

book ; and if such location is sufficiently precise, according to the general rule on that head, it binds the land therein described ; but, if vague, merely enables the surveyor to proceed ; and the land is, in that case, secured by the actual survey, and not before. The object of all location, previous to survey, is to bind the land therein described from the operation of other warrants. The date of a common warrant is, in this respect, immaterial, except that in applications at the same point of time for the same location, the elder warrant ought in reason to be preferred. In a word, locations of common warrant by the surveyor are good and binding for its expressed quantity of uncultivated vacant land, sufficiently described, and not covered by previous location either of common or special warrant, for the latter may bind land cultivated or otherwise. It is proper here to remark that the instructions to surveyors, while they prescribe the form of location of common warrants, do not say a word concerning the location of special warrants ; that being a matter which is always to be done in the land office. If it is said that the surveyor, without making a new previous location, may make an actual survey of cultivated land not designated in the special warrant, I answer that no written rule, from the first establishment of the land office to the present day, gives that privilege, and that the practice is therefore unauthorised. It, in fact, defeats a very important end of location, which is, not solely to benefit the party making it, but also, to inform other persons of the lands already appropriated, and, by consequence, to assure them in some degree of those that are yet free. A person, satisfied by enquiry that no warrant has been taken to affect a particular piece of land, prepares to take a warrant for that purpose ; but before he reaches the land office, an actual survey is made of this land under a warrant obtained to affect other land, and the location of the office is superceded and defeated by the surveyor. It is true that persons may in other ways be disappointed in their views, and that there are many remedies or resources where they do not obtain the precise land intended : but those disappointments ought not to be multiplied by a licence not founded either on positive regulations or on reason and public convenience, and tending in a strong manner to confuse and invalidate the regular proceedings of the office.

In regard to the location of special warrants, on which the surveyors are called to act, and upon which they must sometimes exercise their judgments, the rule of interpretation laid down by chancellor Hanson in the case before cited of *Beatty vs Orendorff*, and in other decrees, is perfectly clear and just ; to wit, that the land designed to be surveyed should be designated by such precise marks and references as that