

county of Charles, being an island or bar in the Potomac river, commencing below Craney Island, and running up to, and adjoining said island," &c. But the evidence shows very clearly, that in point of fact, all the land covered by the survey, except where it joins "Craney Island," claimed as the property of the caveator, Mr. Chapman, is under navigable water, in the strict and common law sense of the term, being not only navigable, but subject to the influence of the tides; and if a patent should issue upon the certificate, it is not to be controverted, that the patentee would hold, subject to the *jus publicum*; which the state, if so disposed, could not grant away or impair.

Mr. Chapman, the owner of Craney Island, for I assume him now to be such, objects to the grant of the patent upon this survey, upon several grounds.

The objection, that the soil is covered by navigable water is already disposed of, and the opinion expressed, that notwithstanding such is the case, the state has the power to make the grant subject to the general right of navigation and fishery. He next insists, however, that being the owner of Craney Island, he is entitled as riparian proprietor, to any increase of the soil which may result from the gradual recession of the waters from the shore, or whether the accretion is by alluvion, or from any other cause, and that such is his right, is too well established to be disputed. *Giraud's Lessee vs. Hughes et al.*, 1 *Gill & Johns.*, 249. Evidence has been produced to show that "Craney Island" was formerly considerably larger than it is now, portions of the soil having been washed away by the river, or the increase in the volume of its waters, having submerged parts, which were once dry land; and as the riparian title to accretion by alluvion, or the receding of the waters from the shore is the equivalent for the loss the owner may sustain, from the breaking in, or the encroachment of the river, upon his land, there would seem a peculiar propriety, in abstaining from any act which may deprive him of that equivalent, when we see he has actually suffered by the encroachment of the waters.