

the practice has arisen, and the question is by what means it has done so : I presume it is in the following way : The instructions to surveyors, while they direct positively that a warrant shall not be exceeded, except in a given case, make that case to be where a survey cannot be confined to the limits of the warrant without leaving out adjoining vacancy lying between patented or surveyed lands. The original intention of this was that small, inconvenient, and unsaleable slips of land should not be left on the proprietary's hands : but now, all vacant land, with little exception, lies between, or is surrounded by, patented tracts : and, under this proviso in their instructions, the surveyors conceive themselves at liberty to take in all the land they can find, without regard to the quantity expressed in the warrant. The main part of the instructions thus becomes a nullity, and the exception to a positive rule supercedes the rule itself. But, to return to the splitting of warrants into minute parts, the chancellor, in the case aforesaid, admits that a survey made in this way, or under a warrant already expended, would probably, *on caveat*, have to give way to a survey made under less doubtful authority ; and here I must leave the matter ; for, it is not for me to judge whether the rules of the land office are to rest on their own basis, or on their accidental vindication by parties interested in enforcing them. But, in laying down the actual rules of the office, I cannot state it as an acknowledged and legitimate rule that persons may, by assignment or otherwise, divide a warrant into as many parts as they please, and institute so many distinct surveys, without regard to the quantity expressed in the warrant. I can only admit it to be a common practice, which the examiner does not question, and which the judges of the land office do not notice, except in the particular cases in which it comes before them by caveat. What I consider as regular and allowable divisions of warrants are those which are indicated in the instructions of 1712, before referred to.

The instructions of 1768 do, it is true, admit of a party's making several successive surveys until his warrant is expended, but do not give a shadow of authority to the practice of splitting warrants by assignment, or even without assignment, for the express purpose of originating, at one and the same time, a number of different surveys, and with the intention that each of the divisions shall be exceeded. As to the privilege of exceeding warrants, or parts of warrants, considered in itself, and without reference to the absurd divisions and assignments which have been described, I have stated the former practice by way of information, chiefly to those who have the regulation of such matters, and have endeavoured to shew how it has advanced to its present unlimited state.