

said vessel being given by the person praying the appeal satisfactory to said justice the said vessel may be released pending the said appeal. Any person or persons offering to stand bail for any person or persons charged under the provisions of this article shall be sworn by the judge or justice of the peace trying the same as to his actual worth in unincumbered real estate, and if he swears falsely, upon proof of the same before any court of competent jurisdiction, shall be deemed guilty of perjury and subject to all the pains and penalties of the same; the judge or justice, before the party is sworn, shall acquaint him or her with the pains and penalties of false swearing. Any person having a lien upon any vessel seized hereunder may file a petition and the court, if the interests of justice will permit, may allow him a portion of said proceeds, but in all such cases the court shall retain a sufficient sum to pay costs, charges, expenses and a reasonable and 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. 54.

An. Code, 1924, sec. 32. 1912, sec. 30. 1904, sec. 29. 1894, ch. 380, sec. 28.

33. 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. 32.

Oyster Fund.

An. Code, 1924, sec. 33. 1912, sec. 31. 1904, sec. 30. 1894, ch. 380, sec. 29. 1927, ch. 127, sec. 33.

34. All moneys received or obtained from dredging license issued under the provisions of the preceding sections of this Article, and one half of