

tributed to a special warrant the power of retaining its privilege in regard to cultivation after it had in other respects assumed the character of a common warrant, I must suppose his opinion to be such as he has in repeated instances declared it,—that a special warrant, if it abandons the location received in the office, may be used to all the purposes of a common warrant,—and no more. So far as to the principle. In practice it must be acknowledged that special warrants, and even parts of such warrants, have taken cultivated land, without regard to location made in the office.

As to warrants of resurvey, of proclamation and of escheat, they do not admit of division, nor do the two last admit of any material change or amendment, but all of them are capable of being assigned; the assignee, in the case of a resurvey warrant, being a person who possesses such a title in the lands to be resurveyed, or some part of them, as would enable him to execute such warrant if it had been taken in his own name. There can in fact be little occasion or pretence for the assignment of a warrant of resurvey, unless to accompany the title of land transferred after the warrant is taken out; for it confers no right, and cannot be used to obtain any right, to vacant land not contiguous to the originals therein mentioned; and the rule which permits no person to make a resurvey except on lands actually belonging to him is as strictly in force as it was at any former period. It is true that persons are permitted to make resurveys upon lands lying on certificate compounded on, and to which they have not acquired a legal title; but they have the best title which has been acquired; and it is made a legal one before the design of the resurvey takes effect; that is, before patent of confirmation issues.

Warrants of escheat, and proclamation are, as has been said, simply capable of being assigned or transferred from one person to another, and must either be executed on the land they were taken to affect or become void. But concerning the last mentioned warrants some further remarks are here requisite. The section of the act of 1795, ch 88, which regulated the issuing of proclamation warrants is, like many other provisions of the acts of assembly relative to the land office, inaccurately or obscurely worded. It ordains in the first place that any certificate of survey or resurvey returned to the office, which includes vacant land, and is not compounded on agreeably to law, shall be liable to be affected by a proclamation warrant by any person who shall apply for the same—comprehending of course (contrary to the rule of the former government) the owner of such certificate; but upon the condition that, previous to the obtaining such warrant, one tenth part of the vacant *land* contained in the survey be *compounded upon*, and *paid* to the treasurer of the particular