

a mode of acquisition of which none can take advantage but natural persons who hold lots bounded by the tide-water of the basin; in whom and their heirs the acquisition is to vest as an inheritance. It is obvious, therefore, that the city itself could acquire no right of property in this way; and besides, a wharf, one of the kinds of improvements mentioned as an example, being an extension of fast land into the water, the city never had any such land upon or from which any improvements of the sort could be made or extended. (s) But even natural persons can avail themselves of this privilege only in so far as the acquisition may be made by improving their own lots in such a manner as not to extend them in front of, or between the navigation of the basin and any public street or other lot belonging to an individual. (t) As, for example, *John Smith*, under this law, could not have acquired a right to any land, covered by the waters of the basin, by improving upon, or filling it up in any other than a south direction; because, in doing so, he would have crossed, or cut off the navigation from the next adjoining street or lot. (u) In this instance, however, he improved upon and filled up land which was, confessedly, not an extension of his own lot, but a part of Gay street. It is, therefore, perfectly clear, that no right could have been acquired to this strip of land by *John Smith*, or any one else, under this act of Assembly.

This act of the Provincial Legislature had prescribed a mode whereby the owners of lots in Baltimore might acquire a title to portions of the land covered by the navigable waters of the basin without applying to the Land Office. But, according to the English law, the king can at present make no grant in derogation of the rights of navigation and fishery; (w) in which respect also the Lord Proprietary had been expressly restrained by his charter; (x) and, as it would seem, under a sense of that restriction, by one of his instructions, he had directed his surveyors, that, in surveying old tracts, whereof part might be found to lie in the water, to be careful in certifying whether it had been washed away, or had been an error in the original survey. (y) From which, and the proceedings in the Land Office, an opinion seems to have been entertained by those who might be presumed to have been suffi-

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(s) 1836, ch. 63.—(t) *Hale de Portibus*, 81; *Smith v. Hollingsworth*, ante 381.—  
(u) *Harrison v. Sterett*, 4 H. & McH. 540.—(w) *Blundell v. Catterall*, 7 Com. Law Rep. 108.—(x) *Chart. of Maryland*, s. 4 and 16; 13 Niles' Reg. 13.—(y) *Land Ho. Assis.* 239.