

It is admitted that the said Will's creek is the eastern boundary of one of the manors long since directed to be laid out in the lands to the westward of Fort Cumberland; it is admitted, also, that Francis Deakins, who was appointed by the executive to lay down lands to the westward of Fort Cumberland, did not lay down any lands eastward of Will's creek :

The dispute turns upon this single point, whether or not under all circumstances, lands to the westward of Fort Cumberland must be understood to comprehend all lands lying westward of a line drawn from the most western corner of the fort, due north, to the Pennsylvania line ; or whether the said creek, which is adapted by nature to serve as a boundary, ought not to be considered as the eastern limit of the said lands.

At the instance of the parties, the chancellor takes the liberty of requesting the opinion of the honourable the judges of the general court, whether or not, on the facts stated, the grant aforesaid to Dickeson Simkins is to be held void in a court of law.

The chancellor begs leave to refer their honours to those acts of assembly, also to state some other things, which he deems material to the question.

November 1781, ch. 20 sec. 2, appropriates all vacant lands to the westward of Fort Cumberland to the benefit of the soldiers of the Maryland line.

November 1784, ch. 75 sec. 3, and 6, enacts, that all grants for land lying within any manor to the westward of Fort Cumberland, and all grants issued, or to be issued, for lands to the westward of Fort Cumberland, on surveys or resurveys, in which vacancy is included made in virtue of warrants granted on or after the sixth day of October 1774, shall be void, and so held, and adjudged, in all courts of law and equity.

The resolves of April session 1787 direct the executive to appoint a person to lay down into lots the manors, and such parts of the reserves, and vacant lands, lying to the westward of Fort Cumberland, as he may think capable of improvement :—Under this act Francis Deakins was appointed ; and he accordingly laid down the lots, and returned a plat, which is deposited in the land office.

November 1788 ch. 44, sec. 13, enacts, that any of the lands lying to the westward of Fort Cumberland, not therein appropriated, *and to affect which no warrant had been issued,* shall be liable to be taken up by warrant.

The lands appropriated by that act were 4165 lots laid out by Deakins to the westward of Will's creek,—and David Lynn, considering the land in question liable to be taken up