

caution money was paid before any other person had obtained a warrant to affect the vacant land included in such resurvey.

*The Chancellor.* Not to be answered.

14th *Question.* Where a resurvey has been made that runs through elder tracts so as to include separate pieces of vacancy, and the caution money is paid for the land contained in the resurvey, was not more money paid for the land than the proprietor or the state would have received if the detached pieces had been separately taken up.

*Answer.* I conceive this is a question which has little or nothing to do with the rules or practices of the land office, and which any person of common intelligence might answer as well as the chancellor: But, I do not perceive how more money was to be paid (for instance) for 100 acres of vacancy in one tract than for 100 acres in 5 tracts. There are in each case 100 acres to be paid for. To be sure, in the first case he pays for the land contained in the elder survey, belonging to another person, and therefore he pays more, &c.

15th *Question.* Has such a survey ever been vacated or corrected unless at the instance of the owners of the patented tracts so run through, or at the instance of some individual who had obtained a warrant to affect the vacant land? if so, in what instance?

*Answer.* I have little recollection of cases. I therefore, without consulting the register or examining proceedings in the office, say, at this time, that I do not remember that such a survey has been vacated, or corrected, unless on the application of the owners of the patented tracts runs through, or at the instance of some individual who had obtained a warrant to affect the vacant land: But, on the application of the owners, assuredly, the survey would not be corrected, although their caveats would be ruled good. When a caveat is ruled good, it rests with the owner of the certificate to say whether or not he will have an order for correction. Sometimes he applies for such an order, and sometimes he prays that his certificate may be vacated. He acts as he conceives suits his own interest.

*Additional interrogatories for the plaintiff.*

1st. Do you know of any rule or practice of the land office establishing a distinction that a warrant of resurvey may issue on one equitable interest and not on another?

*Answer.* Certainly, there has been no decision within my memory that distinguishes the equitable interest on which a warrant of resurvey may issue from another equitable interest on which the warrant may not issue. I have in my answers referred to the only two cases on the subject which I recollect.