

Having sustained a loss of a part of his land by the invasion of the waters, nothing can be clearer, than that the state should do no act, which may deprive him, or even embarrass his right to the equivalent which his exposure to such loss entitles him to claim, and if, as observed by the counsel for the caveatee, the land included in Mr. Hoskin's survey is gradually rising from the water, the riparian right of Mr. Chapman should be allowed to fasten upon it as a compensation for that which he has lost by the action of the same element upon his land.

Mr. Hoskins cannot complain, as it seems to me, that he has been, in any way, misled by the state, or that any imposition or bad faith has been shown towards, or practiced upon him. The description of the land furnished by himself, represented it as "vacant land, being an island or bar in the Potomac river, commencing below Craney Island, and running up to, and adjoining said island." It was not described, as is the case, as land covered by the navigable waters of the river Potomac; but as an island or bar in the river, and it was not until the surveys were made, and proof taken upon the interposition of the *caveat* by Mr. Chapman, that the true state of the facts was ascertained.

But it is urged on behalf of Mr. Hoskins, that Chapman has no title to Craney Island, or at least, that his title is not altogether free from doubt; first, because he cannot make title to it, under the patent for "Grimes' Ditch," or in any other way. And, secondly, because if he could make such title, by taking out a warrant for it as vacant land in 1836, he must be regarded as having surrendered his right; and that having failed to comply with the rules of the land office by compounding upon his certificate returned upon that warrant; and a proclamation warrant having been obtained by Hoskins to effect the same land, the title of Chapman under his warrant fell.

I do not deem it necessary to express a very decided opinion in reference to the title of Chapman under the patent for "Grimes' Ditch," though looking to all the evidence and the circumstances of the case, I should be disposed to think he