

rant : a common warrant is for taking vacant uncultivated land, wherever it may be found, and its nature and operation are well understood :—A special warrant is for taking vacant cultivated land or uncultivated land, at the pleasure of the party :—

But a special warrant generally goes further. It describes or locates a particular parcel of land, and in this case the party is at liberty either to take the land so described, and which no other person can affect so long as the warrant is unexecuted, and in force, or to take any other vacant land, not affected by any other warrant.—For one kind of warrant no more is paid to the state than for the other.

If, then, the object of a special warrant be to obtain a grant of land which the state, after issuing the warrant, can neither grant to any other person, nor compel the party to take, common sense declares, that the description or location ought to have some certainty or precision :—For although the exact lines, limits, or boundaries, cannot be expected to be set down before the survey is made, the description may at least point out to every enquirer the general situation of the land. It may, at least, enable a person to say of some spot or point, that it is comprehended within the tract affected by the warrant.

It cannot be supposed (for instance) that a special warrant for ten acres can give an exclusive right to survey any ten acres in a tract containing one thousand :—so, a warrant for one hundred acres, contiguous to a tract, of which the outlines are altogether twenty miles in length, cannot be thought to give an exclusive right to survey any one hundred acres contiguous to that extensive tract.—Accordingly, such uncertain, unprecise, locations have never prevailed against persons, making prior surveys under younger warrants. It is not sufficient that the land in contest may answer the vague description, when it appears that many other tracts would answer the description equally well.

The allowance of a vague description to bind all the land which may answer the description could be founded on no sound principle whatever. Either it would be prejudicial to the state, or it would frequently enable one man to avail himself of the labour, industry, and money, of another :—Indeed a vague indefinite location can convey no other idea than this, that the party is not determined on the precise situation of his land, but intends, to pick and chuse during a whole year out of all the land answering the vague description, which may be discovered by himself or any other person—But a warrant without location would enable him to take any vacant land which he can find, and which another is not fairly entitled to.