

LAWS

OF THE

STATE OF MARYLAND,

MADE AND PASSED

DURING A SESSION OF THE GENERAL ASSEMBLY BEGUN AND HELD
AT THE CITY OF ANNAPOLIS ON THE THIRD DAY
OF JANUARY, 1894, AND ENDED ON THE
SECOND DAY OF APRIL, 1894.

PUBLISHED BY AUTHORITY.

ANNAPOLIS:
KING & SONS, STATE PRINTERS,
1894.

Governor under this act, shall make a report under oath to the Governor on or about the first day of May in each and every year, the number of men that have been shipped, and the number of men discharged by him, the amount of fees received, and the general condition of the men when shipped, and their condition when discharged; provided, however, that any captain may ship a crew in St. Mary's county without the necessity of going before a shipping commissioner.

SEC. 2. *And be it enacted*, That this act shall take effect from the date of its passage.

Approved April 6th, 1894.

CHAPTER 380.

AN ACT to repeal Article seventy-two of the Code of Public General Laws, title "Oysters," and all sections and sub-sections thereunder, and to reenact said article with amendments.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That article seventy-two of the Code of Public General Laws, title "Oysters," and all sections and sub-sections thereunder, be and the same are hereby repealed and re-enacted with amendments to read as follows:

1. Any resident of this State desiring to catch or take oysters, with rakes or tongs, for sale, in any of the waters of this State, shall first obtain by application to the clerk of the Circuit Court for the county wherein he may reside, a license therefor, and such license shall have effect from the first day of September, in the year in which it may have been obtained, to the twenty-fifth day of April, inclusive, next succeeding; provided, that such license shall not authorize the taking or catching of oysters in any creek, cove, river, inlet, bay sound, within the limits of any county other than that wherein the license shall have been granted, and that the boundaries of the counties bordering on navigable waters shall be strictly construed so as not to permit the residents of either county to take or catch oysters beyond the middle of the dividing channel; provided, that nothing in this section shall be so construed as to prevent the citizens of Queen Anne's and Kent

counties from using the waters of the Chester river in common, or the citizens of Dorchester and Wicomico counties from using the water of Nanticoke river in common, or the citizens of Queen Anne's and Talbot counties from using the waters of Wye river and the mouth thereof in common, or the citizens of Dorchester and Talbot counties from using the waters of the Choptank river in common; provided, however, that the County Commissioners shall be authorized to give special permission to any woman who has no visible means of support, to take and catch oysters without license; provided, also, that boys under fifteen years of age shall not be required to license.

2. Each and every license to take or catch oysters for sale with rakes or tongs, shall state the name, age and residence of the person to whom the same is to be granted, the number and the county in which the same is to be used, and every applicant for such license shall pay to the clerk of the circuit court, when such license may be granted and before the issuing and delivery of the same, the sum of three and a-half dollars, except boys under fifteen years of age, the clerk to receive twenty-five cents for each and every tonging license so issued as a fee for issuing the same, including administering the oath when required; two-thirds of the amount received for tonging licenses, shall be paid by the clerk to the school commissioners for the use of the public schools in the respective counties where such licenses are issued, and of this amount the portion received from white tongers, to go to the white schools, and the portion received from colored tongers, to go to the colored schools, and the remaining one-third to be paid over by the clerk to the Comptroller of the State treasury to be credited to the oyster fund.

What license to contain.

Cost of license.

3. Every applicant for license to take or catch oysters with rakes or tongs, shall be required to make oath or affirmation before the clerk authorized to issue the same, or some justice of the peace, on whose certificate of the taking of such oath or affirmation, the clerk shall issue said license; that the facts set forth in said license are strictly true; that he has been a bona fide resident of the county for twelve months next preceding his application for said license; that he desires and intends to use said license in the county in which he resides, or the waters used in common, as herein provided in this article, and that he will comply with and obey all the laws of this State, regulating the taking or catching of oysters.

Oath of applicant.

4. The Comptroller of the Treasury shall cause to be printed and delivered to the clerks of the circuit courts for the several counties the requisite number of such blank licenses, and take receipts for the same as for other licenses furnished; and said clerks shall, on the first Monday of March and December of each year, return to the Comptroller a list and account of such licenses issued by them, and at the end of each tonging season, shall return all unused licenses to him, and shall pay over to the Comptroller one-third of the amount received by them for such licenses, which amount the said Comptroller shall place to the credit of the "Oyster Fund;" and no license to take or catch oysters with rakes or tongs shall be used on any boat or vessel which is licensed to take or catch oysters with scoop, drag, dredge or any similar instrument during the season for which such boat or vessel is licensed; and all licenses shall expire at the end of the season.

Comptroller
to furnish
blank
licenses.

5. If any person shall take oysters with rakes or tongs, for sale, without first having obtained a license as required by the preceding sections of this article, he shall upon conviction thereof before a justice of the peace for the county wherein the offence has been committed, be fined not less than twenty nor more than one hundred dollars, and stand committed to the county jail till all costs and fines are paid; and in any such case the boat or vessel used by him shall be forfeited, and may be condemned, in the discretion of the judge or justice of the peace, in the manner provided in section 23. All persons taking or catching oysters under the provisions of this article shall exhibit their authority for so doing when required by any officer of the Oyster Police Force, or other officers of the State.

Catching
oysters
without
license.

Penalty.

6. It shall be unlawful for any person or persons to use or employ any boat or canoe who has not first obtained a license to take or catch oysters with rakes or tongs in the waters of Talbot, Queen Anne's, Anne Arundel and Dorchester counties, in taking or catching oysters with any implements or device other than ordinary rakes or tongs with wooden shafts, to be used entirely by hand, and without any ropes or hoisting gear whatever. Any person or persons violating the provisions of this section shall be liable to the penalties prescribed in the preceding section for taking oysters with rakes or tongs without license.

Unlawful to
take oysters
in any way
without
license.

7. That all oysters taken from any of the waters of this State, either with scoops, dredges, or any similar instrument, or

Oysters to be culled. tongs or rakes, shall be culled upon their natural bed or bar as taken, and all shells shall be returned to the bed or bar from which they were taken, and all oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, shall be included in said culling and replaced upon said bed or bar as taken.

Possession of uncultured oysters. 8. Any captain or other person in charge of any vessel, who shall have oysters in his possession which contain more than five per cent. of shells and small oysters, shall be guilty of a misdemeanor; and in ascertaining such percentage, the officer of the Oyster Police Force is hereby authorized and directed to select such an amount of oysters contained in the pile, hold, bin or other place, as he may think necessary, and to cull or have culled the amount so selected.

How cargo to be measured. 9. It shall be the duty of any packer, commission man or other person, who shall purchase any cargo or part of a cargo of oysters, to have the contents of every fiftieth tub, or measure, or any other tub or measure he may deem necessary, dumped on the deck of the vessel from which such oysters are being taken, and the same shall be kept away and separate from any other oysters or oyster shells; and any person disturbing or interfering in any manner with the oysters so dumped, shall be guilty of a misdemeanor, and fined the sum of one hundred dollars; and after the whole cargo, or vessel load, or the quantity of oysters so purchased, shall have been measured and ascertained, it shall thereupon be the duty of the inspector of oysters to proceed to separate from the oysters dumped on deck, as hereinbefore provided, all shells and oysters whose shells measure less than two and one-half inches in length from hinge to mouth; and he shall then proceed to measure the said shells and oysters whose shells measure less than two and one-half inches in length from hinge to mouth, and shall make a written memorandum of the number of bushels of oysters remaining after such separation, and shall ascertain as nearly as possible the exact proportion of shells and oysters whose shells measure less than two and one-half inches in length from hinge to mouth, to marketable oysters contained in the quantity dumped, as hereinbefore provided, and the percentage so ascertained shall be deemed, for the purposes of this article, to be the proper percentage of shells and oysters whose shells measure less than two and one-half inches in length from hinge to mouth, contained in the cargo or portion of a cargo so purchased; and if said percentage shall be more than five

per cent. of the cargo or portion of cargo so purchased, then the said cargo shall be deemed to be unculled.

10. It shall be the duty of the captain or other person in charge of any vessel, from which oysters are being taken, as provided in section 9 of this article, to keep said vessel at the wharf or other place of delivery until the inspector of oysters shall have inspected the oysters dumped on deck, as provided for in the preceding section, and give a certificate in form following:

BALTIMORE, ———, 18—.

This is to certify, that I have this day inspected the oysters contained in the vessel ———, captain ———, delivered to ———, and found said cargo to contain ——— per cent. of marketable oysters.

(Signed,) ———,

Inspector of Oysters.

And any violation of this section by any captain or other person in charge of any vessel, shall be deemed guilty of a misdemeanor, and fined the sum of one hundred dollars for every such offence.

10A. It shall be the duty of any packer, commission man or other purchaser to deduct from the purchase price of every cargo or portion of a cargo, which contains more than five per cent. of undersized oysters and shells, as ascertained in accordance with the provisions of sections 9 and 10 of this article, a sum of money representing the value of the excess of undersized oysters and shells above five per cent., and it shall be the duty of any packer, commission man or other purchaser to pay the sum, so deducted by him, to the State of Maryland, which money shall become a part of the oyster fund; and every packer, commission man or other purchaser shall monthly make a sworn statement of the amount of money so deducted by him, which statement shall be forwarded on the first day of the month next succeeding the month in which such deduction shall have been made, to the Treasurer of the State; and in default of said payment and statement as herein provided, said packer, commission man or other purchaser shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be sentenced to the county or city jail for thirty days; and in the event of any one making a false oath, the offender shall be indictable and punishable as is now provided for the crime of perjury.

Penalty. 11. Any packer, commission man or boatman who shall conspire or agree with any other person to evade any of the provisions of this article, or who shall knowingly connive at or participate in such violation, shall be deemed guilty of a misdemeanor, and on conviction before any court or justice of the peace having jurisdiction, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the house of correction for not less than six months nor more than twelve months, in the discretion of the justice or judge trying the same.

Duty of measurers and inspectors. 12. It shall be the duty of the general measurers and inspectors of oysters and officers of the police force, to supervise the operation of this article, and diligently to aid in the enforcement of its provisions. That any packer, commission man or boatman who shall refuse to open his house or boat where oysters may be dumped or stored, for inspection by any officer whose duty it shall be to so inspect the same, or who shall conspire or agree with any other person to evade any of the provisions of this act relating to the culling of oysters, or who shall knowingly connive at or participate in such violation, shall be deemed guilty of a misdemeanor, and be subject to the penalties prescribed in section 15 of this article.

Penalty. 13. Any general measurer or inspector of oysters in this State, who shall knowingly permit any evasion or violation of this article to take place without causing the arrest of the offender, shall be guilty of a misdemeanor, and upon conviction of the same, shall be dismissed from the service, and be fined not less than fifty dollars nor more than three hundred dollars, in the discretion of the court or justice of the peace.

When unlawful to catch oysters. 14. It shall be unlawful for any person or persons to take or catch oysters, or have oysters in his or their possession, between the twenty-fifth day of April and the first day of September, in each and every year; provided, that oysters caught before the twenty-fifth day of April may be disposed of at any time before the thirtieth day of April; provided, that this section shall not prevent transportation companies from carrying oysters brought from other States; nor hotel and restaurant keepers or private persons from purchasing oysters outside of the State of Maryland; nor shall it be construed to prevent any person from taking oysters for private use, or transplanting or cultivating, not for sale, at any time from his private beds within the State; persons violating the

provisions of this section shall be deemed guilty of a misdemeanor.

15. Any person who shall violate any provisions of sections seven to fifteen, inclusive, of this article, except sections nine, ^{Violations.} ten, ten A, eleven and thirteen, where the penalty is prescribed, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court or justice of the peace, shall be fined not less than twenty-five dollars nor more than three hundred ^{Penalty.} dollars, in the discretion of the court or justice of the peace by which such person shall be tried, or imprisoned in the county or city jail, or in the house of correction, for not less than one month nor more than twelve months, in the discretion of the judge or justice of the peace trying the same; provided, however, that any owner, master or person in charge of a canoe, boat or vessel used in taking or catching oysters with rakes or tongs, who shall be convicted of having in possession on said canoe, boat or vessel, oysters containing more than five per cent. of shells and small oysters, as provided in section eight, shall be fined a sum not less than ten dollars nor more than fifty dollars, in the discretion of the judge of the court or the justice of the peace before whom such person shall be tried; and one-half of every fine imposed for a violation of this section shall be paid to the informer unless he be an officer of the State Fishery Force.

16. It shall be unlawful for any person to take or catch oysters on Sunday or at night; and any person violating this ^{Unlawful to take oysters on Sunday, or at night.} section shall, on conviction thereof, be fined a sum of not less than fifty dollars nor more than three hundred dollars, or sentenced to the house of correction for a period of not less than three months nor more than one year, or forfeit the boat, vessel or canoe used in violation of this section, at the discretion of the judge or justice of the peace trying the case.

17. The fines accruing under any of the provisions of this article shall be paid by the sheriff, constable or officers of the State Fishery Force collecting the same, within ten days, to the clerk of the Circuit Court of the particular county where such fine may accrue, or to the clerk of the Criminal Court of the city of Baltimore, if such fine shall accrue in said city; and it shall be the duty of the State's Attorney for the several counties and for the city of Baltimore to keep an account of said fines imposed, and to make a monthly report thereof to the clerk of the Circuit Court of their respective counties, or to said clerk of the Criminal Court, as the case may be, and ^{Disposition of fines.}

to see that said fines are duly collected and paid over as aforesaid; and the surplus, after paying all costs for prosecution in such cases, shall be paid to the State Comptroller for the use of the oyster fund, with a statement of the fines imposed and costs of the same; the justice of the peace or clerk of the court which imposes said fine, in any and every case, shall, in writing, inform the Comptroller of the treasury of the fine, upon whom laid, and the amount of said fine, with date of same. Any one who shall violate any provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof before any judge or justice of the peace in this State, shall be fined not less than twenty-five dollars nor more than three hundred dollars, in the discretion of the court or justice of the peace before which person shall be tried, or imprisoned in the county jail for not less than one month nor more than six months.

18. No steamer shall be used or employed in catching or taking oysters in the waters of this State with scoop, dredge or similar instrument; and no other boat shall be used in catching oysters with scoop, dredge or similar instrument, without first having been licensed as hereinafter provided.

19. The Comptroller of the Treasury shall, upon application of any person who has been a resident of this State for twelve consecutive months next preceding such application, issue a license to such resident, and to no other person, to employ such boat in taking or catching oysters with scoop, dredge or similar instrument within the waters of Chesapeake bay, Potomac river and in Eastern bay, outside of a line drawn from the southwest corner of Second Kent point to Wade's point; provided, that nothing herein contained shall authorize the taking or catching of oysters with scoop, dredge or similar instrument, on any oyster bar within one and a half miles of Tolley's point, Sandy point, Hacket's point, Thomas' point, Holland's island bar and Three Sisters, nor within one and one-half miles of Holland's point bar, nor of Swan point bar, nor between Poplar island and the mainland of Talbot county, south of a line drawn from the north point of Poplar island to Lowe's point on the mainland, nor north of a line drawn from the end of south bar of Poplar island to Paw Paw cove on Tilghman's island, nor within one-fourth of a mile west of Poplar island, nor within one-half of a mile of Plum point, nor within the boundary lines of any county, unless herein otherwise specified; which license shall hold good for

Unlawful to
use steamer.

Dredging
license.

Exempted
waters.

one season only, and shall only authorize the catching of oysters between the fifteenth day of October and the fifteenth day of March, on which day the dredging season shall end, and the license expire; but it shall be lawful for the owner of any such licensed boat, whenever said owner shall sell and convey by bill of sale, for a bona fide consideration, said boat unto any person who has been a resident of the State of Maryland for at least one year, to transfer said license to said vendee, with said boat, which license when transferred shall entitle said vendee to the same privileges for catching or taking oysters, with said boat in the waters of this State, that the original vendor or assignor had had before said assignment; provided, said vendee and assignee shall appear before the Comptroller of the Treasury and make oath before him to all the facts, matters and things required of said original vendor or assignor, before taking out such license, upon which said license the said Comptroller shall certify in writing the fact of said vendee or assignee having taken said oath, for which said certificate the said vendee or assignee shall pay to the said Comptroller the sum of five dollars for the use of the oyster fund. The provisions of this section in relation to time of taking oysters, the time of expiration of license, and the transfer of ownership shall apply to all vessels licensed by any county in this State, to take and catch oysters with scrape or scoop, and any law, general or local, in conflict herewith, shall be void and of no effect.

Assignment
of license.

20. It shall not be lawful for the owner or master or any person on board of a vessel in this State to affix any crank, spool, winder or other machinery or equipment for operating or handling scoops or dredges, or to have on board any vessel a scoop, scrape or dredge, with intent to affix the same to said vessel for the use in taking or catching oysters, without having first obtained a license to take or catch oysters with a scoop or dredge, as aforesaid; and the fact of having such scoop, dredge or scrape on board of any vessel shall be prima facie evidence of an intent to use the same contrary to this section.

Dredges on
unlicensed
vessels.

21. The owner of such boat shall make oath before the Comptroller or his clerk, or, if the owner be a resident of Baltimore city, he may make oath before the clerk of the Court of Common Pleas, or if a resident of a county, he may make oath before the clerk of the Circuit Court for said county, that he is the bona fide owner of such boat, to be described in the license; that he has been a resident of the State for the time

Oath of appli-
cant for
license.

hereinbefore prescribed ; that there is no lien on said boat held by a non-resident, directly or indirectly, and that the said boat is not held and shall not knowingly be used with an intention to violate or evade the provisions of this article ; and such applicant shall produce before the Comptroller at the time of making such application the certificate of the taking of such oath and the custom house tonnage, which tonnage the owner shall swear to ; and shall further make oath that before the measurement of said vessel by the custom house officers, the said vessel was not dunnaged so as to evade the just and proper measurement of tonnage of said vessel, with a view of evading a proper and just sum for the licensing of the same. The master of such boat shall also make oath before the Comptroller or his clerk, or if a resident of Baltimore city, before the clerk of the Court of Common Pleas, or before the clerk of the Circuit Court for the county wherein he may reside, that he has been a resident of this State for twelve months next preceeding the time of taking such oath ; any one violating this section shall be deemed guilty of a misdemeanor, and upon conviction before a judge of the Criminal Court of Baltimore city, or a judge of the Circuit Court of the county or a justice of the peace having jurisdiction, as the case may be, shall be fined a sum not less than fifty dollars nor more than three hundred dollars, or imprisoned in the house of correction for a period of not less than three months nor more than six months, or both, at the discretion of the judge or justice of the peace.

Penalty.

22. Before granting such license the Comptroller shall receive three dollars per ton for every ton the boat may measure ; and in case any license is issued by authority of any county, the clerk of the Circuit Court of the county shall receive for each license, from the applicant, two dollars per ton for every ton the boat may measure, except that when the license is issued by authority of any county the license fee shall be eight dollars for all boats of five tons measurement or under ; said measurement to be custom-house measurement ; but no allowance or deduction shall be made or allowed by reason of dunnaging or false bottom ; and it shall be the duty of the commander of the State Fishery Force, or any officer under his command, at any time he shall deem it proper, to inspect and verify the measurement of any boat, and the measurement ascertained by such officer shall be conclusive and final ; and any license granted shall be corrected or amended in accordance with such measurement, and the appropriate

Cost of
license.

license fee hereinbefore named paid in accordance with such measurement; and the right granted by any license already issued shall be suspended until the full payment of such license fee is completed; and any law, general or local, in conflict herewith, shall be void and of no effect.

23. Any master or person in charge of any vessel, who shall violate any of the provisions of the preceding sections, from eighteen to twenty, inclusive, by taking oysters unlawfully, shall be deemed guilty of a misdemeanor, and upon indictment and conviction in any Circuit Court in this State, or in the Criminal Court of Baltimore city, before which such case is tried, shall be sentenced to the house of correction for a term not less than three months nor more than one year, and the boat or vessel used in such violation, together with the papers, furniture and tackle on board of said boat or vessel at the time of said violation, shall be forfeited, but shall be released upon the payment of not less than one hundred dollars nor more than five hundred dollars and costs and expenses for each and every violation of the preceding sections, in the discretion of the court.

Violations of
secs. 18 to 20.

Penalty.

24. Upon information given under oath to any judge of the Circuit Court or justice of the peace, of any violation of any of the provisions of this article, he shall issue his warrant to the sheriff or any constable, requiring any of them to whom it may be directed to summon a posse comitatus, if necessary, and proceed forthwith to arrest the party or parties alleged to have been engaged in the violation of this article, and to seize and take possession of any boat, canoe or vessel, together with all her tackle and apparel on board of the same, and deliver the same to the judge of the Circuit Court or a justice of the peace of this State, to be dealt with according to the provisions of this article; provided, that any justice of the peace, before whom any person is brought, charged with a violation of any of said sections of this article, the punishment for which is imprisonment in the house of correction, shall grant the parties charged a speedy hearing, and if in his judgment the facts appear to warrant a conviction, he shall hold the parties charged for their appearance before the grand jury of the county for which he is appointed at the succeeding term of the Circuit Court.

Arrest of
offenders.

25. It shall not be lawful for the owner or master or any person on board of or having control over any boat or vessel licensed to catch or take oysters in the waters of this State

Firearms on vessels. with scoop, dredge or similar instrument, to have or permit to be kept on such boat or vessel, any cannon, howitzer or any piece of ordnance or any swivel, musket, rifle or other piece or species of fire arms larger than a pistol, except two shot guns not larger than a number ten gauge, and not to use larger than number one shot; any person who shall offend against any of the provisions of this section, or who shall resist any officer authorized under this article to make arrests while such officer is in discharge of his duties hereunder, shall be deemed guilty of a felony, and upon indictment and conviction thereof in any court having jurisdiction, shall be punished by a fine of not less than fifty dollars nor more than two hundred and fifty dollars, and imprisoned in the house of correction for a term of not more than six months, in the discretion of the court; any person who shall discharge any species of fire arms at or toward any officer authorized under this article to make arrests, whilst such officer is in discharge of his duties hereunder, or at or towards any vessel upon which such officer shall be whilst in the discharge of his duties hereunder, shall be deemed guilty of a felony, and upon indictment and conviction thereof in any court having jurisdiction, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, and shall be confined in the penitentiary for not less than one year nor more than two years, in the discretion of the court.

Penalty.

Duty of sheriffs and constables. 26. It shall be the duty of the sheriff, constable or officers of the State Fishery Force to arrest any person and to seize any canoe, boat or vessel found violating any of the provisions of this article, and bring the offender or offenders before a judge of a court having criminal jurisdiction, or a justice of the peace most convenient or accessible, to be dealt with as herein provided.

Trial of offenders. 27. The judge or justice of the peace before whom any person or any vessel may be brought, charged with violating any of the preceding sections of this article, shall either give the case or cases an immediate hearing, or at the instance of the party charged shall appoint some early day within the next ten days to hear the case, the party charged giving such good and sufficient bail as said judge or justice shall require for his appearance at trial; and the said vessel shall be held and safely kept at the cost of the party charged or of the said vessel, as the case may be; and in case the master, owner or other person in charge of said vessel

shall, or shall not be arrested, then the vessel used in violation of the provisions of this article shall be seized and the charge against the same shall be heard by the said judge or justice of the peace, and she shall be dealt with as hereinafter provided; and if the said master, owner or other person in charge of said vessel shall not appear after giving bail, as hereinbefore provided, then in either case the judge or justice of the peace may proceed to hear the case, and to determine whether or not the said vessel has been employed in violation of any of said sections; and any vessel so employed is hereby declared to be forfeited; and in case the said judge or justice shall find the vessel has been so unlawfully employed, then he shall declare the same to be forfeited, and shall so enter upon his docket, together with all her tackle, apparel, appurtenances, boats, sails and rigging; and he shall authorize and direct any sheriff, or deputy sheriff, to sell said vessel, together with all the apparel, tackle, boats and other things belonging thereto, at public auction, to the highest bidder for cash, after giving at least twenty days' notice of the time and place of said sale, printed in some newspaper published in the county in which the case may be tried; and the said officer shall be allowed the actual expenses of seizure, sale and keeping of said vessel and poundage fees; and the proceeds of said sale shall be first applied to the payment of all the costs, charges and expenses of the seizure, trial and sale of the said vessel, and the balance of said proceeds, if any, shall be paid to the clerk of the court, as herein provided, and by him to the Comptroller to the credit of the oyster fund, unless a part thereof be remitted, as provided by section 23; provided, that the owner, or any other person having any mortgage or any other lien on the said vessel, shall in all such cases have the right of appeal to the Circuit Court at any time within sixty days after judgment rendered; and upon the trial of said appeal the court shall have the right to amend the warrant or any of the proceedings before the justice of the peace, so as to bring the case to trial upon its merits; provided, that no new offence shall be charged; and in case such an amendment shall work a surprise to defendant, he shall have further time to prepare for trial, and the rules governing amendments in cases originating in the said court shall govern such amendments so far as they are applicable; and upon bond in an amount equal to the value of said vessel being given by the person praying the appeal, satisfactory to said justice, the said vessel may be released pending the said appeal. Any person

Vessel to be
forfeited.

Sale of vessel.

Right of
appeal.

or persons offering to stand bail for any person or persons charged under the provisions of this article shall be sworn by the judge or justice of the peace trying the same, as to his actual worth in unincumbered real estate, and if he swears falsely, upon proof of the same before any court of competent jurisdiction, shall be deemed guilty of perjury and subject to all the pains and penalties of the same; the judge or justice, before the party is sworn, shall acquaint him or her with the pains and penalties of false swearing. Any person having a lien upon any vessel seized hereunder may file a petition, and the court, if the interests of justice will permit, may allow him a portion of said proceeds; but in all such cases the court shall retain a sufficient sum to pay costs, charges, expenses and a reasonable and a proper equivalent to a fine; and amendments to the forms and procedure shall be allowed, as hereinbefore provided, in all cases of appeal from the judgment of justice of the peace.

Boats of non-
residents.

28. Any boat, owned wholly or in part by any non-resident, used in catching oysters in this State, with scoop, dredge or similar instrument, is hereby declared forfeited, and shall be condemned by order of any judge of a Circuit Court most accessible to the place of her capture, or if captured in Baltimore city, by order of the City Court, and shall be sold by the sheriff of the county where condemned, or if condemned in Baltimore city, by the sheriff of said city, to the highest bidder for cash, after twenty days' notice of the time and place of sale; such notice to be published at least three times in a newspaper having the largest circulation printed in Baltimore city or in the county where condemned; one-fourth of the proceeds of such sale shall be paid to the party making the capture, not including the officers and crews of the State Fishery Force, who shall receive no part of said fine, and the balance shall be paid into the treasury of the State, to be credited to the oyster fund; provided, however, that any person claiming an interest in such vessel shall have the right to make an appeal upon giving to the State a good and sufficient bond as required in such cases; provided, however, that when the bona fides of the owner of any vessel shall be called in question, the burden of proving such bona fides shall be upon those claiming to be such owners; and provided also, that upon taking such appeal and filing such bond, the said vessel shall be released from custody.

29. All moneys received or obtained from dredging licenses issued under the provisions of the preceding sections of this

article, and one-third of the moneys received from the county scraping licenses, and all fines, penalties or forfeitures imposed in pursuance thereof, shall, upon the warrant of the Comptroller, be paid into the treasury, and placed to the credit of a fund which shall be called "The Oyster Fund," and the same shall be kept separate and distinct from other funds in the treasury, and shall only be drawn upon for the purpose of maintaining sufficient and proper police regulations for the protection of fish and oysters in Maryland waters, and in the payment of the officers and men, and keeping in repair and supplying the necessary means of sailing the boats and vessels of the State Fishery Force; and the Comptroller is hereby required to state in his annual report particularly the receipts and expenditures on account of said funds, and the balance standing to the credit of the State at the time of making such report. Oyster fund.

30. The Comptroller shall have painted in black figures on white canvass, two sets of numbers corresponding to the license to catch oysters with scoop, scrape, dredge, or any other similar instruments; each figure shall be twenty-two inches in length, and of proportionate width, and the figures at least six inches apart; and he shall give to each person taking out such license, two numbers thereof, one of which shall be securely sewed upon the starboard side, and in the middle of that part of the mainsail which is above the close reef, and the other number on the port side in the middle part of the jib, which is above the bonnet and reef; these numbers shall be placed in an upright position, and worn at all times during the dredging season, and returned at the end of the season, and shall not be concealed or defaced, and no other number shall be exposed to view, or used, than that which is furnished by the Comptroller. Numbers.

Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, as provided in section fifteen of this article; and in any such case the boat or vessel shall be forfeited and condemned, in the discretion of the judge, in the manner as provided in section twenty-seven. The provisions of this section shall apply to all boats licensed to take oysters with scrape or scoop by any county in this State, except that the numbers for such boats shall be painted red instead of black; and the numbers shall be delivered by the Comptroller to the clerks of the courts as they may be ordered; and at the end of the season all licenses not used shall be returned by said clerks to the Comptroller; and the said clerks shall also pay to the Comptroller one-half of all moneys

received by him for such licenses, which sum shall be placed to the credit of the oyster fund.

Sailing in
• exempted
waters.

31. If any boat or vessel shall be seen sailing on any of the waters of this State which are exempted from dredging by law, in the same manner in which they sail to take or catch oysters with scoop, scrape, drag or dredge or similar instrument, the said boat or vessel shall be pursued by any officer authorized by this article to make arrests, and if said boat or vessel apprehended by said officer, shall be found to have on board any wet oysters, or the dredges, or dredge line, or deck wet, indicating the taking of oysters at said time, and properly equipped for taking or catching oysters with scoop, scrape, drag or dredge or similar instrument, such fact shall be prima facie evidence that the said boat or vessel has been used in violation of the provisions of this article; and it shall be the duty of the officer to arrest the person in command of said boat or vessel, together with all her equipments, and bring the same before a judge or justice of the peace of the county having jurisdiction, or if in the Chesapeake bay, in the county most accessible or convenient, to be dealt with according to law; provided, that nothing in this article shall be construed to prohibit vessels from seeking harbor in any waters of this State. The provisions of this section shall extend to all boats licensed to take oysters with scoop or scrape by any county of this State.

Ammunition
for guard
boats.

32. The Board of Public Works are empowered and directed to purchase for each of the guard boats such arms and ammunition as may be necessary to make them efficient, and the officers of such boats shall be authorized to use such arms, in their discretion, for the enforcement of the provisions of this article.

Districts.

33. For the more efficient working of the State Fishery Force, the waters of this State shall be divided into seven districts, of which the waters of Kent and Queen Anne's shall be the first; the waters of Queen Anne's and Talbot shall be the second; the waters of Talbot and Dorchester, the third; the waters of Wicomico, the fourth; the waters of Somerset, the fifth; the waters of Anne Arundel, the sixth; the waters of St. Mary's, Charles and Calvert, the seventh; each of the said districts shall be guarded by one sailing vessel, except the second, which shall be guarded by two; and the third, which shall be guarded by four; and the sixth and seventh, which shall be guarded by two each; and it shall be the duty of the

deputy commander of the first district to guard the waters of Chester river belonging to Queen Anne's county, and the waters of Kent county, including Swan point bar; and the duty of the first commander of the second district to guard the waters of Eastern bay and its tributaries; and the duty of the second commander of the second district to guard the tonging reservation of Poplar Island narrows and the waters of Talbot county as far down as Black Walnut point; and it shall be the duty of one of the deputy commanders of the third district to guard the waters of Choptank river and its tributaries as far as Cambridge; and the duty of the second to guard the waters of Little Choptank river in Dorchester county; and the third to guard the waters of Fishing bay, Honga river, Tar bay, Hoopers straits, Hollands straits and waters of Dorchester county, up to the line dividing Dorchester county from the counties of Wicomico and Somerset; and the fourth to guard the waters of the Great Choptank river from Cambridge up as far as oysters grow, and the remaining commanders to guard their respective districts; provided, that the Board of Public Works or the commander of the fishery force, are hereby authorized and empowered to order the deputy commander to do duty in any of the waters in the State, when, in the judgment of either, the same may be necessary.

34. The Board of Public Works shall have power to appoint a suitable person to command said force; to appoint a deputy commander, who shall command either steamer ^{Commander and deputies.} or the commander of the force; and to appoint the deputy commander for each sailing vessel for their respective districts, from among persons of the counties whose waters comprise the different districts, who shall be commissioned by the Governor; and the said deputy commanders shall have power to appoint their subordinates and select their crews; and the term of ^{Term of} office of said commanders shall be for two years, unless sooner removed for incompetency or neglect of duty; and if any of said officers shall fail in the discharge of their duty, by reason of collusion with parties interested in violating any of the provisions of the preceding sections, he shall be deemed guilty of a misdemeanor, and on indictment and conviction in a court of law, shall be fined or imprisoned, at the discretion of the court. No person shall be eligible to the office of commander or deputy commander, who is the owner or has any interest in any scrape or dredge boat, and it is hereby made unlawful for the Board of Public Works to appoint any such person to be ^{office.}

commander or deputy commander of any boat or vessel in the State Fishery Force. The steamers and boats belonging to the State Fishery Force are to be used only on business pertaining to its official duties or on State business.

35. The Board of Public Works shall have power to remove any officer of said force for neglect of duty or incompetency; and the commander of the force shall have power to suspend any officer of the force for a period not exceeding thirty days for any neglect of duty; and any officer commanding in said force shall have power to remove any subordinate under his command and to appoint a person to fill the vacancy whenever the interest of said service may, in his judgment, require him so to do.

36. The Board of Public Works shall have power and it shall be their duty to keep the steamers and sail vessels in good order and repairs; and for the purpose of reducing the expenses of the State Fishery Force, the said board is authorized and hereby required to lay up and put out of commission one steamer, and under no circumstances shall the said steamer be placed in commission, except during the dredging season, and only then in such emergency as the Board of Public Works may judge is necessary that both steamers are required to enforce the provisions of this article; and in such cases the commander shall take command of said steamer and ship a crew, and as soon as the emergency is passed, the said commander shall discharge said crew and place said steamer out of commission again, retaining her engineer and pilot, the first named to keep in good order the engine and machinery of said boat, and the second named to act as watchman. The Board of Public Works is further authorized and required to reduce the number of employes on the sailboats, from the fifteenth day of April until the fifteenth day of September of each year, to three, viz., captain, mate and cook, excepting the schooner Nellie Jackson, the Folly and the Baughman, of which shall consist of the three above named crew and a seaman, making four men to each of the above-named boats; and the Board of Public Works is hereby authorized to contract for sloops or vessels to guard the line from the first of October to the first of April, between the tongs and dredgers, from the long wharf at Cambridge to Bowdle's house in Talbot county, and to rent or hire suitable boats to guard the waters of Herring bay, Manokin river, St. Mary's river, Holland and Hooper's straits, and Pocomoke river and sound, the price to

be paid for the use of such boats not to exceed thirty dollars per month during the period of employment; and the crews of the boats so employed, not exceeding three for each boat, shall be paid for their services not exceeding fifty dollars per month for the captain or master, and thirty dollars each per month for their several assistants.

37. The deputy commanders of the steamers are hereby required to keep their vessels constantly on duty, when circumstances will permit; and every locality where a violation of the law is likely to occur shall be visited, not only in the season, but during the close season, both day and night, as often as the duties of the force and condition of the vessels will allow; or whenever there is any information that a violation of this article is likely to occur, then it shall be the duty of the deputy commanders at once to proceed to the place suspected and vigilantly to guard the said places, to see that no one will violate the provisions of this article; and every three months a report shall be made to the Board of Public Works of all official action taken under this article.

Vessels to be
constantly
on duty.

38. It shall be the duty of the deputy commanders of the said vessels to confine themselves ordinarily to their several districts, night and day, in and out of the season, but it shall be their duty also to enforce any of the provisions of this article, in any water adjacent to their district, when a violation of the same shall come to their knowledge.

Duty of
deputy
com-
manders.

39. The commanding officer and the deputy commanders of said force shall, upon entering upon the discharge of their duties, take before one of the judges of the Circuit Courts the oath prescribed by the Constitution; and the commanding officer of said force shall enter into bond to the State of Maryland in the sum of ten thousand dollars, and each deputy commander in the sum of three thousand dollars, to be approved by one of the said judges, for the faithful performance of their duties as prescribed in this article, the said bond or bonds to be filed with the Comptroller.

Oath.

Bond.

40. The salary of the commander of the State Fishery Force shall be fifteen hundred dollars per annum; and he shall be in active command of one of the steamers, as hereinbefore provided; and the deputy commander of the other steamer shall receive a salary of ten hundred dollars per annum, and for each of the steamers they shall have power to appoint one officer at a salary of six hundred dollars per annum, one

Salaries.

engineer or machinist at a salary of eight hundred dollars per annum, and for the steamer in commission the following additional officers and crew: one assistant at five hundred dollars per annum, one pilot at a salary of thirty dollars per month, three seamen at a salary of twenty-five dollars each per month, and two firemen at twenty-five dollars each per month, one steward and one cook at a salary of twenty-five dollars each per month; and each deputy commander of the said vessels shall receive a salary of seven hundred and fifty dollars per annum, and he shall have the power to appoint one officer at a salary of five hundred and fifty dollars per annum, and four seamen at a salary of thirty-five dollars per month during the oyster season, and thirty dollars per month after the season; except the deputy commander of the second guard-boat of the second district, who shall receive fifty dollars per month for the year, and shall appoint a mate at a salary of forty dollars per month, and two seamen at thirty dollars per month each; each to be selected from the district in which they are respectively to serve.

Uniforms. 41. No rations shall be allowed the officers and crews of the State Fishery Force. The members of said force shall at all times keep themselves neatly clothed in proper uniform when on duty at their own expense.

Rations. 42. The officers and crews of the steamers shall each receive eight dollars per month for rations.

Duties of officers of oyster police force. 43. It shall be the duty of all officers of the Oyster Police Force to diligently watch, and guard, and to arrest all violators of any of the provisions of this article; and the commanders of both the vessels and steamers shall keep their boats on duty at all times, both by day and night, so far as possible, Sundays included, and shall cruise near to the line dividing the grounds which they are assigned to guard, from the dredging grounds, and shall harbor as near said line as it is possible for them to do, and shall remain on board their boats at all times, unless disabled by sickness or excused by the commander of the force; and shall keep a log of their movements, and shall once in each month forward a copy of such log to the office of the commander; any violation of duty in these respects shall be deemed a sufficient cause for the removal of any officer, and he shall be so removed.

44. The State Fishery Force shall have authority to enforce all laws of this State relating to fish, whether general or local;

and the several deputy commanders of sloops and vessels shall be required to visit the tributaries and streams of their respective districts at least once in two weeks between the first day of May and the first day of October, and at any other time when notified by citizens or others of violations, and they shall arrest and bring to trial all persons found violating any section of this article and cause them to be tried and punished as provided by law.

To enforce laws relating to fish.

45. The commander of said force shall have the control and direction of said force, under the supervision of the Board of Public Works, with power to direct their movements, and shall have an office, to which place all complaints and applications for assistance shall be addressed; and it shall be his duty to keep an itemized account of all expenses and disbursements of said force, and report monthly to the Board of Public Works; and the commander shall be permitted to have one clerk and the compensation of said clerk shall not exceed seven hundred dollars for acting as clerk to the commander.

Commander to have control of force.

46. The owner of any land bordering on any of the navigable waters of this State, the lines of which extend into and are covered by said waters, shall have the exclusive privilege of using the same for protecting, sowing, bedding or depositing oysters or other shell fish within the lines of his own land; and any owner of land lying and bordering upon any of the waters of this State, shall have power to locate and appropriate in any of the waters adjoining his lands one lot of five acres for the purpose of protecting, preserving, depositing, bedding or sowing oysters, or other shell fish; and any male or female citizen of full age, of the county wherein he or she resides, shall have power to locate and appropriate, and hold one lot of five acres, and no more, in any waters in this State not located or appropriated: provided, thirty days' notice in writing shall be given the owner or occupant of land bordering on said waters proposed to be located, that the owner or occupant may have priority of claim; and if such owner or occupant shall fail to locate or appropriate the water mentioned in said notice within thirty days after receiving the same, then it shall be open and free to any one, under the provisions of this section; provided also, that the said location or appropriation shall be described by stakes, bushes and with the name of the owner on a board fastened to a pole or stake on or within the appropriated oyster land, or by the proper and visible metes and bounds, which description shall be reduced to writing

Private oyster planting.

Notice to owner.

Bed to be marked off.

under the oath of some competent surveyor, and recorded at the expense of the party locating or appropriating the same, in the office of the clerk of the Circuit Court for the county wherein such land may be located; and provided also, that such location and appropriation shall not injure, obstruct or impede the free navigation of said waters; and provided, that no natural bar or bed of oysters shall be so located or appropriated, and that twelve months' peaceable possession of all locations of oyster grounds, under the laws of this State, shall constitute a good and sufficient title thereto; but should any one within twelve months be charged with locating or appropriating any natural bed or bar hereinbefore prohibited, the question may be at once submitted by any person interested to the judge of the Circuit Court for the county where such questions shall arise, who, after having given notice to the parties interested, shall proceed to hear the testimony and decide the case; and if his decision be in favor of the party locating said five acres, said decision shall be recorded with the original record of said five acres, and shall in all cases be conclusive evidence of title thereto; provided also, that if any stakes or bushes used as bounds shall be removed by accident or design, it shall not excuse any person from wrongfully taking such oysters, if he knew the grounds to have been located and appropriated; but any title or pretended title to more than five acres, or otherwise contrary to this section, held or claimed by any person, is hereby declared to be fraudulent and void; provided, that no non-resident of this State shall be entitled to avail himself of the provisions of this section, whether he be sole or part owner of any land in this State; and in case of the death of any citizen who may have located and appropriated any lot under the provisions of this section, his executors or administrators shall have the exclusive use, possession and control of such lot as fully as the person so dying had, for the purpose of protecting, cultivating and removing the oysters planted on said lot, for the period of three years from the date of the death of the person appropriating such lot; and any person or persons taking or attempting to take oysters thus planted or bedded shall be deemed guilty of a misdemeanor, and upon conviction before a justice of the peace trying the case shall be fined a sum not less than fifty dollars nor more than one hundred dollars, and imprisoned in the house of correction for a period of three to six months, one-half of said fine to be paid to the informer, and the other half to be paid to the County Commissioners for the use of the public schools.

Not to apply
to non-
residents.

47. If any creek, cove or inlet not exceeding one hundred yards at low water in breadth at its mouth make into the land, or if any creek, cove or inlet of greater width than one hundred yards at low water mark make into the lands, the owner or other lawful occupant shall have the exclusive right to use such creek, cove or inlet, when the mouth of said creek, cove or inlet is one hundred yards or less in width; and when the said creek, cove or inlet is more than one hundred yards in width at its mouth at low water, the said owner or other lawful occupant shall have exclusive right to use such creek, cove or inlet so soon as said creek, cove or inlet in making into said land or lands shall become one hundred yards in width at low water, for preserving, depositing, bedding or sowing oysters or other shell fish, although such cove, creek or inlet may not be included in the lines of any patent; and in all such cases such right of the riparian proprietor shall extend to the middle of such creek, cove or inlet.

Exclusive
right to
creeks 100
yards or
less in
width.

48. That it shall be unlawful without authority from the owner for any person or persons to take or catch planted or bedded oysters, knowing them to be so planted or bedded, or to remove, break off, destroy or otherwise injure or alter any stakes, bounds, marks, buoys or other designation of any of said beds; any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and on conviction before the Circuit Court or a justice of the peace for the county where the oysters were bedded, shall be fined not less than ten nor more than two hundred dollars, or be sentenced to the house of correction for a term of not less than three months nor more than one year, at the discretion of the said judge or justice.

Taking
oysters from
private beds.

Penalty.

49. Any person convicted before a justice of the peace under any of the preceding provisions of this article, shall in all cases have the right of an appeal to the Circuit Court for the county.

Right of
appeal.

50. Any person dragging, raking or dredging for oysters within five hundred yards of either edge of the new channel at the mouth of the Putapsco river, known as the Craighill channel, extending from the seven-toot knoll to the mouth of the Magothy river, or within five hundred yards of either edge of the cut-off connecting the Brewerton and Craighill channels, shall forfeit his boat or vessel; and it shall be lawful for any justice of the peace of the county or city in which

Dredging
near Craighill
channel.

such person shall be arrested to try such person, and, on conviction, to condemn said boat or vessel, and sell the same on five days' notice, and fine the said offender a sum not less than five dollars nor more than twenty-five dollars, for each and every offence; and the said justice of the peace shall pay over one-half of said fines and forfeitures to the informer, and the other half to the school board of said county or city.

Penalty.

51. It shall not be lawful for any person to take or catch oysters in any manner whatever in the waters of the Potomac river, unless he be a citizen of Maryland or Virginia, and shall have been a resident of the State of which he is a citizen for twelve months immediately preceding. Any one violating this section shall be subject to a fine of five hundred dollars; any vessel in which oysters are taken contrary to this section shall be forfeited and sold, one-half of the proceeds to go to the State where convicted, and the other half to the informer.

Provisions as to Potomac.

52. It shall not be lawful for any citizen of Maryland or Virginia to take or catch oysters with a scoop, scrape or dredge, or any such instrument, in the waters of the Potomac river between the fifteenth day of March and the fifteenth day of October of each year; it shall not be lawful for any citizen of either State to take oysters with tongs from the waters of Potomac river, between April the twenty-fifth and September the first of each year; and it shall not be lawful for any person to have in possession any oysters in the waters of the Potomac river between the twenty-fifth day of April and the first day of September of each year; every person found guilty of violating any of the provisions of this section shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars for each offence; and the vessel by which oysters are illegally taken or which receives oysters so illegally taken, or which has oysters on board within the limits of said river within the time specified, shall be held as security for the payment of the fine hereinbefore mentioned, and be subject also to a fine of not less than fifty dollars nor more than one hundred and fifty dollars; and in the event of such fines not being paid within a period of twenty days, then such vessel shall be forfeited and sold; the surplus after payment of fines and costs to be paid to the owner of the boat; one-half of fines to go to the informer and the other half to the State.

When unlawful to take oysters in Potomac.

Penalty.

53. It shall be lawful for citizens of the State of Maryland and Virginia to take oysters in the Potomac river after com-

plying with the requirements of the law of the State of which they are citizens, for the taking of oysters from the waters of such State; and any citizen of either State who takes oysters in the Potomac river without having complied with the requirements of the law of his State as to the taking of oysters in its own waters, shall be considered guilty of violating the laws of the State of which he is a citizen, and shall be prosecuted according to such laws.

Citizens to
comply with
laws of their
State.

54. All offences committed against the provisions of sections fifty-one, fifty-two and fifty-three, by persons not citizens and residents as aforesaid of either State, may be punished by any of the justices of the peace or courts of either State having criminal jurisdiction. All offences committed by citizens of either State shall be punished by any of the justices of the peace or courts of the State of which they are citizens, having criminal jurisdiction; the authorities of either State shall have the right to examine into the right of any person taking oysters in the Potomac river, and all persons taking oysters in the Potomac river shall exhibit their authority for so doing whenever required by the police or other legal authority of either State; the legal authorities of either State shall have the right to arrest any offender against said sections in the Potomac river, and to pursue such offender beyond the boundary line of either State upon navigable waters and arrest him wherever found upon such waters.

Violations of
secs. 51-53.

55. The penalties imposed by sections 51, 52 and 53, shall be recovered before any justice of the peace of either State, in any county of either State, with the right to the State or the defendant to appeal to the Circuit Court for the county in which such cause has been tried, or to the Criminal Court of Baltimore, if tried in Baltimore city, or in the Hustings Court of the city, if tried in a city of Virginia; the parties and vessels charged may be arrested without warrant and carried before any justice of the peace; the justice shall cause a guard to be put upon the vessel, and the parties charged to be confined in jail or bailed; upon conviction the offender shall be committed to jail until the fine is paid, and the vessel shall be sold at public auction by the sheriff of the county or city for cash after ten days' notice; in case of appeal the appellant shall remain in custody and the vessel shall be sold as above provided, unless recognizance be entered into for double the amount of the fine and double the value of the vessel, conditioned for the performance of the final judgment of the court;

Recovery of
penalties.

upon such recognizance being given, the party convicted and the vessel shall be discharged.

Compact of 1785. 56. Nothing in the five preceding sections shall be construed in any way to impair, alter or abridge any rights which either State or the citizens thereof may be entitled to, either by, through, under or against the compact entered into between the States of Maryland and Virginia on the twenty-eighth day of March, seventeen hundred and eighty five, or any existing law of either of said two States.

General measurers and inspectors. Bond. 57. The Governor at each session of the General Assembly shall appoint five persons for the city of Baltimore, and one person for each of all of the other ports or towns bordering upon the Chesapeake bay and its tributaries where there is a packing house or houses, to be known as the general measurers and inspectors of oysters for the city, town or port for which they shall respectively be appointed; each general measurer and inspector of oysters shall give bond to the State of Maryland in the sum of three thousand dollars for the faithful performance of his duties, and the general measurer and inspector of oysters shall have the same power and authority over oysters sold in the waters adjacent to the port for which they shall be respectively appointed, as hereinafter given to the general measurer and inspectors over such city, town or port for which they are respectively appointed.

Licensed oyster measurers. 58. Any person or persons may obtain a license as a licensed oyster measurer and inspector from the clerk of the Court of Common Pleas for Baltimore city or the clerk of the Circuit Court of any county wherein he is a citizen, by making application and by taking an oath that he will faithfully perform the duties of a licensed oyster measurer and inspector, and by paying a fee of twenty dollars for said license, which amounts shall be paid by said clerks, respectively, on or before the expiration of thirty days, to the Comptroller, to be placed to the credit of the oyster fund; the said license shall hold good for the oyster season. The said licensed oyster measurers shall be under the direction and control of the general oyster measurers and inspectors; the said licensed oyster measurers and inspectors shall fairly and impartially measure and inspect, as provided for in this article, all oysters in the shell, and shall receive for their services one-half cent per bushel, to be paid equally by the seller and buyer; any person or persons violating any of the provisions of this section, shall be deemed guilty of a misdemeanor, and on con-

viction before any court having jurisdiction in this State, shall be fined not less than two hundred dollars nor more than five hundred dollars for each offence, or shall be also imprisoned, in the discretion of the court trying the same.

59. At the beginning of each oyster season the five general measurers and inspectors of oysters for the city of Baltimore, Districts. shall meet in said city and divide it in five oyster districts, to be known as the first, second, third, fourth and fifth districts of the city of Baltimore, so as to include all the territory where oysters are landed from boats or vessels in said city; and the general measurers and inspectors of oysters shall weekly change districts so that no general measurer and inspector of oysters shall act the second time in any one district until he has acted once in every other district.

60. It shall be the duty of said general measurers and inspectors of oysters to see that the licensed measurers and inspectors are licensed as required by law, that they shall properly measure and inspect the oysters, and that the law in reference to the measurement and inspection of oysters be strictly complied with; and the general measurers and inspectors of oysters shall have the authority at all times to enter all places and all vessels where oysters are being measured and inspected in the shell, and to inspect all the measurements or instruments used in measuring oysters, and to see that the inspection laws are properly enforced; and if the measures are incorrect the said general measurer and inspector of oysters shall take possession of the incorrect measures; and the said general measurers and inspectors of oysters are authorized, directed and required to arrest any person or persons violating any of the provisions of this article; and it shall be the duty of the judge of the Court of Common Pleas of the city of Baltimore, or the judge of the Circuit Court for any of the counties of this State, upon petition of any of the general oyster measurers and inspectors of oysters, alleging that any licensed measurer and inspector of oysters has been convicted of violating any of the provisions of this section in reference to the measurement and inspection of oysters, and the production of the record of a copy thereof of the court, or justice of the peace where such conviction was had, to suppress the license of such licensed measurer and inspector; and no license shall be granted to him for the remainder of the oyster season. It shall be the further duty of the general measurers and inspectors of oysters, under oath, to return to the Duties of
general
measurers.

Governor of the State annually the amount of oysters measured and inspected, in the city, town or port for which they shall be respectively appointed.

**Suspension
of licensed
measurers.** 61. The general measurers and inspectors of oysters of Baltimore city, or a majority of them, are empowered and authorized to suspend the right or privilege of any person, licensed to measure or inspect oysters in said city, to measure or inspect oysters under said license; provided, however, that no such right to suspend shall exist unless a charge is pending against said licensed measurer and inspector, for a violation of the provisions of this article, in reference to the measurement and inspection of oysters, and if such charge shall be dismissed by a court of competent jurisdiction, such suspension shall end; and upon notice from the buyer or seller of oysters, the general measurer and inspector of oysters shall designate the measurer and inspector, or licensed measurer and inspector, to measure and inspect the oysters sold out of said vessel.

**Compensation of
general
measurers.** 62. All general measurers and inspectors of oysters shall receive a compensation for the faithful performance of their duties, of ten cents per hundred bushels, except the general measurers and inspectors for the city of Baltimore, who shall receive ten cents per hundred bushels, to be paid by the seller, and collected for the general measurers and inspectors of oysters, when oysters are sold by the cargo, or wholesale by the buyer, and when oysters in quantity or retail, by the commission merchant selling such oysters; and any seller who shall refuse to pay such compensation, and any buyer or commission merchant who shall refuse to collect and pay over any such compensation to the said general measurers and inspectors of oysters, as well as all other persons who shall violate any of the provision of this article, from 57 to 62, inclusive, or interfere with any of the general measurers and inspectors of oysters in the discharge of their duties, upon conviction by any justice of the peace or court of competent jurisdiction of this State, shall pay a fine of twenty dollars and costs, one-half of said fine to be paid to the informer and the other half to the Comptroller, to the credit of the oyster fund; and in default of payment of said fine, said person shall be confined in jail for a period not to exceed twenty days.

**Measuring
tubs.** 63. All oysters measured in this State shall be measured either in a one-half bushel tub, a bushel tub, a bushel and one-half tub or a three-bushel tub; and all instruments or measurements for measuring oysters in the shell shall be an iron

circular tub with straight sides and straight solid bottom, with holes in bottom, if desired, for draining, such holes to be no larger, however, than one inch in diameter; a half-bushel tub shall have the following dimensions, all measurements to be from inside to inside: fifteen inches across the top, thirteen inches across the bottom and seventeen inches diagonally from the inside chimb to the top; a bushel tub shall measure sixteen and one-half inches across at the bottom from inside to inside, twenty-one inches diagonally from the inside chimb to the top, eighteen inches across from inside to inside from the top; a bushel and one-half tub shall measure nineteen inches across the top from inside to inside, eighteen inches across the bottom from inside to inside and twenty-four inches diagonally from the inside chimb to the top; a three-bushel tub shall measure twenty-four inches across the top from inside to inside at the top, twenty-two inches from inside to inside at the bottom, and twenty-nine and twenty-six one hundredths inches diagonally from the inside chimb to the top; and all oysters measured in the shell as required by law, shall be even or struck measure; and any person or persons engaged in the business of buying or selling oysters in this State, who shall own or have in his possession any instrument or measurement for oysters in the shell which differs in size or description from the measure hereinbefore mentioned, with intent to use the same for measuring oysters, shall be guilty of a misdemeanor, and upon conviction before a judge of the Circuit Court, or a justice of the peace having jurisdiction, be fined a sum not less than fifty dollars nor more than one hundred dollars, or committed to the house of correction for a period of not less than three nor more than six months, or both, in the discretion of the judge or justice of the peace trying the same; and in case a fine is imposed under the provisions of this section, said fine to be paid over by the officer making the arrest to the Comptroller of the State, to be credited to the oyster fund; one-half, however, to be paid to the informer.

Dimensions.

Incorrect measures.

Penalty.

64. In addition to the charges herein mentioned for compensation to the general measurers and inspectors of oysters, it shall be unlawful for the buyer of any cargo or part of a cargo of oysters sold in the shell to exact of or retain from the proceeds of said cargo or part of a cargo due the seller a larger or greater sum or amount than one-half cent per bushel, in which shall be included the amount now allowed by law to be paid by the seller to the licensed measurer and inspector; and any person or persons charging or exacting a larger sum shall be

Over-charging.

Penalty. subject to a fine of fifty dollars, upon conviction before any justice of the peace, one-half of said fine to be paid to the informer and the other half to the Comptroller, to be placed to the credit of the oyster fund.

Exempted waters. 65. That it shall not be lawful for any person or persons to use any vessel licensed to take or catch oysters in the waters of this State, in taking or catching oysters with scoop, scrape, dredge, tongs or rake, or any similar instrument, east of a straight line from Richland point to Pone point, on the lower end of Bloodworth island, in the State of Maryland; provided, that this act shall not apply to bona fide resident citizens of Dorchester county licensed to take or catch oysters in the waters of said county.

Packer's license. 66. Any person, firm or corporation engaged in the business of packing or canning oysters for sale or transportation, shall, on or before the first day of September in each year, take out a license to engage in such business, by application, under oath, to the clerk of the Circuit Court of the county in which the place of business of such applicant may be situated, or to the clerk of the Court of Common Pleas, if the place of business of such applicant shall be in Baltimore city; and such applicant shall state the number of bushels of oysters which is proposed to be packed by himself, or his firm or corporation, during the succeeding eight months; and at the time of issuing such license shall pay the sum of twenty-five dollars for such license, and in addition thereto, the sum of one dollar per thousand bushels, for every thousand bushels over ten thousand bushels, so as aforesaid estimated in his application, as the total number of bushels to be packed during said season, and all said moneys received for said license shall be paid over and accounted for by the said several clerks of courts to the Comptroller of the State, to be placed to the credit of the oyster fund, as provided by section 29 of this article. It shall further be the duty of each person, firm or corporation obtaining a license under this section, to make a sworn report, and return under oath within thirty days after the twenty-fifth day of April in each year, to the clerk of the court from which he may have obtained such license, of the total amount or number of bushels of oysters packed or canned by him during the season preceding said twenty-fifth day of April, and to pay to said clerk the further license money of one dollar per thousand bushels, for each thousand bushels of oysters packed or canned by himself, or his firm or corporation during

Cost of license.

such season, over and above the estimate given in his application for a license, which report or return shall be forwarded to the Comptroller, and if said report or return shall show to the satisfaction of the Comptroller that the total number of bushels of oysters packed during said season, was less than the number given in the application for license of the person, firm or corporation making such return or report, the Comptroller shall draw his warrant in favor of such person, firm or corporation for the amount overpaid by such license, calculated at the rate named hereinbefore.

67. If any person, firm or corporation shall engage or attempt to engage in the business of packing or canning oysters for sale or transportation without first obtaining a license, as provided in the foregoing section, or who shall fail to pay the tax of one dollar per thousand bushels for each thousand bushels of oysters packed or canned by himself, his firm or corporation, in excess of the amount named in the license issued to him or his firm or the corporation which he represents, he shall be deemed guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense; and if any person shall knowingly make any false statement in the application for license, or in any report or return required to be made under this article, he shall be deemed guilty of perjury, and shall be fined not less than fifty dollars nor more than five hundred dollars, or shall be imprisoned not less than one month nor more than six months, or both fined and imprisoned, at the discretion of the court; provided, that if any person so applying for license shall prefer to do so, he may obtain the same for himself, firm or body corporate, by paying therefor the sum of three hundred dollars, and shall not be required to report under oath the number of bushels handled by him, his firm or corporation, or otherwise disclose the operations of his business.

Doing business without license.

Penalty.

67 A. Every person, or member of a firm, or member of a corporation engaged in the business of selling oysters on commission, shall, on or before the first day of September, in each year, take out a license to engage in such business, by application to the clerk of the Circuit Court of the county in which the place of business of such applicant may be situated, or to the clerk of the Court of Common Pleas, if the place of business of such applicant shall be in Baltimore city; and such applicant, at the time of issuing such license, shall pay the

Commission merchant to obtain license.

Penalty for
neglect.

sum of twenty-five dollars; and all said money received for said license shall be paid over and accounted for by the said several clerks of courts to the Comptroller of the State, to be placed to the credit of the oyster fund, as provided by section twenty-nine of this article; and if any person, member of a firm, or member of a corporation, shall engage or attempt to engage in the business of selling oysters on commission without first obtaining a license, as provided in this section, he shall be deemed guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than one thousand dollars for each offence.

Duty of
Comptroller.

68. It shall be the duty of the Comptroller to furnish the clerks of the several courts of the State with forms of applications, and license, and of the reports or returns required by the preceding sections; and it shall be the further duty of the Comptroller to furnish all other blanks required under this article. Nothing in this article shall be construed to apply to Worcester county as to the taking or catching of oysters in the waters of said county.

Repeal.

Sec. 2. *And be it enacted*, That all acts or parts of acts inconsistent with the provisions of this article, general or local, be and the same are hereby repealed to the extent that they are so inconsistent.

Not to apply
to present
prosecu-
tions.

Sec. 3. *And be it enacted*, That nothing herein contained shall be construed to affect any prosecution for violations of the existing laws of this State, or for offences against the same committed before the passage of this act.

Effective.

Sec. 4. *And be it enacted*, That this act shall take effect from the date of its passage.

Approved April 6th, 1894.

CHAPTER 382.

AN ACT to repeal and render inoperative for one year, and no longer, Sections thirty-eight and forty-four of Article nine of the Code of Public Local Laws, title "Charles County," sub title "Birds and Game," and re-enact the same with amendments.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That sections thirty-eight and forty-four of article