

## Civil Rights.

1. All persons entitled to equal rights, subject to conditions established by law.
2. Penalty for violating provisions of foregoing section.
3. Persons not to be disqualified from serving as jurors on account of race, &c.

### An act to protect all citizens in their civil and legal rights.

P. L. 1884, p. 339.

Approved May 10, 1884.

All persons entitled to equal rights and privileges, subject to conditions established by law.

1. That all persons within the jurisdiction of the state of New Jersey shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances on land or water, theaters and other places of public amusement, subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

Penalty for violating provisions of foregoing section.

2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs, and shall also, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year.

Persons not to be disqualified from serving as jurors on account of race, color, &c.

3. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of this state on account of race, color or previous condition of servitude, and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

## Clams and Oysters.

### I. GENERAL ACT FOR THE PRESERVATION OF CLAMS AND OYSTERS, WITH SUPPLEMENTS.

1. Beds not to be raked at certain times.
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3. Justices of the peace to issue warrants, &c.
4. Penalty for offering oysters for sale at certain seasons.
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9. Offenders, how proceeded against.
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11. Owners of marsh, &c., may plant clams, oysters, &c.
12. Penalty for breaking down fences, &c.
13. Oysters, how taken in Navesink river.
14. Owners of flats between Great and Little Egg Harbor rivers may plant oysters.
15. Penalty for taking oysters without permission.
16. Amended by section 43.
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18. Setting up stakes may be omitted in certain cases.
19. Time for taking oysters in certain counties.
20. Old shells not to be removed from natural beds.
21. Penalty for selling clams under certain size taken in Atlantic county.
22. Non-residents of state not to gather oysters, &c. Penalty.
23. Additional penalty for violating section 12.
24. Time for taking and vending oysters extended in Cape May county. Proviso.
25. Owners of marsh and meadow land may plant clams and oysters.
26. Penalty for violation of act.
27. Oysters not to be taken out of natural beds in counties of Burlington, Atlantic and Ocean, between May and October, only by daylight.
28. Owners of flats and coves along tide-water in Burlington county may plant oysters.
29. Penalty for taking oysters or clams so planted without permission.
30. Construction of the words "dredge or instruments so called."
31. Penalties for using rake or other instruments in waters of Burlington county.
32. Repealer.
33. Licensed vessels shall wear number on mainsail.
34. Penalty for taking oysters during certain periods.
35. Where annual meeting shall be held, &c.
36. Repealer.

- 37. Amended by section 44a.
- 38. Persons using grounds may plant and cultivate oysters and clams.
- 39. Amended by section 44b.
- 40. Stakes shall be elastic and not impede navigation.
- 41. Amended by section 44c.
- 42. Rights of state to lands not affected.
- 43. Owners of meadow lands may plant clams, oysters, &c.
- 44. Amends sections 37, 39 and 41.
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- 44b. Grounds for clamming not to be used for planting oysters.
- 44c. When persons deemed trespassers.
- 45. No boat to be used for gathering clams, &c., unless owner a resident of state.
- 46. Non-residents not to gather oysters, clams, &c.
- 47. Amended by section 48.
- 48. Repealer.
- 49. Appointment of special officers.
- 50. How paid.
- 51. When and where unlawful to dredge.
- 52. Repealer.
- 53. Unlawful to dredge in certain waters
- 54. Repealer.
- 55. Misdemeanor to take oysters from a staked-up bed without permission.
- 56. Misdemeanor to take planted oysters without permission.
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- 58. Repealer.
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- 60. Unlawful to buy or sell clams below a certain size.
- 61. Repealer.

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- 62. Assessments on vessels engaged in catching, planting and growing oysters in Maurice River cove and Delaware bay.
- 63. Special officer, how appointed, duties and salary.
- 64. Special officer to have power to arrest all persons violating this act.
- 65. Penalty for refusing to assist officer in performance of his duties.
- 66. Collector appointed. Duties.
- 67. Collector to give bonds and record licenses.
- 68. Captains of vessels shall take oath.
- 69. Proceeds of sale to be paid to collector.
- 70. Persons growing oysters to meet and organize.
- 71. Repealed by section 82.
- 72. Vessels and boats licensed to be numbered.
- 73. Certain oyster beds not to be occupied except for the growth of natural oysters.
- 74. Assessments on vessels catching, planting and growing oysters in Maurice River cove and Delaware bay.
- 75. Penalty for catching oysters for planting during certain periods.
- 76. Time and place of holding annual meeting provided for in section 70.
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- 78. Clerk of court to give certificate to applicant.
- 79. Collector to issue license on filing of certificate by applicant.
- 80. Fees to be paid by applicant.
- 81. Moneys arising from the oyster fund, when in excess of \$2,000 for any year, to be applied to state school fund.
- 82. Repealer. Proviso.
- 83. Penalty for catching or assisting in catching oysters before sunrise or after sunset in Maurice River cove and Delaware bay.
- 84. Special officer may arrest any person or persons found stealing oysters.
- 85. Amended by section 101.
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- 87. Election of an auditing committee.
- 88. Captains of licensed vessels may meet annually, &c.
- 89. Powers and duties of auditing committee.
- 90. Auditing committee may fill vacancy in office of collector, &c.
- 91. Auditing committee to make report of receipts, &c.
- 92. Special officer and collector to pay money to his successor.

- 93. Special officer and collector to give bonds.
- 94. Quorum of auditing committee, how constituted.
- 95. Unlawful to take oysters from natural bed to plant in another state.
- 96. Penalty therefor.
- 97. Penalty for taking oysters from bed without permission of owner.
- 98. Repealer.
- 99. Amended by sections 111 and 131.
- 100. Repealer.
- 101. Certain natural oysters beds not to be used for planting oysters.
- 102. Persons planting oysters on certain beds deemed trespassers.
- 103. Certain elections validated.
- 104. Oysters not to be planted in certain oyster beds, &c.
- 105. Who shall be deemed trespassers.
- 106. Penalty for catching oysters between sunset and sunrise.
- 107. Every captain or commander to have a license.
- 108. Oath to be made before license shall issue.
- 109. Penalty for catching without license.
- 110. Licensed vessels to wear number on mainsail.
- 111. Amended by section 131.
- 112. Captains may vote appropriation for shelling oyster beds.
- 113. Unlawful for vessels propelled by steam to catch.
- 114. Name and style of officers of oyster association.
- 115. Repealer.
- 116. Captain to produce enrollment of vessel on application for license.
- 117. Proceedings in case of complaint against certain vessels.
- 118. What vessels may be seized and sold.
- 119. Captains and owners of vessels to meet and organize an association.
- 120. Licenses may be revoked by executive committee.
- 121. Collector of association. How and by whom elected.
- 122. Repealed by section 139.
- 123. Number of boat or vessel to be placed on mainsail.
- 124. Repealer.
- 125. Amended by section 129.
- 126. Repealer.
- 127. When unlawful to handle dredges.
- 128. Repealer.
- 129. Unlawful to dredge in certain natural oyster beds.
- 130. Repealer.
- 131. When unlawful to catch oysters within certain boundaries.
- 132. When unlawful to stake up grounds, &c.
- 133. Repealer.
- 134. Executive committee of association to meet and hear complaints.
- 135. Collector not to pay bills unless approved.
- 136. Compensation of executive committee.
- 137. Previous action not to be invalidated.
- 138. Repealer.
- 139. Repealer.

#### III. MISCELLANEOUS ACTS.

- 140. Unlawful for non-residents to plant or grow oysters.
- 141. Repealer.
- 142. Holding of grounds under tidewater, in Ocean county, confirmed.
- 143. Person so holding authorized to plant.
- 144. Grounds used for clamming purposes not to be used for oysters.
- 145. Stakes used not to impede navigation, &c.
- 146. Who deemed trespassers.
- 147. Title to lands by the state not impaired.
- 148. Oyster beds of state divided into districts.
- 149. Commissioners appointed for districts.
- 150. Duties of commissioners.
- 151. Amended by section 156.
- 152. Compensation of commissioners.
- 153. Annual appropriation for three years, and how distributed.
- 154. Commissioners may employ assistants.
- 155. Section 4 not to apply to Cumberland county.
- 156. Unlawful to rake, dredge, &c., or to remove shells spread for spawn.
- 157. Grounds occupied by the state for planting shells not to be worked until a certain time.
- 158. Penalty for violating the culling act.
- 159. Commissioners authorized to wear badges and make arrests.

160. To enforce existing laws.  
 161. Persons occupying certain grounds shall be confirmed in their holding.  
 162. Amended by section 172.  
 163. Unlawful to take oysters with rakes, dredges, &c., from said grounds without permission, &c.  
 164. Grounds used for clamming purposes not to be used for oysters.  
 165. Stakes to be yielding and elastic.
166. Persons planting oysters upon natural beds, from which there are gathered seed oysters, deemed trespassers.  
 167. Title of state to lands not affected.  
 168. Act not to apply to Delaware bay or Maurice River cove.  
 169. Repealer.  
 170. Penalty for removing stakes, buoys or monuments.  
 171. Repealer.  
 172. Oysters, &c., on private grounds shall be deemed personal property.  
 173. Repealer.

### I. General act for the preservation of clams and oysters, with supplements.

#### An act for the preservation of clams and oysters.

Rev. 757.

Approved April 14, 1846.

Har. 46, 56, 124, 143,  
159.

R. S. 492.

Beds not to be  
raked at certain  
times.

P. L. 1873, p. 399.

806-1  
S97-352  
A00-422  
A99-322

806-1  
804-333

Penalty for using  
dredges.

Proviso.

Justices of the  
peace to issue  
warrant, &c.

Penalty for offer-  
ing oysters for  
sale at certain  
seasons.

Penalty for gath-  
ering oysters for  
lime.

**1.** That from and after the first day of May until the first day of September, yearly and every year, no person, under pretense of taking clams or shell-fish, or under any other pretense whatsoever, shall rake on any oyster bed in this state, or gather any oysters or shells on any banks or beds within the same; and in case any person shall so do, whether oysters be taken or not, he shall for every offense forfeit and pay [fifty] dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same in any court of record in this state having cognizance of that sum, one moiety thereof to the use of the prosecutor, and the other moiety to the county collector, for the use of the county in which the offense was committed; *provided*, that nothing in this section shall be so construed as to prohibit any person or persons from taking oysters from beds planted out by him or them pursuant to this law. (1)

**2.** That in case any person residing in or without this state, shall at any time hereafter rake for or gather oysters in any of the rivers, bays, or waters of this state with a dredge, or instrument so called, or shall be on board of any canoe, boat or vessel employed in raking with such implement, such person so offending shall forfeit and pay the sum of fifty dollars to be recovered in the manner and for the use mentioned in the next preceding section; *provided*, that this and the sixth section shall not extend, so far as regards persons residing in this state, to the Delaware bay.

**3.** That it shall be the duty of every justice of the peace, upon his own view or the information of any person on oath or affirmation, to issue his warrant to one or more of the constables in his county, commanding him or them to require such and so many persons as he or they deem necessary to aid and assist him or them in apprehending every person offending against either of the preceding sections, in any of the bays, rivers, or waters of this state, and forthwith to bring such offender, when apprehended, before the said justice, or any other justice of the peace of said county, to be proceeded against in the manner hereinbefore directed.

**4.** That if any person shall hereafter sell, or offer for sale, oysters, in any part of this state, between the first day of May and the first day of September, such person shall, for every such offense, forfeit and pay five dollars, to be recovered and applied in manner directed in and by the first section of this act.

**5.** That if any person shall at any time hereafter rake or gather oysters in any of the rivers, bays, or waters of this state, for the purpose of burning or converting them into lime, or for the purpose of conveying them to any of the landings to be used in the manufacture of iron in any of the furnaces in this state, or shall land them on any bank or landing for either of the purposes aforesaid, every person so offending shall forfeit and pay

(1) By supplement of March 18th, 1852 (P. L. 1852, p. 232), the period for raking or taking clams and oysters in the county of Hudson is extended from the 1st day of May to the 1st day of July in each and every year. By supplement of April 1st, 1869 (P. L. 1869, p. 1196), the time for gathering oysters in Cumberland county is extended to the 1st day of July. A penalty is also prescribed for taking oysters on Sunday, or at night between 8 p. m. and 4 a. m. By supplement of March 17th, 1874 (P. L. 1874, p. 278), the time for raking and taking oysters in Union county is extended from the 1st day of May to the 1st day of July. See, also, *post*, Secs. 19 and 24.

fifty dollars for each and every offense, to be recovered and applied in manner directed by the first section of this act.

6. That no canoe, scow, boat or vessel, employed in navigating any of the waters, bays or rivers of this state, shall have on board of the same any instrument called a dredge, for catching or raking oysters, or shell-fish; and the master or owner or owners of every such canoe, scow, boat or vessel, that shall have on board of the same any such instrument, shall forfeit the sum of fifty dollars, to be recovered in the manner and for the use mentioned in the first section of this act.

Vessels not to carry dredge.

7. [Amended by Sec. 46, *post.*]

8. That any action under the first, sixth, or seventh sections of this act, may be commenced by warrant in the court for the trial of small causes, and be proceeded in as in other cases when the same are commenced by warrant, any law, usage, or custom to the contrary notwithstanding.

Actions under this act, how commenced.

9. That it shall be the duty of all sheriffs and constables, and may be lawful for any other person or persons, to seize and secure any such canoe, flat, scow, boat, or other vessel as aforesaid, and immediately thereupon give information thereof to two justices of the peace of the county where such seizure shall have been made, who are hereby empowered and required to meet at such time and place as they shall appoint for the trial thereof, and hear and determine the same; (a) and in case the same shall be condemned, it shall be sold by the order and under the direction of the said justices, who, after deducting all legal costs and charges, shall pay one half of the proceeds of said sale to the collector of the county in which such offense shall have been committed, and the other half to the person who shall have seized and prosecuted the same.

Offenders, how proceeded against.

10. That if any person or persons, on board of any such canoe, flat, scow, boat, or other vessel aforesaid, shall refuse and not suffer to enter the same, or resist before or after entering, any of the said officers or other person or persons seizing the same, or otherwise resist them, or any of them, in the lawful seizing of the same, then every person so offending shall forfeit and pay the sum of thirty dollars, to be recovered and applied in manner directed by the first section of this act.

Penalty for resisting officers.

11. That it shall be lawful for any person or persons owning marsh or meadow in this state, within the boundaries of which there shall be creeks, ditches, or ponds wherein oysters do or will grow, and where such creeks or ditches do not lead to any public landing, to lay or plant clams or oysters therein, for the use and benefit of such owners, and for the preservation of which to erect a fence, hang or affix gates or locks across said creeks or ditches, to prevent any person or persons from entering the same.

Owners of marsh, &c., may plant clams, oysters, &c.

12. That if any person be found with any craft, boat, or raft, above or within the aforesaid fences, gates, or locks, without leave from the owner or occupant of any creek, ditch, or pond, fenced, gated, or locked as aforesaid, wherein clams or oysters may be laid or planted, or shall in any way break or destroy such fence, gate, or lock, he, she, or they so offending shall severally forfeit and pay, for each and every offense, the sum of fifty dollars, to be recovered by action of debt, with costs, in any court having cognizance thereof, by any person who shall prosecute for the same, one-half to the use of the owner or occupant of such creek, ditch, or pond, and the other half to the person who shall sue for the same; *provided*, that nothing herein contained shall be so construed or understood as to obstruct or prevent the free navigation of any thoroughfare, creek, or channel leading from or out of any of the bays or principal waters to any other bay or principal water, or to any accustomed landing-place in this state, anything hereinbefore contained to the contrary notwithstanding. [See Sec. 23.]

Penalty for breaking down fences, &c.

13. That it shall not be lawful for any person or persons to rake or take with tongs, or otherwise gather or carry away, any oysters, other than by wading in and picking up by hand the same, within the following bounds in the river commonly called or known by the name of the North or Navesink river, lying within the county of Monmouth, and dividing the

Oysters, how taken in Navesink river.

(a) The seizure of the vessel, &c., without judicial process first issued, is not a deprivation of property without due process of

law. A trial without a jury is also constitutional. *Haney v. Compton*, 7 Vr. 507. See *Edwards v. Elliott*, 7 Vr. 449.

township of Shrewsbury from the township of Middletown, above a direct line from the storehouse of Eseck White, on the Shrewsbury side of the river, to the dwelling-house of Thomas Layton, on the Middletown side of the river aforesaid; and in case any person or persons shall be found offending against this prohibition, he, she or they so offending shall forfeit and pay for every such offense the sum of ten dollars, to be recovered in an action of debt, with costs, before any justice of the peace in the county of Monmouth, by any person who shall sue for the same, the one-half to the use of the prosecutor, and the other half to be paid to the county collector, to and for the use of the county. (1)

Owners of flats between Great and Little Egg Harbor rivers may plant oysters.

**14.** That it shall and may be lawful for any person or persons owning flats or coves along the shores of the tide-waters in the county of Atlantic, between the Great Egg Harbor and Little Egg Harbor rivers, inclusive of the shores of so much of the said rivers as lie within the said county of Atlantic, to mark out, by fixing stakes across or around the same, at the distance of two rods from each other, and of such length as to be at least two feet above the ordinary high water, and plant or lay clams, oysters, or other shell-fish within or above the same; *provided*, said stakes shall not include any natural oyster beds always covered with water beyond low-water mark; and *provided also*, it shall not be lawful to stake out beyond the ordinary low-water mark, nor injure any navigation publicly used. (a)

Penalty for taking oysters without permission.

**15.** That if any person or persons shall gather or take away any oysters or clams, above or within the line of stakes aforesaid, without permission first had or obtained from the owner or owners, occupant or occupants, of the flats or coves so staked in, he, she or they so offending shall forfeit and pay for each offense, the sum of twenty dollars, to be recovered and applied in manner directed by the twelfth section of this act, and shall moreover be liable to an action at the suit of the owner or owners, occupant or occupants, for his, her or their damages.

**16.** [Amended by Sec. 43, *post*.]

Penalty for taking oysters within certain limits without permission.

**17.** That any person or persons who shall gather or take away any oysters or clams upon, above, or within the limits aforesaid, without permission first had and obtained from such owner or owners, person or persons occupying under such owner or owners as aforesaid, shall be liable to the same forfeitures and the like suits for damages, to be recovered and sued for in manner as is directed and provided in the fifteenth section of this act; *provided*, that nothing in this act shall prevent the legislature from the repeal or modification of this and the last foregoing section, at their pleasure.

Setting up stakes may be omitted in certain cases.

**18.** That in coves and places where notorious and plain ranges or landmarks can be erected and established on contiguous shores, whereby the boundaries of planted beds of oysters may be clearly known and distinguished without danger of mistake, and where in such coves or places such notorious or plain ranges or marks on contiguous meadows or shores shall have been erected and established by stakes or other plain monuments, so that they may be plainly known and distinguished without danger of mistake, and due notice thereof being given, that then and in such cases the provisions of the two last foregoing sections in regard to the planting and setting up of stakes, may be dispensed with, in respect to such places as above described.

Time for taking oysters in certain counties.

**19.** That the time within which the taking and vending of oysters is prohibited by the first and fourth sections of this act, is hereby extended to the first day of October, yearly and every year, in the counties of Burlington, Monmouth, and Atlantic only, under the same penalties and

(1) By supplement of March 16th, 1870 (P. L. 1870, p. 591), it shall not be lawful for any person to erect stakes or any other artificial means for the purpose of using wears or fike-nets for the taking of fish upon the bottom of North Shrewsbury river, where oysters are planted, without permission of the persons occupying the same.

(a) This section does not authorize the owner of flats to stake off oyster beds below low-water mark. *Townsend v. Brown*, 4 Zab. 80. See *infra*, Sec. 25.

regulations as are therein contained; *provided*, that planted oysters may be taken up at any time by the person owning the same. (1)

20. That no person or persons, under any pretense of taking oysters, or under any other pretense whatever, shall take, remove, or carry off from any natural oyster banks or beds, in this state, any old shells, other than such as cannot be removed or separated from the oysters, without injuring the same; and all such shells shall be culled and separated from the oysters, and thrown back again upon the said natural banks or beds; and in case any person or persons shall so take, remove, or carry off from said natural banks or beds, whether oysters be taken or not, without first so separating the old shells from the oysters, he or they shall for every offense forfeit and pay ten dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same, in any court of record in this state having cognizance of that sum, one-half thereof to the use of the prosecutor, and the other to the overseer of the poor, for the use of the poor of the township in which the offense was committed, and the canoe, flat, scow, boat, and other vessel, used and employed in the commission of the offense in this section mentioned, shall be liable to seizure, and be applied to the payment of such penalty; *provided, however*, that nothing in this act contained shall be so construed as to prohibit any person or persons from taking, removing, or carrying any shells from beds planted out by him or them pursuant to law. [See Sec. 32, *post*.]

Old shells not to be removed from natural beds.

21. That it shall not be lawful for any person or persons, to sell, or offer for sale, by the bushel or otherwise, any small clams which may have been taken in the waters of the county of Atlantic, unless the said clams shall be of such a size that a bushel will not contain more than four hundred; and if any person or persons shall so sell, or offer for sale, any such clams, four hundred of which will not make a bushel, such person or persons shall for every such offense forfeit and pay ten dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same, in any court of record in this state having cognizance of that sum, one-half to the overseer of the poor, for the use of the poor of the township in which the offense shall have been committed, and the other half to the person who shall sue for the same. (2)

Penalty for selling clams under certain size taken in Atlantic county.

#### Supplement.

Approved March 19, 1851.

P. L. 1851, p. 439.

22. SEC. 1. That it shall not be lawful for any person who is not at the time an inhabitant and resident of this state, and who shall not have been for six months next preceding an inhabitant and resident as aforesaid, to take, rake, or gather oysters, clams, or shell-fish, in any of the rivers, bays, or waters of this state; and every person offending herein shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine or imprisonment, or both, in the discretion of the court before which the conviction shall be had; *provided*, such imprisonment shall not exceed, in any case, the term of six months, nor the fine exceed the sum of one hundred and fifty dollars. (a)

Non residents of state not to gather oysters, &c.

Penalty.

23. SEC. 2. That every person offending against the provisions of the twelfth section of the act to which this is a supplement, shall, in addition to the penalty therein mentioned, be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine or imprisonment, or both, in the

Additional penalty for violating section 12.

(1) By an act entitled "An act to authorize the planting of oysters on lands covered by water in Shark river, in the county of Monmouth, and for the protection of the same," approved March 14th, 1861 (P. L. 1861, p. 436), the board of chosen freeholders are authorized to occupy a part of said river designated in the act; to appoint commissioners to stake off that part of the river in subdivisions and lease the same for terms not less than one nor more than five years. It further gives the lessees the sole right to plant and gather oysters within the aforesaid boundaries, and prescribes penalty for trespassing. By a supplement approved March 17th, 1870 (P. L. 1870, p. 692), the boundary lines of the part the freeholders were authorized to occupy were enlarged, and the commissioners were authorized to extend the term of leases from five to ten years.

(2) By a supplement to the supplement of March 26th, 1862, approved April 4th, 1873 (P. L. 1873, p. 681), the board of freeholders of Ocean county are authorized to appoint a commissioner to enforce the act in said county and regulate his compensation. The act to which this purports to be a supplement was repealed in 1869 (P. L. 1869, p. 1100).

(a) An indictment will lie for stealing oysters planted in navigable waters, if they are planted in a place where oysters do not grow naturally, and the spot is designated by stakes or otherwise. Nor has anyone the right to remove them as a

nuisance, unless they interfere with public rights, as fishing or navigation, and even then an individual has no right to take them away and convert them to his own use. *State v. Taylor*, 3 *Dutch*, 117.

discretion of the court before which the conviction shall be had; *provided*, such imprisonment shall not exceed, in any case, the term of six months, nor the fine exceed the sum of one hundred dollars.

## Supplement.

Approved February 22, 1853.

P. L. 1853, p. 139.

Time for taking and vending oysters extended in Cape May county.

Proviso.

**24. SEC. 1.** That the time, within which the taking and vending oysters is prohibited by the first and fourth sections of the act to which this is a supplement, is and that the same be extended to the first day of October, yearly and every year, in the county of Cape May, under the same penalties and regulations as are therein contained; *provided*, that nothing contained in this act shall prevent the owners of planted oysters, from, at any time, taking up and vending the same.

## Supplement.

Approved March 9, 1855.

P. L. 1855, p. 216.

Owners of marsh and meadow lands may lay and plant oysters.

Penalty for violation of provisions of act.

**25. SEC. 1.** That it shall be lawful for any person or persons owning marsh or meadow lands in this state, within the boundaries of which there shall be creeks, ditches, or ponds wherein clams and oysters do or will grow, to lay or plant clams and oysters therein, for the use and benefit of such owners, and for the preservation of which he is to properly stake off such clam and oyster ground as not to interfere with the passing and repassing of vessels, but sufficient to designate where the same is planted. (a)

**26. SEC. 2.** That any person or persons violating the provisions of this act shall be subject to all the fines and penalties contained in the act to which this is a further supplement. (1)

## Supplement.

Approved March 31, 1864.

P. L. 1864, p. 631.

Oysters not to be taken out of natural beds in certain counties except by daylight.

**27. SEC. 1.** That it shall not be lawful for any person or persons to take any oysters out of the natural beds of the counties of Burlington, Atlantic and Ocean, between the first day of May, and sunrise of the first day of October, yearly, only by daylight, under the penalty of twenty-five dollars for each and every offense.

## Supplement.

Approved March 14, 1871.

P. L. 1871, p. 493.

Owners of flats and coves along tide-waters in Burlington county may plant or lay oysters.

Proviso.

Proviso.

**28. SEC. 1.** That it shall and may be lawful for any person or persons owning flats or coves along the shores of the tide-waters in the county of Burlington, between the lines separating Burlington from Ocean and Atlantic counties, to mark out, by fixing stakes across or around the same, at the distance of two rods from each other, and of such length as to be at least two feet above the ordinary high water, and plant or lay oysters, or other shell-fish, within or above the same; *provided*, said stakes shall not include any natural oyster beds always covered with water beyond low-water mark; *and provided also*, it shall not be lawful to stake out beyond the ordinary low-water mark, nor injure any navigation publicly used.

(a) Fishing for oysters in the navigable waters of the state is a right common to all its citizens, unless restrained by a positive law of the legislature. *Arnold v. Mundy*, 1 Hal. 1. *Martin v. Waddell*, 3 Har. 496. *Gough v. Bell*, 1 Zab. 156, 2 Zab. 441, 3 Zab. 624. *Wooley v. Campbell*, 8 Vr. 163. See *Associates, &c., v. Jersey City*, 4 Hal. Ch. 715. *Stevens v. Paterson, &c., R. R. Co.*, 5 C. E. Gr. 135. *Shepard v. Layton*, Pen. \*391. *Yard v. Carman*, Pen. \*943. The right of navigation is superior to that of fishing. *Post v. Munn*, 1 South. \*61. The legislature may grant the right to plant oysters in the bed of navigable streams to one citizen to the exclusion of others. *Paul v. Hazleton*, 8 Vr. 106.

*Wooley v. Campbell*, 8 Vr. 163. *Delaware, &c., Canal Co. v. Raritan, &c., R. R. Co.*, 1 C. E. Gr. 366. *Bennett v. Boogs, Bald.*, C. C. 60. See *Howell v. Robb*, 3 Hal. Ch. 17. *Stevens v. Paterson R. R. Co.*, 5 Vr. 532. Several lessees may use jointly lands which have been granted to them severally, and may join in an action for taking their oysters therefrom. *Wooley v. Campbell*, 8 Vr. 163. A meadow-owner cannot acquire the exclusive right to the possession of the bed of creek or water-course running through his lands, unless he plants, or intends forthwith to plant, oysters or clams therein; his merely staking off such place will confer no right. *Birdsall v. Rose*, 17 Vr. 361.

(1) A further supplement to this act (P. L. 1866, p. 484) authorizes persons owning marsh or meadow lands bounding on Cedar creek, Fairfield township, Cumberland county, to lay or plant oysters, also to stake off such clam or oyster grounds.

**29. SEC. 2.** That if any person or persons shall gather or take away any oysters or clams, above or within the line of stakes aforesaid, without permission first had or obtained from the owner or owners, occupant or occupants, of the flats or coves so staked in, he, she or they so offending shall forfeit and pay for each offense, the sum of twenty dollars, to be recovered and applied in manner directed by the twelfth section of the act to which this act is a further supplement, and shall moreover be liable to an action at the suit of the owner or owners, occupant or occupants, for his, her or their damages.

Penalty for taking oysters or clams so planted without permission.

Supplement.

Approved March 12, 1873.

P. L. 1873, p. 44.

**30. SEC. 1.** That the words "dredge or instrument so called," in sections two and six of the act to which this act is a further supplement, shall be and is hereby taken, deemed and intended to mean and apply to any rake or other instrument designed and intended to be used or which shall be used and dragged by any canoe, boat or vessel in any of the rivers, bays or waters of Burlington county, in this state, as a dredge and for the uses and purposes of a dredge, whether called by that name or otherwise.

Construction of the words "dredge or instrument so called."

**31. SEC. 2.** That all the penalties in sections two and six of the act to which this act is a further supplement, shall and hereby do apply to all such person or persons using such rake or rakes, or other instruments, or canoe, boat or vessel having on board such rake or other instrument to be employed and used in raking and dredging or which shall be found employed and using such rake or other instrument in like manner as dredges are used, and for the same purposes for which dredges are used, in any of the rivers, bays or waters of the county of Burlington, in this state, whether such rake or other instrument be called by the name of dredge or otherwise.

Penalty for using rake or other instrument in waters of Burlington county.

Supplement.

Approved February 27, 1877.

P. L. 1877, p. 29.

**32. SEC. 1.** That the twentieth section of the act to which this is a supplement, which reads as follows [see *ante*, p. 809], be and the same is, as far as it applies to the natural banks and beds in Delaware bay and Maurice River cove, hereby repealed.

Repealer.

**33. SEC. 2.** That section eleven [see Sec. 72, *post*] of a supplement to said act, approved March thirty-first, one thousand eight hundred and seventy-one, which reads as follows [see *post*, p. 819], be and the same is amended to read as follows :

[That every boat or vessel engaged in the business of catching, planting and growing oysters in the said Delaware bay and Maurice River cove, to which a license shall be given as in this act directed, shall wear in the middle of the mainsail, one-third of the way from the head thereof, a number painted in black, eighteen inches long, and said number to be designated in the license, and upon the failure or neglect of any boat or vessel so licensed to comply with the provisions of this act, such boat or vessel so neglecting or failing shall forfeit said license; *provided, however*, that a period of twenty days shall be given, after the issuing of said license, for such boat or vessel to comply with the provisions herein mentioned.]

Vessel licensed shall wear number on mainsail.

Proviso.

**34. SEC. 3.** That the second section [see Sec. 75, *post*] of a supplement to said act, approved February twenty-seventh, one thousand eight hundred and seventy-three, which reads as follows [see *post*, p. 819], be and the same is hereby amended to read as follows :

[That it shall not be lawful for any person or persons to catch oysters in Delaware bay for the purpose of planting the same on the flats and grounds of Delaware bay and Maurice River cove from the last day of June to the first day of April in the succeeding year, and that during the months of July and August in each year no oysters are to be caught or taken from said bay or cove for any uses, and that at no time or season shall oysters be caught or taken from any of the natural banks or beds in Delaware bay and Maurice River cove for the purpose of planting upon grounds in another

Penalty for taking oysters during certain periods.

state; and any person or persons so offending against any of the provisions of this act shall for every such offense forfeit and pay a fine of one hundred dollars, and the boat or vessel so violating shall be liable to seizure by the special officer provided for in an act to which this act is a supplement, and such boat or vessel shall be liable for the payment of such fines and forfeitures, and the moneys arising therefrom shall be paid into the oyster fund provided for in an act to which this is a supplement.]

**35. SEC. 4.** That section third [see Sec. 76, *post*] of a supplement to said act, approved February twenty-seventh, one thousand eight hundred and seventy-three, which reads as follows [see *post*, p. 820], be amended to read as follows:

Where annual meeting to be held.

[That the place for holding the annual meeting on the first Tuesday of March in each and every year, as provided for in the ninth section of the act to which this is a supplement, shall hereafter be held in the village of Port Norris, instead of the village of Dividing Creek; and it shall and may be lawful at the annual meetings to be held as aforesaid, by the consent of two-thirds of those present and entitled to vote, to increase the tax imposed by the first section of the act to which this is a supplement, to the sum of two dollars per ton per annum on all boats over five tons by custom-house measurement, or to decrease the same to fifty cents per ton, and to decrease the tax on all boats under five tons custom-house measurement to two dollars and fifty cents per annum, the vote to be by ballot; *provided, however*, that at the said annual meeting power shall be had to fix any sum between the figures specified in the above rates of tonnage as in the judgment of the meeting is deemed best.]

Proviso.

Repealer.

**36. SEC. 5.** That all acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

#### Supplement.

P. L. 1890, p. 280.

Passed April 28, 1890.

**37. SEC. 1.** [Amended by Sec. 44a, *post*.]

Persons using grounds authorized to plant and cultivate oysters and clams.

**38. SEC. 2.** That upon the grounds now used or occupied as aforesaid, the person or persons using or occupying the same may plant, cultivate and gather oysters; they may shell or otherwise improve such grounds and gather the oysters that may grow thereon, and all oysters on said grounds shall be deemed and taken to be their personal property, and every person or persons who shall gather, catch or take oysters, clams or shells from any lot of ground used or occupied as aforesaid, or use thereon any tongs, rake or dredge, without the permission of the person or persons using or occupying the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding seventy-five dollars or be confined in the county jail for a period not exceeding thirty days, or both, at the discretion of the court. (a)

Penalty for taking oysters and clams from beds without permission.

**39. SEC. 3.** [Amended by Sec. 44b, *post*.]

Stakes to be elastic and not to impede navigation.

**40. SEC. 4.** That all stakes used for the purpose aforesaid shall be elastic and yielding, and shall not impede navigation nor interfere with the drawing of seines in any place now established and customarily used for seine-fishing.

**41. SEC. 5.** [Amended by Sec. 44c, *post*.]

Rights of state to lands not affected.

**42. SEC. 6.** That nothing in this act contained shall give any person or persons the right or title to any of the said lands as against the state, and the state may at any time alter or repeal this law, or the riparian commissioners may make grants the same as if this act had not been passed.

Riparian commissioners may make grants.

(a) The supreme court has decided that this act is in conflict with the constitution, in that it does not confer benefits upon all citizens of the state who may thereafter elect to accept them upon the terms prescribed by the lawmaker, and that it can

never apply to any person other than those to whom it applied at the time of its enactment, and does not embrace all of a class according to a legal basis of classification. *State v. Post*, 26 Vr. 264. See *Alexander v. City of Elizabeth*, 27 Vr. 83.

## Amendatory act.

Approved June 19, 1890. P. L. 1890, p. 473.

**43.** SEC. 1. That section sixteen of an act entitled "An act for the preservation of clams and oysters" [Revision], approved April fourteenth, one thousand eight hundred and forty-six, which section reads as follows, to wit:

"That it shall and may be lawful for the owner or owners, or of any person or persons having a license in writing from the owner or owners, of meadow or other lands, which are opposite or contiguous to flats which are at any time bare, or coves, upon or within which flats or coves there have not been heretofore any natural oyster beds along the shores of such parts of the Newark bay and Staten Island sound as lie within the township of Elizabeth, to plant and lay clams, oysters or other shell-fish upon, within or above such flats and coves, and one chain beyond the same; *provided*, the clams and oysters thus planted shall be inclosed and designated by stakes placed beyond them within the prescribed limits, not less than six rods apart, and of such length as to be at least two feet above ordinary high water; *and provided also*, that this section shall not be so construed as to take away or in any wise impair the common rights of citizens to any natural oyster beds which may be embraced by the boundary herein specified," be and the same is hereby amended so as to read as follows, to wit:

[That it shall and may be lawful for the owner or owners, or any person or persons having a license in writing from the owner or owners, of meadow or other lands, which are opposite or contiguous to flats which are at any time bare, or coves, upon or within which flats or coves there have not been heretofore any natural oyster beds along the shores of the tide-waters of this state, to plant and lay clams, oysters or other shell-fish upon, within or above such flats and coves, and one chain beyond the same; *provided*, the clams and oysters thus planted shall be inclosed and designated by stakes placed beyond them within the prescribed limits, not less than six rods apart, and of such length as to be at least two feet above ordinary high water; *and provided, also*, that this section shall not be so construed as to take away or in any wise impair the common right of citizens to any natural oyster beds which may be embraced by the boundary herein specified.]

Owners of meadow lands may plant.

Proviso.

Proviso.

An act to amend a supplement to an act passed April twenty-eighth, one thousand eight hundred and ninety, which supplement is entitled "A supplement to an act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, anno domini one thousand eight hundred and forty-six, and the supplements thereto.

Approved April 16, 1891. P. L. 1891, p. 467.

**44.** SEC. 1. That sections one, three and five [see Secs. 37, 39 and 41, *ante*] of said supplement shall be amended so as to read as follows:

**44 a.** [SEC. 1. That any person or persons, citizens of this state, now using or occupying any grounds lying under tide-waters of this state for the planting or cultivation of oysters thereon, said grounds not being natural clam-grounds or natural oyster-seed beds, and the same shall have been so used and occupied since January first, one thousand eight hundred and eighty, shall be confirmed in their right to use such grounds for the purpose of planting and cultivating oysters, and the oysters planted and grown thereon shall be the personal property of the person or persons using or occupying the grounds aforesaid; *provided*, the said grounds shall have been marked by proper stakes, buoys or suitable monuments during the time aforesaid, and oysters shall have been actually planted upon the grounds so marked; *provided*, that nothing in this section shall apply to any of the waters of Ocean county.

Use and occupation of grounds for cultivation of oysters and clams confirmed.

Proviso.

Proviso.

Grounds for clamming not to be used for planting oysters.  
Proviso.

**44 b. SEC. 3.** That no grounds used by the public for clamming purposes shall be occupied and used for the purpose of planting and cultivating oysters; *provided*, that this section shall not apply to any of the waters of the county of Ocean.

When persons deemed trespassers.

**44 c. SEC. 5.** That any person or persons who shall plant oysters upon any of the natural beds lying under the waters aforesaid shall be deemed trespassers, and such planted oysters shall be forfeited to the public, who shall have the right and privilege of going upon said beds and taking said planted oysters, and converting the same to their own use at any time when it is now lawful to take oysters from said natural beds and clams from clam-grounds; *provided*, that this section shall not apply to the waters of Ocean county.]

Proviso.

P. L. 1892, p. 360.

#### Supplement.

Approved March 29, 1892.

No boat to be used for gathering clams, &c., unless owner a resident of state.

**45. SEC. 1.** That it shall not be lawful for any canoe, flat, scow, boat or other vessel to be used or employed in any of the rivers, bays, or waters of this state to rake or gather clams, oysters or shell-fish, unless the same shall be owned by citizens and actual residents of this state, and who have been for twelve months next preceding actual citizens and residents as aforesaid; and it shall not be lawful for any non-resident to hold a lien or mortgage on any canoe, flat, scow, boat or any other vessel engaged in the oyster business of this state as aforesaid; nor shall any such canoe, flat, scow, boat or any other vessel be commanded by any person who is not a citizen and actual resident of this state for twelve months next preceding; and any canoe, flat, scow, boat or other vessel not so owned and commanded, used and employed, as aforesaid, with all the clams, oysters, clam-rakes, tongs, tackle, furniture and apparel shall be forfeited, and the same seized, secured and disposed of in the manner prescribed in the ninth and tenth sections of the act to which this is a supplement; *provided*, that this act shall not apply to or affect vessels or boats already having license in this state under existing laws.

814-45  
R96-337

Penalty.

Proviso.

P. L. 1892, p. 361.

#### Supplement.

Approved March 29, 1892.

Non-residents not to gather clams, oysters, &c.

**46. SEC. 1.** That section seven of an act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, shall be amended so as to read as follows and not otherwise, to wit:

[That it shall not be lawful for any person who is not at the same time an actual inhabitant and resident of this state, and who has not been for six months next preceding an actual inhabitant or resident as aforesaid, to rake or gather clams, oysters or shell-fish, either on his own account and benefit or on account and benefit of his employer, in any of the rivers, bays or waters of this state, on board of any canoe, flat, scow, boat, or other vessel; and every person who shall offend herein shall forfeit and pay twenty dollars, to be recovered and applied in the manner directed by the first section of this act; and the said canoe, flat, scow, boat, or other vessel, used and employed in the commission of such offense, with all the clams, oysters, clam-rakes, tongs, tackle, furniture and apparel, shall be forfeited, and the same seized, secured and disposed of, in the manner described in the ninth and tenth sections of this act; *provided, however*, that nothing herein contained shall apply to or affect any act, matter or thing herein or hereby prohibited if done or committed between the first day of April and the fifteenth day of June, including both days in any year.]

**47. SEC. 2.** [Amended by Sec. 48, *post.*]

814-46  
S96-336

Penalty.

Proviso.

An act to amend a supplement to an act entitled "An act for the preservation of clams and oysters" [Revision], approved April fourteenth, one thousand eight hundred and forty-six, which supplement was approved March twenty-ninth, one thousand eight hundred and ninety-two, chapter CCXXV.

Approved March 7, 1893. P. L. 1893, p. 92.

**48. SEC. 1.** That section two [see Sec. 47, *ante*] of the supplement to an act entitled "An act for the preservation of clams and oysters" [Revision], approved April fourteenth, one thousand eight hundred and forty-six, which supplement was approved March twenty-ninth, one thousand eight hundred and ninety-two, be amended to read as follows, to wit:

[That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.] Repealer.

#### Supplement.

Approved March 8, 1893. P. L. 1893, p. 111.

**49. SEC. 1.** That in order to better carry out and enforce the provisions of the act to which this act is a supplement, and the acts supplementary thereto, it shall be lawful for the directors of any association of oystermen duly incorporated under the laws of this state to appoint special officers, not exceeding three in number, who shall be citizens of this state, and who shall be and hereby are empowered at all times while holding the office or position of such special officer, upon their own view, to arrest any person or persons who may be found violating or infringing any of the provisions of the act to which this act is a supplement or of any of the acts supplementary thereto, and to bring him or them before a magistrate for examination.

Special officers, how appointed.

Empowered to arrest violators of act.

**50. SEC. 2.** That such special officers shall be paid for their services under this act by the association appointing them and not otherwise.

How special officers are paid.

#### Supplement.

Approved March 16, 1893. P. L. 1893, p. 340.

**51. SEC. 1.** That from and after the passage of this act it shall be unlawful to dredge for oysters in any of the creeks on the east side of Delaware river, of Delaware bay and Maurice River cove south of Cohansey creek at any time, and in Cohansey creek and in all creeks north of said Cohansey creek, in Delaware river and Delaware bay it shall be unlawful to dredge for oysters except during the time from the first day of April to the fifteenth day of June, both days inclusive, and any person offending against the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding two hundred dollars or by imprisonment at hard labor for a period not exceeding one year, or both, at the discretion of the court, and any boat or vessel employed in the commission of any offense against the provisions of this act, with all her tackle, apparel and furniture shall be forfeited and the same seized, secured and disposed of in the manner prescribed in the eighth, ninth and tenth sections of the act entitled, "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six.

When and where unlawful to dredge.

Offenders guilty of misdemeanor.

Penalty, &c.

**52. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall be deemed a public act and take effect immediately.

Repealer.

#### Supplement.

Approved April 11, 1894. P. L. 1894, p. 54.

**53. SEC. 1.** That from and after the passage of this act it shall be unlawful to dredge for clams in the waters of Delaware bay south of a line running direct from the mouth of Dennis creek to Brandywine lighthouse; and any person offending against the provisions of this act shall be deemed

Unlawful to dredge for clams in certain waters of Delaware bay.

- Penalty. guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding two hundred dollars or by imprisonment at hard labor for a period not exceeding one year, or both, at the discretion of the court, and any boat or vessel employed in the commission of any offense against the provisions of this act, with all her tackle, apparel and furniture shall be forfeited and the same seized, secured and disposed of in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters" [Revision], approved April fourteenth, one thousand eight hundred and forty-six.
- Repealer. **54. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Approved March 14, 1895.

P. L. 1895, p. 319.

Misdemeanor to take oysters from a staked-up bed without permission.

Penalty.

**55. SEC. 1.** That any person who shall hereafter dredge upon, or shall throw or cast his oyster dredge or any other instrument used for the purpose of catching oysters upon any oyster bed duly staked up within or under any of the waters of this state, belonging to or in the possession of any other person or persons, without the permission of the owner or holder of such oyster bed, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for any term not exceeding two years, or both; and any boat or vessel used or employed in the commission of such offense, with all her furniture, tackle and apparel, and all oysters on board thereof, shall be forfeited, and the same seized, secured and sold in the manner prescribed in the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the supplements thereto, and the proceeds of such sale, after deducting all expenses, shall be paid to the collector of the oyster fund of the Maurice River cove and Delaware bay oyster association.

A misdemeanor to take planted oysters without permission.

Penalty.

**56. SEC. 2.** That any person who shall hereafter dredge for, or shall catch or take, or attempt to catch or take, any oysters planted in or under any of the waters of this state, the location of which planted oysters is indicated by stakes or buoys, without the permission of the owner of such planted oysters, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for any term not exceeding two years, or both; and any boat or vessel used or employed in the commission of such offense, with all her furniture, tackle and apparel, and all oysters on board thereof, shall be forfeited, and the same seized, secured and sold in the manner prescribed in the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the supplements thereto, and the proceeds of such sale, after deducting all expenses, shall be paid to the collector of the oyster fund of the Maurice River cove and the Delaware bay oyster association.

No exclusive right to natural oyster beds granted.

Repealer.

**57. SEC. 3.** That nothing in this act contained shall give to any person or persons the right or privilege, nor shall it confirm any supposed right or privilege, to stake up, take, have, hold, use, occupy, possess or enjoy any exclusive right in or to any natural oyster bed or ground.

**58. SEC. 4.** That all general acts inconsistent with the provisions of this act are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Approved March 22, 1895.

P. L. 1895, p. 629.

Unlawful to take from natural beds clams below a certain size.

Penalty.

**59. SEC. 1.** That from and after the passage of this act, it shall be unlawful for any person or persons to take from the natural beds beneath the waters of this state, by means of boats, tongs, dredges, rakes or otherwise, any clams the shells of which will measure less than one and one-half inches in length; and every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of

not less than twenty-five dollars nor more than one hundred dollars, at the discretion of the justice before whom the case is brought.

**60. SEC. 2.** That any person or persons buying, selling, or offering to buy or sell, any clams the shell of which will measure less than one and one-half inches in length shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, at the discretion of the justice before whom the action is brought; and that the oyster commissioners of their respective districts are hereby empowered to make all necessary arrests for violations of the provisions of this act.

Or to buy or sell or offer to sell the same.

Commissioners authorized to arrest offenders.

**61. SEC. 3.** That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

**II. Maurice River cove and Delaware bay acts.**

An act for the better enforcement in Maurice River cove and Delaware bay, of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, eighteen hundred and forty-six, and of the supplements thereto.

Approved March 21, 1871.

P. L. 1871, p. 642. Preamble.

WHEREAS, The flats and grounds in Delaware bay and Maurice River cove, covered with water, adjoining the counties of Cumberland and Cape May, are occupied by citizens of this state for the purpose of catching, planting and growing oysters; and whereas, great losses are annually sustained by the depredations of persons who steal and carry away the oysters planted and growing in said cove; and whereas, the means of enforcing the present laws of the state for the protection of the said oyster-grounds are inadequate; therefore,

**62. SEC. 1.** That there shall hereafter be assessed on every boat or vessel lawfully engaged in catching, planting and growing oysters on the flats and grounds of Delaware bay and Maurice River cove, adjoining the counties of Cumberland and Cape May, to be paid by the master or captain of the same, the following sums annually, viz.: [for every boat or vessel not exceeding ten tons, the sum of ten dollars; exceeding ten tons and not exceeding fifteen, the sum of fifteen dollars; exceeding fifteen and not exceeding twenty tons, the sum of twenty dollars; exceeding twenty and not exceeding twenty-five tons, the sum of twenty-five dollars; exceeding twenty-five and not exceeding thirty tons, the sum of thirty dollars; exceeding thirty tons and not exceeding forty, the sum of forty dollars; exceeding forty tons and not exceeding fifty, the sum of fifty dollars; exceeding fifty tons and not exceeding sixty, the sum of sixty dollars]; which said sums shall be assessed and paid to the collector of the oyster fund as hereinafter provided in this act, between the first day of March and the first day of May of each and every year. (a)

Assessments on vessels engaged in catching, planting and growing oysters.

817-62  
S98-188  
158  
S97-852  
S99-506

[Altered by act of February 27th, 1873. See post, Sec. 74.]

**63. SEC. 2.** That Gilbert Compton be appointed a special officer, whose duty it shall be, until the first Tuesday of March, eighteen hundred and seventy-two, and until his successor is chosen as is hereinafter provided, to attend to the enforcement in the said Delaware bay and Maurice River cove, of the provisions of the law of this state entitled "An act for the preservation of clams and oysters," approved April fourteenth, eighteen hundred and forty-six, and of the supplements thereto, and who shall receive for his services the annual salary of five hundred dollars, to be paid as hereinafter mentioned out of the fund provided by the first section of this act.

Special officer, how appointed, duties and salary.

**64. SEC. 3.** That for the better carrying out of the provisions of this act, that the said special officer shall have and occupy an office at or near the village of Port Norris, in said county, where complaints of the violation of the oyster laws of New Jersey may be made, and it shall be the duty of

Special officer to have power to arrest all persons violating this act.

(a) The provisions of this act are not repugnant to the constitution of the United States, or an attempt to regulate commerce between the states. *Johnson v. Loper*, 17 *W.* 321. The imposition of a license fee upon all boats engaged in planting or

taking oysters in the said places, is not obnoxious to the requirement in the state constitution that property shall be assessed under general laws and by uniform rules, according to its true value. *Id.*

the said special officer, at all times, upon his own view, or upon the information of any other person or persons, to proceed at once to arrest any person or persons so complained of, and he may employ for his aid in the prosecution of this duty, any number of men, and any steamboat, steam tug or sail vessel, as may seem most expedient to him, the expenses of which shall be paid out of the fund provided by the first section of this act, and an account of such expenses shall be kept by the said special officer, and furnished under oath to the collector of the oyster fund.

Penalty for refusing to assist the officer in performance of his duties.

**65. SEC. 4.** That it shall be the duty of all citizens, when called upon by the said special officer, to aid in the capture and arrest of all persons charged with the violation of the oyster laws of New Jersey, in the said Delaware bay and Maurice River cove, and it shall be the duty of the captain or commander of any steamboat, steam tug or sail vessel, when called upon for that purpose, to assist with his vessel and crew in making such captures and arrests, and any person duly notified, who shall himself refuse to aid, or any captain or commander who shall refuse to allow his vessel or boat to be used in the arrest and capture of any persons violating the laws, as aforesaid, shall forfeit and pay a fine of fifty dollars, with costs of suit, to be sued for and recovered in any court having jurisdiction thereof; and any person or persons guilty of obstructing or hindering the said special officer in the performance of his duty, under this act, shall be subject to all the penalties imposed by law for hindering and obstructing other officers of this state in the performance of their duties.

Collector appointed and his duties.

**66. SEC. 5.** That for the better carrying out of the provisions of this act, that Daniel T. Howell be appointed collector of the oyster fund of Maurice River cove, who shall hold his office until the first Tuesday of March, one thousand eight hundred and seventy-two, and until his successor is elected, whose duty it shall be to assess and collect all the moneys due from the several boats and their captains or commanders, as set forth in the first section of this act; to issue a license duly certified by himself, to each and every captain or commander of a boat or vessel lawfully engaged in the business of catching, planting and growing oysters in the said Delaware bay and Maurice River cove, that shall pay the taxes required by the first section of this act; to refuse licenses to all who do not comply with the provisions of this act, or are not entitled by the laws of this state to catch, plant and grow oysters in the said Delaware bay and Maurice River cove, and to pay the salary of the said special officer and all expenses incurred by him in the performance of his duties; and the said collector shall receive for such services the sum of five per centum of all moneys by him received and collected.

License to be issued to all captains of vessels.

Collector to give bonds and to record all licenses.

**67. SEC. 6.** That the said collector shall keep a true and faithful record of all his transactions during the year, shall record all licenses granted by him as required by the fifth section of this act, in a book provided for that purpose, and shall receive, in addition to the compensation allowed him for his services as collector, twenty-five cents for each license recorded by him; shall keep a true record of all moneys received and expended by him, and make a true and faithful report of the condition of the finances at each annual meeting hereinafter provided for, and shall be required before entering upon the duties of his office, to give bonds to the collector of the county of Cumberland, with at least two responsible freehold securities, in the sum of two thousand dollars, for the faithful performance of the duties imposed on him by this act.

Captains of vessels shall take oath.

**68. SEC. 7.** That each and every captain or commander of any boat or vessel engaged in the business of catching, planting and growing oysters in the said Delaware bay and Maurice River cove, shall upon taking out the license directed by the fifth section of this act, take an oath or affirmation before the said collector, that he will at all times diligently aid and assist in the enforcement of the laws of New Jersey for the preservation of clams and oysters, and will faithfully and promptly report to the special officer provided for in this act, any knowledge that he may in anywise obtain of the violation of the said laws in Delaware bay and Maurice River cove; and any captain or commander who shall neglect or refuse to take out

the said license, and to make the said oath or affirmation, and to pay the assessments prescribed by this act, shall forfeit his right to catch, plant and grow oysters in the said Delaware bay and Maurice River cove, and if found planting or taking oysters in said bay or cove without the license required by this act, he shall be considered a trespasser, and subject to all the fines and penalties imposed by the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the supplements thereto. (a)

Penalty for not taking license and making oath.

**69. SEC. 8.** That the proceeds of all sales of boats and property seized in the said Maurice River cove or Delaware bay by the said special officer, and sold according to the provisions of the act entitled "An act for the preservation of clams and oysters," and of the supplements thereto, shall be paid to the said collector and added to the common fund provided for in the first section of this act.

Proceeds of sale to be paid to the collector.

**70. SEC. 9.** That all persons lawfully holding, using or occupying a lot of ground for growing oysters, and in any way engaged directly in the business of planting and growing oysters in said cove, are hereby authorized to meet on the first Tuesday of March, in each and every year, at the village of Dividing Creek, in Cumberland county, and there organize by the election of a chairman to preside at said meeting, and also a secretary, who shall keep a true record of the proceedings of said meetings, and when the meeting shall be so organized they may proceed to elect, by ballot, a special officer and a collector, to serve for one year, in place of those named in this act, and who shall have the same powers and perform the duties required of them by the previous sections of this act; and the said meeting shall also have power to change the amount of compensation for the services of the said special officer and collector, and the first meeting for the election of the officers named above, shall be held on the first Tuesday of March, one thousand eight hundred and seventy-two, and on the same day of the month in each succeeding year. [See Sec. 76.]

Persons growing oysters to meet and organize.

**71. SEC. 10.** [Repealed by Sec. 82, *post.*]

**72. SEC. 11.** That every boat or vessel engaged in the business of catching, planting and growing oysters in the said Delaware bay and Maurice River cove, to which a license shall be given as in this act directed, shall wear in the middle of the mainsail, one-third of the way from the head thereof, a number painted in black, eighteen inches long, and to be designated in the license. (1)

Vessels and boats licensed to be numbered.

**73. SEC. 12.** That the natural oyster beds known as the East Point beds in said Maurice River cove, and all the dry beds, or beds that fall bare in said bay or cove at low water, shall not be occupied or planted on, or be used for any purpose but for the natural growth of oysters, and all citizens of this state shall have free access to them. [See Sec. 85.]

Certain oyster beds not to be occupied except for the growth of natural oysters.

Supplement.

Approved February 27, 1873.

P. L. 1873, p. 24.

**74. SEC. 1.** That the annual tax imposed by the said act to which this is a supplement, and by the supplements thereto, upon every boat or vessel lawfully engaged in catching, planting and growing oysters on the flats and grounds of Delaware bay and Maurice River cove, shall be five dollars on all boats not over five tons by United States custom-house measurement, and on all boats over five tons by said measurement the sum of one dollar per ton; and all licenses duly issued according to the provisions of the act to which this is a supplement, to any captain or vessel, shall continue in force and effect for the space of one year from the date thereof. [See Sec. 88, *post.*]

Assessments on vessels catching, planting and growing oysters, &c.

**75. SEC. 2.** That it shall not be lawful for any person or persons to catch oysters in Delaware bay for the purpose of planting the same on the flats and grounds of Delaware bay and Maurice River cove from the first day of November to the fifteenth day of March in each year, and any person or

Penalty for catching oysters for planting during certain periods.

(a) The penalty for planting or taking oysters without first obtaining a license included the condemnation and sale of the unlicensed boat and appliances used for planting and taking oysters. *Johnson v. Loper*, 17 *Wr.* 321.

(1) This section is intended to be amended by section 2 of the "Supplement to an act entitled 'An act for the preservation of clams and oysters,'" approved April 14th, 1846, and the supplements thereto, which supplement was approved February 27th, 1877. See Sec. 33, *ante*.

persons so offending shall for every such offense forfeit and pay the sum of fifty dollars, to be recovered, with costs, in an action of debt by any person who shall prosecute the same in any court in this state having cognizance of that sum; one-half of the said fine to be added to the oyster fund provided for under the provisions of the act to which this is a supplement, and the other half to go to the person who shall sue for the same. (1)

Time and place  
of holding the  
annual meeting.

**76. SEC. 3.** That the place for holding the annual meeting on the first Tuesday of March in each and every year, as provided for in the ninth section of the act to which this is a supplement, shall be hereafter held in the village of Port Norris instead of the village of Dividing Creek; and it shall and may be lawful at the next annual meeting held as aforesaid, by the consent of two-thirds of those present and entitled to vote, to raise a tax of one dollar per ton per annum upon all boats of over five tons by custom-house measurement, in addition to the tax now imposed by the first section of this act; said additional tax to be imposed for one year only at a time, and not to be continued except by the consent of two-thirds of those present and entitled to vote at any subsequent annual meeting. [See Sec. 86.] (2)

Proceedings in  
case of applica-  
tion by inhabi-  
tant and resident  
of this state.

**77. SEC. 4.** That it shall be lawful for any person who is at the time an actual inhabitant and resident of this state, and who has been for six months next preceding the time of his said application, an actual inhabitant and resident of this state as aforesaid, to make application in writing, to the clerk of the court of common pleas of the county in this state in which said applicant resides, for a certificate as hereinafter provided; said application shall set forth that the applicant is an actual inhabitant and resident of this state and of the county where said applicant resides, and has been such actual inhabitant or resident of this state for six months next preceding the time of said application; and that said applicant is not engaged in the business of planting, raking or gathering clams, oysters or shell-fish within the waters of this state, and that said applicant is desirous to rake or gather clams, oysters and shell-fish, for his own use and not for sale, in and upon the natural beds in Maurice River cove and Delaware bay, and shall designate the canoe, flat, scow, boat or other vessel on board of which he intends to rake or gather said oysters, clams and shell-fish, which application shall be signed by said applicant.

Clerk of court to  
give certificate to  
applicant.

**78. SEC. 5.** That upon receiving and filing said application, it shall be the duty of the said clerk of the court of common pleas, having first satisfied himself of the truth of the statements made therein, by affidavit, or otherwise, to give to the said applicant a certificate, under the hand of the said clerk, and the seal of the said court, which said certificate shall recite the said application at length, and state that the same has been received and filed by the said clerk.

Collector to issue  
license on filing  
certificate by  
applicant.

**79. SEC. 6.** That upon the presentation in person, or otherwise, of the said certificate to the collector of the oyster fund of Cumberland county, it shall be the duty of said collector to file said certificate in his office, and thereupon to issue to the said applicant, without charge, except for his own fees as hereinafter allowed, a license in writing, under the hand of the said collector, which said license shall authorize the said applicant to rake and gather oysters, clams, and shell-fish, upon the natural beds in Maurice River cove and Delaware bay, on board the canoe, flat, scow, boat or other vessel named in said license.

Fees to be paid  
by applicant.

**80. SEC. 7.** That the fees to be paid by the said applicant for the different services required by this act shall be as follows:

To the clerk of the court of common pleas for receiving and filing the application and giving the certificate, twenty-five cents;

To the collector of the oyster fund for issuing the license, twenty-five cents.

When moneys  
arising from oys-  
ter fund to be  
applied to state  
school fund.

**81. SEC. 8.** That whenever at the end of any year the sum arising from the oyster fund, after all expenses are paid, shall exceed the sum of two thousand dollars, it shall be the duty of the collector of the said fund to

(1) This section is intended to be amended by Sec. 34, *ante*.

(2) This section is intended to be amended by Sec. 35, *ante*.

pay the same to the treasurer of the state of New Jersey, to be applied to the school fund of the said state; the first payment to be made to the said treasurer on the first Tuesday in March, one thousand eight hundred and seventy-four.

**82. SEC. 9.** That section ten of the act to which this act is a further supplement, and all acts or parts of acts in conflict with the provisions of this act, be and the same are hereby repealed; *provided, nevertheless*, that nothing herein contained shall be construed in any wise to alter or repeal section one of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, or section one of the supplement to said act, approved April first, one thousand eight hundred and sixty-nine.

Repealer.  
Proviso.

#### Supplement.

Approved February 18, 1875.

P. L. 1875, p. 15.

**83. SEC. 1.** That it shall not be lawful for any person or persons to catch or assist in catching oysters in Maurice River cove, or on any planting-ground or grounds in the waters of Delaware bay, before sunrise or after sunset, and any person or persons so offending, shall, for every such offense, forfeit and pay the sum of fifty dollars, to be recovered, with costs, in an action of debt, by any person who shall sue for the same in any court in this state having cognizance of that sum, one-half of the said fine to be added to the oyster fund provided for in the act to which this is a supplement, and the other half to go to the person who shall sue for the same.

Penalty for catching or assisting in catching oysters before sunrise or after sunset.

**84. SEC. 2.** That the special officer created by the act to which this is a supplement, shall have full power to seize and arrest any person or persons found stealing oysters in Maurice River cove or Delaware bay, or from the banks in Maurice River, or in any of the rivers or creeks of Cumberland county, and any person or persons convicted of such offense, shall, for every bushel of oysters found in his or their possession, pay the sum of one dollar and fifty cents, and shall also, for every such offense, forfeit and pay the sum of one hundred dollars, to be recovered, with costs, in an action of debt, by any person or persons who shall sue for the same in any court in this state having cognizance of that sum; one-half of said fine to be added to the oyster fund provided for by the act to which this is a supplement, and the other half to the person who shall sue for the same.

Special officers may arrest any person or persons found stealing oysters.

Penalty.

**85. SEC. 3.** [Amended by Sec. 101, *post.*]

**86. SEC. 4.** That the annual meeting for the election of officers as directed in the act to which this is a supplement, shall be held at the town hall in the village of Port Norris, in the county of Cumberland, between the hours of nine o'clock in the morning and two o'clock in the afternoon, on the first Tuesday of March, one thousand eight hundred and seventy-five, and annually thereafter at the same place and on the same day of the month.

Time and place of annual meeting for election of officers.

**87. SEC. 5.** That at the next annual meeting to be held as aforesaid, there shall be elected a committee, consisting of five, to be called the auditing committee, whose duty it shall be to examine and audit the accounts and vouchers of the collector of the oyster fund and make reports thereon at each annual meeting

Election of an auditing committee.

#### Supplement.

Approved March 8, 1882.

P. L. 1882, p. 55.

**88. SEC. 1.** That the captains of all vessels having a license to lawfully engage in the catching, planting and growing of oysters in the Delaware bay and Maurice River cove, are hereby authorized to meet on the third Monday of March next, and on the third Monday of March in each and every year thereafter, at the hour of ten in the forenoon, at the town of Port Norris, in the county of Cumberland, and there organize by the election of three of their number as judges of election, and one of their number as secretary, who shall keep a true record of the proceedings of said meetings, and when the meeting shall be so organized the said captains of said licensed vessels shall proceed to elect by ballot a special officer and

Captains of vessels licensed authorized to meet annually and to elect judges of election and secretary.

Special officer and collector to be elected.

collector to serve for one year from the date of such election and until their successors are chosen, in the place of the special officer and collector appointed by the board of direction under the provisions of the second section of the act entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, eighteen hundred and forty-six, and the supplements thereto," approved February twenty-eighth, eighteen hundred and seventy-eight; and the said special officer and collector when so elected shall supersede the special officer and collector appointed by said board of direction by virtue of the said second section of the said last-mentioned and recited act, and shall have all the powers and perform all the duties provided and required of the said special officer and collector by the act entitled "An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, eighteen hundred and forty-six, and the supplements thereto, approved March twenty-first, eighteen hundred and seventy-one, and the supplements thereto; and the said meeting shall also at the same time elect by ballot five of their number to be designated as the auditing committee, who shall hold office for one year and until their successors are elected, and shall also by ballot fix the amount per ton of the tax to be assessed and levied each and every year upon all vessels licensed to engage in the catching, planting and growing of oysters in said Delaware bay and Maurice River cove, and that the said election by ballot shall open upon the organization of said meeting, at the hour of ten in the forenoon, and continue until the hour of three in the afternoon, and no longer. [See Sec. 119, *post.*]

Meeting to fix amount per ton of tax to be assessed and levied upon all vessels.

Powers and duties of auditing committee.

**89. SEC. 2.** That the said auditing committee shall be and they are hereby authorized and empowered to fix the salary or compensation of the said special officer and collector, to superintend the expenditure of all moneys belonging to the oyster fund, to inspect the books, accounts, bills, receipts and papers of every kind of said special officer and collector, to audit the accounts of said officers, or either of them; and the said special officer and collector shall, upon the request of the said auditing committee, or of a majority of the members thereof, produce for the examination of said auditing committee, or of a majority of the members thereof, his or their books, accounts, bills, vouchers and other writings touching the administration of the offices of said special officer and collector, and the said special officer and collector shall not pay out any moneys received by them or either of them without the written approval of the chairman of the said auditing committee.

Auditing committee empowered to fill vacancy in office of collector, &c.

**90. SEC. 3.** That the said auditing committee shall have the power and they are hereby authorized to fill any vacancy occurring in the office of special officer and collector, and in the said auditing committee, by reason of death, resignation or otherwise, but no person shall be appointed to fill such vacancy in the said auditing committee who is not eligible to an election under the provisions of the first section of this act.

Committee to make a detailed and itemized report of receipts and expenditures.

**91. SEC. 4.** That the said auditing committee shall, immediately upon the organization of the said annual meeting at Port Norris, on the third Monday in March in each and every year, make a detailed and itemized report in writing to said meeting of the receipts and expenditures, and of the moneys received and paid out by the said special officer and collector, and which report shall be published in one or more of the newspapers printed and published in the county of Cumberland, to be designated by the said auditing committee.

Special officer and collector to pay over all money, &c., to his successor.

**92. SEC. 5.** That the special officer and collector elected pursuant to the provisions of this act shall, upon the expiration of their terms of office, pay over to their respective successors in office all moneys remaining in their hands or the hands of either of them, and shall turn over to their respective successors all of the books, vouchers, receipts, records and other writing, belonging to or appertaining to their respective offices of special officer and collector.

**93. SEC. 6.** That the special officer and collector elected by virtue of this act, before entering upon the duties of their offices, shall each enter into bond to the county collector of the county of Cumberland, with two responsible sureties, in the penal sum of two thousand dollars, conditioned for the faithful performance of the duties of their said offices. Special officer and collector to give bonds.

**94. SEC. 7.** That a majority of the members of said auditing committee chosen as hereinbefore provided, shall constitute a quorum for the transaction of business. Majority of committee to constitute a quorum.

**95. SEC. 8.** That no person shall catch or take any oysters from any of the natural oyster beds in any of the bays, rivers, coves, creeks or waters of this state, for the purpose of planting in the waters of any other state, and any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding two hundred dollars, or imprisonment for a term not exceeding one year, or both. Unlawful to take oysters from natural beds to plant in another state.

**96. SEC. 9.** That it shall be the duty of the said special officer to arrest, either upon his own view or upon the complaint of any other person, any person or persons who shall offend against any of the provisions of the eighth section of this act. Penalty therefor.

**97. SEC. 10.** That any person who shall hereafter dredge upon or throw or cast his oyster dredge or any other instrument for the purpose of catching oysters upon any oyster bed duly staked up within the waters of the state belonging to any other person, without the permission of such owner, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding two hundred dollars, or by imprisonment for any term not exceeding one year, or both. (a) Penalty for dredging or catching oysters without permission of owners.

**98. SEC. 11.** That section eleven of the act entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, eighteen hundred and forty-six, and of the supplements thereto," approved February twenty-eighth, eighteen hundred and seventy-eight, and section one of the further supplement to said act, approved February tenth, eighteen hundred and eighty, be and the same are hereby repealed. Acts and sections of acts repealed.

**99. SEC. 12.** [Amended by Secs. 111 and 131, *post.*]

**100. SEC. 13.** That the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth sections of the act entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, eighteen hundred and forty-six, and of the supplements thereto," approved February twenty-eighth, eighteen hundred and seventy-eight, and all acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall be a public act and take effect immediately. Repealer.

#### Supplement.

Approved March 17, 1882.

P. L. 1882, p. 107.

**101. SEC. 1.** That section three [see Sec. 85. *ante*] of an act entitled "A further supplement to the act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, eighteen hundred and forty-six, and of the supplements thereto," approved February eighteenth, one thousand eight hundred and seventy-five [see P. L. 1875, p. 15], be amended so that the same shall read as follows:

[That the natural oyster beds in Maurice River cove and Delaware bay, known severally as the East Point beds, Andrew's Ditch beds, the Pepper beds, the Ballast beds, and the beds at the mouth of Dividing creek and Oranoke creek, and in the creeks where there is a natural growth of oysters, and the beds that fall bare at low tide, shall not be occupied or used Certain natural oyster beds not to be occupied or used for planting oysters.

(a) An indictment under this section is defective, unless it is limited to an oyster bed duly staked up either in Maurice River cove or Delaware bay. *Pothamus v. State*, 28 Vr. 348.

## CLAMS AND OYSTERS.

Oysters not to be taken unless of a certain size.

Penalty for violating provisions of this act.

Proviso.

Persons planting oysters deemed trespassers and all oysters planted forfeited.

Proviso.

P. L. 1882, p. 239.

Certain elections validated.

P. L. 1883, p. 51.

Natural oyster beds not to be used for planting oysters.

Penalty for violating act.

for planting oysters nor be dredged upon, nor shall oysters be taken or sold from any of the said natural oyster beds, nor from any of the creeks or rivers in the county of Cumberland, for the purpose of planting, except such as may be planted in the ponds, thoroughfare or ditches that put out of said creeks or rivers, nor shall oysters be taken from any of said beds, creeks or rivers for any purpose whatever, unless said oysters shall be of such a size that a bushel will not contain more than four hundred oysters, nor shall any person or persons, under any pretense whatever, take, remove or carry from said beds, creeks or rivers, any old shells or small oysters other than such as cannot be removed without injury to the oysters, but said shells and small oysters shall be thrown back again upon the natural beds in said creeks and rivers, but all citizens of this state shall have free access to them to catch oysters for their own family consumption; and any person or persons offending against any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be punished by a fine of not exceeding one hundred dollars or by imprisonment for any term not exceeding one year, or both, at the discretion of the court; *provided*, that nothing herein contained shall be construed in any wise to affect the provisions of an act entitled "A further supplement to an act entitled 'An act for the preservation of clams and oysters,' passed the fourteenth day of April, eighteen hundred and forty-six," which said supplement was approved March ninth, eighteen hundred and fifty-five.] (a)

**102. SEC. 2.** That any person or persons who shall hereafter plant oysters upon any of the natural oyster beds in Delaware bay, Maurice River cove or any other cove or arm of said Delaware bay or adjacent thereto, shall be deemed a trespasser, and such planted oysters shall be forfeited to the public, and all citizens of this state shall have the right and privilege of going upon said natural beds and taking said planted oysters and converting the same to their own use; *provided*, that nothing in this section shall be so construed as to apply to or affect grounds now staked off in Maurice River cove.

## Supplement.

Approved March 31, 1882.

**103. SEC. 1.** That any election purporting to have been held under and by virtue of the provisions of a supplement to said act, approved March eighth, one thousand eight hundred and eighty-two, shall be deemed in all respects as legal and binding as though said election had been held in strict accordance with the requirements of said act.

## Supplement.

Approved March 2, 1883.

**104. SEC. 1.** That the natural oyster beds in the creeks emptying into the Delaware bay south of Maurice river shall not be occupied or used for planting oysters, nor be dredged upon, nor shall oysters be taken or sold from any of the natural beds in any of the said creeks for the purpose of planting; nor shall oysters be taken from any of the said creeks for any purpose whatever, unless said oysters shall be of such a size that a bushel will not contain over four hundred oysters; nor shall any person or persons, under any pretext whatever, take, remove or carry away from said creeks, any old shells or small oysters, other than such as cannot be removed without injury to the oysters; but said shells and small oysters shall be thrown back upon the natural beds in said creeks; but all citizens of this state shall have free access to them to catch oysters for their own family consumption; and any person or persons offending against any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon con-

(a) The plaintiffs below deposited in Maurice River cove in 1884 a boatload of oyster shells. To these shells the germs of oysters floating in these waters attached themselves, and in about two years developed into marketable oysters. *Held*, that these oysters belonged to the plaintiffs, and that they could

maintain an action against the defendants for the removal and conversion of them. *Grav v. Willets*, 21 Vt. 414. Conceding that the planting of the shells constituted a public nuisance, that fact furnished no justification for converting the property of the plaintiffs to the use of the defendants. *Id.*

viction thereof shall, for any and every such offense, be punished by a fine of not exceeding one hundred dollars, or by imprisonment for any term not exceeding one year, or both, at the discretion of the court; *provided*, that nothing in this act contained shall be construed as in any wise affecting the provisions of any law heretofore enacted for the protection of clams and oysters.

Proviso.

**105. SEC. 2.** That any person or persons who shall hereafter plant oysters upon any of the natural oyster beds in said creeks shall be deemed trespassers, and such planted oysters shall be forfeited to the public, and all citizens of this state shall have the right and privilege of going upon said natural beds and taking said planted oysters and converting the same to their own use.

Who shall be deemed trespassers, &c.

Supplement.

Approved February 20, 1886.

P. L. 1886, p. 34.

**106. SEC. 1.** That it shall not be lawful for any person or persons to catch or assist in catching oysters in Maurice River cove or on any planting-ground or grounds in the waters of Delaware bay before sunrise or after sunset, and any person or persons so offending shall, for every such offense, forfeit and pay the sum of one hundred dollars, to be recovered with costs in an action of debt by any person who shall sue for the same in any court in this state having cognizance of that sum, one-half of said fine to be added to the oyster fund, and the other half to go to the person who shall sue for the same; and the canoe, flat, scow, boat or other vessel used and employed in the commission of such offense, with all the oysters, rakes, tongs, dredges, tackle, furniture and apparel thereto belonging, shall be forfeited, and the same seized, secured and disposed of in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six; and the captain or other person in command or in charge of said canoe, flat, scow, boat or other vessel engaged in the commission of said offense, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine or imprisonment, or both, in the discretion of the court before which the conviction shall be had; *provided*, such imprisonment shall not exceed the term of six months, nor the fine exceed the sum of one hundred dollars.

Penalty for catching oysters between sunset and sunrise.

Proviso.

**107. SEC. 2.** That every captain or commander of any boat or other vessel lawfully engaged in catching, planting and growing oysters on the flats and grounds of Delaware bay and Maurice River cove shall and is hereby required to take out a license authorizing such captain or commander and the boat or vessel of which he is in charge or command to engage in the catching, planting and growing of oysters on the flats and grounds of Delaware bay and Maurice River cove, which license shall be issued upon application of said captain or commander by the collector of the oyster fund, and which license shall continue in force for a period not longer than one year.

Every captain or commander to have license.

Licenses, by whom issued, and how long to continue in force.

**108. SEC. 3.** That the captain or commander of any boat or other vessel, before the license mentioned in the second section of this act shall be issued to him, authorizing such boat or other vessel to engage in the business of catching, planting and growing oysters in the said Delaware bay and Maurice River cove, shall take an oath or affirmation before the said collector, who is hereby authorized to administer the same, that he will at all times diligently aid and assist in the enforcement of the laws of New Jersey for the preservation of clams and oysters, and will faithfully and promptly report to said special officer any knowledge that he may obtain of the violation of said laws, and shall pay to said collector the amount per ton assessed upon all vessels licensed to engage in said business at the last preceding annual meeting of the captains of vessels having a license to lawfully engage in the catching, planting and growing of oysters in the waters aforesaid.

Oath to be made before license is issued.

Penalty for catching, planting or growing oysters without a license.

**109. SEC. 4.** That it shall be unlawful for any captain or commander, or other person or persons in charge or command of any boat or other vessel, without having obtained the license from the collector as hereinbefore provided, to engage in the business of catching, planting and growing of oysters in the said Delaware bay and Maurice River cove, and any person offending against the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for every such offense, be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court; and any boat or other vessel used or employed in the commission of such offense, with all the oysters, rakes, tongs, dredges, tackle, furniture and apparel therein or belonging thereto, shall be forfeited and the same seized, secured and sold in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the proceeds of such sale, after deducting all expenses, shall be paid to the said collector.

All vessels licensed to display their number.

**110. SEC. 5.** That every boat or vessel licensed as aforesaid, and engaged in the business of catching, planting or growing of oysters in said Delaware bay and Maurice River cove, shall wear, in the middle of the mainsail, one-third of the way from the head thereof, a number designated in the license issued to the captain or commander of said boat or vessel, and painted in black numerals, eighteen inches long; and any captain or commander of any such boat or vessel neglecting or refusing to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for every such offense, be punished by a fine not exceeding two hundred dollars, or by imprisonment in the county jail not exceeding six months, or both, at the discretion of the court. [See Sec. 123, *post.*]

Penalty for violation.

**111. SEC. 6.** [This section, amending Sec. 99, *ante*, is amended by Sec. 131, *post.*]

Captains of vessels authorized to vote appropriation for shelling oyster beds.

**112. SEC. 7.** That the captains of all vessels authorized to meet and vote at the annual election held by virtue of the provisions of the act to which this is a further supplement, are hereby authorized to vote at their annual meeting such sum of money as they may, by a plurality of votes, decide upon, to be appropriated and paid out of the oyster fund in the hands of said collector, for the purpose of improving by shelling such of the natural oyster beds in said Maurice River cove and Delaware bay, as the said auditing committee, elected under the said act, shall deem advisable and most advantageous to the citizens of this state.

Unlawful for vessels propelled by steam to catch or plant oysters.

**113. SEC. 8.** That it shall be unlawful for any boat or other vessel propelled wholly or in part by steam, to engage in the catching or planting of oysters on the flats and grounds of Delaware bay and Maurice River cove, and no license shall be issued by the collector of the oyster fund to any boat or vessel so propelled, authorizing such boat or other vessel to engage in the catching or planting of oysters on the flats or grounds in the said bay or cove, and any boat or other vessel propelled wholly or in part by steam and so engaged, shall be forfeited, together with all the tongs, dredges, tackle, furniture and appurtenances thereto belonging, and shall be seized, secured and disposed of in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the proceeds of such sale, after deducting all expenses, shall be paid to the collector of the oyster fund.

Name and style of officers of oyster association.

**114. SEC. 9.** That the special officer elected under the provisions of the act in the last preceding section mentioned, shall hereafter be known and designated as "special officer of the oyster association," the collector therein named as the "collector of the oyster fund," and the auditing committee as the "auditing committee of the oyster association."

Repealer.

**115. SEC. 10.** That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

## Supplement.

Approved March 22, 1886.

P. L. 1886, p. 114.

**116. SEC. 1.** That the captain or commander of any boat or vessel, at the time he shall make application to the collector of the oyster fund for a license authorizing such boat or other vessel to engage in the catching, planting and growing of oysters on the flats and grounds of Delaware bay and Maurice River cove, and before such license shall be issued, shall produce before the said collector the enrollment or license of such boat or vessel, and shall make oath before the said collector, who is hereby authorized to administer the same, that the said boat or vessel is to be regularly engaged in the oyster business in the waters of this state; that such boat or vessel has not been nor is to be purchased, hired, chartered or employed with the sole intent or purpose of catching or taking oysters from the natural oyster beds or grounds in Delaware bay or Maurice River cove; he shall likewise, at the same time, make oath to the names of the owners of such boat or vessel, and of their respective interests therein and places of residence, and which oath shall be reduced to writing, signed by such captain or commander, and left with the said collector to be by him retained and filed; and the said collector is, in all cases where he shall have doubts of the good faith of said application, and he shall so determine or deem advisable, hereby authorized to refuse the granting and issuing of said license, and shall thereupon refer the said application, with the oath and other papers accompanying the same, to the auditing committee of the oyster association, who are hereby authorized and empowered to examine into the said application, and if they shall be satisfied that the said boat or other vessel has been or is to be purchased, hired, chartered or employed with the sole intent and purpose of temporarily working upon, catching or taking oysters from the natural oyster beds or grounds of Delaware bay or Maurice River cove, and not for the purpose of regularly engaging in the oyster business in the waters of this state, to refuse to grant such license, and their action and determination in the matter shall be certified to said collector, and in all cases where the decision of said auditing committee shall be adverse to the granting of such license, the said collector shall not issue the same, and if in favor of granting the same, he shall, upon the said captain or commander in all other respects complying with the laws of this state in relation thereto, issue said license.

Captains to produce enrollment of vessel on application for license, &c.

What oath to contain.

Collector may refuse to issue license, and refer same to committee.

**117. SEC. 2.** That if complaint shall be made by any person to the said auditing committee of the oyster association that any boat or other vessel licensed by the collector of the oyster fund has been purchased, hired, chartered, employed or engaged for the temporary purpose of catching, taking or gathering oysters upon any of the natural oyster beds or grounds of Delaware bay or Maurice River cove, and not in good faith for the purpose of regularly and continuously, engaging in the business of catching and marketing of oysters in said bay or cove, said auditing committee is hereby authorized to hear and examine said complaint, and, if upon such examination they shall decide that the said boat or other vessel has been so purchased, hired, chartered, employed or engaged, or is employed or engaged contrary to the true intent and spirit of this act, to revoke the license of said boat or vessel, and such boat or other vessel, with all the oysters, dredges, rakes, tongs, tackle, furniture and apparel thereto belonging, shall be forfeited, and the same seized, secured and sold in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the proceeds of such sale, after deducting all expenses, shall be paid to the said collector.

Proceedings in case of complaint against certain vessels.

Committee to hear and examine complaint. Committee may revoke license and sell vessels, tackle, &c.

**118. SEC. 3.** That any boat or any other vessel employed or engaged in the catching, taking, raking or gathering of oysters in any of the natural oyster beds in said Delaware bay or Maurice River cove, shall not have on board thereof or use any instrument called a dredge, having a tooth-bar of more than forty inches in length from shoulder to shoulder; and any boat or other vessel so employed or engaged, which shall have on board or use

Boats and vessels having a dredge or tooth-bar of more than a certain length may be seized and sold.

a dredge having a tooth-bar of greater length than is in this section provided, together with all the tongs, dredges, tackle, furniture and apparel thereto belonging, shall be forfeited, and the same seized, secured and sold in the manner prescribed in the next preceding section of this act, and the proceeds of such sale, after deducting all expenses, shall be paid to the said collector of the oyster fund.

## Supplement.

Passed March 14, 1890.

P. L. 1890, p. 77.

Captains and owners of vessels to meet and organize an association.

Annual meeting.

When organized, to elect an executive committee.

Power and duties of executive committee.

Upon complaint, licenses may be revoked by executive committee.

Seizure of vessels, &c., by special officer.

Justices of the peace to hear and determine.

Proceeds of sale, how distributed.

Penalty for catching and taking oysters.

**119. SEC. 1.** That the captains and owners of all vessels having a license to lawfully engage in the catching, planting and growing of oysters in Maurice River cove and Delaware bay, provided said captains and owners have been residents of the state of New Jersey for one year, are hereby authorized to meet on the third Monday in March in each and every year, at the hour of ten o'clock in the forenoon, at the town of Port Norris, in the county of Cumberland, and continue in session until the hour of three in the afternoon, and no longer, and there organize by the election, by ballot, of three of their number as judges of election, and one of their number as secretary, who shall keep a true record of the proceedings of said meetings; and when so organized, the said captains and owners of said licensed vessels shall proceed to elect, by ballot, five of their number to be designated as the executive committee of the Maurice River cove and Delaware bay oyster association, who shall hold office for one year until their successors are elected, and said executive committee shall be invested with all the powers and duties now held by the auditing committee of said Maurice River cove and Delaware bay oyster association; said executive committee shall also have power, by ballot, to elect a special officer from time to time, who shall hold said office during the pleasure of said executive committee, and no longer, and fix the amount per ton of the tax to be assessed and levied each year upon all vessels licensed to engage in catching, planting and growing oysters in said Maurice River cove and Delaware bay; said executive committee shall have power to divide the oyster-grounds in said Maurice River cove and Delaware bay into as many districts as may be proper for the better security and protection of the oyster interest in said Maurice River cove and Delaware bay, and patrol the same by steam or sail vessels, as in the judgment of said executive committee may be deemed best.

**120. SEC. 2.** That if complaint shall be made to said executive committee of said Maurice River cove and Delaware bay oyster association that any captain, commander or owner of any boat or vessel has been found illegally dredging, tonging, catching or taking oysters from the staked-up grounds or beds of oystermen regularly licensed to plant, catch and grow oysters in said Maurice River cove and Delaware bay, said executive committee shall have power to revoke license of said boat or vessel, and said boat or vessel, with all the oysters, dredges, rakes, tongs, tackle, furniture and apparel thereto belonging shall be seized by the special officer of the said Maurice River cove and Delaware bay association, who shall immediately thereafter give notice to some justice of the peace of the county where such seizure shall have been made, and such justice is hereby required and empowered, at such time and place as he shall appoint for the trial thereof, to hear and determine the same in a summary manner, and in case the same shall be condemned it shall be sold by the order and under the direction of the said justice, who, after deducting all legal costs and charges, shall pay one-half of the proceeds of said sale to the state school fund, and the other half to the collector of the oyster fund of the said Maurice River cove and Delaware bay oyster association, for the use of said association; said captain, commander or owner of said boat or vessel unlawfully found catching or taking oysters in said Maurice River cove or Delaware bay shall be deemed guilty of misdemeanor, and upon conviction in any court of competent jurisdiction, be subject to a fine of one thousand dollars or two years' imprisonment at hard labor or both, in the discretion of the court, one-half of said fine to the state school fund and the other half to the

collector of the oyster fund of said Maurice River cove and Delaware bay oyster association for the use of said association.

**121. SEC. 3.** That the power to elect the collector of the oyster fund of the Morris River cove and Delaware bay oyster association shall rest and remain in the hands of the captains and owners of the licensed boats or vessels of the said Maurice River cove and Delaware bay oyster association, the election of the collector of the oyster fund to be by ballot, at the annual meeting of the captains and owners of the licensed boats and vessels, held at the town of Port Norris, on the third Monday in March in each and every year; the said collector of the oyster fund shall have the same powers and duties as are prescribed in the act entitled "An act for the better enforcement in Maurice River [cove] and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, one thousand eight hundred and forty-six, and of the supplement thereto.

Collector of association, how and by whom elected.

Powers and duties of collector.

**122. SEC. 4.** [Repealed by Sec. 139, *post.*]

**123. SEC. 5.** That each captain and commander of any boat or vessel regularly licensed to catch, plant and grow oysters in Maurice River cove and Delaware bay, shall be required to place the number of his boat or vessel in the middle of the mainsail, one-third of the way from the head thereof, also in the middle of the jib, one-third of the way from the head thereof, said number to be painted in black numerals, eighteen inches long, four inches wide, said number to be on the starboard side of mainsail and port side of jib; any captain or commander of any such boat or vessel neglecting or refusing to comply with the provisions of this section, after being notified by the special officer, shall, upon being reported to the executive committee of said Maurice River cove and Delaware bay oyster association, be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, be subject to a fine not exceeding two hundred dollars, or imprisonment in the county jail not exceeding six months, or both, in the discretion of the court, one-half of said fine to be paid to the state school fund, and one-half to the collector of the oyster fund of said Maurice River cove and Delaware bay oyster association, for the use of said association.

Number of boat or vessel to be placed on mainsail.

Penalty for refusing to comply with section.

Fine, how distributed.

**124. SEC. 6.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed; *provided, however,* that nothing in this act shall be so construed as to repeal any part or parts of "An act entitled 'An act for the better enforcement [in] Maurice River cove and Delaware bay of the act entitled "An act for the preservation of clams and oysters,"" approved April fourteenth, one thousand eight hundred and forty-six, and the supplements thereto, save and except the part or parts of said several acts which are in conflict with and inconsistent with the provisions of this act.

Repealer. Proviso.

#### Supplement.

Approved April 16, 1891.

P. L. 1891, p. 476.

**125. SEC. 1.** [This section amended by Sec. 129, *post.*]

**126. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

#### Supplement.

Approved March 29, 1892.

P. L. 1892, p. 363.

**127. SEC. 1.** That whenever any oyster boat or vessel is drifting or sailing over any public oyster bed or grounds in Delaware bay or Maurice River cove, in this state, during the time when the taking or catching of oysters is prohibited by law, it shall be unlawful for the men or crew of said oyster boat or vessel, or any of them, to handle the dredges or to throw or cast the same overboard for any purpose whatever, and any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars or by imprisonment at hard labor for a period not exceeding one year, or both, at the discretion of

When dredges not to be handled.

Penalty.

## CLAMS AND OYSTERS.

the court; and any boat or vessel employed in the commission of any offense against the provisions of this act, with all her tackle, apparel and furniture, shall be forfeited, and the same seized, secured and disposed of in the manner prescribed in the eighth, ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred [and] forty-six.

Repealer.

**128. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this shall be deemed a public act and shall take effect immediately.

## Supplement.

Approved March 16, 1893.

P. L. 1893, p. 343.

**129. SEC. 1.** That the first section [see Sec. 125, *ante*] of the supplement to said act, approved April sixteenth, one thousand eight hundred and ninety-one, be and is hereby amended so as to read as follows:

Unlawful to dredge in certain natural oyster beds.

[That hereafter it shall be unlawful to take oysters by dredging from the natural oyster beds in Maurice River cove and Delaware bay, known severally as the East Point beds, the Pepper beds, the Ballast beds, the beds at the mouth of Dividing creek and Oranoke creek, and in the creeks where there is a natural growth of oysters, and the beds that fall bare, for any purpose whatever, and any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall for every such offense be punished by a fine not exceeding one hundred dollars and by imprisonment at hard labor for a period not exceeding one year, or both, at the discretion of the court.]

Penalty.

Repealer.

**130. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Approved April 3, 1893.

P. L. 1893, p. 501.

**131. SEC. 1.** That the twelfth section [see Secs. 99 and 111, *ante*] of the act entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,''" approved April fourteenth, one thousand eight hundred and forty-six, and the supplements thereto, approved March eighth, one thousand eight hundred and eighty-two, be and the same is hereby amended so as to read as follows:

When unlawful to catch or take oysters within certain boundaries.

[That it shall be unlawful for any person or persons to catch or take oysters from any of the natural oyster beds or natural oyster-grounds in Delaware bay north of a line running direct from the mouth of Straight creek, to Cross Ledge lighthouse, from the fifteenth day of June in each year to the first day of April in the succeeding year, and from the fifteenth day of June until the first day of September in each year no natural oyster growth nor planted oysters shall be caught or taken from any of the grounds in Delaware bay, Delaware river, and Maurice River cove for any purpose whatever, and any person offending against any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be punished by a fine not exceeding two hundred dollars or by imprisonment not exceeding one year, or both, at the discretion of the court; and any boat or vessel used or employed in the commission of such offense against the provisions of this section, with all her tackle, furniture and apparel and the oysters thereon, shall be forfeited and the same seized, secured and sold in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and the proceeds of such sale, after deducting all expenses, shall be paid to the said collector of the oyster fund.]

Penalty for violation.

Boats, vessels, tackle, &c., forfeited.

Where unlawful to stake up grounds, &c.

**132. SEC. 2.** That it shall be unlawful for any person, persons or corporation to stake up grounds or plant oysters north of a line running from the mouth of Straight creek to Cross Ledge lighthouse, and that any and

all grounds staked up contrary to the provisions of this act, and all oysters planted thereon shall be deemed public property and shall be prosecuted according to the provisions of the twelfth section of an act entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled "An act for the preservation of clams and oysters,"' approved April fourteenth, one thousand eight hundred and forty-six, and the supplements thereto.

**133. SEC. 3.** That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed. Repealer.

#### Supplement.

Approved May 17, 1894. P. L. 1894, p. 418.

**134. SEC. 1.** That the executive committee of the Maurice River cove and Delaware bay oyster association shall meet on the first Saturday of each and every month, at the office of the collector of the oyster fund, in the village of Port Norris, Cumberland county, at ten o'clock in the forenoon, and continue in session until twelve o'clock noon of the same day, and longer if necessary, for the purpose of hearing such complaints as to violations of the provisions of the oyster laws of this state, as they are authorized to hear by virtue of the provisions of the act to which this is a supplement and of the various supplements thereto, and also for the purpose of auditing the bills and accounts of the special officer of said association, and of other persons having lawful charges against said association.

Executive committee shall meet and hear complaints.

**135. SEC. 2.** That the collector of said oyster fund shall not hereafter pay out any of the funds of said association unless the bill or account for the same shall have been first presented, under oath, to the said executive committee and approved and ordered paid by them, and such approval be certified thereon by the chairman of said executive committee.

Collector shall not pay bills unless they are approved.

**136. SEC. 3.** That said executive committee shall be entitled to receive as compensation for their services not exceeding five dollars per day for each member, for each meeting of said committee which he shall attend, and that said committee shall be and they are hereby authorized to use and expend the moneys of said association, now in the hands of the collector of said oyster fund and such moneys as may hereafter come to his hands, for such purposes as will in their judgment promote the interests of the greater number of persons lawfully engaged in the catching, planting and growing of oysters in said Delaware bay and Maurice River cove; *provided*, that no such expenditure shall be made except by a majority vote of the whole number of members of said executive committee, personally present and agreeing thereto.

Compensation of committee.

Committee authorized to expend money.

Proviso.

**137. SEC. 4.** That nothing in this act contained shall in any wise invalidate any action heretofore had or taken by said executive committee in good faith, nor shall they or the collector of said oyster fund be held accountable for or called upon to account for any moneys heretofore expended by them or him for the interest of said association or of a majority thereof, but all such expenditures of money are hereby validated; *provided, however*, the accounts of said collector have been audited, presented and published as required by the provisions of the act to which this is a supplement and the supplements thereto.

Previous action shall not be invalidated.

Proviso.

**138. SEC. 5.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

## CLAMS AND OYSTERS.

An act to repeal section four of an act entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six,' and of the supplements thereto," passed March fourteenth, one thousand eight hundred and ninety.

P. L. 1895, p. 458.  
Repealer.

Approved March 22, 1895.

**139. SEC. 1.** That section four [see Sec. 122, *ante*] of chapter fifty of the laws of one thousand eight hundred and ninety, entitled "A further supplement to an act entitled 'An act for the better enforcement in Maurice River cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, one thousand eight hundred and forty-six,' and of the supplements thereto," which further supplement was passed March fourteenth, one thousand eight hundred and ninety, be and the same is hereby repealed.

## III. Miscellaneous acts.

An act for the better enforcement in any river or bay of an act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and supplements thereto.

P. L. 1886, p. 300.  
Unlawful for non-residents of the state to plant seed or grow oysters.

Approved April 27, 1886.

Penalty.

**140. SEC. 1.** That it shall be unlawful for any person or persons not residents of this state, and who shall not have been residents for six months next preceding, to plant seed or grow oysters in the waters of any river or bay; and any oysters, oyster shells, or other materials for seeding or growing oysters so planted, shall become public property, or may be caught or taken up by any citizen of this state; and any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or fine and imprisonment, at the discretion of the court.

Repealer.

**141. SEC. 2.** That any acts or parts of acts inconsistent with this act be repealed, that this act shall be a public act and take effect immediately.

An act to protect the planting and cultivating of oysters in the tide-waters of the county of Ocean.

P. L. 1886, p. 343.  
The holding or right to use grounds under tide-water in Ocean county for cultivation of oysters confirmed.

Approved May 11, 1886.

Proviso.

**142. SEC. 1.** That any person or persons, citizens of this state, now or hereafter holding, using or occupying any grounds lying under the tide-waters of the county of Ocean, for the planting or cultivating of oysters thereon, not now known and recognized as natural oyster-seed beds, from which there is now gathered seed or young oysters for planting purposes, shall be confirmed in their holding or right to use such grounds for the purpose of planting and cultivating of oysters, and the oysters planted and growing thereon shall be the personal property of the person or persons holding, using or occupying the grounds as aforesaid; *provided*, the said grounds shall have been marked by proper stakes, buoys or suitable monuments, and oysters shall have been actually planted upon the grounds so marked off.

Persons authorized to plant, &c., oysters on ground now or hereafter used or occupied.

Penalty for gathering oysters, &c., without permission of persons holding ground.

**143. SEC. 2.** That upon the grounds now or hereafter held, used or occupied as aforesaid, the person or persons holding, using or occupying the same may plant, cultivate and gather oysters; they may shell said grounds and gather the oysters that may grow thereon, and all oysters on said grounds shall be deemed and taken to be their personal property; and every person or persons who shall gather, catch or take oysters, clams or shells from any lot of ground held, used or occupied as aforesaid, without the permission of the person or persons holding, using or occupying the same, shall be deemed guilty of a misdemeanor, and upon conviction

thereof shall be fined in the sum not greater than one hundred dollars, or be confined in the county jail for a period not exceeding six months, or both, at the discretion of the court.

**144. SEC. 3.** That no grounds now used and set apart for clamming purposes in said county shall be occupied and used for the purpose of planting or cultivating oysters.

Grounds used for clamming not to be used for oysters.

**145. SEC. 4.** That all stakes used for the purpose aforesaid shall be elastic and yielding, and shall not impede navigation nor interfere with the drawing of seines in any place now established and customarily used for seine-fishing.

Stakes used not to impede navigation, &c.

**146. SEC. 5.** That any person or persons who shall plant oysters upon any of the natural oyster beds lying under the waters aforesaid, now known and recognized as natural oyster beds, and from which there is now gathered seed or young oysters for planting purposes, shall be deemed trespassers, and such planted oysters shall be forfeited to the public, who shall have the right and privilege of going upon said beds and taking said planted oysters and converting the same to their own use at any time when it is now lawful to take oysters from said natural beds.

Who deemed trespassers.

Oysters planted forfeited to the public.

**147. SEC. 6.** That nothing in this act contained shall give any person or persons the right or title to any of said lands as against the state, and the state may at any time alter or repeal this law, or the riparian commissioners may make grants the same as if this act had not been passed

Act not to give right or title to lands as against the state.

**An act to promote the propagation and growth of seed oysters and to protect the natural oyster beds of this state.**

Approved April 4, 1893.

P. L. 1893, p. 503.

**148. SEC. 1.** That for the purposes of promoting the propagation and growth of seed oysters and to protect the natural oyster beds of this state, the said natural oyster beds shall be and they hereby are divided into seven districts, as follows :

Oyster beds of state divided into districts.

- District No. 1—Newark bay and adjacent waters ;
- District No. 2—Barnegat bay, north of Gunning river ;
- District No. 3—From Gunning river south to Rose's point ;
- District No. 4—From Rose's point south to the division line between Atlantic county and Ocean county ;
- District No. 5—The bays and waters of Atlantic county ;
- District No. 6—The bays and waters of Cape May county ;
- District No. 7—The waters of Delaware bay and Maurice River cove.

**149. SEC. 2.** That the following-named persons shall be and they hereby are appointed to act as commissioners in and for their respective districts for the term of three years, to do and perform such duties as may hereinafter be prescribed, and who shall, before they enter upon the performance of such duties, take and subscribe to an oath or affirmation before the clerk of the county wherein they reside respectively to faithfully discharge the duties of their office: first district, George Rabenstein, William P. Wood; second district, George Everham, Isaac Worth; third district, Abraham J. Jones, Thomas Cramer; fourth district, Marshall A. Loveland, George A. Mott; fifth district, James A. Beckwith, Lewis H. Barrett; sixth district, Robert Corson, George Dickinson, Jr.; seventh district, Reuben Smith, Henry Long; and in case of any vacancy occurring by death, resignation, removal or otherwise, the governor shall have authority to appoint any competent resident of the district to fill such vacancy.

Commissioners appointed.

Term of office.

Take an oath.

How vacancy filled.

**150. SEC. 3.** That it shall be the duty of the said commissioners to make a careful inspection of the natural oyster-grounds in their respective district, and wherever and whenever in their opinion it is expedient to cause a supply of shells to be spread on the grounds of the said natural oyster-grounds in this state, which from any cause have become depleted, which said shells shall be purchased by said commissioners at the lowest price, and be spread between the thirtieth day of April and the first day of September in each year for the period of three years, and until the appropriation hereinafter made for the purposes shall be exhausted.

Duties of commissioners.

- 151. SEC. 4.** [Amended by Sec. 156, *post.*]
- 152. SEC. 5.** That each of the said commissioners above named shall be entitled to receive for each day's actual service in the discharge of their duties as aforesaid the sum of three dollars and no other compensation whatsoever, to be paid by the state treasurer upon warrant of the comptroller, the comptroller being hereby authorized to issue such warrant upon presentation to him of a statement duly verified by oath or affirmation by such commissioner that the service for which pay is demanded has been duly performed.
- 153. SEC. 6.** That for the purposes of carrying out the provisions of this act there shall be appropriated the sum of five thousand dollars annually for the period of three years, which said sum of five thousand dollars shall be distributed as follows:
- For waters north of Cedar Creek point in the waters of Barnegat bay, in the county of Ocean, to Pennsylvania railroad bridge, the sum of seven hundred dollars;
- For the mouth of Mullica river and adjacent waters, known as Graveling oyster beds, the sum of five hundred dollars;
- For the mouth of Tuckerton creek and adjacent waters, the sum of one hundred and fifty dollars;
- For the mouth of Parkerton creek and adjacent waters, the sum of two hundred dollars;
- For the mouth of West creek and adjacent waters, the sum of one hundred and fifty dollars;
- From Dinner point to north side of Cedar run, the sum of one hundred and fifty dollars;
- From Delaware bay and Maurice River cove, in Cumberland county, the sum of five hundred dollars;
- From Newark bay and adjacent waters, the sum of six hundred and fifty dollars;
- For the mouth of Great Egg Harbor river and adjacent waters, including Atlantic county, five hundred dollars, and for Cape May county, five hundred dollars;
- The remaining ten hundred dollars shall remain as a reserve fund in the event that it may become necessary that any one particular district shall require a greater expenditure than above provided, in which case the said commissioners in meeting assembled may determine the proportion to be allotted to such district, and also for the purpose of meeting such other incidental expenses not herein specially provided for.
- 154. SEC. 7.** That the commissioners herein named are authorized to employ such assistants as they may deem necessary to carry out the provisions of this act.
- 155. SEC. 8.** That section four of this act shall not apply to Cumberland county.

Compensation of commissioners.

Annual appropriation for three years and how distributed.

May employ assistants.

Not to apply to Cumberland county.

#### Supplement.

Approved April 24, 1894.

P. L. 1894, p. 132.

Unlawful to rake, dredge, &c., to remove shells spread for spawn. Penalty.

Commissioners empowered to make arrests.

**156. SEC. 1.** That section four [see Sec. 151, *ante*] of an act entitled "An act to promote the propagation and growth of seed oysters and to protect the natural oyster beds of this state," approved April fourth, one thousand eight hundred and ninety-three, be amended so as to read as follows:

[That it shall not be lawful for any person or persons to rake, tong, dredge, or in any manner whatsoever, to remove any of the shells having spawn adhering thereto so as aforesaid spread upon the beds, within two seasons thereafter; and any person or persons offending against the provisions of this act shall be deemed guilty of a misdemeanor, and punishable by a fine of fifty dollars or imprisonment for a term not exceeding three months, or both; and that the commissioners of their respective districts are hereby empowered to make all necessary arrests for violation of the provisions of this act.]

Supplement.

Approved March 28, 1895.

P. L. 1895, p. 754.

**157. SEC. 1.** That it shall not be lawful for any person or persons to rake, tong, dredge or in any manner disturb or work upon any grounds occupied by the state of New Jersey for the purpose of planting shells until the second season after the spat have adhered to the shells so planted.

Grounds occupied by the state for planting shells not to be worked until the second season.

**158. SEC. 2.** That the taking of oysters from any natural oyster-seed grounds during the close season, or the violation of any provision of the culling act, shall be considered a misdemeanor and punishable, after conviction, by a fine of fifty dollars for each and every offense, or imprisonment in any county jail for the period of three months, or both, in the discretion of the court.

Penalty for violating the culling act.

**159. SEC. 3.** That the said oyster commissioners shall have authority to arrest any person or persons caught violating any of the provisions of this act or of the acts to which this is a supplement; that they shall be empowered to wear a badge designating their office which shall distinguish their authority and which shall be recognized and respected as officers empowered to enforce and protect the provisions of this act and no other.

Commissioners authorized to wear a badge and make arrests.

**160. SEC. 4.** That it shall be the duty of the said oyster commissioners to strictly enforce all existing laws relating to the natural oyster-grounds of this state.

And shall enforce existing laws.

An act to protect the planting and cultivating of oysters in the tide-waters of this state.

Approved May 17, 1894.

P. L. 1894, p. 429.

**161. SEC. 1.** That any person or persons, citizens of this state, now or hereafter holding, using or occupying any grounds lying under the tide-waters of this state for the planting or cultivating of oysters thereon, said grounds not now known and recognized as natural oyster-seed beds, from which there is now gathered seed or young oysters for planting purposes, shall be and hereby are confirmed in their holding or right to use such grounds for the purpose of planting and cultivating of oysters and the oysters planted and growing thereon shall be the personal property of the person or persons holding, using or occupying the grounds as aforesaid; *provided*, the said grounds shall have been marked by proper stakes, buoys or suitable monuments, and oysters shall have been actually planted upon the grounds so marked off.

Persons occupying certain grounds shall be confirmed in their holding.

Proviso.

**162. SEC. 2.** [Amended by Sec. 172, *post*.]

**163. SEC. 3.** That it shall be unlawful for any person, without the permission of the person or persons holding, using or occupying the grounds now or hereafter held, used or occupied as aforesaid to work from boats or otherwise with rakes, dredges or other appliances upon any of said grounds, and thereby to injure, disturb or remove the oysters planted and growing thereon; and it shall be the duty of any constable or duly-appointed special officer, and lawful for any other person, to seize and secure any boat, rake, dredge or other appliance used in violation of this law and immediately give information thereof to any justice of the peace of the county wherein such seizure is made, who is hereby empowered and required to hear, try and determine whether such boat, rake, dredge or other appliance so seized was used in violation of this law; the said justice shall appoint a time and place of trial and cause reasonable notice thereof to be given to the person who was in possession of the property seized and the owner thereof, if they can be found; and shall, at the time and place appointed, determine whether the boat, rake, dredge or other appliance seized was used in violation of this law, and if found to have been so used shall order the same to be sold in such manner as the said justice shall direct; and the avails thereof, after deducting all proper and reasonable costs and charges which said justice may tax and allow, shall be paid one-half to the person or persons making the seizure and one-half to the treasurer of the state for the use of the state.

Unlawful to take oysters with rakes, dredges, &c.

Constable or officer may seize boats and appliances.

Justice of peace shall try and determine case.

And may order boats, &c., sold and money applied.

Grounds used for clamming shall not be used for oysters.

Stakes shall be yielding, &c.

Persons planting oysters upon natural beds, from which there is gathered seed oysters, shall be deemed trespassers and shall forfeit plants.

Title shall not run against state.

Act shall not apply to Delaware bay or Maurice River cove.

Repealer.

**164. SEC. 4.** That no grounds now used and set apart for clamming purposes in said state shall be occupied and used for the purpose of planting or cultivating oysters.

**165. SEC. 5.** That all stakes used for the purpose aforesaid shall be elastic and yielding, and shall not impede navigation nor interfere with the drawing of seines in any place now established and customarily used for seine-fishing.

**166. SEC. 6.** That any person or persons who shall plant oysters upon any of the natural oyster beds lying under the waters aforesaid, now known and recognized as natural oyster beds, and from which there is now gathered seed or young oysters for planting purposes, shall be deemed trespassers, and such planted oysters shall be forfeited to the public, who shall have the right and privilege of going upon said beds and taking said planted oysters and converting the same to their own use at any time when it is now lawful to take oysters from said natural beds.

**167. SEC. 7.** That nothing in this act contained shall give any person or persons the right or title to any of said lands as against the state, and the state may at any time alter or repeal this law, or the riparian commissioners may make grants, the same as if this act had not been passed.

**168. SEC. 8.** That none of the provisions of this act shall apply to the waters or bottoms of Delaware bay and Maurice River cove.

**169. SEC. 9.** That this act shall and is hereby declared to be a public act, and shall take effect immediately; and all acts and parts of acts inconsistent herewith shall be and hereby are repealed.

#### Supplement.

Approved March 22, 1895.

**170. SEC. 1.** That any person or persons removing any stakes, buoys or monuments placed or erected for the purposes as set forth in the first section of the act to which this is a supplement, shall, upon conviction thereof before any court of competent jurisdiction, pay a fine of twenty dollars or be imprisoned in the county jail for a period not exceeding ninety days, either or both, at the discretion of the court.

**171. SEC. 2.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

P. L. 1895, p. 502.

Penalty for removing stakes, buoys or monuments.

Repealer.

#### Amendatory act.

Approved March 22, 1895.

**172. SEC. 1.** That section two [see Sec. 162, *ante*] of said act be amended to read as follows:

[That upon the grounds now or hereafter held, used or occupied as aforesaid, the person or persons holding, using or occupying the same may plant, cultivate and gather oysters; they may shell said grounds and gather the oysters that may grow thereon, and all oysters on said grounds shall be deemed and taken to be their personal property; and every person or persons who shall gather, catch or take oysters, clams or shells from any lot of ground properly planted with oysters held, used or occupied as aforesaid, or use thereon any tongs, rake or dredge without the permission of the person or persons holding, using or occupying the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not greater than one hundred dollars or be confined in the county jail for a period not exceeding six months, or both, at the discretion of the court.]

**173. SEC. 2.** That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

P. L. 1895, p. 560.

Oysters, &c., on private grounds shall be deemed personal property.

Trespassing thereon shall be deemed a misdemeanor.

Penalty.

Repealer.