

register, that Hurst, a considerable time since, had returned surveys in the said reserves, as made under his purchase, amounting to more than 200 acres.

Upon the whole the chancellor considers the present case to be one of the least doubtful which he has ever known to be litigated before any tribunal whatever, and accordingly adjudges that the caveat be overruled, and dismissed. He has delivered his opinion at large, for this reason, amongst others, that what he has said will apply to other cases, and he wishes the principles of his decisions to be well understood.

October 19, 1792.

GEORGE SCOTT,
vs.
 JOSEPH CHAPLINE. } *Caveat in the Land office.*

THE ground of the caveat is, that the land contained in the certificate was originally comprehended within the lines of a tract called "Well done," but is left out by the present running of the courses.

The legislature having never been able to discover a principle whereby the mischiefs arising from the variation of the compass might be prevented, and original runnings in all cases ascertained, has nevertheless directed that no patent shall issue for land which, in the opinion of the chancellor, may have been thrown out of the lines of a grant by variation of the compass. Whether it was the intent of the legislature that the chancellor should, for the land office, fix a ratio of variation, cannot easily be determined. That, indeed, there is a constant variation is certain: but, as he has never been able to find a rule agreeably to which the running of courses at any past period of time may be ascertained with precision;—as a decision in favour of a person who enters a caveat, on a ground similar to that of the present caveat, would prevent the matter from being tried at law; and as a decision against him would probably refer the parties to a fair trial at law; the chancellor has adopted only one rule on the subject; which is, in no case to allow the caveat unless the original runnings or some of them be fixed by positive proof, or by such pregnant circumstances as place the matter beyond a doubt. This, indeed, is the rule which appears to have obtained in the general court; and it seems the only rule which common sense can admit; for, altho' it be certain that the lines of every tract are, every year, changed by the variation of the compass, and altho' it seems reasonable to make some allowance; yet, inasmuch as the variation is different in different places, and at different times; as no general rule can be found, applicable to all cases, and as an arbitrary allow-