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Clams & Oysters,



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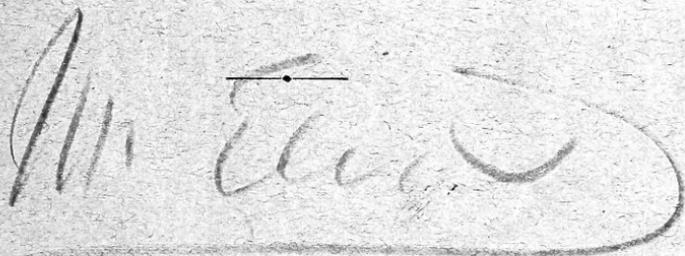
Statute Law of New Jersey

RELATIVE TO

CLAMS AND OYSTERS

Compiled under the Authority of the
Bureau of Shell Fisheries of New Jersey,

JUNE 1ST, 1909



TRENTON, N. J.:

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By transfer

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Nov. 21, Oct. 16/18.

Statute Law of New Jersey Relative to Clams and Oysters.

I. AN ACT FOR THE PRESERVATION OF CLAMS AND OYSTERS.

Approved April 14, 1846, as amended and supplemented by subsequent acts.

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.

Beds not to be raked at certain times. P. L. 1873, p. 399.

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

Penalty for using dredges.

Not in title. Proviso.

shall not extend, so far as regards persons residing in this state, to the Delaware bay.

Justices of the peace to issue warrant, &c.

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.

Penalty for offering oysters for sale at certain seasons.

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.

Penalty for gathering oysters for lime.

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

Vessels not to carry dredge.

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.

7. 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 or 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.

P. L. 1896,
p. 336.
Non-residents not to gather clams, oysters, &c.

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; 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 re-

Penalty for resisting officers.

fuse 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 some of thirty dollars, to be recovered and applied in manner directed by the first section of this act.

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

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.

Penalty for breaking down fences, &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.

Oysters, how taken in Navesink river.

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 township of Shrewsbury from the township of Middletown, above a direct line from the storehouse of Eseek 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.

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.

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

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

Penalty for taking oysters without permission.

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.

P. L. 1890,
p. 473.
Owners of
meadow
lands may
plant.

16. 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 anywise impair the common right of citizens to any natural oyster beds which may be embraced by the boundary herein specified.

Proviso

Proviso.

Penalty for
taking oys-
ters within
certain limits
without per-
mission.

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 con-

tiguous 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.

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

Time for
taking oys-
ters in cer-
tain counties

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

Old shells
not to be re-
moved from
natural beds.

prohibit any person or persons from taking, removing or carrying any shells from beds planted out by him or them pursuant to law.

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

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.

P. L. 1851, p. 439. Non-residents of state not to gather oysters, &c.

22. 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.

Penalty.

Additional penalty for violating section 12.

23. 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 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.

24. 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.

P. L. 1853,
p. 139.
Time for
taking and
vending oys-
ters extended
in Cape May
county.

25. 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.

P. L. 1855,
p. 216.
Owners of
marsh and
meadow
lands may
lay and plant
oysters.

26. 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.

Penalty for
violation of
provisions
of act.

27. 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.

P. L. 1864,
p. 631.
Oysters not
to be taken
out of natu-
ral beds in
certain coun-
ties except by
daylight.

28. 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.

P. L. 1871,
p. 493.
Owners of
flats and
coves along
tide-waters
in Burlington
county may
plant or lay
oysters.

Proviso.

Proviso.

Penalty for taking oysters or clams so planted without permission.

29. 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.

P. L. 1873, p. 44.
Construction of the words "dredge or instrument so called."

30. 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.

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

31. 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.

P. L. 1892, p. 360.
No boat to be used for gathering clams, &c., unless owner a resident of state.

32. 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.

33. 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.

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

35. From and after the passage of this act it shall be unlawful for any person or persons, company or corporation, at any time whatever, to use, cast, drag or haul any dredge, patent rake, or other similar device which shall be towed, dragged or hauled by or behind any boat, vessel or craft propelled by sail or steam, or to catch therewith clams, oysters or shells in the waters of Delaware bay south of a line running direct from the mouth of Dennis creek to Brandywine lighthouse; and any person offend-

Penalty.

Proviso.

P. L. 1893,
p. 111.
Special officers, how appointed.

Empowered to arrest violators of act.

How special officers are paid.

P. L. 1899,
p. 333.
Unlawful to dredge in Delaware bay south of certain line.

Penalty.

ing 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 one hundred dollars, or by imprisonment at hard labor for any term not exceeding six months, 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 shall, with all her tackle, apparel and furniture, be forfeited, and the same may be seized, secured, condemned 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; *provided, always*, that the provisions of this act shall not be construed to prohibit any person, who now does, or hereafter shall, bona fide, occupy and plant with oysters any grounds not natural oyster or clam grounds, from working his own private oysters at any time and in any manner that he may otherwise lawfully do.

· Proviso.

Repealer.

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

P. L. 1900,
p. 422.
Taking of
hard mud
clams.

37. 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, or to have in their possession, or to buy or sell, or to offer to buy or sell, any clams commonly called hard mud clams, the shells of which will measure less than one inch in width or thickness across the back or hinge; except said clams be taken beneath the waters of Atlantic county, in which case they shall not measure less than one and one-quarter inches in length; or to buy or sell, or to offer to buy or sell, any clams commonly called hard sand clams, the shells of which will measure less than one inch in width or thickness across the back or hinge, except said clams be taken beneath the waters of Atlantic county, in which case they shall not measure less than one and one-quarter inches in length; or to buy or sell, or offer to buy or sell, any clams commonly called soft-shell clams, the shells of

Exception.

Soft-shell
clams.

which will measure less than two 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 of the peace before whom the case is brought, and in default of payment of the fine, the justice shall commit him to the county jail for a period of not less than ten days nor more than thirty days; one moiety of said fine (after deducting therefrom the fees of the justice and of the officer making the arrest, which fees shall be the same as are allowed for issuing and serving warrants and holding examination or hearing in other causes), to be paid by said justice imposing and collecting the fine 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 or moiety to be paid to the warden, constable or person who made the complaint.

Penalty.

Division of fine.

38. Upon complaint under oath, made to him, any justice of the peace of the county wherein the offense was committed may and shall issue his warrant for the arrest and apprehension of any person violating the provisions of the first section of this act; and it shall be the duty of the several oyster commissioners or any constable to, and any other person may, make complaint and bring action before any justice of the peace of the county against any person or persons so violating the provisions of this act; which warrants shall be served by either such oyster commissioner or constable.

P. L. 1903,
p. 236.
Warrant for
apprehension
of violators.

A Supplement to an act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six.

Approved March 29, 1904.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. It shall be unlawful for any boat or other vessel propelled wholly or in part by steam, naphtha, electricity, or any other mechanical motive power, to engage in the catching or taking of oysters from any of

P. L. 1904,
p. 333.
Vessels
mechanically
propelled
prohibited
from taking
oysters.

the natural beds, under the tidal waters of this state, and no license shall be issued by any oyster commission, shell commission, or other authority, to any boat or vessel so propelled, authorizing such boat or vessel to engage in the catching or taking of oysters from any of said natural beds; any person using a boat so propelled in such business, shall be guilty of a misdemeanor, and any boat or other vessel propelled wholly or in part by any such mechanical motive power, 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 act to which this is a supplement.

Penalty.

2. This act shall take effect immediately.

A Further Supplement to an act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six.

Approved April 21, 1909.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No excremental or other polluting matter of any kind or character whatsoever shall be discharged or placed in the waters, or be placed or suffered to remain on the banks of any stream, the bed of which is or shall be used for the planting and cultivation of oysters or clams, if such excremental or other polluting matter so placed or discharged into such stream, or placed or suffered to remain on the banks of such stream, will tend to corrupt and impair the quality or wholesomeness of the oysters or clams growing on the bed of said stream; *provided, however,* that nothing in this section contained shall apply to the discharge of sewage or drainage into any such stream by municipalities of this State.

Proviso.

2. Any person or corporation violating any of the provisions of this act shall be liable to a penalty of one hundred dollars, to be recovered in an action of debt by the board of health of the state of New Jersey.

Penalty.

P. L. 1909,
p. 476.
Polluting
matter not
deposited so
as to affect
oyster beds.

RELATIVE TO CLAMS AND OYSTERS. 17

3. The word "stream" as used in this act shall be taken to include and mean all bodies of water in this state, or constituting a boundary between this and any other state, irrespective as to whether such waters be fresh or salt; *provided*, the bed of any such stream shall be used for the planting and cultivation of oysters or clams.

"Stream" defined.

Proviso.

4. This act shall take effect immediately.

A Supplement to an act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-one.

Approved May 11, 1905.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. From and after the passage of this act it shall be unlawful for any person or persons, company or corporation, at any time whatsoever, to use, cast, drag or haul any dredge, patent rake or other similar device, which shall be towed, dragged or hauled by or behind any boat, vessel or craft propelled by sail, steam or other power, or to catch therewith any clams, oysters or shells in the waters of the Delaware bay, southwesterly of a line running northwest from the mouth of Green creek, Cape May county, to the intersection of such line with a line direct from the mouth of Dennis creek to Brandywine lighthouse; *provided, however*, that this prohibition shall not apply to any territory which was under lease from the state oyster commission of the state of New Jersey on the first day of February, one thousand nine hundred and five; 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 one hundred dollars, or by imprisonment at hard labor for any term not exceeding six months, 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 shall, with all her tackle, apparel and furniture, be forfeited; and the same may be seized, secured, condemned and disposed of in the manner prescribed in

P. L. 1905, p. 459. Prohibition for taking clams and oysters.

Proviso.

Penalty for violation.

Boat and tackle confiscated.

the ninth and tenth sections of the act to which this is a supplement.

Repealer.

2. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

P. L. 1909.

II. MISCELLANEOUS GENERAL 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.

Approved April 27, 1886.

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.

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

Penalty.

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.

Repealer.

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

Approved May 17, 1894.

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

P. L. 1894,
p. 429.
Persons oc-
cupying cer-
tain grounds
shall be con-
firmed in
their holding.

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.

Proviso.

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 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.

P. L. 1895, p. 560. Oysters, &c., on private grounds shall be deemed personal property.

Trespassing thereon shall be deemed a misdemeanor.

Penalty.

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-authorized 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

P. L. 1894, p. 429. Unlawful to take oysters with rakes, dredges, &c.

Constable or officer may seize boats and appliances.

Justice of peace shall try and determine case.

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.

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

Grounds used for clamming shall not be used for oysters.

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.

Stakes shall be yielding, &c.

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.

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

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.

Title shall not run against state.

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.

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

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

RELATIVE TO CLAMS AND OYSTERS. 21

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. Repealer.

10. 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. P. L. 1895,
p. 502.
Penalty for
removing
stakes, buoys
or monu-
ments.

11. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed. Repealer.

An Act to protect the natural oyster-seed grounds of this state.

Approved March 17, 1899.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. It shall not be lawful for any person or persons, under pretense of taking oysters, or under any other pretense whatever, to remove or carry off from any natural oyster-seed grounds in this state any 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 oyster-seed grounds; and any person or persons offending against the provision of this act shall be deemed guilty of a misdemeanor and punishable, after conviction, by a fine of fifty dollars for each and every offense, or imprisonment in any county jail for a period of three months, or both, at the discretion of the court; and the fine, when so recovered, one-half to go to the complainant and one-half to the treasurer of the state for the use of the state; *provided*, that the provision of this section shall not apply to Delaware bay and Maurice cove and the tributaries thereto. P. L. 1899,
p. 85.
Unlawful to
remove seed
oysters.

Penalty.

Proviso.

Repealer.

2. All acts and parts of acts inconsistent with this act shall be and the same are hereby repealed.
3. This act shall go into effect immediately.

An Act to provide a uniform procedure for the enforcement of all laws relating to the taking of natural seed oysters and clams and the protection of the natural seed oyster grounds of this state and for the recovery of penalties for the violation thereof.

Approved March 23, 1900.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

P. L. 1900,
p. 425.
Laws for
protection of
seed oysters
and grounds
to be
enforced.

1. All laws, general and special, for the protection of natural seed oyster grounds, or in any manner prohibiting or regulating the taking or possession of natural seed oysters and clams, shall hereafter be enforced, and all penalties for violations thereof shall hereafter be recovered in accordance with the provisions of this act.

Who have
jurisdiction.

2. Justices of the peace, district courts and police magistrates shall have jurisdiction to try and punish any person or persons, corporation or corporations, accused of violating any of the laws specified in the first section of this act, or any of the provisions thereof, and every penalty prescribed for such violation may be enforced and recovered before any justice of the peace, district court or police magistrate, either in the county where the offense is committed or where the offender is first apprehended or where he may reside.

Procedure.

3. Such justice of the peace, district court or police magistrate, upon receiving complaint in writing, duly verified, of the violation of any law specified in the first section of this act, or of any of the provisions thereof, is hereby authorized and required to issue a warrant, directed to any constable, police officer, oyster commissioner or their assistants, commanding him to cause the person or persons so complained of to be arrested and brought before such justice, district court or police magistrate, and shall thereupon, in a summary way, hear and determine the guilt or innocence of such person or

persons, and, upon conviction, shall impose upon the person or persons so convicted the penalty or penalties prescribed, together with the costs of prosecution for such offense; and if any person or persons shall fail to pay the penalty or penalties so imposed, together with the costs of prosecution, the said justice, district court or police magistrate shall commit him or them to the common jail of the county where such conviction is had, for a period not exceeding ninety days, or until said penalty and costs are paid.

4. For the violation of any laws specified in the first section of this act, or of any of the provisions thereof, done within the view of any constable, police officer, oyster commissioners or their assistants, such officer is hereby authorized, without warrant, to arrest the offender or offenders and to carry him or them before a justice of the peace, district court or police magistrate of the county wherein such arrest is made, and the justice, district court or police magistrate before whom such offender or offenders shall be taken is hereby authorized and required to hear and determine in a summary way the guilt or innocence of such person or persons, after receiving from the said officer a complaint in writing, duly verified, setting forth the nature of the offense for which the said person or persons was or were arrested.

Arrest
without
warrant.

5. In any action commenced under the provisions of this act the prevailing party shall recover costs against the other, and the same fees and costs shall be allowed therein as in trials before justices of the peace holding court for the trial of small causes.

Costs and
fees.

6. Any hearing to be held pursuant to this act may, for good cause shown, be adjourned for a period not exceeding thirty days from the return of any warrant of the time of appearance mentioned in any summons, or from the date of any arrest without warrant, as the case may be, but in case it shall be the duty of the justice, district court or police magistrate to detain the defendant or defendants in safe custody unless he or they shall enter into bond to the person making the complaint, with at least one surety, in double the amount of the penalty to

Adjournment
of hearing.

be recovered, conditioned for his or their appearance on the day to which the hearing shall be adjourned, and thence from day to day until the case is disposed of, and then to abide by the judgment of the justice, district court or police magistrate, provided no appeal therefrom be taken, and such bond, if forfeited, may be prosecuted by the person to whom it is given in any court of competent jurisdiction.

Disposition
of moneys
recovered.

7. All moneys recovered pursuant to the provisions of this act shall be paid in each case to the person making the complaint, who shall pay one-third thereof to the treasurer of the state for the use of the state, and one-third thereof in equal proportions to the persons furnishing the evidence necessary to secure a conviction.

Appeal may
be taken.

8. Any party to any proceeding instituted under this act may appeal from the judgment or sentence of the justice, district court or police magistrate, to the court of common pleas of the county in which the said proceedings shall take place; *provided*, that the party appealing shall within ten days after the date of the said judgment serve a written notice of appeal upon the opposite party, pay the costs of such proceedings and deliver to the justice, district court or police magistrate a bond to the opposite party in double the amount of the judgment appealed from, with at least one sufficient surety, conditioned to prosecute the said appeal and to stand to and abide by such further order or judgment as may hereafter be made against said party.

Proviso.

Papers, &c.,
sent to court
of common
pleas.

9. Whenever an appeal shall be taken as aforesaid, it shall be the duty of the justice, district court or police magistrate to send all papers, together with a transcript of the proceedings in the case, to the next court of common pleas of the said county, which court shall try and determine all such appeals in the same way and manner that appeals from the courts for the trial of small causes are now tried and determined, except that upon the trial of any such appeal no notice of the production of new evidence on behalf of either party shall be required.

Power and
fees of oyster
commissioners.

10. The duly appointed oyster commissioners or their assistants shall have the same power and be entitled to

the same fees for the services of process in cases instituted under this act, as constables have and are entitled to receive in the courts for the trial of small causes.

11. No person shall be excused from giving evidence in any action or proceedings taken or had under this act, on the ground that such evidence might tend to convict such witness, or render him liable to prosecution under this act, but such evidence shall not be received against such witness in any such prosecution.

Giving of evidence.

12. Proceedings under this act may be instituted on any day of the week, and the institution of such proceedings on Sunday shall be no bar to the successful prosecution of the same, and any process served on Sunday shall be as valid and effectual as if served on any other day of the week.

Proceedings, &c., at any time.

13. All proceedings for the recovery of penalties pursuant to the provisions of this act shall be entitled and shall run in the name of the state of New Jersey, with one of the oyster commissioners or their assistants or a police officer or a constable, and no proceedings shall be instituted by any person not a duly commissioned oyster commissioner or their assistants or a police officer or a constable of this state.

Proceedings brought in name of state, &c.

14. In all cases where a person shall be convicted a second time, double the penalty prescribed shall be imposed upon such second conviction, and it is hereby made the duty of every person making the complaint pursuant to the provisions of this act, who has reason to believe that the accused has been previously convicted, to lay such information before the justice of the peace, district court or police magistrate, and produce such proof of the same as shall be admissible.

Penalty on second conviction.

15. All acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed; *provided*, that such repealer shall not be taken or construed to interfere with any prosecutions now pending or which may hereafter be begun for the violation heretofore of any such laws.

Repealer.

Proviso.

16. This act shall take effect immediately.

III. OYSTER LAW APPLICABLE TO DELAWARE BAY, DELAWARE RIVER, MAURICE RIVER COVE AND RARITAN BAY.

Being act of March 24, 1899 (P. L. 1899, p. 506), as amended, supplemented and extended by act of March 22, 1901.

Approved March 22, 1901.

P. L. 1901,
p. 307.
State oyster
commission;
members,
control.

1. All oyster grounds, lands and beds included within lands of the state of New Jersey, under the tidal waters of the Delaware river, Delaware bay and Maurice river cove, shall be under the exclusive regulation and control of a state oyster commission, which shall consist of three members, who shall be appointed by the governor of this state; the commissioners first appointed shall be appointed to hold office respectively for one, two or three years, and until the appointment of their respective successors; all commissioners subsequently appointed shall be appointed for a term of three years and shall continue to hold office until the appointment of their successors; the said commissioners shall be citizens of this state, and shall be directly interested or engaged in the taking, planting and cultivating of oysters in Delaware bay and Maurice river cove; before entering upon the duties of his office each commissioner shall file with the secretary of state an oath that he will faithfully discharge the duties of his office, and that he is directly interested or engaged in the business of taking, planting and cultivating oysters in Delaware bay and Maurice river cove, which oath may be taken before any person authorized to take oaths or affirmations in this state; each commissioner shall receive an annual salary of five hundred dollars, payable quarterly; two members of the state oyster commission shall constitute a quorum at any meeting thereof, and any official act shall be valid which has been authorized by a majority of the commissioners at any stated or special meeting thereof; they shall keep a record of all their official acts and proceedings, and shall annually report to the legislature, which report shall include a detailed statement of all expenditures, of money made or authorized to be made by them under the provisions

Oath.

Salary.

Annual
report.

RELATIVE TO CLAMS AND OYSTERS. 27

of this act; before entering upon the duties of their office the said commissioners shall severally enter into bond to the state in the sum of two thousand dollars, with good and sufficient surety, conditioned for the faithful performance of their duties, which bond shall first be approved as to sufficiency by the law judge of the said county of Cumberland; said bond shall be renewed annually.

Approved
bond.

2. The state oyster commission shall appoint a person to be known as the oyster superintendent, to hold office during the pleasure of the state oyster commission, and shall determine the amount of his compensation or salary, which shall not exceed twelve hundred dollars per annum, and which shall be paid in equal monthly payments; before entering upon the duties of his office the oyster superintendent shall give bond to the state in the sum of five thousand dollars, with good and sufficient surety, conditioned for the faithful performance of his duties, which bond shall be first approved as to sufficiency by the law judge of the said county of Cumberland; said bond shall be renewed annually; it shall be the duty of the state oyster commission to regulate and define the duties of the oyster superintendent, other than those duties specifically defined in this act.

Oyster super-
intendent;
duties,
salary, &c.

3. The state oyster commission shall have power, and it shall be their duty, to enforce the provisions of this act and the provisions of all other acts regulating the taking, planting or cultivating of oysters in Delaware river, Delaware bay and Maurice river cove, in this state, in force and not repealed by this act; and in furtherance and not in limitation of the above provisions they shall have power to employ such surveyors, engineers, guards and other employes, together with all such boats, means and materials as they may deem necessary to carry into effect the provisions of this act, and for the protection of all oysters, oyster beds and grounds, and to incur such expenses as they may consider proper to fully carry out the provisions of this and the said other acts, and for the preservation and improvement of the said oyster beds or grounds.

Power and
duty of
commission.

Office.

4. The state oyster commission shall establish and maintain an office within the county of Cumberland, which shall be located at some place convenient to persons engaged in the oyster industry, which office shall also be the office of the oyster superintendent; stated meetings of the state oyster commission shall be held at their office at least once a month.

Lease lands.

5. The state oyster commission shall have power, and are hereby directed as hereinafter provided, to lease to applicants therefor any of the lands of the state under the tidal waters of the Delaware bay and Maurice river cove below the line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "southwest line," to be exclusively used and enjoyed by such lessee for the taking, planting and cultivating of oysters; *provided, however*, that no lease or leases shall be hereafter granted to any person or persons who shall not be at the time of granting of said lease or leases and shall not have been for twelve months next preceding, a citizen and actual resident of this state; but this restriction shall not apply to renewals of any lease or leases heretofore granted.

Proviso.

Term for granting leases.

6. Leases may be granted for terms not exceeding thirty years at an annual rental not less than twenty-five cents per acre or fraction thereof of the lands so leased, payable in advance as hereinafter specified; the rental for the first year of any lease shall be paid at the time the lease is granted, and the yearly rental for each succeeding year of said lease shall be paid within thirty days after the beginning of said year; failure to pay said rentals at the time or times herein directed shall cause the lease or leases of the person or persons so failing to pay said rentals, to become forfeited and the right of said person or persons to the oyster ground or grounds and all oysters thereon shall cease; and the state oyster commission shall cause the said lease or leases upon which said rent is due and unpaid as aforesaid to be canceled upon the books of the state oyster commission, and said forfeited ground or grounds may be thereafter leased to any resident of this state as hereinbefore provided; the

Action taken upon failure to pay rental.

state oyster commission shall, within the limitations and restrictions of this act, fix and determine the term for which leases may be granted, the rental to be paid for the grounds described therein, the maximum size of any single ground to be hereafter leased and the total acreage which may be hereafter leased to any individual, firm or corporation.

7. Any person or persons now having ground or grounds staked up and leased under the provisions of the act to which this is a supplement, in Delaware bay and Maurice river cove, below the said "southwest line," shall be entitled to a renewal of his lease therefor, upon terms and conditions to be fixed and determined by the state oyster commission under the limitations and restrictions of this act, provided application for such renewal be made, in writing, and filed at the office of the state oyster commission before the expiration of said lease.

Present lessees to have preference.

8. The state oyster commission shall, from time to time, as applications are made for leases, cause the lands leased under tidal waters below the said "southwest line" to be measured, and the metes and bounds thereof ascertained and located by ranges, monuments or other means, so that the limits of the lands embraced within such leases may be accurately fixed and easily located; the state oyster commission shall cause such leased lands to be mapped, and the said maps to be filed in the office of the state oyster commission, and shall also cause the leases so made and all assignments or transfers thereof to be recorded in books kept in the office of the state oyster commission for that purpose; and no assignment or transfer of any ground or lease therefor shall be valid unless the same be forthwith recorded in the office of the said state oyster commission; the expense of surveying, measuring, locating and mapping any ground or grounds to be paid by the applicant therefor before he shall be entitled to a lease or leases for the same.

Oyster lands measured, mapped, &c.

Records kept.

9. It shall not be lawful to make any leases embracing the whole or any part of the following named oyster beds and creeks or rivers, namely: Elder Point beds, Dividing creek beds, Oranoaken beds, Pepper beds, and beds in Stow creek, Cohansey creek, Back creek, Cedar

Certain sections not to be leased.

creek, Nantuxent creek, Dare's creek, Paggett's creek, Sow and Pigs creek, Beaton's creek, Fishing creek, Straight creek, Oranoaken creek, Dividing creek, Maurice river, West creek, East creek and Dennis' creek, or any other commonly known natural oyster bed in Delaware river, Delaware bay or Maurice river cove, or in any creek or river emptying into said river, bay or cove.

License to engage in oyster industry; fees, &c.

10. The oyster superintendent shall issue a license, duly certified by himself, to each and every captain of a boat or vessel entitled by law to engage in the business of catching, planting and growing oysters in the said Delaware river, Delaware bay and Maurice river cove, that shall pay the license fee fixed therefor by the state oyster commission; no boat or vessel shall be used or employed in catching or taking oysters in the Delaware river, Delaware bay or Maurice river cove, in this state, without license for that purpose first had and obtained as herein provided; the state oyster commission is hereby authorized to fix the license fee aforesaid at any sum not exceeding two dollars per ton on the tonnage measurement of such boat or vessel; no license shall be issued for a period longer than one year; all licenses shall be numbered and recorded in a book kept for that purpose in the office of the state oyster commission; each boat or vessel licensed shall at all times while engaged in operating under such license, wear in plain view, upon the middle of the mainsail, one-third of the way from the head thereof, the number of said license in black figures at least fifteen inches in length; and upon the failure or neglect of any boat or vessel so licensed to wear said number as above required, such boat or vessel so neglecting or failing shall forfeit said license.

As amended. P. L. 1909, p. 14. Qualifications of applicant for lease or license.

11. The state oyster commission, before issuing any lease to any person as provided for in this act, shall cause the person applying for said lease to make and file with them an oath that he is a citizen and actual resident of this state, and has been for twelve months next preceding said application; and the oyster superintendent, before issuing any license to any boat or vessel as provided for in this act, shall cause the master or captain of said boat or vessel to make and file with him an oath that said

boat or vessel is wholly owned bona fide by citizens and actual residents of this state, and who have been such for twelve months next preceding; or that in the year nineteen hundred and eight said boat or vessel was actually used in the business of catching, planting and growing oysters in the Delaware bay and Maurice river cove; *provided, however,* that no boat or vessel owned in whole or in part by a non-resident and licensed in any other state to catch oysters on natural beds or grounds in such other state shall be licensed in this state within the same year in which such license to catch oysters in such other state shall have been or shall be issued. Such oaths may be made and taken by and before the several members of the state oyster commission and the oyster superintendent, and the state oyster commission shall have power to revoke any lease or license issued by reason of any false oath made or taken under any provision of this act; *provided, further,* that nothing in this section contained shall apply to the renewal of any lease as provided for in sections five or seven of the act of which this act is amendatory.

Proviso.

Oath.

Proviso.

12. All moneys due for ground rentals, license fees, or other fees collectible under the provisions of this act, shall be received and collected by the oyster superintendent, for the sole use of the state of New Jersey, as public moneys belonging to the state, and shall be accounted for and paid over as such in manner hereinafter provided.

Moneys for sole use of state.

13. The oyster superintendent shall keep an account of all fees and moneys received by him, pursuant to the provisions of this act, for the use of the state, and shall, on or before the tenth day of each month, make a full itemized statement and return, verified by oath, to the comptroller, of all moneys collected or received as aforesaid; upon blanks containing a form of the said statement and oath, to be furnished to the oyster superintendent by the comptroller, and the said statements shall be filed in the office of the comptroller, there to remain as public records; said statements shall be audited forthwith by said comptroller, and on or before the fifteenth day of each month the said oyster superintendent shall pay over the amount of such moneys received to the

Further duties of oyster superintendent.

state treasurer; he shall also make detailed monthly reports, verified by oath, to the state oyster commission, of the moneys collected or received by him; all bills incurred by the state oyster commission in carrying out the provisions of this act shall be certified by the state oyster commission to the state comptroller monthly for payment, and he shall draw his warrant on the state treasurer therefor; *provided, however*, such expenditure shall not exceed the amount received from the oyster superintendent as above provided; *provided further, however*, that any excess of such receipts over the expenditure for any fiscal year shall, for the purpose of this act, be accounted as receipts of the next succeeding fiscal year; *provided further*, that the provisions of this section shall not apply to any money appropriated by the legislature for survey purposes.

Proviso.

Proviso.

Proviso.

Taking oysters above "southwest line."

14. No oysters shall be dredged for, caught or taken from any of the lands lying under the tidal waters of the Delaware river, Delaware bay and Maurice river cove, above a line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "southwest line," except from and including the first day of April to and including the fifteenth day of June of each year.

Taking oysters below "southwest line."

15. No oysters shall be dredged for, caught or taken from any of the lands lying under the tidal waters of the Delaware bay and Maurice river cove below a line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "southwest line" at any time except from the first day of September to the fifteenth day of June then next, both inclusive, of each year; but the oyster superintendent or any member of the state oyster commission may, upon application, give permission, in writing, to any lessee or lessees of oyster grounds, to employ such methods for the protection of his or their oysters on said grounds and for the promotion of the growth thereof during said closed season as the said superintendent or state oyster commission may deem advisable; but no oysters shall be permanently removed from said grounds during said closed season.

16. No oysters shall be dredged for, caught or taken from any of the lands of the state under tidal waters of the Delaware bay and Maurice river cove, below a line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "south-west line," that are not held by virtue of a lease or leases issued by the state oyster commission and duly recorded as herein provided; but nothing in this section or in the two sections immediately preceding shall apply to any of the creeks or rivers hereinbefore mentioned, nor shall be construed to prohibit the taking at any time of oysters with rakes or forks on what is commonly known as the Cape shore, in Cape May county.

No oysters taken from lands not leased.

Exception.

17. All oysters, oyster shells and other material dredged, tonged, or in any manner raised or taken from any of the beds and grounds above said "south-west line," or from any natural oyster bed or ground where oysters naturally spawn and grow under the waters of Delaware river, Delaware bay and Maurice river cove, in this state, shall be culled as soon as the same are emptied out of the dredges or tongs on the deck of the boat or vessel employed for the purpose, and before the same are shoveled back from that portion of the deck used for emptying the dredges; and all shells and other material, except oysters, shall be immediately thrown back upon the beds or ground from which the same shall have been taken; all such oysters, oyster shells and other material shall be culled as aforesaid so closely that three bushels thereof taken from any portion of a deck load of oysters, after the same shall have been shoveled back from that part of the deck used for emptying the dredges and tongs aforesaid, shall not contain more than fifteen percentum of shells and other material; and if any person or persons shall neglect or refuse to cull as aforesaid all such oysters, oyster shells and other material, he or they shall be deemed guilty of a misdemeanor; when the master, commander, captain or person in charge of any boat, vessel or other craft, licensed under the provisions of which this is a supplement, is hailed or signaled by any officer of the state

Catch culled where taken

Culls thrown back.

Refusal to cull.

oyster commission and refuses to stop and permit any officer or officers of said state oyster commission to board said boat, vessel or other craft and examine the oysters, oyster shells and other material on such boat, vessel or other craft as aforesaid, the said oyster commission shall have power to revoke the license of the boat, vessel or other craft so refusing as aforesaid.

P. L. 1903,
p. 642.
Trespassing
in dredging.

18. Any person or persons who shall hereafter dredge upon or throw, take or cast his oyster dredge, or any other instrument used for the purpose of catching oysters, upon any oyster bed or ground duly marked, buoyed or staked up within the waters of the Delaware river, Delaware bay and Maurice river cove, in this state, other than an oyster bed or ground for which he or they then hold a lease under the terms of the act of which this act is amendatory, shall be guilty of a misdemeanor and of a violation of the provisions of this act.

P. L. 1901,
p. 307.
Oyster
season.

19. It shall be unlawful to have in possession, sell or offer for sale any oysters caught or taken from any natural oyster bed or ground where oysters naturally spawn and grow, under the tidal waters of the Delaware river or Delaware bay, above the said "southwest line," except from and including the first day of April to and including the fifteenth day of June of each year.

Taken by
Jay only.

20. It shall be unlawful to catch or take, or to assist in catching or taking, any oysters from any of the lands under the tidal waters of the Delaware river, Delaware bay and Maurice river cove, or from any of the creeks or rivers tributary thereto, before sunrise or after sunset.

Arrest for
violating
oyster laws.

21. The members of the state oyster commission, the oyster superintendent, and the several captains or masters of guard-boats, are hereby empowered, and it shall be their duty, on view, without special warrant issued for that purpose, to arrest any person engaged in the violation of any of the provisions of this act or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the Delaware river, Delaware bay or Maurice river cove, in force and not repealed by this act.

22. It shall be the duty of the state oyster commission to revoke the license of any boat or vessel, the owner, captain, master or person in charge of which shall violate or cause or permit to be violated any of the provisions of this act or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the Delaware river, Delaware bay or Maurice river cove, in force and not repealed by this act; and said commission shall have power to refuse thereafter to allow any license to be issued to such boat or vessel for such period of time as the commission may fix and determine.

License
revoked for
violation.

23. Nothing in this act shall be in anywise construed to authorize or allow any person or persons, boat or vessel, to engage or be employed in the business of taking, planting or cultivating oysters in the Delaware river, Delaware bay or Maurice river cove, or in any creek or river tributary thereto, in this state, who or which are prohibited from engaging or being employed in said business by laws of this state in force at the time of the adoption of this act.

Prohibitions
not removed
by this act.

24. Nothing in this act shall be interpreted to strengthen, confirm or verify the title of any person to any lands lying under the tidal waters of the Delaware river or Delaware bay, above the line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "southwest line."

Title to land
not con-
firmed
hereby.

25. Any person or persons violating any of the provisions of this act, or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the Delaware river, Delaware bay or Maurice river cove, in force and not repealed by this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment in state prison not exceeding three years, or both, at the discretion of the court.

Penalty for
violations.

26. All acts and parts of acts, general or special, inconsistent with the provisions of this act, are hereby repealed, and this act shall take effect immediately.

Repealer.

A Supplement to an act entitled "An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice river cove, in the state of New Jersey," approved March twenty-fourth, one thousand eight hundred and ninety-nine.

Approved March 21, 1905.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No oyster shall be dredged for, caught or taken from any of the lands lying under the tidal waters of the Delaware river, Delaware bay or Maurice river cove, above a line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "southwest line," except from and including the first day of May to and including the thirtieth day of June of each year.

2. It shall be unlawful to have in possession, sell or offer for sale any oysters caught or taken from any natural oyster bed or ground where oysters naturally spawn and grow under the tidal waters of the Delaware river, Delaware bay or Maurice river cove above the said "southwest line," except from and including the first day of May to and including the thirtieth day of June of each year.

3. No oysters shall be dredged for, caught or taken from any of the lands lying under the tidal waters of the Delaware bay and Maurice river cove below a line running direct from the mouth of Straight creek to Cross Ledge lighthouse, and commonly known as the "southwest line," at any time except from the first day of September to the thirtieth day of June then next, both inclusive, of each year; but the oyster superintendent or any member of the state oyster commission may, upon application, give permission, in writing, to any lessee or lessees of oyster grounds to employ such methods for the protection of his or their oysters on said grounds and for the pro-

P. L. 1905,
p. 65.
Season for
taking oys-
ters above
southwest
line.

Unlawful
to have or
sell.

Season be-
low south-
west line.

Protection
of oysters.

motion of the growth thereof during said closed season as the said superintendent or state oyster commission may deem advisable; but no oysters shall be permanently removed from said grounds during said closed season.

4. Any person or persons who shall hereafter dredge upon or throw, cast or drag an oyster dredge, or any other instrument or appliance used for catching oysters, upon any of the lands of the state lying under the tidal waters of the Delaware bay or Maurice river cove, in this state, below the said "southwest line," other than land or ground for which such person or persons then hold a lease from the state oyster commission, under the act to which this is a supplement, or the several acts amendatory thereof or supplementary thereto, shall be guilty of a misdemeanor.

Trespassing a misdemeanor.

5. The oyster superintendent, or any member of the state oyster commission, may, upon application, give permission, in writing, to any prospective lessee or lessees of any unleased oyster ground or grounds, to examine and inspect, with proper appliances, any of the unleased lands of the state, below said "southwest line" for the purpose of determining the suitability or adaptability of such lands for oyster culture or propagation, but no oysters shall be permanently removed from any such lands by virtue of any such permit.

Permission to inspect unleased grounds.

6. None of the foregoing sections shall apply to any creek tributary to said Delaware bay, Delaware river or Maurice river cove, nor shall any of the foregoing provisions be construed to prohibit the taking at any time of oysters with rakes or forks on what is commonly known as the Cape Shore, in Cape May county.

Application of act.

7. Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

Penalties.

8. The members of the state oyster commission, the oyster superintendent and the several captains or masters of guard-boats, are hereby empowered, and it shall be their duty, on view, without special warrant issued for that purpose, to arrest any person engaged in the violation of any of the provisions of this act, or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the Delaware river,

Right to arrest.

Delaware bay, or Maurice river cove, in force and not repealed by this act.

Revocation
of license.

9. It shall be the duty of the state oyster commission to revoke the license of any boat or vessel, the owner, captain, master or person in charge of which shall violate or cause or permit to be violated any of the provisions of this act, or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the Delaware river, Delaware bay or Maurice river cove, in force and not repealed by this act; and said commission shall have power to refuse thereafter to allow any license to be issued to such boat or vessel for such period of time as the commission may fix and determine.

Repealer.

10. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall be deemed a public act and take effect immediately.

A Supplement to an act entitled "An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying in the tidal waters of the Delaware bay and Maurice river cove, in the state of New Jersey," approved March twenty-fourth, one thousand eight hundred and ninety-nine.

Approved May 11, 1905.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

P. L. 1905,
p. 460.
Lands ex-
empt from
lease.

1. That hereafter no lease shall be made by the state oyster commission of the state of New Jersey for any lands under the waters of the Delaware bay southwesterly of a line northwest from the mouth of Green creek, Cape May county, to the intersection of such line with a line running direct from the mouth of Dennis creek to Brandywine lighthouse; *provided, however,* that this prohibition shall not apply to any territory which was under lease from the state oyster commission of the state of New Jersey on the first day of February, one thousand nine hundred and five.

Proviso.

2. This act shall take effect immediately.

A Supplement to an act entitled "An act to amend an act entitled 'An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice river cove, in the state of New Jersey,' approved March twenty-fourth, one thousand eight hundred and ninety-nine, and for the better enforcement of the provisions of said act, and to extend the provisions of said act to lands lying under the tidal waters of the Delaware river," which said amendatory act was approved March twenty-second, one thousand nine hundred and one, providing for the better enforcement of the provisions of said amendatory act and the original act entitled "An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice river cove, in the state of New Jersey," approved March twenty-fourth, one thousand eight hundred and ninety-nine, and extending the provisions of said amendatory act, and extending the provisions of said original act to certain lands under the tidal waters in Raritan bay, in the state of New Jersey, to wit, lands comprehended by the following lines: Beginning at the watch house at Canaskonk Point, on the shore of Raritan bay; thence in a straight line to the government buoy, known as East Point buoy; thence on a true course west southwest to the point where said course intersects a line drawn on a course due north from Cliffwood Point; thence on a true course south to Cliffwood Point; thence along the shore line to the place of beginning.

Approved March 25, 1902.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The provisions of the act to which this act is a supplement, and also the provisions of an act entitled "An act for the better regulation and control of the tak-

P. L. 1902,
p. 62.
Protection to
oyster beds
extended.

ing, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice river cove, in the state of New Jersey," approved March twenty-fourth, one thousand eight hundred and ninety-nine, be and the same hereby are extended to certain lands lying under the tidal waters of Raritan bay, in the state of New Jersey, to wit, lands comprehended by the following lines: Beginning at the watch house at Canaskonk Point, on the shore of Raritan bay; thence in a straight line to the government buoy known as East Point buoy; thence on a true course west southwest to the point where said course intersects a line drawn on a course due north from Cliffwood Point; thence on a true course south to Cliffwood Point; thence along the shore line to the place of beginning.

A Supplement to an act entitled "A supplement to an act entitled 'An act for the better regulation and control of the taking, planting and cultivating of oyster on lands lying under the tidal waters of the Delaware bay and Maurice River cove, in the State of New Jersey,' approved March twenty-fourth, eighteen hundred and ninety-nine," which said supplemental act was approved March twenty-first, one thousand nine hundred and five, and extending the provisions of said supplemental act, and extending the provisions of said original act to certain lands under the tidal waters in Raritan bay, in the State of New Jersey, to wit, lands comprehended by the following lines: Beginning at the watch-house at Canaskonk point, on the shore of Raritan bay; thence in a straight line to the government buoy, known as East Point buoy; thence on a true course west southwest to the point where said course intersects a line drawn on a course due north from Cliffwood point; thence on a true course south to Cliffwood point; thence along the shore line to the place of beginning.

RELATIVE TO CLAMS AND OYSTERS. 41

Approved May 25, 1905.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The provisions of the act to which this act is a supplement, and also the provisions of an act entitled "An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice River cove, in the State of New Jersey," approved March twenty-fourth, one thousand eight hundred and ninety-nine, be and the same hereby are extended to certain lands lying under the tidal water of Raritan bay, in the State of New Jersey, to wit, lands comprehended by the following lines: Beginning at the watch-house at Canas-konk point, on the shore of Raritan bay; thence in a straight line to the government buoy, known as East Point buoy; thence on a true course west southwest to the point where said course intersects a line drawn on a course due north from Cliffwood point; thence on a true course south to Cliffwood point; thence along the shore line to the place of beginning.

P. L. 1905,
p. 482.
Provisions
of act ex-
tended.

Raritan
bay dis-
trict.

2. It shall be lawful for the lessees of lands described in the next preceding section and lying under the tidal waters in Raritan bay to catch and take oysters during all or any of the months of the year, and before sunrise and after sunset; *provided*, a special permit in writing is first had and obtained from the oyster superintendent.

When oys-
ters taken.

Proviso.

3. In recognition of the increased work entailed upon the oyster superintendent by reason of the passage of this act, he shall hereafter receive additional compensation of salary, determined by the oyster commission, which shall not exceed thirteen hundred dollars per annum, and which shall be paid in equal monthly payments.

Salary of
oyster su-
perintend-
ent.

4. Hereafter the oyster commission shall consist of four members instead of three, whose qualifications for office, appointment, compensation, salary and duties shall be the same in all respects as is provided in the act to which this act is a supplement.

Four oyster
commis-
sioners.

Quorum.

5. Three members of said oyster commission shall constitute a quorum at any meeting thereof, and any official act shall be valid which has been authorized by a majority of the commissioners at any stated or special meeting thereof. The oyster commissioners shall hereafter each be appointed for a term of three years, and the four members now constituting the oyster commission shall continue to hold office during the term and time for which they have been respectively appointed. (a)

Term.

6. This act shall be deemed a public act and take effect immediately.

A Further Supplement to an act entitled "A supplement to an act entitled 'An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice river cove, in the State of New Jersey,' approved March twenty-fourth, one thousand eight hundred and ninety-nine," which said supplemental act was approved March twenty-first, one thousand nine hundred and five, and which supplement thereto was approved May twenty-fifth, one thousand nine hundred and five, and extending the provisions of said supplemental act, and extending the provisions of said original act, to certain lands under the tidal waters in Raritan bay, in the State of New Jersey, to wit: lands comprehended by the following lines: Beginning at the watch-house at Canaskonk point, on the shore of Raritan bay; thence in a straight line to the government buoy, known as East Point buoy; thence, on a true course west southwest, to the point where said course intersects a line drawn on a course due north from Cliffwood point; thence, on a true course south, to Cliffwood point; thence along the shore line to the place of beginning.

(a) See sections 2, 3, 4 and 5 of act of 1902 (P. L. 1902, p. 62), which are identical with similar numbered sections of this statute.

Approved April 22, 1907.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The provisions of the act to which this act is a supplement, and also the provisions of an act entitled "An act for the better regulation and control of the taking, planting and cultivating of oysters on lands lying under the tidal waters of the Delaware bay and Maurice river cove, in the State of New Jersey," approved March twenty-fourth, one thousand eight hundred and ninety-nine, be and the same hereby are extended to certain lands lying under the tidal waters of Raritan bay and Cheesequake creek, in the State of New Jersey, to wit: lands comprehended by the following lines: Beginning at the watch-house at Canaskonk point, on the shore of Raritan bay; thence, in a straight line, to the government buoy, known as East Point buoy; thence, on a true course west southwest, to the south side of the boundary beacon; thence, on a true course west northwest, to the south side of the Great Beds light; thence to Conover's point on the shore of Raritan bay; thence along the shore line to Cheesequake creek, including all of Cheesequake creek and its tributaries, Travis creek and Flat creek; thence from the government jetty at Cheesequake creek along the shore line to the place of beginning.

P. L. 1907,
p. 185.
Act for protection of oysters extended to Raritan bay and Cheesequake creek.

2. This act shall be deemed a public act and take effect immediately. Repealer.

IV. OYSTER LAW RELATING TO CREEKS TRIBUTARY TO DELAWARE BAY AND MAURICE RIVER COVE.

An Act for the better protection and preservation of the oyster industry in the creeks and rivers along the shores of Delaware bay and Maurice river cove.

1. All persons holding a tonger's license as hereinafter provided to engage in the catching of oysters on the beds and in the creeks and rivers of Delaware bay and Maurice river cove, hereinafter named, are hereby authorized to

P. L. 1897,
p. 355
"Delaware bay oyster tongers' association;" organization, &c.

meet in the town of Port Norris, in the county of Cumberland, on the second Monday in March, in each and every year, at the hour of ten o'clock in the forenoon, and there to 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 meeting, and when the said meeting shall be so organized, the said license holders shall proceed to elect, by ballot, for which purpose the ballot shall remain open three hours, a collector and five of their number who shall act as a board of directors to transact all business of the association, and who shall serve for one year, or until their successors are elected, and this organization shall be known as the "Delaware bay oyster tongers' association;" the purpose of which association shall be to aid in the propagation and preservation of oysters in the creeks and rivers hereinafter named, and in securing to all citizens of the state free access thereto.

Collector and
board of
directors.

2. That on and after the passage of this act the following named persons: William Yates and Charles McDaniels, of Port Norris; David Claypoole, of Cedarville; Vincent B. Tubman, of Dividing Creek; John Robson, of Leesburg; Peter Campbell, of Newport; Burton Howell, of Dias Creek, and Reeves Douglass, of Dias Creek, be appointed, the first named to serve as collector, and the others as board of directors, until their successors are regularly elected, the duties of said collector and board of directors to be as hereinafter named.

Organization
of board of
directors.

3. The said board of directors shall immediately, upon notice of their appointment or election, meet at Port Norris, in the county of Cumberland, and there organize by the election of one of their number as chairman and one as secretary, who shall keep a correct record of all business transacted by the board of directors in a book provided for the purpose, which book shall, at all reasonable times, be open to the inspection of any person holding license from the association.

P. L. 1899,
p. 265.
Collector.

4. The said board of directors shall require said collector of the association, before entering upon the duties of his office, to give bond in the sum of two thousand

dollars, with two responsible freeholders as security, for the faithful performance of his duties, said bond to be approved by the board of directors; said collector shall, upon the presentation of satisfactory evidence, and upon the payment of a license fee of three dollars, issue to any person resident of this state a license to engage in the business of tonging in the creeks and rivers tributary to Delaware bay, and no person not holding such license shall at any time engage in the business of tonging oysters except as hereinafter provided in section eleven of this act; upon the expiration of his term of office said collector shall deliver all moneys, books, vouchers, receipts, writings or other property of the association to his properly qualified successor; and said collector shall receive as compensation for performing the duties of his office the sum of twenty-five cents for each and every license so issued by him.

5. The said board of directors shall be and they are hereby authorized and empowered to superintend the expenditure of all moneys of the association, to audit and inspect the books, accounts, bills, receipts and papers of every kind of said collector, and the said collector shall, upon the request of said board of directors or majority of the members thereof, produce for the examination of said board of directors, his books, accounts, bills, vouchers and other writings touching the administration of the office of said collector, and shall not pay out any moneys received by him without the written order of the chairman of the board of directors, properly attested by the secretary thereof.

P. L. 1897,
p. 355.
Duties of
directors.

6. The said board of directors shall have the power and they are hereby authorized to fill any vacancy occurring in the office of collector or in said board of directors by reason of death, resignation or otherwise; but no person shall be appointed to fill such vacancy in said board of directors who is not qualified for election under the provisions of the first section of this act; said board of directors shall hold an annual meeting on the first Saturday in June, at which meeting seventy-five per centum of all moneys in the collector's hands shall be appropriated

Further
duties of
directors.

for the purpose of purchasing and planting shells in such creeks and rivers as may be designated by a majority of the said directors, at which meeting a committee of their number shall be appointed to superintend the purchase and planting of said shells.

Audit, prepare and publish statement.

7. The said board of directors shall meet not later than the first Saturday in March of each year and audit the books and accounts of the collector, at which meeting an itemized statement shall be prepared, showing the receipts and expenditures of the association, which statement shall be read at the meeting on which the election provided for in section first is held, and be published in a newspaper published in Cumberland county, for three days previous to said meeting, said paper to be designated by said board of directors.

Quorum and compensation.

8. A majority of the members of said board of directors chosen as hereinbefore provided for, shall constitute a quorum for the transaction of all business, and each member of said directors shall receive as compensation the sum of five dollars for each meeting provided for in this act, and for any meeting not specially provided for they shall each receive such sums as may be necessary to defray the actual expenses incurred for transportation and maintenance.

P. L. 1899, p. 265. Use of certain tools forbidden.

9. It shall be unlawful for any person or persons to use or cause to be used any dredge, drag, scrape or patent tongs for the purpose of catching oysters from any of the following-named beds lying along the shore of Delaware bay, in the state of New Jersey, namely, Elder Point beds, Andrews' ditch beds, East Point beds, the High beds, Pepper beds, Dividing creek beds, Oranoken creek beds, Nantuxet creek beds, Beach creek beds, Back creek beds at the mouth of Back creek, Cohansey beds at the mouth of Cohansey river, and in any of the creeks and rivers of this state tributary to the said Delaware bay.

P. L. 1899, p. 265. Closed season.

10. It shall be unlawful for any person or persons to gather, scrape, rake or tong any oysters of any section whatever, in or upon the beds, creeks or rivers of the state of New Jersey, upon the shores of the Delaware

bay now in section nine of this act, excepting upon the beds at the mouth of and in Maurice river, for and during the period from the fifteenth day of June until the first day of September in each and every year.

11. Any person, a resident of this state, desiring to engage in the gathering of oysters with hand tongs from the creeks, rivers and beds referred to in section nine of this act, for the purpose of selling or planting, shall first obtain a license from the collector of the Delaware Bay Oyster Tongers' Association and shall pay for the same the sum of five dollars for each and every license so granted, and no person not having such license shall take more than two bushels of oysters from any of such beds in any one day; each license so granted shall be good for one year from the date of its issue; shall be under the hand and seal of such collector, and each license so granted shall be numbered, and the person receiving such license shall have the number thereof printed on the port side of his boat, outside the bow, in black letters on white ground, and each figure thereof shall measure not less than six inches in length and one inch in width; each license so granted shall state the name and residence of the person to whom granted, and the collector shall furnish to each holder of said license a complete list of all licenses so issued by him.

P. L. 1899,
p. 265.
License.

12. All oysters taken from any of the creeks, rivers or beds affected by the provisions of this act shall be culled in or upon the creeks, rivers or beds whence taken, and all undersized oysters, shells and trash removed from such oysters shall be thrown back upon the beds whence the same have been taken.

P. L. 1899,
p. 265.
Oysters
culled where
taken.

13. No oysters which measure less than three inches from hinge to mouth shall at any time be taken from any of the creeks, rivers or beds affected by the provisions of this act, or be in the possession of any person whatever after being so taken; *provided*, that this shall not apply to spat or blisters adhering so closely as to be impossible to remove without destruction; but in no case shall this exception amount to more than ten per centum of the bulk of any catch or cargo.

P. L. 1899,
p. 265.
Size of oyster
taken.

Proviso.

P. L. 1897,
p. 355.
Oyster bushel
measure.

14. All oysters measured in this state shall be measured in a circular bushel tub, with straight sides and straight solid bottom, and said tub shall have the following dimensions, viz., fifteen inches in diameter across the top from inside to inside, and thirteen inches and three-quarters across the bottom from inside to inside, and twenty inches diagonal from inside chime to top; any person or persons engaged in buying or selling oysters in the shell in this state and measuring the same in any measure contrary to the provisions of this section of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding one hundred dollars or imprisonment in the county jail not exceeding ninety days, or both, at the discretion of the court; the proceeds of said fine to go, one-half to the Delaware Bay Oyster Tongers' Association and one-half to the informer.

Penalty for
using im-
proper
measure.

P. L. 1899,
p. 265.
Lands below
tidal water
public.

15. It shall be unlawful for any person or persons, corporation or corporations, to grow or plant oysters for their own private use, to the exclusion of the inhabitants of this state, upon any land or lands that lie below the tidal waters of any of the creeks, rivers or beds of the state of New Jersey, in, upon or tributary to the Delaware bay and affected by the provisions of this act; *provided*, that the provisions of this act shall in no wise affect or impair any rights, privileges or property which previous to the passage of the act to which this act is amendatory shall have been acquired under 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, one thousand eight hundred and forty-six, which said supplement was approved March ninth, one thousand eight hundred and fifty-five.

Proviso.

Penalty for
violation.

16. Any person, company or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding one hundred dollars or imprisonment for any term not exceeding six months, or both, at the discretion of the court before which such conviction is had; one-half the fine imposed shall be paid to the

collector of the Delaware Bay Oyster Tongers' Association and one-half to the collector of the county where such conviction is had.

17. If any person, company or corporation shall be found violating any of the provisions of this act and for that purpose using any boat, raft, scow or other vessel, it shall be the duty of all sheriffs and constables, and shall be lawful for any member or officer of the Delaware Bay Oyster Tongers' Association to seize and secure without warrant or process such boat, raft, scow or other vessel, together with all tackle and implements so used, and immediately thereupon give information to any two justices of the peace of the county, convenient to the place where such seizure shall be made, who are hereby empowered and required at such time and place as they shall appoint, not less than five nor more than ten days thereafter, summarily to hear and determine the same; and in case such boat, raft, scow or other vessel, with such tackle and implements so used shall be condemned, the same shall be sold by the order and under the direction of said justices, who, after deducting all legal costs, charges and expenses of such seizure, condemnation and sale, shall pay one-half the net proceeds thereof to the collector of the Delaware Bay Oyster Tongers' Association and the balance to the collector of the county where such sale shall have been made.

Seizure and sale of vessels violating law.

18. If any person or persons on board any such boat, raft, scow or other vessel shall refuse and not suffer to enter the same or resist before or after entering, any of the said sheriffs, constables or officer or member of the Delaware Bay Oyster Tongers' Association, or otherwise resist them, or any of them, in the lawful seizing of the same, then every person so offending shall be deemed guilty of a misdemeanor, and subject to the penalty hereinafter provided.

Resistance to officers a misdemeanor.

19. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

Repealer.

An Act for the better preservation of the oyster industry in the creeks and rivers along the shores of Delaware bay and Maurice river cove and the tide-waters of the Atlantic seaboard of the state of New Jersey.

Approved March 23, 1900.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

P. L. 1900,
p. 475.
License to
gather seed
oysters.

1. All persons residents of this state desiring to engage in the gathering of seed oysters with hand-tongs or patent tongs, shall first obtain a license from the New Jersey oyster and shell commission, and shall pay for the same the sum of two dollars and fifty cents for each and every license so granted, provided that no person without a license shall gather more than two bushels in any one day; each license so granted shall be for one year from the date of issue and shall be under the hand and seal of a member of the above-named commission; each license so granted shall be numbered, and the person receiving such license shall receive with it a number which shall correspond with the number of his license, which number shall be displayed on the port side of his boat at the bow, and each license so granted shall state the name and residence of the person to whom said license is granted, a record of which shall be kept by the commission.

Granting of
license.

2. The commissioners are hereby authorized to grant said license to any applicant upon presentation of satisfactory evidence of citizenship of this state, and the payment of two dollars and fifty cents, granting to him the privilege of tonging for oysters upon any natural oyster-seed ground of this state, except such as may be occupied by the state for the purpose of propagation.

Treasurer;
duties, &c.

3. The commission shall elect one of their number treasurer, who, before entering upon the duties of his office, shall give bond in the sum of three thousand dollars for the faithful performance of his duties, said bond to be approved by the said commission; it shall be the duty of the treasurer to supervise the granting of all licenses and receive from the several commissioners at the end of each

month all moneys collected by them, paying the same to the treasurer of the state at the end of each quarter; twenty per centum of which shall be available for the payment of all bills incurred in issuing licenses, to be paid by the state treasurer upon warrant of the comptroller, the comptroller being hereby authorized to issue such warrant upon presentation of bills duly verified by oath or affirmation.

4. It shall be unlawful for any person or persons to use, or cause to be used, any dredge, drag, scrape or other instruments except hand-tongs or patent tongs for the purpose of catching oysters from the following-named beds, creeks and rivers of the state of New Jersey, along the shore of Delaware bay, viz.: Elder Point beds, Andrews' ditch beds, East Point beds, the High beds, Pepper beds, Dividing creek beds, Oronoken beds, Nantuxet creek beds, Beach creek beds, Goshen creek, Dennis creek, East creek, West creek, Dividing creek, Oronoken creek, Straight creek, Fishing creek, Oyster creek, Fortesque creek, Beadon's creek, Sow and Pigs creek, Dare's creek, Padget's creek, Nantuxet creek, Cedar creek, Back creek, Middle Marsh creek, Stow creek, Nantuxet beds at the mouth of Nantuxet creek, Back creek beds at the mouth of Back creek, and Cohansey beds at the mouth of Cohansey river, and Maurice river and Cohansey river and the tide-waters of the Atlantic seaboard of the state of New Jersey, and that any person or persons violating any of the provisions of this section 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 imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court; and shall furthermore forfeit the boat used for such unlawful purposes, together with her appliances and appurtenances thereunto belonging; said boat, her appliances and appurtenances, to be advertised for thirty days by a commissioner of the district wherein the arrest and seizure of said boat, her appliances and appurtenances, were made, and sold by him to the highest bidder at public sale, and the proceeds of said sale to be divided, one-

Taking of oysters by dredge, &c., at certain beds unlawful.

Penalty for violation.

half thereof to go to the treasurer of the state for the use of the state, and the other one-half in equal proportions to the persons furnishing the evidence necessary to secure a conviction.

Oysters,
where culled.

5. All oysters taken from the tide-waters of this state mentioned in section four of this act shall be culled in the creeks, rivers or on the beds where caught, and the shells and trash shall be thrown below low-water mark in said creeks, rivers or on the beds where the oysters were caught.

Planting of
oysters below
tide-waters
in certain
districts for
private use
unlawful.

6. It shall be unlawful for any person or persons, corporation or corporations, to grow or plant oysters for their own private use, to the exclusion of the inhabitants of this state, upon any lands that lie below the tide-waters of any of the creeks, beds or rivers of the state of New Jersey, upon the shore of the Delaware bay, named in section four of this act; that any person or persons, corporation or corporations, violating any of the provisions of this section of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not exceeding two hundred dollars or imprisonment in the county jail for a period of six months, or both, at the discretion of the court, and the fine when so recovered shall be paid one-half to the treasurer of the state for the use of the state, and the other one-half in equal proportions to the persons furnishing the necessary evidence to secure a conviction.

Penalty.

Penalty of
violations of
certain sec-
tions.

7. Any person or persons violating any of the provisions of sections one, two, three and five of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of fifty dollars or imprisonment in any county jail for a period of three months, or both, at the discretion of the court.

Repealer.

8. All acts and parts of acts inconsistent with this act shall be and the same are in so far hereby repealed.

Supplement to an act entitled "An act for the better preservation of the oyster industry in the creeks and rivers along the shores of Delaware bay and Maurice river cove and the tide waters of the Atlantic seaboard of the state of New Jersey," approved March twenty-third, one thousand nine hundred.

Approved April 9, 1902.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. It shall be unlawful for any person or persons to use, or cause to be used, any dredge, drag, scrape or other instrument except hand tongs for the purpose of catching oysters from the following named beds, creeks and rivers of the state of New Jersey, along the shore of Delaware bay, viz., Elder Point beds, Andrews' ditch beds, East Point beds, the High beds, Pepper beds, Dividing creek beds, Oronoken beds, Nantuxet creek beds, Beach creek beds, Goshen creek, Dennis creek, East creek, West creek, Dividing creek, Oronoken creek, Straight creek, Fishing creek, Oyster creek, Fortescue creek, Beadon's creek, Sow and Pigs creek, Dare's creek, Padget's creek, Nantuxet creek, Cedar creek, Back creek, Middle Marsh creek, Stow creek, Nantuxet beds at the mouth of Nantuxet creek, Back creek beds at the mouth of Back creek, and Cohansey beds at the mouth of Cohansey river, and Maurice river and Cohansey river, and the tide waters of the Atlantic seaboard of the state of New Jersey; and no license shall be issued by any commission or state official contrary to the provisions of this act; any person or persons violating any of 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 imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court; and shall furthermore forfeit the boat used for such unlawful purposes, together with her appliances and appurtenances thereunto belonging; said boat, her

P. L. 1902,
p. 688.
Taking oys-
ters by
dredge, &c.,
from certain
beds un-
lawful.

Penalty for
violation.

appliances and appurtenances, to be advertised for thirty days by a commissioner of the district wherein the arrest and seizure of said boat, her appliances and appurtenances, were made, and sold by him to the highest bidder at public sale, and the proceeds of said sale to be divided, one-half thereof to go to the treasurer of the state for the use of the state, and the other one-half in equal proportions to the persons furnishing the evidence necessary to secure a conviction.

2. This act shall take effect immediately.

OYSTER ACT APPLICABLE TO SHARK RIVER.

An Act for the regulation, protection and control of the planting, cultivating and the gathering or taking of oysters and clams on lands covered with water in Shark river, in the county of Monmouth.

Approved March 7, 1905.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All the lands of the state of New Jersey covered with water in Shark river, in the county of Monmouth, within the following boundaries, to wit: Beginning at low-water mark at Peach Point, in the township of Neptune, in said county; thence running in a straight line to Beckey's (or Buckley's) Point, in the township of Wall, in said county; thence up the shores at low-water mark (crossing the mouths of all brooks that empty into said river) as high up the said river as the tide flows, or as may be deemed suitable to the growth of oysters and clams; thence beginning again at low-water mark at Peach Point, in the township of Neptune aforesaid, and running thence in a straight line to Beckey's (or Buckley's) Point, in the township of Wall aforesaid; thence down the shores at low water and on a line with the east end of what was formerly known as James W. White's dwelling-house; thence northerly and on a straight line to a stake standing at low-water mark on the west side of Long Point, opposite Yellow Bank, in

P. L. 1905,
p. 27.
Boundaries
of Shark
river clam
and oyster
district.

the township of Neptune; thence up the shore of said river at low-water mark to the beginning; also all that cove known as Mushquash cove, north of a line from what was formerly known as Doctor Miller's residence to Sedge island bar (all of which lands were formerly occupied by the county of Monmouth under the provisions of an act entitled "An act to authorize the planting of oysters on lands covered with water in Shark river, in the county of Monmouth, and for the protection of the same," approved March fourteenth, one thousand eight hundred and sixty-one, and the supplements and amendments thereto; which occupancy has expired by limitation), shall hereafter be known as the Shark river oyster and clam district, in the county of Monmouth, and shall be under the exclusive jurisdiction, regulation and control of an oyster and clam commissioner to be known as the oyster and clam commissioner of the district of Shark river, in the county of Monmouth; said commissioner shall be a citizen of the state of New Jersey and resident within the township of Neptune, or the township of Wall, in said county, and shall be appointed and commissioned by the governor of this state for the term of three years; he shall hold office until the appointment and qualification of his successor, and before entering upon his duties he shall file with the secretary of state an oath that he will faithfully discharge the duties of his office (which oath may be taken before any person authorized to take oaths and affirmations in this state), together with a bond, with good and sufficient surety, in the sum of one thousand dollars, conditioned for the faithful performance of his duties, which bond shall be first approved by the law judge of the county of Monmouth.

Commis-
sioner.

Term, oath,
bond.

2. The surveys and maps heretofore made of said land and the stakes set under the provisions of the act referred to in the first section of this act shall be and hereby are adopted for the purpose of leasing the same under this act, as hereinafter provided, by the said commissioner, and the same shall be leased by him in accordance therewith, that is to say, by the tract or parcel indicated thereon and thereby; but should any of said land not

Surveys and
maps
adopted.

Further
surveys.

have been surveyed, mapped or staked under the provisions of said act said commissioner shall proceed to have the same done, the expense thereof to be defrayed out of the rentals by him received as hereinafter provided; the commissioners appointed under the act to which reference is made in the first section hereof shall turn over and deliver to the commissioner appointed under this act all the maps, surveys, leases and records in their possession relating to said land and their duties under said prior act.

Leases.

3. The said commissioner shall have power, and he is hereby directed, to lease and rent at public auction to the highest bidder or bidders for a period not exceeding ten years, or by private contract for a like period, the tracts or parcels of land included within the boundaries described and set forth in the first section of this act as the same appear upon the maps, surveys or by the stakes heretofore made and set as referred to in the last preceding section; *provided, however,* that if said leasing be by private contract the annual rental shall not be less than fifty cents nor more than three dollars per acre, or fraction thereof; the lessee or lessees of said tracts or parcels of land shall, in all cases, be citizens of the state of New Jersey resident within the county of Monmouth, and shall pay the rent agreed to be paid for each tract or parcel of land annually, in advance, during the term for which the same may be or are leased; failure to pay said rentals, or any of them, at the time or times stipulated shall cause the lease or leases of the person or persons so failing to pay the same to become forfeited, and the right of said person or persons to the land thereby leased to cease; and the said commissioner shall cause the said lease or leases upon which the said rent is due and unpaid as aforesaid to be canceled upon the books to be by him kept as hereinafter provided, and said forfeited land may be thereafter leased to any citizen of this state resident in said county as above provided; but before said lease or leases shall be canceled and the right of any person or persons to the land held thereunder shall be forfeited as above set forth the said

Proviso.

Failure to
pay rental
to forfeit
right.

Notice to
show cause.

commissioner shall cause notice to be personally served upon said lessee or lessees directing him, her or them to appear before said commissioner, at a place to be designated within the said townships of Neptune or Wall, in said county, within thirty days from the date of service of said notice, and show cause, if any there be, why said lease or leases should not be canceled, and why the right of said lessee or lessees to longer hold said land thereunder should not be forfeited; and if such lessee or lessees so appear and show sufficient cause why said rental has not been paid, and why said right to said land should not be forfeited, and at the same time tender the money due for said rental and pay the costs of the said notice, the said commissioner shall accept said moneys and the rights of said lessee or lessees shall not be forfeited because of such failure to pay said rental; and in case of the failure of said lessee or lessees to so appear and show cause as aforesaid the said lease or leases shall be canceled, as above provided, and the right of said person or persons to longer hold said leased land shall be declared by the said commissioner to be forfeited in the manner aforesaid; and the said commissioner shall, in such case, fix a sufficient time within which the oysters and clams upon said forfeited land shall be removed by the person or persons owning the same, and shall cause notice of the time so fixed to be personally served upon said person or persons, and the said land shall not be leased to any other person or persons until after the expiration of the time so fixed; whenever personal service of any notice is herein required, and the lessee or lessees shall, at the time of said service, be absent from the state, said commissioner shall cause a copy of said notice or notices to be published in at least one newspaper published in the county of Monmouth and circulating within the townships of Neptune and Wall aforesaid for a period of at least four weeks; which publication shall be deemed of the same force and effect as though said notice or notices had been personally served.

Commissioner may accept rental at hearing.

Cancellation of lease.

Notice, how served.

Prior rights
of present
lessees.

4. Any person or persons in possession of any of the tracts or parcels of land included within the boundaries set forth in the first section of this act, under a lease or leases heretofore executed under the provisions of the act to which reference is therein made, and the supplements and amendments to said act, shall, at the expiration of such lease or leases (for which time the rights and privileges under which lease or leases are hereby preserved to such person or persons), and upon a resale of said tracts or parcels of land by the said commissioner under the next preceding section of this act, have the preference, or prior right, to a new lease or leases therefor at the annual rental or rentals which may be bid therefor, if the same shall be put up at public auction, or at private contract, if that method shall be pursued by said commissioner; *provided*, that application therefor, in writing, be filed with the said commissioner within thirty days after the expiration of such lease or leases, in default of which said commissioner shall have the power thereafter to lease said tracts or parcels of land in the manner and form hereinabove provided; and at the expiration of any lease granted under the provisions of this act, the same may be renewed in like manner; and in the event that any of said leases are not renewed the said commissioner shall fix the time within which the oysters and clams upon the tract or parcel of land covered by such lease shall be removed by the person or persons owning the same, and he shall cause notice of said time so fixed to be personally served in the manner and form hereinabove provided upon the person or persons aforesaid, and the said tracts or parcels of land shall not be leased to others until after the expiration of the time so fixed.

Proviso.

Removal of
clams and
oysters.

Exclusive
right of oc-
cupation.

5. Upon the execution of any lease or leases for any tract or parcel of land under the provisions of this act, and upon the payment of the rental at the time and in the manner stipulated, the lessee or lessees and his, her or their legal representatives shall be entitled to the exclusive use and occupation of the said tract or parcel of land during the term for which the same shall be leased for

the purpose of planting, growing, cultivating and taking or gathering oysters and clams thereon, subject to the said commissioner's right of forfeiture, as hereinabove provided.

6. It shall not be lawful for any person or persons whatsoever, other than the lessee or lessees, aforesaid and their legal representatives, to plant, gather, take, injure or destroy any oysters or clams within the boundaries of any tract or parcel of land leased or rented, as herein provided, during the term or terms for which the same may be leased or rented, without the written permission or consent of the said lessee or lessees, or his or their legal representatives first had and obtained; and if any person or persons shall enter within said boundaries without such permission or consent and injure, gather, take, or destroy any oysters or clams therein planted and growing, or commit any trespass thereon, he, she or they so trespassing shall be liable to the party injured for the first offense in treble damages, to be recovered in an action of trespass in any court having competent jurisdiction thereof; and for the second offense shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding three months, or both.

Who may
plant,
gather, &c.

Liability
for trespass-
sing.

7. Said commissioner shall keep an accurate record of all leases of any of the tracts or parcels of land by him leased under the provisions of this act, which record shall be known as a book of leases; he shall also keep a record of his official acts and proceedings, and shall collect and receive all moneys due and to become due from time to time for rentals of the tracts and parcels of land under the leases herein provided for, or from any other source by virtue of this act; he shall annually, on or before the first day of October, report, under oath, to the state comptroller his receipts and disbursements, and after said report shall be audited and approved by the state comptroller, he shall pay to the state treasurer the balance of money remaining in his hands as shown by said report;

Record
kept.

Annual
report.

Compensation.

Report to bureau of shell fisheries.

he shall receive for his services, each year, one-half of the gross receipts from said oyster and clam grounds, which amount shall be ascertained from his annual report, and shall be paid by the state treasurer on the warrant of the state comptroller, after his said report shall be audited and approved as aforesaid; said commissioner shall also annually report to the bureau of shell fisheries of this state, on or before the first day of November, his receipts and disbursements, a memoranda of all leases entered into by him with lessees of said land; and shall also file with said bureau a copy of all maps and surveys of the land comprised within said boundaries; and, when required by the chief of said bureau, shall also file any other records, papers, writings or data or reports pertaining to his office and the land over which he is to have jurisdiction by virtue of this act.

Repealer.

8. All acts or parts of acts, general or special, inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

A Further Supplement to an act entitled "An act for the punishment of crimes" [Revision of 1898], approved June fourteenth, one thousand eight hundred and ninety-eight.

Approved March 22, 1901.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

P. L. 1901, p. 326.
When oysters may be taken from Shark river.

1. It shall not be lawful hereafter for any person or persons to take or dredge oysters from Shark river, in the county of Monmouth, in this state, between the hours of six o'clock P. M. and six o'clock A. M.

Penalty. What can person be guilty of, misdemeanor or high misdemeanor.

2. Any person or persons violating the provisions of this act shall, on conviction thereof, be punished by a fine of not less than ten dollars and not more than one hundred dollars.

3. This act shall take effect immediately.

CHAPTER 187.

An Act to amend an act entitled "An act to provide for the scientific investigation of oyster propagation," approved March twenty-first, one thousand nine hundred and one.

Approved May 13, 1907.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of an act entitled "An act to provide for the scientific investigation of oyster propagation," approved March twenty-first, one thousand nine hundred and one, be amended so as to read as follows:

1. The director of the New Jersey Agricultural College Experiment Station at New Brunswick is hereby authorized to establish and to maintain one or more stations for the scientific investigation of oyster propagation and other ostracultural problems, said station or stations to be situated at some point or points in the oyster-growing sections of this state; to procure a boat or boats adapted to the prosecution of the aforementioned research work; to have the same equipped with suitable apparatus; to engage such expert or experts and the services of such other persons as may be needed in the maintenance of the ostracultural studies so undertaken, and to transmit annually to the governor a full and detailed report of the scientific operations under this act in the reports of the agricultural college experiment stations; the amount authorized to be expended under the provisions of this act shall not exceed the sum of twelve hundred dollars in any one year; *provided*, that no moneys shall be drawn from the state treasury for the purposes of this act until the same shall have been specifically appropriated according to law.^(a)

Section amended.

Stations for investigating oyster propagation.

Equipment.

Annual report.

Appropriation.

Proviso.

2. This act shall take effect immediately.

(a) The original act consisted of but one section.

CHAPTER 303.

An Act to provide for the marking and designating of the channels of the bays, thoroughfares and sounds flowed by tide water in the counties of Ocean, Atlantic and Cape May.

Approved June 12, 1906.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Navigable waters indicated.

1. It shall be the duty of the persons designated by this act annually, on or before the first day of June, to stake, buoy, mark, or otherwise indicate, to the best of such person's ability, such channels in or beds of bays, thoroughfares and sounds as may be navigable, flowed by tide water in the counties of Ocean, Atlantic and Cape May.

Oyster superintendent to act.

2. The duty required by this act shall be performed by the oyster superintendent of the several districts of Ocean, Atlantic and Cape May counties, each superintendent to have charge of all waters included in his district. Where there exists no oyster superintendent for any of said counties the oyster superintendent for the adjoining district shall perform the duty.

Assistants and material.

3. The said superintendent shall have power to provide all stakes, buoys, signs, markers and other materials necessary to carry out the provisions of this act, and may secure and pay for the services of persons in the said districts for the purpose of ascertaining the locations of channels; *provided, however,* that said superintendent shall in no case contract for such work or materials to an amount in excess of the moneys appropriated for that purpose.

Proviso.

Not to interfere with federal buoys.

4. In carrying out the purpose of this act no buoy, stake, sign or marker shall be placed near any buoy maintained by the Government of the United States, nor placed so as to interfere with the purpose thereof.

Notice of markings.

5. The said oyster superintendent shall give public notice annually on or before June fifteenth of the fact that channels have been marked as required by this act, and in

said notice inform the public of the nature of said markings and how they may be read and understood.

6. Each superintendent shall receive annually, as compensation for the duty required by this act, the sum of one hundred dollars, payable July fifteenth, for each district in which such channel shall be so designated, and shall be allowed for the materials and services necessary to carry this act into effect the additional sums of four hundred dollars for the district embraced by Ocean county, four hundred dollars for the district embraced by Atlantic county and six hundred dollars for the district embraced by Cape May county.

Salaries of oyster superintendents.
As amended.
P. L. 1907,
p. 568.

7. Said superintendent shall annually, on or before July fifteenth, file with the Comptroller an itemized statement, verified by oath, of the expenses incurred by him by authority of this act.

Annual statement.

8. Any person that shall willfully remove, change, mutilate or destroy any stake, buoy, sign or marker, placed by the oyster superintendent under authority of this act, shall be guilty of a misdemeanor.

Removal of markers a misdemeanor.

9. This act shall take effect immediately.

CHAPTER 113.

An Act to amend an act entitled "An act creating a bureau of shell fisheries," approved April fourteenth, in the year of our Lord one thousand nine hundred and three.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of the act entitled "An act creating a bureau of shell fisheries," approved April fourteenth, in the year of our Lord one thousand nine hundred and three, be amended so as to read as follows:

P. L. 1907,
p. 271.
Section amended.

1. A state bureau of shell fisheries is hereby established. The chief of said bureau shall be appointed by the Governor for the term of four years and thereafter a successor shall be appointed for a like period of four

Bureau of shell fisheries; chief, salary, &c.

Oyster com-
missions to
report to
bureau.

Report of
director of
experiment
station.

Copies of
maps, &c.,
filed.

Office.

Duties of
chief.

Annual
report.

years whenever said office shall become vacant by death, resignation or expiration of the current term; his salary shall be twelve hundred dollars per annum, payable monthly by the treasurer on the warrant of the comptroller; the chief of such bureau may employ such clerical assistance as may be necessary from time to time; the several oyster commissions of the State shall file with such bureau a statement in detail, quarterly and oftener if required, of the receipts and disbursements of their several commissions, and such commissions shall further report annually to the said bureau on the first day of November a summary of the work of the said commissions for the preceding year; the shell commissioners shall in like manner report in detail all transactions of their several commissions; the director of the New Jersey college experiment station, at New Brunswick, shall annually file with said bureau a report of his experiments in the scientific investigation of oyster and clam propagation; all recommendations and reports of said commissions shall be made to the chief of said bureau; the said commissions shall forthwith on the granting of any lease or license transmit a memorandum or copy thereof to said bureau; a copy of all maps and surveys of any oyster lands heretofore or hereafter to be leased or surveyed by said commissions for any purpose and a copy of all maps and surveys of any grounds set apart for clamming grounds shall be filed forthwith with such bureau; the several oyster commissions, oyster superintendents and shell commissioners shall also file with said bureau, when required by the chief thereof, or any record, papers, writings or data pertaining to their several offices; an office for said bureau shall permanently be maintained at the state house and there shall be kept at all times on file therein all the reports, surveys, papers and records aforesaid; it shall be the duty of the chief of said bureau to procure and compile certificates and information relative to the progress and development of the oyster and clamming industry in this and in other states and countries, and to secure and keep on file the laws of other states regulating such industries; the chief

of said bureau shall make a report to the Governor annually as of November first, each year, and not later than December first, annually of the general condition of the oyster and clamming industry of the State and the transactions of the various commissioners aforesaid during the preceding year, and shall transmit therewith the reports and recommendations of the oyster commissioners and the report of the director of the experiment station, together with such recommendations as said bureau may deem advisable to make. (a)

V. ACTS RELATING EXCLUSIVELY TO OCEAN COUNTY.

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

Approved May 11, 1886.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

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.

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

Proviso.

(a) The original act consisted of one section. This act therefore amends the original act in its entirety.

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.

Grounds used for clamming not to be used for oysters.

Stakes used not to impede navigation, &c.

Who deemed trespassers.

Oysters planted forfeited to the public.

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

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 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.

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.

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.

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.

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.

An Act for the better regulation and control of the taking, planting and cultivating of oysters and clams on lands lying under the tidal waters of the county of Ocean, in the state of New Jersey.

Approved March 26, 1902.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All oyster grounds, lands and beds included within lands of the state of New Jersey, under the tidal waters of the county of Ocean, shall be under the exclusive regulation and control of a state oyster commission (known as the oyster commission for the district of Ocean county, and hereafter whenever the words "commission" or "state oyster commission" appear in this act, they shall be held to mean the aforesaid state oyster commission for the district of Ocean county), which shall consist of three members, who shall be appointed by the governor of this state for a term of three years, and shall continue to hold office until the appointment of their successors; the said commissioners shall be citizens of this state, and shall be directly interested or engaged in the taking, planting and cultivating of oysters in the tidal waters of said county of Ocean; before entering upon the duties of his office, each commissioner shall file with the secretary of state an oath that he will faithfully discharge the duties of his office, and that he is directly interested or engaged in the business of taking, planting and cultivating oysters in said tidal waters of said county of Ocean, which oath may be taken before any person authorized to take oaths or affirmations in this state; each commissioner shall receive an annual salary of two hundred and fifty dollars, payable quarterly; two members of the state oyster commission shall constitute a quorum at any meeting thereof, and any official act shall be valid which has been authorized by a majority of the commissioners at a regular meeting; they shall keep a record of all their official acts and proceedings, and shall annually report to the legislature, which report shall include a detailed statement of all expenditures of money made or authorized to be made

P. L. 1902,
p. 170.
Ocean county
oyster com-
mission.

Members;
term.

Oath.

Salary.

Annual
report.

Give bond.

by them under the provisions of this act; before entering upon the duties of their office the said commissioners shall severally enter into bond to the state in the sum of two thousand dollars, with good and sufficient surety, conditioned for the faithful performance of their duties, which bond shall first be approved as to sufficiency by the law judge of the said county of Ocean; said bond shall be renewed annually.

Oyster super-
intendent.
Term.
As amended.
P. L. 1909,
p. 293.
Salary.

2. The Governor of this state shall appoint a person to be known as the oyster superintendent, who shall hold his office for a term of three years and until his successor is appointed and qualified, at an annual salary of one thousand dollars, and which shall be paid in equal monthly payments; before entering upon the duties of his office, the oyster superintendent shall give bond to the state in the sum of five thousand dollars with good and sufficient surety, conditioned for the faithful performance of his duties, which bond shall be first approved as to sufficiency by the law judge of the said county of Ocean; said bond shall be renewed annually. It shall be the duty of the state oyster commission to regulate and define the duties of the oyster superintendent, other than those duties specifically defined in this act.

Bond.

Duties
prescribed.

Powers and
duties of
commission.

3. The state oyster commission shall have power, and it shall be their duty to enforce the provisions of this act, and the provisions of all other acts regulating the taking, planting or cultivating of oysters in the tidal waters of Ocean county, in this state, in force and not repealed by this act, and in furtherance and not in limitation of the above provisions they shall have power to employ such surveyors, guards and other employes as they may deem necessary; and to provide guard-boats and a sufficient number of men to protect all oyster beds and grounds in the tidal waters of said county of Ocean, in this state; and to incur such expenses as they may consider proper to fully carry out the provisions of this and the said other acts, and for the preservation and improvement of the said oyster beds or grounds; they shall, however, before leasing any grounds set apart a portion of the lands under the tidal waters of the county of Ocean, to be known and held as public clam grounds.

RELATIVE TO CLAMS AND OYSTERS. 69

4. The state oyster commission shall establish and maintain an office within the county of Ocean, at some place convenient to persons engaged in the oyster industry, which office shall also be the office of the oyster superintendent; stated meetings of the state oyster commission shall be held at their office at least once a month.

Office.

5. The state oyster commission shall have power and are hereby directed, as hereinafter provided, to lease to applicants therefor any of the lands of the state under the tidal waters of the county of Ocean not set apart as public clam grounds, save and excepting that part of Barnegat bay bounded on the north by the Pennsylvania railroad bridge, at Barnegat pier, and on the south by a line drawn from the middle point of a point known as Middle point, on south side of Cedar creek, east to Cedar creek life-saving station, and also all those lands lying under the tidal waters of Great bay and Mullica river, north of a line running from Graveling point in a southwesterly course, to the Atlantic county line; to be exclusively used and enjoyed by such lessees for the purpose of taking, planting and cultivating of oysters and clams, and for the planting of shells thereon for propagating purposes; *provided, however,* that no lease or leases shall be granted to any person or persons who shall not be, at the time of granting of said lease, and shall not have been for twelve months next preceding, a citizen and actual resident of this state.

Lease lands.
As amended.
P. L. 1905,
p. 249.

Purposes.

Proviso.

6. Leases may be granted for terms not exceeding ten years, at an annual rental not less than fifty cents nor more than three dollars per acre or fraction thereof for the first ten acres leased and not less than one dollar per acre for each additional acre or fraction thereof of the land so leased; the rental for the first year of any lease shall be paid at the time the lease is granted, and the yearly rental for each succeeding year of said lease shall be paid within thirty days after the beginning of said year; failure to pay said rentals at the time or times herein directed shall, as hereinafter provided, cause the lease or leases of the person or persons so failing to pay said rentals to become forfeited, and the right of said per-

Terms of
rental.

Failure to
pay, forfeits
lease.

son or persons to the oyster ground or grounds to cease; and the state oyster commission shall cause the said lease or leases upon which said rent is due and unpaid as aforesaid to be canceled upon the books of the state oyster commission, and said forfeited ground or grounds may be hereafter leased to any resident of this state as above provided; but before said lease or leases shall be canceled and the right of any person or persons to the oyster ground or grounds held thereunder shall be forfeited as above mentioned, the state oyster commission shall cause notice to be personally served upon said lessee or lessees, directing him, her or them to appear before said commission, at their office, within thirty days from the service of said notice, and show cause, if any there be, why said lease or leases should not be canceled, and why the right of said lessee or lessees to longer hold said oyster ground or grounds thereunder should not be forfeited; and if such lessee or lessees so appear and show sufficient cause why said rental has not been paid, and why said right to said ground or grounds should not be forfeited and at the same time tender the money due for said rental and pay the costs of the said notice, the state oyster commission shall direct the oyster superintendent to accept said moneys and the rights of said person or persons shall not be forfeited because of said failure; and in case of the failure of said lessee or lessees to so appear and show cause as aforesaid, the said lease or leases shall be canceled as above provided and the right of said person or persons to longer hold said leased ground or grounds shall be declared by the state oyster commission to be forfeited; and the state oyster commission shall in such case fix a sufficient time within which the oysters upon said forfeited grounds shall be removed by the person or persons owning said oysters, and shall cause notice of the time so fixed to be personally served upon said person or persons, and the said ground or grounds shall not be leased to any person until after the expiration of the time so fixed; *provided, however,* that wherever personal service is herein required, and the lessee or lessees shall at the time of said service be absent from the state, then the said

Demand to
be made.

Hearing.

Cancellation
of lease.

Re-leased.

Proviso.

commission shall cause to be published a copy of said notice in at least one newspaper published in said county of Ocean, for a period of at least four weeks, and said publication shall be considered as personal service.

7. Any person or persons having, on the fifteenth day of September, anno domini one thousand nine hundred and one, ground or grounds staked up in said tide waters of Ocean county under any present law, usage or custom, shall be first entitled to apply for and receive a lease or leases for such ground or grounds; *provided*, application therefor, in writing, be filed at the office of the state oyster commission within sixty days after this act shall take effect, in default of which application the commission shall have power thereafter to lease such ground or grounds to any resident of this state, as above provided; and at the expiration of the term of any lease the same shall be renewed to the original lessee or lessees; *provided*, such lessee or lessees apply therefor within sixty days from the expiration of the term of such lease; and if application for any lease or renewal thereof for ground or grounds named in this section is not filed within the time limited, the state oyster commission shall fix the time within which the oysters upon said ground or grounds shall be removed by the person or persons owning said oysters, and shall cause notice of said time so fixed to be at once personally served upon said person or persons, and the said ground or grounds shall not be leased to others until after the expiration of the time so fixed.

First right
to lease.

Proviso.

Proviso.

8. The state oyster commission shall, from time to time, as applications are made for leases, cause the lands leased under said tidal waters of Ocean county to be measured, and the metes and bounds thereof ascertained and located by ranges, monuments or other means, so that the limits of the lands embraced within such leases may be accurately fixed and easily located; the state oyster commission shall cause such leased lands to be mapped, and the said maps to be filed in the office of the state oyster commission, and shall also cause the lease so made

Boundaries
and maps.

to be recorded in books kept in the office of the state oyster commission for that purpose.

No privilege intended.

9. Nothing in this act shall be interpreted to strengthen, confirm or verify the title of any person to any lands excepted from leaseholds by the provisions of section five of this act; *provided, however*, that any person who has held and planted grounds within the limits therein excepted shall be granted two years' time from June first, one thousand nine hundred and two, in which to remove said oysters and cultch planted thereon by him.

Proviso.

As amended,
P. L. 1903,
p. 638.
License for
tonging on
seed beds.

10. The oyster superintendent shall issue a license, duly certified by himself, to each and every person entitled by law to engage in tonging or catching oysters on the state seed beds in the said tidal waters of Ocean county, that shall pay the license fees fixed therefor by this act; and no person shall catch or tong for oysters on state seed beds in the said tide waters of Ocean county, in this state, without first obtaining a license for that purpose from the said oyster superintendent, and paying to him therefor the license fee of two dollars and fifty cents; no license shall be issued for a longer period than one year; all licenses shall be numbered and recorded in a book kept for that purpose in the office of the state oyster commission; each person so licensed shall at all times, while engaged in operating under such license, display in plain view, upon the port bow of his boat, the number of said license in black figures at least six inches in length; and upon the failure or neglect of any person so licensed to so display said number as above required, such person so neglecting or failing shall forfeit said license; *provided, however*, that a period of five days shall be given after issuing said license for such person to comply with the above requirement; *provided further*, that no person without a license shall gather more than two bushels of oysters in any one day.

Record of.

Proviso.

Proviso.

Qualifications of lessee and licensee.

11. The state oyster commission, before issuing any lease to any person as provided for in this act, shall cause the person applying for said lease to make and file with them an oath that he is a citizen and actual resident of this state, and has been for twelve months next preceding

such application, and that he will properly plant or cause to be planted and cultivate oysters thereon; and the oyster superintendent, before issuing any license to any person to catch oysters or engage in the oyster business, shall cause the person applying for such license to make and file with him an oath that he is a citizen and actual resident of this state, and has been for twelve months next preceding said application; such oaths may be made and taken by and before the several members of the state oyster commission and the said oyster superintendent; and the state oyster commission shall have power to revoke any lease or license issued by reason of any false oath.

12. All unexpired licenses issued by the state oyster shell commission previous to the time when this act shall take effect, shall remain in full force and virtue for the unexpired terms thereof, and shall have the same force and effect as licenses issued by the oyster superintendent.

Licenses of oyster shell commission to remain in force.

13. The secretary of the state oyster shell commission is hereby required, within fifteen days after this act shall take effect, to prepare and deliver to the said oyster superintendent, a written or printed statement showing the names of all persons previously licensed by said shell commission within the bounds of Ocean county whose licenses shall not then have expired; which statement shall also show the numbers of the said licenses issued by them.

List of shell licenses furnished oyster superintendent.

14. All money due for ground rentals, license fees or otherwise made collectible under the provisions of this act, shall be received and collected by the oyster superintendent, for the sole use of the state of New Jersey, as public money belonging to the state, and shall be accounted for and paid over as such in manner hereinafter provided.

Fees and rents collectible.

15. The oyster superintendent shall keep an account of all fees and moneys received by him pursuant to the provisions of this act, for the use of the state, and shall, on or before the tenth day of each month, make a full itemized statement and return, verified by oath, to the comptroller, of all money collected or received as afore-

As amended. P. L. 1903, p. 638. Oyster superintendent's report to comptroller.

said, upon blank containing form of the said statement and oath, to be furnished to the oyster superintendent by the comptroller, and the said statements shall be filed in the office of the comptroller, there to remain as public records; said statements shall be audited forthwith by said comptroller, and on or before the fifteenth day of each month said oyster superintendent shall pay over the amount of such money received to the state treasury; he shall also make detailed monthly reports, verified by oath, to the state oyster commission of all moneys collected or received by him; all bills incurred by the state oyster commission in carrying out the provisions of this act shall be certified by the state oyster commission to the state comptroller monthly, for payment, and he shall draw his warrant on the state treasury therefor; *provided, however*, that any excess of such receipts over the expenditure for any fiscal year shall, for the purpose of this act, be accounted as receipts of the next succeeding fiscal year; *provided further*, that the provisions of this section shall not apply to any money appropriated by the legislature for survey purposes.

Report to
oyster com-
mission.

Proviso.

Proviso.

As amended.
P. L. 1903,
p. 638.
Tonging in
Ocean county.
Proviso.

16. No oysters or clams shall be tonged for, raked, or taken from any of the unleased lands of the state under tidal waters of the county of Ocean; *provided*, that this section shall not prevent the taking of seed oysters from the lands set apart for state seed beds from and including the first day of October to and including the thirtieth day of April of each year; *provided further*, that this section shall not prevent the taking of clams from the grounds set apart for clamming purposes; no oysters shall be taken from any leased lands or state seed beds except between sunrise and sunset.

Proviso.

Culling.

17. All oysters, oyster shells and other material tonged, or in any manner raised or taken from any of the natural oyster-seed beds, shell beds or reefs under the tidal waters of the county of Ocean, in this state, shall be culled as soon as the same are emptied out of the tongs on the culling board or deck of the boat or vessel employed for the purpose, and before the same are shoveled back from that portion of the boat used for emptying the tongs; and all

shells and other material, except oysters, shall be immediately thrown back upon the beds or ground from which the same shall have been taken; all such oysters, oyster shells and other material shall be culled as aforesaid so closely that three bushels thereof taken from any portion of a deck load of oysters, after the same shall have been shoveled back from that part of the deck used for emptying the tongs aforesaid, shall not contain more than fifteen per centum of shells and other material; and if any person or persons shall neglect or refuse to cull as aforesaid all such oysters, oyster shells and other material, he or they shall be deemed guilty of a misdemeanor; when any person or persons licensed under the provisions of this act is hailed or signaled by any officer of the state oyster commission and refuses to stop and permit any officer or officers of said state oyster commission to board his or their boat, vessel or other craft and examine the oysters, oyster shells and other material on such boat, vessel or other craft as aforesaid, the said oyster commission shall have power to revoke the license or licenses of said person or persons so refusing as aforesaid.

Not culling a misdemeanor.

Right to board vessels and examine cargo.

18. The members of the state oyster commission, the oyster superintendent and the several captains or masters of guard-boats are hereby empowered, and it shall be their duty, on view, without special warrant issued for that purpose, to arrest any person engaged in the violation of any of the provisions of this act or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the tidal waters of said county of Ocean, in force and not repealed by this act.

Power of arrest.

19. It shall be the duty of the state oyster commission to revoke the license of any person who shall violate or cause to be violated any of the provisions of this act or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the tidal waters of said county of Ocean in force and not repealed by this act; and said commission shall have power to refuse thereafter to allow any license to be issued to such person for such period of time as the commission may fix and determine.

Revoke license.

Act
construed.

20. Nothing in this act shall be in anywise construed to authorize or allow any person or persons, boat or vessel, to engage or be employed in the business of taking, planting or cultivating oysters in the tidal waters of Ocean county, or any creek or river tributary thereto, in this state, who or which are prohibited from engaging or being employed in said business, by laws of this state in force at the time of the adoption of this act.

No dredging
on unleased
grounds.

Proviso.

21. No person or persons shall cast, throw or use a dredge upon any of the unleased oyster grounds of this state under the tidal waters of the county of Ocean; *provided*, that any person holding planted oyster land leased from said state oyster commission may dredge upon his own leased land.

Penalty for
violating act.

22. Any person or persons violating any of the provisions of this act, or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the tidal waters of said county of Ocean, in force and not repealed by this act, shall be deemed guilty of misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment in state prison not exceeding five years, or both, at the discretion of the court.

Repealer.

23. All acts and parts of acts, general or special, inconsistent with the provisions of this act, are hereby repealed, and this act shall take effect immediately.

Supplement to the act entitled "An act for the better regulation and control of the taking, planting and cultivating of oysters and clams on lands lying under the tidal waters of the county of Ocean, in the State of New Jersey," approved March twenty-sixth, one thousand nine hundred and two.

Approved April 20, 1905.

P. L. 1905,
p. 337.
Penalty for
tonging, &c.,
without
permission.

1. No person or persons shall hereafter use any dredge, tongs or rake upon any lands leased to any one under the provisions of the act to which this is a supplement, except the lessee or lessees thereof, without permission of the lessee or lessees thereof, and any one

offending against the provisions of this supplement is hereby liable to the penalty prescribed in section twenty-two of the act to which this is a supplement.

2. All acts and parts of acts inconsistent herewith be and the same hereby are repealed, and this act shall take effect immediately. Repealer.

OYSTER ACT APPLICABLE TO ATLANTIC COUNTY.

An Act for the better regulation and control of the taking, planting and cultivating of oysters and clams on lands lying under the tidal waters of the county of Atlantic, in the state of New Jersey.

Approved March 30, 1905.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All oyster grounds, lands and beds included within lands of the state of New Jersey under the tidal waters of the county of Atlantic shall be under the exclusive regulation and control of a state oyster commission (known as the oyster commission for the district of Atlantic county, and hereafter whenever the words "commission" or "state oyster commission" appear in this act they shall be held to mean the aforesaid state oyster commission for the district of Atlantic county), which shall consist of three members, who shall be appointed by the governor of this state for a term of three years, and shall continue to hold office until the appointment of their successors; the said commissioners shall be citizens of this state and Atlantic county; before entering upon the duties of his office each commissioner shall file with the secretary of state an oath that he will faithfully discharge the duties of his office, which oath may be taken before any person authorized to take oaths or affirmations in this state; each commissioner shall receive an annual salary of five hundred dollars for the first year and three hundred dollars for each year thereafter, payable quarterly; two members of the state oyster commission shall

Control of oyster lands in Atlantic county.

Oyster commission.

Oath.

Salary.

constitute a quorum at any meeting thereof, and any official act shall be valid which has been authorized by a majority of the commissioners at a regular meeting; they shall keep a record of all their official acts and proceedings, and shall annually report to the bureau of shell fisheries, which report shall include a detailed statement of all expenditures of money made or authorized to be made by them under the provisions of this act; before entering upon the duties of their office the said commissioners shall severally enter into a bond to the state in the sum of one thousand dollars, with good and sufficient surety, conditioned for the faithful performance of their duties, which bond shall first be approved as to sufficiency by the law judge of the said county of Atlantic; said bond shall hold for the term of three years.

Oyster super-
intendent;
salary, bond,
duties.

2. The governor of this state shall appoint a person to be known as the oyster superintendent, who shall be a citizen of Atlantic county, to hold office for a term of three years, at an annual salary of one thousand dollars, and which shall be paid in equal monthly payments; before entering upon the duties of his office the oyster superintendent shall give bond to the state in the sum of five thousand dollars, with good and sufficient surety, conditioned for the faithful performance of his duties, which bond shall be first approved as to sufficiency by the law judge of the said county of Atlantic; said bond shall be for the term of three years; it shall be the duty of the state oyster commission to regulate and define the duties of the oyster superintendent, other than those duties specifically defined in this act.

Power and
duty of state
oyster com-
mission.
As amended.
P. L. 1908,
P. 464.

3. The state oyster commission shall have power, and it shall be their duty to enforce the provisions of this act and the provisions of all other acts regulating the taking, planting and cultivating of oysters in the tidal waters of Atlantic county, in this state, in force and not repealed by this act, and in furtherance and not in limitation of the above provisions they shall have power to employ such surveyors, guards and other employes as they may deem necessary, and to provide guard-boats and a sufficient number of men to protect all oyster beds and grounds in

Protect
oyster beds.

the tidal waters of said county of Atlantic, in this state; and to incur such expenses as they may consider proper to fully carry out the provisions of this and the said other acts, and for the preservation and improvement of the said oyster beds or grounds; they shall, however, before leasing any grounds set apart a portion of the lands under the tidal waters of the county of Atlantic, to be known and held as public clam grounds, and all natural seed beds, and any other lands under the tidal waters of the county of Atlantic, which the commissioners shall consider suitable and necessary for the improvement, preservation and extension of the seed beds or propagating grounds. No oysters shall be taken in any manner whatsoever from any natural seed beds, grounds or other lands under the tidal waters of the county of Atlantic which the commissioners have heretofore or may hereafter set apart as suitable and necessary for the improvement, preservation and extension of the seed beds and propagating grounds, except from and including the first day of October of any year to and including the thirtieth day of April of each succeeding year.

Public clam grounds and seed beds.

Taking oysters from seed beds.

4. The state oyster commission shall establish and maintain an office within the county of Atlantic, at some place convenient to persons engaged in the oyster industry, which office shall also be the office of the oyster superintendent; stated meetings of the state oyster commission shall be held at their office at least once a month.

Office.

5. The state oyster commission shall have power and are hereby directed, as hereinafter provided, to lease to applicants therefor any of the lands of the state under the tidal waters of the county of Atlantic not set apart as public clam grounds, save and excepting those lands set apart as natural seed beds and grounds, to be exclusively enjoyed by such lessees for the taking, planting and cultivating of oysters; *provided, however*, that no lease or leases shall be granted to any person who shall not be at the time of granting said lease or leases, and shall not have been for twelve months next preceding, a citizen and actual resident of this state; *provided*, that no lease shall be granted for more than ten acres; *and provided further*, that nothing in this act shall be construed to give said

Lease grounds.

Proviso.

Proviso.

Proviso.

commissioners any jurisdiction or control over any lands to which the riparian grant has been made by the riparian commissioners of this state.

Terms of
lease.

6. Leases may be granted for terms not exceeding ten years at an annual rental of not less than one dollar nor more than three dollars per acre, or fraction thereof; the rental for the first year of any lease shall be paid at the time the lease is granted, and the yearly rental for each succeeding year of said lease shall be paid within thirty days after the beginning of said year; failure to pay said rentals at the time or times herein directed shall, as hereinafter provided, cause the lease or leases of the person or persons so failing to pay said rentals to become forfeited, and the right of said person or persons to the oyster ground or grounds to cease; and the state oyster commission shall cause the said lease or leases upon which said rent is due and unpaid as aforesaid to be canceled upon the books of the state oyster commission, and said forfeited ground or grounds may be hereafter leased to any resident of this state, as above provided for; but before said lease or leases shall be canceled and the right of any person or persons to the oyster ground or grounds held thereunder shall be forfeited as above mentioned, the state oyster commission shall cause notice to be served personally upon said lessee or lessees directing him, her or them to appear before said commission at their office within thirty days from the service of said notice, and show cause, if any there be, why said lease or leases should not be canceled, and why the right of said lessee or lessees to longer hold said oyster ground or grounds thereunder should not be forfeited; and if such lessee or lessees so appear and show sufficient cause why said rental has not been paid, and why said right to said ground or grounds should not be forfeited, and at the same time tender the money due for said rental, and pay the costs of the said notice, the state oyster commission shall direct the oyster superintendent to accept said moneys, and the rights of said person or persons shall not be forfeited because of said failure; and in case of the failure of said

Unpaid
leases can-
celed.

Upon proper
showing
lease not
forfeited.

lessees to so appear and show cause as aforesaid, the said lease or leases shall be canceled as above provided, and the right of said person or persons to longer hold said leased ground or grounds shall be declared by the state oyster commission to be forfeited; and the state oyster commission shall in such case fix a sufficient time within which the oysters upon said forfeited ground shall be removed by the person or persons owning said oysters, and shall cause notice of the time so fixed to be personally served upon said person or persons, and the said ground or grounds shall not be leased to any person until after the expiration of the time so fixed; *provided, however,* that whenever personal service is herein required, and the lessee or lessees shall at time of said service be absent from the state, then the said commission shall cause to be published a copy of said notice in at least one newspaper published in said county of Atlantic for a period of at least four weeks, and said publication shall be considered as personal service. Proviso.

7. Any person or persons having, on the fifteenth day of September, anno domini one thousand nine hundred and one, ground or grounds staked up in said tide waters of Atlantic county under any present law, usage or custom, shall be first entitled to apply for and receive a lease or leases for such ground or grounds; *provided,* application therefor, in writing, be filed at the office of the state oyster commission within sixty days after this act shall take effect, in default of which application the commission shall have power thereafter to lease such ground or grounds to any resident of this state, as above provided, and at the expiration of the term of any lease the same shall be renewed to the original lessee or lessees; *provided,* such lessee or lessees apply therefor within sixty days from the expiration of the term of such lease; and if application for any lease or renewal thereof for ground or grounds named in this section is not filed within the time limited the state oyster commission shall fix a time within which the oysters upon said ground or grounds shall be removed by the person or persons owning said oysters, and shall cause notice of said time so First entitled to lease.

fixed to be at once personally served upon said person or persons, and the said ground or grounds shall not be leased to others until after the expiration of the time so fixed; *provided*, that this section shall not apply to any lands set apart as seed beds or propagating grounds, as provided for in section three of this act.

8. The state oyster commission shall, from time to time, as applications are made for leases, cause the lands leased under said tidal waters of Atlantic county to be measured and the metes and bounds thereof ascertained and located by ranges, monuments or other means, so that the limits of the land embraced within such leases may be accurately fixed and easily located; the state oyster commission shall cause such leased land to be mapped, and the said maps to be filed in the office of the state oyster commission and of the bureau of shell fisheries, and shall also cause the lease so made to be recorded in books kept in the office of the state oyster commission for that purpose.

9. Nothing in this act shall be interpreted to strengthen, confirm or verify the title of any person to any lands excepted from leasehold by the provisions of section five of this act; *provided, however*, that any person who has held and planted grounds within the limits therein excepted shall be granted one year's time from June first, one thousand nine hundred and five, in which to remove said oysters and culch planted thereon by him.

10. The oyster superintendent shall issue a license, duly certified by himself, to each and every person entitled by law to engage in tonging or catching oysters on the state seed beds and grounds in the said tidal waters of Atlantic county that shall pay the license fees fixed therefor by this act; and no person shall catch or tong for oysters on state seed beds and grounds in the said tide waters of Atlantic county, in this state, without first obtaining a license for that purpose from the said oyster superintendent and paying to him therefor the license fee of two dollars and fifty cents; no license shall be issued for a period longer than one year; all licenses shall be numbered and recorded in a book kept for that

Proviso.

Lands measured, marked.

Maps.

Right to occupy.

Proviso.

License to take oysters. As amended. P. L. 1903, p. 466.

Fee.

Record of.

purpose in the office of the state oyster commission; each person so licensed shall at all times, while engaged in operating under such license, display in plain view upon the port bow of his boat the number of said license in black figures at least five inches in length; and upon the failure or neglect of any person so licensed to so display said number as above required, such person so neglecting or failing shall forfeit said license. Any license issued under the provisions of this act shall be valid and effectual for the tonging or catching of oysters on state seed beds and grounds under the tidal waters of the county of Ocean; *provided*, said license issued under the provisions of this act shall be first endorsed by the oyster superintendent in and for said county of Ocean.

Display
license
number.

11. The state oyster commission, before issuing any lease to any person as provided for in this act, shall cause the person applying for said lease to make and file with them an oath that he is a citizen and actual resident of this state, and has been for twelve months next preceding such application, and that he will properly plant, or cause to be planted, and cultivate oysters thereon; and the oyster superintendent, before issuing any license to any person to catch oysters or engage in the oyster business, shall cause the person applying for such license to make and file with him an oath that he is a citizen and actual resident of this state, and has been for twelve months next preceding said application; such oaths may be made and taken by and before the several members of the state oyster commission and the said oyster superintendent; and the state oyster commission shall have power to revoke any lease or license issued by reason of any false oath; *provided further, however*, that no person shall acquire by lease more than ten acres; *and provided further*, that no lands acquired by lease shall be sub-let under penalty of cancellation of said lease.

Statement
of applicant
for license.

Proviso.
Proviso.

12. All unexpired licenses issued by the state oyster shell commission previous to the time when this act shall take effect shall remain in full force and virtue for the unexpired terms thereof, and shall have the same force and effect as licenses issued by the oyster superintendent.

Unexpired
licenses of
shell com-
mission.

List of un-
expired
licenses.

13. The secretary of the state oyster shell commission is hereby required, within fifteen days after this act shall take effect, to prepare and deliver to the said oyster superintendent a written or printed statement showing the names of all persons previously licensed by said shell commission within the bounds of Atlantic county whose licenses shall not then have expired, which statement shall also show the numbers of the said licenses issued by them.

All moneys
paid to
state.

14. All money due for ground rentals, license fees or otherwise, made collectible under the provisions of this act, shall be received and collected by the oyster superintendent, for the sole use of the state of New Jersey, as public money belonging to the state, and shall be accounted for and paid over as such in manner hereinafter provided.

Statement
of fees re-
ported
monthly to
comptroller.

15. The oyster superintendent shall keep an account of all fees and moneys received by him pursuant to the provisions of this act for the use of the state, and shall, on or before the tenth day of each month, make a full itemized statement and return, verified by oath to the comptroller, of all moneys collected or received as aforesaid, upon blank containing form of the said statement and oath, to be furnished to the oyster superintendent by the comptroller, and the said statements shall be filed in the office of the comptroller, there to remain as public records; said statements shall be audited forthwith by said comptroller, and on or before the fifteenth day of each month said oyster superintendent shall pay over the amount of such money received to the state treasurer; he shall also make detailed monthly reports, verified by oaths, to the state oyster commission of all moneys collected or received by him; all bills incurred by the state oyster commission in carrying out the provisions of this act shall be certified by the state oyster commission to the state comptroller monthly for payment, and he shall draw his warrant on the state treasurer therefor; *provided, however*, that any excess of such receipts over the expenditure for any fiscal year shall, for the purpose of this act, be accounted as receipts of the next succeeding

Proviso.

fiscal year; *provided further*, that the provisions of this section shall not apply to any money appropriated by the legislature for survey purposes. Proviso.

16. No oysters or clams shall be planted upon, tonged for, raked or taken from any of the unleased lands of the state under the tidal waters of the county of Atlantic; *provided*, that this section shall not prevent the taking of seed oysters from the lands set apart for state seed beds and grounds from and including the first day of October of any year to and including the thirtieth day of April of each succeeding year; *provided further*, that this section shall not prevent the taking of clams from the grounds set apart for clamming purposes. No oysters shall be taken from any state seed beds and grounds, except between sunrise and sunset. Unleased land not to be used. As amended. P. L. 1908, p. 444. Proviso.

17. All oysters, oyster shells and other material tonged or in any manner raised or taken from any of the natural oyster-seed beds and grounds, shell beds or reefs under the tidal waters of the county of Atlantic, in this state, shall be culled as soon as the same are emptied out of the tongs on the culling board or deck of the boat or vessel employed for the purpose, and before the same are shoveled back from that portion of the boat used for emptying the tongs; and all shells and other material, except oysters, shall be immediately thrown back upon the beds or ground from which the same shall have been taken; all such oysters, oyster shells and other material shall be culled as aforesaid so closely that three bushels thereof taken from any portion of a deck-load of oysters, after the same shall have been shoveled back from that part of the deck used for emptying the tongs aforesaid, shall not contain more than ten per centum of shells and other material; and if any person or persons shall neglect or refuse to cull as aforesaid all oysters, oyster shells and other material, he or they shall be deemed guilty of a misdemeanor; when any person or persons licensed under the provisions of this act is hailed or signaled by any officer of the state oyster commission and refuses to stop and permit any officer or officers of said state oyster Proviso.

As to culling.

Right to stop boat and inspect.

commission to board his or their boat, vessel or other craft and examine the oysters, oyster shells and other material on such boat, vessel or other craft as aforesaid, the said oyster commission shall have power to revoke the license or licenses of said person or persons so refusing as aforesaid.

Power to arrest without warrant.

*18. The members of the state oyster commission, the oyster superintendent and the several captains or masters of guard-boats are hereby empowered, and it shall be their duty on view, without special warrant issued for that purpose, to arrest any person engaged in the violation of any of the provisions of this act, or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the tidal waters of said county of Atlantic in force and not repealed by this act.

Revocation of license.

19. It shall be the duty of the state oyster commission to revoke the license of any person who shall violate, or cause to be violated any of the provisions of this act, or any other law of this state regulating the taking, planting or cultivating of oysters in the tidal waters of said county of Atlantic in force and not repealed by this act; and said commission shall have power to refuse thereafter to allow any license to be issued to such person for such period of time as the commission may fix and determine.

Prohibited persons and boats.

20. Nothing in this act shall in anywise be construed to authorize or allow any person or persons, boat or vessel to engage or be employed in the business of taking, planting or cultivating oysters in the tidal waters of Atlantic county, or any creek or river tributary thereto, in this state, who or which are prohibited from engaging or being employed in said business by laws of this state in force at the time of the adoption of this act.

Not dredge on unleased grounds.

21. No person or persons shall pass, throw or use a dredge upon any of the unleased oyster grounds of this state under the tidal waters of the county of Atlantic; *provided*, that any person holding planted oyster land leased from said state oyster commission may dredge upon his own leased land.

Proviso.

22. Any person or persons violating any of the provisions of this act, or the provisions of any other law of this state regulating the taking, planting or cultivating of oysters in the tidal waters of said county of Atlantic in force and not repealed by this act, shall be deemed guilty of misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment in state prison not exceeding five years, or both, at the discretion of the court.

Penalty for violation of act.

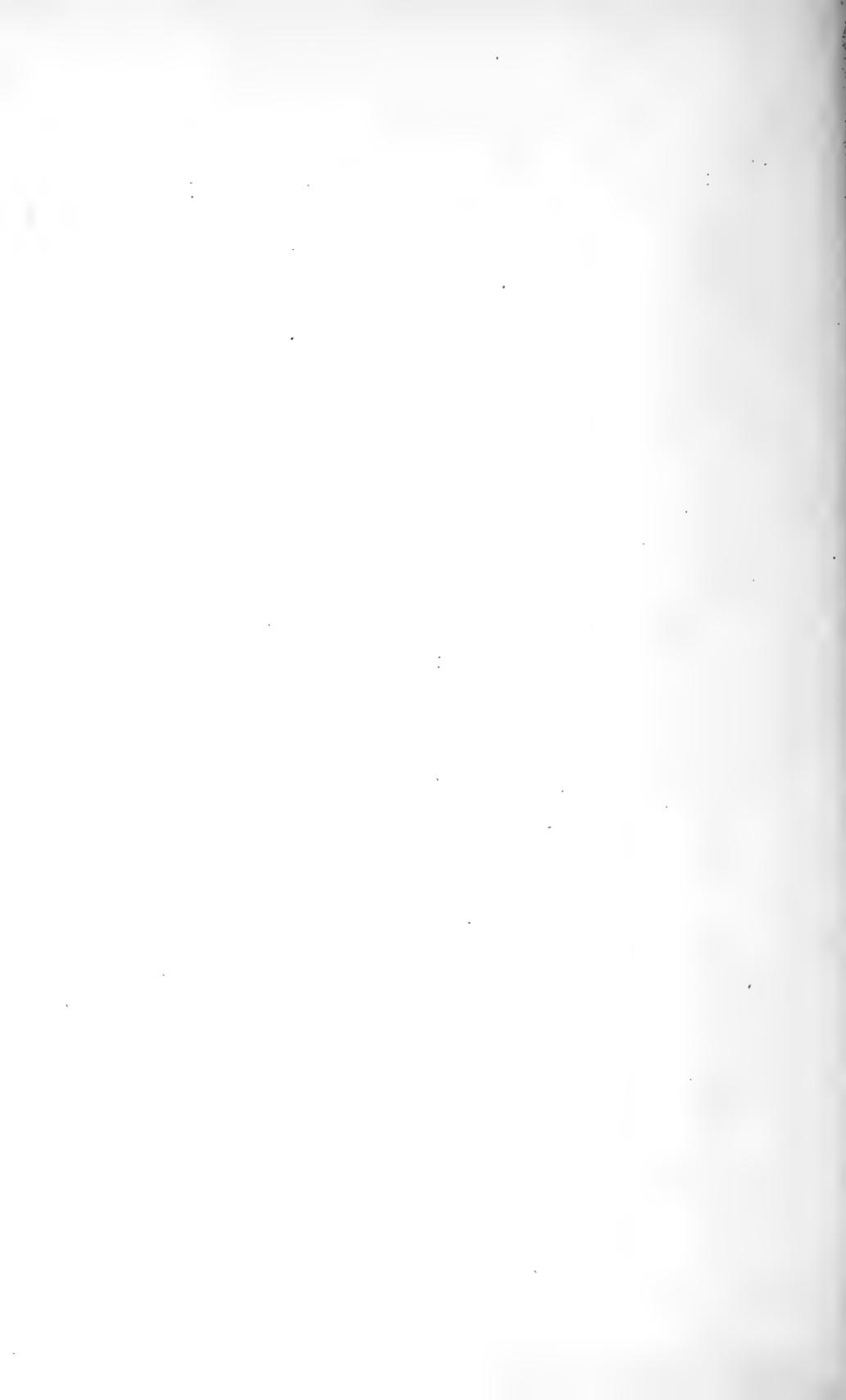
23. All acts and parts of acts, general or special, inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

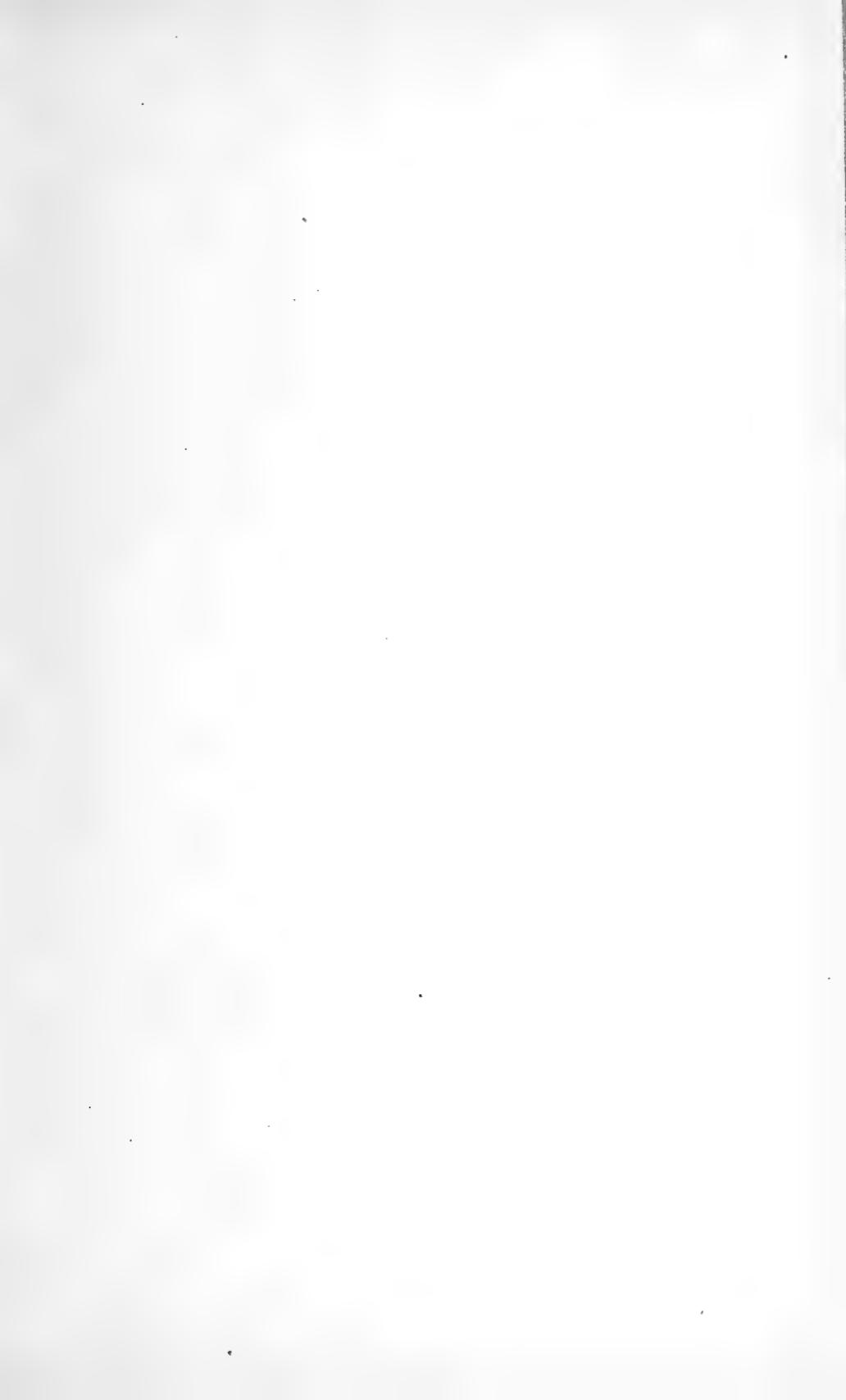
Repealer.



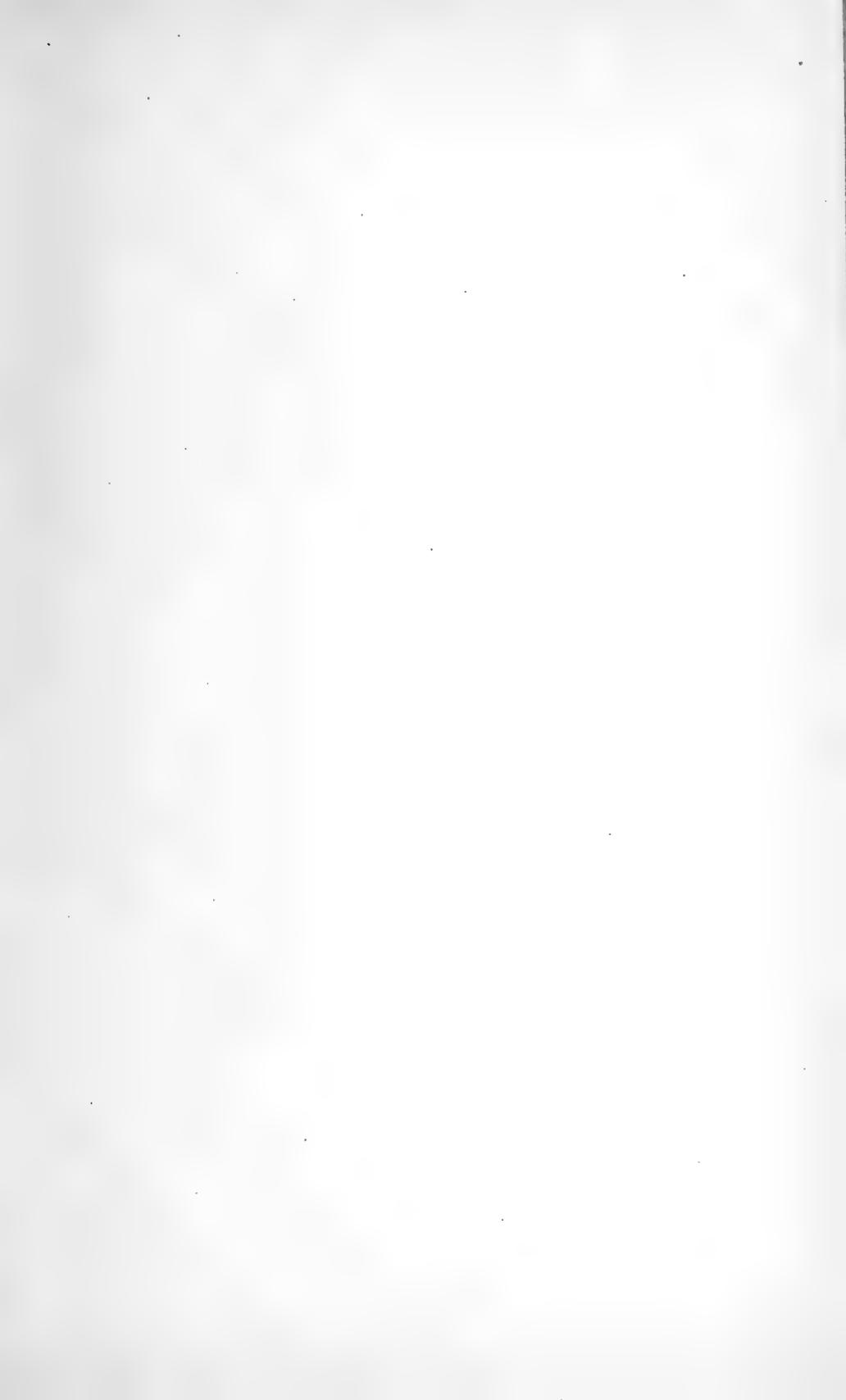
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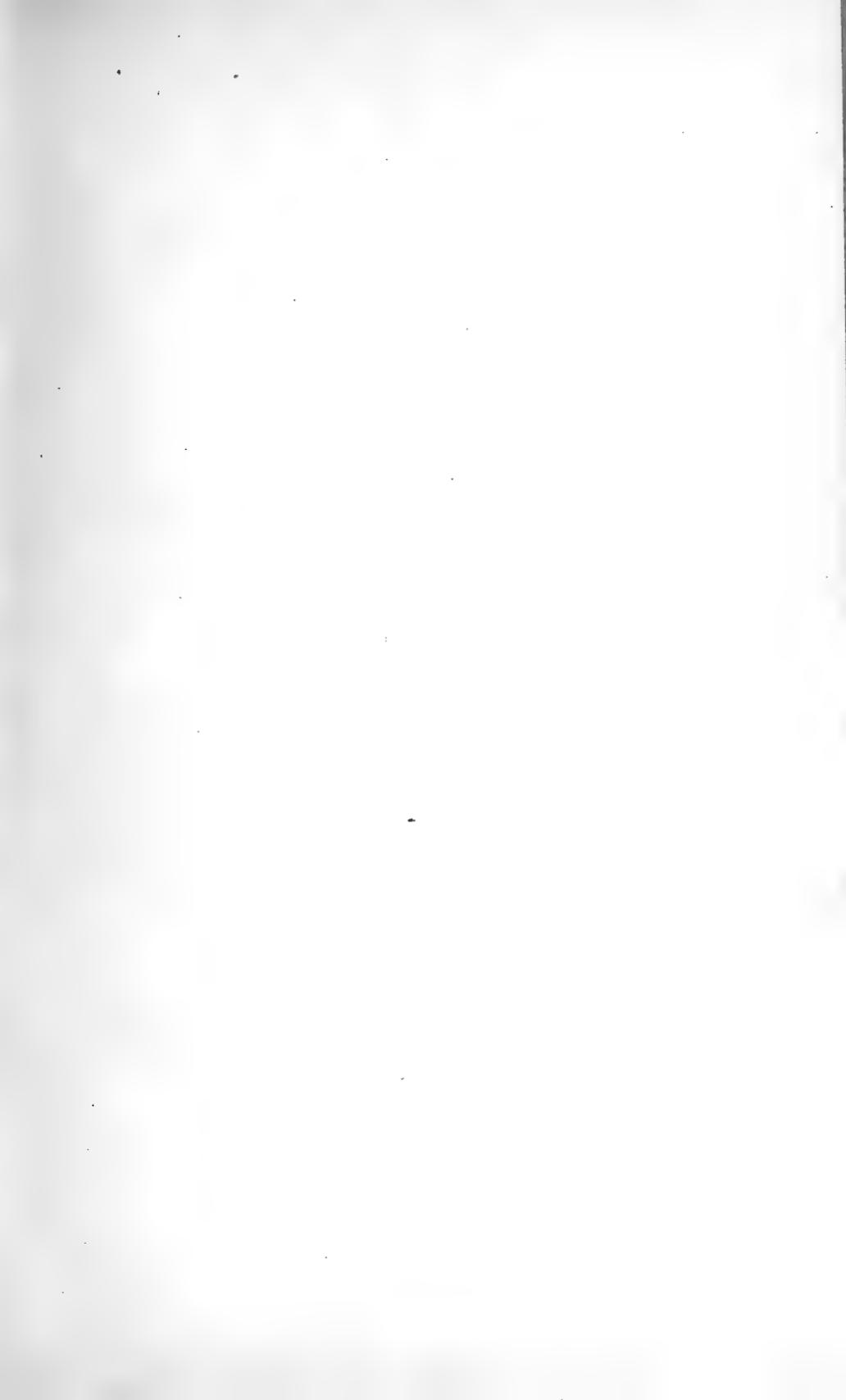
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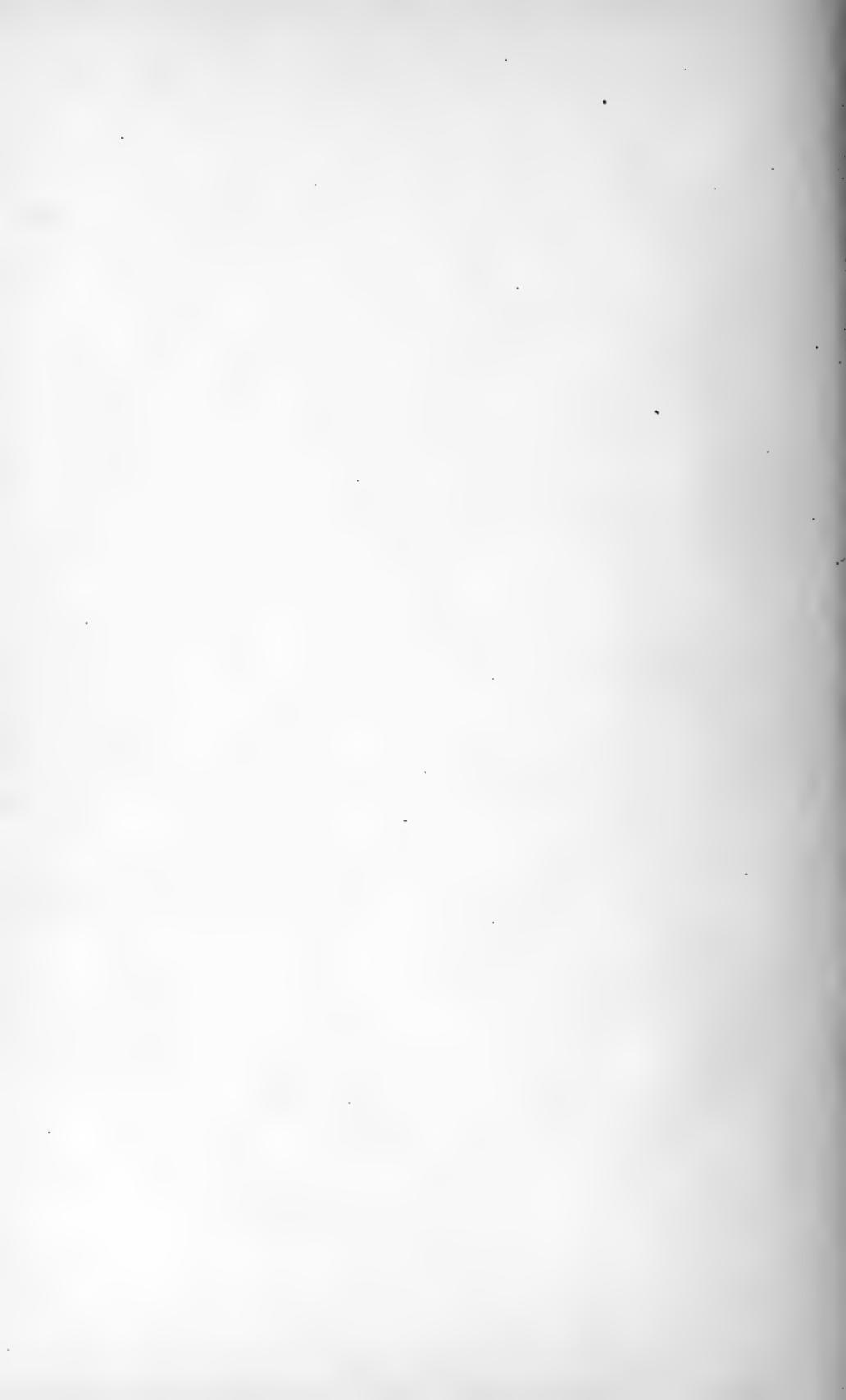














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