

the hire or work and labor of the slaves, and I shall decree accordingly.

McLEAN, for Complainant.

ROBERT J. BRENT, for Defendants.

[The decision in this case was affirmed upon appeal by a divided court. See 4 *Md. Rep.*, 532.]

J. D. JONES,
 vs.
 ELIJAH BADLEY
 AND
 JOHN T. DARBY,

}

CAVEATS IN THE LAND OFFICE,
 SEPTEMBER, 1850.

[LAND OFFICE—ESCHEAT PATENTS.]

An escheat grant will pass all the land comprehended within the true location of the tract escheated ; it relates back, by operation of law, to the original grant, and is within the rule of law, of relation between grants and certificates.

But this doctrine of relation is founded upon a principle of equity, and where an escheator *expressly* excepts from his survey a part of the tract escheated and does not pay for it, the doctrine does not apply.

As a general rule, lands which have escheated cannot be taken up under a common warrant as vacant lands.

But where no fraud or imposition has been practiced upon the State, and there were no improvements upon the land which the party had taken up under a common warrant, honestly supposing it was vacant, paid the purchase money therefor and erected improvements thereon, the grant will not be refused though the land be escheat.

The Chancellor, sitting as judge of the land office, may decree according to equity and good conscience, and agreeably to the principles established in the High Court of Chancery, as if the matter were brought before him by a bill in chancery.

It is a general rule of the land office to issue the patent when the right is doubtful, in order that the party may not be deprived of the privilege of taking the judgment of a court of law upon its efficacy.

[The following opinion of the Chancellor was delivered by him as Judge of the Land Office upon caveats filed to two certificates therein referred to. The facts of the case are fully stated in the opinion.]