

benefit, leaving unimpaired the public highway over the soil. It is not the water over the beds that is claimed, that is common, and may be used by the public, but the use of the soil by the owner is consistent with the use of the water by the public."

16 Peters, U. S. Supreme Court Rep., 421.

"The Acts forbidding the taking of oysters, whether by citizens or not, at particular times, and with destructive instruments, prescribing penalties and forfeitures, do not interdict the free use of the waters for navigation and commerce. They do not interfere with the regulations of trade. Oysters in the beds in which they grow, cannot be considered as articles of trade; the right to take them is local and connected with the soil; they are such only when lawfully gathered."

16 Peters, U. S. Supreme Ct. Rep., 483.

"The power to regulate the fisheries belonging to the States, and to punish those who should transgress these regulations, was exclusively vested in the States when the present Constitution was adopted, and was not surrendered to the United States by the grant of admiralty and maritime jurisdiction."

4 Wash. C. C. Rep., 383.

18 Howard Sup. Co. of U. S., 76.

"The enrolling and licensing vessels by the United States, to carry on the coasting trade, can confer on them no immunity from the operation of valid laws of the State."

18 Howard Sup. Co. of U. S., 74.

This decision, 18th Howard, 5 Rep., deciding a case under our oyster law of 1833, ch. 254, is especially important in connection with our legislation on this subject; it was decided in 1855, and comprehends most of the subjects herein referred to.

These views presented by me, and respectfully submitted, to show that it is competent for the Legislature of this State to pass any or all the laws contemplated by the four inquiries on which my opinion is requested.

With great respect,

Your obedient servant,

A. RANDALL,

*Att'y Gen. of Md.*