pute fairly tried at law. In cases of this kind, the admission of the caveat puts an end to the dispute. There is no appeal from the chancellor; and the defendant can make no title in an ejectment. But by the dismission of the caveat, and allowing a patent to the defendant, either party is in a condition to have the title tried by the proper established tribunal. The established rule therefore is this, that unless the caveator, who alledges, that the land is contained in his grant can support his allegation beyond doubt, the matter shall be referred to a decision at law.

It is impossible for a man acquainted with our constitution and laws to believe that the legislature intended to make the chancellor not only a judge of title and location, but a judge without appeal. Is it not indeed notorious, that, in every cause before the chancellor where there arises an important question, of either law or fact, it is the invariable practice to submit it to the general court, or its jury?

After all, it must be allowed to be extremely difficult to distinguish between cases in which no doubt can be entertained, and questions in which there may be a difference of opinion: but every consideration of this kind must have a tendency to increase the chancellor's caution. If in the present case he should admit the caveat, he is satisfied there are few persons, acquainted with the nature of the dispute, who would not censure him for usurping the office of a jury, and who would not say that the law under which he acted, or rather his conduct under a law, is a violation of the principles of the const tution.

It is adjudged and ordered that the caveat be dismissed, but that each party bear his own costs.

NATHAN PRATHER, *against* ZEPHANIAH PRATHER'S certificates of "Lucky discovery" and "Prather's chance."

Caveat in the Land-office, Nov. 28th 1794.

By the practice of this office, which had obtained before the revolution, and has been since pursued, a man possessed of common or special warrant of one acre only may survey any quantity of vacant land not affected by any other warrant. This practice, although it may in some degree affect the revenue of the state, cannot be productive of wrong to individuals; because no man can have an equitable pretension to that land which has already been surveyed for another, and which he himself had not before the survey contracted or applied for.

But, whether a common or special warrant, under which a survey has already been made of more land than is express-