because the survey was made under a location not originally authorised by the warrant, who had himself by assignments of parts of special warrants instituted several surveys in the same way, which, for want of objection by caveat, had been prosecuted to patent. It is by instructions to surveyors, alone, and by enforcing their due observance, that this matter can be remedied. My position is, simply, that all locations on cultivated lands should be made in the office, and in no case be made or changed by the surveyors; and this leads to the consideration of what may rightfully be done with a special warrant if the owner cannot or does not chuse to execute it according to the first location.

In the first place he may as often as he pleases obtain a new location in the office, in the way of amendment, as before described; the new location being endorsed, and a regular entry of it made on record; for which service, as for many others, no charge whatever is made.

If the party, not finding land where he took his location, chuses to use his warrant without a new location he uses it as a common warrant. It is laid down as a maxim by the late chancellor, in several of his decrees, that whatever can be done by a common warrant may be done by a special one— The position is, perhaps, somewhat too broad; for a special warrant is directed to the surveyor of a particular county, and it may be doubtful whether another surveyor can execute it. The chancellor has also, in the case of Beatty *vs* Orendorff, stated that a person may, under a special warrant, take either the land therein described or any other vacant land, not affected by another warrant; and here he does not qualify the terms *vacant land* by saying that in the last case it must be uncultivated—such as might be taken by a common warrant. The opinions of Mr. Hanson are entitled to the utmost respect, and I should be very slow to controvert any thing that he had positively declared to be the law of the office, but there is a danger in attempting to expound in so few words as the chancellor has employed in this instance all the properties of a special warrant, especially when the exposition comprehends points which are not involved in the matter immediately under consideration. The case which has been mentioned did not turn upon the question whether the caveator might, upon abandoning his first intention, have surveyed other cultivated land without obtaining a new location; but whether his special warrant could be deemed to have *bound* land which was not therein sufficiently described. The chancellor, in prefacing his reasoning on the main question by a brief account of the nature and powers of a special warrant, did not, apparently, attend to all the distinctions which that subject required; and, as he has in no other instance at-