and only those parts are resurveyed, the surveyor has not pursued the authority given by the warrant.—

3. That by the established rules of the land-office, two tracts cannot be granted by the same patent, nor can they afterwards be included in a patent, on a certificate of resurvey, unless they are certified, and appear to be contiguous to each other; and that the defendant's parts of the two tracts aforesaid do not lie contiguous to, or any where touch, each other.

After a careful deliberation on the merits of this caveat, the chancellor is of opinion, that it ought to be overruled.

It is his duty to determine according to equity, without violating positive laws, or established rules.

1. The defendant, being seized of a certain number of acres in Q. A. county, part of which lies in the tract called Bishopton, and the residue in the tract called Collins's lot, has perhaps inaccurately given to his whole body of land the name of *Bishopton and Collins's lot*—but the intention of the warrant appears sufficiently clear; and the surveyor, and every other person, is sufficiently informed of the land intended to be resurveyed, viz. the defendants land in Q. A. county, Bishopton and Collins's lot. It could not indeed be mistaken, unless there were actually in Q. A. county a single tract of land called "*Bishopton and Collins's lot.*" The caveator himself alledges there is no such tract, and therefore the chancellor thinks himself in equity obliged to construe the warrant so as to authorize the surveyor to resurvey a tract of land called Bishopton, and a tract of land called Collins's lot, the warrant would otherwise be void; and by the chancellor's yielding to a nice objection, he might, perhaps justly, be accused of rather encouraging subtlety than of promoting substantial justice.

2. It is almost every days practice to issue a grant where the party seized of part of a patented tract of land has obtained a warrant, generally, to resurvey that tract, and has returned a certificate of the resurvey of his part only; and this practice prevailed along time before the judge of the land-office was, by law, directed to determine according to equity.

3. It is certain that by the established rules of the land office, a man cannot obtain a patent including several distinct tracts of land, nor can he obtain a patent on a resurvey of several tracts which do not lie contiguous, or in one body. But this objection can be of no avail to the caveator; because it is also an established practice, where a certificate of resurvey includes several tracts, and one, or more, is separate from the rest, to issue a patent only for those which lie contiguous to each other, with the vacancy adjoining them.—Suppose, then, the defendant, agreeably to this practice, to demand a patent of his part of Collins's lot, with the vacancy adjoining it: