

could make out a title under that patent. But if this were doubtful, how can it be possible to dispute his title, when the long, uninterrupted, and unmixed possession of himself and those under whom he claims is considered. That his title, founded on this possession, is impregnable against any title which the state can grant, is conclusively shown by the acts of 1818, ch. 90 and 1849, ch. 424. I cannot concur in the argument that Mr. Chapman must be considered as having surrendered his previous title by taking out a warrant for "Craney Island" in 1836. If the argument is sound, then, any person who takes out a warrant to affect a parcel of land, supposing it to be vacant, must proceed to perfect his title under it, though he subsequently ascertains that the land he proposed to take up, is not vacant, but is included within the lines of land to which his title is undisputed.

By failing or omitting to proceed according to the rules of the land office, to perfect his title under the warrant of 1836, Mr. Chapman did nothing more than abandon his title founded upon that warrant, and it would, I think, be pressing his omission to a most unreasonable extent, to say, that he shall not only lose his title resting upon the warrant, but that he shall also be regarded as surrendering to the state, any title, however good, and absolute, which he may have possessed previously. Suppose, after taking out the warrant of 1836, he discovered, or was advised, (as is probably the case,) that his title to "Craney Island" was good, as founded either upon the patent for "Grimes' Ditch" or upon the long possession of himself, and those under whom he claims. Is there any principle of law or justice which would compel him at the hazard of forfeiting his title, to go on with his warrant? Why should he be required to pay the state for land which he discovered belonged to him already? Or why should he be compelled to take a new title, subject to all the risks and disadvantages which its recent origin would bring with it when he ascertained he already held a title, sanctified, and confirmed by nearly a century

The caveator then having, in my opinion, a good title to