

shall further provide that the licensee must turn over to the State of Maryland at least ten per cent. of the shells from the oysters shucked in his establishment for the current season, said shells to be removed on or before the twentieth day of August of said season; or at the discretion of the Conservation Department its equivalent in money, the value thereof being determined at the market value of shells as of the first day of May following the close of the season. The Conservation Department shall notify each packer or canner on or before the first day of May whether it is its intention to take the ten per centum of the shells from oysters shucked as aforesaid, or its equivalent in money. Said license shall have effect from the first day of September in the year in which it may have been obtained until the twenty-fifth day of April, inclusive, next succeeding.

Act 1927, ch. 119, is constitutional. Interest to state and of individual in oysters and fish. License fees. Discretion in conservation department. *Leonard v. Earle*, 155 Md. 254.

Constitutionality of secs. 85 and 86 affirmed by U. S. Supreme Court. *Leonard v. Earle*, 279 U. S. 392.

The tax imposed by this section applies to oysters shipped from another state to packer in this state, as well as to oysters taken in this state. This section is constitutional. *Applegarth v. State*, 89 Md. 141; *State v. Applegarth*, 81 Md. 296. (Both cases decided prior to acts of 1900, ch. 380, and 1906, ch. 188.)

This section is constitutional. It imposes a tax on occupation, and not on property. *State v. Applegarth*, 81 Md. 296; *Applegarth v. State*, 89 Md. 141. (Both cases decided prior to the act of 1900, ch. 380, and the act of 1906, ch. 188.)

This section referred to in construing secs. 34 and 35. *Smith v. School Commissioners*, 81 Md. 517.

Cited but not construed in *Foote v. Claggett*, 116 Md. 233.

1927, ch. 119, sec. 91A.

86. All moneys derived from said license fee of twenty-five dollars shall be paid over to the Comptroller to be credited to the Conservation Fund, and one-half of the shells received by the Conservation Department shall be transplanted upon such natural beds or bars as may be reserved by the Conservation Commission as provided for elsewhere in this Article, and the other one-half of said shells shall be planted on such seed areas as may be set aside by the Conservation Commission for seed oysters. In case money is paid in lieu of the ten per cent of shells, the Conservation Commission shall convert same into shells or seed oysters to be transplanted in like manner.¹

See notes to sec. 85.

An. Code, 1924, sec. 92. 1922, ch. 519, sec. 2.

87. All Acts or parts of Acts inconsistent with sections 6, 11, 12, 19, 22, 28 and 85 are hereby repealed. In case any of said sections or provision of said sections shall be held unconstitutional or invalid, the same shall not be held to affect any other section or provision of said sections.

An. Code, 1924, sec. 93. 1912, sec. 80. 1904, sec. 78. 1894, ch. 380, sec. 67. 1900, ch. 380. 1906, ch. 188, sec. 78.

88. If any person, firm or corporation shall engage or attempt to engage in the business of packing or canning oysters without first obtaining a license, as provided in section 85 he shall be deemed guilty of a misdemeanor, and shall be fined not less than two hundred and fifty dollars, nor more than one thousand dollars for each offense.

See notes to sec. 85.

¹ Sec. 3 of ch. 119 of acts of 1927 repealed all laws inconsistent therewith to extent of such inconsistency.