

An. Code, sec. 49. 1904, sec. 49. 1888, sec. 46. 1862, ch. 129, sec. 39.

48. No patent hereafter issued out of the land office shall impair or affect the rights of riparian proprietors, as explained and declared in the two preceding sections; and no patent shall hereafter issue for land covered by navigable waters.

Under the express language of this section, if water is navigable a patent may not issue; when water is navigable. A caveator need not prove that he has any interest in alleged vacant land; it is enough if he shows that state has no title. *Prima facie* riparian owner on non-navigable stream owns to middle thereof. Alleged distinction between rights of riparian owners in non-navigable streams and in a natural pond or lake. *Linthicum v. Shipley*, 140 Md. 98.

The right of state under act of 1745, ch. 9, to intercept riparian owner's right to make improvements into water before he had made such improvements, by a grant of land covered by water, was taken away by this section. Cases dealing with act of 1745, ch. 9. *Brady v. Baltimore*, 130 Md. 510.

A violation of last clause of this section does not render a patent *wholly* void. *Tyler v. Cedar Island Club*, 143 Md. 217.

A patent was refused on appeal by virtue of this section, although all proceedings were had and the patent granted below, prior to its adoption. This section is of public interest, and courts will act on it whether parties rely upon it or not. Last clause of this section applies to all lands below high-water mark. *Day v. Day*, 22 Md. 539; *Patterson v. Gelston*, 23 Md. 445. See also *Garitee v. Baltimore*, 53 Md. 433.

In view of last clause of this section, adverse possession for twenty years—prior to 1890—of land covered by navigable water confers no title as against the state. *Sollers v. Sollers*, 77 Md. 151.

The only effect of last clause of this section is to restrict powers of commissioner of land office; it is not inconsistent with a license to plant oysters. *Hess v. Muir*, 65 Md. 597; *Phipps v. State*, 22 Md. 380.

For cases dealing with the subject of this section prior to its adoption, see *Patterson v. Gelston*, 23 Md. 447; *Baltimore v. McKim*, 3 Bl. 453; *Chapman v. Hoskins*, 2 Md. Ch. 485; *Ridgely v. Johnson*, 1 Bl. 316, note (f).

Cited but not construed in *Spencer v. Patten*, 84 Md. 426; *Hill v. United States*, 149 U. S. 593; *Ranstead v. The William H. Brinsfield*, 39 Fed. 215.

See notes to secs. 47 and 46.

An. Code, sec. 50. 1904, sec. 50. 1904, ch. 282, sec. 1.

49. The governor shall appoint, by and with the advice and consent of the senate, three citizens of the State, who shall constitute a public records' commission, and who shall serve for two years. They shall serve without pay, save that they may receive their necessary expenses out of the fund hereby appropriated. They shall examine into the condition and completeness of the public records, and report thereon to the general assembly with such recommendations as they may deem expedient for the better custody and arrangement and preservation of the same.¹

An. Code, sec. 51. 1904, sec. 52. 1904, ch. 282, sec. 3.

50. The words public records shall be held to mean any written or printed book, paper, map or drawing which is required by law to be preserved, filed or recorded in any office of the State, or of any county or municipality, or of any officer or employe of the State, or of any county or municipality.

¹ As to archives and ancient documents of the province and state published by Md. Historical Society, see acts 1906, ch. 258, 1908, ch. 91 and 1910, ch. 39 (p. 430).

The act of 1914, ch. 57, provides for the further publication of the archives of Maryland; see also the act of 1912, ch. 15.

The act of 1912, ch. 440, provided for the removal of certain old records from the court house of Anne Arundel county to state land office.