THE ATTORNEY GENERAL AT THE RELATION OF LARKIN BUCKINGHAM vs. JANETTE DORSEY. — MARCH TERM, 1847.

[PROCEEDING TO AVOID A PATENT FOR ALLEGED FRAUD.]

A WARRANT of resurvey does not authorize a party to include a vacancy not contiguous to the tract or tracts to be resurveyed. And a person who has not a title to the land on which he obtains a warrant of resurvey, does not, in virtue of such warrant, acquire a right of presumption in the adjoining vacancy.

Yet, patents obtained by a party who has no legal title to the original, or upon a certificate of resurvey, including vacancy not contiguous to the original, will not be vacated, except for fraud *in fact*, charged and proved, though upon *caveat* filed in the land office, they would have been refused.

A proceeding against an innocent purchaser, without notice, to set aside a patent forty-seven years after its date, and forty-five after the patentee had sold and conveyed the land to such purchaser, cannot receive the countenance of a court of equity.

[In the year 1795, Samuel Chase, by virtue of a warrant of resurvey, taken out in 1793, on a tract of land then owned by him, called "Mansfield Purchase," took in several vacant parcels, some of which, as appears by these proceedings, were not contiguous to the original tract, and obtained a patent in 1795, by the name of "Chase's Forest." In 1797, he sold a part of this land to William Hobbs, who, by his will, devised the same to defendant. In 1841, the testator, Buckingham, took out a special warrant for Buckingham Place, which was located upon a part of the land, included in the survey. The certificate of survey being duly returned, a caveat was filed against it by the defendant, Dorsey, in 1842, which is still depending. The bill was filed in this case to vacate the patent obtained by Chase, on the ground of fraud, in taking in tracts not contiguous to his own land.]