

# Historic Documents Related to the Anadromous Fisheries of the St. Croix River, Maine and Canada.

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## I. Executive Summary

In recent years, some individuals have asserted the anadromous alewife (*Alosa pseudoharengus*) was never historically present or abundant in the St. Croix River watershed due to natural falls near the river's head of tide which were impassable to migrating alewives.

Historic documents in the collections of the Maine State Archives and Maine Legislative Law Library refute this claim. Despite an extensive search, no documents were found which describe a natural falls in the St. Croix River watershed impassable to anadromous alewives. Historic documents indicate nearly all of the St. Croix River watershed was accessible to anadromous alewives prior to the construction of artificial dams in the lower portion of the watershed during the early 19th century.

Legislative records show the first settlers of the towns of Baileyville, Baring and Calais began protesting the impact of impassable dams and overfishing on native runs of Atlantic salmon, American shad and alewives in the St. Croix River as early as 1822. These citizen protests continued throughout the 19th century.

## II. Historic Documents

### 1. Petition of 1821

The earliest located document is a petition to the Maine Legislature, dated January 20, 1821 from William Vance of Plantation Six (later the town of Baring) which states:

"To the Honorable Senate and House of Representatives in Legislature Assembled -- the Petition of William Vance of Plantation Six on the St. Croix or Schoodic River humbly showeth that the inhabitants on that river have suffered and the settlements of the Country been greatly impeded by having the fish destroyed and their passage up said river obstructed by the great numbers of seines and trap-wears placed in said river for the purpose of taking fish -- To prevent this evil your petitioner humbly prays your Honorable body to enact a law adapted to the local situation of this river (which is the boundary line between a part of this State and the British colony of New Brunswick) which shall preserve the fish in this river and its branches, prove of great utility to the settlement of this remote part of the State and greatly increase the value of the State levies on this river and its branches -- and as in duty bound will ever pray. William Vance."

## **2. Petition of 1822**

The second earliest document located is a petition to the Maine Legislature, dated December 3, 1822 and signed by Joseph Whitney, Anson G. Chandler, Enoch Darling, William Smith, Andrew Tracy, Samuel Perkins, James Stuart, John Havey, which states:

"Petition of Joseph Whitney et al. for Removal of Obstructions in St. Croix River for the Passage of Fish.

December 3, 1822

"To the Honourable Senate & House of Representatives of the State of Maine:

We the undersigned, citizens of said State, respectfully represent that previous to existing obstructions, by mills and mill dams, on the St. Croix or Schoodic River, great quantities of Salmon, Shad & Alewives annually passed up and returned down said River, to the great benefit and advantage of the community generally; and in an especial manner of the new settlements in the eastern part of the State --

That said obstructions have rendered it almost impossible for the Shad & Alewives to pass above the Town of Calais; *whereas they used to pass from eighty to a hundred miles above*; and they are now almost totally excluded from said River --

That it is confidently believed that if suitable fish ways should be provided & also suitable regulations for the taking of fish on said River, it would, as formerly, be abundantly supplied with fish, and all the privileges and advantages of the proprietors of the mills & mill dams on said River remain unimpaired --

Wherefore, we pray, that such fish ways and such regulations concerning the taking of fish on so much of said River and its branches as be within this State as may be deemed

necessary to restore to its citizens their ancient privileges in this respect, may be provided by the Honourable House of Representatives and as in duty bound we will ever pray.

Joseph Whitney, Anson G. Chandler, Enoch Darling, William Smith, Andrew Tracy, Samuel Perkins, James Stuart, John Havey." [emphasis added]

Given the size of the St. Croix watershed, the petitioners' description of shad and alewives formerly passing "eighty to a hundred miles above the Town of Calais" indicates all, or nearly all, of the St. Croix watershed was historically accessible to anadromous alewives.

### **3. Petitions of 1823**

On January 3, 1823 the Maine Legislature read and committed to the Joint Committee on Interior Fisheries separate petitions from the inhabitants of Plantation Seven (later the town of Baileyville) and Plantation Six (later the town of Baring).

The petition from the inhabitants of Plantation Six was signed by Rufus Lane, F.D. Morrison, Thomas Bean, Aaron Heath, Timothy Anderson, Isaac Heath, John Sprague, Timothy Ware, Thomas Hart, Joshua Decker, Samuel Gurney, Levi Pond, Simeon Hamilton, Stephen Whitney, Enoch Darling, John Spencer, James Wadsworth, James Lane, Jabez Lane, John Vance and Thomas Millett. Early town records in Chase (1950), show many of the petition signers were among the first settlers of Baring. The petition reads:

"The petition of the Inhabitants of Plantation Number Six on the Saint Croix, or Schoodic River, humbly sheweth that the Inhabitants on this river have suffered much and the settlement of the country greatly impeded by the fish being mostly destroyed and stopped from passing up this river to the Lakes to spawn, by the great number of seines and trap wares and other impediments in said river which stop their passage. To prevent this evil your petitioners humbly pray your Honorable Body to enact such laws adapted to the local situation of the river which is a boundary line between the parts of this State and the British Governments which will preserve and increase the fish in this river and all its branches and which will be of the greatest utility to these poor settlers in this remote part of the country and greatly enhance the value and settling of the State's land on and near said river and all its tributary branches, and as in duty bound will ever pray."

A similar petition was submitted by inhabitants of Plantation Seven, later the Town of Baileyville. The petition was signed by Matthew Sprague, William Thornton, Joseph

Thornton, Isaac Bayley, Samuel Bayley, Farnum Beverly, Peres Ingraham, John Beverly, Edmund Bailey, Joseph Thornton Jr. and Eli Sprague. Early town records in Bailey (1972) show the petitioners were among the first settlers of Baileyville. The petition reads:

"To the Honorable Senate and House of Representatives in Legislature Assembled -- The Petition of the undersigned inhabitants of Plantation Number Seven on the St. Croix or Schoodic River humbly sheweth that the settlers in this part of the country have suffered much, and the settlement of the country greatly impeded by the fish nearly being destroyed and stopped from passing up this river to spawn, by the great number of seines, trap wears and other impediments in said river. To prevent this evil, your petitioners humbly pray your Honorable Body to enact such a law as will preserve and increase the fish in said river, that the poor settlers may obtain some assistance therefrom. Your petitioners presume you are aware that the preservation of said fish would greatly enhance the value of the State's land and promote its settlement. Taking into consideration the local situation of the river, being the boundary line between the United States and British governments, we pray that you may enact such a law as you shall in your wisdom think proper, and as in duty bound will every pray."

#### **4. Legislation of 1823**

In response to the above petitions, in 1823 the Maine Legislature passed "An Act to Regulate the Salmon, Shad and Alewife Fishery in the St. Croix and its branches."

"An Act to Regulate the Salmon, Shad and Alewife Fishery in the St. Croix and its branches. Laws of the State of Maine, Chapter CLXXXVI."

Text of Act:

"Sect. 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this act, no person shall be allowed to take any Salmon, Shad or Alewives, in the waters of the river St. Croix, with any large net or seine, excepting between sunrise on Monday and sunrise on Thursday of each week; nor with spears, scoop nets, or in wears, except between sunrise on Monday and sunrise on Friday of each week, under the penalty of twenty dollars for every barrel or less quantity of Salmon, and fifteen dollars for every barrel or less quantity of Shad, and five dollars for every barrel or less quantity of Alewives, so taken, against the foregoing provisions.

"Sect. 2. Be it further enacted, That all wears or other obstructions placed in said waters, for the purpose of taking said fish, shall be kept open from sunrise on Friday, till sunrise on Monday of each week, under a penalty of fifty dollars for each offense; and any net or seine that shall be placed in said waters, contrary to the provisions of this Act, shall be forfeited to the use of any person or persons who may seize the same.

"Sect. 3. Be it further enacted, That no box or trap-wear shall be built or placed in said river, nor shall any wear of any kind be built in said river, higher than a half tide wear, under the penalty of one hundred dollars.

"Sect. 4. Be it further enacted, That it shall be the duty of each town and plantation of this State, adjoining said river, at their annual meeting for the choice of town or plantation officers, to choose three suitable persons for a fish committee, who shall be duly sworn, and whose duty it shall be to cause the provisions of this law to be carried into effect; and if any town or plantation shall neglect to choose said committee, such town or plantation shall forfeit the sum, not less than twenty dollars, nor more than fifty, at the discretion of the Court before whom a conviction shall be had.

"Sect. 5. Be it further enacted, That there shall be a good and sufficient fishway made and kept open, round, through or over, every mill dam on said river, and all its branches, where said fish were ever known to pass, by the owners or occupants of the mills on said river, which shall be four foot wide, and twelve inches deep, and be kept open at all times between the fifteenth day of May, and the twenty-fifth day of June, in each year: And if any owner or occupant of such mill or dam, as aforesaid, shall neglect or refuse to make and keep open such fishway, as herein directed, he shall forfeit two hundred dollars, for each neglect or refusal.

"Sect. 6. Be it further enacted, That hereafter no eel wears shall be erected on any part of said river or lakes, or its branches, either by the citizens of this State or Indians, so as to stop or impede the passage of the young fish or fry in returning down said river; and if the fish committee shall neglect their duty in causing the provisions of this section and of every part of this act to be carried into effect, they shall forfeit and pay a sum not less than five nor more than twenty dollars, at the discretion of the Court before whom conviction may be had.

"Sect. 7. Be it further enacted, That it shall be lawful, for the Agent or Agents for the State's Land, to cut down so much of any eel wears as to give a passage to the young fish or fry in returning down said river or its branches, wherever they may find said wears so erected on any of the State's Land, as to stop or impede their passage down said river, or its branches.

This Act Passed January 31, 1823."

## **5. Petition of 1836**

"Petition of Matthew Fowler and others Praying for a Law to Regulate the Taking of Fish in the Town of Baring

Baring, November 15th, 1836

"To the Honourable Senate and House of Representatives in Legislature Assembled --

The undersigned inhabitants of the Town of Baring in the County of Washington, respectfully represents that formerly the fish called Salmon, Shad and Alewives were very plenty in the River St. Croix and its Branches -- That said fish were of great utility to this portion of the community and tended much to promote its settlement -- That the number of said fish has been rapidly diminishing of late years, owing, principally, to the dams and obstructions that have been built across said River -- Your petitioners believe that if a law were passed compelling the owners of mills on said river to build suitable fishways round, through or over the mill dams on said river and also regulating the times and days of taking said fish, and requiring the fishways to be kept always open and the wears to be kept shut two days in each week, from the first day in April, to the first day in September, in each year, and prohibiting all persons from taking said fish on said days, either in wears, seines, drift nets, set nets, scoop nets, or with spears, that said fish would soon become plenty in said river and its branches, and greatly tend to promote the interests of this community, and the settlement of the wild lands in this vicinity -- Your petitioners therefore pray, that your honorable bodies will pass such a law relating to fishways and the taking of said fish in said river, as you, in your wisdom may think best calculated to promote the public good.

Baring, November 15th, 1836

Matthew Fowler, Thomas Skofield, Calvin Whitman, Moses Heath, John Anderton, Daniel Hamilton, Rufus Farnham, William Greenlaw, Jr., Will Emerson, Jr., George Wells."

## **6. Legislation of 1837**

1837 -- An Act to Regulate the Salmon, Shad and Alewife Fishery in the River St. Croix and its branches. Laws of the State of Maine, Chapter 283.

Text of Act:

"Section 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this act, no person shall be allowed to take any Salmon, Shad or Alewives, in the waters of the river St. Croix, with any large net or seine, excepting between sunrise on Monday and sunrise on Friday of each week; nor with spears, scoop nets, set nets, drift nets or in wears, except between sunrise on Monday and sunrise on Friday of each week, under the penalty of Five Dollars for every Salmon, and Fifty Cents for every Shad and Five Dollars for every barrel or less quantity of Alewives, so taken, against the foregoing provisions.

"Section 2. Be it further enacted, That all wears or other obstructions placed in said waters, for the purpose of taking said fish, shall be kept open from sunrise on Friday, till sunrise on Monday of each week, under a penalty of Fifty Dollars for each offense; and

any net or seine that shall be placed in said waters, contrary to the provisions of this Act, shall be forfeited to the use of any person or persons who may seize the same.

"Section 3. Be it further enacted, That it shall be the duty of each town and plantation of this State, adjoining said river, at their annual meeting for the choice of town or plantation officers, to choose three suitable persons for a fish committee, who shall be duly sworn, and whose duty it shall be to cause the provisions of this law to be carried into effect; and if any town or plantation shall neglect to choose said committee, such town or plantation shall forfeit a sum not less than twenty dollars, nor more than fifty, at the discretion of the Court before whom a conviction shall be had.

"Section 4. Be it further enacted, That there shall be a good and sufficient fishway made and kept open, round, through or over, every mill dam across said river, and all its branches, where said fish were ever known to pass, by the owners or occupants of the mills on said river, which shall be four foot wide, and twelve inches deep, and be kept open at all times between the fifteenth day of May, and the twenty-fifth day of June, in each year: And if any owner or occupant of such mill or dam, as aforesaid, shall neglect or refuse to make and keep open such fishway, as herein directed, he shall forfeit two hundred dollars, for each neglect or refusal.

"Section 5. Be it further enacted, That hereafter no eel weirs shall be erected on any part of said river or lakes, or its branches, either by the citizens of this State or Indians, so as to stop or impede the passage of the young fish or fry in returning down said river; and if the fish committee shall neglect their duty in causing the provisions of this section and of every part of this act to be carried into effect, they shall forfeit and pay a sum not less than five nor more than twenty dollars, at the discretion of the Court before whom conviction may be had.

"Section 6. Be it further enacted, That it shall be the duty of the Agent or Agents of the State Land, or of any person or persons whom they may appoint, to see that all obstructions to the passage of the young fish or fry in returning down the river or its branches, are removed on any of the State's Land.

"Section 7. Be it further enacted, That the penalties imposed in this Act may be sued for and recovered, by action of debt in any Court proper to try the same, by any one of the Fish Committee of persons aforesaid; and the amount recovered shall be appropriated one half to the prosecutor, and the other to the poor of the town or plantation where the offence may be committed; and when any nets may be seized as liable to forfeiture, the same proceedings shall be had as directed in an Act prescribing the mode of recovering forfeitures of personal property liable thereto by law.

Approved by the Governor March 23, 1837."

## **7. Petition of 1839**

In 1839, 67 inhabitants of the Town of Calais submitted the following petition to the Maine Legislature:

"To the Honorable the Senate and House of Representatives of the State of Maine in Legislature Assembled. The undersigned citizens of the Town of Calais respectfully represent that in the year A.D. 1837 a law was passed entitled, 'An Act to regulate the Salmon, Shad and Alewife Fishery in the River St. Croix and its branches' which does not fully meet the wants of this community. They therefore respectfully request that the same may be so amended that the Inhabitants shall be restricted from taking said Fish only two days in each week. And that the fishways required by the fourth section of said Act shall be six feet wide and two and one half foot deep and that the same shall be kept open at all times between the fifteenth day of May and the twenty fifth day of September in each year; and in duty bound will ever pray."

### **8. Legislation of 1839**

"An Act in addition to an Act to Regulate the Salmon, Shad and Alewife Fishery in the River St. Croix and its branches. Laws of the State of Maine, Chapter 381."

Text of Act:

"Section 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That any person may take Salmon, Shad and Alewives in the American waters of the River St. Croix with any net, seine, spear or in wears between sunrise on Monday and sunrise on Saturday of each week, without incurring any of the penalties specified in the first section of the act to which this is additional.

"Section 2. Be it further enacted, That there shall be a good and sufficient fishway made and kept open, round, through or over, every mill dam across said river, and all its branches, where said fish were ever known to pass, by the owners or occupants of the mills on said river, which shall be six foot wide, and two and a half feet deep, and be kept open at all times between the fifteenth day of May, and the twenty-fifth day of September in each year: And if any owner or occupant of such mill or dam, as aforesaid, shall neglect or refuse to make and keep open such fishway, as herein directed, he shall forfeit two hundred dollars, for each neglect or refusal.

"Section 3. Be it further enacted, That the fourth section, and so much of the first section of the act to which this is additional as is inconsistent with this act, be and the same are hereby repealed.

Section. 4. Be it further enacted, That this act shall take effect from and after its approval by the Governor.

Approved by the Governor, March 7, 1839."

## **9. Petition of 1849**

Apparently, fishways on the mill dam owners on the St. Croix River were still not properly maintaining their fishways, 26 years after being required to do so by law. On May 29th of 1849, more than 150 citizens of the Town of Calais submitted the following petition to the Maine Legislature:

"To the Honorable the Senate and House of Representatives of the State of Maine in Legislature Assembled. We the undersigned Citizens of the Town of Calais would respectfully represent that the present fishways on the river as now made and managed, fail entirely to effect the object designed by the Legislature in the passage of the law regulating the same, the fishways are not large enough, nor are they kept at any time clear, neither can they be kept clear as they are now built. The County Commissioners under whose supervision the fishways at present are delegated to, live a great distance from this Town and under the present law the people are deprived of the benefits contemplated by the Legislature, we therefore would ask your honorable bodies so to amend the present law as to give to the Town of Calais the right to regulate and build at the Expense of the Mill owners a good and sufficient fishway within the limits of the Town and to make it imperative upon the Town to choose a Committee at their Annual Town Meeting for that purpose, under a penalty in such sum as your wisdom may suggest, and that the duties of said Committee shall be to see that the proper fish ways are made and kept clear and that said Committee give bonds to the town in such sum as your wisdom may suggest for the faithful performance of their duties; Your petitioners believe this is the only method to be pursued to restore to the Citizens of Calais their rights which they have been so long and as they believe, wickedly been deprived of for many years past. We say restore to us as far as in your power, not conflicting with the rights of any one, that which the God of Nature originally gave us, justice demands it, poverty pleads for it, at your hands you cannot resist the appeal we make, founded as it is upon the immutable principle of justice, equal justice for all, and restoring to us the benefits designed by our Creator for the use of his Creations. Calais, May 29th, 1849."

## **10. Legislation of 1849.**

"An Act for the Preservation of Fish on the St. Croix River.

"Be it enacted by the Senate and House of Representatives in Legislature Assembled as follows:

"Section 1: The legal voters of the Town of Calais, shall, each year, at their annual town meeting in March or April, elect by ballot, two discrete, suitable persons, inhabitants of said town, not owners of nor interested in mills, and, the legal voters of the Town of Baring shall, each year, at their annual town meeting in March or April, an inhabitant of said Baring, not an owner of nor interested in mills, which three persons shall constitute a

committee, which shall have the supervision, care and management of all fish ways made or to be made in American waters on the St. Croix River or streams emptying into it from this State. A majority of said committee may act in all matters hereby committed to them and such committee shall be sworn to the faithful performance of this duty.

"Section 2: It shall be the duty of said committee to examine, from time to time and so often as need be, the several fishways named in the first section thereof. It shall be the duty of the owners and occupants of all mills on any dam, to keep open and free from all obstructions to the free passage of salmon, shad and alewives all fishways made through, over or by said dam by order of the County Commissioners. If such fishway shall be closed or if there shall be in it any such obstruction as is aforesaid, for the span of twenty four hours, said committee shall open said fish way or remove said obstruction, the expense of which shall be recovered by the town in which said fishway may be, to its own use, of the owners or occupants of any of them, of said mills or any one or more of them, in an action on the case, in the District Court in the County of Washington.

"Section 3. No person shall, by any way or means, catch or take any salmon, shad or alewives in said River or streams after sunrise on Friday morning in each week, until the sunrise of the next succeeding Monday, under penalty of not less than five and not more than twenty dollars for each offence, to be recovered by the inhabitants of the town within which said taking may be; and if the taking be without the limits of any incorporated town, by and to the use of any person who shall sue for same, in an action of the case before any Justice of the Peace in said County, whether residing in the town suing or not.

"Section 4. Each member of the said committee shall receive of the town by which he is elected one dollar fifty cents for each day he is necessarily employed in the duties hereby devolved on him.

"Section 5. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed. July 31, 1849."

## **11. Legislation of 1858**

"An Act Amending an Act for the Preservation of Fish in the St. Croix River.

"Be it enacted by the Senate and House Representatives in Legislature assembled as follows:

"Section Three of 'An Act for the Preservation of Fish in the St. Croix River' approved August 7, 1849 is hereby amended by inserting the words 'above the Ledges so called' after the words 'streams' in the second line of said Section, so that the whole section shall read as follows:

"Section Three: No person shall by any way or means catch or take salmon, shad or alewives in said river or streams above the Ledge so called after sunrise on Friday morning in each week until sunrise of the next succeeding Monday, under penalty of not less than five nor more than twenty dollars for each offence: to be recovered by and to the use of the inhabitants of the town within which the taking may be. And if the taking be without the limits of any incorporated town by and to the use of any person who shall sue for the same in an action of the case before any Justice of the Peace in said County whether residing within the town sueing or not. March 13, 1858."

## **12. First Report of Maine's Fisheries Commissioner, 1867**

"St. Croix

The St. Croix was formerly very productive of salmon, shad and alewives. Perley, in his report on the fisheries of New Brunswick, states that the average catch of salmon at Salmon Falls, Calais, was 18,000 annually. Gaspereaux (alewives) came in such quantities that it was supposed they could never be destroyed. The number of shad were almost incredible. The fisheries did not diminish until 1825. Until that time the dams had fishways; but in that year the Union dam was built without a fishway, and the fisheries instantly fell off. We have the testimony of Mr. Ferdinand Tinker of Milltown to the abundance of fish up to 1825. Perley says the whole number of salmon taken in 1851 was 200. Since that time they have remained about the same until 1866 when 300 were caught. In 1867 there was still a farther increase. Mr. Treat of Eastport, attributes this late increase of salmon to the influence of Porter's stream, a tributary on the New Brunswick side of the river, to which they sometimes have access at the breeding season. The obstructions on this river are dams at Union Mills, at Milltown, at Baring and at Princeton. The dam at Union mills is at the head of tide, and it is supposed that at high water it may sometimes be passed by salmon. It has usually been provided with a fishway, but there is none now in working order ... But it will be nearly useless to build fishways and attempt to restock the river with salmon unless some stringent law is enforced with reference to the time, manner and place of fishing. The driftnets are now thrown as near to the Union dam as a boat can venture, within a few feet of the falling water, and there is no respect of days. Every salmon that approaches the dam is doomed. If there were a fishway but few would ever succeed in entering it. We are happy to state that the mill owners evinced a very laudable readiness to do their part by constructing and maintaining fishways, but they with reason objected to being compelled to incur the necessary expense, unless sufficient restriction be put on the fishing below to insure that the outlay shall not be in vain. For the present, we suggest the prohibition of all fishing for salmon, shad and alewives within half a mile of the Union dam, or any part of the river for several years."

Source: Maine Fisheries Commissioner Report for 1867, Maine State Archives.

## **13. Fourth Report of Maine's Fisheries Commissioner, 1871**

"Fishways and Other Matters in Detail

Saint Croix River

I was able, in my last report, to announce the construction of the fishways over the dams at Calais and Baring. I am now able to report the success of the experiment.

The fishway in the dam at "Middle Landing" or Union Mills, the first obstruction met by fish in ascending the river, was completed in 1869, and has thus been tested during one season, and through several freshets of unusual violence. When, in the month of June, the alewives came, they readily found the entrance to the fishway, and passed up through it in great numbers. Crowds of people gathered to witness the ascent. "

Source: Maine Fisheries Commissioner Report for 1871. Maine State Archives.

### **III. References Cited.**

Bailey, A.W. 1972. Early Baileyville Maine and its Pioneers. Calais Advertiser Press. Calais, Maine. Available at Maine State Library, Augusta, Maine.

Chase, C.G. A History of Baring. Compiled for The Centenary Celebration, July 4, 1925. Revised to July 1, 1950. Privately published. Available at Maine State Library, Augusta, Maine.

Legislative Documents at Maine State Archives, State House Complex, Augusta, Maine.

Legislative Documents at Maine Legislative Law Library, State Capitol Building, Augusta, Maine.