

In the same tract is laid down an elder tract, called Kilfadda, shewing the lines by course and distance, and by an allowance of $2\frac{1}{2}$ degrees for variation, as run in 1768, in dividing that tract.

The depositions produced may be sufficient to satisfy the chancellor that, according to the division made in 1768, the locations now made by the caveator are correct ; but it is the established rule and practice, that unless the caveator, who alleges that the land claimed is contained in his grant, can support his allegation beyond doubt, the matter shall be referred to a jury, by ordering a patent.

It is likewise a rule that the present runnings of courses may be corrected by actual proof of the original runnings, but not by an allowance for variation.

The legal effect of the several tracts having been held according to the division in 1768, and the true location of them to be deduced therefrom, and from other proofs, are considered proper subjects for a court and jury, and would not be in a situation to be contested if the caveat should be ruled good : the caveat is therefore overruled, and dismissed, but without costs.

D. WEST <i>vs.</i> J. JARRETT.	}	<i>Caveat in the Land-office, July 2d, 1806.</i>
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This case was continued over to be heard on the first day of the present term (July 1) when the parties attended, and were heard, and the plats &c. considered.—The caveator alleges that a part of the land claimed by the defendant is comprehended in an elder survey, called “I dont know” returned in the certificate of Aquila Miles ; which land was proclaimed by the caveator since entering the caveat, to wit on the 19th of April 1806.

The chancellor is of opinion that David West has not by the said proclamation warrant acquired such a property or interest in the land called “I dont know” as to enable him to sustain a caveat against the granting of lands contained within its lines, or to avail himself thereof on this caveat. It appears that this defence has originated since the continuance, and the pretensions of the caveator have been since laid down accordingly.—This he had a right to do, under the continuance, but subject, of course, to a question as to the validity of his title, thus set up.—Independent of this ground, the chancellor is not satisfied by the plats for illustration that the land claimed by the defendant is comprehended in the caveator's pretensions, so as to prevent, according to the usual course of decisions, a patent from issuing. The caveat is