

“ same, which was granted him with a reservation to the said George’s right in case he recovers his senses.

“ Lay out, therefore, and carefully resurvey for and in the name of the said Thomas, yet for the use of the said George if in case he recovers his senses, the aforesaid tract of land according to the ancient meets and bounds, including what surplus land shall be found therein contained: not running your lines, &c. (h) PROVIDED a title be produced for the above land prayed to be resurveyed, patent is to issue; if otherwise, the certificate to be cancelled and laid aside.”

“The title is made appear.”

LIBER A. A. fol. 431.

“ Robert Freeland of Calvert county, by his petition (September 23d, 1734) set forth that he was seized in fee and in two hundred acres of land, part of a tract called Freeman’s (or Trueman’s) Choice; which said 200 acres had “by mesne conveyances, alienations and mutations of possession become the right” of him the petitioner “*under metes and bounds*:” That upon inspection he apprehended there might be surplus land within the said bounds, and vacancy contiguous thereto. He therefore prayed a special warrant to resurvey the same, &c.”

In the margin of the record appears the following entry:—  
“ This warrant is made void, the petitioner not being seized in fee, as therein is set forth. TEST,

“ G. BEDDOE, Clk. L. O.”

LIBER E. E. fol. 448.

It is proper to observe that immediately after the above-mentioned warrant, and on the same day, is recorded a *special* warrant in the said Freeland’s name for forty acres adjoining the same land. His want of title therefore was immediately discovered, and the vacating of the warrant of resurvey may have been at his instance, but the proceeding shews that the want of a title in fee was sufficient ground for annulling a warrant without the objection being made by caveat.

“ Deborah Carnall sets forth that a certain person had surreptitiously obtained an order for the resurvey of a tract of land called Graves, upon a suggestion that it was his property and in his possession, when in fact it was the property of the petitioner.

(h) This appears to be a particular order added probably at a subsequent time to the record of the warrant.