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LAWS

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CHAPTER 296.

AN ACT to repeal chapter five hundred and eighteen of the Acts passed by the General Assembly of Maryland, at the January Session eighteen hundred and eighty-four, being an Act to repeal Article seventy-one of the Code of Public General Laws, entitled "Oysters," and to re-enact the same with amendments, and provide further police regulations for the protection of the oysters in the waters of this State.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That chapter five hundred and eighteen of the Acts of the General Assembly, passed at the January Session eighteen hundred and eighty-four, be and the same is hereby repealed and the following enacted in lieu thereof, to be article seventy-one, of the Code of Public General Laws, title "Oysters."

SECTION 2. *And be it enacted*, That 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.

SECTION 3. *And be it enacted*, That 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, and to no other person, issue a license to such resident 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 Talley's Point, Sandy Point, Hackett'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 Louis' Point on the mainland, nor north of a line drawn from the end of the 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 one season only, and shall only authorize the catching of oysters between the fifteenth day of October and the first day of April, on which day the dredging season shall end and the license expire; but it shall be lawful for the owner of any such license 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 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 State of Maryland.

SECTION 4. *And be it enacted*, That it shall not be lawful for the owner or master or any person on board of any vessel in this State to affix any crank, spoolwinder or other machinery or equipment for operating or handling scoops, scrapes or dredges, or to have on board any vessel a scoop, scrape or dredge, with intent to affix the same to said vessel for 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 facia* evidence of an intent to use the same contrary to this section.

SECTION 5. *And be it enacted*, That 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 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 law; 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 the owner shall swear as to her tonnage; the master of such boat shall 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 of the county wherein he may reside, that he has been a resident of the State of Maryland for twelve months next preceding the time of taking such oath.

SECTION 6. *And be it enacted*, That before granting such license the Comptroller shall receive for it, from the applicant, at the rate of three dollars per ton, for every ton the boat may measure, and licenses may be issued after the beginning of the oyster season at the rate of fifty cents per ton per month, for the remainder of the season, and the license shall be exhibited whenever called for by any officer of the State of Maryland.

SECTION 7. *And be it enacted*, That any master or person in charge of any vessel who shall violate any of the provisions of the preceding sections by taking oysters unlawfully, shall be deemed guilty of a misdemeanor, and upon indictment and conviction in any Circuit Court in this State 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.

SECTION 8. *And be it enacted*, That 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 Act, 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 act; 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 Act; provided, that any Justice of the Peace before whom any person is brought, charged with a violation of this Act, 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.

SECTION 9. And be it enacted, That any person or persons who shall resist any officer authorized under this Act to make arrest while such officer is 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 more than one hundred dollars and imprisoned in the House of Correction for a term of not more than six months, in the discretion of the court; the parties tried and acquitted under this Act shall have the cost of such trial paid by the Comptroller of the State out of the funds created by this Act.

SECTION 10. And be it enacted, That it shall be the duty of the Sheriff, Constable or Officers of the State Fishery Force to arrest any person or persons and to seize any canoe, boat or vessel found violating any of the provisions of this act, and bring the offender or offenders before a judge of the court having criminal jurisdiction, or a Justice of the Peace most convenient or accessible to be dealt with as herein provided.

SECTION 11. And be it enacted, That the judge or justice of the peace before whom any person or persons, or any vessel may be brought, charged with violating any of the preceding sections of this Act, shall either give the case or cases an immediate hearing, or at the instance of the party or parties charged, shall appoint some early day, within the next ten days, to hear the case, the party or parties charged, giving such good and sufficient bail as said judge or justice shall require for his or their 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 this Act 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 this Act, 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 for in section seven; 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 to 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 that 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 the said vessel being given by the person praying the appeal satisfactory to said justice the said vessel may be released pending the said appeal; and in any case in which the owner may apply to the court having jurisdiction, and shall show that the unlawful employment of said vessel was without his sanction or authority, the said court may order the proceeds of said vessel to be returned to him, or to any person having a lien on said vessel, and may distribute the funds according to the priority of the several claims and liens; and any persons having a lien 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 proper equivalent to a fine; and amendments shall be allowed as hereinbefore provided, in all cases of appeal from the judgment of justices of the peace in cases where a violation of any local oyster law or laws is charged.

SECTION 12. And be it enacted, That 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 to be forfeited, and shall be condemned by order of any Judge of the Circuit Court nearest 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, including the officers and crews of the Fishery Force, and the balance shall be paid into the Treasury of the State to be credited to the oyster fund.

SECTION 13. And be it enacted, That the fines accruing under this Act 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 Court of the county or city where such fine may accrue, and such clerk shall account for the same in the next quarterly return to the Comptroller of the Treasury, to be placed to the credit of the oyster fund.

SEC. 14. *And be it enacted*, That it shall be unlawful for any person or persons to take or catch oysters or have oysters in his or their possession between the 25th day of April and the 1st day of September in each and every year; provided, that oysters caught before the 25th day of April may be disposed of at any time before the 5th day of May; and provided, 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 and not for sale from his private beds anywhere within this State at any time; any person violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction by a justice of the peace of the county wherein the offence was committed, shall be fined not less than fifty nor more than two hundred dollars, or imprisoned in the House of Correcton for not less than three months nor more than three years, in the discretion of the justice trying the same.

SEC. 15. *And be it enacted*, That it shall be unlawful for any person or persons to take or catch oysters on Sunday or at night, and any person or persons violating this 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 Act, at the discretion of the judge or justice of the peace trying the same.

SEC. 16. *And be it enacted*, That the Comptroller of the Treasury 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 similar instrument, 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 firmly 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, and 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 Compitroller; any person or persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction in any court in this State or before a justice of the peace shall be fined not less than fifty dollars nor more than one hundred dollars or imprisoned in the House of Correction for a period of not less than three months nor more than two years; provided, the court or justice of the peace trying the same shall be convinced that the provisions of this section have been intentionally violated, and in any such case the boat or vessel shall be forfeited, and may be condemned, in the discretion of the judge or justice of the peace in the manner provided in section eleven of this Act.

SEC. 17. *And be it enacted*, That any resident of this State desiring to use any canoe or other boat in catching or taking oysters, with rakes or tongs, for sale in any of the waters of this States, 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 they may have been obtained, to the twenty-fifth day of April, inclusive, next succeeding; provided, that such license shall not authorize the use of said canoe or boat in taking or catching oysters in any creek, cove, river, inlet, bay or sound, within the limits of any county other than that wherein the license shall have been granted, and that the boundaries of 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 Chester river in common, or the citizens of Dorchester and Wicomico counties from using the waters 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.

SEC. 18. And be it enacted, That each and every license to take or catch oysters for sale with rakes or tongs, shall state the name and residence of the person to whom the same is to be granted the number, together with the length to be obtained by top or over all measurement of the canoe or boat licensed, the county in which the same is to be used, and the period at which said license will expire; and every applicant for such license shall pay to the Clerk of the Court where such license may be granted, and before the issuing and delivery of the same, according to the following rates, viz: For any boat measuring in length twenty feet or less, the sum of two dollars; measuring from twenty to twenty-five feet the sum of three dollars; measuring from twenty-five to thirty feet, the sum of four dollars; and all over thirty feet, including sloops under Custom House tonnage, the sum of five dollars each; and all oysters taken with rakes or tongs shall be culled upon the natural beds where they are taken; the amount received from tonging license to be paid by the clerk to the school commissioners for the public schools in the respective counties where such license is issued; provided, the sum received from white tongers shall go to white schools, and the sum received from colored tongers shall go to the colored schools.

SEC. 19. And be it enacted, That every applicant for license to use any canoe or other boat in taking or catching 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 strickly true; that he has been a *bona fide* resident of the county for the twelve months next preceeding his application for said license; that he desires and intends to use said canoe or boat only in the county in which he resides, or the waters used in common as herein provided in this Act; that no non-resident of the State is interested in the said canoe or other boat or in the use thereof; and that he will not allow the same to be used for taking oysters by non-residents of the county or on account of non-residents of the State of Maryland; that he will comply with and obey all the laws of this State regulating the taking or catching of oysters; and every person to whom such license shall have been granted shall paint the number of his canoe or boat on the outside thereof, near the gunwale, in black figures, and not less than three inches in length and of proportionate width, in a white ground, and no other boat or vessel than that in the said license shall be exposed to view on said canoe or boat; and any person failing to comply with said provision before using said boat or canoe for the purpose aforesaid, shall on conviction thereof before a Justice of the Peace, be fined not less than five dollars nor more than ten dollars; and any person who may refuse to pay said fine shall be committed to the county jail for the period of thirty days, or until said fine and costs are paid.

SEC. 20. And be it enacted, That the Comptroller of the Treasury shall cause to be printed and delivered to the Clerk of the Circuit Court for the several counties, the requisite number of such blank licenses and take receipts for the same, as for other licenses furnished, and the said clerks shall on the first Monday of March and December in 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 no licenses to take or catch oysters with rakes or tongs shall be issued to any boat or vessel which is licensed to take or catch oysters with scoop, drag, dredge, or any similar instrument.

SEC. 21. And be it enacted, That if any person shall use any canoe or boat not licensed, as required by the preceding sections of this Article, in taking or catching oysters with rakes or tongs, he shall, upon conviction thereof before a Justice of the Peace for the county wherein the offense has been committed, be fined not less than twenty nor more than one hundred dollars, and in case of refusing to pay the said fine said party shall be confined in the House of Correction for a period not less than three months nor more than one year, and in any such case the boat or vessel shall be forfeited and may be condemned, in the discretion of the Judge or Justice of the Peace in the manner provided in section eleven of this Act; the license granted for the present season and now in force to the fifteenth of April shall be continued in force to April twenty-fifth.

SEC. 22. And be it enacted, That all moneys received or obtained from dredging licenses issued under the provisions of this Act and all fines, penalties or forfeitures imposed in pursuance of this Act 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 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 fund, the balance standing to the credit of the State at the time of making such report.

SEC. 23. And be it enacted, That the Board of Public Works is empowered and directed to purchase for each of the guard boats such arms and amunitions 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 Act.

SEC. 24. And be it enacted, That 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 county 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 county the fifth; the waters of Anne Arundel county 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 third, which shall be guarded by three; 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 Commander of the second district to guard the waters of Eastern Bay and its Tributaries 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, and the duty of the second to guard the waters of Little Choptank river, in Dorchester county, and of the third to guard the waters of Fishing Bay, Honga river, Tar Bay, Hooper's Straits, Holland Straits and the waters of Dorchester county up to the line dividing Dorchester county from the counties of Wicomico and Somerset, 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 they may deem it necessary.

SEC. 25. *And be it enacted*, That the Board of Public Works shall have power to appoint a suitable person to command said force; to appoint a Deputy Commander for each steamer; to appoint the Deputy Commandar for each sloop for their respective districts from 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 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 this Act, he shall be 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.

SEC. 26. *And be it enacted*, That the Board of Public Works shall have the power to remove any officer of said force for neglect of duty or incompetency, and any officer commanding in said force shall have the power to remove any subordinate under his command and appoint a person to fill the vacancy whenever the interest of said service may in his judgement require him to do so.

SEC. 27. *And be it enacted*, That the Board of Public Works shall have the power, and it shall be their duty to keep the steamers and said vessels in good order, and the Treasurer of the State, upon requisition of said Board and the warrant of the Comptroller, is hereby required and directed to pay the sum or sums necessary to carry out the provisions of this Act.

SEC. 28. *And be it enacted*, That the Deputy Commanders of the steamers be and they are hereby required to keep their vessels constantly on duty when circumstances will permit, and that every locality where a violation of the law is likely to occur shall be visited as often as the duties of the force and condition of the vessels will allow, and that every three months a report shall be made to the Board of Public Works of all official action taken under the law.

SEC. 29. And be it enacted, That it shall be the duty of the Deputy Commanders of the sloops to confine themselves ordinarily to their several districts, but it shall be their duty also to enforce any of the provisions of this Act in any water adjacent to their district when a violation of the same shall come to their knowledge.

SEC. 30. And be it enacted, That the Commanding Officer and the Deputy Commanders of said force shall, before 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 said Judges, for the faithful performance of their duties as prescribed in this Act; the said bond or bonds to be filed with Comptroller.

SEC. 31. And be it enacted, That the salary of the Commander shall be fifteen hundred dollars, and the salary of Deputy Commanders in charge of steamers shall be one thousand dollars per annum: and they shall have power to appoint one officer at a salary of six hundred dollars per annum; one engineer or machinist at eight hundred dollars per annum; and one assistant at a salary of five hundred dollars; two seamen at twenty-five dollars per month, and two at twenty dollars per month; two firemen at twenty-five dollars per month; one steward and one cook at twenty dollars per month each; and each Deputy Commander of sloops or vessels shall receive a salary of eight hundred dollars per annum; 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 forty dollars per month, during the oyster season, and thirty dollars per month after the season; each to be selected from the district in which they are to serve.

SEC. 32. And be it enacted, That the officers and crew of the vessels aforesaid shall each receive one ration per day of the quality and quantity such as is allowed by law to the officers and crew of the revenue marine of the United States; but no rations shall be allowed to officers or crew of sailing vessels.

SEC. 33. And be it enacted, That the officers and crews aforesaid shall be paid monthly by the Treasurer upon warrant of the Comptroller and the certificate of the Commanding Officers, that their duties have been performed as required by law.

SEC. 34. And be it enacted, That all oysters in the shell disposed of in the State of Maryland, shall be measured in a sealed measure of any capacity, from half a bushel to three bushels, that may be agreed upon between the seller and purchaser; provided, that the said measure or measures shall contain in quantity for each bushel thereof according to the following dimensions, that is to say, sixteen and a half inches across from inside to inside at the bottom, eighteen inches from inside to inside at the top, and twenty-one inches diagonal from the inside rhime to the top, and the same shall be even or struck measure.

SEC. 35. And be it enacted that it shall be the duty of the purchaser or seller to have and use said measure or measures duly inspected and sealed by the inspector of weights and measures in Baltimore city or in the several counties and that no other measure shall be used under a forfeit of fifty dollars for each and every offense, to be recovered before any Justice of the Peace by criminal prosecution against the party owning or furnishing such measure in the name of the State of Maryland, before any Court having criminal jurisdiction in the county or city or any Justice of the Peace of the same; one-half of said fine to go to the informer, the other half to be paid to the Comptroller, to be placed to the credit of the oyster fund.

SEC. 36. And be it enacted that 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 or officers authorized by this Act to make arrest; and if said boat or vessel apprehended by said officer or officers 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, it shall be *prima facie* evidence that the said boat or vessel has been used in violation of this Act; and it shall be the duty of the officer to arrest the person in command of said boat or vessel, and to seize the 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 Chesapeake Bay, in the county most accessible or convenient to be dealt with according to law; provided, that nothing in this Act shall be construed to prohibit vessels from seeking harbor in any waters of this State.

SEC. 37. And be it enacted, That all oysters taken from any of the waters of this State shall be culled upon their natural bed or bar as taken; any person or persons violating the provisions of this section, shall be guilty of a misdemeanor, and upon trial and conviction before any Judge or Justice of the Peace of this State having jurisdiction, shall be fined not less than fifty nor more than three hundred dollars, or sentenced to the House of Correction for a term of not less than three months nor more than one year, or forfeit the canoe or vessel used in said violation.

SEC. 38. And be it enacted, That any person or persons convicted under any of the provisions of this Act shall in all cases have the right of an appeal.

SEC. 39. And be it enacted, That nothing in this Act shall be construed so as to apply to Worcester county.

SEC. 40. And be it enacted, That it shall be the duty of the Commanders of the steamers to diligently watch and guard, and to arrest all persons dredging or scooping without license, and the Commanders of the sailing vessels shall likewise guard and arrest all persons for any violation of the law in this respect, and the Commanders of both the sloops and steamers shall keep their boats on duty at all times, both by day and night, so far as possible (Sunday included), and shall cruise near to the line dividing the grounds 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 of removal, and they shall be so removed.

SEC. 41. And be it enacted, That the said State Fishery Force shall have charge and control of the enforcement of 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 Acts of Assembly, and cause them to be tried and punished as provided by law.

SECTION 42. And be it enacted, That 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 in the City of Annapolis, to which place all complaints, applications for assistance and reports from Deputy Commanders shall be addressed, and shall be permitted to have one clerk at a salary of six hundred dollars per year.

SECTION 43. And be it enacted, That nothing contained in this Act shall be construed to affect any prosecution for violations of the existing law in this State, or for offences against the same committed before the passage of this Act.

SECTION 44. And be it enacted, That the owner or owners 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 their own land; and any owner or owners 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 or her or their lands one lot of five acres for the purpose of protecting, preserving, depositing, bedding or sowing oysters or other shell-fish, and that any other male citizen of full age, of the State, shall have power to locate and appropriate and hold one lot of five acres and no more, in any waters in said State not located or appropriated; provided, thirty days' notice in writing shall be given the owner or owners, occupant or occupants of land bordering on said waters proposed to be located, that the owner or owners, occupant or occupants may have priority of claim; and if they 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 other proper and visible metes and bounds, which description shall be reduced to writing, 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 in 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 in the county where such questions shall arise, who, after having given notice to the parties interested, proceed to hear the testimony and decide the case, and if 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 the title thereto; provided, also, that if any stakes or brushes 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.

SECTION 45. And be it enacted, That if any creek, cove or inlet, not exceeding one hundred yards at low water in breadth at its mouth, make into the lands, or that if any creek, cove or inlet of greater width than one hundred yards at low water mark make into the lands, the owner or owners, or other lawful occupant or occupants, 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 owners, or other lawful occupant or occupants, 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.

SECTION 46. And be it enacted, 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 deemed guilty of a misdemeanor, and on conviction in the Circuit Court for the county wherein the oysters were bedded shall be fined not less than five dollars nor more than fifty dollars, or be sentenced to the House of Correction for a term of not less than three months or more than one year, at the discretion of the judge or justice trying the same.

SEC. 47. *And be it enacted*, That this Act shall take effect from the date of its passage.

Approved April 7, 1886.

We hereby certify that the aforegoing is a correct copy of an Act of the General Assembly of Maryland, passed January Session, 1886.

W. G. PURNELL,
Secretary of the Senate.
E. B. PRETTYMAN,
Chief Clerk of the House of Delegates.

CHAPER 321.

AN ACT to add three additional sections to Article sixteen of the Code of Public General Laws, title "Chancery," to follow section one hundred and eighteen of said Article, and be numbered consecutively 118 A, 118 B and 118 C.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That the following three sections be and the same are hereby added to Article sixteen of the Code of Public General Laws, to follow section one hundred and eighteen of said Article, and be numbered consecutively 118 A, 118 B and 118 C.

118 A. All orders may be enforced by such process as might be had upon a judgment or decree to the like effect and the payment of costs adjudged to any party or to any offices of any court may be enforced in like manner without special or further order for their payment.

118 B. Upon decrees, orders and for costs adjudged, a party shall have the right to order as many writs of different kinds for the enforcement of the same, and to one or as many counties as he shall see fit, but when issued to a county other than that in which the case shall be, the writ shall be sent by the clerk with a short copy of the decree or order, and docket entries and a statement of the costs to the clerk of the court of the county to which issued, (in Baltimore city the Superior Court,) and there docketed and shall be a lien on lands only from the time it is so docketed, and may be there from time to time renewed as now in common law cases by the issue of the like or other writs, but the court in which such case shall originally be, may order that the party directing vexatiously or unnecessarily any writ hereunder, shall pay the costs of the same.

118 C. An order or decree for the delivery of chattles may be enforced by the same writs and all of them as are used in the action of replevin at common law as well as those which would have been heretofore used for its enforcement in the Equity Court of this State.

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

Approved April 7, 1886.

We hereby certify, that the aforegoing is a correct copy of an Act of the General Assembly of Maryland, passed January Session, 1886.

E. B. PRETTYMAN,
Chief Clerk House of Delegates.
W. G. PURNELL,
Secretary of the Senate

CHAPTER 154.

AN ACT to amend Article fifty-three, of the Code of Public General Laws of this State, title "Landlord and Tenant," by adding thereto an additional section, creating under certain circumstances a conclusive presumption of the renewal of any lease or sub-lease containing a covenent for perpetual renewal.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That Article fifty-three, of the Code of Public General Laws of this State, title "Landlords and Tenants," be and the same is hereby amended by adding thereto the following additional section:

SECTION —. Whenever the lease or leases named in any lease or sub-lease containing a covenant for perpetual renewal, or any person or persons claiming under such lessee, shall have retained uninterrupted possession of the demised premises or any part thereof for twelve months after the expiration of such lease or sub-lease hereafter expiring, or for twelve months after this Act takes effect, where any such lease or sub-lease has heretofore expired, it shall be conclusively presumed in reference to the whole or any part or parts of said demised premises whereof possession shall have been retained as aforesaid, and in favor of said lessee, lessees or of the person or persons claiming under such lessee or lessees, that a new lease or sub-lease of the whole of said demised premises was executed prior to the expiration of said lease or sub-lease by the lessor or lessors therein named, or by the person or persons rightfully claiming under such lessor or lessors to the said lessee or lessees, or to the person or persons rightfully claiming under such lessee or lessees for such additional term under such rent and upon such covenants, conditions and stipulations as were provided in said lease or sub-lease.

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

Approved April 1, 1886.

We hereby certify that the aforegoing is a correct copy of an Act of the General Assembly of Maryland, passed January Session, 1886.

E. B. PRETTYMAN,
Chief Clerk House of Delegates.
W. G. PURNELL,
Secretary of the Senate.

CHAPTER 164.

AN ACT to repeal section two hundred and fifty-two, of Article ninety-three, of the Code of Public General Laws, title "Testamentary Law," and to re-enact the same with amendments.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That section two hundred and fifty two, of Article ninety-three, of the Code of Public General Laws, title "Testamentary Laws," be and the same is hereby repealed and re-enacted with amendments so as to read as follows:

SECTION 252. The Orphan's Court shall not under pretext or incidental power or constructive authority, exercise any jurisdiction not expressedly conferred by law, but every judgement, decree, decision or order of the said Court may be enforced by attachment and sequestration as aforesaid, and if the said judgement, decree, decision or order be for payment of money, the property sequestered may at the discretion of the Court be applied to the purpose for which such judgment, decree, decision or order was given and if the judgment, decree, docision or order shall be for the payment of costs, and the party or parties against whom the said judgment, decree, decision or order for the payment of costs shall be rendered, shall be entitled to a distributive share of the estate in which the suit is involved, the Court may order said costs to be paid out of said distributive share.

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

Approved April 1, 1886.

We hereby certify that the aforegoing is a correct copy of an Act of the General Assembly of Maryland, passed January Session, 1886.

E. B. PRETTYMAN,
Chief Clerk House of Delegates.
W. G. PURNELL,
Secretary of the Senate.

CHAPTER 165.

AN ACT to repeal section ten, of Article thirty-seven, of the Code of Public General Laws, entitled "Evidence," sub-title "Attendance and pay of Witnesses," and to re-enact the said section with amendments.

SECT