

ways a power incidentally belonging to the judges of the land office, as it would otherwise have been impracticable for them to form any judgment upon questions of location. In regard to the serving of the subpoena, and orders, which are generally, in the first instance, taken out together, and especially as to the last, the service by a private person has been the most common, and has been preferred, on account of the more satisfactory form in which it is, in that case attested. The sheriff merely returns a subpoena with his endorsement "served," or "summoned," on the day of :— from which it does not, with certainty, appear that the party designed to be summoned has seen the subpoena. The private individual employed for that purpose, makes a correct copy of the subpoena; delivers the original to the person summoned, and then, by an affidavit, subjoined to the copy, he proves that, on a certain day therein named, he delivered the original, with the great seal annexed, of which the writing above or preceding the said affidavit is a true copy—and he proceeds in the same manner in respect to orders of the chancellor, or judge, of which orders attested copies are furnished for that purpose from the land office; that is to say he uses the office copy as an original, and attests the service on a transcript made by himself, as before. In regard to the time of service and return, the law requires (now, in respect to both shores) that there shall be fifteen days, at least, between the date of a subpoena and the day of return, which in the land office, is the day of trial itself. As to orders, the judge directs the time of service, generally, in the first instance, by reference to that of the subpoena, and, in subsequent cases, by limiting particular days, in his discretion. In a general way it has been understood, and the proceedings regulated accordingly, that there should be fifteen days between *the actual service* of the subpoena, &c. and the day of trial. Whatever may be the proper construction of the law in this particular, the judge of the land office will always be satisfied that the parties have had sufficient notice, before he proceeds.

On the day appointed for hearing, it is the duty, as it is presumed to be the interest, of the caveator to appear, in order to support his caveat, which it is not considered the duty of the judge to do for him: and, on his not appearing, or transmitting satisfactory reason for his absence, the caveat may be taken as abandoned by him, and may on the application of the defendant be dismissed; but without such application would probably be suffered to remain until it became inoperative by law. Either on the day of hearing, or before, the caveat may be continued, and a further day assigned, by consent, or on sufficient cause shewn to the judge by either