Public Law 87-783

JOINT RESOLUTION

October 10, 1962
[H. J. Res. 659]

Granting consent of the Congress to a compact entered into between the State of Maryland and the Commonwealth of Virginia for the creation of the Potomac River Compact of 1958.

Potomac River Compact of 1958. Consent of Congress.

Whereas the State of Maryland and the Commonwealth of Virginia have entered into a compact, known as the Potomac River Compact of 1958, by means of concurrent legislation for that purpose, being chapter 269 of the Acts of the General Assembly of Maryland of 1959 and being found in chapters 5 and 28 of the 1959 Extraordinary Session of the General Assembly of Virginia: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the Congress, subject to the provisions and conditions of section 2 of this joint resolution, is given to the State of Maryland and the Commonwealth of Virginia for the Potomac River Compact of 1958 and for each and every part and article thereof: *Provided*, That nothing in this compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in or over the region which forms the subject of the compact or the power of Congress pursuant to the United States Constitution over interstate or foreign commerce. The compact reads as follows:

"POTOMAC RIVER COMPACT OF 1958

"PREAMBLE

"Whereas Maryland and Virginia are both vitally interested in conserving and improving the valuable fishery resources of the Tidewater portion of the Potomac River, and

"Whereas, certain provisions of the Compact of 1785 between Maryland and Virginia having become obsolete, Maryland and Virginia each recognizing that Maryland is the owner of the Potomac River bed and waters to the low water mark of the southern shore thereof, as laid out on the Mathews-Nelson survey of 1927, and that Virginia is the owner of the Potomac River bed and waters southerly from said low water mark as laid out, and that the citizens of Virginia have certain riparian rights along the southern shore of the river, as shown on said Mathews-Nelson survey, and, in common with the citizens of Maryland, the right of fishing in said river, Maryland and Virginia have agreed that the necessary conservation and improvement of the tidewater portion of the Potomac fishery resources can be best achieved by a Commission comprised of representatives of both Maryland and Virginia, charged with the establishment and maintenance of a program to conserve and improve these resources, and

"Whereas, at a meeting of the commissioners appointed by the Governors of the State of Maryland and the Commonwealth of Virginia, to-wit: Carlyle Barton, M. William Adelson, Stephen R. Collins, Edward S. Delaplaine and William J. McWilliams, Esquires, on the part of the State of Maryland, and Mills E. Godwin, Jr., Howard H. Adams, Robert Y. Button, John Warren Cooke and Edward E. Lane, Esquires, on the part of the Commonwealth of Virginia, at Mount Vernon, Virginia, on the twentieth of December, in the year one thousand nine hundred and fifty-eight, the following Potomac River Compact of 1958 between the Commonwealth of Virginia and the State of Maryland was mutually agreed to by the said Commissioners: Now, therefore, be it

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"*Resolved* by the Commissioners appointed by the Governors of the State of Maryland and the Commonwealth of Virginia, meeting in joint session, that they do unanimously recommend to the said respective Governors that there be a new compact, to be designated as the "Potomac River Compact of 1958", and that the said new compact be referred as promptly as possible to the Legislatures of the State of Maryland and the Commonwealth of Virginia for appropriate action, and to the end and after ratification and adoption by said Legislatures the same be submitted to the Congress of the United States for approval.

"ARTICLE I

"COMMISSION—MEMBERSHIP AND ORGANIZATION

"SECTION 1. COMMISSION CREATED.—The Potomac River Fisheries Commission, hereinafter designated as "Commission", is hereby created.

"SEC. 2. MEMBERS.—The Commission shall consist of six members, three from Maryland and three from Virginia. The Maryland members shall be the members of the Tidewater Fisheries Commission of Maryland or its successor agency and the Virginia members shall be the members of the Virginia Fisheries Commission or its successor agency. If the membership of either of the respective State Commissions exceeds three, then the three Commission members from that State shall be selected by the Governor thereof from the members of the State Commission; and if the membership of either of the respective State Commissions is less than three, the three Commission members from that State shall be the member or members of the State Commission, and such additional person or persons who shall be appointed by the Governor as may be necessary to constitute a total of three Commissioners.

"SEC. 3. TERM, VACANCIES.—The term of Commissioners who are members of their respective State Commissions shall be conterminous with their term on their State Commission. The term of Commissioners who are not members of their State Commission shall be four years. Vacancies on the Commission shall be filled by appointment of the Governor of the State entitled to fill the vacancy, except that where the State Commission has three members, the person filling a vacancy on the State Commission shall ex officio become a member of the Commission.

"SEC. 4. CHAIRMAN.—The Chairman of the Commission shall alternate from year to year between the representatives of Maryland and Virginia. Subject to such alternation, the Chairman shall be elected by the Commissioners for a term of one year.

"SEC. 5. COMPENSATION, EXPENSES.—Commissioners shall be entitled to receive from the General Fund of the Commission compensation of twenty-five dollars ($25.00) for each day or portion thereof spent in the performance of their duties, and reimbursement of reasonable expenses incident to the performance of their duties.

"SEC. 6. MEETINGS, QUORUM.—Commission meetings shall be held at least once each quarter, and at such other times as the Commission may determine.

"In order to constitute a quorum for the transaction of any business at least two of the three members from each State must be present and must vote on the business being transacted.

"SEC. 7. OFFICE AND EMPLOYEES.—The Commission shall establish and maintain an office at such locations as it may select, and may employ an Executive Secretary who shall serve at the pleasure of the Commission, and such other administrative, clerical, scientific, and legal personnel as it deems necessary. The powers, duties and com-

pensation of all employees shall be as prescribed by the Commission, and the employees shall not be subject to the provisions of Article 64A of the Annotated Code of Maryland nor to the provisions of the Virginia Personnel Act, as the same may be from time to time in effect. The Commission may extend to any employee or employees membership in the Virginia Supplemental Retirement System or the Maryland Employees' Retirement System, whichever is applicable, subject to the laws relating to each such retirement system.

"ARTICLE II

"JURISDICTIONAL BOUNDARIES

"The territory in which the Potomac River Fisheries Commission shall have jurisdiction shall be those waters of the Potomac River enclosed within the following described area:

"Beginning at the intersection of mean low water mark at Point Lookout and an established line running from Smiths Point to Point Lookout, marking Chesapeake Bay waters; thence following the mean low water line of the shore northwesterly across the respective mouths of all creeks to Gray Point at the westerly entrance into Rowley Bay; thence in a straight line northwesterly to the southerly extremity of Kitts Point; thence along the mean low water line to the southwesterly point of St. Inigoes Neck; thence in a straight line westerly to the most easterly point of St. Georges Island; thence following the mean low water line in a general northwesterly direction, across the respective mouths of all creeks and inlets to the southwesterly point of Huggins Point; thence in a straight line southwesterly to the eastern extremity of the sand bar known as Heron Island; thence northwesterly following the ridge of Heron Island Bar to its westerly extremity; thence southwesterly in a straight line to the most southerly point of Blakiston Island; thence in a straight line northwesterly to the southern extremity of Colton's Point; thence following the mean low water line westerly, excluding all creeks and inlets, to the point marking the southeasterly entrance into St. Catherine Sound; thence westerly in a straight line to the southern extremity of St. Catherine Island Sandbar; thence northwesterly, along the westerly edge of said sand bar continuing along the mean low water line of the southwesterly side of St. Catherine Island to the northwesterly point of said island; thence westerly in a straight line to Cobb Point Bar Lighthouse; thence northwesterly along the ridge of Cobb Point Sandbar to the southerly extremity of Cobb Point; thence following the mean low water line in general northwesterly and northerly directions across the respective mouths of all creeks and inlets to a point at the easterly entrance into Port Tobacco River, due east of Windmill Point; thence in a straight line westerly to Windmill Point; thence southwesterly following the mean low water line across the respective mouths of all creeks and inlets to Upper Cedar Point; thence southwesterly in a straight line across the mouth of Nanjemoy Creek to a point on shore at the village of Riverside; thence following the mean low water line, southwesterly, northwesterly and northerly across the respective mouths of all creeks and inlets to Smiths Point; thence northerly in a straight line to Liverpool Point; thence northerly in a straight line to Sandy Point; thence following the mean low water line northerly, across the respective mouths of all creeks and inlets to Moss Point; thence northerly in a straight line across Chicamuxen Creek to the southernmost point of Stump Neck; thence following the mean low water line northeasterly, across the respective mouths of all creeks and inlets, to a point at the southerly entrance into Mattawoman Creek; thence in a straight line northeasterly across the mouth of Mattawoman Creek to the south-

westerly point of Cornwallis Neck; thence following the mean low water line northeasterly, across the respective mouths of all creeks and inlets, to Chapman Point; thence in a straight line northeasterly to Pomonkey or Hillis Point; thence following the mean low water line in a northerly direction across the respective mouths of all creeks and inlets, to a point on Marshall Hall shore, due south of Ferry Point; thence northeasterly in a straight line to Bryan Point; thence northeasterly in a straight line to the northwest extremity of Mockley Point; thence northeasterly in a straight line to Hatton Point; thence northerly in a straight line to the southwesternmost point of Indian Queen Bluff; thence following the mean low water line northerly across the respective mouths of all creeks and inlets, to Rosier Bluff Point; thence in a straight line northerly to the intersection with the District of Columbia line at Fox Ferry Point; thence following the boundary line of the District of Columbia southwesterly to a point on the lower or southern shore of the Potomac River, said point being the intersection of the boundary line of the Commonwealth of Virginia with the boundary line of the District of Columbia; thence following the mean low water line of the Potomac River on the southern, or Virginia shore, as defined in the Black-Jenkins Award of 1877 and as laid out in the Mathews-Nelson Survey of 1927, beginning at the intersection of the Potomac River and the District of Columbia line at Jones Point and running to Smiths Point; and thence in a straight line across the mouth of the Potomac River on the established line from Smiths Point to Point Lookout, to the mean low water mark at Point Lookout, the place of beginning.

"ARTICLE III

"COMMISSION POWERS AND DUTIES

"SECTION 1. OYSTER BARS.—The Commission shall make a survey of the oyster bars within its jurisdiction and may reseed and replant said oyster bars as may from time to time be necessary.

"SEC. 2. FISH AND SEAFOOD.—The Commission may by regulation prescribe the type, size and description of all species of finfish, crabs, oysters, clams and other shellfish which may be taken or caught, within its jurisdiction, the places where they may be taken or caught, and the manner of taking or catching.

"SEC. 3. RESEARCH.—The Commission shall maintain a program of research relating to the conservation and repletion of the fishery resources within its jurisdiction, and to that end may cooperate and contract with scientists and public and private scientific agencies engaged in similar work, and may purchase, construct, lease, borrow or otherwise acquire by any lawful method such property, structures, facilities, or equipment as it deems necessary.

"SEC. 4. LICENSES.—(a) The Commission shall issue such licenses as it may prescribe which shall thereupon be required for the taking of finfish, crabs, oysters, clams or other shellfish from the waters within the jurisdiction of the Commission, and for boats, vessels and equipment used for such taking. Recognizing that the right of fishing in the territory over which the Commission shall have jurisdiction is and shall be common to and equally enjoyed by the citizens of Virginia and Maryland, the Commission shall make no distinction between the citizens of Virginia or Maryland in any rule, regulation or the granting of any licenses, privileges, or rights under this compact.

"(b) Licenses for the taking of oysters and clams and the commercial taking of finfish and crabs within the jurisdiction of the Commission shall be granted only to citizens of Maryland or Virginia who

have resided in either or both states for at least twelve months immediately preceding the application for the license. Within six months after the effective date of this compact, the Commission shall adopt a schedule of licenses, the privileges granted thereby, and the fees therefor, which may be modified from time to time in the discretion of the Commission.

"(c) The licenses hereby authorized may be issued at such places, by such persons, and in accordance with such procedures as the Commission may determine.

"SEC. 5. EXPENDITURES.—The Commission is authorized to expend funds for the purposes of general administration, repletion of the fish and shellfish in the Potomac River, and the conservation and research programs authorized under this compact, subject to the limitations provided in this compact.

"SEC. 6. GRANTS, CONTRIBUTIONS, ETC.—The Commission is authorized to receive and accept (or to refuse) from any and all public and private sources such grants, contributions, appropriations, donations, and gifts as may be given to it, which shall be paid into and become part of the General Fund of the Commission, except where the donor instructs that it shall be used for a specific project, study, purpose, or program, in which event it shall be placed in a special account, which shall be administered under the same procedure as that prescribed for the General Fund.

"SEC. 7. COOPERATION OF STATE AGENCIES.—The Commission may call upon the resources and assistance of the Virginia Fisheries Laboratory, the Maryland Department of Research and Education, and all other agencies, institutions, and departments of Maryland and Virginia which shall cooperate fully with the Commission upon such request.

"SEC. 8. REGULATIONS.—The Commission shall have the power to make, adopt and publish such rules and regulations as may be necessary or desirable for the conduct of its meetings, such hearings as it may from time to time hold, and for the administration of its affairs.

"SEC. 9. INSPECTION TAX.—The Commission may impose an inspection tax, in an amount as fixed from time to time by the Commission, not exceeding 25¢ per bushel, upon all oysters caught within the limits of the Potomac River. The tax shall be paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel, to an agent of the Commission, or to such officer or employee of the Virginia Fisheries Commission or of the Maryland Department of Tidewater Fisheries, as may be designated by the Commission, and by him paid over to the Commission.

"ARTICLE IV

"COMMISSION REGULATIONS—PROCEDURE AND REVIEW

"SECTION 1. NOTICE, HEARING, VOTE.—No regulation shall be adopted by the Commission unless:

"(a) A public hearing is held thereon;

"(b) Prior to the hearing the Commission has given notice of the proposed regulation by publication thereof at least once a week for three successive weeks in at least one newspaper published, or having a general circulation in each county of Maryland and Virginia contiguous to the waters within the Commission's jurisdiction, the first such publication to be at least thirty days but not more than forty-five days prior to the date of the hearing;

"(c) A copy of the proposed regulation is mailed at least thirty days but not more than forty-five days prior to the hearing, to the clerk of the court of each county of Maryland and Virginia contiguous

to the waters within the Commission's jurisdiction, who shall post the same in a conspicuous place at or in the courthouse; and

"(d) The regulation is approved by at least four members of the Commission.

"SEC. 2. RECORDING, EFFECTIVE DATE.—(a) Regulations of the Commission shall be exempt from the provisions of Chapter 1.1 (§ 9-6.1 et seq.) of Title 9 of the Code of Virginia (1950 Edition, as amended from time to time), and of section 9 of Article 41 of the Annotated Code of Maryland (1957 Edition, as amended from time to time). Copies of Commission regulations shall be kept on public file and available for public reference in the offices of the Commission, the office of the clerk of court in each county of Maryland and Virginia contiguous to the waters within the Commission's jurisdiction, the office of the Virginia Division of Statutory Research and Drafting, the office of the Maryland Department of Legislative Reference, the office of the Virginia Fisheries Commission, and the office of the Maryland Department of Tidewater Fisheries.

"(b) No regulation of the Commission shall become effective until thirty (30) days after the date of its adoption, or such later date as may be fixed by the Commission.

"(c) Leasing, dredging or patent tonging shall be authorized by the Commission only if such authorization is granted by joint action of the Legislatures of Maryland and Virginia.

"SEC. 3. REVIEW.—Any person aggrieved by any regulation or order of the Commission may at any time file a petition for declatory judgment with respect to the validity or construction thereof, in the circuit court of any county in Maryland or Virginia contiguous to the waters within the Commission's jurisdiction. A review of the final judgment of the circuit court may be appealed to the court of highest appellate jurisdiction of the state in accordance with the rules of procedure in such state.

"SEC. 4. REVISION BY LEGISLATIVE ACTION.—Regulations of the Commission may be amended, modified, or rescinded by joint enactment of the General Assembly of Maryland and the General Assembly of Virginia.

"SEC. 5. REVISION OF COMPACT.—At any time subsequent to the adoption of this compact the Governor or Legislature of either Maryland or Virginia may call for the appointment of a Commission to make further study and recommendations concerning revision and amendments to this compact, at which time the Governors of the respective states shall act forthwith in compliance with the request for the appointment of said Commission.

"ARTICLE V

"ENFORCEMENT OF LAWS AND REGULATIONS: PENALTIES

"SECTION 1. RESPONSIBILITY FOR ENFORCEMENT.—The regulations and orders of the Commission shall be enforced by the joint effort of the law enforcement agencies and officers of Maryland and Virginia.

"SEC. 2. PENALTIES.—The violation of any regulation of the Commission shall be a misdemeanor. Unless a lesser punishment is provided by the Commission, such violation shall be punishable by a fine not to exceed one thousand dollars ($1,000.00) or confinement in a penal institution for not more than one (1) year, or both, in the discretion of the court, and any vessel, boat, or equipment used in the taking of finfish, crabs, oysters, clams, or other shellfish from the Potomac River in violation of any regulation of the Commission or of applicable laws may be confiscated by the court, upon the abandonment thereof or the conviction of the owner or operator thereof.

"SEC. 3. JURISDICTION OF COURT.—The officer making an arrest or preferring a charge for violation of a regulation of the Commission or an applicable state law respecting the waters within the Commission's jurisdiction shall take the alleged offender to a court of competent jurisdiction in either state, in a county adjacent to the portion of the Potomac River where the alleged offense occurred, which shall thereupon have jurisdiction over the offense.

"SEC. 4. DISPOSITION OF FINES AND FORFEITURES.—All fines imposed for violation of regulations of the Commission or applicable state laws respecting the waters within the Commission's jurisdiction shall be paid into the court in which the case is prosecuted, and accounted for under the laws applicable to that court. Any property confiscated under the provisions of this compact shall be turned over to the Commission, which may retain, use or dispose of it as it deems best.

"ARTICLE VI

"COMMISSION FINANCES

"SECTION 1. BUDGET.—The Commission shall approve and adopt a proposed annual budget showing estimated income, revenues, appropriations, and grants from all sources, and estimated necessary expenditures and shall send a copy thereof to the Governors of Maryland and Virginia.

"SEC. 2. APPROPRIATIONS.—The said Governors shall place in the proposed budget of their respective states for each year the sum of not less than fifty thousand dollars ($50,000.00) for the expenses and the other purposes of the Commission for that year, except that none of the sum so appropriated shall be used for law enforcement purposes; and the General Assembly of each of the two states agrees to appropriate annually not less than this sum to the Commission.

"SEC. 3. GENERAL FUND.—(a) The General Fund shall consist of:

"(1) All income and revenue received from the issuance of licenses under this compact;

"(2) The proceeds of the disposition of property confiscated pursuant to the provisions of this compact;

"(3) The proceeds of the inspection tax upon oysters imposed pursuant to this compact; and

"(4) The funds appropriated to the Commission by the two States.

"(b) The General Fund of the Commission shall be kept in such bank or depository as the Commission shall from time to time select. The General Fund shall be audited annually by the Auditor of Public Accounts of Virginia and the State Auditor of Maryland acting jointly, and at such other times as the Commission may request.

"ARTICLE VII

"EFFECT ON EXISTING LAWS AND PRIOR COMPACT

"SECTION 1. EXISTING RIGHTS.—The rights, including the privilege of erecting and maintaining wharves and other improvements, of the citizens of each State along the shores of the Potomac River adjoining their lands shall be neither diminished, restricted, enlarged, increased nor otherwise altered by this compact, and the decisions of the courts construing that portion of Article VII of the Compact of 1785 relating to the rights of riparian owners shall be given full force and effect.

"SEC. 2. EXISTING LAWS.—The laws of the State of Maryland relating to finfish, crabs, oysters, and clams in the Potomac River, as set

forth in Article 66C of the Annotated Code of Maryland and as in effect on December 1, 1958, shall be and remain applicable in the Potomac River except to the extent changed, amended, or modified by regulations of the Commission adopted in accordance with this compact.

"SEC. 3. EXISTING LICENSES.—The rights and privileges of licensees to take and catch finfish, crabs, oysters, clams, and other shellfish in the Potomac River, which are in effect at the time this compact becomes effective, shall continue in force for a period of six months at which time every such license and every such right and privilege shall be abrogated.

"ARTICLE VIII

"EFFECT OF RATIFICATION

"These articles shall be laid before the Legislatures of Virginia and Maryland, and their approbation being obtained, shall be confirmed and ratified by a law of each State, never to be repealed or altered by either, without the consent of the other.

"ARTICLE IX

"EFFECTIVE DATE

"This compact, which takes the place of the Compact of 1785 between Maryland and Virginia, shall take effect at the expiration of sixty days after the completion of the last act legally necessary to make it operative, and thereupon the said Compact of 1785 shall no longer have any force or effect."

SEC. 2. (a) The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

(b) The right is hereby reserved to the Congress or any of its standing committees to require of the Potomac River Fisheries Commission the disclosure and furnishing of such information and data as is deemed appropriate by the Congress or any committee thereof having jurisdiction of the subject matter of this resolution.

Approved October 10, 1962.

Public Law 87-784

October 10, 1962
[S. 3089]

AN ACT

To amend the Act directing the Secretary of the Interior to convey certain public lands in the State of Nevada to the Colorado River Commission of Nevada in order to extend for five years the time for selecting such lands.

Colorado River Commission, Nev. Land conveyance provisions, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the Colorado River Commission of Nevada acting for the State of Nevada", approved March 6, 1958 (72 Stat. 31), is amended as follows:

(1) in section 2, strike out "five years" and insert in lieu thereof "ten years";

(2) in section 3, strike out "five-year" and insert in lieu thereof "ten-year"; and

(3) at the end of section 4(c) add: "The appraisal shall be of the fair market value of the lands as of the effective date of this Act."

Approved October 10, 1962.