

ters, and the soils under them for their own common use, subject only to the rights since surrendered by the Constitution to the General Government, or granted by them to communities, or to individuals—and that this property in the navigable waters and in the soils under them is held by the respective States for the common uses of their people, among which are the rights of navigation, and of taking fish as well shell-fish as floating fish.

By these authorities it has been also decided, that the Legislatures of the several States have in the many cases there referred to, legally exercised exclusive jurisdiction over this public property in the navigable waters, and soils under them, by regulating and restraining the modes of enjoying these common rights of their respective citizens. *As to navigation*—in allowing piers or wharves to be built out upon the soil of navigable waters, but so as not materially to obstruct navigation, &c. *As to fisheries*—in passing laws prescribing the time and mode of taking fish, transferring a portion of the State's title for a time by grants of the right of fishery to communities or to individuals over this soil, abridging this common privilege of fishery for the public good, and generally in legislating on this subject as the State deemed most for the benefit of all.

- 1. Hatstid's Rep. 1, on New Jersey laws.
- Baldwin's Rep., 72, Delaware laws.
- 3 Gray's Rep., 273, Massachusetts laws.
- 2 Conn. Rep., 484, Connecticut laws.
- 37 Maine Rep., 474, Maine laws.
- 14 Wendell's Rep., 42, New York laws.
- 5 Harris and Johnson, 203, Maryland laws.
- Manuscript Report of Maryland Court of Appeals,  
Phipps' laws.
- Others against the State, June, '64, laws.
- 16 Peters, U. S. S. Court Reports, 410.
- 18 Howard same, 74.
- 3 Kent's Com., 418.
- 2 Story on Con. U. States, 517, sec. 1069.

It will also, appear from these authorities that the right of the State through their laws, including decisions on the laws of this State, to control their own citizens in the enjoyment of this common right of fishery has been sustained.

The Legislature of this State has always made discriminations in favor of citizens bordering on navigable waters and does now make such. See Code, title oysters, pages 477 and *seq.*, section, 11, 12, 14, 17, 18, 19, 25, 26 and 27.

The laws, however, received in the cases cited and the previous and existing laws of this State, have not been so restrictive and exclusive as to the citizens who should enjoy