

a party has omitted to execute his warrant, but means still to make a survey, or to keep up the binding effect of his locations, he takes a new warrant, commonly about the time when the other expires, but sooner or later, as he pleases ; risking, in the last case, the intervention of other warrants. In regard to the right of persons to take warrants for lands which appear to be already affected by others, it is sufficient to say that this right is not judged of by the register, who issues any warrant that may be demanded, after he has truly answered all fair enquiries. A proclamation warrant, indeed, does not issue unless the certificate is liable ; for the register must declare it to be so before he obtains his authority for granting the warrant.

It is time to notice the rights, other than immediate titlings, upon which common or special warrants may be obtained from the land office, and which consist, generally, of warrant unexecuted ; of composition paid, and the effect of such payment lost, by the vacation of a certificate or grant, or by a certificate's not being returned in time, either in the first instance, or after an order for correction ; and lastly, of deficiency found in original tracts, upon resurvey, and here it is necessary to recur to a principle formerly stated, and which is indeed the great hinge of the business of the office ; namely that money paid into the treasury as the price of vacant land is a deposit, the condition and benefit of which is to be realized in the land office, consequently, when that condition or proposed benefit fails of being obtained in the first or any subsequent instance, the party is entitled to some other method of securing it. In other words, warrant unexecuted, or not prosecuted to its final purpose, is so much money which the owner has in the hands of the state, and which, though it cannot be drawn back in kind, is to be made good in the way proposed by the deposit. A person, then, who possesses in his own name, or by assignment or succession, warrant, either common or special, which, in the whole or in part, remains unexecuted, and unapplied, may, upon producing such warrant, obtain, for and in lieu thereof, a new common or special warrant or warrants, without the further agency of the treasurer ; the old warrant being delivered in and cancelled if all of it which remains unexecuted is thus replaced by new warrant, or, if only a part, returned to the owner, with an endorsement specifying the quantity so cancelled and replaced, and a correspondent entry is, in either case, made on the record. All this without any limitation of time whatever.

When a certificate is vacated, upon which caution money in taking the warrant, or composition upon return, or both, have been paid, the money is in like manner understood to stand to the credit of the party, and he is entitled to warrant