

And, by a late act of the Legislature, it is declared, that individuals may locate and obtain an exclusive title to oyster-beds, in any navigable waters, in the manner therein prescribed, without applying to the Land Office. (*d*) And, as it would seem, the General Assembly may, for the benefit of the public, grant to an individual any navigable water together with the land which it covers. (*e*)

At an early period an obscure and unsettled notion seems to have prevailed, that the owners of the uplands had a sort of inchoate or pre-emptive right to the contiguous *marshes*, lying between their uplands and the shores of the tide. (*f*) And such *marsh* was, by the land law of 1699, declared to belong absolutely to the land to which it was adjacent; (*g*) but, that law has been long since repealed, and I find nothing which shews, that the owner of a tract adjoining navigable water could claim any sort of title to any part of the land covered by the tide beyond low water mark; because of its being immediately adjacent to the land held by him. (*h*)

(*d*) 1829, ch. 87; *Scratton v. Brown*, 10 Com. Law Rep. 335; Attorney-General v. Burridge, 6 Exch. Rep. 354.—(*e*) 1826, ch. 212; 1827, ch. 33; 1828, ch. 54.—(*f*) Land Ho. Assis. 147, 157.—(*g*) Land Ho. Assis. Append. 9.—(*h*) But a fee simple owner may extend a wharf into a river so as he does not thereby injure the navigation or fishery; 1835, ch. 168.

HYDE'S CASE.—To His Excellency Robert Eden, Esquire, and the Honourable Daniel Dulany and John Morton Jordan, Esquires, commissioners for the sale of his Lordship's lands.

The petition of Thomas Hyde, of the city of Annapolis, humbly sheweth, That your petitioner is seised in fee of a lot of ground on the south-east side of Bishop street, and at the head of the Cove, south-west of the city, which said lot begins at a locust post standing upon the bank by the said Cove; and runs from thence south eighty degrees, west ninety-nine feet to another locust post; then north sixty degrees, west two hundred and seventy feet to another locust post at the end of the line of Bishop's street; then with Bishop street north-east one hundred and forty-eight feet and one-half, to a locust post of Mr. James Carrol's lot; then with a straight line to the beginning.

Your petitioner further sheweth to your Excellency and Honours, that your petitioner's first course extends the whole length of the head of the Cove, and nearly parallel to the same; and that originally the tide-water flowed up to his said course; though now, by the filling up of the Cove for the purpose of a tan-yard, a considerable piece of ground intervenes between your petitioner's first course and high water mark; which said ground, your petitioner, to prevent controversies hereafter, is willing to purchase of his lordship. Your petitioner therefore prays a special order for a warrant of resurvey of the said lot and ground; and that, upon paying a reasonable consideration for the said ground, your petitioner may have patent for the same; and your petitioner as in duty bound will pray, &c.

1st April, 1771.—The commissioners for the sale of his lordship's manors, &c.