each and every offence.

SECT. 3. *Be it further enacted*, That no fish shall be taken in said river, or in any brook or branch of said river, either in the said town of Rehoboth or Swanzey, with scoop-nets, only on Monday, Tuesday and Wednesday nights, between the setting of the sun and the rising of the same on each day; and that no weirs shall be built in said river, up stream, from the south-west corner of a lot of land on the west side of said river, in said Rehoboth, belonging to Capt. Daniel Davis, adjoining to Capt. Samuel Bullock's land; and that there shall be no driving said river, or brooks with poles or otherwise; and that no fish be taken in said Palmer's River, within two rods of the bridge over the same near Philip Miller's, nor within five rods of the place where the brook that runs out of the pond near Richard Perse's enters said river.

SECT. 4. *Be it further enacted*, That no weirs be made in Runins' River, in said Rehoboth, in any year, until after the first day of June; and that no fish be taken in said Runins' River, within one rod of any bridge over said river; and that no fish be taken in said Runins' River, only on Monday, Tuesday, Wednesday and Thursday nights, between the setting of the sun and the rising of the same on each day; and that no fish be taken in said river, north of the south line of Joseph West's land, on said river; and that there be no driving of fish in said river with poles or otherwise.

SECT. 5. *Be it further enacted*, That if any person shall make any weir or take any fish in either of said rivers or brooks, at any other time or in any other place than is allowed by this act, or shall at any time drive the fish in either of said rivers or brooks, with poles or otherwise, each person so offending shall pay a fine not exceeding four dollars nor less than two dollars for each offence.

SECT. 6. *Be it further enacted*, That all the penalties incurred by a breach of this act, may be sued for and recovered before any justice of the peace in the county of Bristol; and all sums so recovered as forfeited by this act, shall be appropriated, one moiety thereof to the prosecutor and the other moiety for the use of the town in which the forfeiture shall happen.

SECT. 7. *Be it further enacted*, That the aforesaid act, entitled "An Act to prevent the destruction of the fish called shad and alewives in their passage-way up the rivers and streams in the town of Rehoboth, in the county of Bristol," be and it is hereby repealed. — [March 6, 1804.

[Sp. Laws, vol. 2, p. 504.]

AN ACT in addition to "An Act to regulate the Alewife Fishery in the towns of Lynn, Lynnfield and Reading, in the counties of Essex and Middlesex, and for repealing all Laws heretofore made for that purpose."

Sp. Laws, vol. 3, p. 398. **SECT. 1.** *Be it enacted*, That the committees chosen and appointed as required by the fourth section of the act to which this is an addition, shall cause the natural course of the rivers, passage-ways or streams through which the fish mentioned in said act shall or may pass, to be opened in each year on the tenth day of April.

SECT. 2. *Be it further enacted*, That no person or persons, authorized by the act to which this is in addition to take fish in any river, stream or passage-ways, as in said act is mentioned, shall take any fish as aforesaid except on Mondays, Tuesdays and Wednesdays in each week; anything in the said act to the contrary notwithstanding.

SECT. 3. *Be it further enacted*, That if any person or persons shall extend any wear or other obstruction across said river, stream or passage-way, or shall extend, fasten and confine any seine across the same, the person or persons so offending shall be subject and liable to, and shall forfeit and pay such sum as is provided in the second section of the act to which this is in addition, to be recovered and appropriated as in said act is described. — [March 8, 1804.

[Sp. Laws, vol. 2, p. 431.]

AN ACT in addition to and repealing the fourth Section of an Act entitled "An Act for providing a Passage for Fish from Mystic River to Ell Pond, in the town of Malden."

Sp. Laws, vol. 3, p. 399. **SECT. 1.** *Be it enacted*, That it shall not be lawful to take shad or alewives in Ell Pond, in the town of Malden, or in any part of the stream running therefrom into Mystic River; and any person offending herein shall for each offence forfeit and pay a sum of not more than twenty dollars nor less than five dollars, to be recovered by an action of debt before any court proper to try the same, one half to the use of the town of Malden, the other half to the use of him or them who may sue therefor.

SECT. 2. *Be it further enacted*, That Samuel Tufts, mentioned in the act to which this is in addition, from the fifteenth day of April to the fifteenth day of May annually, shall not draw off the water from the said stream so as to reduce the same below the passage-way mentioned in said act, unless by license from the fish committee appointed by said town of Malden; and if by virtue of such license the said Samuel Tufts, or any other person, shall reduce the water below the said passage-way, the person who shall so reduce the water shall be held to make and keep open some other passage-way for said fish, to the acceptance of the committee aforesaid; and if there shall be at any

time more than one mill on the said stream, the owners thereof shall be held to make and keep open during the term aforesaid, a passage-way by each mill, and the committee shall have power to determine the sufficiency of such passage-way, and also to regulate the time of grinding for each mill, so that the time allowed to all the mills may be equal to thirty days' grinding of one mill from the fifteenth day of April to the fifteenth day of May annually; and any person offending against either of the provisions of this section, shall forfeit and pay not more than twenty dollars nor less than ten dollars, to be recovered by an action of debt before any court proper to try the same, one half to the use of the town of Malden, the other half to him or them who may sue therefor.

SECT. 3. *Be it further enacted*, That the fourth section of the act to which this is in addition be and the same is hereby repealed; and this act is to continue and be in force until the expiration of the said act, and no longer. — [March 9, 1804.

AN ACT for the preservation and to regulate the Taking of the Fish called Shad and Alewives, in the Stream called Miles River, in Wenham, Hamilton and Ipswich, in the County of Essex.

Sp. Laws, vol. 3, p. 431. SECT. 1. *Be it enacted*, That the several towns of Wenham, Hamilton and Ipswich shall, at their annual meeting for the choice of officers, respectively choose annually a committee of three persons in each town, whose duty it shall be, in the months of March or April annually, to sell at public vendue the privilege of taking said fish in such places and in such manner as a majority of the said committee shall agree upon, in said towns of Wenham, Hamilton and Ipswich, in said Miles River, on Mondays, Wednesdays and Fridays in each week, for so long a time in each year as said committee shall agree upon; and said committee, before they enter on the execution of their office, shall be sworn to the faithful and impartial discharge of their duty in the same manner as other town officers are; and the net proceeds of said sale shall be equally divided between the said three towns.

SECT. 2. *Be it further enacted*, That the committee of the town of Wenham the first year, the committee of the town of Hamilton the second year, and the committee of the town of Ipswich the third year, and so on in rotation forever hereafter, shall notify the town clerks of the other towns concerned in said fishing, of the time and place in which said committee shall meet, said notice to be served ten days at least before the time of meeting; at which and all subsequent meetings, the majority present shall have the authority of the whole committees; and said committee shall give due notice in each of said towns, of the time and place, and the sale of said right of catching

said fish ; and at the vendue shall publish the conditions in writing, expressing the manner of taking as well as the length of time in each year.

SECT. 3. *Be it further enacted*, That all persons, except the purchaser or purchasers, or those employed by them, who shall take any of said fish in said Miles River, to the margin of Wenham Pond, shall pay a sum not exceeding thirteen nor less than five dollars for each offence.

SECT. 4. *Be it further enacted*, That if either of said towns shall neglect to choose their proportion of said committee, as is required by this act, or if such committee, when chosen, whose duty it shall be to notify the clerks of the other towns of the proposed time for the whole committee to meet as aforesaid, shall neglect to give such notice as aforesaid, the town so neglecting, or whose committee shall so neglect, shall forfeit all right to fishing in said river for the current year.

SECT. 5. *Be it further enacted*, That the owner or occupier of any dam on said river, shall annually, betwixt the tenth day of April and the tenth day of June following, for such term and in such manner as said committees shall direct, open a sufficient sluice-way or passage for said fish ; and the owner or occupier of such dam, who shall neglect, after proper notice from said committee, to open or continue open as aforesaid, a sluice-way, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars ; and if any person shall make any wear or other obstruction to the passage of said fish, or shall make use of any seine in said river (except as shall be allowed by said committee to any purchaser of the right of taking fish in said river), the person so offending shall forfeit and pay the sum of thirteen dollars.

SECT. 6. *Be it further enacted*, That each of the treasurers of the aforesaid towns, for the time being, are hereby authorized upon the complaint of the committee aforesaid, to sue for any forfeiture incurred by the breach of any of the regulations provided in this act, and also for the breach of such further regulations as may from time to time be provided by the committee aforesaid. And all sums and forfeitures recovered for any breaches aforesaid shall, with the proceeds of said fishing, be equally divided between the aforesaid towns ; and the said treasurers, or either of them, recover the said penalties, or any of them, in an action of the case, before any court proper to try the same.

SECT. 7. *Be it further enacted*, That the purchaser or purchasers of the right of taking said fish shall, at all times, deliver to the poor of the several towns aforesaid, such number of fish taken as aforesaid, gratis, as the committee shall order and direct, and shall in all

respects conform to such regulations as said committee shall publish in their conditions of sale ; and for each offence in breaking said regulations, shall forfeit and pay a sum not more than fifty dollars, nor less than twenty dollars.

SECT. 8. *Be it further enacted*, That the committee chosen as aforesaid, or either of them, or any person employed by them, shall have authority, for the purposes aforesaid, to go on land or meadow of any person through which such river or passage-way passes, without being considered trespassers ; and any person who shall molest or hinder said committee, or any of them, or any person employed by them in the execution of their duty, shall be subject to the same penalties as by this act is incurred for placing obstructions on said river.

SECT. 9. *Be it further enacted*, That every part and clause of the several laws, made for regulating the taking of shad and alewives in Ipswich River and the branches thereof, and for preserving the same, shall cease to operate or have any effect on Miles River and Wenham Pond aforesaid. — [March 9, 1804.

[1814, 22.]

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to an Act entitled " An Act to regulate the Catching Salmon, Shad and Alewives, and to prevent Obstructions in Merrimack River, and in the other Rivers and Streams running into the same, within this Commonwealth ; and for repealing several Acts heretofore made for that purpose."

Sp. Laws, vol. 3, p. 441. SECT. 1. *Be it enacted*, That as long as there shall be upheld and maintained any mill or mills at the mouth of Stoney Brook, so called, in the town of Chelmsford, in the county of Middlesex, or there shall be erected or kept any dam or dams across the said stream, for the working of such mill or mills, it shall be the duty of the owner or occupant of any such mill, to cause to be made and kept open a sluice or passage-way for fish to pass up and down through the dam in the same part thereof, where the passage-way now is, which sluice so to be kept open, shall not be more than eighteen inches nor less than twelve inches in width, and such owner or occupant shall be holden to keep the passage-way below the dam in good repair, as the same is now constructed.

SECT. 2. *Be it further enacted*, That so long as the owner or occupant of such mill or mills as aforesaid, shall cause to be made and left open a sluice or passage-way through and over such dam as aforesaid, of the form and dimensions aforesaid, for the free passage of fish up and down the said brook, such proprietor or occupant shall not be subject to any prosecution under or by virtue of the act to which this is in addition, nor to any of the forfeitures and penalties therein contained ; any law, usage or custom to the contrary notwithstanding.

SECT. 3. *Be it further enacted*, That this act shall continue and be in force for the term of three years from the passing thereof, and no longer. — [March 9, 1804.]

1805.

AN ACT authorizing the Inhabitants of the Town of Newton, in the County of Middlesex, to regulate the taking of Fish called Shad and Alewives within the limits of the said Town.

Sp. Laws, vol. 3, p. 494. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall be lawful for the inhabitants of said town of Newton, to sell the right and regulate the times, places and manner of taking said fish within the limits of said town, not exceeding in point of time three days in a week; and the inhabitants of said town, at their annual meeting in March or April, are hereby authorized and empowered to appoint agents, whose duty it shall be to carry into execution the purposes of this act.

SECT. 2. *Be it further enacted*, That the agents aforesaid may, in behalf of said town, and for their use and benefit, sell the right and regulate the times, places and manner of taking said fish within the town aforesaid; and for the proceeds of said sale of right, said agents shall be held to account with and pay to the said inhabitants, from time to time in such manner as they may direct or vote in said meetings in March or April.

SECT. 3. *Be it further enacted*, That the said agents shall forthwith, after establishing such rules and regulations, and determining by whom said fish may be taken, cause a copy thereof, under their hands, to be posted up in two or more public places within the said town; and if any person or persons, other than those to whom said right shall be sold as aforesaid, shall take any of said fish called shad and alewives within the town aforesaid, or if any person or persons to whom said right shall be sold as aforesaid, shall take any of said fish at any other time, in any other place, or in any other manner than shall be expressed in the conditions of the sale to them, such person or persons so offending, shall severally, for each and every offence, forfeit and pay treble the value of said fish so taken, to be recovered in an action on the case, to the use of any person who may sue for the same. — [February 16, 1805.]

[Sp. Laws, vol. 1, p. 191.]

AN ACT in addition to an Act entitled “An Act to prevent the Destruction of Alewives and other Fish in Ipswich River, and to promote the increase of the same,” passed the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and eighty-eight.

Sp. Laws, vol. 3, p. 524. Whereas the provision in the first section of the act entitled “An Act to prevent the destruction of Alewives and other Fish in Ipswich River, and to promote the increase of the

same," passed the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and eighty-eight, designating the time for the passage-ways to be opened for the fish to pass and repass, is found inconvenient; therefore,

Be it enacted, That from and after the passing of this act, the time for the passage-way or ways to be kept open for said fish to pass and repass through any mill-dam or dams now erected, or hereafter to be erected, on that part of said Ipswich River which is below Flint's and Meriam's mills, or any stream or streams running from any natural pond into the same, shall be from the tenth day of April to the third day of June annually; anything in the above-mentioned act to the contrary notwithstanding. — [March 11, 1805.

[Sp. Laws, vol. 1, p. 191.]

AN ACT in addition to and for repealing a certain Clause in an Act passed March twenty-eighth, in the year of our Lord one thousand seven hundred and eighty-eight, entitled "An Act to prevent the Destruction of Alewives and other Fish in Ipswich River, and to encourage the increase of the same."

1805, ch. 29. **SECT. 1.** *Be it enacted*, That the future using and improving of Barnabas Dodge's saw-mill, standing on Ipswich River, at Warner's mill-dam, so called, within the towns of Ipswich and Hamilton, from the last day of April to the first day of June annually, shall be under the directions, regulations and restrictions of the major part of the selectmen of the towns of Ipswich, Hamilton, Topsfield, Middleton and Reading, for the time being; such directions, regulations and restrictions being made in writing under the hands of the major part of the selectmen aforesaid, and delivered to the said Dodge from time to time as shall be found necessary.

SECT. 2. *Be it further enacted*, That for every omission or violation of such directions, regulations or restrictions as aforesaid, the said Dodge shall be subject to such penalties and forfeitures as are incurred by an Act entitled "An Act to prevent the Destruction of Alewives and other fish in Ipswich River, and to encourage the increase of the same," for using and improving said mill, within the term aforesaid; to be sued for, recovered and applied in manner as is prescribed in the said act.

SECT. 3. *Be it further enacted*, That the sixth clause of the aforementioned act, so far as it respects the improving and using the said Dodge's saw-mill, within the term therein mentioned, shall be and hereby is repealed. — [February 11, 1806.

AN ACT authorizing the Inhabitants of the Town of Acton, in the County of Middlesex, to regulate the taking of Fish called Shad and Alewives within the limits of said Town.

1805, 43. **SECT. 1.** *Be it enacted*, That from and after the passing of this act, it shall be lawful for the inhabitants of the town of Acton, to sell the right and regulate the time, places and manner of

taking shad and alewives within the limits of said town, not exceeding in point of time three days in a week; and the inhabitants of said town, at their annual meeting in March or April, are hereby authorized and empowered to appoint agents, whose duty it shall be to carry into execution the purposes of this act.

SECT. 2. *Be it further enacted*, That the agents aforesaid may, in behalf of said town, and for their use and benefit, sell the right and regulate the times, places and manner of taking said fish within the town aforesaid; and for the proceeds of the sale of said right, said agents shall be held to account with and pay to the said inhabitants, from time to time in such manner as they shall direct by vote in said meetings in March or April.

SECT. 3. *Be it further enacted*, That the said agents shall forthwith, after establishing such rules and regulations, and determining by whom said fish may be taken, cause a copy thereof, under their hands, to be posted up in two or more public places within the said towns; and if any person or persons, other than those to whom said right shall be sold as aforesaid, shall take any of the said fish within the town aforesaid, or if any person or persons to whom said right shall be sold as aforesaid, shall take any of said fish at any other time, in any other place, or in any other manner than shall be expressed in the conditions of the sale to them, such person or persons, so offending, shall severally, and for each and every offence, forfeit and pay treble the value of said fish so taken, to be recovered in an action on the case, to the use of any person who may sue for the same. — [February 25, 1806.]

[Sp. Laws, vol. 2, p. 117.]

AN ACT to remove and prevent Obstructions to the passage of Shad, Alewives and other fish in Parker River and the Falls River, so called, in the County of Essex, and the Streams and Brooks running into the said Falls River.

1805, 76. SECT. 1. *Be it enacted*, That all the owners or occupants of any mill-dam, or other dam heretofore erected and made, or that shall hereafter be made across the rivers, streams or brooks aforesaid, shall, at their own expense, within six months after the passing of this act, make a sufficient way round or through their respective dams, for the passage of shad, alewives and other fish up into the ponds connected with said rivers; and shall at their own expense keep open such passage-ways, from the fifteenth day of April to the first day of June in every succeeding year; and no owner or occupant of any such mill-dam, shall at any time between the fifteenth day of April and first day of June in every year, draw off the water at his mill in such manner as not to leave the sluice-ways, which shall be made as aforesaid, full of water; and if any such sluice-way be

closed or shut within the times aforesaid, the owner or occupant of the dam where such sluice-way is made, and also every such owner or occupant who shall draw off the water at his mill, contrary to the provisions of this act, shall forfeit and pay a sum not exceeding five hundred nor less than one hundred dollars for each offence, to be recovered by indictment before the court of common pleas in and for said county of Essex; one-half thereof to the use of the Commonwealth, and the other to the use of the poor of the town where the offence shall be committed.

SECT. 2. And whereas the petitioners for the removal of said obstructions, and the parties interested in the several dams aforesaid have mutually agreed that Aaron Hobart, Esquire, of Abington, be appointed to repair to said dams, at the expense of the said petitioners, and to determine the dimensions and the most proper place in each dam for the passage-ways aforesaid :

Be it further enacted, That the said Aaron Hobart, Esquire, be, and he is hereby appointed to repair to and examine said dams, at the expense of the said petitioners, and there to order and determine the most proper place at each dam for making such passage-ways, the breadth and depth thereof, and the manner in which they shall be made, and to make a return, in writing, on or before the first day of July next, of his doings herein, into the office of the secretary of this Commonwealth, to be there filed and kept with the records of the Commonwealth; and every such passage-way, made and kept conformably to the order and determination of the said Aaron Hobart, to be made as aforesaid, shall be taken and considered as a good and sufficient way for the passage of said fish, according to the provisions of this act.

SECT. 3. *Provided, nevertheless, and be it further enacted*, That if the said Aaron Hobart shall not, on or before the first day of July next, make his order and determination in the premises and return the same as aforesaid, the court of sessions for the county of Essex shall and may at any term thereof, on application of any party interested, cause the place and the dimensions of the passage-ways round or through the several dams aforesaid to be fixed and determined in the manner heretofore provided by law; and in case any new dams shall be hereafter erected and made across any of the rivers, streams or brooks aforesaid, the said court of sessions shall and may in like manner cause the place and dimensions of the passage-ways round or through said new dams to be fixed and determined according to law; and *provided, also*, that this act shall be in force until the first day of May, which will be in the year of our Lord one thousand eight hundred and sixteen, and until the end of the then next session of the general court, and no longer. — [March 3, 1806.

AN ACT to regulate the Taking of the Fish called Shad and Alewives within the limits of the Town of Hingham, and for the effectual securing to the said Town the advantages thereof.

1805, 91. **SECT. 1.** *Be it enacted,* That the taking and disposing of the said fish called shad and alewives in the town of Hingham shall be under the care and management of a committee of the said town, who shall dispose of said fish in such manner as they shall judge most beneficial to the town, and shall render to the town treasurer an account of the proceeds thereof on or before the first day of November annually; and the said committee shall have a reasonable allowance for their services, and lay their account thereof before the selectmen of the said town for their allowance and approbation; and the said committee shall consist of five freeholders, chosen by ballot in the month of March or April annually, who shall be sworn or affirmed to the faithful discharge of their duty; and if any person chosen to serve on the said committee, or if chosen shall neglect to take the oath or affirmation for the space of seven days after being legally notified of such choice, he shall forfeit and pay to the use of the said town the sum of ten dollars.

SECT. 2. *Be it further enacted,* That the said committee, or a majority of them, shall have full power and authority to open a sufficient passage-way for said fish from the waters in Ware River, so called, into Accord Pond, so called, and to remove from out of the river, brooks or streams issuing from Accord Pond, any obstructions that may be made to the free passing of the said fish into the said pond, or repassing from the said pond to the sea; and the said committee, or either of them, going on to the land of any person or persons for this purpose, shall not be deemed trespassers; and the said committee, or the major part of them, shall determine the particular places where the said fish shall be taken, and give public notice thereof by posting up one or more notifications in some conspicuous place or places in the said town, on or before the first day of May annually; and the said fish shall not be taken on any other days than Monday, Wednesday and Friday, between the rising and the setting of the sun on the said days, nor by any other instrument than by a scoop or dip-net.

SECT. 3. *Be it further enacted,* That no person shall catch or take any of the said fish in any of the waters issuing from Accord Pond, or in any other streams within the said town, without the leave of the said committee, or the major part of them; and whoever shall presume, at any time hereafter, to take, kill or haul on shore any of the said fish, with seines or drag-nets, in said Ware River, through which the said fish pass into the said pond, or shall with any seine or drag-net, or in any other way obstruct the passage of the said fish to or from

the same, or shall with a scoop or dip-net, on any other days than as aforesaid, take any of said fish, or shall obstruct the said committee, or either of them, in the execution of their duty, in all and every such case the offender shall for each offence forfeit and pay a sum not exceeding ten dollars nor less than five dollars; and in case the offence be committed in the night, a sum not exceeding twenty dollars nor less than ten dollars.

SECT. 4. *Be it further enacted*, That it shall be the duty of the said committee to give notice to the treasurer of the said town of Hingham, of all offences committed against this act, which may come to their knowledge; and the said treasurer is hereby vested with full power and authority to sue for and recover, from time to time, all fines and forfeitures incurred by any breach of this act, in any court proper to try the same; and such fines and forfeitures shall be to the use of the said town, saving where any person shall give information of any breach of this act, the informer, upon conviction of the offender, shall be entitled to one-third part of the forfeiture; and no person shall be considered as disqualified from being a witness on any trial that may be had, pursuant to this act, on account of his being an inhabitant of the said town of Hingham, or of his being one of the committee aforesaid. — [March 12, 1806.

1806.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to an Act, entitled "An Act to regulate the Catching Salmon, Shad and Alewives, and to prevent Obstructions in Merrimack River, and in the other Rivers and streams running into the same, within this Commonwealth; and for repealing several Acts heretofore made for that purpose."

1806, 28. SECT. 1. *Be it enacted*, That so long as any mill or mills, or mill-dam, shall stand and be kept and maintained across Beaver Brook, in the town of Dracut, at the place where the mills of Joshua Bradley now stand, the owner or occupant of such mill or mills, and mill-dam, shall be required and held to keep open a passage or sluice-way for the fish to pass up and down through the same, which shall not be less than six feet wide, and the waters therein not less than six inches deep; and the owner or occupant of such mill and dam shall be holden to keep the said passage or sluice-way below the dam in good repair.

SECT. 2. *Be it further enacted*, That so long as the owner or occupant of such mill or mills as aforesaid, shall cause to be made and kept in good repair, and left open, such passage or sluice-way through such dam or dams, of the dimensions and depth of water aforesaid, such proprietor or occupant shall not be subject to any prosecution under or by virtue of the act to which this is in addition, nor to any forfeiture or penalty therein contained.

SECT. 3. *And be it further enacted*, That this act shall continue and be in force for the term of three years from the passing thereof, and no longer. — [February 3, 1807.]

[Sp. Laws, vol. 2, p. 271.]

AN ACT for the Preservation of the Fish in Massapaug Ponds (so called), in the County of Middlesex.

1806, 60. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person whatever, in the night-time, to kill, take, or destroy any fish in the pond called Massapaug Ponds, lying between the towns of Dunstable, Groton and Tyngsborough, or in the streams running into or issuing therefrom, with spears or any implement whatever, which is made use of for the purpose of stabbing or killing the fish in the said ponds or streams.

SECT. 2. *Be it further enacted*, That if any person or persons, from and after the passing of this act, in the night-time, after the setting and before the rising of the sun, with spears, or any other implement which is made use of for the purpose of killing or taking of fish, shall kill, take or destroy any fish in said pond called Massapaug Ponds, or in the streams running into or issuing therefrom, such person shall for each and every fish so taken, killed or destroyed, forfeit and pay the sum of fifty cents, to be recovered before any court proper to try the same by action, in which the whole penalty shall enure to the use of such person as shall first sue for the same. — [February 20, 1807.]

[1823, 41.]

AN ACT for the preservation of the Fish called Alewives, in their passage up the Rivers and Streams leading through the Towns of Salem and Danvers, in the County of Essex, and for the regulating the Taking said Fish in said Streams, and for repealing all Laws heretofore passed for regulating the Fishery in said Rivers and Streams.

1806, 117. SECT. 1. *Be it enacted*, That the towns of Salem and Danvers shall be and they are hereby respectively empowered and directed, at their annual town-meetings, to choose, by ballot, a number, not exceeding five persons in each town, as a fish committee, whose duty it shall be to see that the laws respecting the passage-ways for said fish be duly observed; and each person so chosen shall take an oath for the faithful discharge of the duties required of him by law; and the committees from each of said towns shall meet together annually, on or before the first day of April, as the person first chosen by the town of Salem shall appoint, to be by him duly notified; and the major part of committees present at such meetings, are hereby authorized and empowered to order the times, not exceeding three days in any one week, and the places where and the manner in which said fish may be taken, within the limits of either of said towns. And the members of the committees aforesaid, shall have joint and concur-

rent jurisdiction in either of the said towns; and the said committees, or either of them, or the members of either of them, shall have full power to act as such, in either of said towns. And in case either of said towns shall neglect to choose said committee, the town not neglecting shall have all the emoluments arising from the fishery, hereafter mentioned. And the said committees, or either of them, on neglect as aforesaid, shall have power to cause the whole natural course of the streams through which the said fish pass, in both the said towns, to be kept open and without obstruction, to remove such as be found therein, to make the passage-ways of such streams wider or deeper, if they may deem it necessary. And the said committees, or either of them, or any member thereof, shall have authority to go on the land of any person through which such river or stream runs, or on which such land may be bounded, for the purpose aforesaid, without being considered as trespassers; and any person who shall hinder the said committees, or either of the members thereof, in the business and execution of their office, or shall obstruct any passage-way in such river or stream, otherwise than may be allowed by such committee or committees, he or she shall forfeit and pay a sum not exceeding fifty dollars nor less than five dollars.

SECT. 2. *Be it further enacted*, That the said committees, or the major part of them present at any meeting duly notified, being not less than three in number, shall be and they are hereby authorized and empowered to open any dam or sluice-head of any mill erected or that may be erected on or over any such river or stream, at the expense of the owner or owners of such dam or sluice, if such owner or owners shall neglect to open the same when thereto required by said committees, or the major part of them, as aforesaid; and the dam or sluice so opened shall continue open such depth and width as the said committees or the major part of them shall order, from the tenth day of April to the last day of May in every year; and the said committees may (when they shall deem it necessary) order the passage-ways open at an earlier period, not prior to the first day of April. And in case any person or persons shall obstruct the passage-way allowed or ordered by said committees, or the major part of them, in any dam or sluice, each person so offending shall forfeit and pay a sum not exceeding fifty dollars nor less than ten dollars.

SECT. 3. *Be it further enacted*, That the owner or owners of any tide-mills erected, or that may be hereafter erected, shall (in addition to the regulations before prescribed for mill-dams) keep a sluice-gate hoisted, or passage-way open, of three feet in width and two feet high, three hours before high-water, and to continue open such width and depth until high-water, and the bottom of such passage-way so opened shall be as low as the said committee shall direct, on penalty,

of forfeiting, for each tide when such sluice-gate is not hoisted or said passage-way so opened, a sum not exceeding twenty dollars nor less than five dollars.

SECT. 4. *Be it further enacted*, That the committee appointed as aforesaid are hereby authorized and empowered to lease, or sell at public vendue, or otherwise, the privilege of taking and disposing of said fish, when they shall deem it expedient; and the person or persons purchasing the said privilege, shall pay one moiety thereof to the treasurer of the town of Salem, and the other moiety thereof to the treasurer of the town of Danvers, on or before the last day of September, annually, under the penalty of paying one hundred dollars for the use of the said towns; and no person hiring or purchasing said privilege, shall demand of any person more than at the rate of thirty cents for each hundred of said fish thus sold, on penalty of paying five dollars for each offence; and any person or persons taking any of said fish, not being authorized by the said fish committee, shall pay a fine of not more than ten dollars nor less than one dollar.

SECT. 5. *Be it further enacted*, That when the committees aforesaid, or either of them, or any member thereof, shall detect any person or persons, not authorized by said committee, in attempting to take any of said fish, and shall find such fish with such person or persons, they shall be doomed to have taken said fish, and be subject to the penalties of this act accordingly; and any net or other machine found in any such river or stream for the purpose of taking said fish (not authorized by said committees) shall be forfeited; and no person by reason of his being one of either of the committees aforesaid shall thereby be disqualified from being a witness in any prosecution for a breach of this act.

SECT. 6. *Be it further enacted*, That any justice of the peace in either of the said towns of Salem and Danvers, may hear and determine any complaint under this act, to the amount of thirteen dollars and thirty-three cents, his being an inhabitant of the said town notwithstanding; and in case any minor or minors shall offend against any part of this act and thereby incur any or either of the penalties aforesaid, in all such cases the parent, master or guardian of such minor or minors shall be answerable therefor; and in case of a prosecution of such minor or minors, the action shall be commenced against the parent, master or guardian of such minor or minors, respectively, and judgment rendered accordingly.

SECT. 7. *Be it further enacted*, That all sums recovered as forfeited by this act shall be appropriated, one moiety thereof to the prosecutors, and the other moiety equally divided between the said towns of Salem and Danvers.

SECT. 8. *Be it further enacted*, That all laws heretofore passed,

concerning the fishery in the rivers and streams aforesaid, be and the same are hereby repealed, excepting so far as may relate to any forfeitures or penalties incurred for a breach of those laws.— [February 28, 1807.

[1814, 129.]

1807.

[Sp. Laws, vol. 3, p. 441.]

AN ACT to continue in force an Act for regulating the passage-way for Fish through the Dam at the mouth of Stoney Brook, so called, in the Town of Chelmsford, in the County of Middlesex.

1807, 49. *Be it enacted*, That an act made and passed on the ninth day of March, in the year of our Lord one thousand eight hundred and four, entitled “An Act in addition to an Act entitled An Act to regulate the catching Salmon, Shad and Alewives, and to prevent obstructions in Merrimack River, and in the other rivers and streams running into the same within this Commonwealth; and for repealing several acts heretofore made for that purpose,” be and hereby is continued in force for the term of three years from the expiration thereof, any limitation in the same act contained, to the contrary notwithstanding. — [February 13, 1807.

1808.

AN ACT to regulate the Taking of Fish in the Town of Rochester.

1808, 64. SECT. 1. *Be it enacted*, That any person who shall take any of the fish called alewives in the brook leading out of Merry’s Pond, so called, in Rochester, into Sippican River, or in the said Sippican River, excepting as is in this act allowed, shall forfeit and pay the sum of ten dollars, to be recovered in an action of debt in any court proper to try the same, by the treasurer of said town, to the use of said town.

SECT. 2. *Be it further enacted*, That the inhabitants of the said town of Rochester, at their annual town meeting in the month of March or April annually, shall choose a committee of not more than six nor less than three inspectors of said brook and stream, who shall be under oath as other town officers, to inspect the same, under the direction of the selectmen of said town for the time being, and whose duty it shall be to give immediate notice to the treasurer of said town of all breaches of this act which has come to their knowledge.

SECT. 3. *Be it further enacted*, That the inhabitants of said town of Rochester, at any town meeting legally warned (having an article in the warrant) for that purpose, may if they think proper, sell the exclusive right to the taking of said fish in said brook, or in said river, for a term not more than one year, to the highest bidder or bidders, to be taken at such times and places and by such means as shall be

pointed out in the conditions of sale ; and if any such purchaser shall take any of such fish in said river or in said brook, contrary to the terms in the conditions of sale, every such person or persons shall forfeit and pay the sum of twenty-five dollars, to be recovered as aforesaid, for the use aforesaid.

SECT. 4. *Be it further enacted*, That if any person shall make, or erect any wear or other impediments in or across said brook or river, below where said brook empties itself into said river, by which the passage of said fish up said brook or up said river shall be obstructed, each person so offending shall for each and every offence forfeit and pay the sum of fifty dollars, to be recovered as aforesaid for the use aforesaid. — [March 2, 1809.

[Sp. Laws, vol. 1, p. 313.]

AN ACT in addition to an Act passed in the year of our Lord one thousand eight hundred and two, entitled "An Act for the Preservation and regulating the Taking the Fish called Alewives, in the Brook running from the West Quiticus Pond to the East Quiticus Pond, near the line between the Towns of Middleborough and Rochester, in the County of Plymouth."

1808, 78. SECT. 1. *Be it enacted*, That from and after the passing this act, the agents appointed by the town of Middleborough and the town of Rochester in pursuance to the act to which this is in addition are respectively authorized to sell the right of taking said fish in said brook on every day in the week, Sundays only excepted, and the purchaser or purchasers shall have the same right to take said fish on each and every day in the week, Sundays excepted, as purchasers had under said act to take them on Tuesdays, Wednesdays and Thursdays ; and shall also be holden by all the restrictions and regulations provided in said act.

SECT. 2. *Be it further enacted*, That if any person, living without the limits of the county of Plymouth, shall offend against the provisions of this act, or of the act to which this is in addition, any justice of the peace in the county where such person lives or resides, is hereby authorized to take cognizance of, hear and determine all such offences, in the same manner as if the offence had been committed within the county for which he is a justice of the peace.

SECT. 3. *Be it further enacted*, That all forfeitures incurred by the provisions of this act, shall be recovered in the manner and to the uses specified in the act to which this is in addition. — [March 3, 1809.

[1862, 202.]

[1805, 76.]

AN ACT in addition to an Act entitled "An Act to prevent and remove Obstructions to the passage of Shad, Alewives and other Fish in Parker River, and the Falls River, so called, in the County of Essex, and the Streams and Brooks running into the said Falls River."

1808, 91. SECT. 1. *Be it enacted*, That no person or persons whatever, be allowed from and after the passing of this act, to catch with dip-nets through the ice any bass, shad, alewives or other fish in Parker River, the Falls River, so called, in the county of Essex, and the streams and brooks running into the said Falls River and in Rowley River; and any person or persons so offending, shall forfeit and pay for each offence a fine, not less than five dollars nor more than twenty dollars, at the discretion of the court before whom trial shall be had, according to the aggravation of the offence.

SECT. 2. *Be it further enacted*, That from and after the passing of this act, no person or persons whatever be allowed to take by seines any bass, shad, alewives or other fish in Parker River, Rowley River, the Falls River, and streams and brooks running into the said Falls River, excepting within that part of Parker River lying more than seventy rods below the falls, by John Lee's manufactory; and any person or persons so offending shall forfeit and pay for each offence, a fine not less than five dollars nor more than twenty dollars, at the discretion of the court before whom trial may be had, according to the aggravation of the offence.

SECT. 3. *Be it further enacted*, That from and after the passing of this act, no person or persons whatever be allowed to catch any bass, shad, alewives or other fish, oftener or more than two days in a week, the days to be Monday and Tuesday, and from sunrise on Monday morning to sunrise on Wednesday morning. And if any person or persons shall catch any bass, shad or alewives in Parker River, the Falls River, and streams and brooks running into Falls River, and in Rowley River, or shall drag any seine or drag-net, or set any net, or use any other machine for the purpose of catching any of the said fish in the said rivers or streams, at any other time or place than by this act is allowed, each and every person so offending shall forfeit and pay, for each offence, a fine not less than five dollars nor more than twenty dollars, at the discretion of the court before whom trial may be had, according to the aggravation of the offence, and the seine, net, pot or other machine shall be forfeited.

SECT. 4. *Be it further enacted*, That from and after the passing of this act no person or persons whatever shall be allowed at any time to catch by seines, nets, pots or any other way, any bass, shad, alewives or other fish, within six rods from said mill-dam, or other dams, or of any sluice or passage-way through or by any mill-dam or other

dam that is or may be made across the said rivers or streams, or shall place any obstructions in the said sluice or passage-ways in the said rivers and streams, and each and every person so offending shall for each and every offence forfeit and pay a fine not less than five dollars nor more than twenty dollars, at the discretion of the court before whom trial may be had, according to the aggravation of the offence.

SECT. 5. *Be it further enacted*, That the several towns of Newbury, Rowley and Boxford shall, at their annual meetings for the choice of officers, respectively, choose by ballot a committee of three persons from each town, whose duty it shall be jointly and severally to carry into effect the provisions of this act and the act to which this is in addition; and the said committee, before they enter on the execution of their office, shall be sworn to the faithful and impartial discharge of their duty in the same manner as other town officers are sworn, and when so sworn they shall have power to pursue, and are hereby authorized to pursue and execute the duties of their said offices on any part of the aforesaid rivers and streams within either of the aforesaid towns.

SECT. 6. *Be it further enacted*, That all fines and forfeitures incurred by a breach of this act, may be sued for and recovered in any court proper to try the same, one moiety thereof to him or them who may sue and prosecute for the same, the other moiety to the use of the towns of Newbury, Rowley and Boxford.

SECT. 7. *Be it further enacted*, That the said committee, chosen as aforesaid, shall meet at the lower dam on the Falls River, in Newbury, near John Lee's manufactory, on the third Monday in May annually, at ten o'clock in the forenoon, and shall meet at such other times and places within each year as the committee may find necessary, and at such meetings the majority of the committee present shall have the power of the whole committee.

SECT. 8. *Be it further enacted*, That the said committee, at their meetings in manner aforesaid, are hereby authorized and empowered to order and direct from time to time such alterations as may to them appear necessary in the several sluice or passage-ways provided by the act to which this is in addition; and any owner or occupant of any mill-dam or other dam across any of the said rivers or streams, who shall neglect to make the alterations in the said sluice or passage-way and cause the same to be kept open and daily supplied with water, as directed by the committee, from the fifteenth day of April to the first day of June annually, after being duly notified by the committee, shall forfeit and pay for each offence the same fine and in the same manner as is provided for a similar offence by the act to which this is in addition. — [March 4, 1809.

[Sp. Laws, vol. 1, p. 272.]

AN ACT to alter the Times allowed by Law for Taking Fish in the Mouth of Concord River.

1808, 94. SECT. 1. *Be it enacted*, That from and after the passing of this act it shall and may be lawful to take salmon, shad and alewives in the mouth of Concord River on Monday and Tuesday in each week, from sunrise on Monday morning to sunrise on Tuesday morning, and at no other times: *provided*, that such fish shall be taken within the limits prescribed in and by an act passed on the fourth day of March, one thousand seven hundred and ninety, entitled "An Act to regulate the catching of salmon, shad and alewives, and to prevent obstructions in Merrimack River and the other rivers and streams running into the same, within this Commonwealth, and for repealing several acts heretofore made for that purpose." And whoever shall take any of the said fish at any other time without the limits aforesaid shall be subject to the same forfeitures and penalties, to be recovered and appropriated in the same manner as in said act is provided for similar breaches thereof. — [March 4, 1809.

[1835, 89.]

1809.

AN ACT to regulate the Fishery in the Towns of Ipswich, Hamilton and Wenham.

1809, 57. SECT. 1. *Be it enacted*, That the owner or owners, occupier or occupiers of mill-dams, across the streams leading from the head of the tide waters in that part of Ipswich called Chebacco, to Chebacco Pond, and the ponds adjacent thereto, or the owner or owners, occupier or occupiers of any mill-dam which may be hereafter erected on the streams aforesaid, be and they are hereby required, henceforward, at their own cost and charge, in proportion to their several interests, to make and keep open a sufficient passage, of such depth and width as the committee shall direct, for the fish called shad and alewives, through their respective dams, from the tenth day of April to the fifteenth day of May, annually, and the privilege and benefit of taking fish in the said streams and ponds shall be free to the inhabitants of the said towns of Ipswich, Hamilton and Wenham, within the limits of their respective towns, on the days and within the limitations prescribed by this act.

SECT. 2. *Be it further enacted*, That the inhabitants of the towns aforesaid, at their annual town meetings for the choice of town officers, be and they are hereby authorized and directed to appoint three or more discreet persons, in each of said towns, as a fish committee, to oversee the taking the fish agreeably to this act, which committee shall be sworn to the faithful discharge of their trust.

SECT. 3. *Be it further enacted*, That if the owner or owners, occupier or occupiers of the dams aforesaid, shall refuse or neglect to open and keep open within the period before mentioned, the passages as aforesaid, such owner or owners shall forfeit and pay the sum of one hundred dollars to the use of the towns as aforesaid, to be recovered by action of debt, in any court proper to try the same.

SECT. 4. *Be it further enacted*, That there shall be two days in each week appropriated for taking of said fish in the said streams and ponds, viz., on Monday and Friday, and no fish shall be taken on any other days than the days prescribed by this act, on the penalty of not more than ten dollars and not less than two dollars, and no person shall be allowed to take said fish with seines or drag-nets, on penalty of thirteen dollars.

SECT. 5. *Be it further enacted*, That any justice of the peace in either of the towns of Ipswich, Hamilton or Wenham, shall have cognizance of any breach of this act, and hear, try and determine any complaints to the amount of thirteen dollars, his being an inhabitant of either of the said towns notwithstanding; and in case any minor or minors shall offend against any part of this act, and thereby incur any of the penalties aforesaid, in all such cases the parent, master or guardian of such minor or minors shall be answerable therefor, and in case a prosecution shall ensue, the action shall be commenced against the parent, master or guardian of such minor or minors, respectively, and judgment rendered accordingly. — [March 1, 1809.

[1811, 113.]

1810.

AN ACT to preserve and regulate the taking or catching of Fish called Smelts, in the Island River, so called, in the South part of the Town of Malden, in the County of Middlesex.

1810, 112. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons to draw or set any seine, net or drag-nets in the Island River (so called), between Beacham's Point and a dam in said river, near the island so called, in said town of Malden, from the first day of October to the first day of May, annually; and any person so offending herein, shall, for each offence, forfeit and pay a sum not more than twenty dollars nor less than ten dollars, to be recovered by action of debt before any court proper to try the same, one half to the use of the town and the other half to the use of him or them who may sue therefor. — [February 28, 1811.

[Sp. Laws, vol. 1, p. 191.]

AN Act in addition to an Act entitled "An Act to prevent the destruction of Alewives and other Fish in Ipswich River, and to encourage the increase of the same."

1810, 117. SECT. 1. *Be it enacted*, That it shall be lawful for the inhabitants of the towns of Ipswich, Hamilton, Topsfield, Reading, Danvers and Middleton, to take fish with seines or drag-nets in Ipswich River, one day in each week, which day shall be Wednesday, at such place in each town as the fish committees in said town shall respectively direct, and under such regulations and restrictions as the towns aforesaid shall adopt, anything in the act entitled "An Act to prevent the destruction of alewives and other fish in Ipswich River, and to encourage the increase of the same," to the contrary notwithstanding. — [February 28, 1811.

1811.

[Sp. Laws, vol. 1, p. 290.]

AN Act further regulating the Taking of Fish in Mattapoissett River.

1811, 60. SECT. 1. *Be it enacted*, That if any person or persons shall take any fish called alewives in Mattapoissett River, in the town of Rochester, in the county of Plymouth, or stretch any seine in said river for the purpose of taking fish at any time hereafter in either of the months of March, April or May in any part of Mattapoissett Harbor in said Rochester, to the northward of a line running directly from the most southerly part of Capt. Job Haskell's farm on the westerly side of said harbor, to the most southerly part of Joseph Edwards' land on the easterly side of said harbor, such person or persons so offending shall for each offence forfeit and pay fifty dollars, to be recovered in the same way, and to the same uses as forfeitures for taking said fish in the same river are by law to be recovered.

SECT. 2. *Be it further enacted*, That the selectmen of said town are hereby authorized annually to regulate the manner in which the purchasers of the exclusive right of taking said fish in said river shall respectively take them, and if any such purchaser shall not conform to such regulations, such purchaser shall for every such offence forfeit fourteen dollars, to be recovered as aforesaid, for the use or uses aforesaid.

SECT. 3. *Be it further enacted*, That if any person not an inhabitant of the said county of Plymouth, shall take any of said fish in said river contrary to law, he shall be holden to answer for the same before any justice of the peace within and for the county of which such person is an inhabitant, or in which he is resident; and all such justices have hereby given them respectively ample jurisdiction of all such actions which may be brought before them, and fully authorized to hear and try them in the same manner as if the forfeiture had been

incurred in the same county, and no fiction of law shall be necessary in the declaration to bring such cause within the jurisdiction of such justice of peace.

SECT. 4. *Be it further enacted*, That in all prosecutions for taking said fish in the said river contrary to law, none of the laws on that subject need to be recited, but the plaintiff may declare generally against the offender for taking the fish called alewives in Mattapoissett River in Rochester, in the county of Plymouth, within a limited time, contrary to the form and effect of the statute in such case made and provided. — [June 24, 1811.]

AN ACT for the relief of the Owners of the North Mill-Dam (so called), at the Lower Falls in Newton.

1811, 76. SECT. 1. *Be it enacted*, That a certain act made and passed in the year of our Lord one thousand seven hundred and forty-one, entitled “An Act in addition to an Act made to prevent the destruction of the fish called alewives and other fish,” so far as the same may regard or impose any duty upon the owners or occupants of the North Mill-Dam, which is erected across Charles River from the town of Newton to the town of Needham, at the lower falls, be and the same is duly repealed.

SECT. 2. *Be it further enacted*, That it shall not hereafter be the duty of the owner or occupants of the said mill-dam, or any other dam which may be built or erected across Charles River, between the said towns of Newton and Needham at the lower falls aforesaid, in the place where the old dam now stands to make or keep open through any such dam, any sluice or passage-way through any such dam during any part of the year, any other law or usage to the contrary notwithstanding. — [June 25, 1811.]

[1809, 57.]

AN ACT to repeal an Act entitled “An Act to regulate the Fisheries in the Towns of Ipswich, Hamilton and Wenham.”

1811, 113. *Be it enacted*, That an act passed the first day of March, eighteen hundred and nine, entitled “An Act to regulate the fishery in the towns of Ipswich, Hamilton and Wenham,” be and the same is hereby repealed. — [February 28, 1811.]

[Sp. Laws, vol. 1, p. 272.]

AN ACT in further addition to an Act entitled “An Act to regulate the Catching of Salmon, Shad and Alewives and to prevent Obstructions in Merrimack River, and in the other Rivers and Streams running into the same, within this Commonwealth, and for repealing several Acts heretofore made for that purpose.”

1811, 175. SECT. 1. *Be it enacted*, That any person who shall be convicted of catching any shad, salmon or alewives in Merrimack River, or any river or stream centering to or running into the same,

or shall drag any seine or drag-net, or set any net or pot, or use any other machine for the purpose of catching any of the said fish in any of the said rivers or streams within this Commonwealth, at any other time or place other than is allowed by the act to which this is in addition, shall forfeit and pay for each offence, a sum not less than seven dollars nor more than thirty dollars, at the discretion of the court before which trial shall be had, according to the aggravation of the offence, anything in the act to which this is in addition to the contrary notwithstanding.

SECT. 2. *Be it further enacted*, That from and after the passing this act, every town in this Commonwealth bordering on Merrimack River, and in which there are any ponds, rivers or streams centering to or emptying themselves into Merrimack River, where salmon, shad or alewives do or would (if not obstructed) go up to cast their spawn, shall at their annual meeting in the month of March or April, annually, choose by ballot at least six suitable and fit persons as fishwardens, any law or usage to the contrary notwithstanding.

SECT. 3. *Be it further enacted*, That if any person shall be found in any way aiding or assisting in unlawfully fishing, on conviction thereof he shall be adjudged guilty of a breach of the act to which this is in addition, and shall forfeit and pay the same fine as is provided in this act for actually fishing on unlawful days.

SECT. 4. *And be it further enacted*, That the powers given to fishwardens in the act to which this is in addition, shall be transferred to the selectmen of the several towns where this law can operate or have force, so far as relates to opening and preventing obstructions in or across the said Merrimack River, or any of the rivers or streams running into the same; and it shall be the duty of the selectmen of the three nearest or next adjoining towns, where any obstructions are or may be formed in or across said rivers or streams, or the major part of such selectmen, to remove or cause to be removed after twenty-four hours' notice given to the owner, builder or occupier, all obstructions to a free and suitable passage of the said fish up and down the said rivers and streams; and if the owner, builder or occupier of any dam or other obstruction shall refuse or neglect for the space of twenty-four hours after notice given as aforesaid, to remove such dam or obstruction, or such part thereof as the selectmen shall direct, the selectmen shall cause the same to be removed at the expense of the owner, builder or occupier thereof.

SECT. 5. *Be it further enacted*, That all fines and forfeitures incurred by any breach of this act, or the act to which this is in addition, and not exceeding ten dollars, shall enure wholly to the fishwarden complaining; and all fish found taken on unlawful days shall be the property of the fish-warden finding them. — [February 29, 1812.]

[Sp. Laws, vol. 1, p. 269.]

AN ACT supplementary to "An Act regulating the Taking and-Disposing of the Fish called Alewives in the Town of Pembroke."

1811, 72. **SECT. 1.** *Be it enacted,* That no person or persons shall set, draw or cast any seine, drag or set-net, of any dimensions whatever, in the North River, so called, in the county of Plymouth, except from the sun's rising on Friday morning to the sun's rising on the following morning in each week; and that no seine, drag or set-net shall be set, drawn or cast in said river above what is called and known by the name of the Third Herring Brook, or Smelt Brook, excepting as is excepted in the tenth section of the act to which this is a supplement, on the penalty of sixteen dollars for each offence, to be recovered and appropriated in the manner provided for the recovery and appropriation of fines and forfeitures by the act to which this is a supplement.

SECT. 2. *Be it further enacted,* That the ninth section of the act to which this is a supplement, be and it hereby is repealed. — [June, 25, 1811.

1812.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in further addition to and amendment of an Act entitled "An Act in addition to an Act passed the fourth day of March, one thousand seven hundred and ninety, entitled 'An Act to regulate the Catching of Salmon, Shad and Alewives, and to prevent Obstructions in Merrimac River, and in the other Streams running into the same, within this Commonwealth.'"

1812, 84. *Be it enacted,* That the act aforesaid to which this is in addition, passed the twenty-seventh day of March, seventeen hundred and ninety-three, which prohibits the taking of any fish "within fifty rods below or twenty rods above the mouth of any river or stream in the town of Andover emptying into Merrimac River," be so amended as that any person or persons may hereafter, with the consent of the proprietors of the soil, or having otherwise the right of fishing thereon, draw any seine for the purpose of catching shad and salmon in Merrimac River at any place between fifty and twenty-five rods below the mouth of Shausheen River, and between twenty and ten rods above the mouth of Coheco Brook, in the town of Andover; anything in the act aforesaid to the contrary notwithstanding. — [February 16, 1813.

[Sp. Laws, vol. 1, p. 296.]

AN ACT to regulate the taking of Fish in Connecticut River.

1812, 103. **SECT. 1.** *Be it enacted,* That no person or persons whatever be allowed, from and after the passing of this act, to catch any salmon or shad, or draw any seine for the purpose of catching any salmon or shad, in that part of Connecticut River which passes through

this Commonwealth, from the twenty-fifth day of June to the first day of December, annually; and if any person or persons shall catch any salmon or shad in said river, or shall drag any seine or net for the purpose of catching any of the said fish in said river, within this Commonwealth, between the said twenty-fifth day of June and the said first day of December, annually, each and every person so offending shall forfeit and pay for each offence a fine of ten dollars.

SECT. 2. *Be it further enacted*, That if any person or persons, at any time, in the river aforesaid, within this Commonwealth, shall fish with a seine or net exceeding forty-five rods in length, or extend more than one seine or net on the same fishing-ground at one and the same time, he or they shall, for each offence, forfeit and pay a fine of twenty dollars.

SECT. 3. *Be it further enacted*, That all the fines and forfeitures incurred by a breach of this act, shall be recovered in an action of debt before any court of competent jurisdiction, in the county where the offence is committed, and all such fines and forfeitures so recovered, shall enure to the benefit of him or them who shall prosecute for the same.

SECT. 4. *Be it further enacted*, That no action founded on this act shall be sustained, unless the same be commenced within one year from the time in which the offence complained of may be committed.

SECT. 5. *Be it further enacted*, That all seines, nets, boats or other fishing implements, which shall be used in violation of any provision of this act, shall be liable to attachment, and held to respond such damages and costs as may be recovered in any action prosecuted under this act. — [February 26, 1813.

[1835, 137.]

[1805, 76.]

AN ACT in further addition to an act entitled "An Act to prevent and remove Obstructions to the passage of Shad, Alewives and other Fish in Parker River and the Falls River, so called, in the County of Essex, and the Streams and Brooks running into the said Falls River."

1812, 106. *Be it enacted*, That from and after the passing of this act, the sluice-ways at each and every dam made for the passage of fish on the Falls River, so called, in the county of Essex, shall, at all times, from the fifteenth day of April to the first day of June, annually, be such that the perpendicular section of the water running in each of the said sluice-ways shall be equal to one hundred and forty-four square inches, and the said sluice-ways shall be made in such form, at such places, and with such convenient passages thereto, in and at the several dams aforesaid, as Dennison Wallace and Nathan Felton, Esquires, of Danvers, in the county of Essex, shall direct. And the mill-holders are hereby obliged to make, at their own expense, the

sluice-ways and passages as above directed, if not already made, and keep the same in repair during the continuance of the act to which this is in addition, and shall not be holden to make any other alterations at their expense during the continuance of the said act; and the said mill-holders shall be liable to the same penalties, to be sued for and recovered in the same manner, for any breaches of the duties enjoined upon them by this act, as are prescribed for the like offences in the act to which this act is in addition. — [February 26, 1813.

[1837, 195.]

[Sp. Laws, vol. 1, p. 191.]

AN ACT in addition to the several Acts to prevent the destruction of Alewives and other Fish, in Ipswich River.

1812, 127. **SECT. 1.** *Be it enacted,* That from and after the passing of this act, the time for the passage-way or passage-ways to be kept open for the fish to pass or repass through any mill-dam or dams now erected, or to be hereafter erected on the stream running from Humphrey's Pond, so called, into Ipswich River, shall be from the tenth day of May to the tenth day of June, annually, anything in the beforementioned acts to the contrary notwithstanding.

SECT. 2. *Be it further enacted,* That the agent appointed by the Danvers Cotton Factory Company shall always be one of the fish committee provided for in the acts to which this is in addition and amendment. — [February 27, 1813.

AN ACT to preserve and regulate the Eel Fishery in the Town of Chatham.

1812, 132. **SECT. 1.** *Be it enacted,* That from and after the first day of September next, it shall not be lawful for any person not an inhabitant of the town of Chatham, to take, within the limits of said town, any eels, without a permit, in writing, from the major part of the selectmen of the said town, expressing the name of the person, and the quantity permitted to be taken; and every person so offending shall forfeit and pay for every dozen so taken, the sum of twenty-five cents: *provided, nevertheless,* that the major part of the selectmen, for the time being, shall have power to give permits, in writing, to any person, to take eels in said town of Chatham, at such times and in such quantities as they shall deem reasonable, and express in their permit; *provided, also,* that every inhabitant of said town of Chatham, without such permit, shall have a right to take eels within the limits of said town, for the use of his family.

SECT. 2. *Be it further enacted,* That if any boat, cart, sled, horse or crafts shall be found within the limits of said town of Chatham, and not owned therein, with any eels taken within the limits of said town, without a permit as aforesaid from the selectmen, it shall be lawful for any of the fish-wardens, or for any inhabitant or inhabitants

of the town of Chatham to seize and detain the same, not exceeding twenty-four hours, in order that the same, if need be, may be attached or arrested by due process of law, in that time to answer the said fines and forfeitures, with costs of suit.

SECT. 3. *Be it further enacted*, That all fines and forfeitures which may be incurred thereby, shall enure one-half to him or them who may sue for the same, and the other half to the said town of Chatham; and the same shall be recovered, with legal costs of suit, in an action of debt, before any justice of peace for the county of Barnstable, not interested therein. — [February 27, 1813.]

AN ACT in addition to an Act entitled "An Act to incorporate the Proprietors of Fresh Pond Meadows, for the purpose of Draining them."

1812, 138. SECT. 1. *Be it enacted*, That the proprietors of Fresh Pond Meadows may erect, at the bridge on the county road between Cambridge and West Cambridge, and, from time to time, keep a gate or machine for the purpose of facilitating the draining the Fresh Pond Meadows, so called, in the towns of Cambridge and West Cambridge: *provided*, that the said gate or machine may be kept open by the selectmen of either of the towns of Cambridge or West Cambridge, from the first day of March to the fifteenth day of June, in each and every year, for the free passage of fish.

SECT. 2. *Be it further enacted*, That if it shall be found that the time aforesaid is not sufficient for the free passage of shad and alewives, that on the application of the selectmen of either of said towns, the court of sessions, for the county of Middlesex, may direct that the said gate or machine shall be kept open for such further time as may be deemed necessary for the preservation of said fish.

SECT. 3. *Be it further enacted*, That if any person shall wilfully destroy, injure or impede the operation of the said gate or machine, the person so offending shall forfeit and pay, for each offence, a sum not exceeding one hundred dollars nor less than twenty dollars, to be recovered before any court proper to try the same, one half to the use of the informer, and the other half to the use of the proprietors of the Fresh Pond Meadows aforesaid. — [February 27, 1813.]

[1813, 64.]

AN ACT to regulate the Fishery in the Town of West Cambridge, and to empower said town to dispose of the Privilege of taking the Fish called Shad and Alewives within the limits thereof.

1812, 129. SECT. 1. *Be it enacted*, That the said town of West Cambridge 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 to the faithful discharge of the duty enjoined upon them by this act, and also the act to prevent the

destruction of the shad and alewives in Mystic River, so called, within the towns of Charlestown, Medford and Cambridge. And it shall be and it is hereby made the duty of the said committee, to cause the natural course of the rivers and streams to be kept open and without obstruction during the whole season the said fish pass up or down said rivers or streams, and to remove any such obstructions as may be found therein. And the said committee, or any two of them, paying or tendering a reasonable sum, if demanded, shall have authority, in discharging the duties enjoined upon them by this act, to go on the lands of any person bounding on said rivers or streams, without being considered trespassers; and any person who shall molest or hinder said committee, or either of them, in the execution of their duty, he or they so offending shall forfeit, for every such offence, a sum not exceeding ten dollars nor less than two dollars, at the discretion of the justice before whom the same shall be tried; and it shall be the duty of the said committee to prosecute all breaches of this act, and for either of them to seize and detain in custody any net or seine found in the rivers or streams contrary to the true intent and meaning of this act, until the persons so offending make satisfaction for their offence, or is legally acquitted therefrom; and also to seize to the use of the town all such fish as they may suspect have been taken contrary to the provisions of this act, unless the person in possession can give satisfactory evidence to the committee that such fish were lawfully taken.

SECT. 2. *Be it further enacted*, That it shall and may be lawful for the town of West Cambridge, 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 of the ponds, rivers or streams issuing therefrom, within the limits of said town, so far as said town bounds on both sides of said rivers and streams, at such times only as is already provided by law to prevent the destruction of shad and alewives in Mystic River, so called; and the emoluments arising from the said privilege shall be appropriated by the said town to such purposes as the inhabitants thereof may, in town-meeting, from time to time, determine.

SECT. 3. *Be it further enacted*, That if the purchaser or purchasers, manager or managers, or those employed by them, shall presume to take any of said fish at any other place than the said town shall appoint, and if any other person or persons whatever, except the purchaser or purchasers, manager or managers, of said privilege, or those employed by them, do presume to take any of the said fish in the said ponds, rivers or streams within the town of West Cambridge, otherwise than may be allowed by said town, he or they so offending, shall, for each offence, forfeit and pay a sum not exceeding thirteen

dollars nor less than two dollars, at the discretion of the justice before whom the same shall be tried.

SECT. 4. *Be it further enacted*, That the penalties incurred by any breach of this act, shall be recovered by an action on the case, before any justice of the peace within said county of Middlesex, allowing an appeal to the circuit court of common pleas of said county; and all sums of money recovered as forfeited by this act, shall be for the support of the poor of said town; and no person, by reason of his being one of the fish-committee aforesaid, or an inhabitant of the said town, shall be thereby disqualified from being a witness in any prosecution for a breach of this act. — [February 22, 1812.

[1820, 67.]

[Sp. Laws, vol. 2, p. 285.]

AN ACT in addition to an Act entitled "An Act to regulate the taking of the Fish called Alewives in Manatiquot River, in the town of Braintree."

1812, 154. Whereas by an act passed on the first day of March, one thousand seven hundred and ninety-nine, the town of Braintree were authorized to farm out and dispose of the fish called alewives, and as it appears by representation from said town, that other fish have and do run in the river in said town, which proves injurious to the alewife fish:

SECT. 1. *Be it enacted*, That the taking of all fish which do and may run from the salt water in the aforesaid river in the town of Braintree, excepting eels, smelts, and tom-cod, shall be forever hereafter subject to the same restrictions as the taking of alewife fish is by the act entitled "An Act to regulate the taking of the fish called alewives, in the Manatiquot River, in the town of Braintree."

SECT. 2. *Be it further enacted*, That the selectmen of the town of Braintree, for the time being, shall be the committee to farm out and dispose of the aforesaid fish, agreeably to their best judgment: *provided, nevertheless*, that the fish called alewives shall be disposed of agreeably to the act to which this is in addition, anything in the act to which this is in addition to the contrary notwithstanding. — [February 28, 1812.

[1817, 151.]

1813.

[Sp. Laws, vol. 1, p. 166.]

AN ACT in addition to an Act entitled "An Act to prevent the destruction and to regulate the catching of the Fish called Alewives, in their passage up the Rivers and Streams in the Town of Harwich in the County of Barnstable."

1813, 57. SECT. 1. *Be it enacted*, That the inhabitants of the town of Harwich be and they are hereby authorized and empowered, by their committee, annually chosen in the month of March or April, to dispose of the fish called alewives, as they may think proper.

SECT. 2. *Be it further enacted*, That the committee aforesaid shall pay over to the treasurer of the said town of Harwich, on or before the first day of January, annually, all the net proceeds of the sale of said fish, for the use of said town, and any committee, appointed as aforesaid, that shall neglect or refuse to pay over as aforesaid all the moneys they shall have received as aforesaid, shall forfeit and pay, for each offence, a sum not exceeding two hundred dollars nor less than fifty dollars, to be recovered by their treasurer, for the use of the inhabitants of said town, by action of debt, in any court proper to try the same.—[June 16, 1813.

[1813, 115.]

[Sp. Laws, vol. 1, p. 166.]

AN ACT in addition to an Act entitled “An Act to prevent the destruction and to regulate the catching of the Fish called Alewives, in their passage up the Rivers and Streams in the town of Harwich in the county of Barnstable,” passed the fourth day of July, seventeen hundred and eighty-seven; and also of another Act, in addition thereto, passed the sixteenth day of June, eighteen hundred and thirteen.

1813, 115. *Be it enacted*, That an act, passed the fourth day of July, seventeen hundred and eighty-seven, entitled “An Act to prevent the destruction of the fish called alewives, in their passage up the rivers and streams in the town of Harwich, in the county of Barnstable,” and also of another act in addition thereto, passed the sixteenth day of June, eighteen hundred and thirteen, be, and both the said acts are extended to operate, and shall have effect over all the streams in the town of Brewster; and all the regulations, provisions, privileges, limitations and restrictions contained in the said act to which this is in addition, so far as they may be applicable to the intents and purposes of this act, shall be used and exercised, and the benefits thereof enjoyed by the inhabitants of the said town of Brewster, as fully and completely as if the said town of Brewster had not been separated from the said town of Harwich; and this act shall be deemed and taken to be supplementary to the said act before mentioned.—[February 12, 1814.

[Sp. Laws, vol. 1, p. 353.]

AN ACT to regulate the Fishery in Aggawam or Westfield River.

1813, 147. SECT. 1. *Be it enacted*, That from and after the passing of this act, any person or persons who shall draw a seine or dragnet within thirty rods of the lower side of the dam or race-way at White’s mills, on Aggawam River, in the town of West Springfield, for the purpose of catching shad, alewives or other fish, shall, for each and every offence, forfeit and pay the sum of five dollars for each time he or they shall so draw said seine, together with the forfeiture of the boat and seine.

SECT. 2. *Be it further enacted*, That if any person or persons shall set any pot, net, weare or hurdell within thirty rods of said dam or race-way, for the purpose of catching fish, of any kind, he or they shall, for each and every offence, severally forfeit and pay the sum of five dollars for every twelve hours said pot, net, weare or hurdell shall be placed in the said river, and so in proportion for a greater or less time.

SECT. 3. *Be it further enacted*, That any person who shall attempt to catch fish with a scoop-net within the aforesaid distance of the lower side of said dam, or in or near the sluice-way made for the passage of fish through said dam, shall, for each and every offence, forfeit and pay the sum of one dollar.

SECT. 4. *Be it further enacted*, That all the fines and forfeitures incurred by a breach of this act, may be recovered in an action on the case before any justice of the peace for the county of Hampden. — [February 22, 1814.

[1826, 100; 1838, 19; 1853, 377; 1860, 89.]

[Sp. Laws, vol. 2, p. 224.]

AN ACT to prevent the Destruction of the Fish called Alewives and Shad, in Charles River.

1813, 183. SECT. 1. *Be it enacted*, That from and after the passing of this act, if any person or persons shall place or set any seine or net, or set up, erect or make any weares, or place any other incumbrance whatsoever (mill-dams excepted), in or across Charles River, for the straightening, obstructing or stopping the free passing of the fish called shad and alewives, up and down said river, they shall severally forfeit and pay the sum of fifty dollars for each and every offence; one half of which shall be to the use of the town or towns within whose limits the offence is committed, and the other half to him or them that shall complain or prosecute therefor, — or any town may prosecute by their fish committee.

SECT. 2. *Be it further enacted*, That if any person or persons shall draw any seine or net, to take any of the fish aforesaid within said river, or in any other way take any of said fish, on any other days than Monday, Wednesday and Friday in each week, every person so offending shall forfeit and pay the sum of twenty dollars for each and every offence, to the use as aforesaid; and all forfeitures incurred by any breach of this act may be recovered by information, or by action on the case, before any court proper to try the same.

SECT. 3. *Be it further enacted*, That all parts of any acts relating to the fishery in said river, inconsistent with this act, be and the same are hereby repealed. — [February 28, 1814.

[1815, 56; 1826, 76.]

1814.

[Sp. Laws, vol. 1, p. 191.]

AN ACT in addition to an Act entitled "An Act to prevent the Destruction of Alewives and other Fish in Ipswich River, and to encourage the increase of the same, passed the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and eighty-eight."

1814, 22. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person to take any of the fish called shad or alewives, within four rods next below the foot of a sluice-way, nor within two rods of the side of a sluice-way of any mill-dam or dams, now erected, or to be erected hereafter, on that part of said Ipswich River which lies below Flint's or Merriam's Mills (except Burnham's Mills, so called), or any stream or streams running from any natural pond into said river (except Mile's River, so called); and any and every person so offending, shall forfeit and pay a fine of five dollars.

SECT. 2. *Be it further enacted*, That each and every person who, after the passing of this act, shall make any wear, or place any other obstruction in said river, or in the flooms of any mills, for the purpose of hindering or retarding the passage of said fish, shall forfeit and pay for each and every such offence a fine not exceeding twenty dollars nor less than ten dollars.

SECT. 3. *Be it further enacted*, That no person shall be allowed to use any machinery for taking said fish, other than dip or drag nets or seines (nor in any place in the aforesaid river and streams, excepting such places as are appointed and allowed by the fish committee of the respective towns bordering upon said river), nor shall any person take any of said fish with seines or drag-nets in said river and streams, between eight of the clock in the evening and sunrising; and every person who shall offend, in either of the above particulars shall, for each and every such offence, forfeit and pay a sum not exceeding twenty dollars nor less than ten dollars.

SECT. 4. *Be it further enacted*, That all fines and forfeitures which may be incurred by any breach of this act, shall be recovered and disposed of in the same manner as is provided in the act to which this is in addition, and that it shall be the duty of the fish committees in the several towns bordering upon Ipswich River, jointly or severally, to cause this act to be duly observed, and to inform against any person or persons who may offend against the said act. — [June 13, 1814.

AN ACT to authorize the Boston Manufacturing Company to shut the Fish Gate in their Dam across Charles River.

1814, 40. SECT. 1. *Be it enacted*, That the Boston Manufacturing Company have the liberty of closing the fish gate in their dam

across Charles River, at their works in Newton and Waltham, being the same mill-dam which formerly was owned and occupied by John Boies; and may keep the same shut forever: *provided*, that said company, their successors and assigns, shall make and continue in good repair, a fish-way over said dam, of the same inclination and width, and admitting the same depth of water, as that now made over the lower dam across said river in Watertown, near Watertown bridge, and shall keep the same open from the first day of April to the first day of June annually. — [June 14, 1814.

[Sp. Laws, vol. 1, p. 290.]

AN ACT for further regulating the Fishery in Matteisett River, in the Town of Rochester.

1814, 99. SECT. 1. *Be it enacted*, That from and after the passing of this act, the inhabitants of the town of Rochester, at any meeting legally warned for that purpose, may prohibit the taking any of the fish called alewives, in Matteisett River in said town, for the present year, excepting at one place therein, to be by them appointed in said meeting; and may also, by their vote in such meeting, establish such mode of taking said fish at such place, as they shall think proper.

SECT. 2. *Be it further enacted*, That the said inhabitants, at such meeting, may appoint some person or persons to take said fish in such place for such year (not exceeding three days in a week) for the use of said inhabitants, to be disposed of in such way and manner as they, in such meeting, by vote shall agree upon.

SECT. 3. *Be it further enacted*, That if any person or persons who shall be so appointed, or any person who shall purchase the exclusive right of taking said fish at any place in said river, according to the laws now in force for that purpose, shall not conform to the rules and regulations for them respectively established by said inhabitants, such person or persons shall for each breach of such rules and regulations, forfeit and pay to said inhabitants twenty-five dollars, to be recovered in an action of debt, in any court proper to try the same. — [February 10, 1815.

[Sp. Laws, vol. 1, p. 269.]

AN ACT in addition to an Act entitled "An Act empowering the Town of Pembroke to regulate and order the taking and disposing of the Fish called Alewives, within the limits of said Town."

1814, 128. SECT. 1. *Be it enacted*, That no person or persons shall set, draw or cast any seine, drag or set net of any dimensions whatever, in the North River, so called, in the county of Plymouth, except from sun's rising to the sun's setting of the Mondays, Wednesdays and Fridays of each week; and that no person or persons shall,

on said days, by boats, seines, drag-nets, or by any other mode, in the North River, drive any fish into any seine, set net or other receptacle, by which fish may be taken; and all seines, drag or set nets cast into said river on the days mentioned in this act, shall be restricted from sweeping in said river, further than can be done by confining one end of said seine to the bank of the river aforesaid; and no seine, drag or set net shall be set, drawn or cast into said river, above what is commonly called and known by the name of the Third Herring Brook, or Smelt Brook; and no seine used in said river shall exceed the width of the river where it is used, on the penalty of fifty dollars for each and every offence, to be recovered and appropriated in the manner provided for in the act to which this is in addition.

SECT. 2. *Be it further enacted*, That the act supplementary to an act regulating the taking and disposing of the fish called alewives, in the town of Pembroke, passed June the twenty-fifth, one thousand eight hundred and eleven, and the ninth section of an act entitled “An Act empowering the town of Pembroke to regulate and order the taking and disposing of the fish called alewives, within the limits of the said town,” be and the same are hereby repealed. — [February 25, 1815.]

[1806, 117.]

AN ACT for regulating the Fishery in the Towns of Salem and Danvers.

1814, 129. SECT. 1. *Be it enacted*, That all the provisions for the preservation of fish called shad,* and for regulating the taking the same, contained in an act entitled “An Act for the preservation of the fish called alewives, in their passage up the rivers and streams leading through the towns of Salem and Danvers, in the county of Essex, and for regulating the taking said fish in said streams, and for repealing all laws heretofore passed for regulating the fishery in said streams and rivers,” shall be and hereby are extended to the fish called shad; and the fish committees of the said towns of Danvers and Salem shall hereafter have the same powers, authority and privileges, and be subject to the same duties for the preservation and taking shad, as they now have and are subject to for the preservation and taking of alewives.

SECT. 2. *Be it further enacted*, That the said fish committees, or either of them, shall be and they are hereby empowered to make and open a sluice-way in the brook running from Spring Pond, so called, and to keep and maintain the same open, and without obstruction,

* This provision, though apparently erroneous by inserting “shad” instead of “alewives,” is correctly transcribed from the original roll. The petition prayed for the extension to shad of the provisions of the existing law in relation to alewives.

By this inadvertence in drawing and engrossing the bill, the provision itself is rendered wholly inoperative. — Ed.

and to shut and close the same up, as they may think expedient, and also to open and clear the passage-ways and streams leading from the said pond, for the purpose of enabling young fish to pass down from the said pond, from the tenth day of April to the last day of November, in every year; and for this purpose the said committees, or either of them, or any member thereof, shall have authority to go on the land of any person through which the said streams run, or on which such land may be bounded, without being considered as trespassers; and any person who shall molest or hinder the said committees, or either of the members thereof, in the execution of this part of their office or shall obstruct the said sluice-way or passages, otherwise than may be allowed by said committee or committees, he or she shall forfeit and pay a sum not exceeding fifty dollars nor less than five dollars, to be recovered and appropriated in the same manner as forfeitures and penalties for the breach of the act entitled "An Act for the preservation of the fish called alewives, in their passage up the rivers and streams leading through the towns of Salem and Danvers, in the county of Essex, and for the regulating the taking said fish in said streams, and for repealing all laws heretofore passed for regulating the fishery in said streams and rivers," are recovered and appropriated: *provided*, that this act shall not give the said committees, or either of them, any new powers and privileges concerning the mills, or the sluice or passages ways at the mills on the said streams, after the first day of June in each year. — [February 27, 1815.

AN ACT to regulate the Fisheries in the Town of Yarmouth.

1814, 134. SECT. 1. *Be it enacted*, That from and after the passing of this act, the town of Yarmouth shall be, and hereby are empowered and directed, at their meeting for the choice of town officers, in March or April annually, to choose three or more persons, being freeholders in the said town, to see that this act be duly observed; and each person so chosen shall be sworn faithfully to discharge the duties required of him by this act; and the said committee shall meet together annually, on or before the twentieth day of April, and at such time and place as they, or a majority of them shall appoint; and the major part of the committee present at such meeting are hereby authorized and empowered to order the times, places and manner in which it may be lawful to take any of the fish called herring, alewives, perch and eels in said town; and the said committee, or a majority of them, are hereby fully authorized and empowered to cause the natural course of the streams through which the said fish pass to be kept open and without obstruction, to remove such as may be found therein, and to make the said passage-ways wider or deeper, if they shall

judge it necessary ; and said committee, or either of them, paying a reasonable consideration therefor, if demanded, shall have authority, for those purposes, to go on the land or meadow of any person through which said stream runs, without being considered as trespassers ; and any person who shall molest or hinder the said committee, or either of them, in the execution of the business of his or their office, or shall obstruct any passage-ways in the rivers, streams, coves or ponds in said town, otherwise than may be allowed by the said committee, he or they shall forfeit and pay a fine for every such offence, not exceeding ten dollars nor less than three dollars.

SECT. 2. *Be it further enacted*, That the said committee, or a major part of them present at any meeting duly notified, being not less than three in number, shall be and hereby are authorized and empowered to open, or cause to be opened, any dam, or sluice of any mill, or other dam now erected, or that may be hereafter erected on or over any of the said rivers or streams, between the place where such rivers or streams empty themselves into the sea, at low water, and the pond in which said fish usually cast their spawns, at the expense of the owner or owners of such dam or sluice : *provided*, such owner or owners shall neglect to open the same when thereto required by the said committee, or the major part of them, immediately after being thus required so to do ; and the dam or sluice so opened shall continue open every year, to such depth and width, and for such term of time between the first day of April and the thirtieth day of June, as the major part of said committee shall judge necessary ; and if any person or persons shall obstruct the said passage-ways allowed or ordered by the said committee, or the major part of them, in any dam or sluice, such persons so offending shall, on conviction before any justice of the peace for the county of Barnstable, pay a fine for every such offence not exceeding ten dollars, nor less than three dollars ; and the said committee shall cause every such obstruction to be forthwith removed.

SECT. 3. *Be it further enacted*, That if any person or persons shall take any of the said fish in the rivers, streams, ponds or coves aforesaid, at any time, in any place, or in manner other than shall be allowed by the said committee as aforesaid, each person so offending, for each and every such offence, shall, on conviction as aforesaid, pay a fine not exceeding four dollars nor less than one dollar, if the quantity of fish so taken is less than one barrel ; but if the quantity of fish so taken shall be one barrel or more, such person or persons so offending shall forfeit and pay for each and every barrel of fish so taken, the sum of four dollars.

SECT. 4. *Be it further enacted*, That if the committee aforesaid, or either of them, shall detect any person or persons in attempting to take any of the said fish at any time, or in any place, or in any man-

ner otherwise than is allowed by the said committee, or shall find such fish with such person or persons, such person or persons shall be deemed to have taken the said fish unlawfully, and be subject to the penalties of this act accordingly, unless such person or persons can make it appear, on trial, that they came by the said fish in some other way.

SECT. 5. *Be it further enacted*, That if any vessel, boat or craft shall be found within the limits of any of the rivers, streams, ponds or coves, with any more of said fish than shall be permitted by the committee aforesaid, it shall be the duty of said committee, and they are hereby authorized to seize such vessel, boat or craft, and detain the same, not exceeding forty-eight hours, in order that the same may be attached or arrested by due process of law, and made answerable for said fines and forfeitures, with cost of suit: *provided, however*, that as soon as the owner or master of said vessel, boat or craft shall pay such fines and forfeitures to the treasurer of said town, if he shall pay the same before being sued, such vessel, boat or craft shall be discharged, with the effects therein.

SECT. 6. *Be it further enacted*, That all the forfeitures incurred by virtue of this act, shall be to the use of the said town of Yarmouth, to be recovered by an action on the case, in any court proper to try the same, to be brought by the treasurer thereof. — [February 27, 1815.

[1849, 37.]

AN ACT to regulate the Shad and Alewife Fishery within the Town of Billerica.

1814, 137. SECT. 1. *Be it enacted*, That it shall and may be lawful for the inhabitants of the town of Billerica, at a legal meeting in the month of March or April, annually, to choose a committee of three or more discreet persons, to sell, or otherwise dispose of the exclusive right or privilege of taking shad and alewives in Concord River, within the limits of said town, at such time and places, and under such regulations and restrictions, not repugnant to the laws of the Commonwealth, as said committee shall, from year to year, establish and determine; a copy of which shall be posted up at three public places, at least, in the said town; and the emoluments arising from said right or privilege shall be appropriated to such uses and purposes as said inhabitants shall, in legal town meeting, from time to time determine.

SECT. 2. *Be it further enacted*, That if the purchaser or purchasers of said right, or any person by them employed, shall take any of said fish in any other manner, or at any other time or place than said committee shall authorize and allow, or if any person except the said purchaser or purchasers, or those by them employed, shall take any of said fish in said river, within the limits of said town, every

person so offending, or who shall be aiding or abetting therein, shall, for every offence, forfeit and pay a sum, not exceeding thirteen dollars, nor less than seven dollars, to be recovered by action of debt before any justice of the peace within the county of Middlesex; one moiety to him who shall sue for the same, and the other moiety to the use of the said town of Billerica.

SECT. 3. *Be it further enacted*, That said committee shall have power to determine and establish the price which said purchaser or purchasers shall have a right to demand and receive for said fish; and if any such purchaser, or any person acting under their authority, shall refuse to sell said fish, when in their power so to do, at the price which shall be determined as aforesaid, of which notice shall have been given them by said committee, every person so offending shall, for each offence, forfeit and pay a sum not exceeding ten dollars nor less than five dollars, to the person injured, to be recovered as aforesaid: *provided, nevertheless*, that nothing in this act contained shall be construed to take away or impair the authority of any fishwardens, or any other persons, derived from any existing laws for regulating the taking of fish in said river, except so far as it relates to the appropriation of forfeitures for offences mentioned in the second section of this act. — [February 28, 1815.

[1820, 70.]

AN ACT to regulate the Shad and Alewife Fishery in the Town of Brighton.

1814, 162. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall be lawful for the inhabitants of the town of Brighton, by their agents, to sell the right and regulate the places and manner of taking the fish called shad and alewives, within the limits of said town, subject, in all things, to an act passed on the twenty-eighth day of February, one thousand eight hundred, entitled "An Act to prevent the destruction of the fish called alewives and shad in Charles River." And the inhabitants of said town, at their annual meetings in March or April, are hereby authorized and empowered to appoint agents, whose duty it shall be to carry into execution the purposes of this act.

SECT. 2. *Be it further enacted*, That the agents aforesaid may, for and in behalf of said town, and to their use and benefit, sell their right, regulate the places and manner of taking said fish within the limits of said town, for one or more years at a time, as the town may direct; and the proceeds arising from such sale said agents shall be held to pay over to the treasurer of said town.

SECT. 3. *Be it further enacted*, That the said agents shall, after establishing such rules and regulations as they may think necessary, and by determining by whom said fish may be taken, cause an

attested copy thereof to be posted up in some public place in said town; and if any person or persons other than those to whom said right is sold, or persons employed by them, shall take any of the fish called shad and alewives, within the limits aforesaid, or if any person or persons to whom said right is sold, or those employed by them, shall take any of said fish in any other place or in any other manner than shall be expressed in the conditions of sale, every person so offending shall severally forfeit and pay a sum not exceeding ten dollars nor less than four dollars for each and every offence, to be recovered in an action on the case, to the use of any person who may sue for the same, or the town may sue by their fish-agents. — [March 1, 1815.]

[1826, 76.]

1815.

[Sp. Laws, vol. 1, p. 512.]

AN ACT for the regulation of the Fishery, in the Town of Malden.

1815, 43. **SECT. 1.** *Be it enacted,* That if any person or persons shall take or catch any shad or alewives in any river, stream or pond, within the limits of the town of Malden, in the county of Middlesex, except as hereinafter by this act is provided, each person so offending shall forfeit and pay a sum, not exceeding twenty dollars, nor less than ten dollars for each offence, to be recovered in an action of debt, before any court proper to try the same, in the county of Middlesex, one half thereof to the use of him or them who shall sue for the same, and the other half to the use of the said town of Malden.

SECT. 2. *Be it further enacted,* That from and after the passing of this act, it shall be lawful for any and all the inhabitants of said town of Malden, to catch shad and alewives within the limits of the said town on every Monday, Wednesday and Friday, from sunrising on each of the said days to sunrising on each of the succeeding days, from the first day of March to the tenth day of June annually, at such place or places only as shall have been previously determined by the said town. — [January 27, 1816.]

[1828, 129.]

[Sp. Laws, vol. 1, p. 512.]

AN ACT for the regulation of the Fishery in Woburn.

1815, 54. **SECT. 1.** *Be it enacted,* That the act passed on the sixteenth day of February, in the year of our Lord one thousand seven hundred and eighty-nine, entitled “An Act to prevent the destruction of the fish called shad and alewives in Mystick River, so called, within the towns of Cambridge, Charlestown and Medford, and for repealing all laws heretofore made for that purpose,” shall extend to the town of Woburn, in the county of Middlesex, and to all the

streams running from any of the ponds, or other waters there into Mystick Pond, or Spy Pond, so called, in the same manner to all intents and purposes that it would have extended in case the said town of Woburn and the streams aforesaid had been mentioned and contained in the said act; and that it shall be lawful for any or all the inhabitants of the said town of Woburn to take shad and alewives within the limits of that town, on all such days and times as in and by the act aforesaid are allowed for the inhabitants for the towns of Charlestown and Medford, respectively, to take said fish, and on no other.

SECT. 2. *Be it further enacted*, That the owner or occupant of any dam already built, or which may hereafter be built, in or upon any of the streams aforesaid, shall make and maintain a convenient passage-way for shad and alewives to pass by, through or over such dam, and keep the same constantly open and free for said fish to pass up and down therein, from the fifteenth day of April to the fifteenth day of July, annually; and if the owner or occupant of any such dam shall refuse or neglect to make and build such passage-way, when thereto requested by a majority of the committee, for the preservation of fish in either of the said towns of Charlestown, Medford or Woburn, or shall neglect or refuse to open the same on the said fifteenth day of April annually, or after the same shall have been so opened, shall shut or obstruct, or permit or suffer the same to be shut or obstructed within the term aforesaid, he shall forfeit and pay for each and every such neglect or offence the sum of twenty dollars.

SECT. 3. *Be it further enacted*, That from and after the passing of this act, the several committees for the preservation of fish, to be annually chosen in the said towns of Woburn, Charlestown and Medford respectively, shall be chosen by ballot, and shall consist of three freeholders, who shall not be interested in any such dam as aforesaid; and any person who shall be duly chosen a member of either of said committees, and shall refuse or neglect to qualify himself, by taking the oath required by law, within seven days next after he shall have been duly notified of such choice, shall forfeit and pay the sum of twenty dollars to the use of the town in which he shall have been so chosen, to be recovered by the treasurer thereof, in an action of debt in any court proper to try the same, in the county of Middlesex; and the said town shall proceed to a new choice; and so, *toties quoties*. And it shall be the duty of each and every member of any such committee to see that the passage-ways aforesaid are made convenient for said fish to pass up and down therein, and that they are kept constantly open at and during all the time required by this act; and to open and clear the same, if any of them shall be found shut or obstructed within the said term; and if the owner or occupant of any such dam,

situate as aforesaid, shall neglect or refuse to make and build such passage-way, when thereto requested by a majority of either of the said committees, it shall be lawful for the committee making such request, and they are hereby directed, to make and build the same; and when it shall be completed by said committee, the said owner or occupant shall pay to said committee double the amount of all the expenses incurred or sustained by the said committee in making and building the same, on demand. And the said committee shall have a right to sue for and recover the same of such owner or occupant in an action of the case, in any court proper to try the same, in said county of Middlesex; and each member of either of the committees aforesaid shall have full power and authority to do any act in either of the said towns of Charlestown, Medford and Woburn, which, before the passing of this act, might have been lawfully done by a majority of either of said committees, in the town where such committee was chosen; and shall be entitled to and enjoy all the privileges and protection, when acting as such in either of said towns, which before the passing of this act a majority of either of the said committees were entitled to and enjoyed, when acting within the limits of the town in which they were chosen.

SECT. 4. *Be it further enacted*, That it shall be lawful for the inhabitants of the said town of Woburn, at their annual meeting in March or April, to sell or otherwise dispose of the privilege of taking shad and alewives in the streams aforesaid, so far as the same run wholly within the limits of that town, at such times only as are or may be allowed by law for said inhabitants to fish, and to fix on and determine the place or places where said fish shall be so taken, and appropriate the emoluments arising therefrom to such purpose as the said town shall determine.

SECT. 5. *Be it further enacted*, That if any purchaser or manager of said fishery in said Woburn, shall take or catch any of the said fish at any other place than the place or places which shall be fixed on and determined by the said town as aforesaid, and if any person other than such purchaser or manager, and those in the employ of such purchaser or manager, when said privilege shall have been disposed of by said town as aforesaid, shall take or catch, or attempt to catch, any of the said fish within the said town of Woburn, each and every person so offending shall forfeit and pay the sum of twenty dollars to the use of said town, to be recovered by the treasurer thereof in an action of debt, in any court proper to try the same in the county of Middlesex.

SECT. 6. *Be it further enacted*, That all forfeitures which may be incurred for a breach of this act, not herein otherwise appropriated, shall be recovered in an action of debt, in the name of any one or

more members of either of the committees aforesaid, before any court in the county of Middlesex proper to try the same, to the use of the town where the plaintiff or plaintiffs in such action shall live at the commencement thereof; and on the trial of any such action, any member of either of the said committees shall be a competent witness, notwithstanding said action may have been commenced and prosecuted in the name of such member; and each of the towns aforesaid shall be holden to pay the members of their said committee for all their services and expenses incurred by them, respectively in executing the duties required of them by this act. — [February 2, 1816.

[1861, 157; 1864, 234.]

[1813, 183.]

AN ACT to regulate the Shad and Alewife Fishery in the Town of Watertown.

1815, 56. SECT. 1. *Be it enacted*, That from and after the passing of this act it shall be lawful for the inhabitants of the town of Watertown, by their agents, to sell the right, and regulate the times, places and manner of taking the fish called shad and alewives within the limits of said town; subject in all respects to an act passed on the twenty-eighth day of February, one thousand eight hundred and fourteen, entitled, "An Act to prevent the destruction of the fish called shad and alewives in Charles River." And it shall be the duty of the selectmen of said town, as soon as may be after the passing of this act and forever after, in the month of January in each year, to appoint, and they are hereby empowered to appoint, two persons as agents, whose duty it shall be to carry into execution the purposes of this act: *provided, however*, that neither of the agents at the time of their appointment shall belong to the board of selectmen.

SECT. 2. *Be it further enacted*, That the agents appointed as aforesaid shall, for and in behalf of the inhabitants of said town, and to their use and benefit, as soon as may be after the first appointment and forever after, in the month of February in each year, sell the right at public vendue, and regulate the time, places and manner of taking the fish called shad and alewives within the limits of said town, after giving seven days' notice of the time and place of such sale; and the proceeds arising from such sale said agents shall be held to pay over to the treasurer of the town aforesaid.

SECT. 3. *Be it further enacted*, That said agents shall make and establish such rules and regulations as they may think necessary to promote the interest of the town, and after determining by whom said fish may be taken they shall cause an attested copy of such rules and regulations, and the name of the person or persons hiring the right to take the fish aforesaid, to be posted up in some public place in said town; and if any person or persons other than he or they to whom

said right is sold, or persons employed by him or them, shall take any of the fish called shad and alewives within the limits of said town, or if any person or persons to whom said right is sold, or those employed by him or them, shall take any of said fish contrary to the rules and regulations made and established by said agents, which rules and regulations shall be made public at the time and place of sale; every person so offending shall severally forfeit and pay a sum not exceeding twenty dollars nor less than five dollars for each and every offence, to be recovered in an action on the case to the use of any person who may sue for the same, or the agents may sue in the name of the inhabitants of the town.

SECT. 4. *Be it further enacted*, That it shall be the duty of the town clerk to attend said agents at the time of sale, and to make a fair record of all such rules and regulations as they shall from time to time make and establish, and the conditions of such sale, with the name of such person or persons as may hire the right aforesaid, in a book to be by him kept for that purpose, and to post all such rules and regulations as the agents may direct.

SECT. 5. *Be it further enacted*, That an act passed on the second day of March, one thousand seven hundred and eighty-eight, entitled "An Act authorizing the inhabitants of Watertown, Weston and Waltham, in the county of Middlesex, to regulate the taking of the fish called shad and alewives, within the limits of said towns," be and the same is hereby repealed: *provided, nevertheless*, that all questions of the constitutional validity, and all actions now pending, and causes of action that have or may arise under the before described act, shall remain and be the same in any court as they might or would have been had not said act been repealed. — [February 3, 1816.

[1826, 76.]

AN ACT to regulate the Fisheries in the Town of Dennis.

1815, 83. SECT. 1. *Be it enacted*, That from and after the passing of this act, the town of Dennis shall be and hereby is empowered and directed, at their meeting for the choice of town officers in March or April annually, to choose three or more persons, being freeholders in the said town, to see that this act be duly observed; and each person so chosen shall be sworn faithfully to discharge the duties required of him by this act; and the said committee shall meet together annually on or before the twentieth day of April, on such time as they or a majority of them shall appoint, and the major part of them present at such a meeting are hereby authorized and empowered to order the times, places and manner in which it may be lawful to take any of the fish called herring, alewives, perch and eels

in said town; and the said committee, or a majority of them, are hereby fully authorized and empowered to cause the natural course of the streams through which said fish pass, to be kept open and without obstruction, to remove such as may be found therein, and to make the said passage-ways wider or deeper if they shall judge it necessary; and said committee, or either of them, paying a reasonable consideration therefor, if demanded, shall have authority for those purposes to go on the land or meadow of any person through which said streams run, without being considered as trespassers; and any person who shall molest or hinder the said committee, or either of them, in the execution of the business of his or their office, or shall obstruct any passage-way in the river, streams, coves or ponds in said town otherwise than may be allowed by said committee, he or they shall forfeit and pay a fine for every such offence not exceeding ten dollars nor less than three dollars.

SECT. 2. *Be it further enacted*, That if any person or persons shall take any of the said fish in the rivers, streams, ponds or coves aforesaid, at any time, in any place or in any manner other than shall be allowed by the said committee as aforesaid, each person so offending, for each and every such offence shall, on conviction thereof, pay a fine not exceeding four dollars nor less than one dollar, if the quantity of fish so taken is less than one barrel, but if the quantity of fish so taken be one barrel or more, such person or persons so offending shall forfeit and pay for each and every barrel of fish so taken the sum of four dollars.

SECT. 3. *Be it further enacted*, That if the committee aforesaid, or either of them, shall detect any person or persons in attempting to take any of the said fish, at any time or in any place, or in any manner otherwise than is allowed by the said committee, or shall find such fish with such person or persons, such person or persons shall be deemed to have taken the said fish unlawfully, and shall be subject to the penalties of this act accordingly, unless such person or persons can make it appear on trial that they came to the said fish in some other way.

SECT. 4. *Be it further enacted*, That if any vessel, boat or craft shall be found within the limits of any of the rivers, streams, ponds or coves, with any more of said fish than shall be permitted by the committee aforesaid, it shall be the duty of said committee, and they are hereby authorized to seize such vessel, boat or craft, and detain the same, not exceeding forty-eight hours, in order that the same may be attached or arrested by due process of law, and made answerable for said fines and forfeitures, with cost of suit: *provided, however*, that as soon as the owner or master of said vessel, boat or craft shall pay such fines and forfeitures to the treasurer of said town, if he

shall pay the same before being sued, such vessel, boat or craft shall be discharged, with the effects therein.

SECT. 5. *Be it further enacted*, That all the forfeitures incurred by virtue of this act, shall be to the use of the said town of Dennis, to be recovered by an action on the case in any court proper to try the same, to be brought by the treasurer thereof. — [February 10, 1816.

[1837, 135; 1849, 37; 1850, 48; 1852, 68; 1855, 90; 1880, 122.]

[Sp. Laws, vol. 1, p. 813.]

AN ACT to regulate the Fishery within the Town of Middleborough in the County of Plymouth.

1815, 111. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons (except as is hereinafter provided) to catch or destroy any of the fish called alewives, within the limits of the town of Middleborough, or in Titicut River, so called, either within the limits of the towns of Bridgewater, Middleborough or Raynham: *provided, however*, that it shall and may be lawful for the inhabitants of said town of Middleborough to catch said fish with scoop-nets or set nets only, at the following places in said Middleborough, to wit: at Oliver's works, so called, three days in each week only, to wit: on Mondays, Tuesdays and Wednesdays, beginning at midnight next succeeding Sunday, and ending at midnight next succeeding Wednesday; at the Old Stone Ware four days in each week, to wit: on Tuesday, Wednesday, Thursday and Friday, beginning at midnight next preceding Tuesday, and ending at midnight next succeeding Friday; and at Assawampset Brook three days in each week, to wit: Monday, Tuesday and Wednesday, beginning at midnight next succeeding Sunday, and ending at midnight next succeeding Wednesday: *provided, also*, that the said town of Middleborough shall, at a legal town meeting, dispose of and grant, upon such conditions and under such restrictions and regulations as said town shall establish for that year, and so from year to year, the sole privilege of catching alewives, with scoop-nets or set nets only, on the days and at the places designated by this act, to such person or persons as shall give most for the same and give sufficient security for payment, such person or persons so purchasing to have the right to take fish, and no other person whatever.

SECT. 2. *Be it further enacted*, That if any person or persons shall, at any time or place other than those admitted by this act, catch or destroy any of the fish aforesaid, or by any other means whatever shall interrupt, impede or hinder the passage of said fish up the streams, brooks or ponds within said town, or in Titicut River which divides said town of Middleborough from the towns of Bridgewater and Raynham, or any of the waters connected therewith within the limits of either of said towns, he or they shall forfeit and pay a

sum not exceeding twenty dollars nor less than five dollars, to be recovered by indictment, complaint, or action of debt, in any court proper to try the same; one half to the use of the said town of Middleborough, the other half to him who shall prosecute or sue for the same.

SECT. 3. *Be it further enacted*, That if any person or persons be found fishing with any seine or net, or other machine and instrument, or any seine or other instrument which shall be used by any person or persons contrary to the true intent and meaning of this act, it shall be lawful for any person to seize and take such seine, net or other instrument, to his own use; and, if prosecuted therefor, to plead the general issue and give this act in evidence, as though the same had been specially pleaded.

SECT. 4. *Be it further enacted*, That said town of Middleborough shall, at the annual meeting in the month of March or April in each year, choose four or more persons, being freeholders in said town, whose duty it shall be to see that this act be duly observed, and to prosecute for all breaches thereof; and each person so chosen, shall be sworn to the faithful discharge of his duty. And if any person so chosen shall refuse to serve, he shall forfeit and pay to the use of said town of Middleborough, the sum of five dollars, to be sued for and recovered by the town clerk of said town; and said town shall immediately proceed to a new choice.

SECT. 5. *Be it further enacted*, That all laws heretofore made for the regulation of the fishery in the said town of Middleborough be and the same hereby are repealed: *provided, nevertheless*, that an act passed on the sixth day of March, in the year of our Lord one thousand eight hundred and two, for the preservation and regulating of the taking of the fish called alewives, in the brook running from the West Quiticus Pond, to the East Quiticus Pond, shall be and remain in full force; anything in this act to the contrary notwithstanding.

SECT. 6. *Be it further enacted*, That any justice of the peace for the county of Plymouth shall be deemed and considered competent to try any action, complaint, or suit, prosecuted under this act, notwithstanding said justice may be an inhabitant of the said town of Middleborough. — [February 14, 1816.

[1819, 137.]

[Sp. Laws, vol. 1, p. 422.]

AN ACT to regulate the Fishery in Taunton Great River.

1816, 119. SECT. 1. *Be it enacted*, That from and after the twentieth day of March next, it shall not be lawful for any person or persons (except as hereinafter provided) to catch alewives or any other fish with seines or nets in Taunton Great River: *provided*, that it shall

and may be lawful for the inhabitants of the several towns situated on said river, to catch alewives and other fish within the bounds of their own towns and nowhere else, with seines or nets, four days in each week only, to wit, on Monday, Tuesday, Wednesday and Thursday, beginning at midnight next succeeding Sunday and ending at midnight next succeeding Thursday in each week; and *provided*, that the towns of Dighton and Wellington shall draw or sweep with two seines or nets only; the town of Berkley shall draw or sweep with two seines or nets only; the town of Taunton shall draw or sweep with three seines or nets only; the town of Raynham shall draw or sweep with three seines or nets only, in said river, within the time before mentioned; and no person shall be permitted at any time to set any seine or net across said river, or in any part thereof, or in any waters connected with the said river, or make use of any seine or net of more than twenty rods in length: *provided, also*, that each of said towns shall at a legal town meeting, establish annually the places where the said seines or nets may be used within the bounds of the respective towns exclusively, and at the same meeting or an adjournment thereof, dispose of and grant for that year, and so from year to year, the sole privilege of catching alewives, or other fish with seines or nets on the days above mentioned, at the places so established, to such person or persons as shall give the most for the same, and give sufficient security for the payment at such time and in such manner as the respective towns shall order such person or persons, so purchasing the privilege to have right to fish, and no other person whatever.

SECT. 2. *Be it further enacted*, That if any person or persons shall draw any seine or net on any day or time other than those before mentioned, or at any place other than those established by the town as aforesaid, or shall on any day or at any place, set a seine or net in or across said river, or any part thereof, or in any waters connected with the same, he shall forfeit and pay fifty dollars for each and every such offence, to be recovered by indictment or information, or by action of debt, in any court proper to try the same; the one half thereof to the use of the poor of the town where the offence shall be committed, and the other half to him or them who shall prosecute or sue for the same.

SECT. 3. *Be it further enacted*, That if any person or persons shall be found sweeping with any seine or net, or if any seine or net shall be used by any person or persons contrary to the true intent and meaning of this act, it shall and may be lawful for any person or persons to seize and take such seine and net to his or their own use, and if prosecuted therefor, to plead the general issue, and give this act in evidence as though the same was specially pleaded.

SECT. 4. *Be it further enacted*, That the several towns aforesaid shall, at their annual meetings in the month of March or April in each year, choose three or more persons, being freeholders in their respective towns, whose duty shall be to see that this act be duly observed, and to prosecute for all breaches thereof; and each person so chosen shall be sworn to the faithful discharge of his duty; and the several towns shall be holden to make a reasonable compensation to the person so chosen by them respectively for all necessary services in discharge of their duty under this act. And if any person so chosen shall refuse to serve, he shall forfeit and pay to the use of the town to which he belongs the sum of ten dollars, to be sued for and recovered by the town clerk; and the said town shall immediately proceed to a new choice.

SECT. 5. *Be it further enacted*, That if any person or persons convicted of any of the offences aforesaid, by indictment or information, shall fail to pay the costs, or any part thereof, of the process on which he or they shall be convicted, so that the county in which the conviction takes place shall be chargeable with such costs, the several towns aforesaid shall reimburse to the said county the same costs in the following proportions, to wit: the town of Taunton three seventh parts, and the towns of Dighton and Wellington, two seventh parts, and the town of Berkley two seventh parts thereof, to be apportioned and charged by the county treasurer to the said towns respectively, and to be assessed by the assessors of the said town with other town charges.

SECT. 6. *Be it further enacted*, That all laws heretofore made for the regulation of the fishery in Taunton Great River be and the same is hereby repealed. — [February 15, 1816.

[1818, 106; 1832, 44.]

1816.

AN ACT to prevent the Taking of Fish in a Pond called Winchel's Pond in Egremont, in the County of Berkshire.

1816, 30. SECT. 1. *Be it enacted*, That from and after the passing of this act no person or persons shall be allowed to put or draw any seine or seines, or put or set any net or nets whatsoever in the pond called Winchel's Pond, in the town of Egremont, in the county of Berkshire, for the taking of the fish called pickerel; and any and every person who shall presume to take any fish called pickerel with any seine or net from said pond, shall incur and pay a penalty of ten dollars for every such offence, and the seine or net shall be forfeited to the said town of Egremont. as also all the fish so taken, to be at the disposal of the selectmen of said town.

SECT. 2. *Be it further enacted*, That no person or persons shall be

allowed to take from said pond, in any way whatsoever, any of the said fish called pickerel, within said year, and shall incur and pay a penalty of five dollars for every such offence.

SECT. 3. *Be it further enacted*, That all penalties incurred by any offence against this act may be sued for and recovered in an action of debt by the treasurer of the said town of Egremont, for the time being, before any justice of the peace in the said county of Berkshire, who does not belong to the said town of Egremont; and all sums of money so recovered shall be appropriated to the use of said town. And in case any minor or minors shall offend against this act, or any part thereof, and thereby incur any of the penalties aforesaid, the parent, master or guardian of such minor or minors shall be answerable therefor; in which cases the action shall be commenced against such parent, master or guardian (as the case may be) of such minor or minors respectively, and judgment rendered accordingly in the same manner and degree as for his or their personal offence. — [June 19, 1816.

AN ACT for regulating the Fishery in the Town of Gloucester.

Whereas the town of Gloucester, in the county of Essex, have purchased of Zacariah Stevens, Esq., and opened a passage-way through his mill-dam for the fish called alewives, into the Cape Pond, so called, and conveyed into it a number of said fish, at a considerable expense, whereby a great increase has arisen :

1816, 114. SECT. 1. *Be it enacted*, That the taking and disposing of the fish called alewives shall be under the care and management of a committee of said town, to consist of five persons, to be chosen at the annual town meeting in March or April, who shall be sworn to the faithful discharge of their duty, and shall distribute the fish that may be taken by them, or any person or persons under them, as equally as circumstances will admit, to such persons as shall apply for the same; and for the fish so supplied, the committee aforesaid shall demand a sum not exceeding fifty cents for each hundred of fish so delivered, and account with the treasurer of said town for the proceeds thereof weekly, and settle their final account on or before the last day of September annually; and the money arising therefrom shall be paid over to the treasurer of said town and appropriated to the use of the said town; and the said committee shall have a reasonable allowance for their services, and lay their accounts before the selectmen of said town for approbation and allowance on or before the last day of November annually.

SECT. 2. *Be it further enacted*, That the said committee, or either of them, shall have full power and authority to remove from or out of the rivers, brooks or streams leading to the said pond, any obstruc-

tions that may be made to the free passing of said fish into the said ponds, or re-passing from thence into the sea ; and the said committee, or either of them, or of such person or persons as shall be employed by them, going on the land of any person or persons for this purpose, shall not be deemed or held guilty of trespass. And the said committee, or the major part of them, shall determine the particular places where the said fish shall be taken, and give public notice thereof by posting up one or more notifications in some conspicuous place or places in said town, on or before the first day of May annually : *provided, however*, that the said fish shall not be taken any more than three days in each week, at the discretion of the committee, and only between the rising and the setting of the sun on said days ; and *provided, also*, that the said committee, or any other person under them, shall not be authorized to appoint any such place for fishing on the lands of John Manning, Esq., without his consent.

SECT. 3. *Be it further enacted*, That no person shall catch or take any of said fish in any river, brook or stream leading to or from the said pond, without the direction of the said committee, or the major part of them, in writing ; and whoever shall presume, at any time hereafter to take, kill or haul on shore any of the said fish with seines or drag-nets, in either of the rivers, ponds, brooks or streams through which the said fish pass into the said Cape Pond, or shall with any seine or drag-net, or in any other way obstruct the passage of the said fish to or from the said pond, or shall obstruct the said committee, or either of them (or those persons employed by them) in the execution of their duty ; in all and every of these cases the offenders shall for each offence forfeit and pay a sum not exceeding twenty dollars nor less than five dollars, with costs of suit.

SECT. 4. *Be it further enacted*, That it shall be the duty of the said committee, or either of them, and they are hereby vested with full power and authority to sue for and recover, in the name of the treasurer of the said town, from time to time, all forfeitures incurred by any breach of this act, before any justice of the peace for the county of Essex ; and any justice of the peace of the town of Gloucester may hear and determine any complaint under this act to the amount of twenty dollars, his being an inhabitant of the said town notwithstanding. And in case any minor or minors shall offend against any part of this act, and thereby incur any or either of the penalties aforesaid, in all such cases the parent, master or guardian of such minor or minors shall be answerable therefor ; and in case of prosecution of such minor or minors, the action shall be commenced against such parent, master or guardian of such minor or minors respectively, and judgment rendered accordingly ; and all such fines shall be to the use of said town ; saving where any person shall give

information of any breach of this act, the informer, upon conviction of the offender, shall be entitled to one half the forfeiture; and no person shall be considered as being disqualified from being a witness on any trial that may be had pursuant to this act on account of his being an inhabitant of the said town of Gloucester, or of his being one of the committee aforesaid.

SECT. 5. *Be it further enacted*, That it shall be the duty of the committee aforesaid to take care that a sufficient passage be kept open annually for the young alewives to pass from the said pond to the sea. — [December 14, 1816.]

1817.

AN ACT to prevent the Destruction of Pickerel in the Town of Great Barrington.

1817, 109. SECT. 1. *Be it enacted*, That from and after the passing of this act, whoever shall kill, take or catch any pickerel in any pond, cove, river or stream within the town of Great Barrington, other than by or with a hook or hooks and line, shall forfeit and pay the sum of five dollars for each and every pickerel so taken, to be recovered by any person who may sue for the same, to his own use, before any justice of the peace within the same county. — [February 13, 1818.]

[Sp. Laws, vol. 1, p. 290.]

AN ACT for the Preservation of the Fish called Alewives in Mattapoissett River.

1817, 136. SECT. 1. *Be it enacted*, That from and after the passing of this act, any person or persons who shall aid, assist or abet in the unlawful taking of any of the fish called alewives in Mattapoissett River, in Rochester, shall incur and be liable to the same forfeiture or forfeitures as the person or persons actually taking said fish, to be recovered in the same manner. — [February 19, 1818.]

[Sp. Laws, vol. 2, p. 285; 1812, 154.]

AN ACT to regulate the Fishery in Monatiquot River, in the Town of Braintree.

1817, 151. SECT. 1. *Be it enacted*, That the inhabitants of the town of Braintree, at their meeting in March or April annually, may and they hereby are authorized to regulate the taking of the fish called alewives, shad and smelts in Monatiquot River, within said town, or to dispose of the privilege of taking the same, to their own use and benefit, in any manner or way that they may think proper, which sale shall not exceed three years at one time; and said regulations when made shall remain in force one year next ensuing, and afterwards until new regulations, in manner aforesaid, shall be adopted by the town. And it shall be the duty of said town, at their aforesaid meeting annually, to choose three discreet persons by ballot, whose duty it shall be to inspect said river, to cause the regula-

tions respecting said fishery to be carried into effect, and to prosecute all violations thereof that shall come to their knowledge, and who shall also be sworn to the faithful performance of their duty in like manner and under like penalties as other town officers: *provided*, that nothing herein contained shall be construed to prohibit the inhabitants of the town of Braintree from taking smelts for their use and consumption, or any of the inhabitants of the towns of Quincy or Weymouth, for the same purpose, two days in each week, to be agreed upon by the town of Braintree at their annual meeting in March or April.

SECT. 2. *Be it further enacted*, That the owners or occupiers of dams across said river shall, during the time said fish are passing up, constantly keep open a passage through, over or round their respective dams, sufficient for the passage of said fish, to the satisfaction of the selectmen of the said town, for the time being, or a major part of them, under penalty of a sum not less than twenty nor more than fifty dollars, for each and every twenty-four hours that they shall neglect to open a passage as aforesaid, from and after said owner or occupier has been notified and required in writing by said committee, for the space of two days so to do.

SECT. 3. *Be it further enacted*, That if any person or persons shall make any wear across said river, or cause any obstructions to the free passage of said fish, contrary to the regulations of the town, the person or persons so offending shall for each offence forfeit and pay a sum not exceeding fifty dollars, nor less than one dollar, at the discretion of the court before whom the same may be tried.

SECT. 4. *Be it further enacted*, That all penalties incurred by a breach of this act, may be prosecuted and sued for before any court of record proper to try the same, by any inhabitant of said town being a freeholder; and no person shall be considered as disqualified from being a witness on any trial that may be had pursuant to this act, by reason of his or her being an inhabitant of said town (who is not a complainant), or of being one of the committee aforesaid.

SECT. 5. *Be it further enacted*, That the town of Braintree shall cause to be given to every poor and necessitous family in said town annually, two hundred of said alewives, and the selectmen of the said town of Braintree for the time being, shall or may determine what necessitous or poor family shall be entitled to the benefit of said fish.

SECT. 6. *Be it further enacted*, That all fines and penalties recovered for a breach of this act, shall be one third part for the use of the complainant, and the other two thirds for the use of the town of Braintree.

SECT. 7. *Be it further enacted*, That the committee chosen by

virtue of this act, shall be compensated for their service by the town of Braintree, at such rate as the town may agree upon, at the time they are chosen.

SECT. 8. *Be it further enacted*, That an act entitled "An Act to regulate the taking of fish called alewives, in Monatiquot River in the town of Braintree," passed on the first day of March, in the year of our Lord one thousand seven hundred and ninety-nine, and an act entitled "An Act in addition to an Act entitled An Act to regulate the taking of the fish called alewives in Monatiquot River, in the town of Braintree," passed on the twenty-eighth day of February, in the year of our Lord one thousand eight hundred and twelve, be and hereby are repealed. — [February 20, 1818.

[1840, 37; 1877, 123.]

[Sp. Laws, vol 1, p. 518.]

AN ACT to prevent the taking of Fish near the Dam, at the Canal at South Hadley Falls on Connecticut River.

1817, 157. SECT. 1. *Be it enacted*, That no person or persons at any time hereafter shall take any salmon or shad within one mile and a half of any part of the dam in Connecticut River, near the canal at South Hadley, with any net, seine, pot, scoop-net or any other machine or instrument whatever. And if any person or persons shall take or catch any salmon or shad, contrary to the true intent and meaning of this act, each person so offending shall, for every such offence, forfeit and pay a fine of twenty dollars.

SECT. 2. *Be it further enacted*, That all nets, seines and other machines and instruments, used in taking salmon and shad as aforesaid, shall be and hereby are forfeited to any person or persons who shall prosecute for the same, with costs of suit, to his or their own use, upon complaint or information to any justice of the peace in and for either of the counties of Hampshire or Hampden; who may thereupon issue his warrant to seize the same, to be kept until trial of the said complaint or information, which the said justices are hereby fully authorized to hear and determine.

SECT. 3. *Be it further enacted*, That all sums of money forfeited by any breach of this act, shall and may be sued for and recovered by action or information, with costs of suit, before any justice of the peace within the counties of Hampshire or Hampden; and one half of such fine shall enure to him or them who shall sue or prosecute for the same; and the other half for the use of the county in which said action or information shall be prosecuted. And any person or persons aggrieved at the sentence of the justice of the peace, given in pursuance of this act, may appeal therefrom to the next circuit court of common pleas, to be holden in the county in which judgment may be rendered. — [February 20, 1818.

AN ACT to prevent the Destruction of Shad and Alewives in the South River, so called, in the Town of Marshfield.

1817, 162. SECT. 1. *Be it enacted*, That the inhabitants of the town of Marshfield, at their meeting for the choice of town officers in March or April annually, be and they are hereby authorized and empowered to appoint three or more persons a committee to superintend the taking of shad and alewives, at such places and on such days as said inhabitants at said meeting shall direct; which committee shall dispose of said fish as said town shall order, and shall be allowed such compensation for all their said services as said town shall think just and reasonable; and shall settle their accounts annually with the selectmen of said town and pay the balance into their hands for the use of said town.

SECT. 2. *Be it further enacted*, That the said committee or the major part of them be and they are hereby authorized to have made and kept open sufficient sluice-ways at proper times, for the passage of said fish up and down said river, through, over or round all dams for mills or other water-works, which now are or shall hereafter be made over said river in said town; and if any person or persons shall obstruct or impede the passage-ways allowed or authorized by said committee or a major part of them, for the passage of said fish up and down said river, or shall by any means whatsoever, hinder the said fish from passing up and down said river, otherwise than is directed by this act, such person or persons so offending, shall forfeit for every such offence, a sum not exceeding one hundred dollars, nor less than fifty dollars.

SECT. 3. *Be it further enacted*, That if any person or persons other than the said committee or such person or persons as shall be by them employed or permitted, shall take any of the said fish in said river or any stream that belongs to it, at any time or by any means whatever, each person so offending shall forfeit and pay a sum not exceeding ten dollars nor less than five dollars for every such offence.

SECT. 4. *Be it further enacted*, That all penalties incurred by any breach of the provisions of this act, shall be sued for and recovered by the treasurer of said town of Marshfield, for the time being, in any court in the county of Plymouth proper to try the same; and all sums of money so recovered, shall be appropriated to the use of said town; and in case any minor or minors shall offend against any part of said act, and thereby incur any or either of the penalties of this act, in all such cases, the parents, masters or guardians of such minors respectively, shall be answerable therefor; and in case of any prosecution of such minor or minors for any of the aforesaid offences, the action shall be commenced against the parent, master or guardian of such minor or minors respectively and judgment shall be rendered against

them in such case, in the same manner as for his or their personal offence. — [February 20, 1818.

[1853, 350.]

1818.

AN ACT to regulate the Fishery in First Herring Brook, in the Town of Scituate.

1818, 13. SECT. 1. *Be it enacted*, That the selectmen of the town of Scituate shall be fish-wardens in said town, and shall have authority to open necessary and convenient sluice-ways through any dam erected on the First Herring Brook, so called, in said Scituate, and shall annually form and publish such regulations respecting the preservation, and the time and manner of taking alewives in said First Herring Brook, with suitable fines and penalties annexed to the breach of said regulations as they may judge proper; said fines and penalties to be recovered by action or complaint in any court having competent jurisdiction: *provided*, said regulations are not inconsistent with the constitution and laws of this Commonwealth; and *provided, also*, that the said town of Scituate at any legal meeting for that purpose, shall have power to dispose of the right of fishing in said First Herring Brook, according to the regulations aforesaid, to such persons and upon such terms as they may determine to be proper; and all fines and penalties which may be recovered for breaches of this act, shall inure one half to the complainant or person who may sue for and recover the same, and the other half to the poor of said town of Scituate. And the said regulations which may be so formed and adopted by the selectmen, shall be recorded in the town records; and it shall be deemed sufficient notice to all persons of the publication of said regulations, by posting them up in three several places in the said town, as the discretion of the selectmen may direct. — [June 12, 1818.

[1852, 151.]

[1815, 111.]

AN ACT to repeal all Laws heretofore made for regulating the Alewife Fishery in the Towns of Bridgewater and Halifax, in the County of Plymouth.

1818, 83. SECT. 1. *Be it enacted*, That all the laws heretofore made for regulating the alewife fishery in the towns of Bridgewater and Halifax, in the county of Plymouth, or either of them, or that may require any passage-way for said fish at any mill-dam in said towns, or either of them, excepting Pratt's dam, so called, in Titicut, be and the same are hereby repealed, so far as they respect either of said towns. — [February 15, 1819.

AN ACT to prevent the Destruction of the Fish called Tom Cod and Smelts in Charles River, and to regulate the manner of taking the same.

1818, 109. SECT. 1. *Be it enacted*, That from and after the passing of this act, if any person or persons shall place or set any seine

or net, or set up, erect or place any obstruction or incumbrance whatsoever (mill-dams excepted) in or across Charles River, whereby the free passing of the fish up and down said river shall be straightened, obstructed or stopped, they shall severally forfeit and pay the sum of fifty dollars for each and every offence, one half of which shall be to the use of him or them that shall sue or prosecute therefor, and the other half to the use of the town or towns within whose limits the offence is committed; or any town may sue in the name of its inhabitants, and in that case the whole penalty shall be to the use of the town thus suing.

SECT. 2. *Be it further enacted*, That if any person or persons shall draw or use any seine or net of a greater length than fifteen feet, or shall make use of more than one net or seine at the same time, to take any of the fish called tom cod and smelts within said river, or shall draw any such seine or net on any other of the days of the week than Monday, Wednesday and Friday, they shall severally forfeit and pay the sum of forty dollars for each and every offence, to the use as aforesaid; and all other forfeitures incurred by any breach of this act may be recovered by an action on the case before any court proper to try the same: *provided*, that nothing contained in this act shall be construed to subject any person or persons to any of the penalties aforesaid by reason of their happening to take any of the said fish called tom cod and smelts, when they shall rightfully draw or use a seine or net, the meshes of which are not less than one inch square, for the purpose of taking shad and alewives, in the usual and proper season of taking those fish. — [February 19, 1819.]

1819.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in further addition to the several Acts for regulating the Fishery in Merrimack River.

1819, 4. SECT. 1. *Be it enacted*, That from and after the first day in July in each and every year, the penalties contained in the several acts heretofore passed for regulating the fishery in Merrimack River, shall not extend to or be in force against any person drawing a net or seine for the purpose of taking the fish called menhaden, or any other sea or salt water fish, anywhere below Essex Merrimack bridge; anything in the several acts before mentioned to the contrary notwithstanding. — [June 11, 1819.]

[Sp. Laws, vol. 3, p. 378.]

AN ACT respecting the Fishery in the Towns of Rehoboth and Swanzey.

1819, 11. SECT. 1. *Be it enacted*, That from and after the passing of this act, if any person or persons shall attempt to take any

shad or alewives with a seine, or drag-net, or scoop-net, set or drawing in Palmer's River, or the branches thereof, at any time or place otherwise than is allowed by law within the towns of Rehoboth or Swanzey, shall forfeit and pay seven dollars for each and every offence, to be recovered by action of debt in any court proper to try the same, one moiety to him or them who shall prosecute for the same, and the other moiety to the town in which the offence is committed.

SECT. 2. *Be it further enacted*, That any seine, drag-net or scoop-net which shall be found set or drawing in said Palmer's River, or any branch thereof, with or without the owner of the same, or any other person, shall be forfeited to the use of the poor of the town in which the offence is committed; and if any person or persons shall make, or cause to be made, any weare within eight rods of another in said river, he or they shall forfeit and pay a fine of seven dollars, to be recovered and appropriated as aforesaid. — [June 12, 1819.

[1820, 51; 1836, 130; 1837, 184]

[Sp. Laws, vol. 1, p. 272]

AN ACT further regulating the Fishery in Merrimack River and the Streams running into the same.

1819, 20. SECT. 1. *Be it enacted*, That if any person or persons shall erect or cause to be erected any mill-dam or weare, or shall place any stones, timber, boards, plank or gravel, or any other obstruction or incumbrance in or across the Merrimack River, or any of the rivers or streams running into the same, or continue or suffer to be continued any such obstruction or incumbrance as before mentioned, as hath heretofore been erected or placed so as to prevent or obstruct the free passage of the salmon, shad or alewives in their usual course up and down said rivers and streams, at the time of their passing up to east their spawn, and returning down of said fish and the young fry; the person or persons so offending, instead of the penalty heretofore provided by law for such offence, shall forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars, at the discretion of the court before whom the conviction may be had, to be recovered by action or indictment; one half to the use of the county, and the other half to the person or persons who may sue or prosecute for the same; and the court before whom such conviction may be had shall cause the obstruction to be removed at the cost and charge of the offender or offenders.

SECT. 2. *Be it further enacted*, That if any person or persons shall at any time, with a spear or other instrument or machine, by torch-light or candle-light, catch, kill or destroy any salmon, shad or alewives in any of the rivers or streams aforesaid, or shall with jack and spear, by torch-light or candle-light fish for the purpose of catching any salmon, shad or alewives, every such person so offending shall

forfeit and pay the sum of fifty dollars, to be recovered and appropriated as aforesaid.

SECT. 3. *Be it further enacted*, That if any person or persons shall catch any salmon, shad or alewives in any part of Merrimack River, or in any river or stream running into the same, or shall draw or drag any seine, drag-net or fly-net, or set any net or pot, or use any other machine, or suffer such to be continued or set for the purpose of catching any of the said fish, in any of the said rivers or streams, at any other time or times than by the laws of this Commonwealth are expressly allowed and permitted, every such person so offending, instead of the penalty heretofore provided by law for such offence, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars, to be recovered and appropriated as aforesaid.

SECT. 4. *Be it further enacted*, That each and every fish-warden, sheriff, deputy-sheriff, constable and grand juror is hereby empowered to command the assistance of any person or persons which they or any of them may judge necessary for carrying this act, and the several acts to which this is in addition into full effect, in the same manner as sheriffs are empowered to command aid in a civil or criminal process.

SECT. 5. *Be it further enacted*, That all seines, nets and pots, of every sort and description used for the purpose of catching any of the aforesaid fish, if found in either of said rivers or streams, or within the banks of the same on any day or time when by law it is not permitted or allowed to catch any of said fish, each and every such seine, net, pot or other instrument, shall be forfeited, together with any boat, in which the same may be found; and the same may be seized by a fish-warden, sheriff, deputy-sheriff, constable or grand juror, and prosecuted for in the same way and manner as by law provided, when seines are seized for breach of the laws for regulating the fisheries in said rivers and streams; and the net proceeds, after paying all costs and charges, shall be for the sole use of the person who may seize and prosecute for the same, except when complaint shall be made by any other person; in which case the informant or person complaining shall be entitled to one half, and the other half shall enure to the county where the offence is or may be committed.

SECT. 6. *Be it further enacted*, That if any person or persons shall fish with seine or net more than eighteen rods long in Merrimack River, or twelve rods long in Concord River, or extend more than one seine or net on the same fishing grounds at one and the same time, instead of the penalties heretofore provided by law, shall, for every such offence, forfeit and pay a fine of fifty dollars; and such seines and nets, together with the boat or boats so employed, shall be for-

feited and the same may be seized and prosecuted for in manner aforesaid.

SECT. 7. *Be it further enacted*, That it shall be the duty of the proprietors of the Middlesex Canal to cause to be erected and kept in repair in said canal, on both sides of said Concord River, such gates, constructed of wire or other materials, as may be sufficient to prevent the passage of the fish or young fry through said canal, either toward Merrimack River or toward Medford; and shall not allow the said gates or either of them to be kept open, excepting at the time of passing any boat or raft, in either direction in said canal; and no longer at any time, than may be sufficient for the passing of such boat or raft through the said gates; and for failure or neglect of the duty herein enjoined, they shall forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars, to be recovered and appropriated as aforesaid.

SECT. 8. *Be it further enacted*, That the act entitled "An Act further regulating the fishery in Merrimack River," passed on the fourteenth day of June, eighteen hundred and seventeen, be and the same is hereby repealed: *provided, however*, that the said act shall be in full force as to the prosecutions commenced under the said act. — [June 18, 1819.

[1820, 22, 70; 1832, 56; 1866, 238.]

AN ACT to prevent the Destruction of Fish in the several Ponds in the Town of Haverhill.

1819, 98. SECT. 1. *Be it enacted*, That from and after the passing of this act, no person shall take, catch or kill any pickerel or other fish in the several ponds in the town of Haverhill, in the county of Essex, with any instrument whatever, at any time between the first day of December in each year, and the first day of May following, and no person shall catch, kill or destroy any pickerel or perch in said ponds, or in the several brooks running into or out of the same, with any spear, grapple, seine, net or pot, at any time after the passing of this act. And every person so offending against the provisions of this act, shall for each and every offence, forfeit and pay the sum of two dollars, to be recovered with costs of suit in an action of debt, by any person or persons who shall sue for the same, to his or their use, before any justice of the peace within and for the county of Essex.

SECT. 2. *Be it further enacted*, That the inhabitants of Haverhill, aforesaid, may, at their annual meeting in March or April, in any year, by vote, suspend the operation of the prohibitions and restrictions contained in the first section of this act, or any part of the same, for any term of time not exceeding one year, as to them shall seem expedient. — [February 7, 1820.

[1848, 12.]

[Sp. Laws, vol. 2, p. 214.]

AN ACT in addition to an Act entitled "An Act for the preservation of the Fish called Alewives in the Weweantit River in the County of Plymouth, and for the regulating the Taking said Fish."

1819, 118. SECT. 1. *Be it enacted*, That from and after the twenty-fifth day of June next, no person shall be liable to pay any penalty or forfeiture for taking fish called alewives in Weweantit River, or in any pond or stream having connection therewith, from the twenty-fifth day of June, to the fifteenth day of March, annually, any law to the contrary notwithstanding. — [February 15, 1820.

[1836, 218.]

[Sp. Laws, vol. 2, p. 502.]

AN ACT to repeal all Laws heretofore made regulating the Alewife Fishery in the Town of Kingston in the County of Plymouth, so far as they relate to Jones River, above and including Adams' mill-dam, so called, and also so far as they relate to Stony Brook in said Town.

1819, 125. SECT. 1. *Be it enacted*, That all the laws heretofore made regulating the alewife fishery in the town of Kingston, in the county of Plymouth, so far as they relate to Jones River, above and including Adams' mill-dam, so called, and also so far as they relate to Stony Brook in said town, be and the same are hereby repealed. — [February 21, 1820.

[Sp. Laws, vol. 1, p. 422.]

AN ACT to regulate the Fishery in Taunton Great River.

1819, 133. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any persons, except as is hereinafter provided, to catch shad and alewives with seines or nets in the Taunton Great River, from the fifteenth day of March to the first day of June in each year: *provided*, that it shall and may be lawful for the inhabitants of the several towns situated on said River, to catch shad and alewives with seines or nets in said river, with twelve seines or nets only, in the manner following, to wit: the towns of Wellington, Dighton, Somerset, Freetown and Troy shall each have the right of disposing at public auction, for their own benefit, of the privilege of catching shad and alewives with one seine or net only; the towns of Berkley and Raynham shall each have the right of disposing at public auction, for their own benefit, of the privilege of catching shad and alewives with two seines or nets only; and the town of Taunton shall have the right of disposing at public auction, for their own benefit, of the privilege of catching shad and alewives with three seines or nets only, in the river aforesaid, for the time aforesaid; and the purchaser or purchasers of the privileges which shall be located in the towns of Raynham and Taunton shall not have a right to sweep with a seine or net more than fifteen rods in length; and the towns of

Berkley and Wellington shall not have a right to sweep with a seine or net more than twenty rods in length, and but four days in each week, beginning at four o'clock on Monday morning and ending at four o'clock on Friday morning; the purchaser or purchasers of the privilege or privileges which shall be located in the town of Dighton shall have a right to sweep with a seine or net, thirty rods in length and no more, five days in each week, beginning at four o'clock on Monday morning and ending at four o'clock on Saturday morning; and the purchaser or purchasers of the privilege or privileges which shall be located in either of the towns of Somerset, Freetown or Troy shall have a right to sweep with a seine or net, forty rods in length and no more, five days in each week, beginning at four o'clock on Monday morning and ending at four o'clock on Saturday morning; and *provided, also*, that each of the said towns shall, at a legal meeting between the first day of September and the last day of December in each year, dispose and make sale of, at public auction, for the next year, and so from year to year, their privilege or privileges of catching shad and alewives with seines or nets in the river aforesaid for the time aforesaid, to such person or persons as shall offer the most for the same and give sufficient security for the payment of the purchase money, at such time and in such manner as the respective towns shall order.

SECT. 2. *Be it further enacted*, That the several purchasers of the respective privileges aforesaid, shall select the place where they intend to use their seine or net for the purpose of catching shad and alewives, and shall file a certificate thereof with the clerk of the town within which they have determined to exercise their said privilege as aforesaid, on or before the first day of March in each year: *provided*, that the privilege which shall be purchased of the said town of Somerset shall be exercised within the limits of said town; and the person or persons so purchasing and locating the privileges aforesaid, shall have the right to catch shad and alewives in the river aforesaid, for the time aforesaid, and no other person.

SECT. 3. *Be it further enacted*, That no purchaser of a privilege, as aforesaid, shall make use of a seine or net for the purpose aforesaid, at any other place in said river than the place so selected and certified as aforesaid, during the time aforesaid; and no two seines shall be located or swept within half a mile of Robinson's bridge, so called, in Raynham; and no seine or net shall be swept more than forty rods on the bank of said river; and no two seines shall be allowed to be swept within the same limits, on the same side of said river; and no person whatever shall be permitted to set any seine, net, weare or other obstruction, in or across said river or any part thereof, or any waters connected with said river (Broad Cove, so called, in Somerset,

excepted), for the purpose of taking shad or alewives, or obstructing their passage along the said river, during the time aforesaid.

SECT. 4. *Be it further enacted*, That if any person or persons shall draw or sweep with any seine or net, on any day or time other than as before expressed, or at any other place than those selected and located as aforesaid; or shall on any day or at any place set any seine or net, weare or other obstruction in or across said river, or any part thereof, or any waters connected with the same (Broad Cove aforesaid, excepted), with the intention to catch or destroy any of the fish called shad or alewives within the time limited in the first section of this act, he or they shall forfeit and pay fifty dollars for each and every such offence, to be recovered by indictment or information, to the use of the county in which the offence shall be committed, or by action of debt; one half thereof, after deducting all necessary expenses of the prosecution, to the use of him or them who shall sue for the same, and the other half to the use of the town in which the offence shall be committed.

SECT. 5. *Be it further enacted*, That if any person or persons shall be found sweeping with any seine or net, or if any seine or net shall be used by any person contrary to the true intent and meaning of this act, it shall and may be lawful for any fish-warden or inspectors, to be chosen by virtue of this act, or the law regulating the fishery in the town of Middleborough, to seize or take such seine or net and convert and retain the same to his or their own use or benefit, without any suit or process whatsoever; and if prosecuted therefor, to plead the general issue and give this act in evidence as though the same had been pleaded specially.

SECT. 6. *Be it further enacted*, That the several towns aforesaid shall, at their annual meetings in the month of March or April, choose by ballot three or more suitable persons, being freeholders in said town, as fish-wardens, whose duty it shall be, jointly and severally, to see that this act is enforced, and to prosecute for all breaches thereof; and each fish-warden so chosen shall be sworn to the faithful discharge of his duty; and the said fish-wardens, when sworn, are authorized to measure seines and nets, and to pursue and execute the duties of their office in any place within the towns aforesaid. And if any person chosen a fish-warden as aforesaid, shall refuse or neglect to be sworn as aforesaid, for the space of five days after he shall be duly notified of his election as aforesaid, he shall forfeit and pay a fine of ten dollars, to the use of such town, to be recovered by action of debt by the treasurer thereof, and such town shall proceed to a new choice; and so on, as often as circumstances shall require. And if any of the towns aforesaid shall neglect to choose fish-wardens as aforesaid, or to make sale of their privileges aforesaid, within the

time limited therefor, according to the meaning of this act, such town shall forfeit and pay a fine of one hundred dollars, for the use of him or them who shall prosecute for the same.

SECT. 7. *Be it further enacted*, That all the laws heretofore made for the regulation of the fishery in Taunton Great River (except so far as respects the town of Middleborough), be and the same are hereby repealed: *provided, however*, that any prosecutions which have been or may be commenced for the recovery of any forfeitures incurred by virtue of the laws hereby repealed, may be prosecuted to final judgment and execution, in the same manner as if this act had not been passed; and *provided, also*, that all contracts made prior to the passing of this act, by any of the towns aforesaid, respecting the fishery aforesaid, by virtue and in pursuance of the laws hereby repealed, shall be valid to all intents and purposes; this act to the contrary notwithstanding; and *provided, further*, that the inhabitants of the respective towns aforesaid, who have not already disposed of their privileges as aforesaid, for the present year, by virtue and in pursuance of the laws hereby repealed, shall and may dispose of the same at any time before the first day of March next. — [February 21, 1820.

[1822, 38.]

[Sp. Laws, vol. 1, p. 313.]

AN ACT regulating the Taking of Fish called Alewives in the Town of Middleborough.

1819, 137. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall and may be lawful for the inhabitants of the town of Middleborough, in the county of Plymouth, to take the fish called alewives at the Old Stone Wear, so called, in said town, on Wednesday, Thursday, Friday and Saturday of each week during the time said fish are allowed to pass the aforesaid place, and at no other time at the place aforesaid; any law to the contrary notwithstanding. — [February 21, 1820.

[1837, 193.]

1820.

[Sp. Laws, vol. 1, p. 272.]

AN ACT to suspend the operation of the Seventh Section of an Act entitled "An Act further regulating the Fishery in the Merrimack River and the Streams running into the same,"

1820, 22. SECT. 1. *Be it enacted*, That the seventh section of an act entitled "An Act further regulating the fishery in Merrimack River, and the streams running into the same," passed on the eighteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, be and the same is hereby suspended in its operation, until the first day of April next. — [June 17, 1820.

AN ACT to regulate Passage-Way for Fish through the Dam near the Mouth of Concord River, in the County of Middlesex.

1820, 38. SECT. 1. *Be it enacted*, That so long as there shall be kept and upheld a dam across Concord River, between the towns of Chelmsford and Tewksbury, in the county of Middlesex, where the dam of Thomas Hurd's factory now is situated, it shall be the duty of the owner, occupant or person upholding said dam, to cause to be made a sluice or passage-way, for fish to pass freely up and down the river through said dam; and the same shall be constructed with a permanent mud-sill, to be placed at the bottom of the natural channel of said river, and to extend from the shore of the island in said river, not less than fifteen feet towards the factory, in the direction of the present dam, with permanent abutments, and a cross timber at the top not less than thirty inches above the mud-sill; and the whole of said passage-way shall be kept open, from the first day of April to the twentieth day of May in each year, except only that when by reason of the falling of the water in said river, there shall not be more than twelve inches of water above said mud-sill, the said passage-way may, with the advice and consent of the fish-wardens of the towns of Chelmsford and Tewksbury, given in writing, be diminished in proportion to the depth of the water: *provided, however*, that it shall never be reduced to a less depth than five feet from the abutment on the west side.

SECT. 2. *Be it further enacted*, That so long as the owner, occupant or person upholding said dam shall cause to be made and kept a sluice or passage-way for fish through said dam, of the dimensions and constructions aforesaid, according to the true intent and meaning of this act, he shall not be liable to any penalty or prosecution by force of any act relative to the obstruction of the passage of fish up and down said river.

SECT. 3. *Be it further enacted*, That no person shall be permitted to obstruct the free passage of fish during the aforesaid months of April and May, by taking them in any manner, at the said passage-way.

SECT. 4. *Be it further enacted*, That this act shall continue in force for the term of ten years and no longer. — [January 24; 1821.

[Sp. Laws, vol. 3, p. 378.]

AN ACT in addition to the several Acts heretofore passed, to regulate the Fishery in Rehoboth and Swanzey.

1820, 51. SECT. 1. *Be it enacted*, That no person whatever shall be permitted to set any seine, net, weare or other obstruction across Palmer's River in Swanzey, at any time between the first day of April and the twentieth day of June in each year, for the purpose of

obstructing the passage of fish up the said river into Rehoboth; and if any person or persons shall, within the time aforesaid, set any seine, net, weare or other obstruction across said river for the purpose aforesaid, he or they shall forfeit and pay a fine of seven dollars for each and every such offence, to be recovered by action of debt, one half to the use of him or them who shall prosecute therefor, and the other half to the use of the town in which the offence shall be committed; and such seine or net so set across said river shall also be forfeited to the use of him or them who shall prosecute for the same. — [February 9, 1821.

[1836, 130.]

[Sp. Laws, vol. 1, pp. 238, 512.]

AN ACT for the regulation of the Shad and Alewife Fishery in Cambridge, Charlestown, Medford and West Cambridge.

1820, 67. SECT. 1. *Be it enacted*, That the act passed on the sixteenth day of February, in the year of our Lord one thousand seven hundred and eighty-nine, entitled "An Act to prevent the destruction of the fish called shad and alewives in Mystic River, so called, within the towns of Cambridge, Charlestown and Medford, and for repealing all laws heretofore made for that purpose," shall be taken and construed to extend to the town of West Cambridge in the county of Middlesex, as fully, to all intents and purposes, as if the town of West Cambridge had been originally named in said act; and it shall be lawful for the inhabitants of the said town of West Cambridge to catch and take any of the said fish within the limits of said town, on all such days and times as by the provisions of the act aforesaid it is made lawful for the inhabitants of the said town of Cambridge to catch them, and on no other days or times.

SECT. 2. *Be it further enacted*, That any member of the several committees for the preservation of fish, annually to be chosen in each of said towns of Cambridge, Charlestown, Medford and West Cambridge, shall have full power and authority to do any act or thing in any or either of the said towns which heretofore might have been lawfully done by a majority of either of said committees within the town where such committee was chosen, and shall be entitled to and enjoy all the privileges and protection, when in the exercise or discharge of their duties in either of said towns, which a majority of either or any of the said committees were heretofore entitled to and enjoyed, when acting in discharge of their said duties within the limits of the particular town for which such committee was chosen. And any person who shall disturb or hinder any or either of said committee-men in the execution of the duties of their said office, shall forfeit and pay for every such offence a sum not exceeding twenty dollars nor less than ten dollars; and each and every pecuniary penalty to be forfeited and

paid by the aforesaid act for a breach or violation of any of the provisions thereof, is hereby raised and increased to a sum not exceeding twenty dollars nor less than ten dollars, in lieu of the sums therein mentioned, to be forfeited and paid respectively.

SECT. 3. *Be it further enacted*, That for the better securing to the said towns of Cambridge, Charlestown, Medford and West Cambridge their equal benefit from said fishery, the said town of Medford shall be restricted to fish only on the ebb-tide, on such days as by the act aforesaid are provided for the inhabitants of said Medford to take said fish; and every person who shall take or catch any of said fish upon the flood-tide, any net, seine or other fishing implements for the purpose of catching any of said fish, or to obstruct their passage up or down said rivers, streams or waters aforesaid, shall for each and every such offence incur the like forfeitures and penalties as shall be incurred by force of this act, by any person who shall catch or take any of said fish contrary to the provisions of the act mentioned in the first section of this act.

SECT. 4. *Be it further enacted*, That the inhabitants of the said town of Charlestown shall be prohibited and restricted from setting or continuing any net, seine or other fishing implement in any of the rivers, streams or waters aforesaid, only while actually drawing or dragging for said fish, except as is hereinafter provided; and every person who shall, within the town of Charlestown, set or continue any such net, seine or other fishing implement in any of the rivers or waters aforesaid, which may stop or obstruct the passage of said fish up or down the same, unless such person, at the same time, shall be actually engaged in drawing or dragging for said fish, except as is hereinafter provided, shall, for each and every such offence, incur like forfeitures and penalties as shall be incurred by force of this act, by any person who shall catch any of said fish contrary to the provisions of the act mentioned in the first section of this act: *provided, nevertheless*, that nothing herein contained shall be construed to deprive the said inhabitants of Charlestown of the right of setting and having one stationary net or seine in Little River, so called, at any and all times between the hours of twelve of the clock at noon and twelve of the clock on the following night, on all such days as are lawful for said inhabitants to take said fish.

SECT. 5. *Be it further enacted*, That no net, seine or other fishing implement shall ever be placed or used in the said Mystic River, nor in the said Little River, within fifteen rods from the point where the waters from those two rivers meet; and every such net, seine or other fishing implement which shall be found situated in either of said rivers contrary to the provisions aforesaid, shall be wholly forfeited to the use of any person who shall find the same; and every person who

shall be guilty of placing or putting any such net, seine or other fishing implement in either of said rivers, within fifteen rods from the meeting of the waters of those rivers as aforesaid, shall forfeit and pay for each and every such offence, the sum of twenty dollars, to be recovered before any justice of the peace for said county of Middlesex. And any person who shall be guilty of opposing or hindering the removal of any net, seine or fishing implement which shall be found situated in either of said rivers, contrary to the provisions of this section, shall forfeit and pay the sum of twenty dollars, to be recovered in the same manner as the forfeiture last above mentioned.

SECT. 6. *Be it further enacted*, That any person or persons who shall at any one time catch or have in his or their possession, within either of said towns of Cambridge, Charlestown, Medford or West Cambridge, any of said fish, after they have cast their spawn, to the number of twenty or upwards, shall forfeit and pay for each and every offence, a sum not exceeding twenty dollars, nor less than ten dollars.

SECT. 7. *Be it further enacted*, That every net, seine or other fishing implement which shall be placed or used in any of the rivers, streams or waters aforesaid, within either of said towns, contrary to the provisions of this act, as also all fish that shall be taken contrary to any of the provisions of either of said acts, shall all be forfeited to the use of any person or persons who shall detect or discover any of such fish to be taken as aforesaid, or any such net, seine, or other such fishing implement to be situated or used as aforesaid; and all forfeitures or penalties to be incurred for a breach of either of the acts aforesaid, shall be recoverable by any of the inhabitants of either of said towns of Cambridge, Charlestown, Medford and West Cambridge, in an action of debt, before any court proper to try the same; one half the amount thereof to the use of the plaintiff in such action, and the other half thereof to the town where he belongs.— [February 14, 1821.

[1845, 149.]

[1811, 175; 1814, 137.]

AN ACT to regulate the Passage-Way for Fish through the Canal Mill-Dam, in Billerica, and for other Purposes.

1820, 70. SECT. 1. *Be it enacted*, That so long as there shall be kept and upheld a dam across Concord River, in the town of Billerica, where the mill-dam of the proprietors of the Middlesex Canal now is situated, there shall be kept open at the usual place in said dam, a sluice or passage-way for the fish to pass up and down the river through said dam, from the first day of April to the twentieth day of May in each year; which sluice or passage-way shall be con-

structed with a permanent mud-sill, to be placed upon the bottom of the natural channel of said river, with permanent abutments and a cross timber at the top, not less than thirty inches above the mud-sill, and shall not be less than fifteen feet in breadth, except only when by reason of the falling of the water in said river, there shall not be more than twenty-four inches of water above said mud-sill, the said passage-way with the advice and consent of the fish-wardens of Billerica, given in writing, may be diminished in proportion to the depth of the water: *provided, however*, that it shall never be reduced to a less breadth than six feet.

SECT. 2. *Be it further enacted*, That so long as said proprietors, occupant or person upholding said mill-dam, shall cause to be kept open a sluice or passage-way for fish through said dam, of the dimensions aforesaid, and for the time aforesaid, neither of the said proprietors, or any tenant or occupant of said mill or mill-dam, shall be liable to any penalty or prosecution whatever, by force of any act relative to the obstruction of the passage of fish up and down said river.

SECT. 3. *Be it further enacted*, That the seventh section of an act entitled "An Act further regulating the fishery in the Merrimack River, and the streams running into the same," passed the eighteenth day of June, one thousand eight hundred and nineteen, be, and the same is hereby repealed. — [February 14, 1821.

1821.

[1819, 20.]

AN ACT to prevent the Destruction of Fish in the Town of Framingham.

1821, 15. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person to set or use more than one hook, at any one time, on any of the ponds or streams within the town of Framingham, in the county of Middlesex; nor shall it be lawful for any person or persons to draw any seine or net, in any of the ponds or streams in said town; nor shall it be lawful for any person to set any pot or net in any of the streams aforesaid. And if any person or persons shall, after the passing of this act, be found using or setting more than one hook, at any one time, such person or persons shall, for each hook so set or used, after the first, forfeit and pay a sum not less one dollar; and if any person or persons shall, after the passing of this act draw any seine or net in any of the ponds or streams within said town, or shall set any pot or net within any of the streams aforesaid, he or they so offending, shall forfeit and pay a sum not less than five dollars, and shall forfeit the pot, seine or net so used to the use of the said town.

SECT. 2. *Be it further enacted*, That all penalties incurred by any breach of this act, may be recovered by any person who shall sue for

the same in any court in said county of Middlesex; proper to try the same. And if any minor or minors shall offend against the provisions of this act, and shall thereby incur any of the penalties aforesaid, the parent, master or guardian of such minor or minors shall be answerable therefor; in which case the action shall be commenced against such parent, master or guardian (as the case may be) of such minor or minors, and judgment rendered accordingly: *provided, however*, that the inhabitants of said town of Framingham may, at their meeting in March or April annually, suspend in whole or in part, the provisions and restrictions of the act aforesaid, for any term of time, not exceeding one year. — [June 15, 1821.

[Sp. Laws, vol. 1, p. 191.]

AN ACT to empower the Proprietors of Flint's Mills, on Ipswich River, to alter the Passage for the Fish in the Dam of said Mills.

1821, 27. SECT. 1. *Be it enacted*, That the proprietors of Flint's mills, in Middleton, in the county of Essex, be, and they hereby are authorized and empowered to discontinue the way now required by law to be kept open for the passage of fish through the dam of said mills, any law to the contrary notwithstanding: *provided, nevertheless*, that the said proprietors shall cause to be constructed on the southerly side of said dam, within six months from and after the passing of this act, a good and sufficient passage for the fish, and shall keep the same in good repair; which passage shall be approved and allowed by the major part of a committee to be composed of the fish-wardens of the towns of Danvers and Middleton, in the county of Essex, and the town of Reading in the county of Middlesex. — [June 16, 1821.

AN ACT to regulate the Pass-way for Fish in Beaver Brook, in the Town of Dracut.

1821, 62. SECT. 1. *Be it enacted*, That instead of the passway now required by law to be kept in said brook at the mills owned by Artemas Stanley and Sewall Stanley in the town of Dracut, in the county of Middlesex, the owners shall be, and hereby are required to keep open a passway for the passage of fish called alewives, of the following dimensions: beginning at the dam, near the factory floom, six feet in width, on a level with the bottom of said floom, and running by the side of said floom to the factory wall, then turning and running twenty feet down by the side of said dam, three feet and a half wide, with stoppers on each side, with a board or plank, to be placed across the head of said course, six inches in width, and the said head to keep open and in sufficient repair at all times while said fish are passing up and down said brook.

SECT. 2. *Be it further enacted*, That so long as the owners of said mill shall keep open said course and in good repair in the manner aforesaid, they shall not be subject to any of the penalties or restric-

tions of any law regulating the passage of fish in the said brook ; and no person or persons shall be allowed to take any fish in said course, or within thirty feet of the same, in any way or manner, under a penalty of five dollars, to be recovered in an action of debt in any court proper to try the same, to be for the use of him or them who may sue therefor. — [February 8, 1822.

[1834, 117.]

AN ACT for the preservation and regulation of the Fishery in the Towns of Fairhaven, New Bedford, Dartmouth and Westport.

1821, 97. SECT. 1. *Be it enacted*, That from and after the first day of March next it shall not be lawful for any person living without the jurisdiction of this Commonwealth, to take any lobsters, tautog, bass or other fish within the harbors, streams or waters of the towns of Fairhaven, New Bedford, Dartmouth and Westport, for the purpose of carrying away from said waters in smaacks or vessels owned without the Commonwealth, of any size, nor any owned within this Commonwealth over fifteen tons ; and any and every person offending against the provisions of this act shall forfeit and pay the sum of ten dollars for every offence, and also forfeit all the fish and lobsters so taken.

SECT. 2. *Be it further enacted*, That the waters and shores of said towns of Fairhaven, New Bedford, Dartmouth and Westport shall be considered and taken by this act to extend from the line of the state of Rhode Island to the line of the county of Plymouth, including all the waters, islands and rocks lying within one mile of the main land.

SECT. 3. *Be it further enacted*, That all fines and forfeitures that may be incurred for offences against this act, shall be one half to him or them who may first sue for the same, and the other half to the use of the town to which the complainant belongs ; and the said fines and forfeitures may be recovered with legal costs of suit, by action of debt or information, before any justice of the peace for the county of Bristol ; and any person or persons aggrieved at the sentence of the justice of the peace, given in pursuance of this act, may appeal therefrom to the next court of common pleas, to be holden in the county in which judgment may be rendered. — [February 22, 1822.

[Public Statutes, 91.]

1822.

[Sp. Laws, vol. 1, p. 422.]

AN ACT in addition to an Act entitled "An Act to regulate the Fishery in Taunton Great River."

1822, 38. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for the purchaser or purchasers of any privilege of catching shad or alewives of any of the towns situated on Taunton Great River, to locate the place or places on said

river for the purpose of catching said fish, or sweep or use seines or nets for that purpose, within one hundred rods of the mill-dam lately erected across said river by Samuel Crocker and others, near King's Bridge, so called; anything in the act entitled "An Act to regulate the fishery in Taunton Great River," to which this is an addition, to the contrary notwithstanding.

SECT. 2. *Be it further enacted*, That it shall not be lawful for the said purchaser or purchasers, or any other person, to impede, interrupt, or turn the course of the fish within the distance of one hundred rods of the mill-dam aforesaid, for the purpose of taking said fish without or beyond that distance.

SECT. 3. *Be it further enacted*, That any person duly convicted of a breach of the second section of this act, shall forfeit and pay the sum of fifty dollars for each and every such offence, to be recovered and appropriated in the manner provided in the fourth section of the act to which this is in addition.—[January 21, 1823.]

[Sp. Laws, vol. 2, p. 148.]

AN ACT to prevent the Destruction of the Fish called Pickerel or Pike in the Ponds in the Towns of Braintree, Canton and Randolph, in the County of Norfolk.

1822, 54. SECT. 1. *Be it enacted*, That from and after the first day of March next, it shall not be lawful for any person or persons to take any fish called pickerel or pike in any of the ponds called the Great Pond in the towns of Braintree and Randolph, and the Little Pond in the town of Braintree, and the pond called Ponkapoag in the towns of Canton and Randolph, from the first day of December to the first day of April, in each and every year; and every person offending, contrary to the true intention and meaning of this act, upon conviction thereof before any justice of the peace in the county of Norfolk, shall pay a fine of fifty cents for each and every pickerel or pike so taken, to and for the use of the person who shall sue for the same, together with all legal costs of prosecution: *provided, nevertheless*, that either of the towns of Braintree, Canton or Randolph, may, at their annual meetings in the month of March or April, suspend the aforesaid act, so far as respects the ponds in their respective towns, for the term of one year.

SECT. 2. *Be it further enacted*, That all prosecutions for any violations of the provisions of this act shall be instituted within thirty days from the time of committing the same.—[January 31, 1823.]

[1832, 54; 1837, 189; 1840, 37.]

AN ACT to prevent the Destruction of Fish in the Hoosick River within the Towns of Williamstown and Adams.

1822, 58. SECT. 1. *Be it enacted*, That from and after the first day of May next it shall not be lawful to take or catch any fish with

nets or seines in the Hoosick River within the towns of Williamstown and Adams; and every person so offending, contrary to the true intent and meaning of this act, upon conviction thereof before any court of competent jurisdiction, shall pay a fine of two dollars, one half to the complainant and the other half to the town in which such offence is committed.

SECT. 2. *Be it further enacted*, That the inhabitants of the aforesaid towns of Williamstown and Adams may, at their annual March or April meeting, by a concurrent vote, suspend the operation of the prohibitions and restrictions contained in this act, for such term of time, not exceeding one year, as to them shall seem expedient: *provided, however*, that the foregoing act shall not be so suspended within two years from the passing of the same. — [February 3, 1823.]

[Sp. Laws, vol. 1, p. 272.]

AN ACT regulating the Catching of Salmon, Shad and Alewives in Merrimack River, at the mouth of Shawsheen River in the Town of Andover.

1822, 75. SECT. 1. *Be it enacted*, That all the laws heretofore made for regulating the catching of salmon, shad and alewives in Merrimack River, so far as they go to prevent their being taken at or near the mouth of Shawsheen River, in the town of Andover, be and the same are hereby repealed. — [February 8, 1823.]

[1832, 56.]

[1812, 129.]

AN ACT relative to the Fishery in the Town of West Cambridge.

1822, 97. SECT. 1. *Be it enacted*, That an act passed the twenty-second day of February, in the year of our Lord one thousand eight hundred and twelve, entitled "An Act to regulate the fishery in the town of West Cambridge, and to empower said town to dispose of the privilege of taking the fish called shad and alewives within the limits thereof," be and the same is hereby repealed. — [February 11, 1823.]

1823.

[Sp. Laws, vol. 1, p. 191.]

AN ACT for the relief of the Danvers Cotton Factory in Danvers.

1823, 33. SECT. 1. *Be it enacted*, That the laws heretofore passed relative to alewives in the waters running into Ipswich River be and they are hereby repealed, so far as not to require the continuance of fish-ways at the Danvers Cotton Factory in the town of Danvers, or in the stream running thither from Humphrey's Pond. — [June 14, 1823.]

[Sp. Laws, vol. 2, p. 148.]

AN ACT to regulate the Fishery in Neponset River in the Towns of Dorchester and Milton.

1823, 41. **SECT. 1.** *Be it enacted*, That from and after the passing of this act, no person or persons shall be allowed to put or draw any seine or seines whatever in Neponset River, so far as that river forms any part of the dividing line between the towns of Dorchester and Milton, for the taking of fish called smelts and eels; and every person who shall presume to take any fish called smelts and eels with a seine, from said river, shall incur and pay a penalty of five dollars for every such offence.

SECT. 2. *Be it further enacted*, That no person or persons, excepting the inhabitants of the towns of Dorchester and Milton, shall be allowed to take from said river, within the limits aforesaid, in any way whatsoever, any of the fish called smelts or eels, unless by permission of one or more of the selectmen of said towns, and any person not an inhabitant of said towns who shall presume to take any of said fish unless by such permission, shall incur a penalty of five dollars for every offence.

SECT. 3. *Be it further enacted*, That all penalties incurred by a breach of this act may be prosecuted and sued for before any justice of the peace for the county of Norfolk, by any of the inhabitants of either of said towns, for the use of him or them who shall sue for and recover the same. — [June 4, 1823.]

[Sp. Laws, vol. 2, p. 504.]

AN ACT more effectually to prevent the Destruction of Shad and Alewives in the Saugus River and its Tributary Streams within the Towns of Lynn, Saugus, South Reading and Lynnfield.

1823, 97. **SECT. 1.** *Be it enacted*, That the towns of Lynn, Saugus, South Reading and Lynnfield shall be and they are hereby respectively empowered and directed, at their annual meetings for the choice of town officers, to choose in each town three persons, inhabitants thereof, to see that the laws respecting the passage-ways for shad and alewives be observed, and each person so chosen shall be sworn to the faithful discharge of his duty. And the said committees of said towns shall meet together annually, on or before the first day of April, at such time and place as the person first chosen by the town of Lynn shall appoint, to be by him duly notified. And the major part of those of the said committee who shall be present at such meeting, are hereby empowered and authorized to order the times, places and manner in which said fish may be taken in Saugus River and streams in each of said towns; and the members of said committee shall have joint and concurrent jurisdiction in each of said towns, so far as respects said river and streams. And in case either

of said towns shall neglect to choose the committee assigned to it, the committee or committees which shall be duly chosen and sworn within the other towns, or either of them, shall have the powers and shall perform the duties hereby required; and the regulations which shall be so agreed upon by said committees shall be written and posted, in three public places at least, in each of said towns.

SECT. 2. *Be it further enacted*, That the said committees, or the majority of the members, not less than three in number, who shall be present at any meeting duly notified by the first chosen or eldest member of the committee, which shall be chosen in the town of Lynn, or by the request of any three members of the said committees, shall be and they are hereby authorized and empowered to require of the owner or occupant of any dam or sluice-head of any mill erected or that may be erected over said river or streams, to open and keep therein a sufficient passage-way for said fish at such time, on or after the first day of April annually, as the said committees, or the major part of them present, as aforesaid, shall think necessary; and may also require of the owner or occupant of any canal or course whereby any natural stream is or shall be in part changed or altered, to leave sufficient water in the natural stream for the easy and safe passage of the said fish; and upon neglect or refusal of such owner or occupant of any dam or sluice-head, or canal, as aforesaid, to comply with this act, the said committee, or major part who shall be present at any meeting as aforesaid, shall and may cause such sufficient passage-way and opening as they shall judge necessary for the purposes aforesaid, to be made in such dam, sluice-head or canal, with least prejudice to the owner or occupant, and at his expense. And such passage and opening shall and may be continued at the discretion of said committee, from the time they shall order the same, as aforesaid, and until they shall order or permit the closing of the same, not exceeding the fifteenth day of June in every year. And if any person or persons shall obstruct the passage-way or opening required or allowed by the said committees, or the major part of them, as aforesaid, in any dam, sluice-head or canal within their jurisdiction, as aforesaid, such offender or offenders shall forfeit and pay a sum not exceeding sixty dollars nor less than thirty dollars.

SECT. 3. *Be it further enacted*, That if any persons shall be found taking any of the aforesaid fish on any day, or in any place, or in any manner contrary to the regulations of the said committees, or of otherwise killing and wasting such fish, such offender shall forfeit and pay a sum not exceeding two dollars nor less than one dollar for each offence.

SECT. 4. *Be it further enacted*, That it shall be the duty of the said committees, jointly, and of each committee in their respective towns,

to see the observance of this act, and they shall have authority therefor to go upon the land bordering upon the said river or streams, and shall not be considered as trespassers therein; and any person who shall molest said committees, or either of them, in the execution of their office, or shall injuriously obstruct the said river and streams, shall forfeit and pay a sum not exceeding three dollars nor less than one dollar, according to the aggravation of the offence. And all fines and forfeitures given by this act shall and may be sued for and recovered by action of debt in any court proper to try the same, by the said committees or any one of them; one moiety to the use of the prosecutors and the other moiety to the use of the poor of the town in which the offence shall happen.

SECT. 5. *Be it further enacted*, That all laws heretofore made for regulating the said river and streams in Lynn, Saugus, South Reading and Lynnfield, with joint or separate authority, are hereby repealed: *provided, nevertheless*, that nothing in this act shall be so construed as to affect in any way an act passed March third, one thousand eight hundred and two, so far as respects the stream leading from the Flax Pond and emptying into said Saugus River, or any other stream within the said town of Lynn: *provided, also*, that said joint committee shall have no control or jurisdiction over any stream within the town of Lynn other than said Saugus River. — [February 10, 1824.

AN ACT to prevent the Destruction of Fish in the Town of Lincoln.

1823, 110. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person to set or use more than one hook at any one time on any of the ponds in the town of Lincoln, in the county of Middlesex, between the first day of December and the first day of April annually; and if any person or persons shall, after the passing of this act, be found setting or using more than one hook at any one time, such person or persons shall, for each hook so set or used after the first, forfeit and pay a sum of not less than one dollar nor more than two dollars.

SECT. 2. *Be it further enacted*, That all penalties incurred by any breach of this act, may be recovered by any person who shall sue for the same in any court in said county of Middlesex, proper to try the same, and if any minor or minors shall offend against the provisions of this act, and shall thereby incur any of the penalties aforesaid, the parent, master or guardian of such minor or minors shall be answerable therefor, in which case the action shall be commenced against such parent, master or guardian (as the case may be) of such minor or minors, and judgment rendered accordingly: *provided, however*, that the inhabitants of the said town of Lincoln may, at their meeting

in March or April annually, suspend in whole or in part the provisions and restrictions of the act aforesaid, for any term of time not exceeding one year. — [February 16, 1824.

AN ACT to authorize Thomas Manning to erect a Dam across Ipswich River.

1823, 136. SECT. 1. * * * *provided, however*, the said Thomas Manning, his heirs and assigns shall make and keep open through said dam a passage-way for the fish to pass up said river or stream, of the dimensions, and constructed in the same manner and subject to the same rules and penalties as is provided by an act passed March twenty-eighth, one thousand seven hundred and eighty-eight, and the acts in addition thereto, to prevent the destruction of alewives and other fish in said Ipswich River. — [February 21, 1824.

1824.

AN ACT to preserve the Eel Fishery and to prevent the wilful destruction of Oysters and all other shell fish in the town of Harwich.

1824, 66. SECT. 1. *Be it enacted*, That from and after the date of this act, no fisherman or any other person shall take from the waters within the town of Harwich, any eels without a permit from the selectmen of said town, under a penalty of three dollars for each bushel of fish so taken.

SECT. 2. *Be it further enacted*, That to prevent the destruction of oysters and all other shell fish within the waters belonging to the said town of Harwich, that all the provisions, fines, forfeitures, penalties, seizures and appropriations, prescribed and contained in an act passed in the year of our Lord seventeen hundred and ninety-six, entitled, “An Act to prevent the destruction of oysters and other shell fish in this Commonwealth,” and also the several acts in addition thereto, so far as they may be applicable to the purposes of this act, be, and they are hereby extended to the said town of Harwich. — [February 12, 1825.

[Sp. Laws, vol. 1, p. 313; 1815, 111.]

AN ACT regulating the taking of Fish in the Town of Bridgewater, in the County of Plymouth.

1824, 76. SECT. 1. *Be it enacted*, That from and after the first day of June next, it shall be lawful for the town of Bridgewater to catch the fish called shad and alewives in Titicut River, so called, which forms the boundary line between the said town of Bridgewater and the town of Middleborough, with a seine or net, and for that purpose they may sell at public auction for their own benefit, the privilege of catching said fish in said river, with one seine or net only, fifteen rods in length, four days in each week, between the fifteenth day of March and the first day of June in each year, to commence

at four o'clock on Monday morning and to end at four o'clock on Friday morning, anything in any law of this Commonwealth, now existing, to the contrary notwithstanding: *provided*, that the said town of Bridgewater shall, at a legal meeting, between the first day of September and the last day of December in each year, dispose and make sale of at public auction for the next year, and so on from year to year, their privilege of catching shad or alewives with a seine or net, in the river aforesaid, for the time aforesaid, to such person or persons as shall offer the most for the same, and give sufficient security for the payment of the purchase money at such time and in such manner as the said town shall order: *provided, also*, that it shall not be lawful for said town or the purchaser of said privilege, to catch the fish aforesaid, within seventy-five rods of the dam across said river, known by the name of Pratt's Dam.

SECT. 2. *Be it further enacted*, That the purchaser or purchasers of said privilege shall select the place where he or they intend to use his or their seine or net, for the purpose of catching shad and alewives, and shall file a certificate thereof with the clerk of the town of Bridgewater, on or before the first day of March in each year; and no purchaser of the privilege aforesaid shall make use of a seine or net for the purpose aforesaid, at any other place in said river than the place so selected and certified as aforesaid, during the time aforesaid.

SECT. 3. *Be it further enacted*, That if any person or persons shall, at any time or place other than those admitted by this act, catch or destroy the fish aforesaid, in said Titicut River, he or they shall forfeit and pay a sum not exceeding twenty dollars nor less than five dollars, to be recovered by indictment, complaint or action of debt, in any court proper to try the same, one half to the use of the said town of Bridgewater, and the other half to him who shall sue or prosecute the same: *provided*, that in all prosecutions for any violation of this act, by the fish-inspectors, or any other inhabitant of the town of Middleborough, one half of the penalty shall accrue to that town, instead of the town of Bridgewater.

SECT. 4. *Be it further enacted*, That said town of Bridgewater shall, at their annual meeting in the month of March or April in each year, choose four or more persons, being freeholders in said town, whose duty it shall be to see that this act be duly observed and to prosecute for all breaches thereof; and each person so chosen shall be sworn to the faithful discharge of his duty, and if any person so chosen shall refuse to serve, he shall forfeit and pay to the use of the town of Bridgewater the sum of five dollars, to be sued for and recovered by the town clerk of said town, and said town shall immediately proceed to a new choice. — [February 15, 1825.

AN ACT for the regulation and preservation of the Fishery in the Towns of Edgarton, Chilmark and Tisbury.

1824, 94. **SECT. 1.** *Be it enacted*, That from and after the first day of March next, it shall not be lawful for any person living without the jurisdiction of this Commonwealth, to take any lobsters, tautog, bass or other fish within the harbors, inlets, coves or waters of the towns of Edgarton, Chilmark and Tisbury, for the purpose of carrying them away from said waters, in snacks or vessels owned within this Commonwealth over fifteen tons; and any and every person offending against the provisions of this act, shall forfeit and pay the sum of ten dollars for every offence and also forfeit all the fish and lobsters so taken.

SECT. 2. *Be it further enacted*, That the waters and shores of the said towns of Edgarton, Chilmark, and Tisbury shall be considered and taken by this act to extend from the whole county of Dukes to all the waters and rocks lying within one mile of the said county.

SECT. 3. *Be it further enacted*, That all fines and forfeitures that may be incurred for offences against this act shall be one half to him or them who may first sue for the same and the other half to the use of the town to which the complainant belongs; and the said fines and forfeitures may be recovered, with legal costs of suit, by action of debt or information, before any justice of the peace for the county of Dukes; and any person or persons aggrieved at the sentence of the justice of the peace given in pursuance of this act, may appeal therefrom to the next court of common pleas, to be holden in the county in which judgment may be rendered. — [February 22, 1825.

[1829, 84; 1847, 40.]

[Sp. Laws, vol. 1, p. 191; 1810, 117.]

AN ACT to regulate the Fishery in Ipswich River within the Town of Ipswich.

1824, 101. **SECT. 1.** *Be it enacted*, That from and after the passing of this act it shall be lawful for the inhabitants of the town of Ipswich to sell and dispose of the right of taking the fish called shad and alewives with seines or drag-nets in Ipswich River, within the limits of said town, one day in each week, according to the provisions of an act concerning said fishery, passed on the twenty-third day of February, in the year of our Lord one thousand eight hundred and eleven, at such place as the fish committee of said town shall direct, the proceeds of such sale to be applied according to the directions of said town at their annual meetings.

SECT. 2. *Be it further enacted*, That any person other than the purchaser or purchasers of the aforesaid right, or those employed by them, who shall take any of said fish in Ipswich River, within said town, with seines or drag-nets, shall forfeit and pay a sum not less

than ten dollars and not exceeding twenty dollars, for each offence, to be recovered by an action of debt in any court proper to try the same, one half thereof to the use of the said town of Ipswich and the other half to him or them who shall sue for the same. — [February 24, 1825.]

[Sp. Laws, vol. 1, p. 166.]

AN ACT in addition to an Act entitled "An Act to prevent the Destruction and to regulate the Catching of the Fish called Alewives, in their passage up the Rivers and Streams in the Town of Harwich in the County of Barnstable."

1824, 107. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons to catch, by seining thereof, any of the fish called alewives within one mile of the river called Herring River, in the town of Harwich aforesaid.

SECT. 2. *Be it further enacted*, That if any person or persons shall violate the provisions of this act, each person so offending, for each and every such offence shall, on conviction thereof, pay a fine not exceeding three dollars nor less than one dollar, if the quantity of fish is less than one barrel; but if the quantity shall be one barrel or more, such person or persons so offending shall forfeit and pay for each and every barrel of fish so taken, the sum of three dollars.

SECT. 3. *Be it further enacted*, That any penalties incurred by any breach of this act shall be recovered and appropriated in the manner prescribed by the act to which this is in addition, for the recovery and appropriation of the penalties incurred under the provisions of that act. — [February 24, 1825.]

[1850, 148.]

1825.

[Sp. Laws, vol. 2, p. 434.]

AN ACT in addition to an Act entitled "An Act for the regulating and disposing of the Fish called Alewives within the limits of the Town of Weymouth, and for the more effectually securing to the said Town the advantages thereof."

1825, 48. Whereas an agreement has been entered into between the proprietors of the falls and water privileges on Alewife River, and the town of Weymouth, for the removal of the objections which exist in the minds of said proprietors under the act to which this is in addition, to the use of their water power for manufacturing purposes; in pursuance of said agreement:

SECT. 1. *Be it enacted*, That the proprietors of the water-falls and mill privileges on Alewife River in Weymouth, be and they are hereby authorized and empowered to erect proper fish-ways which shall be satisfactory to commissioners to be appointed as is hereinafter provided, and said commissioners, when thus appointed, shall have full power to settle difficulties which may arise between the town and said

proprietors, on the complaint of either party, and the cost of such meeting shall be awarded to either party by the commissioners.

SECT. 2. *Be it further enacted*, That his excellency the governor, with advice of council, he and he is hereby authorized and empowered to appoint three suitable persons to be commissioners for the purposes aforesaid. And it shall be the duty of said commissioners when any complaint is filed by either party, to give reasonable notice to the other party of the time and place fixed for enquiring into and deciding on the same, and in case of disagreement, the decision of any two of said commissioners shall be final.

SECT. 3. *Be it further enacted*, That when any obstruction shall be made to the passage of said fish into Whitman's Pond, and repassing from thence to the sea, instead of the fish committee appointed by said town having power, as is provided by the act to which this is in addition, to enter the land of any person or persons for the purpose of removing such obstructions, it shall be the duty of said committee to make complaints thereof to the commissioners aforesaid, who shall proceed to consider, examine and decide upon the same, according to the provisions of this act.

SECT. 4. *And be it further enacted*, That such parts of the act to which this is in addition as is inconsistent with the provisions of this act, be and the same is hereby repealed. — [June 18, 1825.]

[Sp. Laws, vol. 2, p. 222.]

AN ACT for the preservation and regulation of the Fishery in the Town of Falmouth.

1825, 63. SECT. 1. *Be it enacted*, That from and after the first day of March next, it shall not be lawful for any person living without the jurisdiction of this Commonwealth to take any lobsters, tautog, bass or other fish within the harbors, inlets, coves or waters of the town of Falmouth, for the purpose of carrying them away from said waters in smacks or vessels owned without the Commonwealth, of any size, nor any owned within this Commonwealth over fifteen tons; and any and every person offending against the provisions of this act shall forfeit and pay the sum of ten dollars for every offence, and also forfeit all the fish and lobsters so taken, or the value thereof.

SECT. 2. *Be it further enacted*, That the waters and shores of said town of Falmouth shall be considered and taken by this act to extend from the shores of said Falmouth, including all the waters, islands and rocks lying within one mile of the main land.

SECT. 3. *Be it further enacted*, That all fines and forfeitures which may be incurred for offences against this act shall be one half to him or them, who may first sue for the same, and the other half to the use of the town to which the complainant belongs; and the said fines

and forfeitures may be recoverable, with legal costs of suit, by action of debt or information, before any justice of the peace for the county of Barnstable; and any person or persons aggrieved by the sentence of the justice of the peace, given in pursuance of this act, may appeal therefrom to the next court of common pleas, to be holden in the county in which judgment may be rendered. — [February 15, 1826.]

[1824, 76.]

AN ACT in addition to an Act entitled "An Act regulating the Taking of Fish in the Town of Bridgewater, in the County of Plymouth."

1825, 74. **SECT. 1.** *Be it enacted*, That from and after the passing of this act it shall not be lawful for the town of Bridgewater, or the inhabitants thereof, to catch the fish called shad and alewives in Titicut River, so called, which forms the boundary line between the said town of Bridgewater and the town of Middleborough, below the point where Newmarket River empties into the said Titicut River, or within twenty rods above that point, anything in the act to which this is in addition to the contrary notwithstanding. — [February 15, 1826.]

[Sp. Laws, vol. 1, p. 191.]

AN ACT to regulate the Passage-Ways for Fish in Ipswich River, within the Town of Ipswich.

1825, 78. **SECT. 1.** *Be it enacted*, That instead of the passage-ways now required by law to be kept open at Warner's mill-dam and the dam at Farley's mill, in Ipswich, the owners of said dams, their successors and assigns, shall make and continue in good repair a fish-way over said dams, at the northerly end of the same, of the following description and dimensions: said fish-ways to be made either with wood or stone, beginning at the top of the dams, five feet in width and one foot in depth, and to admit of not less than six inches of water over the dam into said ways, and thence running down stream twenty feet, and terminating at seven feet in width, with stoppers on each side, of plank or stone, running not more than half way across said passage-ways, within two feet of each other; and said head shall be kept open and in good repair at all times from the tenth day of April to the first day of June in each year.

SECT. 2. *Be it further enacted*, That so long as the owners of said dams shall keep open said course or passage-ways, and in good repair, in manner aforesaid, they shall not be subject to any of the penalties or restrictions of any law regulating the passage of fish in Ipswich River. — [February 15, 1826.]

[1829, 40.]

AN ACT to authorize Josiah Robbins to erect and maintain certain Tide-Gates in the Town of Plymouth.

1825, 108. **SECT. 2.** * * * *Provided, however,* that nothing in this act contained shall be deemed to affect any law or laws now in force, or which may hereafter be made, relating to the fisheries in said town brook, nor the right or rights of any person or corporation in relation to said fisheries.

AN ACT in addition to an Act entitled "An Act to prevent the Destruction of Pickerel in the Ponds and Streams within this Commonwealth."

1825, 127. **SECT. 1.** *Be it enacted,* That from and after the passing of this act it shall not be lawful for any person or persons to take any fish called pickerel in any of the ponds, rivers or streams within this Commonwealth, from the first day of December to the first day of April in each and every year; and every person offending contrary to the true intent of this act, upon conviction thereof before any court within this Commonwealth proper to try the same, shall pay a fine of fifty cents for each and every pickerel so taken, to and for the use of the person who shall sue for the same, together with all legal costs of prosecution.

SECT. 2. *Be it further enacted,* That all penalties incurred by any breach of this act may be recovered by any person who shall sue for the same, in any court aforesaid; and if any minor or minors shall offend against the provisions of this act, and shall thereby incur any of the penalties aforesaid, the parent, master or guardian of such minor or minors shall be answerable therefor, in which case the action shall be commenced against such parent, master or guardian, as the case may be, of such minor or minors, and judgment rendered accordingly: *provided, nevertheless,* that the inhabitants of any of the towns within this Commonwealth may, at their annual meeting in the month of March or April, suspend in whole or in part the provisions and restrictions of the aforesaid act, so far as respects the taking of pickerel in the ponds, rivers or streams within their respective towns, for any term of time not exceeding one year.

SECT. 3. *Be it further enacted,* That all prosecutions for any violation of the provisions of this act shall be instituted within thirty days from the time of committing the same. — [February 26, 1826.]

1826.

AN ACT to prevent the Destruction of Fish in the Harbour of Edgartown, by Seining thereof.

1826, 54. **SECT. 1.** *Be it enacted,* That from and after the passing of this act it shall not be lawful for any person or persons to catch, by seining thereof or by the use of nets, any fish in the bays, waters, harbours, creeks or arms of the sea within the boundaries of

the town of Edgartown, excepting English herring, menhaden and mackerel: *provided, however*, that this act shall not have force or effect to restrain the taking of fish in the manner aforesaid, in any place more than one mile from the limits of said town, nor within the limits of the harbor of Holmes' Hole.

SECT. 2. *Be it further enacted*, That if any person or persons shall violate the provisions of this act, each person so offending, for each and every such offence, shall, on conviction thereof, pay a fine not exceeding ten dollars nor less than one dollar, if the quantity of fish so taken is less than one barrel, but if the quantity shall be one barrel or more, such person or persons so offending shall forfeit and pay for each and every barrel of fish so taken, the sum of five dollars.

SECT. 3. *Be it further enacted*, That all forfeitures and fines which shall be incurred by virtue of this act shall be recovered, the one half to the use of him or them who shall first sue for the same, and the other half to the use of the town of Edgartown, with legal costs of suit, by action of debt in any court proper to try the same. — [February 3, 1827.

[1851, 77; 1856, 285.]

[Sp. Laws, vol. 2, p. 224; 1814, 162; 1815, 56.]

AN ACT to unite the Watertown and Brighton Fisheries in Charles River, and for the Regulation and Management thereof.

1826, 76. SECT. 1. *Be it enacted*, That the several fisheries described in an act made and passed on the first day of March, in the year of our Lord one thousand eight hundred and fifteen, entitled "An Act to regulate the shad and alewife fishery in the town of Brighton," and an act made and passed the third day of February, in the year of our Lord one thousand eight hundred and eighteen [*sixteen*], entitled "An Act to regulate the shad and alewife fishery in the town of Watertown," shall be united and hereafter constitute one fishery; and the right, franchise and property of said fisheries thus united shall belong to and be owned by said towns, in the proportions following, that is to say: seven tenth parts thereof by the town of Watertown, and three tenth parts thereof by the town of Brighton.

SECT. 2. *Be it further enacted*, That for the well ordering and good management of said fishery, there shall, as soon after the passing of this act as may be, and thereafter annually in the month of January, be appointed by the selectmen of the town of Watertown for the time being, three discreet and disinterested inhabitants of that town, and by the selectmen of Brighton two of their inhabitants of like character, who shall continue in office for the space of one year from the date of their appointment, and until others shall be appointed in their places, but subject to removal at any time by the respective selectmen of said towns, and they shall be denominated the fish-wardens

of Charles River, and shall have power to use and occupy the said fishery by causing all such fish as pass into or are found in said river within the limits of said towns of Brighton and Watertown, to be taken at such times, in such manner, with such seines, nets, utensils and machinery, and by such persons, agents or servants as they may see fit to employ for that purpose; or they may lease and farm out by public or private sale, for one or more years, not exceeding five years in any one contract, the said fishery, entire or by parcels, as they may consider will be most advantageous for their respective towns; and each of said towns shall provide the same place or places where the fish have heretofore been taken on the margin of said river, within their respective limits, to be used at all times for landing and drawing the fish to shore, as occasion may require; but said fish-wardens shall not have the right or power of taking any of the fish called shad and alewives, or to authorize any other person to take them on more than three days in any one week.

SECT. 3. *Be it further enacted*, That it shall be the duty of said fish-wardens immediately upon the receipt of any monies arising from the management, rent or sales of said fishery, after deducting therefrom such sums as they may have necessarily expended in conducting said business, to pay over the same to the respective treasurers of said towns, in the proportions aforesaid, taking their receipts for the same; and in the month of December annually, they shall make up their accounts, with a full and fair report of their proceedings in the premises, and deliver one set to the selectmen of each town, to be examined, allowed and passed by them; and the said fish-wardens shall be entitled to such compensation as their respective towns employing them may see fit to allow them; and the acts and doings of any three of said fish-wardens, when the whole have been notified, shall be binding and as valid in law as if all five had acted and concurred therein.

SECT. 4. *Be it further enacted*, That if any person shall cast or put into the waters of Charles River, within the limits of the towns of Watertown and Brighton, any seine, net or other machine or instrument whatever (other than a hook and line, as is commonly used for taking small fish), for the purpose or with a design to take or in any manner destroy any of the fish therein, or prevent their free passage up and down, along or across said river or any part thereof, without license first had from said fish-wardens, he or she so offending, shall forfeit and pay for each offence, a sum not less than twenty dollars nor more than forty dollars, according to the nature and aggravation of the offence.

SECT. 5. *Be it further enacted*, That if any person shall take, kill or destroy any fish within the limits of the said towns of Watertown

and Brighton, without license from the fish-wardens of Charles River (except the taking them with hook and line as aforesaid), every person so offending shall forfeit and pay for every fish killed, taken or destroyed the sum of thirty cents.

SECT. 6. *Be it further enacted*, That all fines and forfeitures which may be incurred by any breach of this act, shall enure and be to the use of the respective towns of Watertown and Brighton, in the proportions herein before stated; that is to say, seven tenth parts thereof to the use of the town of Brighton, and shall and may be recovered on complaint before any justice of the peace, where the penalty does not exceed twenty dollars, or by indictment before the supreme judicial court or court of common pleas, or the same may be recovered by action of the case before any court proper to try the same, in a suit in the name of the fish-wardens of Charles River, for the uses aforesaid; and the death of any warden shall not be deemed an abatement of any suit or process, but the same may proceed to final judgment and execution in the name of said wardens.

SECT. 7. *Be it further enacted*, That all acts and parts of acts inconsistent with, or contravening any of the provisions of this act, be and the same are hereby repealed: *provided, however*, that the provisions of this act shall be always subject to the revision, control, amendment or repeal of the legislature. — [February 21, 1827.

AN ACT to prevent the Taking of Fish by seines or net in Congamon Ponds in Southwick.

1826, 85. SECT. 1. *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons to catch any fish with seines or nets, in the Congamon Ponds in Southwick, and if any person or persons shall catch any fish with a seine or net in the ponds aforesaid, he or they shall forfeit a sum not less than five dollars nor more than twenty dollars for each and every such offence, to be recovered by an action of debt to the use of him or them who shall sue for the same. — [February 23, 1827.

[1813, 147.]

AN ACT to regulate the Fishery in Aggawam or Westfield River.

1826, 100. SECT. 1. *Be it enacted*, That from and after the passing of this act, any person or persons who shall draw a seine or drag a net within thirty rods of the dam or race-way at White's Mills (so called), on Aggawam River, in the town of West Springfield, for the purpose of catching shad, alewives or other fish, shall for each and every such offence, forfeit and pay the sum of five dollars, and shall also forfeit the boat and seine employed for such purpose.

SECT. 2. *Be it further enacted*, That if any person or persons shall set any pot, nets, weir or hurdle, within thirty rods of said dam or

race-way, for the purpose of taking fish of any kind, he or they shall for each and every such offence severally forfeit and pay the sum of five dollars for every twelve hours said pots, nets, weir or hurdle shall be placed in said river, and in proportion for a greater or less time.

SECT. 3. *Be it further enacted*, That if any person or persons shall in any other way obstruct the free passage of fish through said race-way, between the fifteenth day of April and the first day of June, he shall forfeit and pay for every such offence the sum of five dollars.

SECT. 4. *Be it further enacted*, That all the fines and forfeitures incurred by a breach of this act, may be recovered in an action of debt by any person who shall sue for the same before any justice of the peace within the county of Hampden.

SECT. 5. *Be it further enacted*, That all laws heretofore made regulating the fishery at White's Mills, on Aggawam River, be and the same are hereby repealed. — [March 3, 1827.

[1839, 19]

1828.

[1815, 43.]

AN ACT further to regulate the Shad and Alewife Fishery in the Town of Malden.

1828, 129. SECT. 1. *Be it enacted*, That from and after the passing of this act it shall and may be lawful for the inhabitants of the town of Malden in the county of Middlesex, at any legal meeting to be holden for that purpose, in each year, to sell at public auction the right and privilege of taking the fish called shad and alewives within the limits of said town, with one seine or drag-net only, on two of the days only in each week on which it is now lawful to take said fish in said town, and all monies arising from the sale of said right and privilege shall be paid into the treasury of said town, and be appropriated to the support of the poor thereof.

SECT. 2. *Be it further enacted*, That if the purchaser or purchasers of the said right and privilege, or those employed by them, shall presume to take any of the said fish with more than one seine or drag-net, on any other than two of the days in each week on which it is lawful to take said fish in said town, and if any other person or persons whatever shall at any time take any of the said fish with a seine or drag-net within the limits of said town, every person so offending shall, for each offence, forfeit and pay a sum not exceeding twenty dollars nor less than ten dollars, to be recovered by an action of debt in any court proper to try the same, one half to the use of said town of Malden, and the other half to him or them who shall sue for the same: *provided, however*, that nothing contained in this act shall be so construed as to prevent any inhabitant of said town from taking said fish with dip-nets as has been heretofore their custom. — [March 3, 1829.

1829.

[Sp. Laws, vol. 1, p. 191]

AN ACT in addition to the Acts to prevent the Destruction, provide a Passage and regulate the Taking of Alewives and other Fish in Ipswich River.

1829, 40. SECT. 1. *Be it enacted*, That instead of the passage-ways now required by law for the fish to pass Warner's Dam and Farley's Dam in Ipswich, the owners of the said dams, their successors and assigns, shall make and keep in good repair, a fish-way at the northerly end of each of said dams, of the following dimensions and description: the said fish-ways shall be constructed of solid stone work, and shall form an inclined plane running down stream twenty feet, and shall be five feet wide at the bottom of the same; at the top of said ways there shall be an opening in the said dams of six feet in width, and not less than eight inches in depth below the top of the cap-piece of each of said dams, and the top of the said ways shall be on a level with the bottom of the said opening in said dams, and there shall be a curb of not less than eighteen inches in height on each side of the said ways, at the termination of which a channel shall be made of at least one foot in depth and five feet in width communicating with the channel of the river, and the said ways shall be kept open and in good repair at all times from the tenth day of April to the first day of June in each year.

SECT. 2. *Be it further enacted*, That each and every person who shall, from and after the tenth day of April to the first day of June, annually, take any of the fish called shad or alewives, in said river or in any part of the streams running into the same except on Monday and Wednesday of each week during said term, shall forfeit and pay for every such offence the sum of five dollars, to be recovered by action of debt in any court proper to try the same, to the sole use of him who may sue for said forfeiture.

SECT. 3. *Be it further enacted*, That so long as the owners of the said dams, their successors and assigns, shall keep open the said courses or passage-ways and in good repair, in manner as aforesaid, they shall not be subject to the penalties or restrictions provided in the first section of an act passed March twenty-eighth, one thousand seven hundred and eighty-eight, entitled "An Act to prevent the destruction of alewives and other fish in Ipswich River, and to encourage the increase of the same." This act to be in force from and after the first day of July next. — [February 10, 1830.]

[Sp. Laws, vol. 1, pp. 180, 247.]

AN ACT for the Preservation and Taking of Shad in Mattapoissett River in the Town of Rochester.

1829, 41. *SECT. 1. Be it enacted*, That the penalties, remedies, provisions and laws, enacted and now in force, for the preservation of the fish called alewives in Mattapoissett River in Rochester, in the county of Plymouth, and for the regulating the taking the said fish in said river, be and the same are hereby extended to shad in said river and the ponds from which said river issues. — [February 10, 1830.

[Sp. Laws, vol. 1, p. 422.]

AN ACT to regulate the Passage-Way for Fish at the Dam across Taunton Great River, in the County of Bristol, at a place called King's Bridge.

1829, 65. *SECT. 1. Be it enacted*, That the proprietors of the mills and dam at King's bridge, on Taunton Great River, in the county of Bristol, shall construct and keep open at their said dam a convenient way for the passage of such fish as usually pass up the same river, in their proper season, which passage-way shall be of such dimensions and constructed and regulated in such manner as shall be prescribed and directed by the selectmen of the town of Bridgewater, in the county of Plymouth, or the major part of them, who are hereby appointed a committee for this purpose, in pursuance of the agreement of the said proprietors and the town of Middleborough, in the county of Plymouth, the said town of Middleborough being the only town interested in the fishery in said river above said dam; and the said selectmen of Bridgewater, or the major part of them, shall, from time to time, on the application of said town of Middleborough, or of said proprietors, and at the expense of said town of Middleborough, or of said proprietors, as the said selectmen of Bridgewater shall adjudge, repair to said dam and order and direct such alterations to be made in said fish-way, and in the regulation of the water, as to them shall appear to be proper, taking into consideration the interest of said proprietors as well as the importance of providing a convenient way for the passage of the fish; and all such alterations as may be ordered and directed as aforesaid shall be made by said proprietors within such time as said selectmen shall order.

SECT. 2. Be it further enacted, That so long as the said proprietors or owners of said mills and dam shall keep open during the proper season of the passing up of said fish a passage-way so constructed and regulated as aforesaid, they shall not, nor shall either of them, nor their tenants, nor the occupants of said mills and dam, be subject to the penalties of any act regulating the fishery in said river, nor to any action, prosecution or penalty under any law requiring a

passage-way for the fish to be constructed and maintained at said dam. — [March 3, 1830.]

AN ACT to prevent the Destruction of Trout in Russell Pond, in the Town of Russell.

1829, 74. **SECT. 1.** *Be it enacted*, That any person who shall take or kill any trout in Russell Pond, in the town of Russell, at any time between the first day of October and the first day of January hereafter, shall forfeit and pay the sum of one dollar for each trout so killed or taken, to be recovered in an action of debt, in any court proper to try the same, in the name and to the use of the person who may first sue therefor. — [March 8, 1830.]

[1824, 94.]

AN ACT to prevent the Destruction of Fish by Seining in the Waters of Tisbury.

1829, 84. **SECT. 1.** *Be it enacted*, That from and after the passing of this act it shall not be lawful for any person or persons to catch by seining thereof, or by the use of any nets (excepting dip-nets), any fish in the waters of the Lagoon and Chappaquansett ponds, in the town of Tisbury, or the creeks or shores adjoining said ponds, or Holmes' Hole harbor, excepting English herring, menhaden and mackerel: *provided*, that this act shall not have force or effect to restrain the taking of fish in the manner aforesaid, in any place more than one mile from the shores adjoining said pond, excepting Holmes' Hole harbor.

SECT. 2. *Be it further enacted*, That if any person or persons shall violate the provisions of this act, each person so offending shall forfeit and pay, on conviction thereof, for each and every such offence, a fine not exceeding ten dollars nor less than one dollar, if the quantity of fish so taken be less than one barrel; but if the quantity shall be one barrel or more, such person or persons so offending shall forfeit and pay for every barrel of fish so taken the sum of five dollars.

SECT. 3. *Be it further enacted*, That all fines and forfeitures which shall be incurred by virtue of this act shall be recovered in an action of debt, in any court proper to try the same, by any person who shall first sue therefor; one half thereof to the use of the complainant, the other to the use of Tisbury. — [March 8, 1830.]

[1847, 40.]

1831.

AN ACT to prevent the Destruction of Fish by *Cocculus Indicus* or other Poisonous Articles.

1831, 43. **SECT. 1.** *Be it enacted*, That from and after the first day of April next, no person shall put, cast or throw into any of the waters of this Commonwealth, for the purpose of taking or destroying any fish being in any of said waters any of the *Cocculus Indicus* (oth-

erwise called Indian Berry or Indian Cockle) or any other poisonous article, whether the same be mixed with any other substance or not, on pain that every person so offending shall forfeit and pay the sum of ten dollars for every such offence, to be recovered by complaint to any justice of the peace in the name and to the use of the Commonwealth, or by an action of debt before any such justice, in which case one moiety of said forfeiture shall enure to the use of the plaintiff and the other moiety thereof to the use of the Commonwealth. — [February 16, 1831.

[P. S. 91, § 44.]

AN ACT to incorporate the Skinnaquits Fishing Company, in Harwich and Chatham.

1831, 73. **SECT. 1.** *Be it enacted*, That Sylvanus Eldridge, Kimball Eldridge, Amasa Nickerson, Levi Eldridge, Zephaniah Nickerson, Jonathan Small, Elijah Eldridge, Darius Weeks and James Long and their associates, successors and assigns, be and they are hereby incorporated and made a body politic, for the purpose of making the necessary improvements for the preservation and taking of fish called alewives, in Red River and Skinnaquits Stream in the towns of Harwich and Chatham. And it shall be lawful for said corporation to hold a meeting annually, on the first Tuesday of April, for the purpose of choosing a clerk, treasurer, assessors and a collector; and three or more persons, being members of said corporation, to inspect, regulate, take care of and govern said fishery, who shall be sworn to the faithful discharge of their duty; and said committee shall have full power and authority to determine upon the rules and regulations to be observed in the taking of said fish, and to fix in what time and what places the same shall be taken and the prices that shall be paid therefor.

SECT. 2. *Be it further enacted*, That if any person shall take any of said fish from said river or stream within the said towns, at any time or place than such as shall be fixed by the committee aforesaid, every person so offending, shall for each and every such offence, on conviction thereof, pay a fine not exceeding five dollars nor less than two dollars, if the quantity so taken be less than one barrel; but if the quantity be more than one barrel, such person so offending shall forfeit and pay for each and every barrel of fish so taken five dollars, to be recovered in any court proper to try the same, for the use of the corporation.

SECT. 3. *Be it further enacted*. That if the committee aforesaid, or either of them, shall detect any person in attempting to take any of said fish at any other time or at any other place than such as shall have been fixed by said committee as aforesaid, or shall find such fish in the possession of any person, he shall be deemed to have taken said

fish unlawfully and shall be subject to the penalties of this act as before mentioned; unless such person can make it appear on trial that he came by said fish in some other way, and the members of said corporation shall be competent witnesses in all cases where fish shall be unlawfully taken.

SECT. 4. *Be it further enacted*, That if any person, without the permission of the committee aforesaid, shall presume to take, catch or haul on shore any of said fish in said river or stream, or within one-fourth of a mile in any direction from the mouth of said river, he shall forfeit and pay a sum not exceeding seven dollars nor less than five dollars for each offence, to be recovered in the manner and to the use hereinafter provided.

SECT. 5. *Be it further enacted*, That the said committee shall, during the passage of said fish in said river or stream, cause all obstructions to their passage to and from the sea, of every description, to be removed, and if any damage shall be done to the property of individuals not members of the corporation, such individuals shall be entitled to reasonable damages therefor.

SECT. 6. *Be it further enacted*, That said corporation, at any regular meeting thereof, shall have power to assess taxes equally, according to numbers, on all the members of said corporation, and they shall be liable for said assessments in their private and individual capacities.

SECT. 7. *Be it further enacted*, That the whole profits which may accrue to said corporation from said fishery, shall annually, in the month of November, be divided according to the number of the corporators.

SECT. 8. *Be it further enacted*, That Amasa Nickerson of said Harwich, be and he is hereby authorized to call the first meeting of said proprietors some time in September next, by giving personal notice thereof and the time and place at which said meeting shall be holden, and at said first meeting the mode of notifying subsequent meetings of the corporation shall be fixed and determined.

SECT. 9. *Be it further enacted*, That all persons who now are or may hereafter become owners of land adjoining said stream or river, shall have a right to become members of said corporation: *provided, however*, that they shall be subject to pay their proportional part of the expenses which shall have been before the time of their admission as members as aforesaid, incurred by said corporation. — [June 23, 1831.

1832.

[Sp. Laws, vol. 1, p. 422.]

AN ACT in addition to an Act to regulate the Fishery in Taunton Great River.

1832, 44. SECT. 1. *Be it enacted*, That from and after the passing of this act, any person or persons who shall have purchased or hereafter shall purchase any privilege or privileges of catching shad or alewives in Taunton Great River (the purchaser or purchasers of the privilege of the town of Somerset excepted), and who shall have selected and located or hereafter shall select and locate the place or places where he or they intend to use his or their seine or seines, net or nets, for the purpose of catching shad or alewives, and such place or places are or shall be in that part of the town of Berkley which is southerly of a line running due east from the mouth of the Segregansett River, so called, in the town of Dighton, shall have the right and it shall be lawful for any such person or persons to draw and sweep at such place and places, with a seine or seines, net or nets, thirty rods in length, and no more.

SECT. 2. *Be it further enacted*, That the purchaser or purchasers of any privilege or privileges of catching shad and alewives, as aforesaid, who shall have selected and located or hereafter shall select and locate the place or places where he or they intend to use his or their seine or seines, net or nets, for the purpose aforesaid, in that part of the town of Berkley which is southerly of a line drawn due east from the mouth of said Segregansett River, shall be subject to, and shall regulate and govern himself or themselves, in the use of such privilege or privileges, by all the provisions and requisitions of an act entitled "An Act to regulate the fishery in Taunton Great River," which passed on the twenty-first day of February in the year of our Lord one thousand eight hundred and twenty. except so far as the same are inconsistent with the provisions of this act. — [February 20, 1832.

[1817, 151; 1822, 54.]

AN ACT in addition to an Act to regulate the Fishery in Monatiquot River in the Town of Braintree.

1832, 54. SECT. 1. *Be it enacted*, That the committee or the survivor or the survivors of them, in case of death of either, annually chosen by the inhabitants of said town of Braintree, pursuant to the provisions of the first section of said act, be and they are hereby fully authorized and empowered to prosecute, sue for and recover any and all penalties incurred by any breach or breaches of said act, before any court of record proper to try the same, and that all fines and penalties recovered by such committee, suing as such, or by the survivor or survivors of them, shall be and enure to the sole use of the said inhabitants of said town of Braintree. — [February 25, 1832.

[Sp. Laws, vol. 1, p. 272.]

AN ACT in addition to "An Act further regulating the Fishery in the Merrimack River and the Streams running into the same."

1832, 56. **SECT. 1.** *Be it enacted*, That the fourth and fifth sections of an act entitled "An Act further regulating the fishery in the Merrimack River, and the streams running into the same," passed the eighteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, be and the same are hereby repealed: *provided, however*, that the said sections shall be in full force as to any prosecutions commenced for a breach of the same.

SECT. 2. *Be it further enacted*, That instead of the penalty contained in the third section of the act to which this is in addition, the person or persons offending against the same shall for such offence forfeit and pay a sum not exceeding twenty dollars nor less than five dollars, to be recovered on complaint made to any justice of the peace for the county where said offence shall be committed; one half to the use of the town where the offence shall be committed, and the other half to the use of the person or persons who may prosecute for the same. — [February 25, 1832.]

[Sp. Laws, vol. 1, p. 422.]

AN ACT in further addition to an Act regulating the Fishery in Taunton Great River.

1832, 120. **SECT. 1.** *Be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons to catch or destroy shad or alewives with scoop nets or with any other instrument or by any other means whatsoever, within one hundred rods of the dam across Taunton Great River, near Kingsbridge.

SECT. 2. *Be it further enacted*, That if any person or persons shall at any time catch or destroy shad or alewives at or within the distance of one hundred rods from said dam, he or they shall forfeit and pay a sum not exceeding twenty dollars nor less than five dollars, for every such offence, to be recovered by indictment, complaint or action of debt, in any court proper to try the same, to the use of him who shall prosecute and sue for the same: *provided, however*, that the penalty herein provided shall not be construed to apply to fishing with or setting a seine within that distance of said dam, for which a different penalty is by law provided. — [March 18, 1832.]

1833.

[Sp. Laws, vol. 1, p. 313; vol. 2, pp. 192, 469; 1815, 111; 1819, 137.]

AN ACT in addition to the several Acts concerning the Fishery in Newmarket River.

1833, 137. **SECT. 1.** *Be it enacted*, That Peter H. Pierce and Horatio G. Wood, their heirs and assigns, be and they are hereby authorized to keep up and maintain their dam across the Newmarket

River, in the town of Middleborough, near the Old Stone Weir, so called, upon the condition that the aforesaid Peter H. Pierce and Horatio G. Wood, their heirs and assigns, make, or cause to be made a good and sufficient passage-way for the fish called alewives passing up said river, and keep the said passage-way open during the time required by laws regulating the fisheries on said Newmarket River; and upon the further condition that the said Peter H. Pierce and Horatio G. Wood, and their heirs and assigns, at their own expense, and free from any expense to said town, and to their acceptance, provide a suitable place at or near their said dam where said fish may be conveniently taken, and the said fish-way, and the privilege of passing to and from the same to the highway, shall be secured to the inhabitants of the town of Middleborough.

SECT. 2. *Be it further enacted*, That from and after the location of such new fishing place as aforesaid, it shall be lawful for the inhabitants of said town to take said fish at such new fishing place, and to dispose of the same in the manner provided by law for taking and selling the same at the Old Stone Weir, as aforesaid. — [March 20, 1833.

[1837, 193.]

AN ACT to preserve the Eel Fishery at Muskeket Island, within the Town of Nantucket

1833, 211. SECT. 1. *Be it enacted*, That from and after the first day of September next it shall not be lawful for any person to take from the creeks, coves or harbors on the island of Muskeket, within the town of Nantucket, a greater number of eels at one time than three dozen, without a permit from the major part of the selectmen of said town; every person offending as aforesaid shall forfeit and pay for each and every additional dozen so taken the sum of fifty cents.

SECT. 2. *Be it further enacted*, That if any boat or craft shall be found within the limits aforesaid with any more eels on board than this act allows to be taken by permit from the selectmen aforesaid, it shall be the duty of such person or persons as shall be chosen by the said town of Nantucket to see to the execution of this law, to seize on such boat or craft and detain the same not exceeding forty-eight hours, in order that the same be attached or arrested by due process of law and made answerable for said fines and forfeitures, with costs of suit: *provided, however*, that as soon as the master or owner of such boat or craft shall pay such fines and forfeitures to the treasurer, if he shall pay the same before being sued, such boat or craft shall be discharged with the effects therein.

SECT. 3. *Be it further enacted*, That the said town of Nantucket are hereby authorized to choose annually such number of fish-wardens

as they may judge necessary, who shall be sworn to the faithful discharge of their duty, whose duty it shall be to prosecute for all offences against this act; and all fines and forfeitures that shall be incurred by virtue thereof shall be one half to him or them who shall sue for the same, and the other half to the use of said town of Nantucket; and the same shall be recovered, with legal costs of suit, by an action of debt, in any court proper to try the same. — [March 28, 1833.

[1850, 6; 1855, 116; 1858, 95; 1870, 284.]

1834.

[1821, 62.]

AN ACT to repeal all Laws heretofore made for regulating the Alewife Fishery in a certain Stream in the Towns of Dracut and Methuen.

1834, 117. SECT. 1. *Be it enacted*, That all laws heretofore made regulating the alewife fishery in a certain stream which flows from Peter's Pond, in Dracut, in the county of Middlesex, and Methuen in the county of Essex, into Merrimack River, running through Bartlett's farm, and on which are situated Bartlett's Mills in Methuen, and Richardson's Mills in Dracut, or that require any passage-way for said fish through or around any dams across said stream are hereby repealed. — [March 25, 1834.

[1824, 107.]

AN ACT concerning Alewives in Herring River, in the Town of Sandwich.

1834, 126. SECT. 1. *Be it enacted*, That the selectmen of the town of Sandwich for the time being, or a major part of them, are hereby empowered, in the month of March or April annually, to prescribe the time, place or places, and manner of taking alewives in Herring River, in the town of Sandwich, such time not to exceed four days in a week; and they shall appoint some suitable person or persons to take the same, and fix the compensation to be paid therefor.

SECT. 2. *Be it further enacted*, That the owners or occupants of dams across said river shall annually, during such time, not exceeding sixty days in each year, as shall be prescribed by the selectmen of said town, or the major part of them, for the time being, keep constantly open and maintain through, over or around their respective dams, a passage sufficient and proper for the passage of said fish, to the satisfaction of said selectmen, under a penalty not less than ten nor more than sixty dollars for each and every twenty-four hours they shall neglect to open a passage-way as aforesaid; and the said selectmen shall, thirty days at least before the commencement of said period, notify in writing the owners or occupants of said dams of the time when the said passage-ways shall be opened, and the manner in which they shall be constructed and regulated: *provided, however*, that if any owner or occupant shall at any time be dissatisfied with the

determination of said selectmen in relation to the construction or regulation of such passage-way or passage-ways, such owner or occupant may, by application in writing to the selectmen of the town of Barnstable for the time being, in said county of Barnstable, who are hereby constituted a committee for that purpose, cause such passage-way or passage-ways to be fixed, prescribed and regulated in writing by said committee; and such passage-way or passage-ways shall be, by the owners or occupants of said dam or dams, kept open and regulated in width and depth, and in all other respects pursuant to said written determination of said committee, under the same penalty as is herein before provided; and the expense of said committee shall be paid by the owners or occupants of said dam or dams, or by the said town of Sandwich, as said committee shall adjudge.

SECT. 3. *Be it further enacted,* That the said selectmen of the town of Sandwich shall have full power and authority to cause the natural course of the stream through which said fish pass to be kept open and free of obstructions, except the dams aforesaid, and to remove all such obstructions, except as aforesaid; and for that purpose as well as for the other purposes of this act, shall have authority to go upon the land or meadow of any person through which said stream runs, without being deemed trespassers; and if any person or persons shall molest the said selectmen, or either of them, in the execution of his or their duties under this act, or shall obstruct the passage of said fish, except as aforesaid, the person or persons so offending shall, on conviction thereof, before any justice of the peace in the county of Barnstable, pay a fine for every such offence, not exceeding twenty nor less than ten dollars.

SECT. 4. *Be it further enacted,* That if any person or persons shall take any of the fish aforesaid in said river, or in the ponds in which said fish cast their spawn, at any time, or in any place or manner other than shall be allowed by said selectmen as aforesaid, each person so offending shall for each and every offence, on conviction thereof, pay a fine not exceeding twenty dollars nor less than one dollar.

SECT. 5. *Be it further enacted,* That from and after the passing of this act, the inhabitants of said town at their annual March meeting, shall determine the quantity of said fish that each family in said town shall receive, and establish the price they shall pay therefor.

SECT. 6. *Be it further enacted,* That all persons not otherwise disqualified, shall be taken to be competent and legal witnesses in any prosecution upon this act, they being inhabitants of said town of Sandwich notwithstanding.

SECT. 7. *Be it further enacted,* That all the forfeitures incurred by virtue of this act shall be two-thirds to the use of the said town of Sandwich, and one-third to the person or persons giving information,

to be recovered in an action of debt, in any court proper to try the same, to be brought by the treasurer thereof.

SECT. 8. *Be it further enacted*, That the Herring Pond Indians shall be allowed the same privileges in relation to said fish, as have heretofore been usually granted them by said town of Sandwich. — [March 27, 1834.

[1853, 95; 1854, 285.]

1835.

AN ACT concerning the proprietors of Mills on Concord River.

1835, 89. SECT. 1. *Be it enacted*, That all laws heretofore passed to prevent obstructions to the passage of fish, and all laws obliging the proprietors of mills to leave a passage in their dams for said fish, be and they are hereby repealed, so far as they relate to or affect the proprietors of mills on the Concord River. — [March 30, 1835.

[Sp. Laws, vol. 1, p. 296; 1812, 103.]

AN ACT to repeal "An Act to regulate the Taking of Fish in Connecticut River."

1835, 137. SECT. 1. *Be it enacted*, That a statute of the year one thousand eight hundred and twelve, chapter one hundred and three, entitled "An Act to regulate the taking of fish in Connecticut River," be and the same is hereby repealed. — [April 8, 1835.

1836.

[Sp. Laws, vol. 1, p. 200.]

AN ACT to regulate the Alewife Fishery in the Town of Wellfleet.

1836, 56. *Be it enacted, etc., as follows*: SECT. 1. The selectmen of the town of Wellfleet for the time being, may, in the month of March or April annually, prescribe the time, place or places and manner of taking alewives in the creeks and brooks in the town of Wellfleet, such time not to exceed four days in a week; and they may appoint some suitable person to take the same, or they may sell the right to take said fish as they think best, and shall fix the compensation therefor.

SECT. 2. Said selectmen may cause the natural courses of the streams through which said fish pass, to be kept open and free of obstructions, and for that purpose, as well as for other purposes of this act, may go upon the land or meadow of any person through which said streams run, without being deemed trespassers, and if any person molest the said selectmen or either of them in the execution of his or their duties under this act, or shall obstruct the passage of said fish, the person so offending shall forfeit and pay a fine for every offence not exceeding twenty nor less than ten dollars upon conviction thereof, before any justice of the peace for the county of Barnstable, not an inhabitant of said town of Wellfleet.

SECT. 3. If any person shall take any of the fish aforesaid in the creeks or brooks or ponds in which said fish cast their spawn, at any time or in any place or manner other than shall be allowed by said selectmen as aforesaid, each person so offending, for each and every offence, on conviction thereof, shall pay a fine not exceeding twenty dollars.

SECT. 4. The inhabitants of said town at their annual meeting, shall determine the quantity of said fish, each family in said town shall receive, and establish the price they shall pay therefor.

SECT. 5. All persons not otherwise disqualified, shall be taken to be competent and legal witnesses in any prosecution upon this act, they being inhabitants of said town of Wellfleet notwithstanding.

SECT. 6. All the forfeitures incurred by virtue of this act shall be two-thirds to said town of Wellfleet, and one-third to the person or persons giving information, to be recovered in an action of debt in any court proper to try the same, to be brought by the treasurer thereof.

SECT. 7. All laws heretofore made regulating the alewife fishery in the said town of Wellfleet are hereby repealed. — [March 23, 1836.
[1865, 85.]

[Sp. Laws, vol. 3, p. 378.]

AN ACT to regulate the Fishery in Palmer's River.

1836, 130. *Be it enacted, etc., as follows:* SECT. 1. From and after the passing of this act, no person, except as is hereinafter provided, shall take shad or alewives in seines or with nets, in Palmer's River, in the town of Swansea, in the county of Bristol, from the first day of April to the twentieth day of June, in each year: *provided*, that the inhabitants of Swansea may, at a legal meeting held for that purpose, dispose of the privilege at public auction, of taking shad and alewives with seines only, in said river, for the time aforesaid, to such persons as may offer the highest price for the same, and shall give sufficient security for the payment of the purchase money, at such time and in such manner as the town shall order.

SECT. 2. The town of Swansea may have two seines only, and each seine may have the privilege of sweeping three days, in the day-time only, in each week, beginning on Monday at sunrise and ending at sunset on Wednesday, and may sweep in any part of the river aforesaid, between Rhode Island line and Rehoboth line on said river.

SECT. 3. The town of Swansea, at their annual meeting in March or April, may choose one or more suitable persons to serve as fish-wardens, who, when sworn, shall see this act enforced and may prosecute for all violations thereof.

SECT. 4. If any person shall sweep with any seine or net at any time, place or manner other than as before mentioned, or shall set any seine, net, weare or other obstruction in said river or in any part thereof, with the intent to take or destroy any shad or alewives, he shall forfeit and pay fifty dollars for each offence, to be recovered to the use of the county in which the offence was committed, or by action of debt, one half to the use of the person prosecuting for the same and the other half to the use of the town in which the offence shall be committed.

SECT. 5. All laws heretofore passed relating to the fishery in Palmer's River in Swansey^t, are hereby repealed. — [April 4, 1836.

[1837, 184.]

[Sp. Laws, vol. 1, pp. 238, 512.]

AN ACT further to regulate the Fisheries in Mystic River.

1836, 158. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Medford may hereafter take shad and alewives in the Mystic River, on the flood as well as on the ebb tide, on Wednesday of each week, between the first day of March and the last day of June, inclusive, anything in the "act of February fourteenth, in the year eighteen hundred and twenty-one," for the regulation of the shad and alewife fishery in Cambridge, Charlestown, Medford and West Cambridge to the contrary notwithstanding. — [April 8, 1836.

[1845, 149.]

AN ACT to incorporate the Andrews Fishing Company in Harwich.

1836, 177. *Be it enacted, etc., as follows:* SECT. 1. Elijah Small, Obed Brooks, Alvan Walker, their associates and successors, are hereby made a corporation by the name of the Andrews Fishing Company, in Harwich, for the purpose of making the necessary improvement for the preservation and taking of the fish called alewives in Andrews River in said Harwich, and for that purpose shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes, passed on the fourth day of November in the year one thousand eight hundred and thirty-five.

SECT. 2. If any person, without the permission of the corporation, shall take, catch or haul on shore any of said fish in said river or the pond from which said river issues, or within one-fourth of a mile, in any direction, from the mouth of said river, he shall forfeit and pay a fine, not exceeding five dollars for each offence if the quantity so taken be less than one barrel; but if the quantity be more than one barrel such person so offending shall forfeit and pay for each barrel of fish so taken, five dollars, for the use of said corporation, to be recovered in any court proper to try the same; nor shall said

corporation haul on shore any fish within one-fourth of a mile from the mouth of said river, under the penalty of twenty-five dollars for each offence.

SECT. 3. Said corporation may, at their own expense, make a free passage for said fish into the mill-pond at the head of said river, for the space of fifteen days, annually, in the month of April or May: *provided*, they do not injure the owner of the dam now erected upon said river.

SECT. 4. If any damage shall be done by said corporation to the property of any individual not a member of the corporation, such individual shall be entitled to reasonable damage therefor.

SECT. 5. All persons who are now or shall hereafter be owners of land adjoining said river, may become members of said corporation, subject, however, to pay their proportional part of the expenses which shall have been incurred by said corporation before the time of their admission. — [April 9, 1836.]

[Sp. Laws, vol. 2, p. 434.]

AN ACT further regulating the Alewife Fishery in Weymouth.

1836, 198. *Be it enacted, etc., as follows:* SECT. 1. The right of taking the fish called alewives in the town of Weymouth and which right is now limited, by an act passed March the seventh, in the year one thousand eight hundred and one, to Mondays, Wednesdays and Fridays, shall hereafter, under the limitations and restrictions of the said act, be extended to Saturdays also. — [April 9, 1836.]

[1846, 92.]

AN ACT to incorporate the Orleans Fishing Company.

1836, 205. *Be it enacted, etc., as follows:* SECT. 1. Nathan Rogers, James Higgins, Samuel Eldridge, their associates and successors, are made a corporation by the name of the Orleans Fishing Company, in Orleans, and are empowered to open the brook running from Hester's Pond, so called, to Pleasant Bay in said Orleans, so far as is necessary for the purpose of an alewife fishery, and to regulate the same; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities contained in the forty-fourth chapter of the Revised Statutes, passed on the fourth day of November, one thousand eight hundred and thirty-five.

SECT. 2. If any person without the permission of the corporation, shall take, catch or haul on shore any alewives in said brook or pond, or within one-eighth of a mile in any direction from the mouth of said brook, he shall forfeit and pay, for the use of said corporation, a sum not exceeding two dollars if the quantity so taken be less than one barrel; but if the quantity taken be more than one barrel the person

so offending shall forfeit and pay for each barrel of fish so taken, five dollars, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual not a member of said corporation, such individual shall be entitled to reasonable damage.

SECT. 4. All persons who now are or may hereafter be owners of land adjoining said brook may become members of said corporation, subject, however, to their proportional part of the expenses which may have been incurred by said corporation before the time of their admission.

SECT. 5. Any member of this corporation who shall take or catch, by seine or otherwise, any alewives within the limits mentioned in the second section of this act, except in the brook or pond aforesaid, shall incur the penalty provided for in said section, to be recovered in the manner therein set forth. — [April 11, 1836.]

[Sp. Laws, vol. 2, p. 214.]

AN ACT in relation to the Alewife Fishery in Wewantit River.

1836, 218. *Be it enacted, etc., as follows:* SECT. 1. All the provisions of the several laws relating to the fish called alewives in Wewantit River, and the fishery connected with said river, so far as any duties are required of or any liabilities are imposed on the inhabitants of the town of Rochester in the county of Plymouth, are hereby repealed.

SECT. 2. All the rights and privileges by law conferred on the inhabitants of the said town of Rochester to the fishery of said river and the proceeds thereof, are hereby conferred on Joshua B. Tobey, his heirs and assigns, and he and they are required, in the fall of each successive year hereafter, to appoint three suitable persons as members of the committee for said river, who shall be required to perform the same duties and are vested with the same authority as the committee of the town of Rochester now are, and the said Tobey, his heirs and assigns, shall be subject to the same pecuniary liabilities as the inhabitants of Rochester now are. — [April 13, 1836.]

1837.

[1831, 73.]

AN ACT in addition to an Act to incorporate the Skinnaquits Fishing Company in Harwich and Chatham.

1837, 18. *Be it enacted, etc., as follows:* SECT. 1. The time of holding the annual meeting of the Skinnaquits Fishing Company in Harwich and Chatham, shall be on the first Tuesday in March instead of the first Tuesday in April, as provided in the act to incorporate said company. — [February 22, 1837.]

AN ACT to incorporate the Fish Wear Company.

1837, 92. *Be it enacted, etc., as follows:* **SECT. 1.** John Kendrick, Isaac Linnell, Josiah Linnell, their associates and successors, are hereby made a corporation by the name of the Fish Wear Company, for the purpose of constructing a fish wear in the waters of Nanwicoit Point, so called, in the south-easterly part of the town of Orleans, in the county of Barnstable, for the purpose of taking fish; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities contained in the forty-fourth chapter of the Revised Statutes.

SECT. 2. Said wear shall not extend farther into the water than to the depth of four feet at low water.

SECT. 3. If any person shall take any fish from said wear without the permission of said corporation, he shall forfeit to said corporation a sum not exceeding five dollars, if the quantity so taken be less than one hundred pounds, but if the quantity taken be more than one hundred pounds, the person so offending shall forfeit five dollars for every hundred pounds of fish so taken, to be recovered in any court proper to try the same.

SECT. 4. If any person shall take by seine any fish within twenty rods of the location of said wear, he shall forfeit a sum not exceeding six dollars for each offence, for the use of said corporation, to be recovered as aforesaid — [March 25, 1837.

AN ACT to incorporate the North Falmouth Fishing Company.

1837, 118. *Be it enacted, etc., as follows:* **SECT. 1.** Ebenezer Nye, Prince Nye and Benjamin Nye, their associates and successors, are hereby made a corporation by the name of the North Falmouth Fishing Company, in North Falmouth, and are empowered to regulate the brook running from Nye's Pond, so called, to Cautomot Harbor in said Falmouth, so far as is necessary, for the purpose of an alewife fishery; and for this purpose shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of the corporation, shall take, catch, or haul on shore any alewives in said brook, or within one-eighth of a mile in any direction from the mouth of said brook, he shall forfeit and pay for the use of said corporation a sum not exceeding two dollars, if the quantity so taken be less than one barrel; but if the quantity taken be more than one barrel, the person so offending shall forfeit and pay for each barrel of fish so taken, five dollars, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual not a member of the corporation, such

individual shall be entitled to reasonable damage, to be estimated in the same manner as damages occasioned by the laying out of highways. — [April 7, 1837.

[1815, 83.]

AN ACT to further regulate the Fishery in Dennis.

1837, 135. *Be it enacted, etc., as follows:* SECT. 1. The committee chosen by the inhabitants of the town of Dennis, at their annual meeting to regulate the fishery in said town, shall, in addition to their duties now by law prescribed, appoint all such suitable persons as make application, being inhabitants of said Dennis, to catch alewives in said town, and fix the compensation to be paid therefor.

SECT. 2. The inhabitants of said town, at their annual meeting, shall determine the quantity of said fish each family in said town shall receive, and establish the price they shall pay therefor. — [April 12, 1837.

AN ACT to incorporate the Rock Harbor Fishing Company in Orleans.

1837, 159. *Be it enacted, etc., as follows:* SECT. 1. Richard Sparrow, Ira Mayo and Timothy Smith, their associates and successors, are hereby made a corporation by the name of the Rock Harbor Fishing Company in Orleans, in the county of Barnstable, and are empowered to open the stream running from Tan Pond, so called, to the mouth of Rock Harbor in said Orleans, so far as is necessary, for the purpose of an alewife fishery, and to regulate the same; and also to erect a fish-wear on the north side of Nanwicoit River in said Orleans, in Meeting-house Pond, so called, where said river and pond adjoin the land of Isaac Doane; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of the corporation, shall take, catch or haul on shore any alewives in said Tan Pond or stream, he shall forfeit and pay, for the use of said corporation, a sum not exceeding two dollars, if the quantity so taken be less than one barrel; but if the quantity be more than one barrel, the person so offending shall forfeit and pay for each barrel of fish so taken, five dollars; or if any person shall take any fish from said wear, without permission of said corporation, he shall forfeit and pay a fine not exceeding five dollars, if the quantity so taken be less than one hundred pounds, but if the quantity so taken exceed one hundred pounds, he shall forfeit and pay five dollars for every hundred pounds so taken, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the

property of any individual, not a member of said corporation, such individual shall be entitled to reasonable damage, to be estimated in the same manner as damages happening in the laying out of highways.

SECT. 4. If said corporation shall, in the prosecution of their work, cross any highway, they shall do it in such a manner as shall not unreasonably incommode the travel on said way, and shall leave said way in as good repair as it was before the alteration or crossing of the same.

SECT. 5. All persons who now are or shall hereafter be owners of land adjoining said Tan Pond and stream running therefrom to the mouth of Rock Harbor, may become members of said corporation, subject, however, to pay their proportional part of the expenses which shall have been incurred by said corporation before the time of their admission. — [April 13, 1837.]

AN ACT to regulate the Weight of Fish.

1837, 166. *Be it enacted, etc., as follows:* SECT. 1. When fish are sold by the quintal, it shall be understood to mean a quintal of one hundred pounds avoirdupois, and all contracts concerning fish sold in this manner shall be understood and construed accordingly. — [April 14, 1837.]

[P. S. 56, § 47.]

[1836, 130.]

AN ACT further regulating the Fishery in Palmer River in Rehoboth.

1837, 184. *Be it enacted, etc., as follows:* SECT. 1. If any person shall make or cause to be made, or shall continue any wear in Palmer River, in the town of Rehoboth, in the county of Bristol, up stream from the land now belonging to Royal Horton, situate on the westerly side of said river, he shall forfeit and pay fifteen dollars for each offence.

SECT. 2. All forfeitures named in this act or in either of the acts to which this is in addition, may be recovered either by indictment for the use of said county, or otherwise, as now provided by law.

SECT. 3. All acts and parts of acts regulating the fishery in said town, inconsistent with this act, are hereby repealed.

SECT. 4. This act shall take effect from and after the passage of the same. — [April 18, 1837.]

[1844, 63; 1852, 92.]

[1822, 54.]

AN ACT to authorize Abraham Hobart to erect a Dam across Monatiquot River in the Town of Braintree.

1837, 189. *Be it enacted, etc., as follows:* SECT. 1. Abraham Hobart, of Braintree, his heirs or assigns, are hereby authorized to erect a mill-dam across Monatiquot River, in said town, three or

four rods below where his present dam is now located, to be raised no higher than the tide usually flows, with a sufficient passage or sluice-way therein, for the passage of such vessels, boats or rafts as may have occasion to go up and down said river, of at least twenty-four feet in width, with good and sufficient sluice-gates, to be constructed with paddle-gates therein, of two feet square: *provided, however*, that the mud-sill upon which said sluice-gates are placed, shall not rise more than twelve inches above the bed of the river, and that said sluice-gates shall at all times be opened by said Hobart, his heirs or assigns, when it is practicable so to do, for the passage of vessels, boats or rafts up and down said river; and *provided, further*, that at all times during the continuance of said dam, there shall be kept up and maintained upon the water privilege created by said dam, a grist-mill in which shall be ground all kinds of grain, and that there shall be maintained in said dam a sufficient passage-way for the herring and other fish to pass up said river, and *provided, further*, that nothing herein contained shall authorize said Hobart, his heirs or assigns, to appropriate for said dam and privilege, the property or lands of others, except in the manner now provided by law. And that said dam shall be erected within three years from and after the passage of this act. — [April 18, 1837.]

[Sp. Laws, vol. 1, p. 313; 1833, 137.]

AN ACT to regulate the Alewife Fishery in Middleborough.

1837, 193. *Be it enacted, etc., as follows:* **SECT. 1.** The inhabitants of the town of Middleborough, in the county of Plymouth may, at any meeting called for that purpose, dispose of their right of taking alewives in said town by contract or by sale at public auction, for a term not exceeding five years, on any one contract or sale; or said town may improve their right aforesaid, by choosing agents to take said alewives, and dispose of the same as the town may from time to time direct.

SECT. 2. All acts and parts of acts regulating the fishery in said town inconsistent with this act, are hereby repealed.

SECT. 3. This act shall take effect from and after the passage thereof. — [April 18, 1837.]

[1855, 401; 1863, 73.]

[Sp. Laws, vol. 2, p. 117.]

AN ACT to regulate the Fishery in Newbury.

1837, 195. *Be it enacted, etc., as follows:* **SECT. 1.** The inhabitants of the town of Newbury, in the county of Essex, may, at any legal meeting called for that purpose, regulate the taking the several kinds of fish in Parker River and other streams within said town, or dispose of the privileges of taking the same to their own use and

benefit, in any manner they may think proper, and shall choose by ballot, a committee consisting of three discreet persons, who shall cause the regulations adopted by said town to be carried into effect, who shall be sworn to the faithful performance of their duty.

SECT. 2. The selectmen for the time being shall post up in three or more public places in said town, the regulations established by said town respecting the fishery in the river and streams aforesaid.

SECT. 3. If any person shall take any fish in said river and streams at any time or in any place or manner, other than shall be allowed by said town as aforesaid, he shall for each offence, on conviction thereof, pay a fine not exceeding five dollars, to be recovered in any court proper to try the same, to the use of him who shall prosecute for the same: *provided, however*, that nothing contained in this act shall be so construed as to prohibit any inhabitant of the town of Rowley, from taking fish in that part of the branch of Parker River called Mill River, which constitutes in part the dividing line between the towns of Newbury and Rowley.

SECT. 4. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed. — [April 18, 1837.

[1859, 54.]

1838.

[Sp. Laws, vol. 2, p. 255.]

AN ACT to regulate the Fishery in the Agawam and Half-way Pond Rivers.

1838, 19. *Be it enacted, etc., as follows:* SECT. 1. The towns of Plymouth and Wareham shall annually, at their meetings in the month of November, respectively, choose by ballot a committee of not more than three persons each, who shall be sworn to the faithful discharge of their duties, in the manner of other town officers; which committee shall in the month of March, annually, after a public notice of at least ten days, sell by public vendue the privilege of taking the fish called alewives and shad in the Agawam and Half-way Pond Rivers, in the county of Plymouth, at such places not exceeding two in said towns, and on such days not exceeding three in each week, as said committee shall agree upon and publish in their notice of sale; they shall also express in said notice the manner of taking and disposing of said fish, and the price at which the purchasers may sell them, which price shall not exceed twenty-five cents a hundred for alewives and four cents each for shad: *provided, nevertheless*, that said committee may fix upon one place in the town of Wareham, and one day in each week, for taking shad different from the place and day of the week appointed for taking alewives.

SECT. 2. The committee of the town of Plymouth, the first year after the passage of this act, and the committee of the town of Ware-

ham the second year, and so on alternately forever, shall notify the town clerk of the other town concerned in said fishery, of the time and place in which said committees shall meet, ten days at least before the time of meeting; and the members of the committee present at said meeting shall constitute a quorum for doing business.

SECT. 3. If either of said towns shall neglect to choose its committee as aforesaid, or if the committee of either town shall neglect to give notice, as above required, to the other, said town shall forfeit and pay to the use of the other which shall choose such committee or whose committee shall give said notice, for each neglect, the sum of one hundred dollars.

SECT. 4. All persons except the purchasers as aforesaid, or those employed by them, who shall take any of said fish in said rivers or in any pond or stream having communication therewith, between the first day of April and the first day of June, both inclusive, in each year, shall forfeit and pay not more than twenty dollars for each and every offence.

SECT. 5. The owner or occupier of any dam on said rivers shall annually, between the first day of April and first day of June next following, for such term of time and in such manner as said committee shall direct, open a sufficient passage for said fish through said dam; and on failure of opening such passage or of continuing the same open as aforesaid, shall forfeit and pay the sum of one hundred dollars; and said committee may open such dam when neglected as aforesaid, at the expense of the proprietor thereof: *provided*, no more damage is thereby done the owner than is necessary to effect said purpose.

SECT. 6. If any person shall make any wear or cause any other obstruction to the free passage of said fish up said rivers, or shall take any of said fish, or shall make use of any seine to take said fish in said rivers or in any pond or stream communicating with the same, in any other manner or at any other time or place than such as may be approved and established by said committee, between the first day of April and first day of June as aforesaid, he shall forfeit and pay not more than twenty dollars for each and every offence; and said committee shall remove such wear or obstruction at the expense of the person causing the same, and also seize, to the use and disposal of said towns, any seine used as aforesaid, and make complaint to the town treasurer of either of the towns aforesaid, of any violation of this act that shall come to their knowledge.

SECT. 7. The treasurers of the aforesaid towns respectively, may, upon any complaint of any member of the committees sue for the recovery of any forfeitures incurred by a breach of any of the regulations provided in this act, and also of any such further regulations as

may be provided and established by said committees, in conformity to this act; and all fines and forfeitures recovered for any breaches aforesaid, except such as are provided in the third section of this act, shall, together with the proceeds of said fishery, be equally divided between said towns; and all the expenses attending said suits, shall in like manner be equally borne by them. And the treasurers aforesaid respectively, may, in behalf of their respective towns, recover, by an action on the case, of any person or corporation withholding the same, one-half part thereof, in any court proper to try said action.

SECT. 8. The purchasers of the privilege of taking said fish shall in all respects conform themselves to such regulations and conditions as said committee shall publish, as aforesaid; and on failure thereof shall forfeit and pay for each offence a sum not exceeding twenty dollars.

SECT. 9. Any member of the committees aforesaid may be admitted as a competent witness in any prosecution for a breach of any regulation as aforesaid.

SECT. 10. The committees chosen by said towns in the month of November last, for regulating the taking of alewives in said rivers, agreeably to the provisions of the act then existing for that purpose, may perform all the duties for the present year that are required of committees hereafter to be chosen under the provisions of this act; and they, as also committees hereafter chosen for the purposes of said fishery, one dollar and twenty-five cents each for every day's service they may be actually engaged in performing the duties herein required of them.

SECT. 11. All laws heretofore passed respecting the fishery in said rivers are hereby repealed, excepting so far as respects any penalties already incurred for a breach of the same.

SECT. 12. This act shall take effect from and after its passage. — [February 26, 1838.

[1844, 65; 1853, 377.]

AN ACT to incorporate the Sandwich Buzzard's Bay Fishing Company.

1838, 111. *Be it enacted, etc., as follows:* SECT. 1. Edward B Gibbs, Henry Gibbs and Benjamin Bourne, their associates and successors, are hereby made a corporation by the name of the Sandwich Buzzard's Bay Fishing Company, in the town of Sandwich, in the county of Barnstable, with authority to regulate the brook running through their lands, from Great Pond through other smaller ponds into Buzzard's Bay, in said Sandwich, as far as is necessary, for the purpose of an alewife fishery; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions

and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of said corporation, shall take, catch or haul on shore any alewives in said brook, or within one-eighth of a mile in any direction from the mouth of said brook, he shall forfeit and pay, for the use of said corporation, a sum not exceeding two dollars for any quantity less than one barrel so taken, and the sum of five dollars for every barrel so taken, to be recovered in any court of competent jurisdiction.

SECT. 3. If any damage shall be done by said corporation to the property of any person not a member of said corporation, such person shall be entitled to damages, to be estimated in the same manner as damages occasioned by the laying out of highways.

SECT. 4. All persons who are or shall hereafter be owners of land adjoining said ponds or brooks, may become members of said corporation, subject, however, to pay their proportional part of the expenses which shall have been incurred by said corporation before the time of their admission as members. — [April 13, 1838.]

1839.

AN ACT to incorporate the Trap's Creek Fishing Company in Edgartown.

1839, 83. *Be it enacted, etc., as follows:* SECT. 1. John Coffin, Nicholas Norton, Chase Pease, their associates and successors, are hereby made a corporation by the name of the Trap's Creek Fishing Company, in Edgartown, in the county of Dukes County, and are empowered to alter the present outlet of Trap's Pond, so called, for the purpose of flowing the meadows in the winter season, and for a herring fishery therein, and to regulate the same; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of said corporation, shall take, catch or haul on shore any herring in said pond or creek, he shall forfeit and pay, for the use of said corporation, a sum not exceeding three dollars, if the quantity so taken be less than one barrel; but if the quantity be more than one barrel, the person so offending shall forfeit and pay for each barrel of fish so taken the sum of five dollars, to be recovered in any court proper to try the same.

SECT. 3. Nothing herein contained shall authorize the said company to take or use the private property of any person without his consent.

SECT. 4. All persons who now are, or may hereafter be, owners of land adjoining said Trap's Pond and Creek, may become members of said corporation, subject, however, to pay their proportional part of

the expenses which shall have been incurred by said corporation before the time of their admission. — [April 3, 1839.

[1848, 47; 1855, 299.]

AN ACT to protect the Fisheries in certain Rivers in Barnstable and Marshpee.

1839, 102. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any fish with a seine in Oyster Island Harbor, in Barnstable, or in Poppenesett Harbor, in Barnstable and Marshpee, or in any of the bays or rivers connected with said harbors, between the first day of May and the tenth day of June annually, under a penalty not exceeding twenty dollars for each offence, to be recovered in any court proper to try the same, to the use of the person who shall prosecute therefor.

SECT. 2. This act shall take effect from and after its passage. — [April 5, 1839.

[1852, 35; 1860, 46; 1884, 264.]

AN ACT to incorporate the Eastham Fishing Company.

1839, 123. *Be it enacted, etc., as follows:* SECT. 1. Barnabas F. Knowles, Richard Sparrow and Freeman H. Myrick, their associates and successors, are hereby made a corporation by the name of the Eastham Fishing Company, for the purpose of constructing a fish-wear on the flat ground adjoining the upland of Henry Mayo, in Eastham, in the county of Barnstable, with leave to extend the same into the channel adjoining said flat ground, one-fourth of the width thereof, for the purpose of taking fish; with all the powers and privileges, and subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person shall take any fish from said wear without the permission of said corporation, he shall forfeit and pay to them a sum not exceeding five dollars, if the quantity so taken be less than one hundred pounds; but if the said quantity be more than one hundred pounds, he shall forfeit five dollars for every hundred pounds so taken, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any person not a member thereof, such person shall be entitled to damages, to be estimated in the same manner as damages occasioned by the laying out of highways. — [April 6, 1839.

[1814, 22.]

AN ACT relating to the Fishery in Ipswich River.

1839, 134. *Be it enacted, etc., as follows:* SECT. 1. The owners or occupants of the dam at Farley's Mill, so called, in Ipswich, their successors and assigns, shall, within ninety days from the passage of this act, construct, to the satisfaction and acceptance of the committee

hereinafter named, a good and sufficient passage-way for the fish to pass over said dam up Ipswich River; and the said owners shall keep said passage-way, or cause the same to be kept open and in good repair from the tenth day of April to the first day of June annually, under a penalty not exceeding twenty dollars for each and every day they shall neglect so to do, to be recovered in any court of competent jurisdiction, to the use of the town which shall sue therefor.

SECT. 2. Charles Marston, of Barnstable, Elijah Swift, of Falmouth, and John Atkins, of Provincetown, shall be the committee for the purpose named in the preceding section.

SECT. 3. All provisions of law inconsistent with this act are hereby repealed.

SECT. 4. This act shall take effect from and after its passage. — [April 9, 1839.

[1845, 79.]

1840.

AN ACT to protect the Fishery in Long Pond in Nantucket.

1840, 24. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any fish with a seine in Long Pond in Nantucket, under a penalty not exceeding twenty dollars for each and every offence, to be recovered in any court proper to try the same, to the use of the person who shall prosecute therefor.

SECT. 2. This act shall take effect from and after its acceptance by a vote of said town of Nantucket. — [March 7, 1840.

[1841, 76.]

[1817, 151; 1822, 54; 1832, 54.]

An Act to protect the Fisheries in the Towns of Braintree and Weymouth.

1840, 37. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any fish with a seine in Monatiquot River in the towns of Braintree and Weymouth, above Hingham, and Quincy Bridge, crossing the Fore River in Weymouth, between the first day of February and the twentieth day of June, annually; nor shall any person take any fish in said river, by the use of torches or a light, at any time between the first day of December and the first day of March in any year, under a penalty not exceeding fifty dollars for each offence, to be recovered in any court proper to try the same, to the use of the person who shall prosecute therefor. — [March 18, 1840.

[Sp. Laws, vol. 1, p. 269.]

AN ACT to protect the Fishery in the North River in the County of Plymouth.

1840, 45. *Be it enacted, etc., as follows:* SECT. 1. If any fish committee chosen by the town of Pembroke, or any person authorized by said committee, shall find any seine or net cast in North River in the

county of Plymouth, at any other time than that which is allowed by an act passed on the twenty-fifth day of February, in the year one thousand eight hundred and fifteen, regulating the fishery in said river, they may seize and take the same away; and it shall be forfeited to the use of the town of Pembroke. — [March 18, 1840.

AN ACT to incorporate the Sanchachantacket Fishing Company in Edgartown, in Dukes County.

1840, 67. *Be it enacted, etc., as follows:* SECT. 1. Ichabod Norton, Constant Norton, Benjamin Kidder, their associates and successors, are hereby made a corporation, by the name of the Sanchachantacket Fishing Company, in Edgartown in Dukes County; and are empowered to alter the present outlet of Sanchachantacket Pond, so called, for the purpose of flowing the meadows in the winter season, and for a herring fishery therein, and to regulate the same; and for this purpose shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of said corporation, shall take, catch or haul on shore any herrings in said pond or in the creeks or outlets which may be made therefrom, he shall forfeit and pay, for the use of said corporation, a sum not exceeding three dollars, if the quantity so taken be less than one barrel; but if the quantity be more than one barrel the person so offending shall forfeit and pay for each barrel of herring so taken, the sum of five dollars, to be recovered in any court proper to try the same.

SECT. 3. Nothing herein contained shall authorize the said company to take or use the private property of any person without his consent; or deprive any person of the town of Edgartown of any privilege which he now has of taking any kind of fish, excepting herring, from said outlet or pond.

SECT. 4. All persons who now are or may hereafter be owners of land adjoining said pond or the creek or outlet to be made therefrom, may become members of said corporation, subject, however, to pay their proportional part of the expenses which shall have been incurred by said corporation before the time of their admission.

SECT. 5. The present owners of lands adjoining the said pond or the said creek or outlet, shall have each one share only in said fishery, and no one of them shall, by conveyance or descent of his lands, create or cause to be created an additional number of shares: *provided, however*, that each of the present owners or his successor or successors, may divide his original share into parts or fractions. —

[March 21, 1840.

1841.

[1836, 177.]

AN ACT concerning the Andrews Fishing Company.

1841, 57. *Be it enacted, etc., as follows:* SECT. 1. The present owners of land adjoining the Andrews River and Mill-pond, so called, in the town of Harwich, shall be each entitled to one share in the Andrews Fishing Company, in Harwich; and no one of them shall, by conveyance or descent of his land, create or cause to be created, an additional number of shares: *provided, however,* that each of the present owners or his successor or successors, may divide his original share into parts or fractions. — [March 6, 1841.

[1831, 73; 1837, 18.]

AN ACT concerning the Skinnaquits Fishing Company.

1841, 61. *Be it enacted, etc., as follows:* SECT. 1. The present owners of land adjoining the Skinnaquits Pond and Stream or Red River, so called, in the towns of Harwich and Chatham, shall each be entitled to one share in the Skinnaquits Fishing Company in Harwich and Chatham; and no one of them shall, by conveyance or descent of his land, create or cause to be created, an additional number of shares: *provided, however,* that each of the present owners or his successor or successors, may divide his original share into parts or fractions. — [March 6, 1841.

[1840, 24.]

AN ACT in relation to certain Fisheries in Nantucket.

1841, 76. *Be it enacted, etc., as follows:* SECT. 1. From and after the passage of this act, the town of Nantucket, at any meeting duly warned and held for that purpose, may make and ordain such ordinances and regulations for the free access, increase, preservation and taking of fish in Maddecket Ditch and Harbor, and Long Pond, situated in said town, and may, for a violation of said ordinances and regulations, annex such penalties, not exceeding fifty dollars for one offence, to be recovered in an action of debt, for the use of said town, by the treasurer thereof, as they may deem for the good of the inhabitants: *provided,* said ordinances and regulations are not repugnant to the laws and constitution of this Commonwealth.

SECT. 2. Said town may annually appropriate a sum not exceeding two hundred dollars to carry into effect the provisions of this act. — [March 13, 1841.

1842.

AN ACT to protect the Shad Fishery in Monomoy Bay.

1842, 62. *Be it enacted, etc., as follows:* SECT. 1. No person not an inhabitant of this state, shall take any shad in Monomoy Bay.

within a line drawn from Monomoy Point to Point Gammon, in the county of Barnstable, for the purpose of carrying them away or offering them away, under a penalty not exceeding twenty dollars for each and every offence and a forfeiture of all fish so taken, to be recovered by indictment or by complaint before any justice of the peace; one half of said penalty and forfeiture to enure to the use of the complainant, the other half to the Commonwealth.

SECT. 2. No person, whether an inhabitant of this state or otherwise, shall throw overboard any offal or dressing of shad within the aforesaid line, or in any part of said bay below low-water mark, under a penalty not exceeding ten dollars for each offence, to be recovered in any court proper to try the same, to the use of the person who shall prosecute therefor. — [March 3, 1842.

[1855, 88.]

AN ACT to incorporate the Long Pond Fishing Company, in Yarmouth.

1842, 75. *Be it enacted, etc., as follows:* SECT. 1. Zeno Kelley, Howes Berry, Eliakim Studley, their associates and successors, are hereby made a corporation by the name of the Long Pond Fishing Company in Yarmouth, and are empowered to open a brook or outlet from Long Pond to Swan Pond, so called, and also improve Parker's River (into which said ponds empty), to the sea, so far as may be necessary for the purpose of an alewife fishery, and to regulate the same; and for this purpose shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities contained in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person without permission of the corporation shall take, catch or haul on shore any alewives in said ponds or the brook or outlet so made, the person so offending shall forfeit and pay for the use of the corporation, a sum not exceeding two dollars, if the quantity so taken be less than one barrel; but if said quantity be more than one barrel, the person so offending shall forfeit and pay for each and every barrel of fish so taken, five dollars, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual, such individual shall be entitled to reasonable damages.

SECT. 4. Any inhabitant of the town of Yarmouth shall be entitled to the privilege of becoming a member of said corporation: *provided*, application is made therefor within six months from the passage of this act; and *provided, also*, that said applicants pay their proportion of the expenses which shall have accrued to said corporation.

SECT. 5. If the said corporation shall neglect to execute and

complete the improvements provided for in this act, within three years from the passage thereof, then the same shall be void and of no effect. — [March 3, 1842.

[1881, 46.]

AN ACT to incorporate the Coy's Brook Fishing Company, in Harwich.

1842, 82. *Be it enacted, etc., as follows:* SECT. 1. Seth Paine, Heman Bassett, William Field, their associates and successors, are hereby made a corporation by the name of the Coy's Brook Fishing Company, in Harwich, in the county of Barnstable and are hereby empowered to open said brook, commencing at the point where it empties into Herring River; thence up said brook to Coy's Pond (so called); thence through the bridge, swamp and land of Nathan Ellis and others, to the valley swamp; thence across the highway to Brier's Pond; thence through a swamp to Eldridge's Pond: thence from said Eldridge's Pond, to terminate in the Long Pond, — for the purpose of carrying on the herring fishery therein and to regulate the same; and for this purpose shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

SECT. 2. If any person, without the permission of said corporation, shall take, catch or haul on shore any herring in said ponds or brook, he shall forfeit and pay for the use of said corporation, a sum not exceeding three dollars; and if the quantity be more than one barrel, the person so offending shall forfeit and pay for each barrel of fish so taken, the sum of five dollars, to be recovered in any court proper to try the same.

SECT. 3. Nothing herein contained shall authorize the said company to take or use the private property of any person without his consent.

SECT. 4. All persons who now are or may hereafter be owners of land adjoining said Coy's Brook or ponds may become members of said corporation; subject, however, to pay their proportional part of the expenses which shall have been incurred by said corporation before the time of their admission. — [March 3, 1842.

1843.

AN ACT concerning Alewives in Herring River, in the Town of Barnstable.

1843, 20. *Be it enacted, etc., as follows:* SECT. 1. The selectmen of the town of Barnstable, for the time being, or a major part of them, are hereby empowered, in the month of February, March or April annually, to prescribe the time, place or places and manner of taking alewives in Herring River, by the name of Marston's Mills, Herring River, in the town of Barnstable, such time not to exceed five days

in a week ; and they shall appoint some suitable person or persons to take the same, and fix the compensation to be paid therefor, if thought proper by said selectmen.

SECT. 2. The owners or occupants of dams across said river shall, annually, during such time, not exceeding sixty days in each year, as shall be prescribed by the selectmen of said town, or the major part of them, for the time being, keep constantly open, and maintain through, over or around their respective dams, a passage sufficient and proper for the passing of said fish, to the satisfaction of said selectmen, under a penalty not less than ten nor more than sixty dollars for each and every twenty-four hours they shall neglect to open a passage-way as aforesaid : and the said selectmen shall, thirty days at least before the commencement of said period, notify in writing the owners or occupants of said dams of the time when said passage-ways shall be opened, and the manner in which they shall be constructed and regulated : *provided, however*, that if any owner or occupant shall at any time be dissatisfied with the determination of said selectmen in relation to the construction or regulation of such passage-way or passage-ways, such owner or occupant may, by application in writing to the selectmen of the town of Sandwich, for the time being, in said county of Barnstable, who are hereby constituted a committee for that purpose, cause such passage-way or passage-ways to be fixed, prescribed and regulated, in writing, by said committee ; and such passage-way or passage-ways shall thereafter be, by the owners or occupants of said dam or dams, kept open and regulated in width and depth, and in all other respects pursuant to said written determination of said committee, under the same penalty as is herein before provided ; and the expense of said committee shall be paid by the owners or occupants of said dam or dams, or by the said town of Barnstable, as said committee shall adjudge.

SECT. 3. The said selectmen of the town of Barnstable shall have full power and authority to cause the natural course of the stream through which said fish pass to be kept open and free of obstructions, except the dams aforesaid, and to remove all such obstructions except as aforesaid, and for that purpose, as well as for the other purposes of this act, shall have authority to go upon the land or meadow of any person through which said stream runs without being deemed trespassers ; and if any person or persons shall molest the said selectmen, or either of them, in the execution of his or their duties under this act, or shall obstruct the passage of said fish except as aforesaid, the person or persons so offending shall, on conviction thereof before any justice of the peace in the county of Barnstable, pay a fine for every such offence not exceeding twenty nor less than ten dollars.

SECT. 4. If any person or persons shall take any of the fish afore-

said, in said river, or the ponds in which said fish cast their spawn, at any time, or in any place or manner other than shall be allowed by said selectmen as aforesaid, each person so offending shall for each and every such offence, on conviction thereof, pay a fine not exceeding twenty dollars nor less than one dollar.

SECT. 5. From and after the passing of this act, the inhabitants of said town, at their annual February meeting, or any meeting called for the purpose, shall determine the quantity of said fish that each family in said town shall receive, and establish the price therefor.

SECT. 6. All persons not otherwise disqualified shall be taken to be competent and legal witnesses in any prosecution upon this act, they being inhabitants of said town of Barnstable notwithstanding.

SECT. 7. All the forfeitures incurred by virtue of this act shall be two-thirds to the use of the said town of Barnstable, and one-third to the person or persons giving information, to be recovered in an action of debt, in any court proper to try the same, to be brought by the treasurer thereof. — [March 20, 1843.

[1851, 116.]

[Sp. Laws, vol. 1, p 422.]

AN ACT to regulate the Fishery in Taunton Great River.

1843, 73. *Be it enacted, etc., as follows:* SECT. 1. From and after the passage of this act, it shall not be lawful for any person or persons, except as is hereinafter provided, to catch shad or alewives with seines or nets in Taunton Great River, from the first day of March to the fifteenth day of June in each year: *provided*, that it shall and may be lawful for the inhabitants of the several towns situated on said river, to catch shad and alewives with twelve seines or nets only, in the manner following, to wit: the towns of Somerset, Freetown and Fall River shall each have the right of disposing, at public auction, for their own benefit, of the privilege of catching shad and alewives with one seine or net only; the towns of Berkley, and Raynham, and Dighton, shall each have the right of disposing, at public auction, for their own benefit, of the privilege of catching shad and alewives with two seines or nets only; and the town of Taunton shall have the right of disposing, at public auction, for their own benefit, the privilege of catching shad and alewives with three seines or nets only, in the river aforesaid; and the purchaser or purchasers of the privileges which shall be located in the towns of Raynham and Taunton, shall not have a right to sweep with a seine or net more than fifteen rods in length; and the towns of Berkley and Dighton shall have the right to sweep with a seine or net, not more than twenty rods in length, above Rocky Point, and but four days in each week, beginning at four o'clock on Monday morning and ending at four

o'clock on Friday morning; the purchaser or purchasers of the privilege or privileges, which shall be located in the towns of Berkley and Dighton, below Rocky Point, shall have the right to sweep with a seine or net thirty-four rods in length and no more, five days in each week, beginning at four o'clock on Monday morning and ending at four o'clock on Saturday morning; and the purchaser or purchasers of the privilege or privileges, which shall be located in either of the towns of Somerset, Freetown or Fall River, shall have a right to sweep with a seine or net forty rods in length and no more, beginning at four o'clock on Monday morning and ending at four o'clock on Friday morning; and *provided, also*, that each of said towns shall, at a legal meeting between the first day of September and the last day of December in each year, dispose and make sale of, at public auction, for the next year, and so from year to year, their privilege of catching shad and alewives with seines or nets in the river aforesaid, for the time aforesaid, to such person or persons as shall offer the most for the same, and give sufficient security for the payment of the purchase moneys at such time and in such manner as the respective towns shall order.

SECT. 2. The several purchasers of the privileges aforesaid, shall select the place where they intend to use their seine or net, for the purpose of catching shad and alewives and shall file a certificate thereof with the clerk of the town within which they have determined to exercise their said privilege as aforesaid, on or before the first day of March in each year: *provided*, that the privilege which shall be purchased of the said town of Somerset, shall be exercised within the limits of said town, and the person or persons so purchasing and locating the privileges aforesaid, shall have the right to catch shad and alewives in the river aforesaid, for the time aforesaid and no other persons.

SECT. 3. No purchasers of a privilege aforesaid, shall make use of a seine or net for the purpose aforesaid, at any other place on said river than the place so selected and certified as aforesaid, during the time aforesaid, and no seine or net shall be located or swept within one mile of the dam located near King's Bridge, across Taunton Great River, in the town of Raynham; and no seine or net shall be located or swept within one and a half miles of the said dam, in the town of Taunton, and no seine or net shall be swept more than forty rods on said river, above Rocky Point and not more than forty-five rods in length below Rocky Point, and no person shall be permitted to set any seine, net, wear or other obstructions in or across said river, for the purpose of taking shad or alewives or obstructing their passage along said river, during the time aforesaid.

SECT. 4. If any person or persons shall draw or sweep with any

seine or net, on any day or time other than those before expressed, or at any other place other than those selected as aforesaid, or shall on any day, at any place, set any seine or net, wear or other obstruction in or across said river or any part thereof, or any waters connected with the same, with the intention to catch or destroy any of the fish called shad or alewives, within the time limited in the first section of this act, or shall at any time or any place, drive with boat or boats in said river, or use any other implements whatsoever, with intention to catch or destroy said fish or hinder their passage up said river, or by any means whatsoever shall impede or hinder the passage of said fish up said river, or any part thereof, with intention to drive, hinder, disturb or destroy any of the fish called shad or alewives in the waters of said river, or shall whip with poles or any other instrument in the waters of said river, or throw into said river loam or any other thing whatsoever, with the intention to hinder the passage of said fish up said river, he and each and every individual who shall violate this act, or any part thereof, shall each and every one forfeit and pay a sum not less than five dollars nor more than twenty dollars for each and every such offence, to be recovered by action of debt, in any court proper to try the same, for the use and benefit of him who shall prosecute or sue for the same, or shall be imprisoned in the county jail, or in the house of correction, for a term of time not exceeding sixty days.

SECT. 5. If any person or persons be found fishing with any seine or net, or with other machine or instrument or instruments, which shall be used by any person or persons in taking or carrying away any of the fish called shad or alewives, contrary to the true intent and meaning of this act, it shall be lawful for any fish-warden or inspector chosen by virtue of this act or the law regulating the fishery in the town of Middleborough, to seize or take such seine or net or fish or implements as before mentioned, and convert and retain the same to their own benefit and use, without any process of law whatever, and if prosecuted therefor, to give this act as evidence of his authority for so doing.

SECT. 6. The several towns shall, at their annual meeting in the months of March or April, choose by ballot, three or more persons, being freeholders in said town, as fish-wardens, whose duty it shall be, jointly and severally, to see that this act is enforced and prosecute for all breaches thereof, and each fish-warden shall be chosen to the faithful discharge of his duty, and cause a record to be made of his oath in the town where said fish-warden is chosen, within ten days after his election; and said fish-warden and inspectors, when sworn, are authorized to measure seines and nets and to pursue and execute the duties of their office in any place where fish may be taken within

the towns aforesaid, and to enter any building where they suppose this act or any parts of it are violated; and if any person, chosen a fish-warden or inspector as aforesaid, shall refuse or neglect to be sworn as aforesaid, for the space of five days after he shall be duly notified of his election as aforesaid, he shall forfeit and pay a fine of ten dollars to the use of said town, to be recovered by action of debt by the treasurer thereof, and such town shall proceed to a new choice and so on, as often as circumstances shall require; and if any of the towns aforesaid shall neglect to choose fish-wardens as aforesaid, or to make sale of their privileges aforesaid, within the time limited therefor, according to the meaning of this act, such town shall forfeit and pay a fine of one hundred dollars for the use of him or them who shall prosecute therefor.

SECT. 7. The laws heretofore made for the regulation of the fishery and the passage-way for fish in Taunton Great River, except so far as respects the town of Middleborough, be and the same are hereby repealed: *provided, however*, that any prosecutions which have been or may be commenced, for the recovery of any forfeitures recovered by virtue of the laws hereby repealed, may be prosecuted to final judgment and execution in the same manner as if this act had not been passed: and *provided, also*, that all contracts made prior to the passing of this act, by any of the towns aforesaid, by virtue and in pursuance of the laws hereby repealed, shall be valid to all intents and purposes, this act to the contrary notwithstanding. — [March 24, 1843.]

1844.

AN ACT further to regulate the Fisheries in the Little River.

1844, 59. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the towns of West Cambridge and Somerville in the county of Middlesex, who now have by law the right to take fish in that part of Little River, so called, which lies north of Alewife Bridge and the Winter Hill road in said towns, shall hereafter have the right to take fish three or four days successively in five of the days on which they have by law heretofore had such right, computing from the first day of March in each year, and on no other day.

SECT. 2. Every person offending against this act shall forfeit and pay to any person who shall sue for the same, a sum not exceeding twenty dollars for each offence.

SECT. 3. This act shall take effect from its passage. — [March 6, 1844.]

[Sp. Laws, vol. 1, p. 422.]

AN ACT in addition to an Act to regulate the Fishery in Taunton Great River.

1844, 62. *Be it enacted, etc., as follows:* The purchaser or purchasers of the fishing privileges sold by the town of Somerset and located within said town, may improve the same at all times from sunrise on Monday morning to sunset on Saturday evening; and Broad Cove in Somerset shall be exempted from the operation of the law regulating the fishery on Taunton Great River, anything in the act entitled "An Act to regulate the fishery in Taunton Great River," passed March twenty-fourth, in the year eighteen hundred and forty-three, to the contrary notwithstanding. — [March 6, 1844.]

[Sp. Laws, vol. 3, p. 378; 1837, 184.]

AN ACT to regulate the Fishery in Palmer's River.

1844, 63. *Be it enacted, etc., as follows:* SECT. 1. From and after passing this act, no person or persons, except as is hereafter provided, shall take shad or alewives with seines or in nets, in Palmer's River in the town of Rehoboth in the county of Bristol, from the first day of April to the fifteenth day of June in each year: *provided*, that the inhabitants of Rehoboth may, at a legal meeting held for that purpose, dispose of the privilege, at public auction, of taking shad and alewives, with scoop-nets only, in said river, for the time aforesaid, to such person or persons as may offer the highest price for the same and shall give sufficient security of the payment of the purchase money, at such time and in such manner as the town shall order.

SECT. 2. The said town may sell said privilege in sections, as the town may determine; and the purchaser or purchasers of any privilege or privileges of taking shad or alewives aforesaid, or those employed by him or them, may take any of the said fish in said river with scoop-nets, three nights, in the night-time only, in each week, beginning on Monday at sunset and ending at sunrise on Thursday, and may take said fish in any part of the river aforesaid, between Swanzey line and the Orleans Dam on said river in said Rehoboth; and no person shall be allowed to skim or drive the fish in said river, nor shall any shad or alewives be taken after the fifteenth day of June in each year.

SECT. 3. The wears in said river shall be located as follows: the first on the river below the end of a fence running from the highway between the land of William K. Bullock, John Davis, 3d, and Ariel Horton (fishing to commence by the land of Joshua Miller); second, by the land of Borden Munroe; third, by the land of Joseph Watson; fourth, by the land of Dr. Samuel Bullock; fifth, by the land of Lovell Bullock; sixth, by the land of widow Betsey Pierce; seventh, by the land of Lewis Pierce; eighth, by the land of John M. Davis;

ninth, by the land of John Thurber; tenth, by the land of John Watson; eleventh, by the land of Dexter Barney; the weirs to be situated on either side of the rivers, as the purchaser may determine, the distance between each weir to be not less than twenty rods.

SECT. 4. The town of Rehoboth, at their annual meeting in March or April, may choose one or more suitable persons to serve as fish-wardens, who, when sworn, shall see this act enforced, and may prosecute for all violations thereof.

SECT. 5. If any person shall fish with seine or net in any time, place or manner other than as before mentioned, or shall set any net or seine, weir or any other obstruction in said river, or in any part thereof, with the intent to take or destroy any shad or alewives, he shall forfeit and pay twenty dollars for each offence, to be recovered to the use of the county in which the offence was committed, or by action of debt, one half to the person prosecuting for the same, and the other half for the use of the town in which the offence shall be committed.

SECT. 6. All laws heretofore relating to fishing in Palmer's River in the town of Rehoboth, are hereby repealed.

SECT. 7. This act shall take effect from and after its passage. — [March 7, 1844.

[1852, 92]

[Sp. Laws, vol. 1, p. 353; 1838, 19]

AN ACT in addition to an Act for the preservation of the Fish called Alewives in Agawam and Half-way Pond Rivers in the County of Plymouth.

1844, 65. *Be it enacted, etc., as follows:* SECT. 1. The town of Plymouth may choose their fish-committee at their annual town meeting in March or April, in each year, which committee, when so elected, shall have all the powers and duties which they would have had if elected in November, anything in the act to which this is in addition to the contrary notwithstanding.

SECT. 2. This act shall take effect from and after its passage. — [March 7, 1844.

[1853, 377.]

[Sp. Laws, vol. 1, p. 166.]

AN ACT in addition to an Act to regulate the Alewife Fishery in the River and Stream in the Town of Harwich.

1844, 67. *Be it enacted, etc., as follows:* SECT. 1. The time during which the sluice is required, in the second section of the act of July fourth, in the year seventeen hundred and eighty-seven, to which this is in addition, to be kept open in the dams across Herring River in the town of Harwich, is hereby extended from the twenty-fifth day of April to the twentieth day of June, in each year, and the penalties

for obstructing said sluice-ways, provided in said act, shall apply to all the time so extended.

SECT. 2. The provisions of this act shall take effect from and after its passage. — [March 7, 1844.

[1855, 301.]

1845.

[1825, 78; 1829, 40; 1839, 134.]

AN ACT relating to the Fishery in the Ipswich River.

1845, 79. *Be it enacted, etc., as follows:* SECT. 1. The owners or occupants of the dam at the Ipswich Manufacturing Company's mill in Ipswich, their successors and assigns, shall within six months of the passage of this act, construct, in the manner prescribed by the committee hereinafter named, a good and sufficient passage-way for the fish to pass over said dam up Ipswich River; and the said owners shall keep said passage-way or cause the same to be kept open and in good repair from the tenth day of April to the first day of June, annually, under a penalty not exceeding twenty dollars for each and every day they shall neglect so to do, to be recovered in any court of competent jurisdiction, to the use of the town which shall sue therefor.

SECT. 2. Solomon Davis, of Truro, Oliver Ames, of Easton, John Dunlap, of Provincetown, James Long, of Harwich, Josiah O. Lawrence, of Cohasset, Caleb Lombard, of Wellfleet, and Richard Stevens, of Truro, are hereby appointed a committee for the purpose named in the preceding section.

SECT. 3. All provisions of law inconsistent with this act are hereby repealed. — [February 26, 1845.

[1845, 91; 1855, 171.]

AN ACT relating to the Fish-way at Manning's Dam across Ipswich River.

1845, 91. *Be it enacted, etc., as follows:* SECT. 1. The owner or occupants of the dam erected by Thomas Manning across Ipswich River, his assigns or successors, may construct, in the manner prescribed by the committee hereinafter named, a good and sufficient passage-way for the fish to pass over said dam up Ipswich River; and the said owner or owners shall keep said passage-way or cause the same to be kept open and in good repair from the tenth day of April to the first day of June, annually, under a penalty not exceeding twenty dollars for each and every day they shall neglect so to do, to be recovered in any court of competent jurisdiction, to the use of the town who shall sue therefor.

SECT. 2. Solomon Davis, of Truro; Oliver Ames, of Easton; John Dunlap, of Provincetown; James Long, of Harwich; Josiah O. Lawrence, of Cohasset; Caleb Lombard, of Wellfleet, and Richard

Stevens, of Truro, are hereby appointed a committee for the purpose named in the preceding section.

SECT. 3. Whenever a fish-way shall be constructed at said Manning's Dam, as ordered by the above committee, all former laws relating to fish-ways at said dam shall be repealed. — [February 28, 1845.]

AN ACT to incorporate the White Pond Fishing Company.

1845, 130. *Be it enacted, etc., as follows:* SECT. 1. Henry Kelley, John Robbins, Job Chase, their associates and successors, are hereby made a corporation by the name of the White Pond Fishing Company, in Harwich, for the purpose of making improvements for the preservation and taking of fish called alewives, in a brook between Herring River, and a pond known as the White Pond, in said Harwich, and for that purpose shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person without the permission of said corporation, shall take, catch or haul on shore any of said fish in the brook or the pond from which said brook issues, he shall forfeit and pay a fine not exceeding five dollars for each offence, if the quantity so taken be less than one barrel; but if the quantity be more than one barrel, such person so offending shall forfeit and pay for each barrel of fish so taken, five dollars for the use of said corporation, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual not a member of the corporation, such individual shall be entitled to reasonable damage therefor.

SECT. 4. All persons who now are or shall hereafter be owners of land adjoining said brook or pond, may become members of said corporation, subject, however, to pay their proportional part of the expense which shall have been incurred by said corporation, before the time of their admission.

SECT. 5. This act shall take effect from and after its passage. — [March 15, 1845.]

[Sp. Laws, vol. 1, pp. 238, 512; 1844, 59.]

AN ACT relating to the Fishery in Little River.

1845, 149. *Be it enacted, etc., as follows:* SECT. 1. The fifth section of the act passed on the fourteenth day of February, in the year one thousand eight hundred and twenty-one, is hereby repealed.

SECT. 2. All persons now having a right of fishing with seines in that part of Little River which lies within seventeen rods from its

junction with Mystic River, in the county of Middlesex, may take fish in the manner provided by law, on two Mondays successively in three of the Mondays between the first day of March and the last day of June in each year, except on the first and second Mondays of the time, during which persons living in West Cambridge and Somerville and having a right to fish in that part of Little River south of Alewife Bridge and the Winter Hill road, may exercise that right, and on no other days.

SECT. 3. Every person offending against this act shall forfeit and pay, to any person who shall sue for the same, a sum not exceeding twenty dollars.

SECT. 4. This act shall take effect from and after its passage. — [March 18, 1845.

AN ACT to incorporate the Herring River Company.

1845, 161. *Be it enacted, etc., follows:* SECT. 1. Anthony Kelley, Job Chase and Richard Baker, Jr., their associates and successors, are hereby made a corporation by the name of the "Herring River Company," for the purpose of deepening and protecting the mouth and channel of Herring River, so called, in the town of Harwich and County of Barnstable, with all the powers and privileges and subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. Said company, for the purposes aforesaid are hereby authorized to make excavations, embankments and fences, and to drive piles along the banks of said river and into the sea, in such direction and to such extent as they shall deem expedient: *provided*, that in no case shall the legal rights of any persons or corporations whatever be affected by this act.

SECT. 3. Any person who shall wilfully and maliciously injure or destroy any embankments, fences, piles or other works erected by said company in accordance with the provisions of this act, shall be liable to a penalty of fifty dollars for each offence, to the use of the Commonwealth, to be recovered by indictment therefor.

SECT. 4. This act shall take effect from and after its passage. — [March 20, 1845.

1846.

[Sp. Laws, vol. 2, p. 431.]

AN ACT to authorize the Town of Weymouth to transfer a Right of Fishing.

1846, 92. *Be it enacted, etc., as follows:* SECT. 1. From and after the time of this act going into effect, the Weymouth Iron Company shall have and enjoy all the rights and privileges in respect to the taking of alewives within the limits of the town of Weymouth,

now belonging to said town ; and any committee, and any member or members of said committee, that shall be appointed from time to time by said company, or by the directors thereof, to regulate, superintend, or have charge of, or the care and management of the taking and disposing of said fish, shall dispose of the same for the benefit of said company, and account with the said company for the proceeds thereof ; and such committee, or either of them, shall have power and authority to remove from or out of Back River, in said town, and the brooks and streams leading to Great Pond and Whitman's Pond, in said town, any obstructions that may be made to the free passage of said fish into said ponds or repassing from them into the sea ; and said committee going, or either of them, into the land of any person or persons for this purpose, shall not be deemed or held as a trespass ; and the said committee, or a major part of them (if more than one) shall determine the particular place or places where the said fish shall be taken, and give public notice thereof by posting up one or more notifications in some conspicuous place or places in said town, on or before the first day of May annually.

SECT. 2. No person shall catch or take any of said fish in any of the rivers, brooks or streams, canals or water channels leading to or from the said ponds, without the direction or leave of said committee, or a major part of them ; and whosoever shall take, catch or haul on shore any of said fish with a seine, scoop-net or drag-net, in either of the ponds aforementioned, or in Weymouth Back River, or in the river, brooks, streams, canals or channels through which the said fish pass into said ponds, or shall, with any seine, scoop-net or drag-net, or in any other way obstruct the passage of said fish to or from said ponds, or either of them, or shall obstruct said committee, or either of them, in the execution of their duty, shall for each such offence forfeit and pay not exceeding thirteen dollars nor less than ten dollars ; and in case the offence be committed in the night a sum not exceeding thirty dollars nor less than twenty dollars, to be prosecuted or sued for, and recovered, in any court proper to try the same, in an action on the case, or other proper form of action, in the name of said Weymouth Iron Company, or the name or names of such committee, for the benefit of said company, saving when any person shall give information of any breach of this act, he shall, upon conviction of the offender, be entitled to one third part of the forfeiture recovered ; and no person shall be considered as disqualified from being a witness on any trial that may be had pursuant to this act, on account of his being an inhabitant of said town, or of his being a member of said committee.

SECT. 3. Each householder in said town of Weymouth shall, on his making seasonable application for that purpose to said committee, or

any member thereof, or to the person employed by said committee to superintend, regulate and manage the taking of said fish at the place, or any of the places for taking the same, have the right to purchase four hundred fresh alewives for his own consumption, of those which shall be taken each year under authority of said committee, at the price of twenty-five cents per hundred, before said alewives shall be cured or otherwise disposed of: *provided*, the person so applying shall be ready seasonably to pay for and remove such quantity, and in case any such inhabitants so applying, and being so ready to pay for and remove said quantity of fresh fish, shall not be supplied therewith, as far as the quantity taken under authority of said committee shall suffice for the purpose, said company shall forfeit to him the sum of five dollars, to be sued for and recovered by him in his own name, in an action of debt or on the case, or other proper action of proceeding against said corporation or against said committee, or any member thereof, in any court proper to try the same.

SECT. 4. The agreement heretofore entered into between the proprietors of the falls and water privileges on Alewife River, otherwise called Back River, and the town of Weymouth, as recited in the preamble of the special act of 1825, chapter forty-eight, entitled "An Act in addition to an act for the regulating and disposing of the fish called alewives within the limits of the town of Weymouth, and for the more effectually securing to said town the advantages thereof," shall still be and remain in force, as also said additional act, the foregoing provisions of this act notwithstanding, excepting that in respect to the provisions of said additional act, the said Weymouth Iron Company shall be substituted in the place of the town of Weymouth, as a party to the terms of said agreement and the provisions of said additional act; and any committee appointed by said company, from time to time, in pursuance of the provisions of the first section of this act, shall be substituted in the place of, and have the rights, powers and duties of, and be subject to the provisions of said additional act, relating to the fish-committee of said town.

SECT. 5. The purchase money for said privilege, paid to said town of Weymouth in pursuance of this act, shall be kept as a fund, to be managed and invested by the treasurer of said town of Weymouth, or by any person or committee appointed or authorized by said town for the purpose; and the same shall be loaned only on security of real estate, except to said town; and the annual interest and income of said fund shall be annually expended for the support of schools in said town, to be divided in the same manner as other moneys raised for the support of schools.

SECT. 6. This act shall go into effect, on said town of Weymouth causing to be conveyed to said company the fish house for said fishery,

and the land under the same, and adjoining thereto, belonging to said town, and the said company paying to the selectmen of said town, or either of them, a sum of money, the annual interest of which, at six per cent. per annum, is or shall be assented and agreed to by said selectmen as sufficient to yield an annual interest equal to the net annual income of said fishery for the last thirty years.—[March 11, 1846.]

[Sp. Laws, vol. 1, p. 272; vol. 3, p. 43.]

AN ACT to repeal the Laws regulating the Fishery in Merrimack River.

1846, 192. *Be it enacted, etc., as follows:* SECT. 1. From and after the passing of this act, the several laws regulating the fisheries in Merrimack River, are hereby repealed, except so much of said laws as relate to any sluice or passage-way, dams or other obstruction to the free passage of fish up and down said river, and said appeal shall in no wise affect any legal rights that may have accrued under said laws. — [April 7, 1846.]

1847.

[1824, 94; 1829, 84.]

AN ACT to regulate the Herring or Alewife Fishery in Chappaquonset Pond and Creek in the Town of Tisbury.

1847, 40. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of Tisbury in the county of Dukes County, at their annual meeting in the month of March or April, shall choose one or more discreet persons as a fish-committee, who shall be sworn to the faithful performance of their duty, and whose duty it shall be to regulate the herring or alewife fishery in Chappaquonset Pond and Creek in said town; to prescribe the time, manner, place or places where said fish may be taken by the inhabitants of said town; also to remove any obstruction that may be in said creek, and to keep the stream open for the passage of said fish from the Vineyard Sound or Sea, into Chappaquonset Pond, so that the inhabitants of said town may enjoy a free fishery.

SECT. 2. The fish committee for the time being, shall post up, at three or more public places in said town, on or before the tenth day of March in each year, the regulations established by said committee respecting the fishery in Chappaquonset Pond and Creek.

SECT. 3. Any person who shall oppose or obstruct said committee in the performance of their duty, or shall obstruct said fish in their passage, or take or destroy any of said fish at any time or place, except at such time or place as said committee shall direct, on conviction before any justice of the peace in the county of Dukes County not an inhabitant of the town of Tisbury, shall forfeit and pay a fine for each offence, not exceeding twenty dollars, one half to the use of

the town, the other half to the person or persons giving the information.

SECT. 4. All persons not otherwise disqualified shall be taken to be competent and legal witnesses in any prosecution upon this act, they being inhabitants of the town of Tisbury notwithstanding.

SECT. 5. The selectmen of the town of Tisbury are hereby empowered to direct the fish-committee to take and sell such part of the fish taken in said creek as shall be sufficient to pay all expenses that have accrued or may accrue in securing and preserving said fishery: *provided*, that the quantity or number so required shall not exceed one-sixth part of all the fish taken by the inhabitants of said town, in any one year, at said fishery.

SECT. 6. If any damage is sustained by the owners of the land on which said fish are taken by the inhabitants of the town of Tisbury, the selectmen of said town shall pay a reasonable compensation therefor, when demanded. And in case of a refusal by the selectmen to pay a reasonable compensation the same may be recovered by an action on the case against the said town of Tisbury.

SECT. 7. No person shall take any herring or alewives from the Vineyard Sound or Sea within one mile of said Chappaquonset Creek, or make any new outlets from Chappaquonset Pond, except it shall be done by a vote of the inhabitants of the town of Tisbury, at a legal meeting warned and held for that purpose.

SECT. 8. Nothing in this act shall be so construed as to prevent the owners of marsh or meadows from flowing or draining their meadows through Chappaquonset Creek, whenever it can be done without obstructing the passage of the herrings or alewives to or from Chappaquonset Pond. And nothing in this act contained shall affect any suit now pending, or the legal rights of any person. — [March 4, 1847.]

[Sp. Laws, vol. 2, p. 222.]

AN ACT to regulate the Herring Fishery in the Town of Falmouth.

1847, 94. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Falmouth in the county of Barnstable, may, at any legal meeting called for that purpose, prescribe the times, manner and places for taking alewives or herrings in Dexter's River, and other waters connecting Coonamisset Pond with the Vineyard Sound or Sea, and also in the other rivers, streams and ponds which have heretofore been used by the inhabitants of said town as herring fisheries; and they may also at said meeting adopt such further rules and regulations as may by them be deemed expedient for the preservation of said fishery; and they may dispose of the privilege of taking said fish in any way or manner they may think proper; and they shall choose by

ballot a committee, consisting of three discreet persons, who shall cause the regulations adopted by said town to be carried into effect, and who shall be sworn to the faithful performance of their duty.

SECT. 2. The selectmen for the time being shall post up the regulations so established, in three or more public places in said town, in each and every year, within one week after their passage.

SECT. 3. If any person shall take any of said fish in any of the waters aforesaid, at any time or in any manner other than shall be allowed by said town, he shall, for each offence, on conviction thereof, pay a fine not exceeding five dollars; and if any person shall, in either of the months of March, April, May or June, without permission of the town or fish-committee, set or shoot a seine in the Vineyard Sound, within forty rods of the mouth of said rivers or streams, for the purpose of taking said fish, he shall, for each offence, on conviction thereof, pay a fine not exceeding twenty dollars; the fines and forfeitures to be recovered in any court proper to try the same, one half to the use of the town, and the other half to him who shall prosecute therefor; and in all such prosecutions any inhabitant of said town not otherwise disqualified shall be a competent witness: *provided*, that this act shall in no wise be so construed as to affect the legal rights of any corporation or persons whatever.

SECT. 4. The acts passed on the second day of March in the year one thousand seven hundred and ninety-eight, and on the first day of March in the year one thousand seven hundred and ninety-nine, to prevent the destruction and to regulate the catching of alewives in the rivers and streams of the town of Falmouth in the county of Barnstable, are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. — [March 17, 1847.

[1855, 279.]

1848.

[1819, 98.]

AN ACT to repeal "An Act to prevent the Destruction of Fish in the several Ponds in the Town of Haverhill."

1848, 12. *Be it enacted, etc., as follows:* SECT. 1. An act entitled "An Act to prevent the destruction of fish in the several ponds in the town of Haverhill," passed on the seventh day of February, in the year one thousand eight hundred and twenty, is hereby repealed: *provided*, that nothing in this act shall be so construed as to release or absolve any person or persons from any liability incurred under or by any provision of the act hereby repealed.

SECT. 2. This act shall not have the effect to revive any statute law relating to the subject of the act hereby repealed, and which may have been in force prior to the passage of the said repealed act.

SECT. 3. This act shall take effect from and after its passage. —
[February 14, 1848.]

[1839, 83.]

AN ACT in addition to an Act to incorporate the Trap's Creek Fishing Company, in Edgartown.

1848, 47. *Be it enacted, etc., as follows:* SECT. 1. The present owners of lands adjoining the said Trap's Pond or Creek, shall have each one share only in said fishery, and no one of them shall, by conveyance of descent of his lands, create or cause to be created, an additional number of shares: *provided, however,* that each of the present owners and his successor, may divide his original share into parts or fractions.

SECT. 2. This act shall take effect from and after its passage. —
[March 18, 1848.]

[1855, 299.]

[Sp. Laws, vol. 1, p. 269; 1814, 128.]

AN ACT relating to the Alewife Fishery in North River.

1848, 116. *Be it enacted, etc., as follows:* SECT. 1. So much of the act passed February twenty-fifth, in the year one thousand eight hundred and fifteen, as prescribes the length of seines to be used in the North River in the taking of alewives, be and the same is hereby repealed: *provided, however,* that the legal rights of any person and corporations, who may have commenced suits under the provisions of the law hereby repealed, shall remain the same as before the passage of this act.

SECT. 2. This act shall take effect from and after its passage. —
[April 18, 1848.]

[1852, 66; 1853, 350; 1856, 83; 1872, 229; 1875, Res. 36; 1876, 103.]

AN ACT to incorporate the Pocha Pond Meadow and Fishing Company.

1848, 185. *Be it enacted, etc., as follows:* SECT. 1. John Vinson, J. T. E. Gage, William W. Huxford, their associates and successors, are hereby made a corporation by the name of the Pocha Pond Meadow and Fishing Company, in Edgartown, in Dukes County, and are empowered to close the outlet of said pond by building a causeway from the twenty-acre lot, so called, to Cape Poge Beach in said Edgartown: *provided,* that said causeway shall be built of suitable width and kept in such repair that loaded carriages may pass and repass in safety over the same, and shall at all times be free for the public to travel over; and to make a new outlet or creek from Pocha Pond into the harbor of Edgartown, through lands of said proprietors, at a convenient place, for the purpose of draining the meadows and for regulating the herring fishery thereby created: *provided,* that suitable bridges shall be built over said creek or outlet, where carriages

usually pass ; and for these purposes, shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of the corporation, shall take, catch or haul on shore any herring in said pond or creek, or outlet which may be made therefrom, he shall forfeit and pay for the use of said corporation a sum not exceeding three dollars, if the quantity so taken be less than one barrel ; but if the quantity be more than one barrel, the person so offending shall forfeit and pay for each barrel of herring so taken, the sum of five dollars, to be recovered in any court proper to try the same.

SECT. 3. Nothing herein contained shall deprive any inhabitant of the town of Edgartown of the privilege of taking any fish other than herring from said creek, pond or outlet.

SECT. 4. If any person, not a proprietor of this corporation, shall receive damage by the flowing of his meadows or in closing the present outlet, the county commissioners of Dukes County, after a hearing of all parties interested, shall estimate the amount of damages which such person may have sustained by said corporation, which damages, if any, said corporation shall pay ; and either party, if dissatisfied with any estimate made by said commissioners, may apply for a jury to assess the damages, either at the same meeting at which such estimate shall be completed and returned or at the next regular meeting of said county commissioners ; and the like proceedings shall be had thereon as are provided for the recovery of damages for laying out highways.

SECT. 5. All persons who now are owners of land adjoining said pond or creek, or outlet to be made therefrom, may become members of said corporation at any time previous to the commencing by said corporation, to close said outlet.

SECT. 6. The present owners of land adjoining said pond or creek or outlet, shall have each one share only in said fishery ; and no one of them shall, by conveyance or descent of his lands, create or cause to be created, an additional number of shares : *provided, however*, that each of the present owners or his successor or successors, may divide his original share into parts or fractions. — [April 25, 1848.

[1851, 126 ; 1856, 45.]

[1823, 97.]

AN ACT concerning the Alewife Fishery in Saugus River.

1848, 187. *Be it enacted, etc., as follows:* SECT. 1. The towns of Lynn, Saugus and South Reading may, together or separately, enforce the laws which regulate the alewife fishery in the Saugus River and its tributary streams, in their several towns.

SECT. 2. All acts inconsistent with the provisions of this act are hereby repealed. — [April 25, 1848.

[1852, 48.]

1849.

AN ACT to protect the Trout Fishery in Marshpee River.

1849, 36. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout in Marshpee River, in the district of Marshpee, in the county of Barnstable, from the fifteenth day of September in each year to the first day of April in the year next ensuing.

SECT. 2. No person except the proprietors of said district shall take any trout in said river, at any time, without a written permit from the treasurer of Marshpee, which shall specify the time when and the places where the person holding the same is allowed to take fish; and no person shall at any time use any other means of taking trout in said river than by angling with hooks and lines.

SECT. 3. The said district may, by vote in legal meeting, make any regulations or by-laws respecting said fishery which may not be repugnant to the provisions of this act; and the income from said fishery shall inure wholly to said district.

SECT. 4. Any person offending against the provisions of this act, or any regulations or by-laws passed by authority of the third section of this act, shall forfeit and pay a fine of five dollars for each and every offence, to be recovered by prosecution, before any justice of the peace in the county of Barnstable, to the benefit of said district; and the proprietors of said district shall be competent witnesses on the trial of any such process.

SECT. 5. Any person who shall have in his possession any trout taken from said river contrary to the provisions of this act, knowing the same to have been so taken, shall forfeit the sum of fifty cents for every trout so found in his possession.

SECT. 6. If any minor shall offend against the provisions of this act, the parent, master or guardian of such minor shall be liable, and may be prosecuted accordingly therefor.

SECT. 7. All prosecutions under this act shall be commenced within sixty days from the time when the offence is committed.

SECT. 8. This act shall take effect from and after its passage. — [March 16, 1849.

[1853, 186; 1859, 105; 1860, 46.]

[1814, 134; 1815, 83]

AN ACT to authorize the Towns of Dennis and Yarmouth to regulate the Fisheries in Bass River.

1849, 37. *Be it enacted, etc., as follows:* SECT. 1. The towns of Dennis and Yarmouth, in the county of Barnstable, are hereby

authorized and empowered, at any legal meeting of the inhabitants of said towns, to choose three persons in each town for a fish-committee, who shall be inhabitants of the towns for which they are chosen, and who shall be sworn to the faithful performance of their duty. The said committees shall meet together annually, on or before the twentieth day of April, at such time and place as a majority of them may appoint; and when so united, shall be considered a joint committee for enforcing the provisions of this act. The major part of this joint committee present at such meeting, or at any subsequent meeting before the twentieth day of April in each year, are hereby authorized and empowered to order the time, place and manner in which it may be lawful to take any of the fish called herrings or alewives and perch in Bass River, or the ponds and streams connected therewith, and may prescribe the length of the seines, nets or other instruments which may be used for taking such fish, together with the length of the lines attached thereunto; and may appoint and grant permits to suitable persons, being inhabitants of one of said towns, to catch any of the said fish in the said river, or in the ponds and streams connected therewith, and fix the compensation to be paid to the said towns for such permits; and shall determine the quantity of said fish which each family in said towns shall receive from such catchers, and establish the price therefor; and when directed by a vote of both the said towns, may sell at auction or otherwise the exclusive right of fishing in said river and its waters to one or more persons for a term of time not longer than one fishing season, at one sale, upon such terms and conditions as the said towns or said joint committee may direct.

SECT. 2. If either of the said towns of Dennis or Yarmouth shall have chosen its fish-committee according to the provisions of this act, and the other town shall neglect or refuse so to do, then the committee which is lawfully chosen shall have all the power and authority which is intended by this act to be conferred on the said joint committee.

SECT. 3. The said committee or a majority of them, are hereby fully authorized and empowered to cause the natural streams through which the said fish pass to be kept open and without obstruction; to remove such obstructions as may be found therein, and to make the said passage-ways wider and deeper if they shall judge necessary; and the said committee, or either of them, by paying a reasonable consideration therefor, if demanded, shall have authority for these purposes to go on the land or meadows of any person through which the said streams run, without being considered as trespassers; and any person or persons who shall molest, or in any way hinder the said committee, or either of them, in the execution of the duties of their office, or shall obstruct any passage-way in the said Bass River, or in

the ponds or streams connected therewith, otherwise than may be allowed by the said committee, shall forfeit and pay a fine not exceeding twenty dollars for every such offence.

SECT. 4. If any person or persons shall take any of the said fish called herrings, alewives or perch, in the said Bass River, or in the ponds and streams connected therewith, or within half a mile, in any direction, from the mouth of said river, at any time or place or in any manner other than may be allowed by the said committee, each person so offending shall for each and every such offence, upon conviction thereof, forfeit and pay a fine not exceeding ten dollars, if the quantity of fish so taken be less than one barrel, but if the quantity of fish so taken shall be one barrel or more, such person or persons so offending shall forfeit and pay for every barrel of fish so taken a sum not more than twenty dollars nor less than ten dollars.

SECT. 5. If any vessel, boat or craft shall be found within the limits of the said river or the ponds or streams connected therewith, or within half a mile of the said river's mouth, with any more of the said fish on board the same than is allowed by said committee, or if any person or persons, with any such vessel, boat or craft shall be detected in taking or in attempting to take any of the said fish in any manner different from the regulations of said committee, or with seines, nets or other instruments of a kind or size different from that established by the said committee, it shall be the duty of such committee, or either one of them, and they are hereby authorized to seize such vessel, boat or craft, seine or other instruments, and detain the same not exceeding forty-eight hours, in order that the same may be attached by due process of law, and made answerable for such fines and forfeitures incurred, with costs of suit.

SECT. 6. All fines and forfeitures incurred under this act shall go, one half to the said towns of Dennis and Yarmouth, and the other half to the person who shall prosecute for the same, excepting that when the said committee or either one of them shall prosecute, then the forfeitures shall accrue wholly to the said towns, to be recovered by complaint before a justice of the peace, or in any court competent to try the same.

SECT. 7. All laws heretofore passed regulating the fisheries in either of the towns of Dennis and Yarmouth, which are inconsistent with the provisions of this act, are hereby repealed, excepting that a fish-committee which may be chosen the present year under the provisions of any existing law, shall be considered the committee of such town under the operation of this act.

SECT. 8. This act shall take effect from and after its passage. — [March 16, 1849.

AN ACT authorizing the erection of a Fish Weir in the Town of Eastham.

1849, 64. *Be it enacted, etc., as follows:* SECT. 1. Joshua Higgins, junior, Scotto Cobb and their associates, of Eastham, in the county of Barnstable, are hereby authorized to erect and maintain in said town, a weir for taking fish, on their land at or near a place called Cook's Brook, on the bay side of said town, extending from the upland to low-water mark: *provided*, that the said weir shall not be so constructed or maintained as to obstruct the navigation at said place.

SECT. 2. If any person shall wilfully injure or destroy said weir, or any part thereof, or shall, without leave of the owners thereof, take from the same any fish found therein, he shall, upon conviction, forfeit and pay to the use of the owners of said weir a sum not exceeding twenty dollars, to be recovered in any court of competent jurisdiction, and shall, moreover, be liable to the parties injured for all damages, in a civil suit.— [March 29, 1849.]

[1821, 97; 1849, 219.]

AN ACT to prevent the Seining of Fish in the Harbors of New Bedford and Fairhaven.

1849, 128. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or use any seine or net in the harbors of New Bedford and Fairhaven or the waters falling into said harbors north of a line drawn due east from the almshouse in New Bedford to Fairhaven, for the purpose of taking any description of fish other than menhaden, and any person offending against the provisions of this act, shall forfeit and pay the sum of twenty dollars for each offence, to be recovered by complaint before the justice of the police court in New Bedford, or any justice of the peace, to the use of the complainant.— [April 20, 1849.]

[1854, 293.]

[1821, 97; 1849, 128.]

AN ACT in addition to an Act entitled "An Act to prevent the Seining of Fish in the Harbors of New Bedford and Fairhaven."

1849, 219. *Be it enacted, etc., as follows:* SECT. 1. Nothing contained in the act entitled "An Act to prevent the seining of fish in the harbors of New Bedford and Fairhaven," passed the twentieth day of April in the year one thousand eight hundred and forty-nine, shall be construed to apply to the herring fisheries in Acushnet River, from Island Marsh, so called, in said river, northwardly, to the head waters thereof.— [May 2, 1849.]

[1854, 293.]

1850.

[1833, 211; 1855, 156; 1858, 95.]

AN ACT for the protection of the Fisheries in the vicinity of Nantucket.

1850, 6. *Be it enacted, etc., as follows:* SECT. 1. From and after the first day of July next it shall not be lawful for any person or persons to take any fish by seining, within one mile from the shores of Nantucket, Tuckernuck, Smith's, Muskeket and Gravel Islands.

SECT. 2. The provisions of the sixteenth section of the fifty-fifth chapter of the Revised Statutes in regard to the town of Chatham, shall be and the same are hereby extended to the town of Nantucket.

SECT. 3. Any person violating any provisions of this act, shall forfeit and pay for each offence the sum of fifty dollars.

SECT. 4. The said town of Nantucket is hereby authorized to choose, at the annual town meeting or at any meeting duly warned for that purpose, such number of fish-wardens as may at the time be deemed necessary, who shall be sworn to the faithful discharge of their duty, whose duty it shall be to prosecute for every offence against any provisions of this act.

SECT. 5. If any boat or craft be found within or without the limits aforementioned with fish of any kind on board, taken within said limits contrary to the provisions of this act, it shall be the duty of said fish-wardens to seize such boat or craft, and detain the same not exceeding forty-eight hours, in order that the same may be attached or arrested by due process of law, for the better security of the payment of the penalty for the violation of the provisions of this act, together with the costs of the suit: *provided, however,* that as soon as the master or owner of such boat or craft shall pay such penalty to the treasurer of the town of Nantucket (if he pay the same before being sued therefor), such boat or craft shall be discharged, with the effects therein.

SECT. 6. All fines and penalties recovered and received by virtue of this act, shall go, one-half to the treasurer of Nantucket, for the use of said town, the other half to the complainant; and said forfeitures, fines or penalties may be recovered, together with legal costs of suit, by an action of debt, in any court of record proper to try the same.—[February 5, 1850.

[1870, 284.]

AN ACT to incorporate the Great Marsh Dyking, Water-Power and Fishing Company.

1850, 73. *Be it enacted, etc., as follows:* * * * SECT. 4. Said corporation shall have the exclusive ownership of any herring or other fishery created in consequence of the location of said dyke, together with the right of regulating such fisheries and taking the fish therein, to their own exclusive use, * * * — [March 14, 1850.

AN ACT to incorporate the Wequabsqua Fishing Company.

1850, 99. *Be it enacted, etc., as follows:* SECT. 1. Charles Weeks, Samuel T. Hancock, Moses A. Mayhew, Tristram Allen, Calvin O. Adams and others, their associates and successors, proprietors of the lands adjoining a pond, situated in the south part of the town of Chilmark, known by the name of Chilmark Pond, are hereby made a corporation by the name of the Wequabsqua Fishing Company, for the purpose of taking fish in the limits hereinafter specified; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities contained in the forty-fourth chapter of the Revised Statutes, passed on the fourth day of November, one thousand eight hundred and thirty-five.

SECT. 2. All persons who are proprietors of the lands as aforesaid, shall have the right to become members, bear the expenses and share the profits, of the company, in like proportion as was the estimated value of their several meadows, according to the valuation of the commissioners of sewers, in the year one thousand eight hundred and forty-eight, to the value of the whole.

SECT. 3. The said company are hereby empowered to maintain a creek or canal from said pond, across the neck of land called Wequabsqua, to the sea, with the exclusive privilege and control of the fishery in said creek and so much of the pond as lies within ten rods from the head of the creek, and also so much of the sea or ocean from high-water mark, as lies within the distance of fifty rods from the mouth of said creek.

SECT. 4. If any person, in violation of the by-laws of said company shall take, catch or destroy any fish within the limits named in the preceding section, he shall forfeit and pay for each offence, a sum not exceeding twenty dollars nor less than five dollars, one half to the complainant and the other half to the town of Chilmark.

SECT. 5. Either of the persons named in the first section of this act, is hereby authorized to call the first meeting of the company, by causing a notification, stating the time and place of meeting and the business to be acted upon, to be published in the "Vineyard Gazette," a newspaper printed in the town of Edgartown or by giving notice to each proprietor.

SECT. 6. This act shall take effect from and after its passage. — [March 20, 1850.]

[1815, 83.]

AN ACT concerning the Alewife Fishery in the Town of Dennis.

1850, 148. *Be it enacted, etc., as follows:* SECT. 1. So much of an act passed on the twenty-fourth day of February, in the year one

thousand eight hundred and twenty-five, entitled "An Act in addition to an act entitled an act to prevent the destruction and to regulate the catching of the fish called alewives, in their passage up the rivers and streams in the town of Harwich, in the county of Barnstable," as prevents the catching of fish called alewives, on the westward of Job Chase's Wharf, so called, situated in the town of Dennis, in the county of Barnstable, is hereby repealed.

SECT. 2. This act shall take effect from and after its passage. — [April 4, 1850.

[1852, 68; 1855, 90; 1880, 122.]

1851.

[1826, 54.]

AN ACT to protect the Mattakeset Herring Fishery in the Town of Edgartown.

1851, 77. *Be it enacted, etc., as follows:* SECT. 1. No person or persons shall set, draw or stretch any seine or drag-net or set up any weirs, in the Great Pond, bays, coves or creeks of said Great Pond, in the town of Edgartown, from the first day of September, annually, under a penalty of fifty dollars for each person, for each offence, to be recovered in any court proper to try the same, one half to the use of the said town, and the other half to any person who shall prosecute therefor.

SECT. 2. This act shall take effect from and after its passage. — [April 25, 1851.

[1856, 285; 1872, 248.]

[Sp. Laws, vol. 2, pp. 222, 289; 1825, 63; 1847, 94.]

AN ACT to protect the Fisheries in the Town of Falmouth.

1851, 98. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or stretch any seine or drag-net in the Waquoit Bay, or in any of the ponds, rivers or creeks, within the limits of the town of Falmouth, under a penalty of twenty dollars nor more than one hundred dollars; to be recovered in any court proper to try the same, one half to the use of the said town, and the other half to any person who shall prosecute therefor.

SECT. 2. This act shall take effect from and after its passage. — [April 30, 1851.

[1858, 130.]

[1843, 20.]

AN ACT in addition to an Act concerning Alewives in Herring River in the Town of Barnstable.

1851, 116. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Barnstable, at their annual meeting in the month of February, shall choose one or more proper persons as a committee to regulate the taking of alewives in Herring River, at Marston's

Mills, in the said town, which committee shall prescribe and make known the time, not exceeding five days in each week, and the manner and place or places where the said fish may be taken by all the inhabitants of the said town, and the said committee shall have and exercise all the powers and duties which, by the act to which this is in addition, are placed in the selectmen of the said town.

SECT. 2. The time during which the said fish shall be so taken by the inhabitants of the said town, and during which the occupants or owners of dams across the said river shall be required to keep open and maintain the passage-ways over or around their respective dams, shall not exceed thirty days in each year; and nothing contained in this act, or the act to which this is in addition, shall be so construed as to affect the legal rights of any person.

SECT. 3. The first and fifth sections of the act to which this is in addition, and all other parts of the said act which are inconsistent with the provisions of this act, are hereby repealed. — [May 7, 1851.

[1848, 185.]

AN ACT in addition to "An Act to incorporate the Pocha Pond Meadow and Fishing Company in Edgartown."

1851, 126. *Be it enacted, etc., as follows:* SECT. 1. If any person not a proprietor of this corporation, shall receive damages by the flowing of his meadows, or in the closing of the present outlet of Pocha Pond, the county commissioners of Dukes County, after the hearing of all parties interested, shall estimate the amount of damage such persons may have sustained by the said corporation and also the benefits, if any, such persons may derive by the flowing of his meadows or in closing the present outlet; which damages, if any, after deducting therefrom the benefits, said corporation shall pay; and either party if dissatisfied with any estimate made by the said commissioners, may apply for a jury to assess the damages, either at the same meeting at which such estimates shall be completed and returned, or at the next regular meeting thereof, and the like proceedings shall be had thereon as are provided for the recovery of damages for laying out highways.

SECT. 2. The fourth section of an act entitled "An Act to incorporate the Pocha Pond Meadow and Fishing Company," passed on the twenty-fifth day of April, in the year one thousand eight hundred and forty-eight is hereby repealed.

SECT. 3. This act shall take effect from and after its passage. — [May 7, 1851.

[1856, 45.]

1852.

[1839, 102]

AN ACT to protect the Fisheries in the town of Barnstable and Marshpee District.

1852, 35. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or stretch any seine or drag-net in Osterville Harbor, or Popponessette Bay, or any of the waters within the limits of the town of Barnstable or Marshpee district on the southerly side, under a penalty of not less than ten dollars nor more than one hundred dollars, to be recovered in any court proper to try the same, one half to the use of the said town, and the other half to any person who shall prosecute therefor.

SECT. 2. This act shall take effect from and after its passage. — [March 15, 1852.

[1860, 46; 1884, 264.]

[Sp. Laws, vol. 2, p. 504; vol. 3, p. 398; 1823, 97; 1848, 187.]

AN Act to prevent the Destruction of Shad and Alewives in the Saugus River, and its Tributary Streams within the City of Lynn.

1852, 48. *Be it enacted, etc., as follows:* SECT. 1. The city council of the city of Lynn is hereby empowered and directed in the month of April or May annually, to choose five persons, inhabitants of said city, to see that the laws respecting the passage-ways for shad and alewives be observed; and each person so chosen shall be sworn to the faithful discharge of his duty. And the said committee or a major part of them are hereby authorized and empowered to order the times, places and manner in which said fish may be taken in Saugus River and streams in said city: *provided, however,* that no person shall be allowed to take said fish as aforesaid more than three days in any one week; and *provided, also,* that the taking of said fish shall not be prohibited more than four days in any one week. And the regulations which shall be so agreed upon by said committee, shall be written and posted in three public places, or published in a newspaper in said city.

SECT. 2. The said committee or a majority of the members, are hereby authorized and empowered to require of the owner or occupant of any dam or sluice-head of any mill erected, or that may be erected over said river or stream, to open and keep therein a sufficient passage-way for such fish, at such time, between the first day of April and the twentieth day of June annually, as the said committee or a major part of them shall think necessary; and may also require of the owner or occupant of any canal or course, whereby any natural stream is or shall be in part changed or altered, to leave sufficient water in the natural stream for the easy and safe passage of said fish; and upon neglect or refusal of such owner or occupant of any dam,

sluice-head or canal as aforesaid, to comply with such act, the said committee or major part of them, shall and may cause sufficient passage-way and opening as they shall judge necessary, for the purposes aforesaid, to be made in such dam, sluice-head or canal, with the least prejudice to the owner or occupant, and at his expense. And such passage-way and opening shall and may be continued at the discretion of said committee, from the time they shall order the same as aforesaid, and until they shall order or permit the closing of the same, between the days above named. And if any person shall obstruct the passage-way or opening required or allowed by said committee or the major part of them, as aforesaid, or in any manner obstruct the passage of said fish, or put or cause or suffer to be put in either of said streams any noxious substance whereby said fish may be destroyed or their passage hindered, such offender shall forfeit and pay a sum not exceeding twenty dollars for each offence.

SECT. 3. If any person or persons shall be found taking any of the aforesaid fish on any day or in any place or in any manner contrary to the regulations of the said committee, or of the provisions of this act, or of otherwise killing or wasting such fish, such offender shall forfeit and pay a sum not exceeding ten dollars nor less than one dollar for each offence.

SECT. 4. If any person not a resident of the city of Lynn, shall take any fish from either of said streams within said city, he shall forfeit and pay a sum not exceeding twenty dollars for each offence.

SECT. 5. It shall be the duty of said committee to see to the observance of this act, and they shall have authority therefor to go upon the land bordering upon the said river or streams and shall not be considered as trespassers therein. And any person who shall molest said committee or either of them, in the execution of the duties of their office, shall forfeit and pay a sum not exceeding ten dollars nor less than one dollar.

SECT. 6. All fines and forfeitures given by this act may be recovered by complaint or information in the police court of said city, and to the use of said city; and all costs incurred therein, if not otherwise recovered, shall be paid by said city.

SECT. 7. All acts and parts of acts heretofore made which are inconsistent with the provisions of this act, are hereby repealed.

SECT. 8. This act shall take effect from and after its passage. —
[March 26, 1852.]

[Sp. Laws, vol. 1, p. 269; 1814, 128; 1848, 116]

AN ACT to regulate the setting of Mesh Nets in North River.

1852, 66. *Be it enacted, etc., as follows:* SECT. 1. No person or persons shall set or cast any mesh-net across North River, so

called, in the county of Plymouth, so as to prevent the free passage of fish up or down said river, on any days excepting Mondays, Wednesdays and Fridays of each week, from sunrise to sunset of said days.

SECT. 2. All laws restricting and regulating the setting of seines in said North River, shall apply to the setting of mesh-nets in said river. — [March 27, 1852.

[1853, 350; 1856, 83; 1872, 229; 1875, Res. 36; 1876, 103.]

[1815, 83.]

AN ACT to incorporate the Flax Pond Fishing Company in Dennis.

1852, 68. *Be it enacted, etc., as follows:* SECT. 1. James Howes, William Crowell, 2d, John Gorham, their associates and successors, are hereby made a corporation by the name of the Flax Pond Fishing Company, in Dennis, and are empowered to open a brook or outlet from Flax Pond to Sesuit Creek, so called, and also improve Sesuit Creek (into which said pond empties) to the sea, so far as may be necessary for the purpose of an alewife fishery, and to regulate the same, and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities contained in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of the corporation, shall take, catch or haul on shore any alewives in said pond or brook or creek or outlet so made, the person so offending shall forfeit and pay, for the use of said corporation, a sum not exceeding two dollars, if the quantity so taken be less than one barrel; but if said quantity be more than one barrel, the person so offending shall forfeit and pay for each and every barrel, five dollars, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual, such individual shall be entitled to reasonable indemnity for the damage done him.

SECT. 4. Any inhabitant of the town of Dennis shall be entitled to the privilege of becoming a member of said corporation: *provided*, application is made therefor within three months from the passage of this act; and *provided, also*, that said applicants pay their proportion of the expenses which shall have accrued to said corporation.

SECT. 5. If the said corporation shall neglect to execute and complete the improvements provided for in this act within three years from the passage thereof, then the same shall be void and of no effect.

SECT. 6. This act shall take effect from and after its passage. — [March 27, 1852.

[Sp. Laws, vol. 3, p. 378; 1819, 11; 1820, 51; 1836, 130; 1837, 184; 1844, 63.]

AN ACT to regulate the Fishery in Palmer's River.

1852, 92. *Be it enacted, etc., as follows:* SECT. 1. From and after the passage of this act, no person, except as is hereinafter provided, shall take shad or alewives with seines or in nets in Palmer's River in the town of Rehoboth, in the county of Bristol, from the first day of April to the first day of July in each year: *provided*, that the inhabitants of Rehoboth may, at a legal meeting held for that purpose, dispose, at public auction, of the privilege of taking fish for that year, with scoop-nets and seines only, in said river for the time aforesaid, to such person or persons as may offer the highest price for the same and shall give sufficient security for the payment of the purchase money, at such time and in such manner as the town shall direct.

SECT. 2. The said town may sell said privilege in sections or otherwise as the town may determine, and the purchaser or purchasers of any privilege or privileges of taking shad or alewives aforesaid, or those employed by him or them, may take any of said fish in said river between Swanzey line and the Orleans Dam, with scoop-nets, three nights in the week, beginning on Wednesday at sunset and ending on Saturday at sunrise, of each week; and may also take said fish with not more than two seines to be used at the same time, and in the daytime only, three days in each week, beginning on Thursday morning at sunrise and ending on Saturday at sunset, in any part of said river between Swanzey line and Miller's Bridge, so called, on said river in said Rehoboth: *provided, however*, that no shad or alewives shall be taken in any manner from said river after the first day of July in each year.

SECT. 3. The town of Rehoboth, at their annual meeting in March or April, may choose one or more suitable persons to serve as fish-wardens, who shall be sworn to the faithful discharge of their duties, and shall see this act enforced, and shall prosecute for all violations thereof; and it shall be the duty of the said fish-wardens to prevent and remove all obstructions in the course of the stream to the passing up and down of the fish during the season, from the first day of April to the first day of July in each year; and the said wardens or either of them, and also those who are lawfully employed in catching or buying the fish taken in said river, shall be authorized to go upon and pass over the lands of any person through or by which said river runs without being considered trespassers: *provided*, they shall so pass over or on said lands only at such times and places as the fish-wardens shall direct and prescribe and only when such passing over and on said lands shall be necessary for the purpose of protecting said

fishery, and taking and selling, and shall do no more damage to said lands than is indispensable for such proper use; and any person who shall wilfully hinder or molest said wardens or any person authorized by them in the necessary clearing of said river, and in the necessary and proper use of lands on said stream, for protecting the said fishery and taking or selling the said fish, shall forfeit and pay not exceeding twenty dollars for each offence, to be recovered in the manner provided in the fourth section of this act.

SECT. 4. If any person or persons other than those who have purchased a privilege or privileges, shall fish with seine or nets at any time or in any place or manner, or shall set any nets or seines, wear or other obstruction in said river or in any part thereof, with intent to take or destroy any shad or alewives, he shall forfeit and pay twenty dollars for each offence, to be recovered to the use of the county in which the offence was committed, or by action of debt; one half to the use of the person complaining and who shall give information that shall lead to the prosecution and conviction of any person guilty of a violation of the provisions of this act, and the other half to the use of the town in which the offence shall be committed.

SECT. 5. All laws heretofore passed relating to the fishery and fishing in Palmer's River, within the limits of the town of Rehoboth, are hereby repealed.

SECT. 6. This act shall take effect from and after its passage. — [April 3, 1852.]

[Sp. Laws, vol. 1, p. 296; vol. 2, p. 154; 1812, 103; 1835, 137.]

AN ACT to protect Shad in Connecticut River.

1852, 122. *Be it enacted, etc., as follows:* SECT. 1. No person shall catch, take or destroy shad in Connecticut River after the first day of July in each year.

SECT. 2. Any person convicted of a violation of this act shall be punished by a fine not exceeding ten dollars. — [April 20, 1852.]

[1864, 62.]

AN ACT to authorize John Nickerson and Eldridge Nickerson to construct a Fish-wear in Provincetown Harbor.

1852, 149. *Be it enacted, etc., as follows:* SECT. 1. John Nickerson and Eldridge Nickerson, of Provincetown, in the county of Barnstable, are hereby authorized to construct a fish-wear on the side of Long Point, in Provincetown Harbor, which flats join the uplands of the said Nickersons, with leave to extend the same as far as the tide ebbs, for the purpose of taking fish.

SECT. 2. If any person shall take any fish from said wear without the permission of said Nickersons, he shall forfeit and pay to them a sum not exceeding five dollars, if the quantity so taken be

less than one hundred pounds, and five dollars for every hundred pounds so taken, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said Nickersons in the construction of said wear to the property of any person, such person shall be entitled to damage, to be estimated in the same manner as damages occasioned by laying out of highways. — [April 27, 1852.]

[1818, 13.]

AN ACT for the Regulation and Protection of the Alewife Fishery in the Towns of Cohasset and Scituate.

1852, 151. *Be it enacted, etc., as follows:* SECT. 1. The selectmen of the towns of Scituate and Cohasset, and their successors, shall be a committee for the purpose of protecting, regulating and improving the alewife fishery in the stream running from Scituate Pond into Cohasset Harbor, on or near the boundary line between the towns of Scituate and Cohasset, and shall have full powers for these purposes; they shall annually dispose of said fishery for the term of one year, and no longer, after proper notice, at public sale; they may make improvements in and remove obstructions from said stream for the purposes aforesaid. The expense of such improvements and removals shall, with the exceptions of sluice-ways in dams, as hereinafter provided, be borne equally by the towns of Scituate and Cohasset; and said towns are hereby empowered to raise money for this purpose. The proceeds of said fishery shall be equally divided between the two towns.

SECT. 2. The acts of a majority of said committee shall be valid: *provided*, reasonable notice of all meetings shall be given to every member of the same; and *provided*, that at least one member from each town shall be present.

SECT. 3. All persons excepting those purchasing the right from said committee as aforesaid, or employed by such purchasers, who shall take any of said fish from said stream, in any part of it, from Doane's Mill, so called, upward, shall forfeit the sum of ten dollars for every offence to the use of said purchasers, who may recover the same by an action at law.

SECT. 4. The owner or occupier of every dam on said stream shall annually, between the first day of March and the first day of June next following, for such term of time and in such manner as said committee shall direct, open a sufficient passage for said fish through said dam; and on failure to open such passage, or of continuing it open as aforesaid, shall forfeit and pay the sum of one hundred dollars; and said committee may open said passage when neglected as aforesaid, at the expense of the owner or occupier thereof: *provided*, that

no more damage is thereby done said owner or occupier than is necessary to effect said purpose.

SECT. 5. Any member of said committee may be a witness in any legal proceeding touching said fishery.

SECT. 6. The said committee shall regulate the times, places and manner of taking said fish: *provided*, that no fish shall be taken on more than four days of any one week; and the said purchasers shall conform to such regulations, on penalty of not less than twenty nor more than one hundred dollars for each offence.

SECT. 7. The said committee shall receive out of the proceeds of said fishery one dollar and twenty-five cents each for every day's actual service in performing the duties herein required of them.

SECT. 8. All fines and forfeitures named in this act, and not otherwise appropriated, shall be equally divided between the towns of Scituate and Cohasset, and they may join in a suit for the same.

SECT. 9. This act shall take effect from and after its passage.—
[April 27, 1852.]

1853.

AN ACT to incorporate the Magonsett Fishing Company.

1853, 53. *Be it enacted, etc., as follows:* SECT. 1. Charles S. Nye, James Witherell and Charles O. Nye, citizens of North Falmouth, their associates and successors, are hereby made a corporation by the name of the Magonsett Fishing Company, and are empowered to regulate the brook running from Dam Pond, so called, to Wild Harbor, in said Falmouth, so far as is necessary for the purpose of an alewife fishery; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of the corporation, shall take, catch or haul on shore any alewives in said brook, or within one-eighth of a mile in any direction from the mouth of said brook, he shall forfeit and pay for the use of said corporation, a sum not exceeding two dollars, if the quantity so taken be less than one barrel; but if the quantity so taken be more than one barrel, the person so offending shall forfeit and pay for each barrel of fish so taken five dollars, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual, not a member of the corporation, such individual shall be entitled to reasonable damage, to be estimated in the same manner as damages occasioned by the laying out of highways.

SECT. 4. This act shall take effect from and after its passage.—
[March 17, 1853.]

[1834, 126.]

AN ACT in addition to an Act entitled "An Act concerning Alewives in Herring River, in the town of Sandwich."

1833, 95. *Be it enacted, etc., as follows:* SECT. 1. If any person or persons shall take any of the fish named in said act, in said Herring River, or the ponds in which said fish cast their spawn, at any time, or in any place or manner other than shall be allowed by the selectmen of said town of Sandwich, each person so offending shall, for each and every offence, on conviction thereof, before any justice of the peace, in the county of Barnstable, pay a fine not exceeding twenty dollars nor less than one dollar, or shall be imprisoned in the county jail of said county for a time not exceeding sixty days, at the discretion of the justice before whom the trial may be had. — [March 26, 1853.]

[1854, 285.]

[1834, 166; 1849, 36.]

AN ACT to abolish the office of Commissioner of Marshpee.

* * * * *

1853, 186. *Be it further enacted, etc., as follows:* SECT. 5. The said district at any regular meeting, with notice in the warrant that the subject will be acted on, may authorize the selectmen of said district to lease or dispose of the herring or trout fishery, belonging to said district, from time to time, for terms of time not exceeding five years in any one lease, the proceeds to go into the treasury for the benefit of the district; and they may elect or appoint two or more fish-wardens to protect said fishery: *provided*, the same is not repugnant to the laws of the Commonwealth.

* * * * *

SECT. 8. This act shall take effect from and after its passage. — [April 23, 1853.]

[Sp. Laws, vol. 1, p. 269; 1814, 218; 1848, 116; 1852, 66.]

AN ACT to equalize and protect the Fishery on the North River, so called, in the County of Plymouth.

1853, 350. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Pembroke are hereby permitted to take fish at the weir where they have usually caught them on the North River, so called, or stream leading to the Indian Ponds, so called, in said town, or on the following days in each week: Tuesday, Wednesday, Thursday and Friday, from sunrise on Tuesday to sunset on Friday, inclusive, and at no other time, under a penalty of fifty dollars for each and every day fish are taken from said weir, contrary to the provisions of this act, to be paid by the town of Pembroke as follows: one-quarter part of the said fifty dollars to the person

making the complaint, and three-quarters of the same to be paid to the towns of Marshfield, Scituate and South Scituate, in the proportion to the number of their inhabitants by the census last taken.

SECT. 2. No person or persons shall take fish from the stream leading from said North River to the said Indian Ponds or streams tributary to the North River, excepting at the weir before mentioned, at any time between the tenth day of April and the fifteenth of May inclusive, of each year, under a penalty of twenty dollars for each and every offence, which shall be paid as follows: one half of the twenty dollars to the complainant, and the other half to the said town of Pembroke.

SECT. 3. It shall be lawful for the inhabitants of the several towns situated on said North River, to take fish with ten seines only, in the manner following, to wit: the towns of Pembroke, Scituate and South Scituate, shall each have the right of disposing at public auction, for their own benefit, of the privilege of catching fish with two seines only, and the town of Marshfield shall have the right of disposing at public auction, for their own benefit, of the privilege of catching fish with four seines only, in the river aforesaid.

SECT. 4. Any person or persons who may by seine or mesh-nets, take fish from the said North River, except such persons as have authority under this act, shall each forfeit and pay for each and every time they so trespass, the sum of twenty dollars to the town within whose limits the same were taken.

SECT. 5. The proprietors of any and all mills located on the North River, and streams leading from said North River to the said Indian Ponds, so called, in the county of Plymouth, shall take up the waste-ways of said mills in each year, on or before the tenth day of April, and keep the same up to the fifteenth day of May following, that the fish shall not be obstructed in their passage to the said Indian Ponds from the said North River; and in the neglect or failure of a proprietor of any mill to take up the waste-ways, so called, and keep the same up for the before mentioned time, he shall forfeit and pay for each and every day of such neglect, the sum of one hundred dollars to the towns of Marshfield, Scituate, South Scituate and Pembroke, in the proportion to their number of inhabitants.

SECT. 6. Any expense that may accrue in removing obstructions or clearing the streams leading from the North River to the Indian Ponds, for the preservation of the fish, with the exception of taking up the waste-ways of mills, shall be borne by the several towns of Marshfield, Scituate, South Scituate and Pembroke in the proportion to their inhabitants, who are hereby permitted to raise money for the same.

SECT. 7. All penalties and forfeitures under this act may be recovered in any court competent to try the same.

SECT. 8. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 9. This act shall take effect from and after its passage. — [May 19, 1853.

[1876, 103.]

[1813, 147; 1838, 19; 1844, 65.]

AN ACT in addition to an Act to establish the Fishery in Agawam and Half-way Pond Rivers.

1853, 377. *Be it enacted, etc., as follows:* SECT. 1. If any person or persons shall use any seine or drag-net for the taking of fish in the Agawam and Half-way Pond Rivers between the first day of March and the first day of October, he or they shall each forfeit and pay to the towns of Plymouth and Wareham twenty dollars for each and every offence; and shall also forfeit such seine or drag-net, together with such boat or boats as may be used to work the same.

SECT. 2. All forfeitures under this act shall be collected in the same manner and disposed of in the same way, as forfeitures under the act passed February twenty-sixth, eighteen hundred and thirty-eight, to which this is in addition.

SECT. 3. If the committee annually chosen by the towns of Plymouth and Wareham, shall fail by neglect or disagreement to fix the time and prescribe the manner in which the owner or occupier of any dam on said rivers shall open a sufficient passage for said fish through said dam, then and in that case, the committee of either town, who may feel aggrieved thereby, may apply to the county commissioners, of the county of Plymouth, who, after due notice to the committee of the other town, shall have the same power now vested in said committee to fix the time and prescribe the manner in which the owner or occupier of any dam on said rivers shall open a sufficient passage for said fish through said dam; and the owner or occupier of any dam on said rivers, who shall fail to comply with the order of said commissioners therein, shall be liable to the same penalties as they are now liable to for failing to comply with the order of said committee, to be recovered in like manner. And said county commissioners shall have the same power which said committee now possess, to open said dam when neglected as aforesaid. And if either of the county commissioners shall reside in either of the towns of Plymouth or Wareham, his place shall be supplied by one of the special commissioners not resident in either of said towns.

SECT. 4. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. — [May 19, 1853.

[1860, 89; 1863, 117.]

1854.

AN ACT to secure an Alewife Fishery at West Sandwich.

1854, 231. *Be it enacted, etc., as follows:* SECT. 1. Isaac Keith, of Sandwich, in the county of Barnstable, his heirs and assigns, shall have the exclusive right to take and catch fish in the stream or creek known as Scusset River, and leading into the mill-pond in West Sandwich, on Monday, Wednesday, Friday and Saturday in each week, and at no other time: *provided*, that the said Isaac Keith, his heirs or assigns, shall open a good and sufficient passage-way around the dam or dams erected on said stream, to enable the fish to go into said mill-pond to spawn, and maintain and keep the said passage-ways open and unobstructed, from the tenth day of April to the twentieth day of May inclusive, in each year.

SECT. 2. Any person or persons taking fish from said stream or pond without the consent of the said Isaac Keith, his heirs or assigns, shall forfeit and pay for each and every offence the sum of ten dollars, one half of the forfeiture to be paid to the person making the complaint, the other half to be paid to the said Isaac Keith, his heirs or assigns, to be recovered in any court competent to try the same. — [April 7, 1854.

[1824, 107; 1834, 126; 1853, 95]

AN ACT concerning the Alewife Fishery in Herring River in the Town of Sandwich.

1854, 285. *Be it enacted, etc., as follows:* SECT. 1. The Herring Pond tribe of Indians shall be entitled to fish on the west bank of the river known as Herring River in the town of Sandwich, in their ancient way, above the weir established on said river, to the land belonging to the heirs of Nathan B. Gibbs, deceased, on those days prescribed by the selectmen of said town, agreeably to an act passed on the twenty-seventh of March in the year one thousand eight hundred and thirty-four; and also to receive from the town of Sandwich, two barrels for each family, annually.

SECT. 2. This act shall take effect from and after its passage. — [April 12, 1854.

[1821, 97; 1849, 128, 219.]

AN ACT concerning Seine Fishing in the Harbor of New Bedford.

1854, 293. *Be it enacted, etc., as follows:* SECT. 1. Instead of the limits prescribed in the act of April twentieth, one thousand eight hundred and forty-nine, for the use of any seine or net in the harbors of New Bedford and Fairhaven, the following limits are hereby prescribed, namely: from a point called Butler's Rock on New Bedford shore, to the beacon on Egg Island, thence on a course north-east by east to the Fairhaven shore; and so much of the above mentioned act

as authorizes seining for menhaden, and all other parts thereof inconsistent with the provisions of this act, are hereby repealed.

SECT. 2. This act shall take effect from and after its passage. — [April 13, 1854.

1855.

[1813, 115.]

AN ACT in addition to an Act to protect the Alewife Fishery in the Town of Brewster.

1855, 39. *Be it enacted, etc., as follows:* SECT. 1. That the inhabitants of the town of Brewster be and are hereby authorized to prohibit all obstructions to the passage of alewives and also to prevent the catching of the same by any person or persons other than those said town may direct, within the distance of one-fourth of a mile east of the mouth of Mill Creek or the outlet of Stony Brook, so called, in Brewster Bay, and on the west from said boundary to the line of the town of Dennis, from the twentieth of April to the twentieth of June: *provided*, such prohibition shall not affect the right to take other kinds of fish within the time and limits named in this section.

SECT. 2. Any person causing obstructions or found taking alewives within said limits without the authority of said town, shall be liable to a penalty not exceeding twenty dollars for each offence, to be recovered in any court competent to try the same, to the use of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage. — [March 9, 1855.

AN ACT to authorize Augustus Paine and Timothy Jarvis to construct Fish-weirs and Fixtures in the Town of Brewster.

1855, 51. *Be it enacted, etc., as follows:* SECT. 1. That Augustus Paine and Timothy Jarvis, inhabitants of the town of Brewster, be and are hereby authorized to construct fish-weirs and the usual fixtures for taking fish on the lands of said Paine and Jarvis in said Brewster: *provided*, said weirs and fixtures shall not be placed within one-fourth of a mile from the entrance of Stony Brook, so called, in Brewster Bay. Said weirs and fixtures shall all be within the limits of the town of Brewster, and shall cause no obstruction to navigation.

SECT. 2. Any person obstructing the provisions of the first section of this act, or taking fish from said weirs without the authority of said Paine or Jarvis, shall be liable to a penalty of a sum not exceeding fifteen dollars for each offence, to be recovered in any court competent to try the same, to the use of the person who shall prosecute therefor.

SECT. 3. This act shall take effect on and after its passage. — [March 14, 1855.

AN ACT to authorize Samuel Young, of Chatham, to construct a Fish-weir.

1855, 75. *Be it enacted, etc., as follows:* SECT. 1. Samuel Young of Chatham, is hereby authorized to construct a fish-weir on the north side of the new harbor, on the flats adjoining Nauset Beach, in the town of Chatham in the county of Barnstable: *provided*, said fish-weir shall cause no obstruction to navigation nor infringe on the rights of others.

SECT. 2. Any person or persons unlawfully taking fish from said weir, or obstructing the passage of fish into said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars, to be recovered in any court competent to try the same, for the use of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage. — [March 24, 1855.]

AN ACT to authorize Thomas L. Eldridge and his Associates to construct a Fish-weir.

1855, 84. *Be it enacted, etc., as follows:* SECT. 1. Thomas L. Eldridge and his associates are hereby authorized to construct a fish-weir and other necessary fixtures in the tide-waters at a place where the channel that runs southerly from Broad Creek, so called, unites with the Crooked Channel, so called, in the south-easterly part of Orleans, in the county of Barnstable, for the purpose of taking fish: *provided*, that the said weir shall not be so constructed or maintained as to obstruct the navigation at said place or infringe on the rights of others.

SECT. 2. If any person shall wilfully injure or destroy said weir, or any part thereof, or shall, without leave of the owners thereof, take from the same any fish found therein, he shall, upon conviction, forfeit and pay to the use of said owners of said weir, a sum not exceeding twenty dollars, to be recovered in any court of competent jurisdiction, and shall moreover be liable to the parties injured for all damages in a civil suit.

SECT. 3. This act shall take effect from and after its passage. — [March 24, 1855.]

[1842, 62.]

AN ACT to authorize Thomas Sparrow and his Associates to construct a Fish-weir.

1855, 88. *Be it enacted, etc., as follows:* SECT. 1. Thomas Sparrow and his associates, in the town of Chatham, are hereby authorized to construct a fish-weir, commencing on the westerly shore of Monomory Beach, in said Chatham, at the south side of Steward's Hole, so called, and to extend said weir not more than eight hundred yards in a westerly direction into Chatham Bay, in Barnstable County, with all the privileges thereto attached: *provided*, that said weir shall cause no obstruction to navigation or infringe on the rights of others.

SECT. 2. If any person shall wilfully injure or destroy said weir, or any part thereof, or shall, without leave of the owners thereof, take from the same any fish found therein, he shall, upon conviction, forfeit and pay to the use of the owners of said weir, a sum not exceeding twenty dollars, to be recovered in any court of competent jurisdiction, and shall moreover be liable to the parties injured for all damages, in a civil suit.

SECT. 3. This act shall take effect from and after its passage.—
[March 26, 1855.]

[1815, 83.]

AN ACT to authorize Barnabas W. Eldridge, Francis Joseph, Canada Perry, and their Associates, to build a Fish-weir.

1855, 90. *Be it enacted, etc., as follows:* SECT. 1. Barnabas W. Eldridge, Francis Joseph, Canada Perry, and their associates, are hereby authorized to construct a fish-weir near Kilt Pond Point, so called, on the south shore of the town of Dennis, in the county of Barnstable: *provided*, said weir shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. Any person or persons unlawfully taking fish from said weir or obstructing the passage of fish into said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars, to be recovered in any court competent to try the same, for the use of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage.—
[March 26, 1855.]

AN ACT to authorize Ira Wixon and Elijah Whittemore to construct a Fish-weir.

1855, 125. *Be it enacted, etc., as follows:* SECT. 1. That Ira Wixon and Elijah Whittemore are hereby authorized to construct a fish-weir near Hill Pond Point, so called, in the town of Dennis, in the county of Barnstable: *provided*, said weir shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. All persons unlawfully taking fish from said weir, or causing obstructions to the passage of said fish to said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars, to be recovered in any court competent to try the same, for the benefit of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage.—
[March 31, 1855.]

AN ACT to authorize Eleazer Rogers, Jr., and his Associates, to build a Fish-weir.

1855, 154. *Be it enacted, etc., as follows:* SECT. 1. Eleazer Rogers, Jr., and his associates, are hereby authorized to construct a fish-weir near the mouth of the Crooked Channel, where it unites

with the Little Bay, so called, in the south-easterly part of the town of Orleans, in the county of Barnstable, for the purpose of taking fish: *provided*, said weir shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. All persons unlawfully taking fish from said weir, or causing obstruction to the passage of fish to said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars for each and every offence, to be recovered in any court competent to try the same, for the benefit of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage. — [April 9, 1855.]

[1833, 211; 1850, 6.]

AN ACT in addition to an Act to regulate the Fisheries in the vicinity of Nantucket.

1855, 156. *Be it enacted, etc., as follows:* SECT. 1. The penalty imposed in third section of the act of February fifth, in the year eighteen hundred and fifty, to which this is in addition, shall be so amended as to make the sum not to exceed five hundred dollars, to be recovered in any court competent to try the same, for the use of the town of Nantucket.

SECT. 2. The provisions of this act shall take effect from and after its passage. — [April 9, 1855.]

[1853, 95; 1870, 234.]

AN ACT to authorize Jesse Tuttle and his Associates to construct a Fish-weir in the Town of Harwich.

1855, 162. *Be it enacted, etc., as follows:* SECT. 1. Jesse Tuttle and his associates are hereby authorized to construct a fish-weir on the flats east of Andrews River, so called, in that part of Harwich called South Harwich, in the county of Barnstable, for the purpose of taking fish: *provided, however*, said weir shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. All persons unlawfully taking fish from said weir, or causing obstructions to the passage of fish to said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars for each and every offence, to be recovered in any court competent to try the same, for the benefit of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage. — [April 10, 1855.]

[Sp. Laws, vol. 1, pp. 191, 451; vol. 2, p. 128; vol. 3, p. 524; 1805, 29; 1810, 117; 1812, 127; 1814, 22; 1824, 101; 1825, 78; 1829, 40; 1839, 134; 1845, 79.]

AN ACT to protect the Fisheries in Ipswich River.

1855, 171. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Ipswich and vicinity, in the county of Essex, may, at all times take fish from Ipswich River in said town, with dipnets, Sundays excepted.

SECT. 2. No person shall set, draw or stretch any seine or dragnet in any part of the waters in Ipswich River, within the limits of said town, under a penalty not exceeding fifty dollars, to be recovered in any court competent to try the same, for the use of said town.

SECT. 3. This act shall take effect from and after its passage. — [April 10, 1855.

[1856, 14, 52, 248; 1868, 157.]

AN ACT to authorize William W. Eldridge, Jonathan Eldridge and Warren N. Rogers to construct a Fish-weir.

1855, 173. *Be it enacted, etc., as follows:* SECT. 1. William W. Eldridge, Jonathan Eldridge and Warren N. Rogers are hereby authorized to construct a fish-weir in the tide-waters near Clam Point, so called, in the easterly part of the town of Harwich in the county of Barnstable, for the purpose of taking fish: *provided*, said weir shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. All persons unlawfully taking fish from said weir, or causing obstructions to the passage of fish to said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars, to be recovered in any court competent to try the same, for the use of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage. — [April 10, 1855.

AN ACT to prohibit Seining in Apponigansett River and Creeks.

1855, 175. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or use any seine for taking fish in Apponigansett River in the town of Dartmouth in the county of Bristol, or its tributaries, north of a line running south-west from Ricketson's Point across said river.

SECT. 2. Any person violating this act shall, on conviction, pay a fine of not less than fifteen nor more than fifty dollars, to be recovered by any court competent to try the same, for the use of said town.

SECT. 3. This act shall take effect on and after its passage. — [April 14, 1855.

AN ACT to protect the Fisheries in the towns of Danvers and Beverly.

1855, 208. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the towns of Danvers and Beverly and vicinity, in the county of Essex, may at all times take fish from Porter's, Crane and Waters Rivers, so called, situated within and between the towns above named, in any manner except that prohibited in the following section.

SECT. 2. If any person or persons shall take any fish in either of

the rivers named in the first section, by the use of a seine or weir, above a point designated in the third section, he or they shall, for each offence, on conviction thereof, pay a fine not exceeding fifty dollars, the fines and forfeitures to be recovered in any court proper to try the same, one half to the use of the town in which the offence is committed, the other half to the use of him who shall prosecute therefor.

SECT. 3. It shall be lawful for any person or persons whatever to take fish in any manner below a point called Horse Pasture Point situated in the town of Danvers, and on the westerly side of Bass River, and near or below the mouths of the rivers named in the first section of this act.

SECT. 4. This act shall take effect from and after its passage. — [April 18, 1855.]

AN ACT to authorize the construction of a Fish-weir in the Town of Yarmouth.

1855, 212. *Be it enacted, etc., as follows:* SECT. 1. George Weaver and his associates are hereby authorized to construct a fish-weir in the tide-waters of Lewis Bay, so called, in the town of Yarmouth in the county of Barnstable, for the purpose of taking fish: *provided*, said weir shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. All persons unlawfully taking fish from said weir, or causing obstructions to the passage of said fish to said weir, or causing damage thereto, shall be liable to a penalty of twenty dollars for each offence, to be recovered in any court competent to try the same, for the benefit of the person who shall prosecute therefor.

SECT. 3. This act shall take effect from and after its passage. — [April 18, 1855.]

AN ACT to protect the Fisheries in the Town of Chilmark.

1855, 272. *Be it enacted, etc., as follows:* SECT. 1. Abner Mayhew, George Mayhew, and their associates, are hereby authorized and directed to build and maintain a good and suitable fish-way, both for ingress and egress, through the creek leading to Squipnocket Pond, so called, in the town of Chilmark in the county of Dukes, during the usual season for the passage of fish through said creek.

SECT. 2. Any person causing obstruction to the passage of fish through said creek named in the first section of this act, shall be liable to a penalty of twenty dollars for each and every day such obstructions shall wilfully be allowed to remain during the season named in the first section of this act, to be recovered in any court competent to try the same, for the use of the person who shall sue for the same.

SECT. 3. This act shall take effect from and after its passage. — [May 2, 1855.]

[Sp. Laws, vol. 2, pp. 222, 289; 1847, 94.]

AN ACT authorizing the Selectmen of the Town of Falmouth to permit Seines to be used in certain Ponds.

1855, 279. *Be it enacted, etc., as follows:* SECT. 1. The selectmen of the town of Falmouth in the county of Barnstable, and their successors, are hereby authorized to permit seines to be used at their discretion (said permits to be given in writing), between the first day of December and the following first day of April in each year, in the following ponds, viz.: "Bowman's Pond," "Little Pond" and "Perch Pond."

SECT. 2. Any person or persons detected in using or shooting any seine or seines for the purpose of taking fish in any of the ponds named in the foregoing section, without the permission of the selectmen as provided in said section, shall be subject to a fine of not less than five dollars nor more than one hundred for every such offence, to be recovered before any court competent to try the same, one half of said fine to accrue to the use of said town, the other half to the person complaining.

SECT. 3. The selectmen aforesaid shall determine, so far as shall appear to them advisable, in what manner any fish taken from said ponds by their permission, shall be disposed of, so far as to secure to the inhabitants of said town of Falmouth a supply of fish so taken.

SECT. 4. All acts and parts of acts inconsistent herewith, are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. — [May 2, 1855.]

[1839, 83; 1848, 47.]

AN ACT in addition to "An Act to incorporate Trap's Creek Fishing Company, in Edgartown."

1855, 299. *Be it enacted, etc., as follows:* SECT. 1. The owners of Trap's Creek Fishing Company in the town of Edgartown, in the county of Dukes, their associates and successors, are hereby authorized to catch all kinds of fish by seine or otherwise, in Trap's Pond, from the first day of November to the first day of April, in each year.

SECT. 2. If any person shall set, stretch or drag a seine in said pond, except as above provided, without the consent of said proprietors, he shall forfeit and pay to the use of the aforesaid company the sum of twenty dollars for each offence, and an additional sum for each and every barrel of perch so taken, to be recovered by indictment, or on complaint before any justice of the peace.

SECT. 3. No person, whether a proprietor or not, shall be allowed to seine perch in said pond, from the first day of April to the first day of November, in each year.

SECT. 4. Nothing herein contained shall prevent any inhabitant of this Commonwealth from catching perch in said pond with hook and line, at any time.

SECT. 5. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SECT. 6. This act shall take effect from and after its passage. — [May 4, 1855.]

[Sp. Laws, vol. 1, p. 166; 1844, 67.]

AN ACT to protect the Fisheries in the Town of Harwich.

1855, 301. *Be it enacted, etc., as follows:* SECT. 1. Obed Brooks, Jr., and his associates and successors in the town of Harwich, in the county of Barnstable, are hereby authorized to remove all obstructions in the brook or stream called Coy's Brook, from the branch of Herring River (so called), near Hall's Island to Clark's Pond and Flax Pond, for the purpose of propagating and catching herrings or alewives, for the sole use and benefit of said Brooks and his associates: *provided*, that no individual's rights or privileges shall be infringed thereby.

SECT. 2. All persons illegally taking fish from said ponds or said brook or stream, or causing obstructions to the passage of fish or alewives to or from said ponds, shall be liable to a penalty of not less than two dollars or more than twenty dollars for each offence, to be recovered in any court competent to try the same, for the use of the person who shall sue therefor.

SECT. 3. This act shall take effect from and after its passage. — [May 4, 1855.]

AN ACT to regulate the Fisheries of the Oyster Pond River Company in the Town of Falmouth.

1855, 324. *Be it enacted, etc., as follows:* SECT. 1. William Gifford, Stephen Dillingham, their associates and successors, in the town of Falmouth in the county of Barnstable, are hereby authorized, under the name of the Oyster Pond River Company, to regulate the river running from Oyster Pond to Hogg Island Harbor, so far as is necessary for an alewife fishery; said company to have sole control and benefit of said fishery: *provided*, that no individual rights shall be infringed thereby.

SECT. 2. All persons unlawfully taking fish from said pond or river, or causing obstructions to the passage of said fish to or from said pond or river, shall be liable to a penalty of not less than two nor more than twenty dollars, to be recovered in any court competent to try the same, for the use of the person who shall sue therefor.

SECT. 3. This act shall take effect from and after its passage. — [May 10, 1855.]

AN ACT to authorize the Town of Nantucket to regulate the Fisheries in all the Ponds, Creeks and Harbors in the County of Nantucket.

1855, 337. *Be it enacted, etc., as follows:* SECT. 1. The town of Nantucket is hereby authorized and empowered, at any legal meeting of the inhabitants of said town, to make such by-laws as may be deemed expedient to preserve and protect the fisheries in all the ponds and creeks within the county of Nantucket: *provided*, such by-laws do not infringe on the rights of any person.

SECT. 2. This act shall take effect on and after its passage.— [May 15, 1855.

[Sp. Laws, vol. 1, pp. 313, 354, 422; vol. 2, pp. 192, 381, 469; vol. 3, appendix, p. 20. 1815, 111, 119; 1818, 106; 1819, 133, 137; 1822, 38; 1829, 55; 1832, 44, 120; 1833, 137; 1843, 73; 1844, 62.

AN ACT to regulate the Fisheries in Taunton Great River and the Newmarket River.

1855, 401. *Be it enacted, etc., as follows:* SECT. 1. From and after the passage of this act it shall not be lawful for any person or persons to catch shad or alewives in any manner, in Taunton Great River or in Newmarket River, from the first day of March to the tenth day of June, including both of said days in each year, except as hereinafter provided in this act.

SECT. 2. The several cities and towns hereafter in this section named, shall annually, in legal meeting to be held for that purpose, on or before the fifteenth day of November in each year, sell at public auction, to the highest bidder who shall give satisfactory security for the payment therefor, for the benefit of said cities and towns respectively, the privilege of taking shad and alewives in Taunton Great River, between the days aforesaid and including those days, in the year next succeeding such sale, with the number of seines following: the city of Fall River and town of Freetown may each sell the privilege of fishing with one seine for the purpose aforesaid; the towns of Somerset, Dighton, Berkley and Raynham may each sell the privilege of fishing with two seines for the purpose aforesaid; and the town of Taunton may sell the privilege of fishing with three seines for the purpose aforesaid, which privileges of fishing shall be sold separately, and the purchaser or purchasers thereof may locate and use the privilege or privileges by him or them obtained at any such sale, at any place upon Taunton Great River which he or they may select or procure, with the consent of the owner or owners of the shore on which such location or locations may be made.

SECT. 3. No seine that shall be used for the purpose of fishing in said Taunton Great River in the towns of said Taunton and Raynham, and in the towns of Berkley and Dighton above Rocky Point, shall be more than twenty rods in length; and no seine that shall be used for

such purpose in said towns of Berkley and Dighton below Rocky Point, shall be more than thirty-five rods in length; and no seine that shall be used for such purpose in the towns of Somerset, Freetown or the city of Fall River, shall be more than forty rods in length. And no shad or alewives shall be taken by any instrument or means at any time within one mile and a half of the dam near "King's Bridge," so called, in Squawbetty Village.

SECT. 4. No seine shall be allowed to be set or to remain in said Taunton Great River for any longer time than is necessary to cast the same and haul it immediately to the shore. And no seine or other obstruction to hinder the fish going up shall be put in the river below the dam at Squawbetty Village during the time not allowed for fishing, hereinafter mentioned. And all locations that shall be made on the shore of said river for the purpose of fishing shall have the upper and lower limit thereof designated by some proper object on the shore, which shall not be changed during any one fishing season; and such locations shall be forty rods in length above Rocky Point, and forty-five rods in length below Rocky Point. And no seine shall be swept without the compass of two parallel lines drawn, the one from a point ten rods above the upper limit, and the other from a point ten rods below the lower limit of all locations above Rocky Point, and at right angles with a line drawn from such upper and lower limits; or without the compass of two parallel lines drawn, the one from a point thirty rods above the upper limit, and the other from a point thirty rods below the lower limit of all locations below Rocky Point, and at right angles with a line drawn from such upper and lower limits; all said distances above and below to be measured on the shore of said river. And no seine shall be swept more than fifty rods in the river above Rocky Point, or more than seventy-five rods in the river below Rocky Point, at any one sweep.

SECT. 5. No shad or alewives shall be taken in any part of Taunton Great River or the Newmasket River, between the hours of nine o'clock on Friday evening of each week and four o'clock on Monday morning succeeding, from the first day of March to the tenth day of June in each year hereafter, including both of said days; and no shad or alewives shall be taken in Taunton Great River above Berkley and Dighton Bridge, between the hours of twelve o'clock in the night following Thursday of each week, and four o'clock on Monday morning succeeding, from the first day of March to the tenth day of June in each year, including both of said days.

SECT. 6. The several purchasers of the privileges aforesaid shall select the place where they intend to use the same for the purpose of catching shad and alewives, and shall file a certificate of such selection, and the location thereof, with the clerk of the city or town within

which such location shall be made, on or before the first day of March in each year hereafter. And the purchaser or purchasers so locating said privileges shall have the right to catch shad and alewives in Taunton Great River for the time named in the first and fifth sections of this act, at their respective locations to be made as aforesaid, and no other persons except the assistants of such purchaser or purchasers.

SECT. 7. No person shall set any seine, net, weir or other hindrance or obstructions in or across said river or any part thereof, or in any of the waters connected therewith, except in the mouth of Broad Cove, so called, in the towns of Dighton and Somerset; nor shall any person at any place on said waters, drive or pursue with any boat or boats, contrary to the intent and meaning of said act, any shad or alewives; nor shall any person beat or whip the said waters with any instrument or thing, or throw into said waters any earth or other substance or thing whereby said fish shall be hindered, disturbed, destroyed, driven or delayed, during the time named in the first section of this act. And if any person shall be found fishing with any seine, net or other instrument, contrary to the provisions of this act, and if any person shall be found having or conveying away in any building, boat or vessel, or in any cart or other vehicle, any fish taken in violation of the provisions of this act, knowing the same to be so taken, it shall be lawful for any fish-warden, chosen in pursuance of the ninth section of this act, to enter any such building and take to his own use all such fish and any such seine, net or other instrument, any such boat, vessel, cart or other vehicle, without any warrant other than is given by the provisions of this section.

SECT. 8. The inhabitants of the towns of Middleborough and Lakeville shall have the whole control and management of the fisheries on the Newmarket River, and shall have the right to catch, by their committees or their agents duly chosen in legal meetings, or to sell the right of catching, shad or alewives by set-nets or dip-nets, during the time named in the first section of this act, at any three places within the limits of said towns, to be designated for each year by said towns in legal meetings, each of such rights to be used only from four o'clock on Monday morning to nine o'clock on Friday evening of each week, and at no other time or places during the period named in said first section. And the net proceeds of such fishery or sales shall be divided between the said towns of Middleborough and Lakeville, in proportion to the number of ratable polls in each respectively, and the respective parts of such proceeds shall be disposed of by said towns respectively in such manner and for such purposes as each town shall for itself determine and direct.

SECT. 9. The several towns aforesaid, at their annual meetings in the months of March or April, and the mayor and aldermen of any

city upon said river, at any meeting, shall choose, by ballot, each, three or more persons for fish-wardens, whose duty it shall be to see that this act is enforced, and prosecute for all breaches or violations thereof; and each fish-warden so chosen shall be sworn to the faithful discharge of his duty by the clerk of any city or town in which he may be chosen, within ten days after his election; and said clerk shall make record thereof; and such fish-wardens when duly sworn are authorized to measure seines and locations, and to pursue the duties of their office in any place, and to enter any building where they have good cause to believe any fish taken in violation of the provisions of this act are kept. And if any person chosen fish-warden as aforesaid, shall neglect, for the space of ten days after his election, being notified thereof, to take the oath aforesaid, he shall forfeit and pay to the use of the town or city in which he was so elected or chosen, a fine of ten dollars, to be recovered in an action of tort, in the name of the treasurer of such town or city, and the town or city shall proceed to fill the vacancy created by such refusal to be qualified as aforesaid; and if any of said towns or city shall neglect to choose fish-wardens as aforesaid, or to make sale of their privileges as aforesaid, such town or city shall forfeit and pay a fine of one hundred dollars, to be recovered in an action of tort, to the use of any person who shall sue for the same.

SECT. 10. The proprietors of the mills and dam at King's Bridge in Squawbetty Village, and all other proprietors of dams on said rivers, shall keep open a good and sufficient way for the passage of fish that usually go up said Taunton Great River in their usual and proper season during the time named in the first section of this act: *provided*, such fish-way need not be kept open in the spring of the year before such proprietors or some one of them, or their agent or agents, shall have been notified to open them by some fish-warden. And the proprietors of any dam on said rivers who shall not comply with the provisions of this section, shall forfeit and pay the sum of twenty dollars for each and every day during which they shall wilfully neglect to comply therewith, to be recovered in an action of tort, to the use of any fish-warden who shall sue for the same, in any court of competent jurisdiction.

SECT. 11. Any person who shall violate any of the provisions of this act, or shall take any shad or alewives in the waters aforesaid, at any time or in any manner contrary to the provisions of this act, shall forfeit and pay a sum not less than five nor more than fifty dollars, to be recovered in an action of tort, in any court having jurisdiction of either of the parties to such action, to the use of the person who shall sue for the same; or shall, upon complaint made before any justice of the peace having jurisdiction of the offence and conviction

thereon, be punished by a fine not exceeding twenty dollars and imprisonment not exceeding sixty days. And in any suit or complaint instituted under the provisions of this section, the right of appeal shall be had to the court of common pleas by either party in such action, or the defendant in such complaint.

SECT. 12. This act shall take effect from and after its passage; and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed. — [May 19, 1855.

[1863, 73; 1866, 54; 1871, 258; 1875, 71; 1876, 208; 1879, 83.]

[Resolves, 1832, 120.]

RESOLVE concerning the Fisheries in Taunton Great River.

1855, Res. 22. *Resolved*, That the governor be requested to appoint three commissioners to examine into the condition of the fisheries in Taunton Great River, and the laws regulating the same, and to report such alterations or amendments of said laws as may tend to promote the interest and harmony of the inhabitants of the several towns on said river. — [March 17, 1854.

1856.

[1855, 171.]

AN ACT to protect the Fisheries in Ipswich River.

1856, 14. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Ipswich, in Essex County, may at any time between the first day of April and the first day of June (Sundays excepted), take alewives from Ipswich River, in said town, with dipnets, and at no other time.

SECT. 2. No person shall, between the first day of April and the first day of June, set, draw or stretch any seine or drag-net in any of the waters in Ipswich River, within the limits of said town.

SECT. 3. Any person who shall offend against the provisions of either of the foregoing sections of this act, shall for each and every offence forfeit the sum of one hundred and fifty dollars, one half thereof to the use of the complainant, and the other half to the use of the town.

SECT. 4. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. — [February 13, 1856.

[1848, 185; 1851, 126]

AN ACT in addition to "An Act to incorporate the Pocha Pond Meadow and Fishing Company in Edgartown."

1856, 45. *Be it enacted, etc., as follows:* SECT. 1. The Pocha Pond Meadow and Fishing Company, in Edgartown, in Dukes County,

their successors and assigns, are hereby exclusively empowered, by seines, nets, or any other fishing apparatus, at any time between the first day of March and the first day of July in each year, to take herrings from the waters of Pocha or Capepoge Ponds, in said Edgartown, or any of the outlets thereof.

SECT. 2. If any person shall set, stretch or drag a seine or net in said pond, or the outlets thereof, or shall in any manner catch, or attempt to catch herrings therein, except as above provided, without the consent of the said company, he shall forfeit and pay to the use of the aforesaid company the sum of twenty dollars for each offence, and an additional sum of twenty dollars for each and every barrel of herrings so taken.

SECT. 3. If any person shall in any way hinder or prevent the herrings from passing through any or either of the aforesaid ponds, or the outlets thereof, during the period aforesaid, he shall for each and every offence forfeit and pay to the use of said company the sum of one hundred dollars.

SECT. 4. The penalties above provided for may be sued for and recovered in an action of debt, or an act of trespass in the case, in any court proper to try the same.

SECT. 5. The proprietors of the aforesaid corporation may increase the number of shares to sixteen.

SECT. 6. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SECT. 7. This act shall take effect from and after its passage.—
[March 11, 1856.]

[Sp. Laws, vol. 3, p. 5.]

AN ACT to protect the Fisheries in Ipswich River, in the towns of Hamilton, Wenham, Topsfield, Boxford and Middleton.

1856, 52. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, stretch or draw any seine or drag-net in any of the waters in Ipswich River, within the limits of the towns of Hamilton, Wenham, Topsfield, Boxford and Middleton.

SECT. 2. Any person who shall offend against the provision of section first of this act, shall for each and every offence forfeit the sum of one hundred dollars, one half thereof to the use of the complainant, and the other half to the town where the offence was committed.

SECT. 3. This act shall take effect from and after its passage.—
[March 15, 1856.]

AN ACT to regulate the Construction of Fish-Weirs.

1856, 50. *Be it enacted, etc., as follows:* SECT. 1. The mayor or aldermen of any city, and the selectmen of the several towns lying

upon the tide-waters of this Commonwealth, are hereby empowered to authorize, in writing, any person to construct fish-weirs in said waters, within the limits of such city or town, for a term not exceeding five years: *provided*, said weirs shall cause no obstruction to navigation nor encroach on the rights of others.

SECT. 2. If any person shall wilfully injure or destroy said weirs, or any part thereof, or shall, without leave of the owners thereof, take from the same any fish found therein, he shall, upon conviction, forfeit and pay to the use of the owners of said weirs, a sum not exceeding twenty dollars, to be recovered in any court of competent jurisdiction, and shall, moreover, be liable to the parties injured for all damages, in a civil suit.

SECT. 3. This act shall take effect from and after its passage. — [March 15, 1856.

[P. S., 91, § 70.]

[Sp. Laws, vol. 1, p. 269.]

AN ACT relating to Fish-ways at the several Dams on Barker's River, so called, in the Town of Pembroke.

1856, 83. *Be it enacted, etc., as follows:* SECT. 1. The owners or occupants of the several mill-dams erected across Barker's River may construct, in the manner prescribed by the fish-committee of the town of Pembroke for the time being, good and sufficient passage-ways for the fish called alewives to pass said dams up said river to the Indian Ponds, so called, in the towns of Pembroke and Hanson; and the owners or occupants of said dams shall cause the same to be built and kept in repair at their own expense, and the same shall be kept open from the tenth day of April to the fifteenth day of May, inclusive, in each year.

SECT. 2. In case the owners or occupants of said dams shall neglect or refuse to comply with the foregoing requisition, then said owners or occupants shall take up the waste-ways of said mills, agreeable to an act entitled "An Act to equalize and protect the fishery on the North River, so called, in the county of Plymouth," passed the nineteenth of May, one thousand eight hundred and fifty-three.

SECT. 3. The fish-committee of the town of Pembroke, for the time being, shall have full power to regulate and control the flow of water in Barker's River and Indian Ponds, so long as they may deem it necessary for the preservation of said alewife fish in their passage to and from said Indian Ponds.

SECT. 4. All acts and parts of acts inconsistent with this act, are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. — [April 3, 1856.

[1865, 47.]

AN ACT for the preservation of Fish in Buzzard's Bay, within the Towns of Sandwich and Wareham.

1856, 176. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or stretch any seine or net, for the purpose of taking any fish, except blue fish, in the bays, harbors, ponds, rivers or creeks, of the waters of Buzzard's Bay, within one mile from the shore, and within the jurisdiction of the towns of Sandwich and Wareham.

SECT. 2. From the first day of April to the first day of July inclusive, it shall be unlawful for any person to take more than one hundred pounds per week of lobster, tautog, bass or scuppaug, within the waters aforesaid.

SECT. 3. Any person violating the provisions of this act, or either of them, shall be subject to a penalty of not more than fifty dollars, one half to the complainant and the remainder to the towns in whose jurisdiction the offence was committed.

SECT. 4. The penalties above provided for may be sued for and recovered in an action of contract, or an action of tort, in any court proper to try the same, upon complaint of the selectmen or any legal voter of the towns of Sandwich or Wareham.

SECT. 5. This act shall take effect from and after its passage. — [May 24, 1856.

AN ACT to incorporate the Farm Pond Fishing Company, in Edgartown.

1856, 211. *Be it enacted, etc., as follows:* SECT. 1. Elijah Norton, Benjamin Davis and Orlando E. Davis, their associates, successors and assigns, are hereby made a corporation by the name of the "Farm Pond Fishing Company, in Edgartown," in Dukes County, and are empowered to close the present outlet of said pond and to make another outlet at such place as they may select, through the lands of said proprietors to the Vineyard Sound, for the purpose of creating a herring fishery.

SECT. 2. The aforesaid corporation are hereby empowered, by seines, nets or otherwise, to take herring from the waters of the said pond, or the outlet thereof, at such times as a majority of the proprietors at a legal meeting may direct.

SECT. 3. If any person shall set, stretch or drag a seine or net in said pond or outlet thereof, except as above provided, without the consent of said company, he shall forfeit and pay to the use of said company the sum of ten dollars for each offence, and an additional sum of ten dollars for each and every barrel of herring so taken, to be recovered in any court proper to try the same: *provided, however,* that nothing in this act shall prevent any person from taking any other fish from said pond.

SECT. 4. The present owners of lands adjoining the said pond.

or creek, or outlet, shall have each one share only in said fishery; and no one of them shall, by conveyance or descent of his lands, create or cause to be created an additional number of shares: *provided, however*, that each of the present owners, or his successors or assigns, may divide his original share into parts or fractions.

SECT. 5. The foregoing provisions of this act shall not affect the existing rights of any person or corporation. — [May 30, 1856.

[Dissolved 1884, 156.]

AN ACT for the protection of the Fisheries on the South Shore and Bays on the South side of the Town of Barnstable and District of Marshpee.

1856, 214. *Be it enacted, etc., as follows:* SECT. 1. It shall be unlawful to set or draw any seine or drag-net to take fish in any of the bays, or in waters within one mile from the beach and shore on the south side of the town of Barnstable and district of Marshpee, within the limits between Succanesset Point and Point Gammon, between the first day of April and the first day of November, in each year.

SECT. 2. The provisions of the sixteenth section of the fifty-fifth chapter of the Revised Statutes, concerning the taking of shell-fish in the town of Chatham, shall be, and the same hereby are extended to the south shore of the town of Barnstable and district of Marshpee.

SECT. 3. Every person violating any provision of this act shall forfeit and pay for each offence not less than twenty nor more than one hundred dollars, to be recovered, together with costs of suit, by an action of tort, brought by any inhabitant of said town or district, in any court competent to try the same.

SECT. 4. Any boat, craft or seine being in the possession or use of any person violating the provisions of this act at the time and place of such violation, may be seized by any inhabitant of said town or district, and detained not exceeding forty-eight hours, in order that the same, if need be, may in that time be attached or arrested by due process of law, for the better security of the payment of the said fines and forfeitures with cost: *provided, however*, that if the person owning, or so in the possession or use of such boat or craft, shall, before being sued therefor, pay said highest named penalty to either the treasurer of the town of Barnstable or of the district of Marshpee, such boat or craft shall be discharged with the contents therein; and *provided, also*, that if the person owning or so in the possession or use of such seine, shall, as aforesaid, pay as aforesaid the same lowest named penalty, such seine shall be discharged in like manner.

SECT. 5. All forfeitures and penalties recovered and received by virtue of this act, shall go one half to the complainant and the other

half for the use of the said town, if the complainant shall be an inhabitant thereof, or for the use of said district if the complainant shall be an inhabitant of said district.

SECT. 6. Nothing in this act contained shall be construed to prevent the taking of menhaden or mackerel, by the use of seines, within the said waters, between Succanisset and Point Gammon, when used *bona fide* for that purpose and not for the purpose of taking other fish.

SECT. 7. This act shall take effect from and after its passage. — [May 30, 1856.

[P. S. 91.]

AN ACT to protect the Fishery in Pleasant Bay.

1856, 225. *Be it enacted, etc., as follows:* SECT. 1. The town of Orleans, at any legal town meeting called for the purpose, may make and enact such laws as they may from time to time deem expedient, to protect and preserve the fishery in Pleasant Bay and all the inlets therefrom within the limits of said town of Orleans: *provided, always,* that no law, made as above, shall infringe upon the laws of the Commonwealth. — [May 31, 1856.

[1855, 171.]

AN ACT in addition to the several Acts for the protection of the Fisheries in Ipswich River.

1856, 248. *Be it enacted, etc., as follows:* SECT. 1. When any person is found violating the provisions of any law for the protection of the fisheries in Ipswich River, it shall be lawful for any constable of the towns mentioned in said act to seize and detain any boat, vessel or nets used by such persons as are found violating said laws for the protection of fisheries in Ipswich River, and hold such boat, vessel or nets, until the lowest fine named in those acts shall be paid or good and sufficient bond, with surety, shall be given to abide the judgment of the court in that case.

SECT. 2. This act shall take effect from and after its passage. — [June 3, 1856.

[1826, 54; 1851, 77.]

AN ACT to protect the Fishery in the Town of Edgartown.

1856, 285. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or stretch any seine or net of any kind within one mile from the shore of any of the ponds, creeks, bays, harbors or inlets of the sea within the limits of the town of Edgartown, excepting in a pond known by the name of the Oyster Pond, from the first day of April to the first day of October, exclusive, in each year; nor shall any person not an inhabitant of said town at any time set, drag or

stretch any seine or net in any of the ponds, creeks or outlets thereof. The seining of menhaden and mackerel is exempted from this act.

SECT. 2. Any person violating any provision of this act shall be liable to a fine not exceeding three hundred dollars for each offence, or any boat, vessel or fishing apparatus used by persons violating the provisions of this act may be seized and detained not exceeding the time of forty-eight hours, by any person appointed for the purpose by the town of Edgartown, for the purpose of duly prosecuting the person offending this law.

SECT. 3. The town of Edgartown is hereby authorized to choose, at the annual town meeting or at any meeting duly warned for that purpose, such number of fish-wardens as may at the time be thought necessary, who shall be sworn to the faithful discharge of their duty, whose duty it shall be to prosecute for offences against the provisions of this act; one half of all fines imposed and collected shall inure to the fish-wardens, and the other half to the Commonwealth.

SECT. 4. All fines or penalties for violating any provision of this act, with costs, may be sued for and recovered in any court competent to try the same, on complaint of either of the fish-wardens.

SECT. 5. This act shall take effect from and after its passage. — [June 6, 1856.

[1872, 248.]

[Sp. Laws, vol. 1, p. 272.]

AN ACT for the preservation of Fish in the Merrimac River.

1856, 289. *Be it enacted, etc., as follows:* SECT. 1. The Essex Company shall, before the first day of February which will be in the year one thousand eight hundred and fifty-seven, make and forever thereafter maintain in or around their dam in Lawrence, a suitable and sufficient fish-way for the usual and unobstructed passage of fish during the months of April, May, June, September and October, in every year, under a penalty of not less than one hundred dollars nor more than five hundred dollars for every day said company shall neglect to make and maintain such fish-way after said first day of February, to be recovered by indictment in either county of Essex or Middlesex, one half to the use of the complainant and one half to the use of the Commonwealth.

SECT. 2. No person shall take any fish with a spear, net, hook or seine during either of the months aforesaid in any year, within eighty rods of said dam or the entrance of said fish-way.

SECT. 3. Every person offending against the provisions of the preceding section shall be punished by fine, not exceeding one hundred dollars for each offence, one half of which shall inure to the use of the complainant, and the other half to the use of the Commonwealth.

SECT. 4. All acts and parts of acts inconsistent herewith are hereby repealed. — [June 6, 1856.

Resolve concerning the Artificial Propagation of Fish.

1856, Res. 58. *Resolved*, That his excellency the governor, with the advice of the council, be authorized to appoint three commissioners whose duty it shall be to ascertain and report to the next general court, such facts respecting the artificial propagation of fish as may tend to show the practicability and expediency of introducing the same into this Commonwealth under the protection of law; and said commissioners shall keep an account of their actual expenses in executing this commission, to be duly audited and allowed by the governor and council, and paid by warrant upon the treasury duly drawn by the governor for that purpose: *provided, however*, that the amount does not exceed one thousand dollars. — [May 16, 1856.

1857.

AN ACT to amend Chapter Fifty-five of the Revised Statutes, relating to Fisheries

1857, 30. *Be it enacted, etc., as follows*: SECT. 1. No person shall take or catch any pickerel or trout in any rivers, streams or ponds, in any other manner than by hooks and lines; and no person shall take any pickerel in any rivers, streams or ponds, from the first day of December to the first day of May; and every person offending against any of the provisions of this act shall forfeit the sum of one dollar for every pickerel or trout by him taken contrary to the said provisions, to be recovered by indictment, or on complaint before any justice of the peace; and one half of said fine shall belong to the complainant, and the other half to the Commonwealth: *provided*, that the inhabitants of any town may, at their annual meeting, suspend, in whole or in part, the provisions of this act, so far as respects such town, for any time not exceeding one year.

SECT. 2. The second section of chapter fifty-five of the Revised Statutes, relating to fisheries, is hereby repealed. — [March 25, 1857.

[P. S. 91.]

[Sp. Laws, vol. 2, p. 502.]

AN ACT to protect the Menhaden Fishery in the Towns of Duxbury, Plymouth and Kingston.

1857, 85. *Be it enacted, etc., as follows*: SECT. 1. Every person who shall, between the first day of May and the first day of November, inclusive, in each year, deposit the offal or waste dressing of the menhaden fish upon the shores or flats, or throw the same into the waters of the bays, harbors, rivers or creeks of the towns of Duxbury, Plymouth or Kingston, shall, for each and every offence, forfeit and pay a sum not exceeding fifty dollars, one half to the

complainant, and the remainder to the town within whose jurisdiction the offence was committed, to be sued for and recovered in any court competent to try the same, on complaint of any one of the selectmen, or any legal voter of either of the towns of Duxbury, Kingston or Plymouth.

SECT. 2. Any boat, craft, vessel or fishing apparatus used by persons violating the provisions of this act, may be seized and detained not exceeding forty-eight hours by the selectmen of either of the towns aforesaid, in order that the same, if need be, may be attached or arrested by due process of law, to satisfy said fine, with costs.

SECT. 3. This act shall take effect from and after its passage. — [April 24, 1857.

AN ACT to incorporate the Lagoon Pond Company in Dukes County.

1857, 87. *Be it enacted, etc., as follows:* SECT. 1. Bayes Norton, Darius Norton, Elisha T. Smith, and their associates and successors, are hereby made a corporation by the name of the Lagoon Pond Company, in Dukes County, and are empowered to build a dam across said pond about or from that part of the pond called Long Point, for the purpose of creating a herring and perch fishery; and said company shall possess the exclusive right to said herring and perch fishery: *provided*, that all persons may take fish from said pond with hook and line and may spear eels and dig clams therefrom.

SECT. 2. The said company shall make said dam within two years from the passage of this act; and said dam shall be of sufficient width and strength, with a good and sufficient bridge, so that it can be used as a public highway.

SECT. 3. The said dam shall not injure by its height any of the surrounding meadows, or take away or injure any existing right of any person or corporation whatever.

SECT. 4. For the above named purposes said company shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities contained in the forty-fourth chapter of the Revised Statutes.

SECT. 5. If any person, without leave from said company, shall take any fish from said pond except as provided in this act, they shall forfeit for each offence a sum not exceeding twenty dollars, which may be recovered in any court competent to try the same. — [April 24, 1857.

[1862, 47; 1885, 245.]

AN ACT to incorporate the Caleb's Pond Company.

1857, 193. *Be it enacted, etc., as follows:* SECT. 1. Valentine Pease, Henry Pease, 2d, and David Davis, their associates and suc-

cessors, are hereby made a corporation by the name of the Caleb's Pond Company, in Edgartown, Dukes county, for the purpose of creating a herring and perch fishery; and they are empowered to close the present outlet of said pond and make a new one through the land of the company. The profits of the fishery so created shall belong to the company; but all persons may take fish with hook and line or spear eels from said pond. And for this purpose the company shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without permission of the company, shall take any fish from said pond, except as provided in this act, he shall be subject to a fine not exceeding fifty dollars, to be sued for in any court competent to try the same, and said fine shall belong to the company.

SECT. 3. All persons who now are owners of land adjoining said pond or outlet, may become members of said corporation, provided they shall signify to the company their intention to become members within sixty days from the organization of the company; and the company shall give public notice of their organization by publishing the same at least sixty days in the "Vineyard Gazette."

SECT. 4. The present owners of the land adjoining the said pond or outlet who shall determine to become members of the corporation shall each be entitled to one share and no more.

SECT. 5. In making or closing any outlet of said pond, the company shall not infringe upon the rights of any person or corporation. — [May 19, 1857.

1858.

AN ACT regulating the Seining of Menhaden in the Rivers of the Commonwealth.

1858, 52. *Be it enacted, etc., as follows:* SECT. 1. The mayor and aldermen of any city or the selectmen of any town situated upon or adjacent to any river in which the seining of fish is now or may hereafter by law be prohibited, may, upon the petition of twelve or more legal voters, and after due notice and hearing thereon, grant permission to such persons, upon such condition and with such restrictions as they may see fit, to seine menhaden therein, if, in their judgment the same is consistent with the public good: *provided, however,* that in all cases where two or more cities or towns are situated upon said waters and interested in said fishery, no action shall be had except upon petition to each of them, and by their concurrent vote.

SECT. 2. If any person so licensed shall exceed in any manner the terms of said permission or violate any of the conditions thereof, he shall be subject to the same penalties as would attach to seining without such license.

SECT. 3. Such license may be altered or revoked at any time, by the concurrent action of the municipal authorities granting the same. — [March 15, 1858.

AN ACT to incorporate the Baker's Pond and Drain Fishing Company.

1858, 65. *Be it enacted, etc., as follows:* SECT. 1. Wilson V. Baker, Loren Baker, Orlando Baker and Laban Baker, their associates, successors and assigns, are hereby made a corporation by the name of the Baker's Pond and Drain Fishing Company, in the town of Yarmouth, and are empowered to make a suitable outlet from Baker's Pond in said town, through their own land, to Bass River, for the purpose of creating an alewife fishery, and are authorized to regulate the same; with all the powers and privileges, and subject to all the liabilities, duties and restrictions contained in the forty-fourth chapter of the Revised Statutes.

SECT. 2. If any person, without the permission of the said corporation, shall take, catch or haul on shore any alewives from said Baker's Pond or Drain, or within one hundred yards from the mouth of said drain, he shall, upon complaint, forfeit a sum not exceeding two dollars, if the quantity taken be less than one barrel; and if the quantity be more than one barrel, a sum not exceeding five dollars for each barrel of fish so taken, to be recovered in any court proper to try the same.

SECT. 3. This act shall not take effect unless accepted by the town of Yarmouth, at a legal meeting called and held for that purpose within one year after the passage of this act. — [March 22, 1858.

AN ACT in relation to the Pickerel and Perch Fishery in the District of Marshpee.

1858, 94. *Be it enacted, etc., as follows:* SECT. 1. The district of Marshpee is hereby authorized and empowered, at any legal meeting held for that purpose, to make and establish by-laws in relation to the taking of pickerel and perch in any of the ponds in said district, by hooks and lines, at any season of the year.

SECT. 2. The said district, at any regular meeting, with notice in the warrant that the subject will be acted on, may authorize the selectmen of said district to let or dispose of the pickerel and perch fishery, or either, within said district or any part thereof, from time to time, for any term not exceeding one year, to any person, upon such terms as may be by its by-laws fixed and established.

SECT. 3. Any person who shall take or catch any fish in violation of the provisions of any by-laws established under authority of this act, shall forfeit and pay a fine of not less than one dollar nor more than twenty dollars, for each and every offence, to be recovered by prosecution before any court of competent jurisdiction, one-half to the person prosecuting and one-half to the said district.

SECT. 4. All acts and parts of acts inconsistent herewith are hereby repealed. — [March 26, 1858.]

[1833, 211; 1850, 6; 1855, 156; 1858, 95.]

AN ACT in further addition to an Act to regulate the Fisheries in the Vicinity of Nantucket.

1858, 95. *Be it enacted, etc., as follows:* SECT. 1. The provisions of the sixth chapter of the acts of eighteen hundred and fifty, and of the one hundred and fifty-sixth chapter of the acts of eighteen hundred and fifty-five, are hereby extended and shall apply to the taking of fish with any kind of net by any person or persons within the limits prescribed in the act first above mentioned. — [March 26, 1858.]

[1870, 284.]

[Sp. Laws, vol. 2, pp. 222, 289; 1825, 63; 1851, 98.]

AN ACT to protect the Herring Fisheries in the Town of Falmouth.

1858, 130. *Be it enacted, etc., as follows:* SECT. 1. No person shall set down or stretch any seine or drag-net of any kind within a half mile from the mouth or outlet of any river or stream running from any pond in Falmouth into the sea, or Vineyard Sound, between Nobsque Point and Waquoit Harbor, from the twentieth day of March to the twentieth day of September inclusive, in each year.

SECT. 2. Any person violating any of the provisions of this act shall be liable to a fine not exceeding one hundred dollars for each offence.

SECT. 3. All fines and penalties for violating any provision of this act, with costs, may be sued for and recovered in any court competent to try the same, on the complaint of any inhabitant of said town of Falmouth, one half thereof to accrue to the complainant and the other half to the Commonwealth.

SECT. 4. All acts and parts of acts inconsistent with this act, are hereby repealed. — [March 27, 1858.]

1859.

[1837, 195.]

AN ACT in addition to an Act to regulate the Fishery in Newbury.

1859, 54. *Be it enacted, etc., as follows:* The third section of the one hundred and ninety-fifth chapter of the acts of the year eighteen hundred and thirty-seven, is hereby amended by striking out the words "five dollars" and inserting in place thereof the words "one dollar for each fish so taken." — [February 19, 1859.]

[Sp. Laws, vol. 1, p. 326.]

AN ACT regulating the Herring Fishery in Indian Head River.

1859, 90. *Be it enacted, etc., as follows:* All the rights, duties, benefits and privileges conferred or imposed upon the towns of Pem-

broke and Hanover, or either of them, by the act entitled "An Act for regulating the taking the fish called alewives in their passage up Indian Head River, so called, between the towns of Pembroke and Hanover, in the county of Plymouth, into a pond in said town of Pembroke known by the name of Indian Head Pond," passed February twenty-second, in the year one thousand seven hundred and ninety-two, are hereby conferred and imposed upon the towns of Hanson and Hanover, in said county of Plymouth. — [March 7, 1859.

[1849, 36; 1853, 186.]

AN ACT relating to the Trout Fishery in Marshpee River.

1859, 105. *Be it enacted, etc., as follows:* SECT. 1. The first section of the thirty-sixth chapter of the acts of the year one thousand eight hundred and forty-nine is hereby so amended that no person shall take any trout in Marshpee River from the fifteenth day of September in each year to the twentieth day of March in the year next ensuing.

SECT. 2. The fifth section of chapter one hundred and eighty-six of the acts of the year one thousand eight hundred and fifty-three is hereby so amended that the selectmen of the district of Marshpee may lease or dispose of the trout or herring fishery in said district, according to the provisions of said section, for terms of time not exceeding twenty years in any one lease. — [March 17, 1859.

[1860, 46.]

[1857, 30.]

AN ACT to amend an Act relating to the Fisheries.

1859, 106. *Be it enacted, etc., as follows:* SECT. 1. The first section of the thirtieth chapter of the acts of the year eighteen hundred and fifty-seven, is hereby amended by striking out all after the word "provided," in said section, and inserting the following: That the provisions of this act shall not extend to any town unless such town, at a legal meeting, shall adopt the same. — [March 17, 1859.

1860.

[1839, 102; 1856, 214.]

AN ACT to protect the Fishery in Marshpee.

1860, 46. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout in Marshpee River, extending to and including all the waters into which said river empties from the westerly side as far as the water flows, to a line drawn due east and west across the northerly end of Poppenessett Island, so called; thence on the same line east to the centre of the channel which forms the line of division between Barnstable and Marshpee; thence by said line of division

northerly till it meets a line drawn due east from the mouth of Quawker's River, so called; thence west to the mouth of said Quawker's River, and thence by the shore to the said Marshpee River, from the fifteenth day of September in each year to the twentieth day of March in the year next ensuing.

SECT. 2. No person except the proprietors of said district, shall take any trout in said river and the waters aforesaid, described in the first section, at any time, without a written permit from the treasurer of Marshpee, which shall specify the time when and the places where the person holding the same is allowed to fish. And no person shall at any time use any other means of taking trout in said river and waters described as aforesaid, than by angling with hooks and lines.

SECT. 3. The said district may, by vote in legal meeting, make any regulations or by-laws respecting said fishery not repugnant to the provisions of this act; and the income from said fishery shall inure wholly to said district.

SECT. 4. Any person offending against the provisions of this act, or any regulations or by-laws passed by authority of the third section of this act, shall forfeit and pay a fine of twenty dollars for each and every offence, to be recovered by prosecution before any trial justice in the county of Barnstable, to the benefit of said district.

SECT. 5. Any person who shall have in his possession any trout, knowing the same to have been taken from said river contrary to the provisions of this act, shall forfeit the sum of fifty cents for every trout so found in his possession.

SECT. 6. If any minor shall offend against the provisions of this act, the parent, master or guardian of such minor shall be liable, and may be prosecuted accordingly therefor.

SECT. 7. The said district, at any regular meeting, with notice in the warrant that the subject will be acted on, may authorize the selectmen of said district to lease or dispose of the trout or herring fishery belonging to said district, from time to time, for terms of time not exceeding twenty years in any one lease, the proceeds to go into the treasury for the benefit of the district; and they may elect and appoint two or more fish-wardens to protect said fishery. All prosecutions under this act shall be commenced within one year from the time when the offence is committed

SECT. 8. The thirty-sixth chapter of the year eighteen hundred and forty-nine, and the fifth section of chapter one hundred and eighty-six of the year eighteen hundred and fifty-three, and chapter one hundred and five of the year eighteen hundred and fifty-nine are hereby repealed.

SECT. 9. This act shall take effect from and after the first day of March next.— [February 24, 1860.

AN ACT to incorporate the Assonet Fishing Company.

1860, 82. *Be it enacted, etc., as follows:* SECT. 1. Gilbert Winslow, John D. Wilson and John Crane of Freetown, their associates and successors, are hereby made a corporation by the name of the Assonet Fishing Company, for the purpose of introducing, cultivating and catching herrings or alewives in the Assonet River and Bay, so called, and the several ponds connected therewith; and they are hereby empowered to alter such dams and construct such race-ways and adopt and carry out such other measures as may be necessary to secure the aforesaid purpose, subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes, and the sixty-eighth chapter of the General Statutes.

SECT. 2. If any person, without the permission of said corporation, shall take, catch or haul on shore any herrings in said river, bay or ponds, he shall forfeit and pay for the use of said corporation, a sum not exceeding three dollars, if the quantity so taken be less than one barrel; but if the quantity be more than one barrel, the person so offending shall forfeit and pay for each barrel of fish so taken, the sum of five dollars, to be recovered in any court proper to try the same.

SECT. 3. If any damage shall be done by said corporation to the property of any individual not a member of the corporation, such individual shall be entitled to recover reasonable damage, to be estimated in the same manner as damages occasioned by the laying out of highways.

SECT. 4. Nothing herein contained shall authorize said company to take or use the private property of any person without his consent, or deprive any inhabitant of the town of Freetown of any privilege which he now has of taking any kind of fish, excepting herring, from said river, bay or ponds.

SECT. 5. This act shall take effect from and after its passage. — [March 17, 1860.

[1813, 147; 1838, 19; 1844, 65; 1853, 377.]

AN ACT to regulate the Fishery in the Agawam and Half-way Pond Rivers.

1860, 89. *Be it enacted, etc., as follows:* SECT. 1. The town of Plymouth at its annual meeting in the month of March or April, and the town of Wareham at its annual meeting in the month of November, of each year, shall choose, by ballot, a committee of not more than three persons each, who shall be sworn to the faithful discharge of their duties, in the manner of other town officers; which committee shall, in the month of March, annually, after a public notice of at least ten days, sell at public auction the privilege of taking the fish called alewives and shad in the Agawam and Half-way Pond Rivers,

in the county of Plymouth, at such places, not exceeding two in said towns, and on such days, not exceeding three in each week, as said committee shall agree upon and publish in their notice of sale; they shall also express in said notice the manner of taking and disposing of said fish, and the price at which the purchasers may sell them, which price shall not exceed twenty-five cents per hundred for alewives and four cents each for shad: *provided, nevertheless*, that said committee may fix upon one place in the town of Wareham and one day in each week for taking shad, different from the place and day of the week appointed for taking alewives.

SECT. 2. The committee of the town of Plymouth, the first year after the passage of this act, and the committee of the town of Wareham the second year, and so on alternately, forever, shall notify the town clerk of the other town concerned in said fishery, of the time and place in which said committee shall meet, ten days at least before the time of meeting; and the members of the committee present at the said meeting shall constitute a quorum for doing business.

SECT. 3. If either of said towns neglects to choose its committee as aforesaid, or if the committee of either town neglects to give notice, as above required, to the other, said town so neglecting shall forfeit and pay to the use of the other which chooses such committee or whose committee gives such notice, for each neglect, the sum of one hundred dollars.

SECT. 4. All persons except the purchasers aforesaid or those employed by them, who take any of said fish in said rivers or in any pond or stream having communication therewith, between the first day of April and the fifteenth day of June, both inclusive, in each year, shall forfeit and pay not less than five dollars nor more than fifty dollars for each and every offence.

SECT. 5. The owner or occupier of any dam on said rivers, shall annually, between the fifteenth day of April and the fifteenth day of June next following, for such term of time and in such manner as said committee directs, open a sufficient passage for said fish through said dam; and on failure of opening such passage or of continuing the same open as aforesaid, shall forfeit and pay the sum of one hundred dollars; and said committee may open such dam, when neglected as aforesaid, at the expense of the proprietor thereof: *provided*, no more damage is thereby done the owner than is necessary to effect said purpose.

SECT. 6. If any person makes any weir or causes any obstruction to the free passage of said fish up said rivers or makes use of any seine to take said fish in said rivers or in any pond or stream communicating with the same in any other manner or at any other time or place than such as may be approved and established by said commit-

tee, between the fifteenth day of April and the fifteenth day of June as aforesaid, he shall forfeit and pay not less than five dollars nor more than fifty dollars for each and every offence; and said committee shall remove such weir or obstruction at the expense of the person causing the same, and also seize to the use and disposal of said towns any seine used as aforesaid, and make complaint to the town treasurer of either of the towns aforesaid, of any violation of this act that shall come to their knowledge.

SECT. 7. The treasurers of the aforesaid towns respectively shall, upon the complaint of any member of the committees aforesaid, sue for the recovery of any forfeitures incurred by a breach of any of the regulations provided in this act, and of any such further regulations as may be provided and established by said committees in conformity to this act; and all fines and forfeitures recovered for any breaches aforesaid, except such as are provided in the third section of this act, shall, together with the proceeds of said fishery, be equally divided between said towns; and all the expenses attending said suits shall in like manner be equally borne by them. And the treasurers aforesaid respectively shall, in behalf of their respective towns, recover by an action on the case of any person or corporation withholding the same, one-half part thereof, in any court proper to try said action.

SECT. 8. The purchasers of the privileges of taking said fish shall in all respects conform themselves to such regulations and conditions as said committees shall publish as aforesaid; and on failure thereof shall forfeit and pay for each offence a sum not less than five dollars nor more than fifty dollars to be recovered in any court of proper jurisdiction.

SECT. 9. Any member of the committees aforesaid may be admitted as a competent witness in any prosecution for a breach of any regulation as aforesaid.

SECT. 10. The committee chosen in said town of Plymouth either in the months of March or April last, and the committee chosen by said town of Wareham in the month of November last, for the regulating the taking of alewives in said rivers, agreeably to the provisions of the act then existing for that purpose, shall perform all the duties for the present year that are required of committees hereafter to be chosen under the provisions of this act; and they, as also committees hereafter chosen for the purposes contemplated by this act, shall receive out of the proceeds of said fishery, one dollar and twenty-five cents each for every day's service they may be actually engaged in performing the duties herein required of them.

SECT. 11. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. — [March 20, 1860.

AN Act to incorporate the Nine Mile Pond Fishing Company.

1860. 91. *Be it enacted, etc., as follows:* SECT. 1. Nelson Scudder, Daniel Scudder, Walter Chipman, Elijah Sears, their associates and successors, are hereby made a corporation by the name of the Nine Mile Pond Fishing Company, for the purpose of opening a canal or outlet from Nine Mile Pond in Barnstable, and from Long Pond to tide-water, and maintaining the same; and for that purpose are empowered to open such canal or outlet, and to continue the same in such manner as to said corporation shall seem fit and proper; and they shall have all the powers and privileges and be subject to all the duties, liabilities and restrictions set forth in the forty-fourth chapter of the Revised Statutes and the sixty-eighth chapter of the General Statutes.

SECT. 2. Any herring fishery which may be created in the canal or outlet or the ponds aforesaid, by opening the same, or which may hereafter exist therein, shall be the property of said corporation; and if any person, without the permission of said corporation, shall take, catch, kill or haul on shore any herrings in said canal or outlet or in the ponds aforesaid, he shall forfeit and pay, for the use of said corporation, a sum not less than three dollars, if the quantity so taken, killed, caught or hauled on shore be less than one barrel; but if the quantity so taken, killed, caught or hauled on shore shall be more than one barrel, he shall forfeit and pay for each barrel of herring so taken, and for each fraction of a barrel, the sum of five dollars, to be recovered by an action of tort in the name of said corporation in any court of competent jurisdiction.

SECT. 3. Nothing herein contained shall authorize the said company to take or use the private property of any person without his consent; and any proprietor of lands adjoining said canal or outlet may become a member of said corporation if application be made therefor within six months from the time of the organization of said company under this act, by paying a due proportion of all expenses incurred by said corporation before the time of their admission.

SECT. 4. If any person not a member of said corporation shall receive damage in his lands or estate in consequence of the opening of said canal or outlet, or in consequence of the draining of said ponds or otherwise, and the parties in interest failing to adjust said damages, the party aggrieved may apply to the county commissioners of the county of Barnstable, who are hereby authorized to determine and assess the same; and either party may appeal from the decision of said commissioners to the superior court of the county of Barnstable, and have a trial by jury in said court.

SECT. 5. The said corporation, for the purpose herein set forth, and for maintaining and carrying on the fishery aforesaid, may hold

real estate not exceeding two thousand dollars in value over and above the right of fishery named in the second section of this act.

SECT. 6. The capital stock of said corporation shall be one thousand dollars, represented by one hundred shares of ten dollars each, with the right to increase the same to three thousand dollars, by vote of said corporation.

SECT. 7. Nothing herein contained shall give the corporation rights and privileges in any fishery now existing in said ponds, over and above other citizens of the town of Barnstable; and this act shall be void unless approved by the town aforesaid, at a public town meeting, by a majority of the voters present and voting thereon.

SECT. 8. This act shall take effect from its passage. — [March 20, 1860.

1861.

AN ACT to incorporate the Little Sipwissett Cranberry and Fishing Company in the Town of Falmouth.

1861, 74. *Be it enacted, etc., as follows:* SECT. 1. Barnabus Bowerman, Silas Gifford and Prince G. Moore, their associates and successors, are hereby made a corporation by the name of the Little Sipwissett Cranberry and Fishing Company, for the purpose of improving and regulating the Little Sipwissett Meadow in the town of Falmouth, by flowing and draining said meadow as the company shall deem best for the culture of cranberries, and also for the purpose of regulating and protecting the alewife fishery in a pond in said meadow, and in the river leading from said pond to Buzzard's Bay.

SECT. 2. Said company shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the sixty-eighth chapter of the General Statutes.

SECT. 3. Whoever shall obstruct the passage of alewives between said pond and bay, in either direction, or, without the permission of said corporation, shall take any alewives from said pond or river, or shall set, drag or shoot any seine in Buzzard's Bay, within fifty rods of the mouth of said river, for the purpose of taking alewives therefrom, shall forfeit a sum not exceeding twenty dollars, which shall inure to the benefit of the company.

SECT. 4. This act shall take effect upon its passage. — [March 15, 1861.

[1815, 154.]

AN ACT for the regulation of the Fisheries in the Town of Winchester.

1861, 157. *Be it enacted, etc., as follows:* SECT. 1. The provisions of the act passed on the sixteenth day of February in the year of our Lord one thousand seven hundred and eighty-nine, entitled "An Act to prevent the destruction of the fish called shad and ale-

wives in Mystic River, so called, within the towns of Cambridge, Charlestown and Medford, and for repealing all laws heretofore made for that purpose," and also the provisions of the act passed on the second day of February in the year of our Lord one thousand eight hundred and sixteen, entitled "An Act for the regulation of the fishery in Woburn," shall extend to the town of Winchester in the county of Middlesex, and to all the streams therein running from any of the ponds or other waters there into Mystic Pond, so called.

SECT. 2. "The committee for the preservation of fish," in the town of Winchester, may be elected either in the month of March or April, annually, and they shall be invested with all the powers and authority conferred by the acts aforesaid on the committees of the several towns therein mentioned.

SECT. 3. Nothing in this act shall be construed to repeal, modify or affect any of the provisions of the act entitled "An Act to supply the city of Charlestown with pure water," approved March twenty-eight, one thousand eight hundred and sixty-one.

SECT. 4. This act shall take effect upon its passage. — [April 9, 1861.

[1864, 234.]

1862.

[1857, 87.]

AN ACT to prohibit Seining near the Outlet of Lagoon Pond in Dukes County.

1861, 47. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or use any seine for taking fish, within fifty rods of the dike, creek or outlet of Lagoon Pond, in Dukes County, without first obtaining permission to do so from the Lagoon Pond Company in Dukes County.

SECT. 2. Any person violating this act shall, on conviction, pay a fine of twenty dollars, to be recovered before any court competent to try the same, for the use of said company.

SECT. 3. This act shall take effect upon its passage. — [February 28, 1862.

AN ACT for the protection of Trout in Maple Spring Pond, in the Town of Wareham.

1862, 58. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout in Maple Spring Pond in the town of Wareham, or in the waters running into or flowing therefrom, from the fifteenth day of September in each year, to the fifteenth day of April in the year next ensuing; nor shall any person take any trout therefrom except by hooks and lines, nor without permission of the proprietor or proprietors.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be

recovered by prosecution before any trial justice in the county of Plymouth. — [March 6, 1862.

[1868, 110.]

AN ACT for the protection of Trout in Nye's Pond in the Town of Sandwich.

1862, 94. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout in Nye's Pond in Sandwich or the stream running therefrom to Jeremy's Creek, so called, from the first day of August in each year to the first day of April in the year next ensuing; nor shall any person take any trout therefrom except by hook and line; nor shall any person enter upon the land bordering upon said pond or stream, at any season of the year, for the purpose of taking trout, without the written permission of the proprietors.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Barnstable. — [March 27, 1862.

AN ACT for the protection of Fish in Little Quitticus Pond in the Towns of Lakeville and Rochester.

[Sp. Laws, vol. 2, p. 516.]

1862, 202. *Be it enacted, etc., as follows:* Whoever takes or catches any fish in Little Quitticus Pond, so called, lying in the towns of Lakeville and Rochester and county of Plymouth, for a term of six years after the passage of this act, shall forfeit one dollar for every fish so taken. — [April 30, 1862.

1863.

[Sp. Laws, vol. 1, p. 422; 1855, 401.]

AN ACT concerning the Fisheries in Taunton Great River.

1863, 73. *Be it enacted, etc., as follows:* SECT. 1. The provisions of chapter four hundred and one of the acts of the year eighteen hundred fifty-five, relating to the catching of shad and alewives in Taunton Great River and the Newmasket River, are hereby extended to all waters connected with the Newmasket River, within the towns of Middleborough and Lakeville.

SECT. 2. It shall be the duty of the fish-wardens chosen by the town of Middleborough, under the provisions of chapter four hundred and one, section nine of the acts of the year eighteen hundred and fifty-five, either personally or by the assistants by them appointed and employed, to use all needful care, watch and inspection to prevent any violation of any of the provisions of said act, from a point one mile and a half below the dam at Squawbetty Village up to the waters of Assawampscott Pond; the expense of which care, watch and inspection shall be paid by said town of Middleborough; and

the other towns on said Taunton Great River shall annually pay to said town of Middleborough, for reimbursement for their share in the benefits to be derived by them for said care, watch and inspection, the sums following: the city of Fall River and the town of Free-town, ten dollars each; the towns of Somerset, Dighton, Berkley and Raynham, twenty dollars each; and the town of Taunton, thirty dollars. And the said town of Middleborough may recover the same in an action of contract, in any court of competent jurisdiction.

SECT. 3. Any person who shall beat upon the ground, or do any act whatsoever whereby said fish in said rivers shall be disturbed, driven, destroyed or delayed, from the first day of March to the tenth day of June in each year, contrary to the meaning and intent of the provisions of chapter four hundred and one of the acts of the year one thousand eight hundred and fifty-five, shall be entitled to all the pains and penalties named in the eleventh section of this act.

SECT. 4. This act shall take effect upon its passage. — [March 12, 1863.

AN ACT to incorporate the East Falmouth Herring River Company in Falmouth.

1863, 81. *Be it enacted, etc., as follows:* SECT. 1. Henry F. Hatch, Benjamin H. Hatch, Robert H. Hatch and Isaac H. Hatch, their associates and successors, are hereby made a corporation by the name of the East Falmouth Herring River Company in Falmouth, and are empowered to open a brook or ditch through their own land from Ashmet Pond to Bourne's Pond, so called, and from thence to the Vineyard Sound, with full powers to regulate the same so far as is necessary for an alewife fishery; and for this purpose said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the sixty-eighth chapter of the General Statutes.

SECT. 2. Whoever, without the permission of said corporation, shall take any alewives from said brook or river shall forfeit and pay a fine of five dollars, to be recovered before any court proper to try the same.

SECT. 3. All persons who may be owners of land through which said brook passes or which adjoins the same, may become members of said corporation; subject, however, to pay their proportional part of the expenses which shall have been incurred by said corporation before the time of their admission.

SECT. 4. If any damage shall be done by said corporation to the property of any person not a member thereof, such individual shall have an action of tort for the injuries. And the members of said corporation shall be jointly and severally individually liable for such damage in an action of tort, in any court having jurisdiction of the

case; and any member of said corporation of whom such damage has been collected, may have an action of contract against his co-members for contributions.

SECT. 5. If said brook crosses the highway where no bridge now exists, said corporation shall build a bridge over the same to the acceptance of the selectmen of the town of Falmouth, and be held to keep the same in repair.

SECT. 6. Nothing herein contained shall authorize said corporation to take or use the property of any person without his written consent.

SECT. 7. This act shall take effect upon its passage. — [March 12, 1863.

AN ACT for the protection of Pickerel in Clapp's Pond.

1863, 89. *Be it enacted, etc., as follows:* SECT. 1. Richard C. Hartford, his heirs and assigns, are hereby entitled to the exclusive right to take pickerel from Clapp's Pond, so called, in the town of Provincetown, for the term of ten years from the passage of this act: *provided*, the consent of the owners of said pond be first obtained.

SECT. 2. Any person taking pickerel from said pond contrary to the provisions of this act, shall, on conviction in any court having jurisdiction of the offence, be fined not exceeding one dollar, to the use of the Commonwealth. — [March 14, 1863.

[1813, 147; 1838, 19; 1844, 65; 1853, 377; 1860, 89.]

AN ACT in addition to an Act to regulate the Fishery in Agawam and Half-way Pond Rivers.

1863, 117. *Be it enacted, etc., as follows:* SECT. 1. The committees annually chosen by the towns of Plymouth and Wareham, under the provisions of the eighty-ninth chapter of the acts of the year eighteen hundred and sixty, shall have a general superintendence and control of the alewife and shad fishery in the Agawam and Half-way Pond Rivers, and in any pond or stream communicating therewith, throughout the entire year for which they are elected, and until other committees are chosen and qualified in their stead.

SECT. 2. All persons, excepting those who may be engaged with their agents in taking said fish under the license of said committees, within the times limited by said committee, who shall take any of the fish called alewives or shad in any stage of their growth, at any time of the year, in either of said rivers or in any pond or stream communicating therewith, shall forfeit and pay not less than five nor more than fifty dollars for each and every offence, to be recovered in the same manner and to the use of said towns, as is provided in the seventh section of the act herein first before referred to.

SECT. 3. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SECT. 4. This act shall take effect upon its passage. — [March 28, 1863.]

1864.

[Sp. Laws, v. 1, p. 269.]

AN ACT to protect the Shad Fishery in the Connecticut River.

1864, 62. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or sweep any seine or net the meshes of which are less than two and one-fourth inches square when new and dry, for the purpose of catching shad or any other fish in that part of the Connecticut River which is within the limits of this Commonwealth, and below the dam across said river at Holyoke, between the first day of May and the fifteenth day of July during each year.

SECT. 2. Every person violating the provisions of the preceding section shall be liable to a fine of not less than ten nor more than fifty dollars for each offence, to be recovered in any court competent to try the same; one half of said fine to enure to the use of the town in which the offence shall be committed, and the other half to the person who shall prosecute therefor.

SECT. 3. This act shall take effect upon its passage. — [March 2, 1864.]

[1868, 130; 1869, 76, 384, 422; 1870, 369.]

[1856, 214; 1860, 46.]

AN ACT to protect the Trout Fishery in Marshpee.

1864, 150. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout in Quashnet River in the district of Marshpee, from the fifteenth day of September in each year, to the twentieth day of March in the year next ensuing.

SECT. 2. No person except the proprietor of said district shall take any trout in said river without a written permit from the treasurer of Marshpee, which shall specify the time when and the place where the person holding the same is allowed to fish; and no person shall at any time use any other means of taking trout in said river than by angling with hook and line.

SECT. 3. The said district may, by vote in legal meeting, with notice in warrant to that effect, make any regulations or by-laws respecting said fishery not repugnant to the provisions of this act; and the income from said fishery shall inure wholly to said district.

SECT. 4. Any person offending against the provisions of this act or any regulations or by-laws passed by authority of the third section of this act, shall forfeit and pay a fine of twenty dollars for each

offence, to be recovered by prosecution before any trial justice for the county of Barnstable, for the benefit of said district.

SECT. 5. Any person who shall receive any trout knowing the same to have been taken from said river contrary to the provisions of this act, shall forfeit the sum of fifty cents for every trout so received.

SECT. 6. Said district, at any regular meeting, with notice in the warrant to that effect, may elect and appoint two or more fish-wardens to protect said fishery. All prosecutions under this act shall be commenced within one year from the time when the offence is committed.

SECT. 7. This act shall take effect upon the first day of May next. — [April 13, 1864.]

[Sp. Laws, vol. 1, pp. 238, 512; vol. 3, p. 98. 1815, 54; 1820, 67; 1861, 157.]

AN ACT in relation to Fisheries in the Town of Winchester.

1864, 234. *Be it enacted, etc., as follows:* SECT. 1. All acts heretofore passed for the preservation of fish and the regulation of fisheries in the Mystic River, shall extend to the town of Winchester, and to all the ponds and streams therein; and the committee for the preservation of fish in said town shall have full powers to remove all obstructions to the passage of fish therein, during the time fixed by law for the free passage of fish.

SECT. 2. Nothing in this act shall be construed to affect any of the provisions of the act entitled "An Act for supplying the city of Charlestown with pure water," approved March twenty-eighth, in the year eighteen hundred and sixty-one.

SECT. 3. This act shall take effect upon its passage. — [May 12, 1864.]

[1865, 219; 1867, 149.]

AN ACT to regulate Seining in the Harbor of Mattapoisett.

1864, 259. *Be it enacted, etc., as follows:* No person shall set, draw or use any seine or net in the harbor of Mattapoisett or the waters flowing into said harbor, within a line drawn from Strawberry Point, on the easterly side of said harbor, to the most southerly point of Mattapoisett Neck, on the westerly side of said harbor, without the permission of the selectmen of Mattapoisett; and any person offending against the provisions of this act shall forfeit and pay the sum of twenty dollars for each offence, to be recovered by complaint before any trial justice, for the use of the complainant. — [May 13, 1864.]

[1865, 183.]

AN ACT to restrict the Seining of Fish in the Harbor of Marion.

1864, 273. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or use any seine or net for taking fish in the harbor

of Marion or in the streams running into said harbor, within a line drawn from Charles Neck Point, on the westerly side of said harbor, to Great Neck Point, on the easterly side of said harbor, without the permission of the selectmen of Marion.

SECT. 2. Any person violating this act shall, on conviction, pay a fine of not less than twenty nor more than fifty dollars, to be recovered before any court competent to try the same, for the use of said town.

SECT. 3. This act shall take effect upon its passage. — [May 13, 1864.]

1865.

[Sp. Laws, vol. 1, p. 269; 1814, 128; 1848, 116; 1852, 66; 1853, 350; 1856, 83.]

AN ACT relating to the Alewife Fishery in Barker's River.

1865, 47. *Be it enacted, etc., as follows:* SECT. 1. The selectmen or any committee for the time being, of the town of Pembroke, having in charge the regulation of the alewife fishery in Barker's River in said town, may, at their discretion, close the passage-ways above the weir upon said river for the passage of alewives to the Indian Ponds, so called, in Pembroke, and may take any other measures which they may deem necessary and which are not prejudicial to the rights of mill-owners, to obstruct and effectually prevent the passage of alewives above said weir: *provided*, that said selectmen or committee shall from the first running of alewives after the tenth day of April in each year, take and deposit, alive and in good condition, in said Indian Ponds, not less than two thousand alewives, so they may cast their spawn in said ponds.

SECT. 2. Alewives coming to said river after the number of two thousand shall have been deposited in said ponds as herein before required, may be taken on any secular day of the week and at any hour of the day, and disposed of under the direction of said selectmen or committee in the manner now provided by law.

SECT. 3. The mill-owners upon said weirs shall not be liable to any of the penalties now provided by law for not opening a passage-way for alewives around or through their respective dams while said passage-ways are closed by order as aforesaid; and nothing in this act shall be so construed as to abridge or impair the rights which any officers of said town now have by law to regulate the flow of water in said river.

SECT. 4. All acts and parts of acts inconsistent with this act are hereby repealed. — [February 27, 1865.]

AN ACT to authorize the Town of Plymouth to establish Herring Fisheries in Eel River and Town Brook.

1865, 58. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Plymouth are hereby authorized to establish fisheries for herrings in the streams of said town known by the names of Eel River and Town Brook, and to locate weirs for taking herrings in said streams.

SECT. 2. The inhabitants of said town are further authorized to grant, for a period not exceeding twelve years from the passage of this act, the powers conferred by the same to such person or persons as they may in town meeting elect.

SECT. 3. At the expiration of the period of such grant, the fisheries in said streams shall be sold annually, under the direction of the selectmen of said town, and the proceeds paid into the treasury of said town.

SECT. 4. Any person interfering with said fisheries, disturbing the weirs located by authority of said town, or taking any herring in said streams except by such authority, shall be punished by a fine not exceeding ten dollars for such offence.

SECT. 5. No right is given by this act to the inhabitants of the said town of Plymouth to molest or disturb or in any manner interfere with any dams upon said streams, or private property upon the borders of said streams, without the consent of the owner or owners thereof.

SECT. 6. This act shall take effect upon its passage. — [March 6, 1865.

[Sp. Laws, vol. 1, p. 200; 1836, 56.]

AN ACT concerning the Alewife Fishery in the Town of Wellfleet.

1865, 85. *Be it enacted, etc., as follows:* The selectmen of the town of Wellfleet may, at the annual town meeting, sell the right to take alewives within the limits of said town, for any number of years not exceeding ten. — [March 16, 1865.

[Sp. Laws, vol. 1, p. 290.]

AN ACT to regulate the Herring or Alewife Fishery in Barlow's Pond and the Waters connected therewith in Mattapoisett.

1865, 183. *Be it enacted, etc., as follows:* SECT. 1. The town of Mattapoisett is hereby authorized to make the necessary improvements for the preservation and taking of herrings or alewives in Barlow's Pond and the waters connected therewith, and the outlet therefrom to the sea, and to do all acts necessary for the purpose of protecting and regulating a herring or alewife fishery in said waters.

SECT. 2. The inhabitants of said town may, at any legal meeting called for that purpose, make such by-laws, with penalties for viola-

tion of the same, and such rules and regulations as they may deem necessary for the preservation and protection of said fishery and for the taking and disposal of said fish: *provided*, such by-laws are not inconsistent with the laws of this Commonwealth.

SECT. 3. The selectmen shall annually post up the regulations so established in two or more public places in said town, within ten days after their passage.

SECT. 4. If any person shall take any of said fish in any of the waters aforesaid at a time or in a manner other than shall be allowed by said town, such person shall for each offence, on conviction thereof, pay a fine not exceeding twenty dollars.

SECT. 5. The said town of Mattapoisett shall be liable to pay all damages that shall be sustained by any person in their property by the taking of any lands or by the construction of any dams, sluiceways or other works or by flowage for the purpose of carrying this act into effect; and if any person sustaining damage as aforesaid, shall not agree with the selectmen of the town upon the damage to be paid therefor, the superior court holden within and for the county of Plymouth shall, upon the petition of such person, appoint three competent and disinterested persons to hear and award thereon; and their award or that of any two of them, being accepted by said court, shall be final: *provided*, that said petition shall be filed in the office of the clerk of said court within three years after such damage shall have been sustained, and not afterwards. Such person, if he shall so elect, may have his damages assessed and paid in the manner provided by law with respect to land taken for highway.

SECT. 6. If at any time it shall be apparent that the establishment of the herring fishery herein provided for shall have sensibly diminished the catch of herrings at the weirs upon Hammond's River, in said Mattapoisett and in Rochester, then such equitable indemnity shall be rendered to the owners of said Hammond's River fishery, in fish or otherwise, as the legislature shall determine.

SECT. 7. This act shall take effect upon its passage. — [May 1, 1865.

[1856, 176.]

AN ACT relating to the taking of Menhaden in the Waters of Buzzard's Bay and Vineyard Sound.

1865, 212. *Be it enacted, etc., as follows:* SECT. 1. From and after the passage of this act, it shall be lawful for any person to take menhaden by the use of the purse seine, so called, in the waters of Buzzard's Bay or of Vineyard Sound, or the waters of any bays, inlets or rivers bordering on or flowing into the same: *provided*, that no authority shall be hereby given to use any such seine at the mouth of

any river where there now is or where there may hereafter be a herring fishery established by law, until after the fifteenth day of June in each year; and *provided, further*, that no authority shall be hereby given to use any seine in the waters around Nantucket or the islands belonging thereto. — [May 9, 1865.

[1870, 249.]

[Sp. Laws, vol. 1, pp. 238, 512; vol. 3, p. 98; 1815, 54; 1820, 67; 1861, 157; 1864, 234.]

AN ACT for the protection of Alewives and other Fish in Mystic River.

1865, 219. *Be it enacted, etc., as follows:* SECT. 1. No fish shall be taken within fifty rods of any fish-way now existing or hereafter to be constructed over or at any dam in the towns of Medford, West Cambridge and Winchester, between the first day of April and the fifteenth day of June.

SECT. 2. Any person violating the provisions of this act shall be liable to a penalty of fifty cents for each and every fish so taken.

SECT. 3. All prosecutions under this act shall be commenced within thirty days from the time of the commission of the offence.

SECT. 4. This act shall take effect upon its passage. — [May 10 1865.

[1867, 149; 1868, 128.]

AN ACT for the better Observance of the Lord's Day.

1865, 253. SECT. 2. Whoever attempts to take or catch any fish on the Lord's Day, by using any hook, line, net, spear or other implement, on any of the waters within this Commonwealth, shall, upon conviction thereof, be punished by a fine not exceeding ten dollars.

SECT. 3. All prosecutions under this act shall be instituted within thirty days from the time the offence is committed. — [May 6, 1865.

[P. S. 98, §§ 10, 11.]

[Sp. Laws, vol. 1, pp. 272, 296.]

RESOLVES concerning the Obstructions to the passage of Fish in the Connecticut and Merrimack Rivers.

1865, Res. 45. *Resolved*, That his excellency the governor, by and with the advice and consent of the council, is authorized to appoint two commissioners, whose duty it shall be to cause observations to be made, during the months of May and June, of the height of the water upon the crests of the dams at Lowell, Lawrence and Holyoke, the heights of the flash-boards upon said dams, respectively, the right of the owners to maintain such flash-boards, and if they are uniformly maintained thereon during said months; also to ascertain the extent and degree of the discoloration of the water of said rivers below said dams caused by the discharge of dyestuffs and other noxious matter therein from the manufactories, and the effects of such

matter upon the water and the fish inhabiting the same; and, further, to make inquiries and ascertain the best mode of constructing fish-ways over said dams, the expense of the same, and such further facts touching fish-ways and their usefulness in aiding the passage of fish over obstructions as such commissioners may deem useful or expedient.

Resolved, That said commissioners communicate with such commissioners as may be appointed by the states of New Hampshire and Vermont, upon the subject embraced in these resolutions; ascertain the legislation which has, from time to time, taken place in those states concerning the erection of dams in either of said rivers, and the height of said dams respectively; if fishways suitable for the passage of shad and salmon exist in said dams or any of them, and if said states possess the right to maintain or cause to be maintained suitable fish-ways for the passage of such fish up said rivers to their sources, or to any and what extent.

Resolved, That said commissioners ascertain, so far as practicable, the supply of shad and salmon in said rivers previous to any obstructions being placed therein, when such supply began to fail and the causes generally assigned for such failure, with such further information touching the value of the fisheries and the habits of the fish as may be attainable.

Resolved, That said commissioners make a report of their doings to the governor and council on or before the first day of December next.

Resolved, That the obligation of the Essex Company to rebuild a fish-way in their dam on Merrimack River, in accordance with their charter and the prescription of the county commissioners of Essex county, be suspended until the first day of July, in the year one thousand eight hundred and sixty-six.

Resolved, That his excellency the governor be requested to transmit a copy of these resolutions to the governors of the states of New Hampshire and Vermont. — [May 3, 1865.]

1866.

[Sp. Laws, vol. 1, p. 422; 1855, 401.]

AN ACT in addition to an Act to regulate the Fisheries in Taunton Great River and the Newmarket River.

1866, 54. *Be it enacted, etc., as follows*: **SECT. 1.** The city of Taunton may hereafter sell its privileges of taking shad and alewives in Taunton Great River under the direction of its city council, instead of at a legal meeting to be held for that purpose, as required by the second section of chapter four hundred and one of the acts of the year eighteen hundred and fifty-five. — [March 2, 1866.]

AN ACT to incorporate the Nantucket Fishing Company.

1866, 109. *Be it enacted, etc., as follows:* **SECT. 1.** Matthew Crosby, Joseph B. Macy, Joseph C. Chase, their associates and successors, are hereby made a corporation by the name of the Nantucket Fishing Company, for the purpose of carrying on a general fishing and freighting business; with all the rights and privileges, and subject to all the duties, liabilities and restrictions set forth in all general laws which now are or may hereafter be in force applicable to such corporations.

SECT. 2. Said corporation may hold such real and personal estate as may be necessary for the purpose aforesaid; but the capital stock of said company shall not exceed sixty thousand dollars, and shall be divided into shares of fifty dollars each.

SECT. 3. This act shall take effect upon its passage. — [March 26, 1866.

AN ACT to authorize Towns and Cities to establish Herring Fisheries.

1866, 187. *Be it enacted, etc., as follows:* **SECT. 1.** The mayor and aldermen of any city and the selectmen of any town in this Commonwealth, are hereby empowered to authorize, in writing, any three or more persons and their associates, to organize a corporation, with a capital stock of not less than one thousand and not more than five thousand dollars, for the purpose of opening outlets, canals or ditches for the introduction and propagation of herrings and alewives in the ponds, creeks and rivers within the limits of such town or city as aforesaid; and said corporation, when organized, shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions set forth in the sixty-first chapter of the General Statutes, and in all general laws which now are or may hereafter be in force relating to corporations.

SECT. 2. Such corporations may purchase and hold real estate necessary for the purpose of opening outlets, canals, sluice-ways or ditches for the passage of herring or alewives to and from said ponds and other waters.

SECT. 3. Towns and cities in their corporate capacity, may open ditches, sluice-ways or canals into any ponds within their limits, for the introduction and propagation of herrings and alewives, and for the creation of a fishery for the same; and the land for opening such ditches, sluice-ways or canals within such town or city, may be taken under the provisions of the statutes which now regulate and limit the taking of land for highways and other purposes.

SECT. 4. Any fishery so created by any town or city, shall be deemed to be the property of such town or city, and such town or city may make any proper regulations concerning the same, and may

lease such fishery for a period not exceeding five years, upon such terms as may be agreed upon between such town or city and the lessees of the same. And any town may lease for a like period and upon like terms, any fishery now owned by such town, or any public fishery which has heretofore been regulated and controlled by such town.

SECT. 5. No person, without the permission of such town or city, or of the lessees of such fishery, in any fishery created by such town or city, or in any fishery created by any corporation, without the permission of said corporation, shall take, kill or haul on shore any herrings or alewives in any fishery so created by any town, city or corporation, for the introduction and propagation of herrings or alewives.

SECT. 6. Whoever violates any of the provisions of the preceding section, shall forfeit and pay a sum not less than five nor more than fifty dollars for each offence, to be recovered by prosecution before any court competent to try the same.

SECT. 7. All prosecutions under the preceding section shall be instituted within thirty days from the time the offence was committed.

SECT. 8. Nothing contained in this act shall be held to impair the rights of any person under any law heretofore passed, or to deprive any person of any right under any contract now existing, or to authorize any town, city or corporation to enter upon or build any canals or sluice-ways into any pond which is the private property of any individual or corporation.

SECT. 9. This act shall take effect upon its passage. — [April 25, 1866.

[P. S. 91, §§ 63-67.]

AN ACT concerning the Obstructions to the passage of Fish in the Connecticut and Merrimack Rivers.

1866, 238. *Be it enacted, etc., as follows:* SECT. 1. The governor, by and with the advice and consent of the council, is hereby authorized to appoint two persons to be commissioners of fisheries in the Merrimack and Connecticut rivers, who shall hold said office for the term of five years, unless sooner removed therefrom. And in case of any vacancy in said board the governor shall have power to fill the same.

SECT. 2. Said commissioners shall forthwith examine the several dams on said rivers in this Commonwealth, and shall, after notice to the owners of said dams, determine and define the mode and plan upon which fish-ways shall be constructed suitable and sufficient, in their opinion, to the free passage of salmon and shad up said rivers during their accustomed seasons.

SECT. 3. It shall be the duty of the commissioners appointed

under this act, when they shall have determined upon the method and plan for such fish-ways, to submit a full and specific statement and description of the same to any board of commissioners empowered to act by the state of New Hampshire upon the same or similar subjects, for their approval.

SECT. 4. If any plan so submitted shall be approved by the said commissioners for the state of New Hampshire, the commissioners under this act shall forthwith, upon such approval being expressed, furnish a copy of the plan adopted for each dam to the proprietors thereof, and shall file a copy of each of such plans in the office of the secretary of the Commonwealth; with an affidavit of the fact that the same has been furnished to said proprietors, which affidavit shall be full proof of the facts therein stated.

SECT. 5. If the several proprietors of said dams shall consent to construct said fish-ways, according to the several plans adopted for their respective dams, at their own expense, the commissioners under this act may agree with the proprietors of the several dams so to do. And when the same shall have been constructed within such reasonable time as said commissioners shall prescribe, and according to said plans, with such minor variations therein as said commissioners shall approve, the said commissioners shall certify said construction to the secretary of the Commonwealth, and the same shall, for the period of five years from the passage of this act, be taken and deemed as in lieu of the fish-ways which said proprietors respectively are now required by law to keep and maintain over, at or around the respective dams. But said proprietors respectively shall be required to keep said fish-ways on their respective dams in good repair, and to maintain the same for the period of five years from the passage of this act to the satisfaction of said commissioners; and during the period of said five years the liability of said proprietors respectively to build and maintain the fish-ways now by law required of them shall be suspended.

SECT. 6. When said fish-ways shall have been constructed as aforesaid, the commissioners under this act shall prescribe in writing the times when the same shall be kept open and unobstructed, with power to change such times as they may deem judicious. And a copy of such prescriptions shall be served on each of such proprietors, and the certificate of said commissioners of the manner in which the same have been served shall be full proof of the fact.

SECT. 7. If any proprietor of any dam shall refuse or neglect, for the period of thirty days from the time said commissioners shall have furnished said proprietor with the plan, as herein before provided, to agree with said commissioners for the building at, over or around his dam of the fish-way prescribed by the plan furnished such proprietor

by said commissioners, then said commissioners shall be authorized to contract in behalf of this Commonwealth for the construction of the fish-way at, over or around the dam of said proprietor so refusing or neglecting. And said commissioners shall thereupon cause such fish-way to be constructed with all reasonable despatch. And the expense thereof shall be a charge against the owner of such dam, and the same may be recovered of said proprietor in an action of contract in the name of the Commonwealth, with costs and twelve per cent. interest on the amount of such expense from the time when the same shall have been demanded of such proprietor by said commissioners.

SECT. 8. Whenever, in the construction of any such fish-way, the property of any person not liable by law to provide a suitable and sufficient fish-way at, over or around such person's dam, shall be taken for the purpose of such fish-way, the said commissioners shall, upon the application in writing of the person aggrieved, assess a reasonable compensation therefor, to be paid by the Commonwealth. And any person aggrieved by such assessment shall have the right to have such compensation determined by a jury, in the manner provided by the General Statutes for the assessment of damages occasioned by the laying out of highways.

SECT. 9. Said commissioners shall have power to contract with the proprietor of any dam on either of said rivers, for the suspension for five years from the passage of this act of the liability of said proprietor to construct at his own expense any fish-way at, over or around his said dam, upon the payment of said proprietor to the treasurer of the Commonwealth of such a sum of money as said commissioners shall deem reasonable, and a copy of any such contract, attested by said commissioners, shall be filed in the office of the secretary of the Commonwealth.

SECT. 10. Said commissioners shall have power to contract with the Essex Company for the construction of the fish-way prescribed by said commissioners over the dam of said company, at Lawrence, by said company, at an expense to the Commonwealth not exceeding seven thousand dollars, the said Essex Company to pay the expense of such building over and above the said amount so to be paid by the Commonwealth.

SECT. 11. The compensation of each of said commissioners shall be determined by the governor and council.

SECT. 12. The commissioners appointed under this act shall have power to construct, or to contract for the construction of such appliances and structures as they may think essential or useful for the passage of the fish herein named, up and down said rivers, and for their protection in such passage.

SECT. 13. Said commissioners may in their discretion delay in the

definite construction of fish-ways on the Connecticut River, until they shall be satisfied that such legislation has been adopted by the state of Connecticut as shall in their opinion be necessary to secure the free passage of the fish above-named through the part of said river running through said state of Connecticut.

SECT. 14. There shall be appropriated and paid from the treasury of the Commonwealth a sum not exceeding seven thousand dollars, to defray the expenses of the commissioners herein created, and of constructing the fish-ways herein provided for.

SECT. 15. Any person who shall neglect or refuse to keep open or maintain any fish-way at the times prescribed by the commissioners under this act, shall forfeit the sum of fifty dollars for each day's neglect or refusal so to keep open or maintain said fish-ways, to be recovered by indictment in the county where said dam, or any part thereof, is situated, one half thereof to the use of the complainant and the other half to the use of the Commonwealth.

SECT. 16. This act shall take effect upon its passage. — [May 15, 1866.

[P. S., 91, §§ 4-7.]

AN ACT for the protection of Trout and Black Bass.

1866, 249. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes or catches any trout in any rivers, streams or ponds between the twentieth day of September and the twentieth day of March, or within the time aforesaid sells, buys or has in his possession any trout so taken within this state, shall forfeit one dollar for each trout so taken or caught, sold, bought or had in possession.

SECT. 2. Whoever shall take or catch any fish called black bass in any of the ponds within the limits of this Commonwealth from the first day of December to the first day of June, or at any time, except with hook and line, shall forfeit a sum not less than two nor more than twenty dollars for each offence, to be recovered by prosecution before any court competent to try the same.

SECT. 3. In all prosecutions for forfeitures under the provisions of this act, the fact of sale, purchase or possession shall be evidence that the trout or black bass so sold, purchased or had in possession, were taken within this state. — [May 22, 1866.

[1869, 384.]

RESOLVES in regard to Obstructions to the passage of Fish in the Connecticut River at Enfield Falls.

1866, Res. 80. *Whereas*, The Connecticut River in this state formerly furnished an inexhaustible supply of shad and other kinds of migratory fish, which fish have now partially disappeared from that portion of said river within this state; and *whereas*, there is nothing

except the want of suitable fish-ways over the dam at Enfield Falls in the state of Connecticut to prevent the return of said fish from the sea to our waters in such numbers as largely to contribute to the supply of food for the inhabitants of this state; therefore,

Resolved, That the attention of the state of Connecticut be invited to this subject, and that said state be earnestly requested to take early measures to cause fish-ways to be constructed over the dam at Enfield Falls, either by requiring this work to be done by the proprietors of said dam or by exercising the right of eminent domain; said measures being due alike to the relations of comity between that state and this Commonwealth and to the local interests of that state.

Resolved, That the governor is hereby requested to transmit a copy of these resolutions to the governor of the state of Connecticut, with a request that the same be laid before the legislature of the said state. — [May 18, 1866.

1867.

AN ACT to amend Section fifteen of Chapter eighty-three of the General Statutes in relation to the Fisheries.

1867, 70. *Be it enacted, etc., as follows*: **SECT. 1.** Section fifteen of chapter eighty-three of the General Statutes is hereby amended by inserting the words "an inhabitant of this state," after the word "fisherman," in the third line.

SECT. 2. This act shall take effect upon its passage. — [March 16, 1867.

[P. S., 91, § 96]

AN ACT for the protection of Trout in East Head in the Towns of Carver and Plymouth.

1867, 86. *Be it enacted, etc., as follows*: **SECT. 1.** No person shall take any trout in the waters of the stream known as East Head in the towns of Carver and Plymouth, from the source thereof to the dam recently erected thereon by George P. Bowers, without the written permission of the proprietor or proprietors of the land bordering upon that portion of said stream: *provided*, such proprietors shall at all times keep an open and sufficient fish-way for the passage of trout at said dam.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Plymouth. — [March 23, 1867.

[1869, 384.]

[Sp. Laws, vol. 1, pp. 238, 512; vol. 3, p. 98. 1815, 54; 1820, 67; 1861, 157; 1864, 234.]

AN ACT for the Re-stocking of Mystic River and its Tributaries with Fish.

1867, 149. *Be it enacted, etc., as follows:* SECT. 1. The right to take alewives or shad from Mystic River or its tributaries or from Mystic Pond, shall be and hereby is suspended for the period of five years next ensuing, and no net, seine or weir shall be set therein during said period.

SECT. 2. Any person violating the provisions of this statute shall forfeit one dollar for every alewife or shad so taken.

SECT. 3. All prosecutions under this act shall be commenced within thirty days from the time of committing the offence.

SECT. 4. The several "committees for the preservation of fish" of the towns of Medford, Somerville, West Cambridge or Winchester may remove and destroy any and all nets, seines or weirs found in said waters during the said period of five years. — [April 13, 1867.

[1868, 128.]

AN ACT to incorporate the Pasque Island Corporation.

1867, 200. *Be it enacted, etc., as follows:* SECT. 1. Welcome R. Beebe, Genio C. Scott, Peter Balen, their associates and successors, are hereby made a corporation on the island of Pasque in the town of Gosnold, by the name of the Pasque Island Corporation, for the purpose of erecting on said island houses and other buildings for residence and the propagation of fish; with all the powers and privileges and subject to the duties, liabilities and restrictions which now are or may be in force relating to such corporations; and with the right to close the outlets to creeks in said islands for the propagation of black bass or other fish.

SECT. 2. Seining or taking fish in any other mode than by hook and line within forty rods from the shores of Pasque Island is prohibited under a forfeiture for each offence of a sum not exceeding twenty dollars, and not less than five dollars, to be recovered in any court proper to try the same.

SECT. 3. Said corporation may hold real and personal estate to the amount of fifty thousand dollars, and mortgage and sell the same; and the whole capital stock of said corporation shall not exceed fifty thousand dollars, nor be less than twenty-five thousand dollars, divided into shares of one hundred dollars each: *provided*, that said corporation shall incur no liabilities until an amount equal to fifty per cent. thereof is subscribed and paid in, in cash. — [May 2, 1867.

[Sp. Laws, vol. 1, p. 272; 1866, 238.]

AN ACT to regulate Fishing in Merrimack River, and for other purposes.

1867, 289. *Be it enacted, etc., as follows:* SECT. 1. No person shall fish with a seine in Merrimack River, nor in any manner take or catch shad, salmon or alewives in said river, until the fifteenth day of April, in the year eighteen hundred and seventy-one, under penalty of the forfeiture of the seine and five dollars for each shad or alewife and fifty dollars for every salmon taken: *provided*, that the fish commissioners shall be allowed from time to time to take such fish as may be required to re-stock the Merrimack or any other river.

SECT. 2. No person shall fish within four hundred yards of any fish-way on Merrimack River, nor trespass within the limits of the same, under a penalty of fifty dollars.

SECT. 3. The fish commissioners are hereby empowered to cause any tributaries of the Merrimack River to be opened to the passage of shad, salmon and alewives, by directing the proprietors of dams in such tributaries to build suitable fish-ways over their dams.

SECT. 4. The mayor and aldermen of any city and the selectmen of any town bordering on the Merrimack River shall appoint one or more suitable fish-wardens and fix their compensation, to see to the execution of the provisions of the first and second sections of this act. — [May 31, 1867.

[1869, 422; P. S. 91, §§ 4-7, 35, 42.]

AN ACT to regulate Fisheries.

1867, 344. *Be it enacted, etc., as follows:* SECT. 1. The commissioners of fisheries appointed under chapter two hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six, in addition to their powers and duties under said act, are hereby authorized to examine all the dams upon rivers in this Commonwealth over and around which the proprietors are now required by law to keep and maintain fish-ways, and said commissioners shall determine whether said fish-ways are suitable and sufficient for the passage of such fish as are found in said rivers; and if, after inspection, the said commissioners shall find said fish-ways are unsuitable, or insufficient for the passage of fish, or are out of repair, or are not kept open at suitable times, they shall give notice to the proprietors of said dams of any defect in their fish-ways, or that the fish-ways are not kept open the proper time. And said commissioners shall further, in writing, prescribe the times for keeping open and unobstructed said fish-ways, and what repairs may be necessary, and what changes, if any, should be made for improving said fish-ways.

SECT. 2. Any person or corporation who shall neglect or refuse to keep open or maintain any fish-way at the times prescribed by the

commissioners under this act, shall forfeit the sum of fifty dollars for each day's neglect or refusal so to keep open or maintain said fishway, to be recovered by indictment in the county where said dam, or any part thereof, is situated, one-half thereof to the use of the complainant, and the other half to the use of the Commonwealth.

SECT. 3. There shall be appropriated and paid out of the treasury of the Commonwealth a sum not exceeding ten thousand dollars, to defray the expense of the commissioners, first, in re-stocking the rivers of Massachusetts with shad, salmon and alewives; second, in re-stocking the ponds in this Commonwealth, for the purpose of propagating black bass and other fish. — [June 1, 1867.

[P. S. 91, §§ 4, 6.]

1868.

[Sp. Laws, vol. 1, p. 441.]

AN ACT for the protection of Trout in Grist-Mill Pond, in the Town of Wareham.

1868, 110. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout from Grist-Mill Pond, near the Parker Mills Iron Works, in the town of Wareham, or the waters running into the same, at any time of the year, without permission of the proprietor or proprietors of said pond and waters.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Plymouth. — [April 10, 1868.

[1867, 149.]

AN ACT to amend "An Act for the Re-stocking of Mystic River and its Tributaries with Fish."

1868, 128. *Be it enacted, etc., as follows:* SECT. 1. The one hundred and forty-ninth chapter of the acts of the year one thousand eight hundred and sixty-seven, entitled "An Act for the re-stocking of Mystic River and its tributaries with fish," is hereby amended by adding to the second section thereof the words following, viz.: *provided*, that the several committees for the preservation of fish mentioned in the fourth section, may take such fish as may be required to re-stock the said river and tributaries; and also, by adding to the fourth section, after the word "Cambridge," the word "Woburn."

SECT. 2. Any person who shall place or cause to be placed in the waters of Mystic River or of its tributaries, or of Mystic Pond, or who shall cause to flow into said waters any substance which may destroy or injure the fish therein, shall be punished by a fine not exceeding fifty dollars for each offence. — [April 16, 1868.

[Special Laws, v. 1, p. 296.]

AN ACT to regulate Fishing in Connecticut River.

1868, 130. *Be it enacted, etc., as follows:* **SECT. 1.** Any person who shall take, or who shall aid or assist in taking from the Connecticut River any shad at any other time than between the fifteenth day of March and the fifteenth day of June in each year, shall forfeit and pay for each offence the sum of one hundred dollars.

SECT. 2. Any person who shall take, or aid or assist in taking from the Connecticut River any salmon before the fifteenth day of March, in the year one thousand eight hundred and seventy-two, shall forfeit and pay for each offence the sum of fifty dollars.

SECT. 3. Nothing in this act contained shall apply to the taking of any fish by order of the fish commissioners for the purpose of artificial or natural propagation of the same.

SECT. 4. The mayor and aldermen of any city, and the selectmen of any town, bordering on the Connecticut River, shall appoint and fix the compensation of one or more suitable persons as fish-wardens within their respective cities and towns, who shall make complaint of all offences under this act. — [April 17, 1868.

[1869, 76.]

[Sp. Laws, vol. 1, pp. 191, 451; vol. 2, p. 128; vol. 3, pp. 431, 524; 1805, 29; 1810, 117; 1812, 127; 1814, 22; 1823, 33; 1824, 101; 1825, 78; 1829, 40; 1839, 134; 1845, 79; 1855, 171; 1856, 14, 52, 248.]

AN ACT for the Re-stocking of Ipswich River and its Tributaries with Fish.

1868, 157. *Be it enacted, etc., as follows:* **SECT. 1.** The right to take alewives or shad from Ipswich River or its tributaries, or from Wenham Pond, shall be and is hereby suspended for the period of three years next ensuing, and no net, seine or weir shall be set therein during said period.

SECT. 2. Any person violating the provisions of this statute shall forfeit one dollar for every alewife or shad so taken.

SECT. 3. All prosecutions under this act shall be commenced within thirty days from the time of committing the offence. — [April 29, 1868.

AN ACT for the protection of Smelts.

1868, 179. *Be it enacted, etc., as follows:* **SECT. 1.** Whoever catches any smelt from the first day of February to the first day of May in each year, in any manner whatever, or at any season of the year in any other manner than by hooks and lines or hand-nets, shall forfeit twenty-five cents for each smelt so caught, to be recovered by prosecution before any trial justice or court competent to try the same: *provided*, that nothing herein contained shall apply to any person catching smelt in any seine or net in Taunton Great River, while fishing for herring or alewives.

SECT. 2. The commissioners of river fisheries may take any kind of fish at any time for the purpose of obtaining spawn for artificial propagation of fish.

SECT. 3. All prosecutions under this act shall be instituted within thirty days from the time of committing the offence. — [May 4, 1868.

[1869, 384.]

AN ACT for the protection of Trout in the Merrill Pond in the Town of Wendell.

1868, 289. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout from the Merrill Pond, on the old Wendell town farm, in the town of Wendell, or the waters running into the same, at any time of the year, without permission of the proprietor or proprietors.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Franklin. — [June 4, 1868.

AN ACT to protect Trout in Jones' Mill Creek in the Town of Barnstable.

1868, 290. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any trout in Jones' Mill Creek, in the town of Barnstable, from its source to the junction with Scorton Creek, and within two hundred yards of said junction, on either side thereof, from the first day of August in each year to the first day of April in the year next ensuing; nor shall any person take any trout therefrom except by hook and line; nor shall any person enter upon the land bordering upon said pond or stream, at any season of the year, for the purpose of taking trout, without the written permission of the proprietors.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of one dollar for each trout taken, to be recovered by prosecution before any trial justice in the county of Barnstable.

SECT. 3. This act shall take effect upon its passage. — [June 4, 1868.

[1868, 130.]

RESOLVE concerning a Fish-way over or around the Dam at Holyoke, on the Connecticut River.

1868, Res. 53. *Resolved,* That there be allowed and paid out of the treasury of the Commonwealth, and the same is hereby appropriated, a sum not exceeding twelve thousand dollars, to be expended under the direction of the commissioners appointed under chapter two hundred and thirty-eight of the acts of eighteen hundred and sixty-six, in the construction of a fish-way over or around the dam at Holyoke, on the Connecticut River, in accordance with the provisions of

said chapter two hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six. — [June 4, 1868.

1869.

AN ACT concerning Fisheries in Bass River, in the County of Barnstable.

1869, 64. *Be it enacted, etc., as follows:* SECT. 1. The provisions of chapter one hundred and seventy-nine of the acts of the year eighteen hundred and sixty-eight, shall not apply to the lessees of the towns of Yarmouth and Dennis, while fishing for perch or alewives in Bass River or its tributaries.

SECT. 2. This act shall take effect upon its passage. — [March 10, 1869.

[1869, 384.]

AN ACT relating to the Fisheries in Dukes County.

1869, 75. *Be it enacted, etc., as follows:* SECT. 1. Chapter one hundred and seventy-nine of the acts of the year eighteen hundred and sixty-eight shall not apply to any person catching smelts in any seine or net in any of the waters of Dukes County, while fishing for herring or alewives.

SECT. 2. This act shall take effect upon its passage. — [March 17, 1869.

[1869, 384.]

[1868, 130.]

AN ACT to extend the provisions of the Act of the year eighteen hundred and sixty-eight to regulate Fishing in Connecticut River.

1869, 76. *Be it enacted, etc., as follows:* SECT. 1. Any person who shall take or aid or assist in taking, from the Connecticut River, any shad, at any other time than between the fifteenth day of March and the fifteenth day of June in each year, shall forfeit and pay for each offence the sum of one hundred dollars, and any person who shall take or aid or assist in taking from the Connecticut River any salmon before the fifteenth day of March in the year one thousand eight hundred and seventy-two, shall forfeit and pay for each offence the sum of fifty dollars.

SECT. 2. Nothing in this act contained shall apply to the taking of any fish by order of the fish commissioners, for the purpose of the natural or artificial propagation of the same.

SECT. 3. No person shall set or draw, or shall assist or aid in setting or drawing any net or seine for the purpose of taking fish in Connecticut River, at any time between the setting of the sun on Saturday evening of each week, and the rising of the sun on the succeeding Monday morning; and the owners of all weirs, pounds and set-nets of any description, placed in the waters of said river, shall cause the same to be and remain open and free for the passage of fish

during the said period in each week, in such manner as to satisfy the fish commissioners. And every person who shall violate the provisions of this section, and every person owning or controlling, in whole or in part, any pound or weir, and failing to comply with the requirements of this section, shall forfeit and pay the sum of four hundred dollars to the treasurer of the state, for each offence; and any person setting or using or aiding or assisting in setting or using any pound, weir or set-net in said river between the fifteenth day of March and the fifteenth day of June in each year, the meshes whereof are less than five inches in extent, shall also forfeit and pay the sum of four hundred dollars for each offence, and such pounds, weirs and set-nets shall be forfeited to the Commonwealth.

SECT. 4. The mayor and aldermen of any city and the selectmen of any town bordering on the Connecticut River, shall appoint and fix the compensation of one or more suitable persons as fish-wardens, within their respective cities and towns, who shall make complaint of all offences under this act.

SECT. 5. Chapter one hundred and thirty of the acts of the year eighteen hundred and sixty-eight is hereby repealed. — [March 17, 1869.

[P. S. 91, §§ 40, 42.]

AN ACT to regulate the seining of Fish in Cole's River and Lee's River in Swansea.

1869, 172. *Be it enacted, etc., as follows:* * * * SECT. 9. No person shall set, draw or use any seine, net or weir for taking fish, except menhaden, in Cole's River within the limits of the town of Swansea, nor in Lee's River within the limits of the towns of Swansea and Somerset. Whoever violates the provisions of this section shall pay a fine of not less than fifteen dollars nor more than fifty dollars.

SECT. 10. This act shall take effect upon its passage. — [April 17, 1869.

AN ACT for the protection of Trout in Avery Brook in the Towns of Charlemont and Heath.

1869, 235. *Be it enacted, etc., as follows:* SECT. 1. Whoever, without a written license from the owners or lessees of Avery Brook or its tributaries, takes any trout therefrom within the limits of either of the towns of Charlemont or Heath, shall forfeit and pay a fine of twenty-five dollars for every such offence, to be recovered before any trial justice or in any court of record in the county of Franklin.

SECT. 2. The foregoing section shall be without effect unless the owners or lessees aforesaid shall erect and maintain notices of this act and its penalties, painted or engraved in clear, legible letters; said notices to be erected within one hundred rods of each other

throughout the entire length of said brook and its tributaries, and on or near the banks thereof, within the boundaries of the aforesaid towns.

SECT. 3. Whoever destroys, injures or defaces any such notices so erected, shall forfeit and pay for every such offence, a fine of twenty-five dollars, to be recovered in the same manner as provided in section one of this act. — [May 6, 1869.

[1868, 179.]

AN ACT for encouraging the Cultivation of Useful Fishes.

1869, 384. *Be it enacted, etc., as follows:* SECT. 1. All the laws of the Commonwealth relating to the culture, preservation, capture or passage of fish, shall be known as the laws relating to inland fisheries.

SECT. 2. The commissioners under chapter two hundred and thirty-eight of the acts of eighteen hundred and sixty-six, shall be styled the Commissioners on Inland Fisheries, and shall be a board consisting of three persons appointed by the governor, by and with the advice and consent of the council, each for a term of five years from the time of his appointment. Vacancies in the board, by the expiration of the terms of service of the members or otherwise, shall, from time to time, be filled in like manner and for like terms of time.

SECT. 3. Each of said commissioners may, personally or by deputy, enforce all laws regulating inland fisheries; and may seize and remove, summarily if need be, all obstructions to the passage of migratory fish illegally used, except dams, mills or machinery, at the expense of the person using or maintaining the same.

SECT. 4. Whenever either of said commissioners finds that there is no fish-way or an insufficient fish-way in or around a dam where the law requires a fish-way to be kept and maintained, he may, at his discretion, enter with workmen and materials upon the premises of the person or corporation required to maintain said fish-way, and may improve said fish-way or cause one to be constructed where none exists, at the expense of said person or corporation, and may take, if necessary, the land of any other person or corporation not obliged by law to maintain said fish-way: *provided*, compensation shall be rendered to the owner thereof, in the manner provided in relation to land taken for highways, and said expense shall be charged against said person or corporation required by law to construct and maintain such fish-way, to be recovered in an action of contract in the name of the Commonwealth, with costs and interest at the rate of twelve per cent.: *provided*, that when a fish-way has been constructed in accordance with the provisions of this section, said commissioners shall not require the alteration of the same by the owner of the dam, within five years from the completion of the same.

SECT. 5. Said commissioners may take or cause to be taken, any fish at any time or manner for purposes connected with fish culture or with scientific observation.

SECT. 6. Each of said commissioners may, in the discharge of his duties, enter upon and pass through or over private property without rendering himself liable in an action for trespass.

SECT. 7. The riparian proprietors of any pond the superficial area of which is not more than twenty acres, and the proprietors of any pond or parts of a pond created by artificial flowage, shall have exclusive control of the fisheries therein existing, but this shall not abridge any rights heretofore granted to fish for herring or alewives in ponds of the above dimensions which are connected with salt water, nor affect any previous laws restricting fishing for any period of time.

SECT. 8. The fishery of any pond the superficial area of which is more than twenty acres, shall be public, except such as may have been granted specially by law or leased as hereinafter provided, and all persons shall, for the purpose of fishing, be allowed reasonable means of access to the same without rendering themselves liable to prosecution or action for trespass.

SECT. 9. The commissioners, or any two of them, may, in the name of the Commonwealth, lease any great pond exceeding twenty acres in area, for the purpose of cultivating useful fishes, for such periods of time and on such terms and conditions as shall seem to said commissioners most for the public good; and the lessee of such pond may occupy a portion, not exceeding one-tenth part thereof, with inclosures and appliances for the cultivation of useful fishes; but this shall not affect any public rights in such pond other than the right of fisheries; and the appliances and inclosures used by the lessee shall be so placed as not to debar ingress to or egress from such pond at proper places.

SECT. 10. The commissioners shall have the custody of all leases made under the provisions of this act, and may cause any agreements, rights, reservations, forfeitures and conditions therein contained to be enforced, and for that purpose may institute proceedings in the name of the Commonwealth, and may take possession of any premises, for conditions in such lease thereof being broken, and re-vesting the Commonwealth therewith, may again lease the same.

SECT. 11. The county commissioners for each county shall, upon the request and at the expense of any party claiming to be interested in any great pond, cause the same to be measured, and such measurement, when determined, shall be recorded in the town clerk's office of each town within which said pond is situated; and said measurement shall take place in the month of July, and no arm or branch shall be

computed as a part of any pond unless said arm or branch be at least fifty feet in width and one foot in depth.

SECT. 12. The riparian proprietors of any pond of less area than twenty acres, shall have all the privileges given them by section seven as soon as the said county commissioners have determined that their ponds do not exceed the above limit.

SECT. 13. Any pond within the limit of twenty acres in area, bounded in part by land belonging to a town or county of the Commonwealth, shall only become the exclusive property of the individual proprietors as to the fisheries therein upon payment to the town treasurer, county commissioners or state treasurer, of a just compensation for their respective rights therein, to be determined by a board of three persons, one of whom shall be one of the riparian proprietors of said pond, one the chairman of the board of selectmen, if the rights of a town are in question, or of the county commissioners, if the rights of a county or the Commonwealth are in question, and one to be appointed by the commissioners on inland fisheries.

SECT. 14. For the purposes of this act, no tidal stream shall be considered navigable above the point where on the average throughout the year it has a channel less than forty feet wide and four feet deep during the three hours nearest the hour of high tide.

SECT. 15. The governor, with the advice and consent of the council, upon the recommendation of the commissioners on inland fisheries, may limit or prohibit for a period not exceeding five years at a time, fishing in the navigable tidal waters of specified streams and in the unnavigable waters of streams, except in such portions as may be inclosed, according to the provisions of section sixteen; and whoever fishes in streams whose fishery is thus limited or prohibited shall forfeit for the first offence ten dollars, and for every subsequent offence fifty dollars, and shall in addition forfeit all fish captured and apparatus used.

SECT. 16. Any riparian proprietor may, within the limits of his own premises, inclose the waters of a stream not navigable, for the cultivation of useful fishes: *provided*, he furnishes a suitable passage for migratory fishes naturally frequenting such waters.

SECT. 17. The governor, by and with the advice and consent of the council, may, for the purposes of this act, arbitrarily fix and define the tidal bounds and mouths of streams, upon recommendation of the commissioners on inland fisheries.

SECT. 18. Fishes artificially propagated or maintained shall be the absolute property of the person propagating or maintaining them.

SECT. 19. Whoever fishes in that portion of a pond, stream or other water in which fishes are lawfully artificially cultivated or maintained, without the permission of the proprietors, shall forfeit not less

than one dollar nor more than twenty dollars for the first offence, and not less than five nor more than fifty dollars for any subsequent offence.

SECT. 20. Any person legally engaged in the artificial culture and maintenance of fishes may take them in his own waters how and when he pleases, and may have them in his possession for purposes properly connected with said culture and maintenance, and may at all times sell them for these purposes, but shall not sell them for food at seasons when their capture is prohibited by law.

SECT. 21. Whoever, between the fifteenth of April and the fifteenth of December in each year after this year, uses any sweep-seine or hand or dip-net in the waters of the Connecticut, Westfield, Deerfield, Miller's, Merrimack, Nashua or Housatonic Rivers, or their tributaries, having a mesh which stretches less than five inches when new and dry, shall forfeit for the first offence twenty-five dollars and for every subsequent offence fifty dollars: and in each case shall also forfeit the apparatus thus unlawfully used and the fish captured.

SECT. 22. Whoever uses any sweep-seine or combination of sweep-seines in such a manner as at any moment to close or seriously obstruct more than two-thirds of the width of the stream at the place where it is used; and whoever delays or stops in paying out or hauling any sweep-seine within one-half mile of a point where such seine has been hauled within an hour, shall be liable to the same penalties and forfeitures set forth in the preceding section: *provided*, that this section shall not apply to the seines used in the smelt fishery; and *provided, further*, that none of the provisions of this section shall affect the fisheries for shad and alewives in Taunton Great River.

SECT. 23. Whoever at any time obstructs with a salmon-pot more than one-half of a waterfall, channel or rapid, or sets, uses or maintains in any of the waters of this state a salmon-pot the diameter of which is more than two feet, or who, when the taking of salmon is forbidden by law, sets, uses or maintains in any of such waters, any salmon-pot whatever, shall forfeit said salmon-pot and all fish captured, and shall pay ten dollars for the first offence and twenty dollars for every subsequent offence.

SECT. 24. Whoever takes salmon, shad or alewives in any of the waters of this Commonwealth except the Connecticut, Taunton Great, Newmarket and Merrimack Rivers, or their tributaries, in any other manner than by naturally or artificially baited hook and hand-line, on any day of the week but Monday, Wednesday, Friday and Saturday, shall forfeit for each offence the penalties prescribed for taking these species of fish at seasons prohibited by law.

SECT. 25. Every clerk, superintendent or other officer having charge of a market, provision store or other place where fish are sold,

shall immediately inform a constable or a trial justice in the town or city where said premises are situated, when any fish which have been taken in violation of law, has been offered for sale on said premises: *provided*, that such clerk, superintendent or other officer shall know or have reasonable cause to believe that said fish has been so taken; and for each neglect so to do, such clerk, superintendent or other officer shall pay a fine of not less than five dollars nor more than fifty.

SECT. 26. Whoever takes or catches fishes which at any season frequent fresh water, except eels and pickerel, in any other manner than by artificially or naturally baited hook and hand-line, hand or dip-net, sweep-seine or salmon-pot, shall forfeit a sum not less than five dollars nor more than fifty dollars: *provided*, that nothing herein contained shall authorize the taking or catching of trout, land-locked salmon or lake trout in any other manner than by hook and hand-line; and *provided*, that towns may be allowed to permit the use of set-nets for the capture of herring or alewives.

SECT. 27. Whoever takes or catches any salmon within the limits of this Commonwealth, or who buys, sells or has in possession the same taken within said limits, between the first day of August and the first day of May, shall forfeit for each offence not less than ten nor more than fifty dollars; and whoever buys, sells or has in possession any young salmon less than one foot in length shall forfeit five dollars for every young salmon of said dimensions bought, sold or had in possession.

SECT. 28. Whoever takes or catches any trout, land-locked salmon or lake trout within the limits of this Commonwealth, or buys, sells or has in possession the same taken within said limits between the twentieth day of September and the twentieth day of March in each year, or takes or catches any trout, land-locked salmon or lake trout with any net or salmon-pot, at any season of the year, shall forfeit for each offence a sum not less than one nor more than twenty dollars.

SECT. 29. Whoever catches any shad at any other season than between the first day of March and the fifteenth day of June, shall forfeit for each shad, five dollars.

SECT. 30. Whoever takes or catches any black bass in any of the ponds or streams of this Commonwealth from the first day of December to the first day of June in each year, or at any time except with naturally or artificially baited hooks and hand-line, or buys, sells or has in possession any such fish taken within the limits of this Commonwealth, shall forfeit for each offence not less than two nor more than twenty dollars.

SECT. 31. Whoever takes or catches any smelts or white perch, in any of the waters of this Commonwealth, in any other manner than by naturally or artificially baited hooks and hand-lines, between the

fifteenth day of March and the first day of June, in each year, or takes or catches any smelts with a net of any kind, on any known spawning ground within said Commonwealth, shall forfeit for each smelt so taken or caught, the sum of twenty-five cents: *provided*, that nothing herein contained shall apply to any person catching smelts in any seine or net in Taunton Great River, or in Dukes County while fishing for herring or alewives, or to the lessees of the towns of Yarmouth and Dennis, while fishing for perch or alewives in Bass River or its tributaries, or to any person lawfully fishing for perch, herring or alewives in either branch of Westport River.

SECT. 32. Actions and prosecutions under the laws relating to inland fisheries shall not be commenced except within four months from the time when the cause of action accrues or the offence is committed.

SECT. 33. One-half of the money recovered as a penalty in any case arising under the laws relating to inland fisheries, shall be paid to the person making the complaint in the case in which the same is recovered, and the remainder to the Commonwealth.

SECT. 34. The two hundred and forty-ninth chapter of the acts of the year eighteen hundred and sixty-six, and the one hundred and seventy-ninth chapter of the acts of the year eighteen hundred and sixty-eight, and all legislation heretofore enacted limiting the time and season when pickerel may be taken, are hereby repealed. — [June 12, 1869.

[P. S. 91.]

[1866, 238.]

AN ACT in addition to an Act concerning the Obstructions to the Passage of Fish in Connecticut and Merrimack Rivers.

1869, 422. *Be it enacted, etc., as follows:* SECT. 1. Whenever any proprietor of any dam in Massachusetts, upon the Merrimack or Connecticut Rivers, shall have refused or neglected for the period of thirty days from the time when the commissioners of fisheries shall have furnished such proprietors with the plan specified in sections three, four and five of chapter two hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six, to agree with said commissioners for the building on, over or around his dam of the fish-way prescribed by the plan furnished such proprietors by said commissioners, then said commissioners, or the survivors or survivor of them, or their successors or successor, may file in the supreme judicial court a bill in equity, in their name but in behalf of said Commonwealth, asking for a decree to enforce the immediate construction and erection of such fish-way as is called for by the plan so furnished, to the acceptance of said commissioners, and for such further and other relief as they may deem necessary to enable them to enforce the provisions of said chapter two hundred and thirty-eight.

SECT. 2. Such proceeding, whether by bill to enforce specific performance or by suit at law, as is provided in section seven of said chapter two hundred and thirty-eight, for money expended, shall be brought in the supreme judicial court, may be made returnable in the county of Suffolk, and shall have precedence upon the docket and priority in all its stages over suits depending between private parties. — [June 21, 1869.]

[Repealed P. S. 224.]

RESOLVE making an Appropriation for Fish-culture.

1869, Res. 28. *Resolved*, That there be allowed and paid out of the treasury of the Commonwealth, and the same is hereby appropriated, a sum not exceeding twenty-five hundred dollars, to be expended under direction of the commissioners appointed under chapter two hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six, for purposes connected with the culture of useful fishes and of stocking the waters of the Commonwealth therewith. — [April 10, 1869.]

1870.

AN ACT to incorporate the Cape Cod Ship Canal Company.

1870, 36. *Be it enacted, etc., as follows:* * * * SECT. 17. The said canal company shall also make such suitable provisions for the continuance of the herring fishery in Monument River and Herring Pond as the commissioners on inland fisheries may prescribe; and in case of injury to any private fishery, shall pay to the owner thereof such damages as shall, upon the application of either party, be estimated by said commissioners, in a manner similar, so far as may be, to that provided in laying out highways; and with a similar right of appeal to a jury, by proceedings like those provided for in section six.

* * * * *

SECT. 25. This act shall take effect upon its passage. — [February 26, 1870.]

[1856, 176; 1865, 212.]

AN ACT for protection of the Fisheries in the Head-waters of Buzzard's Bay.

1870, 249. *Be it enacted, etc., as follows:* SECT. 1. No person shall draw, set, stretch or use any drag-net, set-net, purse or seine of any kind, or construct, maintain or use any fish-weir, yard or pound for taking fish of any kind anywhere in the waters of Buzzard's Bay northerly of or within a straight line extended from the entrance to the harbor in West Falmouth to Bird Island Light; thence in a straight line to Great Neck Point, on the Marion shore, nor in any bay, cove, inlet, river, creek or stream bordering on or flowing into said waters within the limits aforesaid.

SECT. 2. Whoever violates any provision of this act, or aids or assists in violating the same, shall forfeit and pay to the use of any person who shall sue therefor, a sum of not less than twenty dollars nor more than one hundred dollars, to be recovered in an action of tort, in any court having jurisdiction of either party to such action; and shall also upon conviction of any violation of any provisions of this act before any justice or court competent to try the same, be imprisoned in the house of correction not exceeding sixty days, or pay a fine of not less than ten dollars or more than one hundred dollars, one half to the use of the complainant and the other half to the use of the county within whose jurisdiction the offence was committed.

SECT. 3. Any net or seine used by any person in violating any provisions of this act, together with any boat, craft or fishing apparatus used in unlawfully working such net or seine, and all fish found therewith, captured contrary to any provision of this act, shall be forfeited to the Commonwealth.

SECT. 4. All nets and seines in actual use set or stretched in violation of this act within the waters and limits aforesaid, holding fish contrary to any provisions of said act, are declared to be common nuisances. — [May 16, 1870.

[P. S. 91, §§ 79, 80.]

[1833, 211; 1850, 6; 1855, 156; 1858, 95.]

AN ACT for the protection of the Fisheries in the Vicinity of Nantucket.

1870, 284. *Be it enacted, etc., as follows:* SECT. 1. It shall not be lawful for any person or persons to take any fish with any kind of net, or to set any net for the purpose of taking any fish therewith, within one mile from the shores of Nantucket, Tuckernuck, Smith's, Muskegat and Gravel Islands, without first obtaining permission of the selectmen of Nantucket.

SECT. 2. Every person violating any provision of this act, shall forfeit and pay for each offence a sum not less than fifty nor more than five hundred dollars.

SECT. 3. The town of Nantucket is hereby authorized to choose, at the annual town meeting, or at any meeting duly warned for that purpose, such number of fish-wardens as may at the time be deemed necessary, who shall be sworn to the faithful discharge of their duty, whose duty it shall be to prosecute for every offence against any provision of this act.

SECT. 4. All vessels, boats, craft and apparatus of every kind employed in taking fish contrary to the provisions of this act, or having on board any such fish unlawfully taken, shall be liable for any fines, penalties and forfeitures, also costs herein provided for, and

may be attached on mesne process, and sold on execution as the property of the person or persons offending by the use thereof. And it shall be the duty of said fish-wardens to seize such vessel, boat, craft or apparatus, and detain the same not exceeding forty-eight hours, in order that the same may be attached or arrested by due process of law: *provided, however*, that as soon as the master or owner of such vessel, boat, craft or apparatus shall pay the penalty required by the fish-wardens, to the treasurer of the town of Nantucket, together with the accrued costs, such vessel, boat, craft or apparatus shall be discharged with the effects therein; and the ninth clause of section thirty-two of chapter one hundred and thirty-three of the General Statutes is hereby so modified that it shall not apply to boats, fishing tackle and nets taken under the provisions of this act.

SECT. 5. All fines, penalties and forfeitures recovered and received by virtue of this act, shall go, one half to the treasurer of the town of Nantucket, for the use of said town, the other half to the fish-warden or fish-wardens commencing the action; and said fines, penalties and forfeitures may be recovered, together with the legal costs of suit, by an action of tort in any court of record proper to try the same.

SECT. 6. Chapter six of the acts of the year eighteen hundred and fifty, chapter one hundred and fifty-six of the acts of the year eighteen hundred and fifty-five, and chapter ninety-five of the acts of the year eighteen hundred and fifty-eight are hereby repealed.

SECT. 7. This act shall take effect upon its passage. — [May 27, 1870.

AN ACT to amend an Act for encouraging the Cultivation of Useful Fishes.

1870, 360. *Be it enacted, etc., as follows:* SECT. 1. Section nine of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine is hereby so amended that the commissioners on inland fisheries shall have no authority to lease any great pond exceeding twenty acres in area, situated within the limits of Dukes County.

SECT. 2. This act shall take effect upon its passage. — [June 15, 1870.

[1875, 115.]

[1868, 130; 1869, 384.]

AN ACT in relation to the taking of Shad in the Connecticut River.

1870, 369. *Be it enacted, etc., as follows:* SECT. 1. The limitation of time for catching shad in the Connecticut River in this state shall hereafter be the same as that now fixed, or which shall hereafter be prescribed by the legislature of Connecticut for taking shad in said river in that state.

SECT. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 3. This act shall take effect upon its passage. — [June 18, 1870.

[1881, 47.]

AN ACT to prohibit the taking of Black Bass in Lake Cochituate.

1870, 382. *Be it enacted, etc., as follows:* Whoever catches, takes or destroys any black bass in the waters of Lake Cochituate in the towns of Natick, Wayland or Framingham in the county of Middlesex, shall forfeit for each offence not less than ten nor more than fifty dollars. — [June 21, 1870.

RESOLVE making appropriation for Fish Culture.

1870, Res. 41. *Resolved,* That there be allowed and paid out of the treasury, a sum not exceeding four thousand dollars to be expended under direction of the commissioners on inland fisheries, for purposes connected with the culture of useful fishes and of stocking the waters of the Commonwealth therewith. — [May 12, 1870.

1871.

[1869, 384.]

AN ACT for the better protection of Black Bass.

1871, 113. *Be it enacted, etc., as follows:* SECT. 1. That in section thirty of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine, the word July be substituted for the word June.

SECT. 2. This act shall take effect upon its passage. — [May 22, 1871.

[P. S. 91, § 56.]

AN ACT to protect an Alewife Fishery in Sandwich.

1871, 189. *Be it enacted, etc., as follows:* SECT. 1. Barzilla Sears, of the town of Sandwich, his heirs and assigns, shall have, for the term of twenty years from the date of the passage of this act, the exclusive right to take and catch alewives in the stream known as Mill River, running over the mill-dam of said Sears and through the marshes of said Sandwich to the waters of Sandwich Harbor, on Monday, Wednesday, Friday and Saturday in each week, and at no other time: *provided,* that said Sears, his heirs and assigns, shall construct and maintain a good and sufficient passage-way over or around the dam or dams which now are or which may hereafter be erected upon said stream, to enable fish to enter the ponds above such dam or dams, and shall keep such passage-way open and unobstructed from the tenth day of April to the first day of June inclusive in each year.

SECT. 2. Any person or persons taking alewives in said Mill River or the said ponds, without the written consent of said Barzilla Sears, his heirs or assigns, shall forfeit and pay for every such offence the sum of ten dollars, one-half of the forfeiture to the use of the person making the complaint, and one-half to said Sears, his heirs and assigns, to be recovered in any court of competent jurisdiction. — [April 14, 1871.

[Sp. Laws, vol. 1, p. 422; 1855, 401.]

AN ACT to amend an Act to regulate the Fisheries in Taunton Great River and Newmarket River.

1871, 258. *Be it enacted, etc., as follows:* SECT. 1. That so much of the fifth section of chapter four hundred and one of the acts of the year eighteen hundred and fifty-five as provides that no shad or alewives shall be taken in Taunton Great River above Berkley and Dighton Bridge, between the hours of twelve o'clock in the night following Thursday of each week, and four o'clock on Monday morning succeeding, from the first day of March to the tenth day of June in each year, including both of said days, is hereby repealed.

SECT. 2. Whoever catches any shad or alewives either in the Newmarket or Taunton Great River at any other season of the year than between the first day of March and the fifteenth day of June, shall forfeit for each shad five dollars, and for each alewife twenty-five cents.

SECT. 3. This act shall take effect from and after the first day of July next. — [May 9, 1871.

[1875, 71; 1876, 208; 1879, 83.]

[1869, 384.]

AN ACT in addition to an Act for encouraging the Cultivation of Useful Fishes.

1871, 281. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes any fish the capture of which is forbidden by any of the provisions of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine shall, in addition to the penalties therein prescribed, forfeit any boat, net, line, rod or other apparatus used in such capture, in all cases where such forfeiture is not already provided for in said act.

SECT. 2. The proprietor of any unnavigable tidal stream, where the same empties into salt water and in which fishes are lawfully cultivated or maintained, shall control the fishery of said stream within his own premises; and also beyond and around the mouth of said stream so far as the tide may ebb: *provided*, it does not ebb more than eighty rods; and whoever fishes within the above described limits without the permission of the said proprietor shall forfeit not less than one dollar nor more than twenty dollars for the first offence.

and not less than five nor more than fifty dollars for any subsequent offence, and shall in addition forfeit any boat, net, line, rod or other apparatus used in such illegal fishing. — [May 12, 1871.

[P. S. 91, §§ 31, 61.]

AN ACT to limit the time for catching Alewives.

1871, 293. *Be it enacted, etc., as follows:* Section twenty-nine of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine is hereby amended by inserting after the word "shad," the words "or alewives," and also by adding after the word "dollars," the words "and for each alewife twenty-five cents." — May 15, 1871.

[P. S. 91, § 55.]

1872.

AN ACT to amend Chapter eighty-three of the General Statutes, in relation to the seizure of Vessels with Shell-fish on board.

1872, 46. *Be it enacted, etc., as follows:* SECT. 1. Section fourteen of chapter eighty-three of the General Statutes is hereby repealed.

SECT. 2. Section fifteen of said chapter is hereby amended by striking out the word "four" in the first line, and inserting in place thereof the word "three."

SECT. 3. This act shall take effect upon its passage. — [February 27, 1872.

AN ACT to re-establish the Alewife and other Fisheries in the Towns of Bridgewater West Bridgewater, East Bridgewater and Halifax.

1872, 190. *Be it enacted, etc., as follows:* SECT. 1. The owners and proprietors of the dams on the Town River in the towns of Bridgewater and West Bridgewater, on the Satucket River in the town of East Bridgewater, and on the Monponset River or brook in the town of Halifax are hereby required to erect and maintain fishways over or around said dams, and shall be subject to all the powers given to the commissioners on inland fisheries by chapter three hundred and forty-four of the acts of the year eighteen hundred and sixty-seven and chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine.

SECT. 2. No person shall take, catch, or cause to be taken or caught by any means whatsoever, in any of said rivers or their tributaries or the ponds out of which said rivers or tributaries flow, any of the fish called herrings, alewives, or shad, until the first day of May in the year eighteen hundred and seventy-five.

SECT. 3. The inhabitants of the several towns named herein, shall, at their annual town meetings in the year eighteen hundred and seventy-five and annually thereafter, determine upon some place

on said rivers or their tributaries within their limits, where said fish shall be taken, but neither of said towns shall establish more than one place upon said rivers or tributaries in the same year, where said fish shall be taken, and no person shall take said fish in any other place or places on said rivers or their tributaries than those established as aforesaid; and no person shall take said fish in any of the ponds out of which said rivers or tributaries flow.

SECT. 4. The commissioners on inland fisheries shall have full power to regulate the day or days of the week upon which the inhabitants of said towns shall take said fish, assigning to each of said towns separate days for fishing, and no person shall take or cause to be taken any of said fish at any other time or times than those which shall be prescribed by said commissioners.

SECT. 5. The inhabitants of the several towns named herein, may make all proper regulations concerning said fisheries, not in conflict with the other provisions of this chapter, and the general laws relating to inland fisheries, and may lease all or either of said fisheries for a term not exceeding three years, or may otherwise dispose of the same from year to year as they shall deem fit, but shall have no right to release or sell the same.

SECT. 6. Any person offending against any of the provisions of this act, shall forfeit for each offence a sum not less than five nor more than thirty dollars, and shall be subject to all further penalties in such cases as is by law made and provided.

SECT. 7. All other special laws relating to said fisheries upon said rivers and tributaries are hereby repealed. — [April 12, 1872.

[1878, 32.]

AN ACT to protect and control the Alewife Fishery in Kingston.

1872, 218. *Be it enacted, etc., as follows:* SECT. 1. The owners of dams on Jones's River, Stony Brook and Smelt Brook in Kingston, are required to erect and maintain fish-ways over or around said dams, and shall be subject to all the powers given to the commissioners of inland fisheries by chapter three hundred and thirty-four of the acts of the year eighteen hundred and sixty-seven, and chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine.

SECT. 2. The inhabitants of Kingston may make any proper regulations concerning their fisheries and rights to fisheries in such streams, and may lease all or either of said fisheries for a period not exceeding five years, or may otherwise dispose of the same from year to year as they shall deem fit, but shall have no right to release or sell the same.

SECT. 3. For the purposes of the fifth, sixth and seventh sections

of the acts of the year eighteen hundred and sixty-six, the fisheries above named shall be considered fisheries created by the town of Kingston.

SECT. 4. This act shall take effect upon its passage. — [April 17, 1872.]

[Sp. Laws, vol. 1, p. 269.]

AN ACT relating to the Shad and Alewife Fishery in North River.

1872, 229. *Be it enacted, etc., as follows:* SECT. 1. No shad or alewives shall be taken in any part of North River in the county of Plymouth, from the first day of March to the fifteenth day of June in each year hereafter, including both of said days, excepting on Mondays, Tuesdays and Wednesdays of each week from sunrise to sunset of said days, under the penalty provided for in section twenty-one, chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine, one-half of the money recovered as a penalty in any case arising under this law to be paid to the person making the complaint in the case in which the same is recovered, and the remainder to the Commonwealth.

SECT. 2. So much of section twenty-second, chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine as provides that whosoever uses any sweep seine or combination of sweep seines in such a manner as at any moment to close or seriously obstruct more than two-thirds of the width of the stream at the place where it is used, shall not apply to said North River: *provided*, that no seine or combination of seines used in said river shall exceed in length the width of the river where it is used: and *provided, also*, that no person shall be allowed to use set-nets or gill-nets on said river or its tributaries under the penalty prescribed in the first section of this act. — [April 20, 1872.]

[1876, 103; 1881, 44; 1883, 76; 1884, 199.]

Sp. Laws, vol. 1, p. 272.

AN ACT in relation to the Taking of Smelts and Pickerel in Merrimack River.

1872, 235. *Be it enacted, etc., as follows:* SECT. 1. Nothing contained in section twenty-one of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine, shall be construed to prevent the taking of smelts or pickerel or pickerel bait, in the Merrimack River, between the first day of October and the fifteenth day of April following. — [April 23, 1872.]

[1878, 172; P. S. 91, § 39.]

[1826, 54; 1851, 77; 1856, 285.]

AN ACT to protect the Fisheries in the Town of Edgartown.

1872, 248. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or stretch any seine or net of any kind in any of the

creeks, bays or inlets of the Great Pond, Sengekontacket Pond, east of Nathan's Island, Katama Bay, or in the harbor of Edgartown, south of Chapequiddick Point, in said town, between the first day of March and the first day of October, in each year; nor shall any person not an inhabitant of said town at any time set, drag or stretch any seine or net in any of the ponds or creeks of said town or outlets thereof. The seining of menhaden and mackerel is exempted from this act. This act shall be void as to Great Pond, if it shall appear that no sufficient creek is kept open and maintained from said pond to the sea; and it shall be void as to Trap's Pond, if it shall appear that no such creek is kept open and maintained from said pond to the sea.

SECT. 2. Any person violating any provision of this act shall be liable to a fine not exceeding three hundred dollars for each offence.

SECT. 3. Chapter two hundred and eighty-five of the acts of the year eighteen hundred and fifty-six is hereby repealed. — [April 24, 1872.]

[1869, 384.]

AN ACT for amending an Act for encouraging the Cultivation of Useful Fishes.

1872, 290. *Be it enacted, etc., as follows:* SECT. 1. Section thirty-one of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine is hereby amended by striking out the words "while fishing for herrings and alewives," and inserting the following: "during the time and in the manner a person may lawfully fish for herrings or alewives."

SECT. 2. This act shall take effect upon its passage. — [April 30, 1872.]

1873.

AN ACT to protect the Oyster Fishery in Barlow River.

1873, 41. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes any oysters from Barlow River, in the town of Sandwich, at any time previous to the first day of October, eighteen hundred and seventy-four, shall forfeit five dollars for each bushel and fraction of a bushel so taken.

SECT. 2. The inhabitants of the town of Sandwich, at a legal meeting called for the purpose, may make regulations concerning the taking of oysters in said river after said first day of October; and whoever takes any oysters from said river contrary to such regulations, shall be subject to the same penalties as are provided in the preceding section. The penalties provided in this act may be recovered by complaint or indictment in any court of competent jurisdiction.

SECT. 3. This act shall take effect upon its passage. — [February 26, 1873.]

AN ACT to extend the time within which Actions and Prosecutions under the laws relating to Inland Fisheries may be commenced.

1873, 137. *Be it enacted, etc., as follows:* SECT. 1. Section thirty-two of chapter three hundred eighty four of the acts of eighteen hundred sixty-nine is amended by striking out the words "four months," and inserting the words "one year" instead thereof.

SECT. 2. This act shall take effect on its passage. — [March 29, 1873.]

[P. S. 91, § 103.]

AN ACT to regulate the leasing of great ponds for the purpose of Cultivating useful Fishes.

1873, 195. *Be it enacted, etc., as follows:* SECT. 1. It shall be the duty of the commissioners on inland fisheries in all cases where application is made for the lease of any great pond for the purpose named in section nine of chapter three hundred and eighty-four of the acts of eighteen hundred and sixty-nine, to give notice of said application to the town or city within whose limits said pond lies, and of the time and place appointed for a hearing thereon.

SECT. 2. The several towns and cities in the Commonwealth are authorized to take leases of any great ponds within their respective limits, for the purpose of cultivating useful fishes, under such conditions and restrictions as the commissioners on inland fisheries may prescribe, and may make appropriations to carry out the provisions of this act.

SECT. 3. This act shall take effect on its passage. — [April 15, 1873.]

[P. S. 91, §§ 13, 14; 1885, 109.]

[1869, 384.]

AN ACT in relation to the Smelt Fishery.

1873, 211. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes or catches any smelts with a net of any kind or in any other manner than by naturally or artificially baited hooks and hand-lines, shall forfeit for each smelt so taken or caught, the sum of twenty-five cents: *provided*, that nothing herein contained shall apply to any person catching smelts in any seine or net in Taunton Great River, or to any person lawfully fishing for herrings or alewives in Dukes County, or to any person lawfully fishing for perch or alewives in Bass River or its tributaries in the towns of Yarmouth and Dennis, or to any person lawfully fishing for perch, herring or alewives in North River in Scituate, or in either branch of Westport River.

SECT. 2. Section thirty-one of chapter three hundred eighty-four of the acts of eighteen hundred sixty-nine is repealed. — [April 19, 1873.

[1873, 364.]

AN ACT in addition to an Act in relation to the Smelt Fishery.

1873, 364. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes any smelts with a net of any kind, or in any other manner than by naturally or artificially baited hooks and hand lines shall forfeit for each smelt so taken the sum of twenty-five cents: *provided*, that nothing herein contained shall apply to any person catching smelts in any seine or net in Taunton Great River or Dukes County during the time and in the manner a person may lawfully fish for herrings or alewives, or to any person lawfully fishing for perch or alewives in Bass River or its tributaries in the towns of Yarmouth and Dennis, or to any person lawfully fishing for perch, herring or alewives in North River in Scituate, or in either branch of Westport River.

SECT. 2. Section one of chapter two hundred and eleven of the acts of the year eighteen hundred and seventy-three is repealed. — [June 11, 1873.

[1874, 153; P. S. 91, §§ 57-60.]

1874.

AN ACT to protect the Rights of Owners of Ponds.

1874, 82. *Be it enacted, etc., as follows:* SECT. 1. Whoever without the written consent of the proprietor or lessee of any natural or artificial pond, the superficial area of which is not more than twenty acres, takes any fish therefrom shall forfeit and pay a fine not exceeding twenty-five dollars for every such offence, to be recovered before any court having jurisdiction of such offence.

SECT. 2. No penalty under this act shall be incurred until such proprietor or lessee has caused such pond to be measured, and such measurement to be recorded in the town clerk's office in each town within which such pond is situated, in the manner provided by section eleven of chapter three hundred and eighty-four of the acts of eighteen hundred and sixty-nine.

SECT. 3. This act shall take effect upon its passage. — [March 23, 1874.

[P. S. 91, § 24.]

AN ACT to prohibit Fishing in any Reservoirs, Ponds and Streams taken by the City of Worcester for a supply of Pure Water.

1874, 86. *Be it enacted, etc., as follows:* SECT. 1. No person shall take any fish from any reservoirs, ponds and streams held or owned by the city of Worcester for the purpose of supplying said city with pure water, without the permission of the water commissioners of said city, under the direction of the city council of said city.

SECT. 2. Any person offending against the provisions of this act shall forfeit and pay a fine of not less than five dollars and not more than fifty dollars, to be recovered by prosecution before any court of competent jurisdiction. — [March 24, 1874.]

AN ACT to amend an Act for encouraging the Cultivation of useful Fishes.

1874, 131. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter three hundred and sixty of the acts of eighteen hundred and seventy, shall not apply to the pond known as the Oyster Pond in Dukes County.

SECT. 2. This act shall take effect upon its passage. — [April 1, 1874.]

[1875, 115; P. S. 91, § 12.]

AN ACT in addition to an Act to regulate the leasing of Great Ponds for the purpose of cultivating useful Fishes.

1874, 135. *Be it enacted, etc., as follows:* SECT. 1. Any town in this Commonwealth, may either alone or jointly with any other town, take a lease of any great pond for the purposes named in section two of chapter one hundred and ninety-five of the acts of the year one thousand eight hundred and seventy-three, and may make appropriations therefor.

SECT. 2. This act shall take effect upon its passage. — [April 1, 1874.]

[P. S. 91, § 14; 1885, 109.]

[Sp. Laws, vol. 1, pp. 272, 296.]

AN ACT to regulate Fishing in the Connecticut and Merrimack Rivers.

1874, 144. *Be it enacted, etc., as follows:* SECT. 1. From and after the passage of this act whoever takes or catches any shad or alewives in any part of the Merrimack River or its tributaries lying within this Commonwealth, except between sunrise on Monday morning and sunrise of Thursday morning of each week, from the first day of March to the tenth day of June in each year, shall forfeit for each alewife so taken, a sum not less than one nor more than five dollars, and for each shad so taken, a sum not less than five nor more than twenty dollars.

SECT. 2. Whoever takes or catches any salmon in any part of the Connecticut or Merrimack Rivers or their tributaries lying within this Commonwealth, for a period of six years from and after the passage of this act, shall be punished for each offence by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the house of correction not less than two nor more than six months: *provided*, that any person catching salmon when seining for other fish and not retaining the same shall not be subject to the penalty provided in this section.

SECT. 3. Whoever takes or catches any fishes within four hundred yards of any fishway now built or hereafter to be built on the Connecticut River or its tributaries lying within this Commonwealth, or trespasses within the limits of such fishway, shall forfeit for each offence the sum of fifty dollars.

SECT. 4. Whoever uses any gill-net of any size or description in the waters of the Connecticut or Merrimack Rivers or their tributaries lying within this Commonwealth, shall forfeit for each offence the sum of twenty-five dollars.

SECT. 5. Whoever takes or catches any fish in violation of the provisions of this act shall in addition to the penalties herein prescribed, forfeit any boat, net, line, rod or other apparatus used in such taking or catching.

SECT. 6. If the mayor and aldermen of any city or the selectmen of any town, bordering on either the Connecticut or Merrimack Rivers, shall neglect to appoint and fix the compensation of fishwardens within their respective cities and towns as now required by law, the city or town in which such neglect occurs, shall forfeit a sum not less than one hundred nor more than five hundred dollars. — [April 7, 1874.

[P. S. 91, §§ 34, 37, 38, 43; 1882, 166; 1883, 31; 1884,-317.]

AN ACT in addition to Acts in relation to Smelt Fisheries.

1874, 153. *Be it enacted, etc., as follows:* SECT. 1. Whoever within this Commonwealth offers for sale or has in his possession any smelt or smelts between the fifteenth day of March and the first day of June in each year, shall forfeit for each and every smelt so sold, offered for sale, or had in his possession, the sum of one dollar.

SECT. 2. Whoever takes or catches any smelt or smelts with a net of any kind, or in any other manner than by naturally or artificially baited hooks and hand lines, shall forfeit for each smelt so caught or taken the sum of one dollar: *provided*, that nothing contained in this act shall apply to any person catching smelts in any seine or net, within the limits of Bristol, Barnstable or Dukes counties, during the time, and in the manner, a person may lawfully fish for perch, herring or alewives, or to any person offering for sale or having in his possession smelts so caught, within those limits; and in all prosecutions under this act, the burden of proof shall be upon the defendant to show that the smelt or smelts, the offering for sale, possession; or catching of which is the subject of the prosecution, were legally caught.

SECT. 3. The mayor and aldermen of any city, the selectmen of any town, and all police officers and constables within this Commonwealth, shall cause the provisions of this act to be enforced within

their respective cities and towns, and all forfeitures and penalties for violations of the provisions of this act shall be paid, one-half to the person making the complaint and one-half to the city or town in which the offence is committed.

SECT. 4. All acts conflicting with this act are hereby repealed. — [April 9, 1874.

[P. S. 91, §§ 57-60.]

AN ACT to regulate the Shell-fisheries in the waters of Mount Hope Bay and its tributaries.

1874, 185. *Be it enacted, etc., as follows:* SECT. 1. The selectmen of the towns of Swansea and Somerset, and the mayor and aldermen of the city of Fall River may by a writing under their hands grant a license for such a term of years not exceeding five as they in their discretion deem necessary and the public good requires, to any inhabitant or riparian owner in said towns or city, to plant, cultivate and dig clams, quahaugs and scollops, and other shell-fish upon and in any flats, shores, creeks and waters in their respective towns and city, not however impairing the private rights of any person.

SECT. 2. Such license shall describe by metes and bounds, the flats, shores, creeks or waters so appropriated, and shall be recorded by the town or city clerk, before it shall have any force, and the person or persons licensed shall pay to the town or city two dollars and to the clerk fifty cents.

SECT. 3. The person or persons so licensed and his or their heirs and assigns shall for the purpose aforesaid have the exclusive use of the flats, shores, creeks and waters described in the license during the time specified therein, but such license shall not give any authority to remove or disturb any sedge or thatch bordering on said shore or flats, and may in an action of tort recover treble damages of any person who without his or their consent digs or takes clams, quahaugs, or scollops, or other shell-fish, from such flats, shores, creeks or waters during the continuance of the license.

SECT. 4. The towns of Swansea and Somerset and the mayor and aldermen of the city of Fall River at any legal meeting called for the purpose, may make such by-laws as they may from time to time deem expedient to protect and preserve all shell fisheries within said towns and city: *provided, always*, that no by-laws made as above shall infringe upon the laws of the Commonwealth.

SECT. 5. Whoever takes any shell fish from within the waters of said towns of Swansea and Somerset and the city of Fall River in violation of the by-laws established by said towns or city, or of the provisions of this act, shall for every offence pay a fine of not less than five or more than ten dollars, and costs of prosecution, and one dollar for every bushel of shell fish so taken. Said fine and forfeiture

imposed under this act to be recovered by indictment or by complaint before a trial justice in the county of Bristol. — [April 24, 1874.

[1875, 116.]

AN ACT for the protection of Trout, Land-locked Salmon and Lake Trout.

1874, 186. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes or catches any trout, land-locked salmon or lake trout, within the limits of this Commonwealth, or buys, sells or has in possession the same taken within said limits between the twentieth day of August and the twentieth day of March in each year, or takes or catches any trout, land-locked salmon or lake trout with any net or salmon-pot, at any season of the year, shall forfeit for each fish so caught a sum not less than five nor more than twenty dollars.

SECT. 2. The twenty-eighth section of the three hundred and eighty-fourth chapter of the acts of eighteen hundred and sixty-nine is repealed. — [April 24, 1874.

[P. S. 91, § 51; 1884, 171.]

AN ACT in addition to an Act for the Protection of Fisheries in the Head-Waters of Buzzard's Bay.

1874, 282. *Be it enacted, etc., as follows:* SECT. 1. The provisions of chapter two hundred and forty-nine of the acts of eighteen hundred and seventy, entitled "An Act for the protection of the fisheries in the head-waters of Buzzard's Bay," shall hereafter be applicable to the waters north-westerly of, or within a straight line extended from Angelica Point to the town of Mattapoisett, to the central point of Ram Island, thence west in a straight line to the westerly town line of Mattapoisett, from the twenty-fifth day of March to the fifteenth day of May in each year.

SECT. 2. This act shall take effect upon its passage. — [May 29, 1874.

[P. S. 91, § 79; 1886, 192.]

1875.

AN ACT concerning the Shell-Fisheries of the Town of Brewster.

Be it enacted, etc., as follows: SECT. 1. No person, except the inhabitants of the town of Brewster, shall take any clams, quahaugs, oysters or other shell-fish from within the waters of said town, without a permit from the selectmen thereof, nor shall any inhabitant of said town, at any one time, take more than three bushels of said fish, including their shells, for bait or for the purpose of selling the same without a permit from the selectmen of said town, who may grant the same for such sum to be paid to the use of said town, as they shall deem proper; but the inhabitants of said town may take said fish for family use without such permit.

SECT. 2. Whoever takes any shell-fish from within the waters of said town of Brewster in violation of the provisions of this act, shall, for every offence pay a fine of not less than five nor more than ten dollars, and costs of prosecution, and also one dollar for every bushel of shell-fish so taken, said fine and forfeiture imposed under this act to be recovered by indictment or complaint before a trial justice in the county of Barnstable. — [March 4, 1875.]

[Sp. Laws, vol. 1, p. 296; 1869, 76.]

AN ACT to amend Chapter seventy-six of the Acts of the year eighteen hundred and sixty-nine, relating to fishing in the Connecticut River.

1875, 39. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter seventy-six of the acts of the year eighteen hundred and sixty-nine is hereby amended so that shad may be taken from the Connecticut River with rod and line and artificially-baited hook at any time between the fifteenth day of March and the first day of August in each year.

SECT. 2. This act shall take effect upon its passage. — [March 8, 1875.]

[1881, 47, §§ 1, 3; P. S. 91, §§ 32, 40.]

AN ACT for the Preservation of the Eel Fishery in the Town of Mashpee.

1875, 60. *Be it enacted, etc., as follows:* SECT. 1. No person shall take from Jehu's pond, so called, in the town of Mashpee, or from the outlet therefrom more than three dozen of eels on any one day without a permit in writing from the selectmen of said town.

SECT. 2. Whoever violates the provisions of this act shall forfeit for every eel taken in violation thereof, twenty-five cents; and all forfeitures under this act shall be paid, one-half to the town of Mashpee, and one-half to the complainant. — [March 20, 1875.]

AN ACT concerning the Clam Fisheries in the Town of Winthrop.

1875, 61. *Be it enacted, etc., as follows:* SECT. 1. No person not an inhabitant of the town of Winthrop, shall take any clams from within the waters of said town without a written permit from the selectmen of said town: nor shall any person being an inhabitant of said town at any one time, take any clams from within said waters exceeding three bushels including their shells for bait or for the purposes of selling the same without a permit from the selectmen of said town; who may grant the same for such sum to be paid to the use of the town as they shall deem proper; and the inhabitants of said town may take clams for family use and for no other purpose without such permit.

SECT. 2. Whoever takes any clams from within the waters of Winthrop in violation of the provisions of this act shall for every offence,

pay a fine of not less than five nor more than ten dollars and costs of prosecution: said fine and forfeiture imposed under this act to be recovered by indictment or complaint before any trial justice or any court of competent jurisdiction within the county of Suffolk.

SECT. 3. This act shall take effect upon its passage. — [March 20, 1875.]

[Sp. Laws, vol. 1, p. 422; 1855, 401.]

AN ACT to amend an Act to regulate the Fisheries in Taunton Great River and Nemasket River.

1875, 71. *Be it enacted, etc., as follows:* Whenever any fishing privilege is hereafter offered for sale agreeably to the provisions of the second section of chapter four hundred and one of the acts of the year eighteen hundred and fifty-five, or any act in amendment thereof, if no offer of one hundred dollars or more is made for said privilege, the mayor and aldermen of the city or the selectmen of the town offering the same for such sale may refuse to accept any offer less than said sum, and thereafterwards may sell or dispose of said privilege in such manner as will best promote the interests of said city or town. — [March 27, 1875.]

[1876, 208; 1879, 83.]

AN ACT to authorize the Leasing of Great Ponds in Dukes County.

1875, 115. *Be it enacted, etc., as follows:* SECT. 1. The commissioners on inland fisheries may lease any great pond, exceeding twenty acres in area, situated within the limits of Dukes County: *provided*, that the town, or towns within which said pond lies shall, after the notice now required by law, at a meeting called for that purpose, assent to the granting of such lease.

SECT. 2. Chapter three hundred and sixty of the acts of the year eighteen hundred and seventy is hereby repealed.

SECT. 3. This act shall take effect upon its passage. — [April 10, 1875.]

P. S. 91, § 12; 1885, 109.]

[1874, 185.]

AN ACT concerning the Shell-Fisheries in the Towns of Swansea and Somerset.

1875, 116. *Be it enacted, etc., as follows:* SECT. 1. Whoever, within the limits of the towns of Swansea and Somerset violates any of the provisions of section thirteen of chapter eighty-three of the General Statutes shall in addition to the penalty therein prescribed be liable to a fine not exceeding ten dollars.

SECT. 2. The sheriff of Bristol County or any of his deputies, or any constable or selectman of the towns of Swansea and Somerset may without a warrant arrest any person whom he finds in the act of taking shell-fish from their beds in said towns in violation of the pro-

visions of section thirteen of chapter eighty-three of the General Statutes, or in the act of carrying away therefrom any shell-fish so taken, and detain him in some place of safe keeping until a warrant can be procured against said person upon a complaint for said offence: *provided*, that such detention without a warrant shall not exceed twenty-four hours.

SECT. 3. The selectmen of the towns of Swansea and Somerset may charge and receive in behalf of and for the use of said towns such sum not exceeding thirty-five cents per bushel as they shall deem proper for the permit to take shell-fish from their beds in said towns as authorized by section thirteen of chapter eighty-three of the General Statutes and the person or persons receiving the permit shall pay the same according to the terms therein specified.

SECT. 4. Chapter one hundred and eighty-five of the acts of the year eighteen hundred and seventy-four is hereby repealed. — [April 10, 1875.]

[1840, 24; 1841, 76.]

AN ACT to prohibit Seining of Fish in the Ponds on the Island of Nantucket.

1875, 180. *Be it enacted, etc., as follows:* SECT. 1. No person shall set, draw or use any seine or net for taking fish in the great ponds on the island of Nantucket.

SECT. 2. Any person violating this act shall, on conviction, pay a fine of not less than twenty-five nor more than fifty dollars with forfeiture of boats, nets and apparatus thus used, to be recovered before any court of competent jurisdiction, for the use of the town of Nantucket.

SECT. 3. This act shall take effect upon its passage. — [May 3, 1875.]

[1876, 49.]

AN ACT in addition to an Act to regulate the Fishery in Palmer's River.

1875, 201. *Be it enacted, etc., as follows:* SECT. 1. The sheriff of Bristol County or any of his deputies, or any constable or fish-warden of either of the towns of Swansea and Rehoboth, may without a warrant arrest any person whom he finds in the act of taking herring, alewives or shad from the waters of Palmer's River in either of said towns, in violation of the provision of chapter ninety-two of the acts of the year eighteen hundred and fifty-two; and may detain him in a place of safe-keeping, until a warrant can be procured against him upon a complaint for said offence: *provided*, that such detention without a warrant shall not exceed twenty-four hours.

SECT. 2. Whoever violates the provisions of chapter ninety-two of the acts of the year eighteen hundred and fifty-two, shall, in addition to the forfeitures therein provided, forfeit the seines or nets so used.

SECT. 3. This act shall take effect upon its passage. — [May 10, 1875.

[1852, 66.]

RESOLVE relative to the Fisheries on the North River and its Tributaries.

1875, Res. 36. *Resolved*, That the commissioners of inland fisheries are hereby required to make a full investigation into the condition of the fisheries on North River in Plymouth County, and its tributaries, and to recommend what legislation, if any, is necessary concerning the same, to the next general court. — [April 15, 1875.

1876.

AN ACT to preserve the Eel Fisheries in Jones River, in the Town of Kingston.

1876, 32. *Be it enacted, etc., as follows*: SECT. 1. Whoever takes, catches or destroys any eels in Jones River, in the town of Kingston, in the county of Plymouth, in any other manner than by spear or hook and line, shall forfeit for every eel so taken, not less than one dollar nor more than five dollars, one-half of said fine to be paid to the complainant.

SECT. 2. All fines or penalties for violating this act, with costs, may be recovered in any court competent to try the same.

SECT. 3. This act shall take effect upon its passage. — [March 7, 1876.

AN ACT to preserve the Eel Fisheries in Eel River in the Town of Plymouth.

1876, 45. *Be it enacted, etc., as follows*: SECT. 1. Whoever takes, catches or destroys any eels in Eel River in the town of Plymouth, in the county of Plymouth, in any other manner than by spear or hook and line, shall forfeit for every eel so taken not less than one dollar, nor more than five dollars, one-half of said fine to be paid to the complainant.

SECT. 2. Whoever wilfully places any obstruction, or otherwise interferes with the free passage of eels in said river, shall forfeit a sum not less than fifty nor more than one hundred dollars for each offence.

SECT. 3. All fines or penalties for violating this act, with costs, may be recovered in any court competent to try the same.

SECT. 4. This act shall take effect upon its passage. — [March 13, 1876.

[1840, 24; 1841, 76; 1875, 180.]

AN ACT to amend Chapter one hundred and eighty of the Acts of the year eighteen hundred and seventy-five, relative to the Seining of Fish in Hummock Pond on the Island of Nantucket.

1876, 49. *Be it enacted, etc., as follows*: SECT. 1. Chapter one hundred and eighty of the acts of the year eighteen hundred and

seventy-five is hereby amended, so as to allow the inhabitants of Nantucket to catch fish called alewives, or herring, with nets or seines, in the Hummock Pond in said Nantucket, south of the bridge, from March tenth to May thirty-first of each year inclusive. All fish caught in seines or nets, excepting alewives or herring, shall be immediately put back into said Hummock Pond. Any person violating the provisions of this act shall, on conviction, pay a fine according to section two of said chapter.

SECT. 2. This act shall take effect upon its passage. — [March 16, 1876.

[1866, 238; 1869, 422.]

AN ACT concerning the obstructions to the passage of Fish in the tributaries of the Connecticut and Merrimack Rivers.

1876, 50. *Be it enacted, etc., as follows:* SECT. 1. The provisions of chapter two hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six, and of chapter four hundred and twenty-two of the acts of the year eighteen hundred and sixty-nine, are hereby extended and shall apply to the tributaries of the Connecticut and Merrimack rivers within this Commonwealth.

SECT. 2. This act shall take effect upon its passage. — [March 16, 1876.

AN ACT to authorize the Commissioners on Inland Fisheries to occupy Great Ponds for the cultivation and distribution of useful Fishes.

1876, 62. *Be it enacted, etc., as follows:* SECT. 1. The commissioners on inland fisheries, as such commissioners, are hereby authorized to occupy, manage and control any great ponds within the limits of the Commonwealth, not exceeding six in number, and not then subject to lease from them, for the purpose of cultivating useful fishes and of distributing the same within the Commonwealth, subject to the restrictions and limitations contained in chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine as to leased ponds.

SECT. 2. Whenever said commissioners shall determine so to occupy and improve any such pond, they shall post a notice of such purpose in some public place in the town or towns in which said pond is located, and shall file a like notice in the office of the town clerk of said town or towns, and in the office of the secretary of state; and the affidavit of any officer qualified to serve civil process that said notice has been posted shall be deemed full proof of the same.

SECT. 3. From and after the time when said notice shall have been filed and posted as above, said commissioners shall have all the rights in respect to said pond as are secured to lessees of ponds from said

commissioners ; and any violation of any of said rights shall be subject to the penalties imposed by section nineteen of said chapter.

SECT. 4. This act shall take effect upon its passage. — [March 22, 1876.

[P. S. 91, §§ 17-19.]

[1872, 229.]

AN ACT to regulate the taking of Fish in North River, in the County of Plymouth.

1876, 103. *Be it enacted, etc., as follows:* SECT. 1. No person shall fish with a net or seine in North River or any of its tributaries, in the county of Plymouth, nor in any manner take or catch any shad, salmon or alewives, until the first day of July in the year eighteen hundred and eighty-one, under the penalty of five dollars for each shad or alewife, and fifty dollars for every salmon so taken.

SECT. 2. Any net or seine, together with any boat, craft or fishing apparatus used in violation of the provisions of this act, and all fish unlawfully captured as hereinbefore mentioned, shall be forfeited to the Commonwealth.

SECT. 3. This act shall take effect on the first day of July in the year eighteen hundred and seventy-six. — [April 6, 1876.

[1877, 109; 1884, 199.]

AN ACT requiring certain returns to the Commissioners on Inland Fisheries.

1876, 104. *Be it enacted, etc., as follows:* SECT. 1. The owner or owners of every pound, weir, or other similar fixed contrivance, or of any fishing pier, seine, drag or gill net used in any of the waters of this state for fishing purposes, shall make written report, under oath, to the commissioners on inland fisheries, on or before the first day of October in each year, specifying the number of each kind of edible fish caught by his or their respective pounds, weirs or other similar fixed contrivances, piers, seines, drag or gill nets, during the year next preceding the date of said report.

SECT. 2. It shall be the duty of the commissioners on inland fisheries to furnish each owner or proprietor of any pound, weir or similar fixed contrivance, pier, seine, drag or gill net, on or before the fifteenth day of March in each year, with suitable blank forms for the reports required by the preceding section, so arranged that each day's catch may be separately recorded thereon ; and in filling out such reports, such owner or proprietor shall give the results of each day's fishing so far as practicable ; and it shall be the duty of such owner or proprietor to apply to the commissioners on inland fisheries for such blank forms.

SECT. 3. Whoever knowingly and wilfully violates any of the provisions of this act shall be punished by a fine of not less than ten nor more than one hundred dollars.

SECT. 4. This act shall take effect upon its passage. — [April 6, 1876.

[P. S. 91, §§ 73-75.]

[1838, 19; 1844, 65; 1860, 89; 1863, 117.]

AN ACT in addition to an Act to regulate the Fishery in the Agawam and Half-Way Pond Rivers.

1876, 161. *Be it enacted, etc., as follows:* SECT. 1. The committee annually chosen by the towns of Plymouth and Wareham to make sale of the privileges of taking the fish called alewives and shad in the Agawam and Half-Way Pond rivers in the county of Plymouth, shall pay to each of the treasurers of said towns one-half part of the whole amount of the money received by them from such sales, and all promissory notes taken for said sales shall be made payable to each of said treasurers in the proportion aforesaid.

SECT. 2. This act shall take effect upon its passage. — [April 21, 1876.

[1875, 71.]

AN ACT to regulate the Fisheries in Taunton Great River and Nemasket River.

1876, 208. *Be it enacted, etc., as follows:* SECT. 1. No shad or alewives shall be taken in any part of Taunton Great River or Nemasket River between the hours of twelve o'clock in the night following Thursday of each week and four o'clock on Monday morning succeeding, from the first day of March to the tenth day of June of each year, including both of said days.

Section five of chapter four hundred and one of the acts of the year eighteen hundred and fifty-five, and chapter two hundred and fifty-eight of the acts of the year eighteen hundred and seventy-one, are hereby repealed.

SECT. 2. Not more than one seine shall be cast, set, swept or used on said rivers, within the same limits or over the same ground and at the same fishing place or location, nor shall any seine be cast, set, swept or used within forty rods of any other seine. Any person violating this section shall pay a fine of not less than fifty nor more than two hundred dollars, and whoever violates the provisions of the first section, shall be liable to the penalties and forfeitures provided in said chapter four hundred and one of the acts of the year eighteen hundred and fifty-five.

SECT. 3. This act shall take effect on the first day of July next. — [April 28, 1876.

1877.

AN ACT to regulate the Fisheries in Lake Quannapowitt, and in Saugus River and its tributaries.

1877, 16. *Be it enacted, etc., as follows:* SECT. 1. No person shall fish with a net or seine in Lake Quannapowitt, or in Saugus River or its tributary streams in the counties of Middlesex and Essex, other than the one running from Flax Pond in the city of Lynn, nor in any manner take or catch any shad, salmon or alewives in said waters until the first day of January in the year eighteen hundred and eighty-two, under the penalty of fifty cents for each alewife, one dollar for each shad, and ten dollars for each salmon so taken: *provided*, that the several fish committees of the towns of Wakefield and Saugus, or such person or persons as may be authorized by them, may take such fish as may be required to re-stock said river and its tributaries.

SECT. 2. The several fish committees of the towns of Wakefield and Saugus, or any member or members of said committees may remove any and all nets, seines, weirs or other fishing apparatus, used in violation of the provisions of this act.

SECT. 3. Any person who shall place or cause to be placed in the waters of Lake Quannapowitt or of the Saugus River or any of its tributaries, not herein exempted, or who shall cause to flow into said waters any substance whereby the fish therein may be destroyed or injured, or their passage hindered or obstructed, shall be punished by a fine not exceeding fifty dollars for each offence.

SECT. 4. This act shall take effect upon its passage. — [February 16, 1877.

AN ACT to preserve the Eel Fisheries in Musquashuit Creek and its tributaries in the Towns of Scituate and Cohasset.

1877, 26. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes, catches or destroys any eels in Musquashuit Creek or its tributaries, in the towns of Scituate and Cohasset, in the counties of Plymouth and Norfolk, in any other manner than by spear, or hook and line, shall forfeit for every eel so taken, not less than one dollar nor more than five dollars, one-half of said fine to be paid to the complainant.

SECT. 2. Whoever wilfully places any obstruction, or otherwise interferes with the free passage of eels in said creek or tributaries, shall forfeit a sum not less than fifty nor more than one hundred dollars for each offence.

SECT. 3. All fines or penalties for violating this act, with costs, may be recovered in any court competent to try the same.

SECT. 4. This act shall take effect upon its passage. — [February 21, 1877.

AN ACT to preserve the Eel Fisheries in Herring River and its tributaries in the Town of Wellfleet.

1877, 42. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes, catches or destroys any eels in Herring River or its tributaries in the town of Wellfleet, in the county of Barnstable, in any other manner than by spear or hook and line, shall forfeit for every eel so taken not less than one dollar, nor more than five dollars; one-half of said fine to be paid to the complainant.

SECT. 2. Whoever wilfully places any obstruction or otherwise interferes with the free passage of eels in said river or its tributaries shall forfeit a sum not less than fifty nor more than one hundred dollars for each offence.

SECT. 3. All fines or penalties for violating this act, with costs, may be recovered in any court competent to try the same.

SECT. 4. This act shall take effect upon its passage. — [March 10 1877.

AN ACT concerning the taking of Eels in certain Waters in the Town of Mattapoissett.

1877, 66. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes, catches or destroys any eels in Mattapoissett River or its tributaries, in the town of Mattapoissett in the county of Plymouth, from the Bridge at Town Mills to Mattapoissett Harbor, or in Barlow's Pond or its tributaries, in said town, or in its outlet to the harbor, in any other manner than by spear or hook and line, shall forfeit for every eel so taken not less than one dollar nor more than five dollars; one-half of said fine to be paid to the complainant.

SECT. 2. All fines or penalties for violating this act, with costs, may be recovered in any court competent to try the same.

SECT. 3. This act shall take effect upon its passage. — [March 19, 1877.

[1876, 103.]

AN ACT to amend Chapter one hundred and three of the Acts of the year eighteen hundred and seventy-six, concerning the taking of Fish in North River in the County of Plymouth.

1877, 109. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter one hundred and three of the acts of the year eighteen hundred and seventy-six is hereby amended by striking out after the words "North River" in the second line the words, "or any of its tributaries."

SECT. 2. This act shall take effect upon its passage. — [April 6, 1877.

AN ACT to prohibit the Seining of Fish in Watuppa Pond in Fall River and Westport.

1877, 110. *Be it enacted etc., as follows:* SECT. 1. No person shall set, draw or use any seine, net or trawl for the purpose of taking fish of any kind in the Watuppa Pond, or any inlet or outlet thereof in Fall River or Westport.

SECT. 2. Any person violating this act, or buying, selling or having in possession any fish so taken, shall on conviction thereof pay a fine of not less than ten dollars nor more than fifty dollars, with forfeiture of boats, nets and apparatus used in such taking, to be recovered before any court of competent jurisdiction; one-half of said fine and forfeiture to be paid to the person making the complaint and the remainder to the Commonwealth.

SECT. 3. This act shall take effect upon its passage. — [April 6, 1877.]

An Act to amend an Act in relation to the Construction of Fish-weirs.

1877, 119. *Be it enacted, etc., as follows:* Chapter fifty of the acts of the year eighteen hundred and fifty-six is hereby amended by adding the following section: Section 4. No person shall construct or maintain any fish-weir within the tide-waters of this Commonwealth unless authorized in the manner set forth in the first section of this act, or from any island within said tide-waters without authority in writing from the mayor and aldermen of every city, and the selectmen of every town, distant not over two miles from said island. Any person who shall construct or maintain any weir in violation of the provisions of this section shall forfeit the sum of ten dollars for each day he shall maintain such weir, to be recovered in any court of competent jurisdiction to the use of any cities or towns, from the mayor and aldermen or selectmen of which he ought to have obtained the authority aforesaid, and shall also be liable to be indicted therefor and to be enjoined therefrom. — [April 10, 1877.]

[P. S. 91, § 72.]

[Sp. Laws, vol. 2, p. 285; 1817, 151.]

AN ACT to regulate the taking of Fish in Monataquot River in the Town of Braintree.

1877, 123. *Be it enacted, etc., as follows:* SECT. 1. The town of Braintree may, at any legal meeting called for that purpose, make regulations not inconsistent with the provisions of the general laws of the Commonwealth concerning the taking of alewives and shad in Monataquot River within said town, or concerning the disposal of the privilege of taking the same, for its own use and benefit.

SECT. 2. Said town shall, at its annual meeting in March in the year eighteen hundred and seventy-eight and in each year thereafter, choose three discreet persons by ballot, whose duty it shall be to

inspect said river, to cause the regulations respecting said fishery to be carried into effect and to prosecute all violations thereof.

SECT. 3. No persons shall in any way take or catch any shad or alewives in said river until the first day of March in the year eighteen hundred and seventy-eight.

SECT. 4. Whoever takes from said river any of said fish in violation of the provisions of this act, or of said regulations, shall forfeit for each fish so taken not more than ten dollars nor less than one dollar, one-half of said penalty to be paid to the complainant and the other half to said town.

SECT. 5. Chapter one hundred and fifty-one of the acts of the year eighteen hundred and seventeen is hereby repealed.

SECT. 6. This act shall take effect upon its passage. — [April 10, 1877.

AN ACT to regulate the Fisheries in the Weweantit River and its Tributaries, and for stocking the same with Shad and Alewives.

1877, 141. *Be it enacted, etc., as follows:* SECT. 1. No person shall take or catch any shad or alewives in the Weweantit River or its tributaries in Plymouth County, for a period of five years from the passage of this act, under a penalty of five dollars for each and every shad taken, and fifty cents for each and every alewife taken in violation of this act, and forfeiture of all boats, seines, nets or other apparatus for taking said fish, used in violation of the provisions of this act: *provided, however,* that the several fish committees of the towns of Wareham, Rochester and Carver, chosen annually, shall have the right to take or catch said fish in sufficient numbers for the purpose of assisting in the stocking of said river and its ponds and tributaries, and for no other purpose whatever.

SECT. 2. The provisions of law now in force, by which the fish committees of the towns of Wareham, Rochester and Carver are obliged annually in the month of March to give notice to the town clerks and to sell at public vendue the right to take and catch alewives at certain times and at certain places, each year, in the Weweantit River, are hereby suspended for the period of five years from the passage of this act.

SECT. 3. Any person or persons, company or corporation who shall cause or permit any saw-dust or other obstruction to the free passage of the said fish, or any drugs, dye-stuffs, acids, alkalies or any other substance destructive of the life of shad or alewives, to be deposited in or flow into said river or its tributaries at any time of the year, shall pay a fine of twenty-five dollars for each and every offence so committed.

SECT. 4. This act shall take effect upon its passage. — [April 20, 1877.

AN ACT in addition to an Act for encouraging the Cultivation of Useful Fishes.

1877, 180. *Be it enacted, etc., as follows:* SECT. 1. In all cases where the commissioners on inland fisheries have leased or shall hereafter lease any great ponds in this Commonwealth for the cultivation of useful fishes, the said commissioners may fix the limits of such great ponds, and determine what arms, coves or bays of the same shall be regarded as part of said great ponds; and the limits of said great ponds, so fixed and determined by said commissioners, and recorded in the registry of deeds for the county where such ponds lie, shall be taken to be the legal limits of said great ponds for all the purposes of such case. The expense of fixing and recording such limits shall be paid by the lessees.

SECT. 2. This act shall take effect upon its passage. — [May 4, 1877.

[P. S. 91, § 15.]

1878.

[1872, 190.]

AN ACT to amend Chapter one hundred and ninety of the Acts of the year eighteen hundred and seventy-two, relating to the Alewife and other Fisheries in the Towns of Bridgewater, West Bridgewater, East Bridgewater and Halifax.

1878, 32. *Be it enacted, etc., as follows:* SECT. 1. Section three of chapter one hundred and ninety of the acts of the year eighteen hundred and seventy-two is hereby amended by adding after the word "flow," at the end of said section, the following words: — "And it shall be lawful for said towns to agree upon and take said fish at one common fishing place for all of said towns, upon either of said rivers or their tributaries, within their limits or upon that portion of the Taunton River within the limits of the town of Bridgewater; to regulate the taking of said fish under the direction of said commissioners, and to determine the manner in which the expense attending such common fishing shall be apportioned between them, and to make all necessary appropriations therefor."

SECT. 2. This act shall take effect upon its passage. — [March 2, 1878.

AN ACT concerning Shell Fish on the shores and flats of Thompson's Island.

1878, 78. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes any shell fish from the shores or flats of Thompson's Island in Boston Harbor without the permit of the managers of the Boston Asylum and Farm School for Indigent Boys, or the chief of the police of the city of Boston, shall for every offence pay a fine of not less than five dollars nor more than ten dollars, and costs of prosecution;

said fine to be recovered by complaint before the municipal court of the city of Boston.

SECT. 2. Any constable or police officer of the city of Boston may without a warrant arrest any person whom he finds in the act of taking shell fish in violation of the provisions of the preceding section of this act, or in the act of carrying away shell fish so taken, and detain him in some place of safe keeping until a warrant can be procured against such person upon a complaint for said offence: *provided*, that such detention shall not exceed twenty-four hours. — [March 23, 1878.

[1869, 384.]

AN ACT to amend Chapter three hundred and eighty-four of the Acts of the year eighteen hundred and sixty-nine concerning the Cultivation of Fishes.

1878, 172. *Be it enacted, etc., as follows:* SECT. 1. Whoever uses any sweep seine in the waters of the Connecticut, Westfield, Deerfield, Miller's, Merrimack, Nashua, or Housatonic rivers, or their tributaries, having a mesh which stretches less than five inches, shall forfeit for the first offence twenty-five dollars, and for every subsequent offence fifty dollars; and in each case shall also forfeit the apparatus thus unlawfully used, and the fish captured.

SECT. 2. Section twenty-one of chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine is hereby repealed.

SECT. 3. This act shall take effect on the first day of December next. — [April 23, 1878.

[P. S. 91, § 39.]

AN ACT for the better protection of the Oyster Fisheries in this Commonwealth.

1878, 179. *Be it enacted, etc., as follows:* SECT. 1. No person shall dig, take or carry away any oysters by any method whatever, from any flats or creeks, for which a license has been granted under the provisions of section sixteen of chapter eighty-three of the General Statutes, between sunset and sunrise. Any person holding a license under the provisions of said section who shall violate the foregoing provisions, shall upon conviction thereof, in addition to the penalties hereinafter provided, forfeit his license together with the oysters remaining on the premises licensed, to the town or city granting the same.

SECT. 2. Any person who shall violate any of the provisions of this act, and any person who digs or takes any oysters from any flats or creeks described in any license granted under the provisions of section sixteen of chapter eighty-three of the General Statutes, during the continuance of such license, without the consent of the person so licensed, shall be punished by a fine not more than one hundred dollars, or imprisonment in the house of correction not less than thirty days

nor more than six months, or by both said fine and imprisonment. One half of said fine shall be paid to the complainant and the other to the county within whose jurisdiction the offence was committed.

SECT. 3. This act shall take effect on the first day of June next. — [April 24, 1878.

[P. S. 91, §§ 100, 101.]

[Sp. Laws, vol. 1, p. 191.]

AN ACT to preserve the Eel Fisheries in Ipswich River and its Tributaries in the Town of Ipswich.

1878, 202. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes, catches or destroys any eels in Ipswich River or its tributaries, in the town of Ipswich in the county of Essex, in any other manner than by spear, or hook and line, shall forfeit for every eel so taken, caught or destroyed, not less than one dollar nor more than five dollars; one-half of said fine to be paid to the complainant.

SECT. 2. All fines or penalties for violating this act, with costs, may be recovered by complaint or action of tort in any court of competent jurisdiction.

SECT. 3. This act shall take effect upon its passage. — [April 29, 1878.

[Sp. Laws, vol. 1, p. 296; 1874, 144.]

AN ACT to further regulate fishing in the Connecticut River.

1878, 224. *Be it enacted, etc., as follows:* SECT. 1. Section three of chapter one hundred and forty-four of the acts of the year eighteen hundred and seventy-four, is hereby amended by striking out the word "four," where it first occurs in said section, and inserting in lieu thereof the word "two."

SECT. 2. Whoever takes or catches any fish beyond two hundred yards and within four hundred yards of any fish-way now built, or hereafter to be built on the Connecticut River or its tributaries lying within this Commonwealth in any other manner than by naturally or artificially baited hooks and line, shall forfeit for each fish so taken or caught the sum of twenty-five dollars.

SECT. 3. The limitation of time for catching black bass in the Connecticut River or its tributaries, in this state, shall hereafter be the same as that now fixed, or which shall hereafter be prescribed by the legislature of Connecticut for taking black bass in said river in that state.

SECT. 4. This act shall take effect upon its passage. — [May 3, 1878.

[P. S. 91, §§ 34, 56.]

1879.

AN ACT to establish an Alewife Fishery in Eastham.

1879, 45. *Be it enacted, etc., as follows:* **SECT. 1.** The town of Eastham is hereby authorized to make the necessary improvements for the preservation and taking of alewives in the Great Pond, so called, in the town of Eastham and the waters connected therewith and the outlet therefrom to the sea, and may take land and do all acts necessary for the purpose of establishing, protecting and regulating an alewife fishery in said waters.

SECT. 2. The said town of Eastham shall be liable to pay all damages that shall be sustained in any way by any persons in their property, in carrying into effect this act. If any person sustaining damage as aforesaid, shall not agree with the selectmen of the town upon the amount of damage to be paid therefor, he may have his damage assessed and paid in the manner provided by law in respect to land taken for highways.

SECT. 3. Any fishery so created shall be deemed to be the property of said town of Eastham, and said town may make any proper regulations concerning the same, and may lease such fishery for a period not exceeding five years, upon such terms as may be agreed upon between said town and the lessees of the same.

SECT. 4. No persons without the permission of said town or of the lessees of said fishery shall take, kill or haul on shore any alewives in the fishery so created by the town.

SECT. 5. Whoever violates any of the provisions of this act or any of the regulations of the town regarding said fishery shall forfeit and pay a sum not less than five nor more than fifty dollars for each offence, to be recovered by prosecution before any court in the county of Barnstable competent to try the same. Said forfeiture shall accrue to the benefit of the inhabitants of the town.

SECT. 6. All prosecutions under the preceding section shall be instituted within thirty days from the time the offence was committed.

SECT. 7. This act shall take effect upon its passage. — [February 21, 1879.]

[Sp. Laws, vol. 1, p. 269; 1872, 229.]

AN ACT to protect the Eel Fisheries in North River and its Tributaries in the County of Plymouth.

1879, 47. *Be it enacted, etc., as follows:* **SECT. 1.** Whoever takes, catches or destroys any eels in North River or its tributaries, in the county of Plymouth, in any other manner than by spear, or hook and line, shall forfeit for every eel so taken, caught or destroyed, not less than one dollar nor more than five dollars; a half of said fine to be paid to the complainant.

SECT. 2. Whoever wilfully places any obstruction, or otherwise interferes with the free passage of eels in said river or its tributaries, shall forfeit a sum not less than fifty nor more than one hundred dollars for each offence.

SECT. 3. All fines or penalties for violating this act, with costs, may be recovered by complaint or action of tort in any court of competent jurisdiction.

SECT. 4. This act shall take effect upon its passage. — [February 21, 1879.

[Sp. Laws, vol. 3, p. 98.]

AN ACT to amend Chapter forty of the Acts of the year eighteen hundred and three relative to the privilege of taking certain Fish in Mystic River in Medford.

1879, 65. *Be it enacted, etc., as follows:* SECT. 1. Section three of chapter forty of the acts of the year eighteen hundred and three is hereby amended by striking out the word "freeholders," in the third line of said section, and inserting in place thereof the word "inhabitants."

SECT. 2. This act shall take effect upon its passage. — [February 27, 1879.

[Sp. Laws, vol. 1, p. 422, 1855, 401.]

AN ACT for the better protection of the Shad and Alewife Fishery in Taunton Great River.

1879, 83. *Be it enacted, etc., as follows:* Any person who shall wilfully drive or stick any stake in or upon any fishing ground or privilege duly located in Taunton Great River, or who shall, by throwing into the waters thereof any substance or thing, or in any other manner, prevent, obstruct or impede any purchaser or purchasers of such ground or privilege or their agents from seining or fishing thereon at such time and manner as provided by law, shall for each offence be punished by a fine not exceeding ten dollars. — [February 28, 1879.

AN ACT to amend Chapter eighty-three of the General Statutes regulating the taking of Shell-fish.

1879, 105. *Be it enacted, etc., as follows:* Section twelve of chapter eighty-three of the General Statutes is hereby amended by adding thereto at the end thereof after the word "annually," the words "not exceeding in any week the quantity of two bushels including shells." — [March 12, 1879.

[P. S. 91, § 94.]

AN ACT regulating the taking of Perch in the town of Plymouth.

1879, 110. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes or catches any white or red perch, except with naturally or

artificially baited hooks and lines, in any of the ponds or streams within the limits of the town of Plymouth, shall for each offence forfeit not less than two nor more than twenty dollars.

SECT. 2. This act shall take effect upon its passage. — [March 12, 1879.

AN ACT for the protection of the Fisheries of Mill River and its Tributaries in the town of Essex.

1879, 119. *Be it enacted, etc., as follows:* SECT. 1. The owners and proprietors of dams on Mill River or Brook, in the town of Essex, are hereby required to erect and maintain fishways over or around said dams, and they shall be subject to all the powers given to the commissioners on inland fisheries under the laws of the Commonwealth.

SECT. 2. No person shall take, catch, or cause to be taken or caught, by any means whatsoever, in said river or its tributaries, or the ponds and connecting streams out of which said river and tributaries flow, any of the fish called alewives or shad, nor any land-locked salmon in said ponds and connecting streams, until the first day of May in the year eighteen hundred and eighty-four.

SECT. 3. The inhabitants of the town of Essex may make all proper regulations concerning said fisheries in said Mill River and its tributaries, within said town of Essex, provided they do not conflict with the general laws relating to inland fisheries.

SECT. 4. Any person offending against any of the provisions of this act shall forfeit for each offence a sum not less than five nor more than thirty dollars, and shall be subject to all further penalties in such cases as is by law made and provided. — [March 13, 1879.

AN ACT for the protection of the Eel Fisheries in the town of Edgartown.

1879, 122. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes, catches, or destroys any eels in any of the ponds or streams within the town of Edgartown in any other manner than by pots, spear, hand net, or hook and line, shall forfeit for every eel so taken, caught or destroyed, not less than one dollar nor more than five dollars; a half of said fine to be paid to the complainant.

SECT. 2. All fines and penalties for violating this act, with costs, may be recovered, by complaint or action of tort, in any court of competent jurisdiction.

SECT. 3. This act shall take effect upon its passage. — [March 20, 1879.

AN ACT for the better protection of the Fishery of the Nine Mile Pond Fishing Company.

1879, 137. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes or catches any alewives in Centreville River, so called, in the

town of Barnstable, between that part of said river where the mouth of the canal of the Nine Mile Pond Fishing Company opens into the same, and a point fifteen rods above said mouth, shall forfeit and pay a fine of not less than five, nor more than fifty dollars for each offence.

SECT. 2. Nothing herein contained shall be construed to authorize the taking of alewives by any person between said mouth of said canal and tide water.

SECT. 3. This act shall take effect upon its passage. — [March 21, 1879.

AN ACT to amend chapter forty-nine of the General Statutes, relating to the Inspection and Packing of Fish.

1879, 171. *Be it enacted, etc., as follows:* SECT. 1. Section thirty-six of chapter forty-nine of the General Statutes is hereby amended by striking out all after the words "in half barrels containing each one hundred pounds" in the ninth and tenth lines and before the words "every cask" in the thirteenth line, and inserting the following words: "or in packages containing each less than one hundred pounds, on which the number of pounds therein shall be plainly and legibly branded."

SECT. 2. Section forty-seven of said chapter is hereby amended by adding after the words "half barrel" the words "and all packages less than one hundred pounds or more than fifty pounds, one-half cent, and on all packages of fifty pounds and less, one quarter of a cent each."

SECT. 3. The inspector-general of fish or some one deputy especially thereto authorized by him for that purpose, shall have the right to enter at all reasonable times, upon any wharf, and into any store, warehouse or other place, where the packing of pickled fish is carried on in this state, for the purpose of inspecting, examining and supervising the packing and inspecting of such fish, and to examine and weigh any packages of such fish, for the purpose of ascertaining if the same are fit for exportation, in accordance with the requirements of the law.

SECT. 4. Sections forty and forty-one of said chapter are hereby repealed.

SECT. 5. This act shall take effect upon its passage. — [April 1, 1879.

[P. S. 56, § 25.]

RESOLVES concerning the Fishery Clauses of the Treaty of Washington.

1879, Res. 11. *Resolved,* That justice to the fishermen and to the fishing interests of the country requires that articles eighteen and twenty-one of the treaty concluded between the United States and the government of Great Britain on the eighth day of May, A. D.

eighteen hundred seventy-one, should be terminated at the earliest possible period.

Resolved, That a copy hereof be sent to each of our Senators and Representatives in Congress. — [February 27, 1879.]

1880.

AN ACT to regulate Fishing in certain waters by Fish Pounds and other fixed apparatus.

1880, 61. *Be it enacted, etc., as follows*: **SECT. 1.** From the first day of May to the fifteenth day of June in each year no person shall set, or permit to remain set, any fish pound, weir, trap, fyke or other similar fixed apparatus for catching fish, except gill nets, between the hours of six o'clock on Saturday morning and six o'clock on the succeeding Sunday evening, so as to catch any fish, in the tidal waters of the county of Dukes County and of the county of Bristol and of the towns of Mattapoisett, Marion and Wareham in the county of Plymouth, and in the tidal waters on the westerly boundaries of the towns of Sandwich and Falmouth at and near Buzzard's Bay, and on that portion of the southerly boundary of the county of Barnstable extending from the south-westerly corner of the town of Falmouth easterly to Point Gammon in the town of Yarmouth.

SECT. 2. Whoever by himself or by his servants or agents, or as the servant or agent of another, violates any of the provisions of this act, shall be punished by a fine of not more than two hundred dollars nor less than one hundred dollars.

SECT. 3. One-half of the penalty paid on conviction shall be for the use of the person commencing the prosecution whether by complaint or indictment.

SECT. 4. All prosecutions under this act shall be commenced within three months after the offence committed and not afterwards.

SECT. 5. The provisions of this act shall not be construed so as to permit fishing with such fixed apparatus where it is now forbidden by law. — [March 5, 1880.]

[P. S. 91, §§ 76-78, 104.]

AN ACT to regulate the Taking of Salmon in this Commonwealth.

1880, 68. *Be it enacted, etc., as follows*: **SECT. 1.** Whoever takes or catches any salmon in any of the waters of this Commonwealth for a period of two years from and after the first day of April in the year eighteen hundred and eighty shall be punished for each offence by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the House of Correction not less than two nor more than six months: *provided*, that any one catching salmon when lawfully fishing, and immediately returning them alive to the waters whence taken, shall not be subject to the penalty provided in this section.

SECT. 2. Except as provided in the last clause of the preceding section, whoever takes or catches any salmon at any time in any of the waters of this Commonwealth, except with naturally or artificially baited hook and hand line, shall be punished, for each fish so taken or caught, by a fine of not less than fifty nor more than two hundred dollars. — [March 8, 1880.

[P. S. 91, §§ 45, 46.]

AN ACT relating to Salmon Trout.

1880, 86. *Be it enacted, etc., as follows:* SECT. 1. The provisions of chapter two hundred and twenty-one of the acts of the year eighteen hundred and seventy-six shall not apply to the species of fish known as salmon trout, provided the same have not been taken in any of the waters of this Commonwealth.

SECT. 2. This act shall take effect upon its passage. — [March 11, 1880.

[P. S. 91, § 53.]

[1875, 115.]

AN ACT to repeal section one of Chapter one hundred and fifteen of the Acts of the year eighteen hundred and seventy-five relating to the Leasing of Great Ponds in the county of Dukes County.

1880, 89. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter one hundred and fifteen of the acts of the year eighteen hundred and seventy-five relating to the leasing of great ponds in the county of Dukes County is hereby repealed.

SECT. 2. This act shall take effect upon its passage. — [March 12, 1880.

[P. S. 91, § 12.]

[1815, 83; 1849, 37.]

AN ACT to authorize the towns of Dennis and Yarmouth to regulate the Salmon and Trout Fishery in Bass River.

1880, 122. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter thirty-seven of the acts of the year eighteen hundred and forty-nine, entitled "An Act to authorize the towns of Dennis and Yarmouth to regulate the fisheries in Bass River," is hereby amended by inserting after the words "herrings or alewives and perch," the words "salmon and trout;" and after the words "Bass River," the words "at the mouth thereof;" and section four of said chapter is hereby amended by inserting after the words "herrings, alewives or perch," the words "or salmon or trout," and by striking out of the last line of said section four the word "twenty," and inserting in lieu thereof the word "forty."

SECT. 2. This act shall take effect upon its passage. — [March 19, 1880.

AN ACT to authorize the Selectmen of Towns and the Boards of Mayor and Aldermen of Cities in the Commonwealth to control certain Fisheries within said towns and cities.

1880, 200. *Be it enacted, etc., as follows:* SECT. 1. The selectmen of all towns and the board of mayor and aldermen of cities within the Commonwealth shall have full power when so instructed by said towns and cities to control and regulate the taking of eels, clams, quahaugs and scallops within their respective towns and cities, including ponds which are now or may hereafter be leased by the fish commissioners under chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine; and may grant permits prescribing the times and methods of taking eels and the shell fish above named within their said towns and cities, and may make such other regulations in regard to said fisheries as they may deem wise and expedient. But the inhabitants of any city or town, without such permit, may take from the waters of their own or other cities and towns, eels and the shell fish above named for their own family use; and from the waters of their own towns they may take any of the shell fish above named for bait, not exceeding three bushels, including shells, in any one day, but subject nevertheless to the general rules prescribed by the selectmen of towns and the boards of mayor and aldermen in cities as to the times and methods of taking said fish.

SECT. 2. Whoever takes any eels or any of the shell fish mentioned in the preceding section without such permit, and in violation of this act, shall on conviction pay a fine of not less than three nor more than fifty dollars and costs of prosecution; said fine and forfeiture imposed under this act to be recovered by indictment or complaint before any trial justice or any court of competent jurisdiction within either of said counties.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 4. This act shall take effect upon its passage. — [April 17, 1880.

[P. S. 91, §§ 68, 69.]

1881.

AN ACT to amend section one of Chapter one hundred and four of the Acts of the year eighteen hundred and seventy-six, relating to certain Returns to the Commissioners on Inland Fisheries.

1881, 28. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter one hundred and four of the acts of the year eighteen hundred and seventy-six, is hereby amended by striking out the word "first," before the word "day," in the sixth line in said section, and inserting the word "twentieth."

SECT. 2. This act shall take effect upon its passage. — [February 23, 1881.]

[P. S. 91, § 73.]

[1860, 91.]

AN ACT to amend "An Act to incorporate the Nine-Mile Pond Fishing Company."

1881, 32. *Be it enacted, etc., as follows:* SECT. 1. Chapter ninety-one of the acts of the year one thousand eight hundred and sixty, entitled "An Act to incorporate the Nine-Mile Pond Fishing Company," is amended in the sixth line of section two by inserting after the word "outlet," the words "or the stream leading from said outlet to the sea."

SECT. 2. The rights of riparian owners shall not be affected by this act.

SECT. 3. This act shall take effect upon its passage. — [February 23, 1881.]

[1872, 229; 1876, 103.]

AN ACT to regulate the taking of Fish in North River in the County of Plymouth.

1881, 44. *Be it enacted, etc., as follows:* SECT. 1. The inhabitants of the town of Pembroke are hereby permitted to take fish at the weir where they have usually caught them, on the North River, so called, or stream leading to the Indian Ponds, so called, in said town, on any secular day of the week, and at any hour of the day, and at no other time.

SECT. 2. No person or persons shall take fish from the stream leading from said North River to the said Indian Ponds, or streams tributary to the North River, excepting at the weir above mentioned, at any time between the tenth day of April and the fifteenth day of May inclusive, of each year.

SECT. 3. The selectmen or committee for the time being, of the town of Pembroke, shall, from the first running of alewives, after the tenth day of April in each year, take and deposit alive, in good condition, in Indian Ponds in said Pembroke, not less than ten thousand alewives, so they may cast their spawn in said ponds; and the expense of the same shall be borne in equal shares by the towns of Pembroke, Marshfield, Scituate and South Scituate, and said towns are hereby permitted to raise money for the same.

SECT. 4. It shall be lawful for the inhabitants of the several towns on North River to take fish on Mondays, Wednesdays and Fridays of each week, from April first to June first inclusive, of each year, with ten seines only in the manner following, to wit: The towns of South Scituate, Scituate and Pembroke shall each have the right of disposing at public auction for their own benefit, of the privilege of catching fish with two seines only, and the town of Marshfield the

right of disposing at public auction for their own benefit, of the privilege of catching fish with four seines only, in the river aforesaid.

SECT. 5. It shall be lawful for the inhabitants of the town of Hanson to take fish from Indian Head River on Mondays, Wednesdays and Fridays of each week, from April first to June first inclusive, of each year: *provided*, said inhabitants shall not be allowed to take fish at any time from said Indian Head River within eighty rods of the mouth of said river.

SECT. 6. Any person or persons who may by seine or mesh net take fish from the said North River, except such persons as have authority under this act, shall be punished for each offence by a fine not less than twenty-five nor more than one hundred dollars, or by imprisonment in the house of correction not less than one nor more than three months.

SECT. 7. Chapter two hundred and twenty-nine of the acts of the year eighteen hundred and seventy-two, and all other acts and parts of acts inconsistent with this act, are hereby repealed.

SECT. 8. This act shall take effect upon its passage. — [March 2, 1881.

[1883, 76; 1886, 163.]

[1842, 75.]

AN ACT to amend the "Act to incorporate the Long Pond Fishing Company in Yarmouth."

1881, 46. *Be it enacted, etc., as follows:* SECT. 1. The act to incorporate the Long Pond Fishing Company in Yarmouth, being chapter seventy-five of the acts of the year eighteen hundred and forty-two, is hereby amended as follows:—In the first section, seventh line, after the word, "alewife," insert the words "and white perch." In the second section, second line, after the word "alewives," insert the words "or white perch;" after the word "ponds," in the third line of said section, insert the words "or Parker's River;" after the words "so made," in said line, the words "or within five hundred yards from the mouth of said river;" and in the fifth line of said section, strike out the word "two," and insert in lieu thereof the word "twenty;" and in the eighth line of said section, strike out the word "five," and insert the word "fifty."

SECT. 2. The right of riparian owners shall not be affected by this act.

SECT. 3. This act shall take effect upon its passage. — [March 2, 1881.

[Sp. Laws, vol. 1, p. 296.]

AN ACT to amend the law regulating Fishing in Connecticut River and its tributaries.

1881, 47. *Be it enacted, etc., as follows:* SECT. 1. Any person who shall take or aid or assist in taking from the Connecticut River

or any of its tributaries, within the limits of this Commonwealth, any shad or alewives at any other time than between the fifteenth day of March and the first day of July in each year, shall forfeit and pay for each offence the sum of one hundred dollars.

SECT. 2. Section three of chapter seventy-six of the acts of the year eighteen hundred and sixty-nine is hereby amended by striking out the words "fifteenth day of June in each year, the meshes whereof are less than five," in the eighteenth and nineteenth lines, and inserting the words "first day of July in each year, the meshes whereof are less than two," in place thereof.

SECT. 3. Chapter three hundred and sixty-nine of the acts of the year eighteen hundred and seventy, and all acts and parts of acts inconsistent with this act, are hereby repealed.

SECT. 4. This act shall take effect upon its passage. — [March 2, 1881.

[P. S. 91, §§ 32, 40.]

AN ACT authorizing the ditching of South Beach in Edgartown, adjacent to Great Pond, and relative to the Fisheries in said pond.

1881, 75. *Be it enacted, etc., as follows:* SECT. 1. The lessees holding from the commissioners of inland fisheries a lease of Great Pond and Job's Neck Pond in the town of Edgartown, may, with the permission of the owners of the land, cut through the beach known as the South Beach, lying between the waters of Great Pond and the ocean, and maintain ditches and dams to regulate the flow of water between said pond and the ocean.

SECT. 2. Commissioners may be appointed, who shall be disinterested persons, in accordance with the provisions of section three of chapter one hundred and forty-eight of the General Statutes, who shall have all the powers conferred by said chapter and the acts in amendment thereof and in addition thereto, during and after the termination of said lease, notwithstanding any previous right of fishery. Said commissioners may direct and control the opening and closing of the channel across said beach, and the exercise of all rights conferred by the preceding section of this act.

SECT. 3. Said lessees shall have the right of fishery in said Great Pond according to the terms of their lease, under the laws limiting and defining the rights of such lessees, notwithstanding any statutes heretofore in force specially regulating the fisheries in said pond.

SECT. 4. This act shall take effect upon its passage. — [March 8, 1881.

[Sp. Laws, vol. 1, pp. 272, 296.]

AN ACT relative to the taking of Fish from the Merrimack and Connecticut Rivers and their tributaries.

1881, 103. *Be it enacted, etc., as follows:* SECT. 1. Nothing in the provisions of chapter two hundred of the acts of the year eighteen hundred and eighty shall be construed as giving authority to take or catch fish of any kind within four hundred yards of any fishway on the Merrimack River or its tributaries, or within two hundred yards of any fishway on the Connecticut River or its tributaries, lying within this Commonwealth.

SECT. 2. This act shall take effect upon its passage. — [March 17, 1881.

[P. S. 91, § 68.]

[Sp. Laws, vol. 1, p. 272.]

AN ACT to regulate Fishing in the Merrimack River.

1881, 104. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes or catches any shad or alewives in any part of the Merrimack River, or its tributaries, lying within this Commonwealth, except between sunrise on Monday morning and sunrise on Friday morning, of each week, from the first day of March to the last day of May, inclusive, in each year, shall forfeit for each alewife so taken a sum not less than one dollar nor more than five dollars, and for each shad so taken a sum not less than five nor more than twenty dollars.

SECT. 2. Whoever uses a net of any kind or description in the waters of the Merrimack River, or its tributaries, lying within this Commonwealth, from the first day of June in each year to the last day of February in the year next succeeding, inclusive, shall forfeit for each offence the sum of twenty-five dollars.

SECT. 3. Section one of chapter one hundred and forty-four of the acts of the year eighteen hundred and seventy-four is hereby repealed.

SECT. 4. This act shall take effect upon its passage. — [March 17, 1881.

[P. S. 91, §§ 33, 36.]

AN ACT to incorporate the Sesuet Cranberry Company.

1881, 301. *Be it enacted, etc., as follows:* * * * *

SECT. 3. Said corporation shall provide, for the passage of the fish of the Flax Pond Fishing Company, a fishway to be constructed and regulated as the commissioners of inland fisheries may direct. — [May 13, 1881.

[Accepted May 27, 1881.]

PUBLIC STATUTES, Chap. 91.
Of Inland Fisheries and Kelp.

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SECTION

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46. Penalty for taking salmon after said date, except with hook and line.
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48. for taking fish, except with hook and line.
49. Guardian responsible, if minor takes trout, except, etc., when.
50. Prosecutions under preceding section limited.
51. Penalty for taking trout, etc., between certain dates.
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53. for selling, etc., trout, etc., between certain dates.
54. Town officers to see to enforcement of preceding section.
55. Penalty for taking shad, etc., except, etc.
56. for taking black bass, except, etc.
57. for selling, etc., smelts between certain dates, etc.
58. for taking smelts except with hook and line.
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61. Forfeiture of boat and apparatus, when.
62. Keepers of fish-markets, etc., to give information of unlawful taking. Penalty.
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64. shall own such fisheries.
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69. Penalties.
70. Town officers may authorize fish-weirs.
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SECTION

73. Owners of fish-weirs, etc., to make returns of fish caught.
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76. Prohibition of fish-weirs, etc., in certain waters between certain dates.
77. Penalty.
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80. Seines, etc., so used declared nuisances.
81. Penalty for taking lobsters between certain dates.
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87. Boundaries defined.
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SECTION

90. Penalty.
91. Boundaries defined.
92. Penalty for taking too many lobsters, etc., in Buzzard's Bay.
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94. Selectmen may give permits to take oysters.
95. Penalty for taking other shell-fish, except, etc.
96. Indians not included in prohibition.
97. Town officers may grant licenses.
98. Boundaries to be defined.
99. Rights of persons licensed.
100. Oysters not to be taken between sunset and sunrise.
101. Penalty for taking oysters from licensed flats without permission.
102. No shell-fish, except, etc., to be taken in Chatham, etc.
103. Prosecutions under this chapter limited.
104. Disposition of penalties.
105. Special laws not to be deemed repealed, etc.

KELP AND SEAWEED.

106. Kelp, etc., adrift.

SECTION 1. All laws relating to the culture, preservation, capture, or passage of fish shall be known as the laws relating to inland fisheries.

SECT. 2. There shall be a board of commissioners on inland fisheries, consisting of three persons appointed by the governor by and with the consent of the council, each for the term of five years from the time of his appointment. The present members shall continue to hold their offices during the terms for which they were appointed. Any member of the board shall be removable at the pleasure of the governor. Vacancies in the board by the expiration of the terms of service or otherwise shall, from time to time, be filled in like manner and for like terms of time.

SECT. 3. Each of the commissioners may, personally or by deputy, enforce all laws regulating inland fisheries; and may seize and remove, summarily if need be, all illegal obstructions to the passage of migratory fish, except dams, mills, or machinery, at the expense of the persons using or maintaining the same.

SECT. 4. The commissioners may examine all dams upon rivers where the law requires fishways to be maintained, and shall determine whether the fishways, if any, are suitable and sufficient for the passage of the fish in such rivers; and shall prescribe by an order in writing what changes or repairs, if any, shall be made therein, and at what times the same shall be kept open, and give notice to the owners of the dams accordingly.

SECT. 5. Such notice shall be given to the proprietors of dams upon the Connecticut and Merrimack Rivers and their tributaries by serving upon them a copy of the order; and a certificate of the commissioners that such service has been made shall be deemed sufficient proof thereof.

SECT. 6. Any owner of such a dam who refuses or neglects to keep open or maintain a fishway at the times prescribed by the commissioners shall forfeit fifty dollars for each day of such refusal or neglect.

SECT. 7. When either of the commissioners finds that there is no fishway or an insufficient fishway in or around a dam where the law requires a fishway to be maintained, he may, in his discretion, enter with workmen and materials upon the premises of the person required to maintain a fishway there, and may at such person's expense improve an existing fishway, or cause one to be constructed if none exists, and may take, if necessary, the land of any other person not obliged by law to maintain said fishway; and when a fishway has been constructed in accordance with the provisions of this section, the commissioners shall not require the owner of the dam to alter the same within five years from the completion thereof.

SECT. 8. The commonwealth shall pay all damages occasioned by taking land as provided in the preceding section, and such damages shall upon the application of either party be estimated in the manner provided in relation to land taken for highways; and said expense shall be a charge against the person required by law to construct and maintain such fishway, to be recovered in an action of contract in the name of the commonwealth, with costs and interest at the rate of twelve per cent. per annum.

SECT. 9. Each of the commissioners may, in the discharge of his duties, enter upon and pass through or over private property without rendering himself liable in an action for trespass.

SECT. 10. The riparian proprietors of any pond, the area of which is not more than twenty acres, and the proprietors of any pond or parts of a pond created by artificial flowing, shall have exclusive control of the fisheries therein existing. 1869, 384, §§ 7, 12. 119 Mass. 300.

SECT. 11. The fishery of any pond, the area of which is more than twenty acres, shall be public, except as hereinafter provided; and all persons shall, for the purpose of fishing, be allowed reasonable means of access to the same, without rendering themselves liable to an action for trespass.

SECT. 12. The commissioners, or any two of them, may, in the name of the commonwealth, lease any great pond, exceeding twenty acres in area, for the purpose of cultivating useful fishes, for such periods of time and on such terms and conditions as may seem to

them most for the public good; and the lessee of such pond may occupy a portion not exceeding one-tenth part thereof with enclosures and appliances for the cultivation of useful fishes; but this shall not affect any public rights to such pond, other than the right of fishing; and the appliances and enclosures used by the lessee shall be so placed as not to debar ingress to or egress from such pond at proper places. 1885, 100.

SECT. 13. Before making such lease, the commissioners shall appoint a time and place for a hearing upon the application therefor, and shall give notice thereof to every city or town within whose limits any part of the pond lies. 1873, 195, § 1.

SECT. 14. A city or town, either alone or with another city or town, may, for the purpose of cultivating useful fishes, and under such conditions and restrictions as the commissioners may prescribe, take a lease of a great pond situated either wholly or partly within its limits, and may appropriate money therefor.

SECT. 15. The commissioners may fix the limits of any great pond heretofore leased or hereafter to be leased by them, and determine what arms, coves, or bays shall be regarded as a part thereof; which limits, being recorded in the registry of deeds for the county or district where such pond lies, shall be taken to be the legal limits thereof for all the purposes of this chapter. The expense of fixing and recording such limits shall be paid by the lessee.

SECT. 16. The commissioners shall have the custody of all such leases, and may cause any agreements, rights, reservations, forfeitures, and conditions therein contained to be enforced, and for that purpose may institute proceedings in the name of the commonwealth, and may take possession of any premises for breach of condition of such lease, and after revesting the commonwealth therewith may again lease the same. 1886, 248.

SECT. 17. The commissioners may occupy, manage, and control any great ponds, not exceeding six in number, and not leased by them, for the purpose of cultivating useful fishes, and of distributing the same within the commonwealth, subject to the restrictions and limitations contained in section twelve.

SECT. 18. When the commissioners determine so to occupy and improve any such pond, they shall post a notice of such purpose in some public place in the town or towns in which said pond is situated, and shall file a like notice in the office of the town clerk or clerks of said town or towns, and in the office of the secretary of the commonwealth; and the affidavit of an officer qualified to serve civil process that such notice has been posted shall be deemed full proof of the same.

SECT. 19. From and after the time when such notice has been so

filed and posted, the commissioners shall have all the rights in respect to such pond which are secured to lessees of ponds from them; and any violation of any of said rights shall be punished as provided in section twenty-seven.

SECT. 20. The commissioners may take or cause to be taken any fish at any time or in any manner for purposes connected with fish culture or scientific observation.

SECT. 21. The county commissioners for each county shall, upon the request and at the expense of any party claiming to be interested in any great pond, cause the same to be measured in the month of July, and such measurement when determined shall be recorded in the town clerk's office of each town within which such pond is situated; and no arm or branch shall be included as a part of a pond, unless it is at least fifty feet in width and one foot in depth.

SECT. 22. The selectmen of a town may measure ponds wholly within the town in the manner provided in the preceding section, and such measurement shall be recorded in the town clerk's office.

SECT. 23. A pond not more than twenty acres in area, bounded in part by land belonging to a town or county, shall only become the exclusive property of the individual proprietors as to the fisheries therein upon payment to the town treasurer, county commissioners, or state treasurer, of a just compensation for their respective rights therein, to be determined by a board of three persons, one of whom shall be one of the riparian proprietors of said pond, one the chairman of the board of selectmen, if the rights of a town are in question; or of the county commissioners, if the rights of a county or the commonwealth are in question, and one to be appointed by the commissioners on inland fisheries.

SECT. 24. Whoever without the written consent of the proprietor or lessee of a natural pond, the area of which is not more than twenty acres, or of an artificial pond of any size, in which fish are lawfully cultivated or maintained, takes any fish therefrom, shall forfeit a sum not exceeding twenty-five dollars for every such offence.

SECT. 25. A riparian proprietor may, within the limits of his own premises, enclose the waters of a stream not navigable, for the cultivation of useful fishes: *provided*, he furnishes a suitable passage for migratory fishes naturally frequenting such waters.

SECT. 26. Fishes artificially propagated or maintained shall be the property of the person propagating or maintaining them; and a person legally engaged in their culture and maintenance may take them in his own waters at pleasure, and may have them in his possession for purposes properly connected with said culture and maintenance, and may at all times sell them for these purposes, but shall not sell them for food at seasons when their capture is prohibited by law.

SECT. 27. Whoever without the permission of the proprietors fishes in that portion of a pond, stream, or other water in which fishes are lawfully cultivated or maintained, shall forfeit not less than one dollar nor more than twenty dollars for the first offence, and not less than five nor more than fifty dollars for any subsequent offence.

SECT. 28. For the purposes of this chapter, no tidal stream shall be considered navigable above the point where, on the average throughout the year, it has a channel less than forty feet wide and four feet deep during the three hours nearest the hour of high tide.

SECT. 29. The governor, with the advice and consent of the council, may, for the purposes of this chapter, arbitrarily fix and define the tidal bounds and mouths of streams upon recommendation of the commissioners on inland fisheries. 1869, 384, § 17.

SECT. 30. The governor may in like manner limit or prohibit, for a period not exceeding five years at a time, fishing in the navigable tidal waters and in the unnavigable waters of specified streams, except in such portions as may be enclosed according to provisions of section twenty-five; and whoever fishes in streams where the right of fishing is thus limited or prohibited shall forfeit for the first offence ten dollars, and for every subsequent offence fifty dollars, and shall in addition forfeit all fish taken and apparatus used.

SECT. 31. The owner of an unnavigable tidal stream, where the same empties into salt water, and in which fishes are lawfully cultivated or maintained, shall have the control of the fishery thereof within his own premises, and also beyond and around the mouth of the stream so far as the tide ebbs, provided it does not ebb more than eighty rods; and whoever fishes within these limits without permission of such owner shall forfeit not less than one dollar nor more than twenty dollars for the first offence, and not less than five nor more than fifty dollars for any subsequent offence; and shall in addition forfeit any boat and apparatus used in such illegal fishing.

SECT. 32. Whoever takes or aids in taking from the Connecticut River or its tributaries any shad or alewives between the first day of July and the fifteenth day of March shall forfeit one hundred dollars for each offence.

SECT. 33. Whoever takes any shad or alewives in any part of the Merrimack River or any tributary thereof, except between sunrise on Monday morning and sunrise on Friday morning, from the first day of March to the thirty-first day of May, shall forfeit for each alewife so taken not less than one dollar nor more than five dollars, and for each shad so taken not less than five nor more than twenty dollars.

SECT. 34. Whoever takes any fish within two hundred yards of any fishway on the Connecticut River or its tributaries, or trespasses within the limits of such fishway, shall forfeit fifty dollars for each offence. And whoever takes any fish beyond two hundred and within four hundred yards of any such fishway, in any other manner than by artificially or naturally baited hook and line, shall forfeit twenty-five dollars for each fish so taken.

SECT. 35. Whoever takes any fish within four hundred yards of any fishway on the Merrimack River, or trespasses within the limits of such fishway, shall forfeit fifty dollars for each offence.

SECT. 36. Whoever from the first day of June to the last day of February inclusive uses a net of any description in the waters of the Merrimack River or any tributary thereof shall forfeit twenty-five dollars for each offence. 1883, 31.

SECT. 37. Whoever uses a gill-net of any description in the waters of the Connecticut or Merrimack River or any tributary thereof shall forfeit twenty-five dollars for each offence. 1874, 144, § 4.

SECT. 38. Whoever takes any fish in violation of section thirty-three, thirty-four, or thirty-seven, shall, in addition to the penalties therein prescribed, forfeit any boat and apparatus used.

SECT. 39. Whoever uses in the Connecticut, Westfield, Deerfield, Miller's, Merrimack, Nashua, or Housatonic River, or any tributary thereof, a sweep-seine having a mesh which stretches less than five inches, shall forfeit twenty-five dollars for the first offence, and fifty dollars for every subsequent offence; and in addition shall forfeit all fish taken and apparatus used.

SECT. 40. Whoever between the fifteenth day of March and the first day of July sets or uses, or aids in setting or using, in the Connecticut River, a pound, weir, or set net the meshes whereof are less than two inches in extent, or at any time between sunset on Saturday evening and sunrise on Monday morning sets or draws, or aids in setting or drawing, a seine for the purpose of taking fish in said river, and any person owning or controlling in whole or in part a pound, weir, or set net of any description, placed in said river, who between sunset and sunrise as aforesaid fails to keep the same open and free for the passage of fish, in such manner as to satisfy the commissioners of inland fisheries, shall forfeit to the treasurer of the commonwealth four hundred dollars for each offence; and, in addition, such pounds, weirs, and set nets shall be forfeited.

SECT. 41. Whoever uses a sweep-seine or combination of sweep-seines in such a manner as at any moment to close or seriously obstruct more than two-thirds of the width of a stream at the place where it is used, or delays or stops in paying out or hauling a sweep-seine, or hauls a sweep-seine within one-half mile of a point

where such seine has been hauled within an hour, shall forfeit twenty-five dollars for the first offence, and fifty dollars for any subsequent offence, and in addition shall forfeit all fish taken and apparatus used; but this section shall not apply to seines used in the smelt fisheries, or to the fisheries for shad or alewives in the Taunton Great River. 1884, 199.

SECT. 42. The mayor and aldermen of cities and the selectmen of towns bordering on the Connecticut or Merrimack River shall appoint and fix the compensation of one or more suitable persons as fish-wardens within their respective cities and towns, who shall, respectively, make complaint of all offences under sections thirty-two, thirty-five, and forty.

SECT. 43. A city or town whose mayor and aldermen or selectmen neglect to appoint and fix the compensation of one or more such fish-wardens shall forfeit not less than one hundred dollars nor more than five hundred dollars.

SECT. 44. Whoever puts or throws into any waters for the purpose of taking or destroying fish therein any Indian berry or Indian cockle or other poisonous substance, whether the same is mixed with any other substance or not, shall forfeit ten dollars for every such offence.

SECT. 45. Whoever takes a salmon before the second day of April in the year eighteen hundred and eighty-two shall be punished for each offence by fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the house of correction for not less than two nor more than six months; but a person catching a salmon when lawfully fishing, and immediately returning it alive to the waters from which it was taken, shall not be subject to such penalty.

SECT. 46. Except as provided in the last clause of the preceding section, whoever takes a salmon at any time after the time limited in the preceding section otherwise than with naturally or artificially baited hook and hand-line shall be punished by fine of not less than fifty nor more two hundred dollars for each fish so taken.

SECT. 47. Whoever at any time after the first day of April in the year eighteen hundred and eighty-two takes a salmon between the first day of August and the first day of May, and whoever at any time buys, sells, or has in his possession a salmon taken in this commonwealth between the first day of August and the first day of May, shall forfeit for each offence not less than ten nor more than fifty dollars; and whoever at any time buys, sells, or has in his possession a young salmon less than one foot in length shall forfeit five dollars for every such salmon.

SECT. 48. Whoever takes any fish which at any season frequent fresh water, except eels and pickerel, and except as otherwise allowed

in this chapter, in any other manner than by artificially or naturally baited hook and hand-line, hand or dip net, sweep-seine, or salmon-pot, shall forfeit not less than five nor more than fifty dollars: *provided*, however, that towns may permit the use of set nets for taking herring and alewives.

SECT. 49. If a minor takes a trout in any other manner than by hook and line, his guardian shall be liable to a forfeiture of one dollar for each trout so taken; but this section shall not extend to any town unless section two of chapter eighty-three of the General Statutes or this section has been adopted thereby.

SECT. 50. All prosecutions under the preceding section shall be instituted within thirty days from the commission of the offence.

SECT. 51. Whoever takes a trout, land-locked salmon, or lake trout between the first day of October and the first day of April, or buys such fish taken in this commonwealth between said dates, or takes a trout, land-locked salmon, or lake trout with a net or salmon-pot at any season of the year, shall forfeit not less than five nor more than twenty dollars for each fish so taken. 1884, 171.

SECT. 52. Whoever at any time obstructs with a salmon-pot more than one-half of a waterfall, channel, or rapid, or sets, uses, or maintains a salmon-pot the diameter of which is more than two feet, or who, when the taking of salmon is forbidden by law, sets, uses, or maintains any salmon-pot whatever, shall forfeit ten dollars for the first offence, and twenty dollars for every subsequent offence; and in addition shall forfeit all fish taken and the salmon-pot used. 1884, 171.

SECT. 53. Whoever sells, or offers or exposes for sale, or has in his possession, a trout, land-locked salmon, or lake trout, except alive, between the first day of October and the first day of April, shall forfeit for every such fish taken in this commonwealth between said dates ten dollars; and the possession of any such fish between said dates shall be *prima facie* evidence to convict. 1884, 171.

SECT. 54. The mayor and aldermen of every city, the selectmen of every town, and all police officers and constables, shall cause the provisions of the preceding section to be enforced in their respective cities and towns; and all forfeitures and penalties for violations thereof shall be paid one-half to the person making the complaint and one-half to the city or town in which the offence was committed.

SECT. 55. Whoever takes shad or alewives, except in the Connecticut, Taunton Great, Nemasket, and Merrimack Rivers, and their tributaries, in any other manner than by naturally or artificially baited hook and hand-line, on any day of the week but Monday, Wednesday, Friday, and Saturday, and whoever takes shad except in the Connecticut River, or alewives, between the fifteenth day of June

and the first day of March, shall forfeit for each shad five dollars, and for each alewife twenty-five cents.

SECT. 56. Whoever takes a black bass between the first day of December and the first day of July, or at any time except with naturally or artificially baited hook and hand-line, or buys, sells, or has in possession any such fish taken in this commonwealth between said dates, or otherwise than as allowed in this chapter, shall forfeit for each offence not less than two nor more than twenty dollars: *provided*, however, that this limitation of time shall not be applicable to the Connecticut River or its tributaries.

SECT. 57. Whoever sells or offers or exposes for sale or has in his possession a smelt between the fifteenth day of March and the first day of June shall forfeit one dollar for every such smelt taken in this commonwealth between said dates; and the possession of any smelt between said dates shall be *prima facie* evidence to convict.

SECT. 58. Whoever takes a smelt in any other manner than by artificially or naturally baited hook and hand-line shall forfeit one dollar for each smelt so taken; and in all prosecutions under this section the burden of proof shall be upon the defendant to show that smelt or smelts taken by him, the catching of which is complained of, were legally caught.

SECT. 59. The two preceding sections shall not apply to smelts taken in a seine or net, in the counties of Bristol, Barnstable, or Dukes County, during the time and in the manner in which fishing is allowed for perch, herring, or alewives.

SECT. 60. The mayor and aldermen of every city, the selectmen of every town, and all police officers and constables, shall cause the provisions of sections fifty-seven and fifty-eight to be enforced in their respective cities and towns; and all forfeitures and penalties for violations thereof shall be paid one-half to the person making the complaint and one-half to the city or town in which the offence was committed.

SECT. 61. Whoever takes any fish in violation of sections twenty-seven, thirty, forty-seven, forty-eight, fifty-one, fifty-five, fifty-six, and fifty-eight, shall in addition to the penalties therein provided forfeit the boat and apparatus used.

SECT. 62. Every superintendent, clerk, or other person, having charge of a market, provision store, or other place where fish are sold, and having reasonable cause to believe that any fish taken in violation of law has been offered for sale on such premises, shall immediately give information thereof to a constable or trial justice in the city or town where said premises are situated; and for each neglect so to do shall be punished by fine of not less than five nor more than fifty dollars.

SECT. 63. A city or town may open ditches, sluiceways, or canals, into any pond within its limits, for the introduction and propagation of herrings or alewives, and for the creation of fisheries for the same; and the land for opening such ditches, sluiceways, or canals within such city or town may be taken according to the provisions of the statutes which regulate and limit the taking of land for highways.

SECT. 64. A city or town creating such fishery shall own the same, and may make any proper regulations concerning it, and may lease it for a period not exceeding five years, upon such terms as may be agreed upon. And a town may lease for a like period, and upon like terms, any fishery now owned by it, or any public fishery which has heretofore been regulated and controlled by such town.

SECT. 65. Whoever takes, kills, or hauls on shore any herrings or alewives in a fishery created by a city or town, without the permission of such city or town or of its lessees, or in a fishery created by a corporation without the permission of such corporation, shall forfeit not less than five nor more than fifty dollars.

SECT. 66. All prosecutions under the preceding section shall be instituted within thirty days from the commission of the offence.

SECT. 67. Nothing contained in the four preceding sections shall be held to impair the rights of any person under any law passed before the twenty-fifth day of April in the year eighteen hundred and sixty-six, or to deprive any person of any right under any contract then existing, or to authorize a city or town to enter upon or build canals or sluiceways into a pond which is the private property of an individual or corporation.

SECT. 68. The mayor and aldermen of cities and the selectmen of towns, when so instructed by their cities and towns, may control and regulate the taking of eels, clams, quahaugs, and scallops within the same, including ponds which are now or may hereafter be leased by the commissioners; and may grant permits prescribing the times and methods of taking eels and the shell-fish above named within such cities and towns, and make such other regulations in regard to said fisheries as they may deem expedient. But any inhabitant of the commonwealth, without such permit, may take, from the waters of his own or any other city or town, eels and the shell-fish above named for his own family use; and may take from the waters of his own city or town any of the shell-fish above named for bait, not exceeding three bushels, including shells, in any one day, but subject nevertheless to the general rules prescribed by the mayor and aldermen and selectmen respectively as to the times and methods of taking such fish. Nothing herein contained shall be construed as allowing the taking of any kind of fish in violation of section thirty-four or thirty-five.

SECT. 69. Whoever takes any eels or any of said shell-fish without such permit, and in violation of the preceding section, shall forfeit not less than three nor more than fifty dollars.

SECT. 70. The mayor and aldermen of a city and the selectmen of a town lying upon tide water may authorize in writing any person to construct fish-weirs in said waters within the limits of such city or town for a term not exceeding five years: *provided*, such weirs cause no obstruction to navigation, and do not encroach on the rights of other persons.

SECT. 71. Whoever wilfully destroys or injures any such weir, or takes fish therefrom without leave of the owner, shall forfeit a sum not exceeding twenty dollars, to the use of the owner; and shall, moreover, be liable to the party injured in an action at law.

SECT. 72. Whoever constructs or maintains a fish-weir in tide-water without the authority mentioned in section seventy, or from an island in tide-water without authority in writing from the mayor and aldermen of every city and the selectmen of every town distant not over two miles from said island, shall forfeit ten dollars for each day he maintains such weir, to the use of any cities or towns from the mayor and aldermen or selectmen of which he ought to have obtained the authority aforesaid; and he shall also be liable to be indicted therefor, and to be enjoined therefrom.

SECT. 73. The owner of every pound, weir, or other similar fixed contrivance, and of every fishing pier, seine, drag or gill net used for fishing purposes, shall make written report, under oath, to the commissioners, on or before the twentieth day of October in each year, specifying the number of each kind of edible fish caught by his pound, weir, or other similar fixed contrivance, pier, seine, drag or gill net, during the year next preceding the date of said report.

SECT. 74. The commissioners shall furnish to each owner of a pound, weir, or similar fixed contrivance, pier, seine, drag or gill net, on or before the fifteenth day of March in each year, suitable blank forms for the reports required by the preceding section, so arranged that each day's catch may be separately recorded thereon; and in filling out such reports, such owner shall give the results of each day's fishing, so far as practicable. Such owner shall apply to the commissioners for such blank forms.

SECT. 75. Whoever knowingly and wilfully violates any of the provisions of the two preceding sections shall be punished by fine of not less than ten nor more than one hundred dollars.

SECT. 76. From the first day of May to the fifteenth day of June, no person shall set, or permit to remain set, a fish pound, weir, trap, fyke, or other similar fixed apparatus for catching fish, except gill nets, between the hours of six o'clock on Saturday morning and six

o'clock on Sunday evening, so as to catch fish in the tidal waters of the counties of Dukes County or Bristol, of the towns of Mattapoisett, Marion, or Wareham, of the westerly boundaries of Sandwich and Falmouth at and near Buzzard's Bay, or of that portion of the southerly boundary of the county of Barnstable extending from the south-westerly corner of the town of Falmouth easterly to Point Gammon in the town of Yarmouth.

SECT. 77. Whoever violates any of the provisions of the preceding section shall be punished by fine of not less than one hundred nor more than two hundred dollars.

SECT. 78. All prosecutions under section seventy-six shall be commenced within three months after the commission of the offence.

SECT. 79. Whoever draws, sets, stretches, or uses a drag net, set net, purse, or seine, or constructs, maintains, or uses a fish pound, weir, or yard in the waters of Buzzard's Bay northerly of or within a straight line extended from the entrance to the harbor in West Falmouth to Bird Island light, thence in a straight line to Great Neck Point on the Marion shore, or in any bay, cove, inlet, or stream bordering on or flowing into said waters within said limits, or from the twenty-fifth day of March to the fifteenth day of May, in the waters north-westerly of or within a straight line extending from Angelica Point in Mattapoisett to the central point of Ram Island, and thence west in a straight line to the westerly town line of Mattapoisett, or aids in doing so, shall forfeit not less than twenty nor more than one hundred dollars, to the use of any person suing therefor in an action of tort; and shall also be punished by imprisonment in the house of correction not exceeding sixty days, or by fine of not less than ten nor more than one hundred dollars, one-half of which shall be paid to the person making the complaint, and the other half to the county within which the offence was committed; and in addition shall forfeit to the commonwealth all fish taken, and the boat, seine, and other apparatus used. 1886, 192.

SECT. 80. Nets and seines in use, set or stretched and holding fish, in violation of the preceding section, are declared to be common nuisances.

SECT. 81. Whoever from the twentieth day of June to the twentieth day of September takes a lobster shall be punished for each offence by fine of not less than ten nor more than one hundred dollars, or by imprisonment in the house of correction for not less than one nor more than three months; but a person catching a lobster when lawfully fishing, and immediately returning it alive to the waters from which it was taken, shall not be subject to such penalty. 1882, 98.

SECT. 82. Whoever from the twentieth day of June to the twentieth day of September buys, sells, or has in his possession a lobster

taken in this commonwealth, shall forfeit for each offence not less than ten nor more than fifty dollars. 1882, 98.

SECT. 83. The mayor and aldermen of every city, the selectmen of every town, and all police officers and constables, shall cause the provisions of the two preceding sections to be enforced in their respective cities and towns.

SECT. 84. Whoever sells or offers for sale, or has in his possession with intent to sell, either directly or indirectly, a lobster less than ten and one-half inches in length, measuring from one extreme of the body extended to the other, exclusive of claws or feelers, shall forfeit five dollars for every such lobster; and in all prosecutions under this section the possession of any lobster not of the required length shall be prima facie evidence to convict. 1884, 212.

SECT. 85. All forfeitures under the four preceding sections shall be paid, one-half to the person making the complaint, and one-half to the city or town where the offence was committed.

SECT. 86. No person living without this state shall take any lobsters, tautog, bass, or other fish within the harbors, streams, or waters of Fairhaven, New Bedford, Dartmouth, or Westport, for the purpose of carrying them thence in vessels or smacks of any size whatever owned without this state, nor in any of more than fifteen tons burden owned within this state, under a penalty of ten dollars for every offence, and a forfeiture of all fish and lobsters so taken.

SECT. 87. For the purposes of the preceding section, the waters and shores of the places therein mentioned shall be deemed to extend from the line of the state of Rhode Island to the line of the county of Plymouth, and to include all the waters, islands, and rocks lying within one mile of the main land.

SECT. 88. If, within the harbors, streams, or waters of any place on the sea-coast which adopts this section, or has adopted the corresponding sections of earlier statutes, any person living without the state takes, for the purpose of carrying thence, any lobsters, tautog, bass, blue fish, or scuppaug, or if any person living within this state takes and carries away from such place any such fish or lobsters in vessels or smacks of more than fifteen tons burden, he shall forfeit for each offence a sum not exceeding twenty dollars, and all the fish and lobsters so taken.

SECT. 89. No person shall take lobsters within the waters and shores of the town of Provincetown for the purpose of carrying them from said waters in a vessel or smack of more than fifteen tons burden, or for the purpose of putting the same on board of such vessel or smack to be transported to any place, unless a permit is first obtained therefor from the selectmen of said town, who may grant the

same for such sum, to be paid to the use of the town, as they shall deem proper.

SECT. 90. Whoever violates the provisions of the preceding section shall forfeit ten dollars for each offence; and if the number of lobsters so unlawfully taken or found on board of any such vessel or smack exceeds one hundred, he shall in addition forfeit a further sum of ten dollars for every hundred lobsters so taken or found over the first hundred, and in that proportion for any smaller number.

SECT. 91. For the purposes of the two preceding sections, the waters and shores of Provincetown shall be deemed to be as follows: namely, beginning at Race Point, one-half mile from the shore, and thence running by said shore to the end of Long Point which forms the harbor of Provincetown, and from the end of Long Point one-half mile and including the harbor within the town of Provincetown.

SECT. 92. Whoever between the first day of April and the first day of July inclusive takes more than one hundred pounds per week of lobsters, tautog, bass or scuppaug in the bays, harbors, ponds, rivers, or creeks of the waters of Buzzard's Bay, within one mile from the shore and within the jurisdiction of the towns of Sandwich and Wareham, shall forfeit a sum not exceeding fifty dollars, to be recovered in an action of tort by the selectmen or any legal voter of Sandwich or Wareham, for the use of the party suing therefor.

SECT. 93. Whoever takes oysters from their beds, or destroys them, or wilfully obstructs their growth therein, except as is provided in the following sections, shall forfeit two dollars for every bushel of oysters, including the shells, so taken or destroyed.

SECT. 94. The mayor and aldermen of a city or selectmen of a town in which there are oyster-beds may grant a permit in writing to any person to take oysters from their beds at such times, in such quantities, and for such uses, as they shall express in their permit; and every inhabitant of such city or town may, without such permit, take oysters from the beds therein for the use of his family, from the first day of September to the first day of June, not exceeding in any week two bushels, including the shells.

SECT. 95. Whoever takes any other shell-fish from their beds, or destroys them, or wilfully obstructs their growth therein, except as is hereinafter provided, shall forfeit one dollar for every bushel of such other shell-fish, including the shells. But the mayor and aldermen of a city or selectmen of a town may at any time give a permit in writing to any person to take such other shell-fish from their beds therein, at such times, in such quantities, and for such uses, as they shall express in their permit; and every inhabitant of each of said places may, without such permit, take such other shell-fish from the beds therein for the use of his family.

SECT. 96. Nothing contained in the three preceding sections shall be construed to deprive native Indians of the privilege of digging shell-fish for their own consumption, or to prevent a fisherman, who is an inhabitant of this state, from taking any quantity of shell-fish which he may want for bait, not exceeding at any one time seven bushels, including the shells.

SECT. 97. The mayor and aldermen of a city or selectmen of a town may, by writing under their hands, grant a license for a term not exceeding twenty years to any inhabitant thereof, to plant, grow, and dig oysters at all times of the year, upon and in any flats and creeks therein, at any place where there is no natural oyster-bed; not, however, impairing the private rights of any person, nor materially obstructing the navigable waters of any creek or bay. 1884, 284.

SECT. 98. Such license shall describe by metes and bounds the flats and creeks so appropriated, and shall be recorded by the city or town clerk before it shall have any force; and the person licensed shall pay to the mayor and aldermen or selectmen, for their use, two dollars, and to the clerk fifty cents. 1884, 284.

SECT. 99. The person so licensed, his heirs and assigns, shall for the purposes aforesaid have the exclusive use of the flats and creeks described in the license, during the time therein specified; and may in an action of tort recover treble damages of any person who, without his or their consent, digs or takes oysters from such flats or creeks during the continuance of the license; and whoever digs or takes oysters therefrom without such consent shall also forfeit twenty dollars for each offence. 1884, 284.

SECT. 100. No person shall dig, take, or carry away any oysters between sunset and sunrise, by any method whatever, from any flats or creeks for which a license has been granted under the provisions of section ninety-seven. A person holding such license, who violates the provisions of this section, shall, in addition to the penalties hereinafter provided, forfeit his license, and shall also forfeit to the town or city granting the same the oysters remaining on the premises licensed. 1884, 284.

SECT. 101. Any person who violates any of the provisions of the preceding section, or who digs or takes any oysters from any flats or creeks described in any license granted under the provisions of section ninety-seven, during the continuance of such license, without the consent of the person so licensed, shall be punished by fine of not more than one hundred dollars, or imprisonment in the house of correction for not less than thirty days nor more than six months, or by both such fine and imprisonment. One-half of the fine shall be paid to the complainant, and the other half to the county within which the offence was committed. 1884, 284.

SECT. 102. No person shall take from the towns of Chatham, Nantucket, Barnstable, or Mashpee, any shell-fish for bait or other use, except clams and a shell-fish commonly known by the name of horsefeet; and no quantity exceeding seven bushels of clams, including the shells, or one hundred horsefeet, shall be taken in one week for each vessel or craft, nor in any case without a permit being first obtained from the selectmen of the town.

SECT. 103. Except when otherwise specially provided, actions and prosecutions under the laws relating to inland fisheries shall not be commenced except within one year from the time when the cause of action accrued or the offence was committed.

SECT. 104. Except when otherwise specially provided, one-half of the money recovered as a penalty in any case arising under the laws relating to inland fisheries shall be paid to the person making the complaint in the case in which the same is recovered, and the remainder to the commonwealth.

SECT. 105. Nothing contained in this chapter shall be deemed to repeal or affect any provisions or penalties contained or any privileges granted in any special statutes relating to fisheries in particular places.

KELP AND SEAWEED.

SECT. 106. Any person may take and carry away kelp or other seaweed between high and low water mark, whilst the same is actually adrift in tide-waters; but for such purpose no person shall enter on upland or on lawfully enclosed flats without the consent of the owner or lawful occupant thereof. The provisions of this section shall not apply to any city or town in which the subject is regulated by special act of the legislature.

1882.

AN ACT for the protection of Traps, Trawls and Seines.

1882, 53. *Be it enacted, etc., as follows:* SECT. 1. Any person who shall take any fish or lobster from any trap, trawl or seine set for catching fish or lobsters, except by consent of the owner thereof, and any person who shall wilfully molest or interfere with such trap, trawl or seine, shall for the first offence be punished by a fine of not less than five nor more than twenty-five dollars, or by imprisonment for thirty days, or by both fine and imprisonment; and for any subsequent offence by a fine of not less than twenty nor more than fifty dollars, or by imprisonment for sixty days, or both fine and imprisonment.

SECT. 2. This act shall take effect forty days after its passage. —
[March 11, 1882.]

AN ACT for the protection of Striped Bass and Bluefish in the waters of Edgartown.

1882, 65. *Be it enacted, etc., as follows:* SECT. 1. Whoever at any season of the year shall set, stretch or draw any seine or net of any kind in any of the waters of the town of Edgartown, excepting the Oyster Pond, the Great Pond, and Job's Neck Pond. for the purpose of taking or catching striped bass or bluefish, shall forfeit the sum of one hundred dollars for each offence.

SECT. 2. Whoever shall take or catch at any season of the year in any of the waters of the town of Edgartown, excepting the ponds named in the preceding section, any striped bass or bluefish, by means of any seine or net of any kind, shall forfeit one dollar for each and every fish so taken or caught.

SECT. 3. One-half of the money recovered in any case arising under this act shall be paid to the person making the complaint and the remainder to the Commonwealth.

SECT. 4. This act shall take effect upon its passage. — [March 11, 1882.

[Repealed, 1885, 247.]

[P. S. 91, §§ 81, 82.]

AN ACT to provide for the preservation of Lobsters.

1882, 98. *Be it enacted, etc., as follows:* SECT. 1. Section eighty-one of chapter ninety-one of the Public Statutes is hereby amended to read as follows: —

“SECTION 81. Whoever during the month of July in any year catches or takes from any of the waters of this Commonwealth any female lobster bearing eggs, shall be punished for each offence by a fine of not less than ten nor more than one hundred dollars, or by imprisonment in the house of correction for not less than one nor more than three months; but a person catching or taking any such lobster during said month of July, and immediately returning it alive to the waters from which it was taken, shall not be subject to such penalty.”

SECT. 2. Section eighty-two of chapter ninety-one of the Public Statutes is hereby amended to read as follows: —

“SECTION 82. Whoever during the month of July in any year sells or has in his possession with intent to sell, any female lobster bearing eggs, taken in this Commonwealth, shall forfeit for each offence a sum not less than ten nor more than fifty dollars.”

SECT. 3. This act shall take effect upon its passage. — [March 21, 1882.

[1885, 256.]

AN ACT concerning the Fisheries in Great Pond and Job's Neck Pond in the town of Edgartown.

1882, 102. *Be it enacted, etc., as follows:* SECT. 1. The lessees holding from the commissioners on inland fisheries a lease of Great Pond and Job's Neck Pond, in the town of Edgartown, may take smelts and alewives from said ponds and from the ditches connecting them with each other and with the ocean, at all seasons of the year and without restrictions as to days.

SECT. 2. Whoever other than said lessees takes any fish, except eels, from either of said ponds or ditches, without the permission in writing of said lessees first obtained, shall forfeit one dollar for each fish so taken, and shall also forfeit any boat, net, line, rod or other apparatus used in such taking in accordance with the provisions of chapter one hundred and ninety-four of the Public Statutes. — [March 21, 1882.

[1884, 245.]

AN ACT to incorporate the Dennis and Yarmouth Improvement Company.

1882, 122. *Be it enacted, etc., as follows:* * * * *

SECT. 5. Said corporation shall have the exclusive right to conduct the fisheries at and about said dam and sluice-way, and may introduce and propagate any kind of fish. — [March 28, 1882.

AN ACT relative to the Fisheries in Granite or Goose Cove Pond in the city of Gloucester.

1882, 160. *Be it enacted, etc., as follows:* SECT. 1. David Babson of Rockport shall have the exclusive right in Granite or Goose Cove Pond in the city of Gloucester for the purpose of cultivating lobsters and other useful fish until the first day of September in the year eighteen hundred and eighty-three.

SECT. 2. This act shall take effect upon its passage. — [April 15, 1882.

[Sp. Laws, vol 1, p. 272.]

AN ACT relative to Fishing in the Merrimack River.

1882, 166. *Be it enacted, etc., as follows:* SECT. 1. The penalties provided by chapter ninety-one of the Public Statutes relative to fishing in the Merrimack River shall not apply to or be in force against any person drawing a net or seine after the twentieth day of June in each year at any point below the Essex Merrimack Bridge in said river, unless such person shall take salmon or shad, nor shall a person taking a salmon or shad while thus lawfully fishing and immediately returning it alive to the waters from which it was taken be liable to any of the aforesaid penalties.

SECT. 2. No penalty shall be incurred by any one taking sturgeon

in the tidal waters of the Merrimack River: *provided*, that no net or seine having a mesh which stretches less than twelve inches shall be used in taking the same.

SECT. 3. This act shall take effect upon its passage. — [April 19, 1882.

[1884, 317.]

[1869, 172.]

AN ACT to regulate the Herring and Shad Fishery in Cole's River and its tributaries, and in Milford Pond, in the county of Bristol.

1882, 189. *Be it enacted, etc., as follows:* SECT. 1. The town of Swanzey is authorized to create herring and shad fisheries in Cole's River and its tributaries, and in Milford Pond, so called, in the county of Bristol; and the right to take herring or shad from said river or its tributaries, or from said pond, is suspended for the period of three years next ensuing after the passage of this act; and no net, seine or weir shall be set therein during said period except as hereinafter provided. The fish wardens chosen as provided by section three of this act may, however, take or cause to be taken from said river or its tributaries, or from said pond, at any time after the passage of this act, such herring or shad as may be required for the purpose of stocking said pond or any of the tributaries of said river.

SECT. 2. The town of Swanzey may sell at public auction, at a legal town meeting to be held in March in the year eighteen hundred and eighty-five, two privileges to take herring and shad from Cole's River from the first day of April to the first day of July in each year, for a period not exceeding five years, as hereinafter provided, at such places on said river as shall be designated by such fish wardens. The purchaser or purchasers of such privileges may take herring and shad with one seine, at the places so designated, from sunrise on Monday until sunset on Wednesday in each week during such period; but no herring or shad shall be taken in any manner from said waters after the first day of July in each year.

SECT. 3. The town of Swanzey, at its annual meeting in March in each year, may choose two or more suitable persons as fish wardens, who shall be sworn to the faithful discharge of their duties, and shall cause this act to be enforced and shall prosecute all violations of its terms. The fish wardens so chosen shall prevent and remove all unlawful obstructions in the course of said river or its tributaries to the passing up and down of the said fish from the first day of April to the first day of July in each year; and may, for the purposes of this act, go upon and pass over the land of any person through or by which said river or any tributary thereof runs, or which borders upon said pond, without being considered trespassers: *provided*, that any person sustaining damage in his property may have the same assessed in

the manner provided when land is taken for highways. Whoever wilfully hinders or molests any such fish warden, or any person authorized by such fish wardens, in the necessary clearing of said river or its tributaries, and in the necessary and proper use of lands on said river or its tributaries, or said pond, for creating and protecting the said fishery, shall forfeit and pay a sum not exceeding twenty dollars for each offence, to be recovered in the manner provided in section four of this act.

SECT. 4. If any person other than those who have purchased such privilege as aforesaid fishes with a seine or net at any time or in any manner, or sets any net, seine, weir, or other obstructions in any part of said river or its tributaries, or of said pond, with intent to take or destroy any shad or herring, he shall forfeit and pay twenty dollars for each offence, to be recovered on complaint, one-half to the use of said town of Swanzy and one-half to the use of the person who shall give information leading to the prosecution and conviction of such offender; and all seines, nets or weirs so used or set shall be forfeited to the person who shall give such information.

SECT. 5. All laws relating to fishing in Cole's River are repealed. — [April 29, 1882.]

1883.

[P. S. 91, §§ 36-39.]

AN ACT relative to Fishing in the Merrimack River.

1883, 31. *Be it enacted, etc., as follows:* For the purpose of taking fish called "shiners" for bait, any person may draw a net or seine during the months of November and December at any point in the Merrimack River, except within four hundred yards of any fishway: *provided*, that all other fish so caught are immediately returned to the waters from which they were taken; and the penalties provided for in sections thirty-six, thirty-seven, thirty-eight and thirty-nine of chapter ninety-one of the Public Statutes shall not apply to the taking of fish as herein provided. — [March 6, 1883.]

[1872, 229; 1876, 103; 1881, 44.]

AN ACT in addition to An Act to regulate the taking of Fish in North River in the county of Plymouth.

1883, 76. *Be it enacted, etc., as follows:* SECT. 1. Whoever sets a seine or casts a mesh net in the North River in Plymouth County, or whoever by seine or mesh net takes any fish from said North River, except such persons as have authority so to do under chapter forty-four of the acts of the year eighteen hundred and eighty-one, shall be punished for each offence by a fine not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the house of correction not less than one nor more than three months.

SECT. 2. Section four of chapter forty-four of the acts of the year eighteen hundred and eighty-one is hereby amended by inserting after the word "fish," in the second line, the words "from two o'clock in the morning until sunset." — [March 24, 1883.

[1884, 199; 1886, 163.]

AN ACT to authorize the Commissioners on Inland Fisheries to issue permits for Fishing in the Merrimack River.

1883, 121. *Be it enacted, etc., as follows:* SECT. 1. The commissioners on inland fisheries may issue permits for the taking of any variety of fish in the tidal waters of the Merrimack River and its tributaries, the taking of which is now in any way prohibited by law. Such permits shall be revocable at the discretion of said commissioners, and no fee or consideration shall be charged for the issuing of the same.

SECT. 2. This act shall take effect upon its passage. — [April 11, 1883.

AN ACT to regulate the taking of Fish in Acushnet River in the town of Acushnet.

1883, 180. *Be it enacted etc., as follows:* SECT. 1. The town of Acushnet may at any legal meeting called for that purpose make regulations, not inconsistent with the provisions of the laws of the Commonwealth, concerning the taking of herrings, alewives and shad within said town, or concerning the disposal of the privilege of taking the same for its own use and benefit.

SECT. 2. Said town may, at its annual meeting in April in the year eighteen hundred and eighty-three, and in each year thereafter, choose three discreet persons by ballot whose duty it shall be to inspect said river, to cause the regulations respecting said fishery to be carried into effect and to prosecute all violations thereof.

SECT. 3. Whoever takes from said river any of said fish in violation of said regulations shall forfeit for each fish so taken not more than ten dollars nor less than one dollar, one half of all such forfeitures shall enure to the complainant and one half to said town.

SECT. 4. The powers and duties granted by this chapter, shall be subject in all respects to the rights heretofore granted to the city of New Bedford under chapter one hundred and sixty-three of the acts of the year eighteen hundred and sixty-three, and nothing contained in this act shall in any way be construed as permitting or authorizing any interference with the water supply of said city, or authorizing any control in or in any way applying to the storing reservoir of said city or any works connected with its water supply, nor shall any such fishery be permitted to be operated in said reservoir or in any portion of said water supply.

SECT. 5. This act shall take effect upon its passage. — [May 16, 1883.]

1884.

[1856, 211.]

AN ACT to dissolve the Farm Pond Fishing Company in Edgartown.

1884, 156. *Be it enacted, etc., as follows:* SECT. 1. The Farm Pond Fishing Company in Edgartown, incorporated by chapter two hundred and eleven of the acts of the year eighteen hundred fifty-six, is hereby dissolved.

SECT. 2. This act shall take effect upon its passage. — [April 16, 1884.]

[P. S. 91, §§ 51, 53.]

AN ACT to limit the time within which Trout, Land-locked Salmon, and Lake Trout may be taken.

1884, 171. *Be it enacted, etc., as follows:* SECT. 1. The time within which any person is forbidden to take, sell, offer or expose for sale or to have in his possession a trout, land-locked salmon, or lake trout, by sections fifty-one and fifty-three of chapter ninety-one of the Public Statutes, shall be between the first day of September and the first day of April.

SECT. 2. So much of said sections fifty-one and fifty-three as is inconsistent with this act is hereby repealed. — [April 19, 1884.]

[1872, 229.]

AN ACT in addition to an act to regulate the taking of Fish in North River in the county of Plymouth.

1884, 199. *Be it enacted, etc., as follows:* SECT. 1. Whoever sets a seine or combination of seines over three hundred and eighty-five feet in length, or casts a mesh net over three hundred and fifty feet in length, in the North River in the county of Plymouth, shall for each offence be punished by fine not less than twenty-five nor more than one hundred dollars, or by imprisonment in the house of correction not less than one nor more than three months.

SECT. 2. Section forty-one of chapter ninety-one of the Public Statutes shall not apply to the fisheries in said North River.

SECT. 3. This act shall take effect upon its passage. — [April 30, 1884.]

[1882, 102.]

AN ACT concerning the Fisheries in waters of the county of Dukes County.

1884, 245. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter one hundred and two of the acts of the year eighteen hundred and eighty-two is amended to read as follows: — Section 1. The lessees holding from the commissioners on inland fisheries a lease of

any body of water in the county of Dukes County, and all other persons having the right to take alewives in any other waters in said county, may take alewives from said waters and from the ditches connecting them with each other and with the ocean at all seasons of the year and without restrictions as to day.

SECT. 2. Section two of said chapter one hundred and two is amended to read as follows: — Section 2. Whoever other than said lessees or any other person duly authorized takes any fish, except eels, from any of said waters or ditches without the permission in writing of said lessees or said person duly authorized first obtained, shall forfeit one dollar for each fish so taken, and shall also forfeit any boat, net, line, rod or other apparatus used in such taking in accordance with the provisions of chapter one hundred and ninety-four of the Public Statutes.

SECT. 3. This act shall take effect upon its passage. — [May 20, 1884.

[1839, 102; 1852, 35; 1860, 46.]

AN ACT to protect the Fisheries of the towns of Mashpee and Barnstable.

1884, 264. *Be it enacted, etc., as follows:* SECT. 1. No person not an inhabitant of the town of Mashpee shall fish for or take from the waters within said town, except Hamblin's Pond and its outlet, and excepting the trout fishery in Popponessett Bay, south of a line drawn from Gooseberry Island to Mashpee Neck, any fish, shell-fish or eels, without a written permit or lease from the selectmen of said town, stating the time, place, manner and number in which the same may be taken; nor shall any inhabitant of said town at any one time take more than three bushels of shell-fish for bait, or take any fish, shell-fish or eels for the purpose of selling the same, without a written permit from said selectmen, who may grant the same for such sum, to be paid to the use of said town, as they shall deem proper: *provided, however,* that no seining shall be allowed in any of the waters of said town: but the inhabitants of said town may take such fish, shell-fish and eels for family use without such permit, except from such fisheries as are lawfully leased by said town to others.

SECT. 2. Whoever fishes for, takes or destroys any fish, shell-fish or eels in the waters of said town of Mashpee in violation of the provisions of this act, or otherwise than is specified in his permit, and whoever wilfully places any obstruction to, or otherwise interferes with, the free passage of fish or eels in said waters, shall for each offence be subject to a fine of not less than fifty nor more than one hundred dollars and costs of prosecution, and if he have a permit shall forfeit the same; and all fines under this act shall be paid, one-half to the town of Mashpee and one-half to the complainant. Said

fine and forfeiture imposed under this act, may be recovered by complaint before any trial justice, or by indictment before any court of competent jurisdiction in Barnstable County.

SECT. 3. Any constable or fish warden of said town may, without a warrant, arrest any person whom he finds in the act of fishing for, taking or destroying fish, shell-fish or eels, in violation of this act, or in the act of carrying away fish, shell-fish or eels so taken, and detain him in some place of safe keeping until a warrant can be procured against such person upon a complaint for said offences, or either of them: *provided*, that such detention shall not exceed twenty-four hours.

SECT. 4. Section one of chapter thirty-five of the acts of the year eighteen hundred and fifty-two is hereby amended so as to read as follows: — No. person shall set, draw or stretch any seine or drag-net in Barnstable Harbor, Osterville Harbor, Popponessett Bay, or any of the creeks, ponds or streams within the limits of the town of Barnstable, under a penalty of not less than fifty nor more than one hundred dollars, to be recovered in any court proper to try the same, one-half to the use of said town and the other half to any person who shall prosecute therefor.

SECT. 5. All acts and parts of acts inconsistent herewith are hereby repealed. — [May 24, 1884.

[1882, 166.]

AN ACT relative to Fishing in the Merrimac River.

1884, 317. *Be it enacted, etc., as follows:* SECT. 1. Section one of chapter one hundred and sixty-six of the acts of the year eighteen hundred and eighty-two is hereby amended by inserting after the word "seine" and before the word "after" in the fourth line thereof, the following words "with a mesh not less than two and a quarter inches."

SECT. 2. This act shall take effect upon its passage. — [June 3, 1884.

AN ACT to prevent the use of Nets in Ponds.

1884, 318. *Be it enacted, etc., as follows:* SECT. 1. Whoever draws, sets, stretches or uses a drag net, set net, purse net or seine in any pond in the Commonwealth, or aids in so doing, shall be punished by a fine of not less than twenty, nor more than fifty dollars, one half of which shall be paid to the person making the complaint, and the other half to the county within which the offence was committed, and in addition shall forfeit to the Commonwealth all fish taken by the above means and the seines, boat and other apparatus used.

SECT. 2. Trial justices, police and district courts shall have jurisdiction to enforce the penalties provided in section one of this act.

SECT. 3. This act shall not be construed to interfere with the rights of lessees of great ponds in the counties of Barnstable, Dukes County and Nantucket, into which the usual varieties of salt water fish are or may be admitted by natural or artificial inlets and which under existing leases have been seined or which may be leased with permission to seine the same, nor the riparian proprietors of ponds mentioned in section ten of chapter ninety-one of the Public Statutes, nor with the corporated rights of any fishing company.— [June 3, 1884.
[1886, 234.]

[P. S. 91, §§ 97-101.]

AN ACT relating to the planting and growing of oysters.

1884, 284. *Be it enacted, etc., as follows:* SECT. 1. The provisions of sections ninety-seven, ninety-eight, ninety-nine, one hundred and one hundred and one of chapter ninety-one of the Public Statutes relating to the planting and growing of oysters are hereby extended so as to apply to any waters where there is no natural oyster bed, not however impairing the private rights of any person, and not materially obstructing any navigable waters.

SECT. 2. Section ninety-seven of said chapter ninety-one is hereby amended by striking out the word "twenty" in the third line and inserting in place thereof the word "ten."

SECT. 3. This act shall take effect upon its passage.— [May 28, 1884.

1885.

[P. S. 91.]

AN ACT relating to the Leasing of Great Ponds.

1885, 109. *Be it enacted, etc., as follows:* SECT. 1. So much of chapter ninety-one of the Public Statutes, relating to inland fisheries, as authorizes the commissioners on inland fisheries to lease great ponds, is hereby repealed.

SECT. 2. This act shall take effect upon its passage.— [March 27, 1885.

AN ACT to prevent the taking of Blue-fish with nets or seines in the waters of Vineyard Sound opposite to the towns of Yarmouth, Dennis and Harwich.

1885, 193. *Be it enacted, etc., as follows:* SECT. 1. Whoever takes any blue-fish in the state waters of Vineyard Sound opposite to the towns of Yarmouth, Dennis and Harwich, with nets or seines, shall be punished by a fine of ten dollars for each offence, one-half of which shall be paid to the person making the complaint and one-half to the county of Barnstable.

SECT. 2. This act shall take effect on the first day of July in the year eighteen hundred and eighty-five.— [April 24, 1885.

AN ACT confirming the acts of the fish committee of the towns of Dennis and Yarmouth relating to the regulation of the Fisheries in Bass River.

1885, 209. *Be it enacted, etc., as follows:* SECT. 1. The acts of the committee of the town of Dennis and the committee of the town of Yarmouth, acting as a fish committee under chapter thirty-seven of the acts of the year one thousand eight hundred and forty-nine, are hereby made valid and confirmed to the same extent as though the committee of the town of Dennis had been chosen annually instead of for the term of three years, and the said committee as now constituted shall continue to exercise the powers of fish committee under said chapter until their successors are chosen at the next annual town meetings in said respective towns.

SECT. 2. This act shall take effect upon its passage. — [May 1, 1885.]

[P. S. 91, §§ 97-101; 1884, 284.]

AN ACT relating to licenses to plant, grow and dig Oysters, and to the taking of Scallops.

1885, 220. *Be it enacted, etc., as follows:* SECT. 1. No license shall be granted to plant, grow and dig oysters under sections ninety-seven, ninety-eight, ninety-nine, one hundred and one hundred and one of chapter ninety-one of the Public Statutes, and chapter two hundred and eighty-four of the acts of the year eighteen hundred eighty-four, without a public hearing upon the matter, due notice of which shall be given in writing, to be posted in three or more public places in the town in which the premises lie, at least seven days before the time fixed for such hearing.

SECT. 2. In case any person to whom such license shall be granted fails for two years thereafter to plant and grow oysters in the waters described in said license, the same shall be revoked by the officers who granted it, which revocation shall be recorded as provided in said section ninety-eight.

SECT. 3. Whoever takes in any one day, between sunrise and sunset, more than twenty-five bushels of scallops, including the shells, for each boat actually employed by him in taking the same, shall be punished by a fine not exceeding twenty dollars for each offence.

SECT. 4. Any person who at any time between the fifteenth day of April and the first day of September shall take scallops from any of the waters of the state by dredging, or by nets of any kind, or shall expose any scallops for sale within the state, or shall export the same, shall be punished by a fine not exceeding twenty dollars for each offence.

SECT. 5. Whoever works a dredge, oyster tongs or rakes, or any other implement for the taking of shell fish of any description, upon

any oyster grounds or beds, other than public grounds or beds, without the consent of the licensee, lessee or owner thereof, or who shall, while upon or sailing over any such grounds or beds, cast, haul, or have overboard any such dredge, tongs, rake or other implement for the taking of shell fish of any description, under any pretence or for any purpose whatever, without the consent of the licensee, lessee or owner, shall for the first offence be punished by a fine not exceeding twenty dollars or by imprisonment in jail not exceeding thirty days, and for every subsequent offence shall be punished by a fine not exceeding fifty dollars, or by imprisonment in the house of correction or jail not exceeding six months.

SECT. 6. The selectmen of any town or mayor and aldermen of any city may designate one or more constables for the detection and prosecution of any violation of the laws of the state relating to shell fisheries, within their respective jurisdictions. Each of said constables so designated may without warrant arrest any person found violating any of said laws, and detain him for prosecution not exceeding twenty-four hours, and may seize any boat or vessel used in such violation, together with her tackle, apparel and furniture, with all implements belonging thereto, which shall be forfeited to the use of the town or city in which such seizure is made. — [May 11, 1885.]

[1857, 87; 1862, 47.]

AN ACT to amend the charter of the Lagoon Pond Company in Dukes County.

1885, 245. *Be it enacted, etc., as follows:* SECT. 1. The Lagoon Pond Company in Dukes County, incorporated by chapter eighty-seven of the acts of the year eighteen hundred and fifty-seven for the purpose of creating a herring and perch fishery, is hereby authorized to use the pond above the dam at Long Point for the purpose of storing therein food fishes.

SECT. 2. Said corporation shall during the occupancy of said pond for storing food fishes be required to post notices of the fact of such occupancy on the shores of said pond; and during such occupancy said corporation and its agents shall have the exclusive right to take fish therefrom, except that any person may spear eels or dig clams therefrom.

SECT. 3. Whoever without leave from said corporation, during the occupancy of said pond for storing food fishes, takes fish therefrom, except as provided in section two of this act, shall be punished by a fine of not less than five nor more than fifty dollars.

SECT. 4. Trial justices may enforce the penalties provided by this act. — [May 21, 1885.]

[1882, 65.]

AN ACT to repeal An Act for the protection of Striped Bass and Bluefish in the waters of Edgartown.

1885, 247. *Be it enacted, etc., as follows:* SECT. 1. Chapter sixty-five of the acts of the year eighteen hundred and eighty-two is hereby repealed and no penalty shall hereafter be enforced for its violation.

SECT. 2. This act shall take effect upon its passage. — [May 22, 1885.]

[1884, 212.]

AN ACT providing for the enforcement of an Act for the protection of Lobsters.

1885, 256. *Be it enacted, etc., as follows:* SECT. 1. For the purpose of enforcing the provisions of chapter two hundred and twelve of the acts of the year eighteen hundred and eighty-four, relative to the protection of lobsters, either of the commissioners on inland fisheries, personally or by deputy, or any member of the district police detailed by the governor as provided in said chapter, may search in suspected places for, seize and remove, lobsters taken, held or offered for sale in violation of the provisions of said chapter.

SECT. 2. This act shall take effect upon its passage. — [May 22, 1885.]

1886.

[1872, 229; 1876, 103; 1881, 44; 1883, 76; 1884, 199]

AN ACT to regulate the taking of Fish in North River in the County of Plymouth.

1886, 163. *Be it enacted, etc., as follows:* SECT. 1. The board of selectmen of either of the towns mentioned in section four of chapter forty-four of the acts of the year eighteen hundred and eighty-one, may, at the request of any purchaser of a right to fish in said river, designate in writing the place where said right shall be exercised on that part of the river lying within the limits of such town; and whoever, after notice of such designation, uses any seine or net for taking fish in the waters of said river, within the distance of one-third of a mile below the place so designated, shall be punished as provided in section six of said chapter.

SECT. 2. This act shall take effect upon its passage. — [April, 27, 1886.]

AN ACT for the protection of the Fisheries in Buzzard's Bay.

1886, 192. *Be it enacted, etc., as follows:* SECT. 1. No person shall draw, set, stretch or use any drag net, set net or gill net, purse or sweep seine of any kind for taking fish anywhere in the waters of Buzzard's Bay within the jurisdiction of this Commonwealth nor in any harbor, cove or bight of said bay except as hereinafter provided.

SECT. 2. Any net or seine used in violation of any provision of

this act, together with any boat, craft or fishing apparatus employed in such illegal use, and all fish found therewith, shall be forfeited; and it shall be lawful for any inhabitant or inhabitants of any town bordering on said bay to seize and detain, not exceeding forty-eight hours, any net or seine found in use contrary to the provisions of this act, and any boat, craft, fishing apparatus and fish found therewith, to the end that the same may be seized and libelled if need be by due process of law.

SECT. 3. All nets and seines in actual use set or stretched in the waters aforesaid in violation of this act are declared to be common nuisances.

SECT. 4. Nothing contained in this act shall be construed to interfere with the corporate rights of any fishing company located on said bay nor in any way to affect the fish weirs mentioned in section seventy of chapter ninety-one of the Public Statutes, nor the use of nets or seines in lawful fisheries for shad or alewives in influent streams of said bay, nor the use of the set nets or gill nets in the waters of the town of Fairhaven within a line drawn from Commorant rock southwesterly to the buoy on West island rips and from thence westerly in a straight course through the buoy on West island ledge to the town line of Fairhaven.

SECT. 5. Whoever violates any provision of this act or aids or assists in violating the same shall pay a fine not exceeding two hundred dollars for each offence.

SECT. 6. District courts and trial justices shall have concurrent jurisdiction with the superior court of all offences and proceedings under the provisions of this act.

SECT. 7. All fines received under this act shall be paid one-half to the complainant and the other half to the Commonwealth. All moneys from any forfeitures incurred under this act shall inure and be paid one-fourth to the informer and one-fourth to the person filing the libel and the other half to the Commonwealth. — [May 6, 1886.

AN ACT to prohibit the seining of Bluefish in the waters of Vineyard Sound opposite the towns of Barnstable and Mashpee.

1886, 202. *Be it enacted, etc., as follows:* SECT. 1. Whoever in any inlet, bay or arm of the sea within three miles of the shore of Barnstable or Mashpee, or in the waters of Vineyard Sound within three miles of the shore of said towns, takes bluefish with a seine or net of any kind, or for the purpose of taking bluefish sets, stretches or draws a seine or net, shall be punished by a fine of one hundred dollars, and shall forfeit to the Commonwealth any fish so taken.

SECT. 2. One-half of the penalty collected under this act shall be paid to the person or persons making the complaint, and the remainder to the county of Barnstable. — [May 15, 1886.

[1884, 318.]

AN ACT for the protection of Fish in a portion of the county of Dukes County.

1886, 234. *Be it enacted, etc., as follows:* SECT. 1. Whoever sets or uses, or aids in setting or using any seine, mesh net or gill net for the purpose of catching any other fish than mackerel, or who shall catch and retain by such means any other fish than mackerel, in the waters of the towns of Edgartown and Cottage City in the county of Dukes county within three miles from the shores of said towns shall be punished by a fine of not exceeding two hundred dollars, one-half of which shall be paid to the person making the complaint; and in addition, in the discretion of the court, shall forfeit to the Commonwealth all fish taken in said nets.

SECT. 2. A sheriff, deputy sheriff, constable or police officer, upon view of an offence described in the preceding section, may without a warrant arrest the offender and make complaint against him therefor.

SECT. 3. The provisions of this act shall not be construed to interfere with the rights of any person or persons referred to in section three of chapter three hundred and eighteen of the acts of the year eighteen hundred and eighty-four, nor with the corporate rights of any fishing company. — [May 21, 1886.]

[P. S. 91.]

AN ACT relative to proceedings for violations of the terms and conditions of Leases of Great Ponds.

1886, 248. *Be it enacted, etc., as follows:* SECT. 1. District attorneys or the commissioners on inland fisheries shall institute proceedings, in the name of the Commonwealth, against the lessees of great ponds who have failed or may hereafter fail to comply with the terms and conditions of their leases, upon the complaint of the mayor or ten citizens of any city, the selectmen or ten citizens of any town wherein any great pond has been leased under the laws relating to inland fisheries.

SECT. 2. The provisions of section seventeen of chapter ninety-one of the Public Statutes shall not apply to great ponds that have re-vested in the Commonwealth for failure to comply with the terms and conditions of the leases of the same.

SECT. 3. So much of chapter ninety-one of the Public Statutes as conflicts with section one of this act is hereby repealed. — [May 28, 1886.]

AN ACT relating to licenses to plant, grow and dig Oysters, and extending the time in which Oysters may be taken.

1886, 299. *Be it enacted, etc., as follows:* SECT. 1. No license to plant, grow and dig oysters, shall be assigned or transferred without the written consent of the mayor and aldermen of the city, or the

selectmen of the town in which the premises described in the license are situated, and no license shall be granted, assigned or transferred to persons who are not inhabitants of the city or town wherein the licensed premises are situated.

SECT. 2. The authority to dig, take or carry away oysters from any premises for which a license has been granted is hereby limited to the hours in each day between one hour before sunrise and one hour after sunset.

SECT. 3. Any person holding a license who violates any of the provisions of the acts relating to the planting and growing of oysters, or any of the provisions of this act, shall, in addition to the penalties now provided, forfeit his license and the oysters remaining on the premises licensed, to the town or city wherein the premises are situated. — [June 21, 1886.

RESOLUTION concerning the obstruction to the passage of Shad in the Connecticut River.

Whereas, It appears that by the maintaining a dam across the Connecticut River at Enfield, in the state of Connecticut, by parties in the jurisdiction of the state of Connecticut, the shad fisheries of the citizens of Massachusetts are practically destroyed, because of the obstruction of said dam to the run of the shad up the river; and

Whereas, The dam is almost an impassable barrier to the passage of the fish, and Massachusetts citizens being thus deprived of the shad, there is little inducement for Massachusetts to continue the artificial propagation and cultivation of the shad in that river; and

Whereas, If the obstruction of the dam was modified as it might be, to allow the passage of the fish, Massachusetts would gladly, in conjunction with Connecticut, re-establish the hatchery at South Hadley, as the artificial cultivation and propagation of shad is now so well understood and is so successful that the Connecticut river can be stocked with shad plentifully and cheaply, to the great benefit of the people of both states; therefore,

Resolved, That the Commonwealth of Massachusetts respectfully suggests to the state of Connecticut that mutual measures be taken by the said states for the restoration of the shad to the river.

That a copy hereof be transmitted by His Excellency the Governor to his Excellency the Governor of Connecticut.

In House of Representatives, adopted April 7, 1886.

In Senate, adopted in concurrence, April 9, 1886.

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