

The ground of the caveat was, that the land surveyed for Beatty was originally included within the lines of a tract or tracts of land formerly granted; and now the property of the caveator; and that, if not included by the present runnings, it is left out by the variation of the compass.

The chancellor, on several occasions has declared that having found no general rule for fixing the ratio of variation, he can make no allowance; and that, therefore, in every case of this kind, he will dismiss the caveat, and refer the parties to their trial at law, unless the caveator can produce direct or positive proof, or such pregnant circumstances as place the matter beyond doubt, that the land, claimed as vacant, was comprehended in the original runnings of a former grant or grants.

In the present instance, the land surveyed for Beatty (if it be vacant) runs between two tracts belonging to the caveator, called *Plain dealing*, and *Addition to Flint's discovery*: it appears from a plat, made by J. F. A. Priggs, surveyor of the county, in the year 1760, and the deposition of the said Briggs, thereon indorsed, that the caveator, being seised of the said two tracts, at one extremity took up a tract of land called "Little Chance," the lines of which ran from one tract to the other, and at the other extremity, took up another tract called "Fortune," the lines of which also run from one tract to the other; that in consequence thereof there was a considerable vacancy, bounded every way by the said four tracts of "Plain dealing," "Little chance," "Addition to Flint's discovery," and "Fortune": that the caveator then made another survey called "Success" the intent whereof was to secure the whole vacancy aforesaid; that he the said surveyor run the lines of all the said first four tracts and actually included all the vacancy in the aforesaid survey of Success: that in laying out the aforesaid three tracts, Little chance, Fortune, and Success, the given lines of Plain dealing, and the east line of Addition to Flint's discovery, viz. two lines parallel to each other were made, the bounds and limits on the north and south: and that the said lines were closed by the said three tracts, as appears by the plat.

Again—The surveyor who laid down all the lands for illustration has certified and sworn to his whole work, and produced pregnant circumstances to prove, that the lines of Addition to "Flint's discovery" originally ran as laid down more than 30 years ago by Priggs, who laid down from a sworn witness the tract called Addition to Flint's discovery.

Now the said Beatty having made his surveys on the grounds that Addition to Flint's discovery ran differently from what was laid down by Priggs, and that the three tracts of Little chance, Fortune, and Success, did not comprehend all the