

mit, may allow him a portion of said proceeds, but in all such cases the court shall retain a sufficient sum to pay costs, charges, expenses and a reasonable and proper equivalent to a fine, and amendment to the forms and procedure shall be allowed, as hereinbefore provided, in all cases of appeal from the judgment of justices of the peace.

The act of 1833, ch. 254, prohibiting taking or catching of oysters in any of waters of the state with a scoop or drag, etc., and providing as a penalty, for forfeiture to state of boat or vessel so employed, held not to be in conflict with Federal Constitution, although applied to a vessel owned by a non-resident, and licensed under laws of United States. *Smith v. Maryland*, 18 How. 71. And for a case upholding the act of 1880, ch. 198, see *The Ann*, 8 Fed. 924. *Cf. Booth v. Lloyd*, 33 Fed. 597, and *Ex Parte Insley*, 33 Fed. 682 (declaring act of 1884, ch. 518, invalid).

For a case involving a conflict between a local law and act of 1874, ch. 181, which created the "state fishery force," see *Willing v. Bozman*, 52 Md. 61.

As to the right of appeal, see also sec. 53.

Cf. art. 39, sec. 56, and art. 99, sec. 9.

An. Code, sec. 30. 1904, sec. 29. 1894, ch. 380, sec. 28.

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

See notes to sec. 31.

Oyster Fund.

An. Code, sec. 31. 1904, sec. 30. 1894, ch. 380, sec. 29.

33. All moneys received or obtained from dredging licenses issued under the provisions of the preceding sections of this article, and one-third of the moneys received from the county scraping licenses, and all fines, penalties or forfeitures imposed in pursuance thereof shall upon the warrant of the comptroller, be paid into the treasury and placed to the credit of a fund which shall be called the oyster fund, and the same shall be kept separate and distinct from other funds in the treasury and shall only be