

warrant called for five hundred acres "adjoining the west line of Gore," it was held, that the description "was sufficient to

of any case in which it has prevailed. There is apparently still less force in the objection arising from the situation of the chain-carrier, as proved by the deposition of Samuel Hawkins, and also in the trifling errors in the phraseology of the warrant, which were mentioned in the argument. It would seem, therefore, that the point most relied on by the caveator, is the want of precision in the location, or as he expresses it, the location being too broad.

It is certainly the interest of every person who takes out a special warrant, to describe or locate the land as clearly and precisely as he can, in order to bind and secure it from the operation of other warrants; but there is no set form, or expression required in order to comply with the general rule, which (as laid down by the late Chancellor in 1793,) was, that the description of the warrant should suit none but the land contended for, and that it should be so full and certain as plainly to point out the intention. There is, however, some reason to doubt whether the rule was not less strict before the revolution, for it appears that the special warrants in the years 1773 and 1774, seldom went further than to state the vacancy to be adjoining to some particular tract or tracts, either naming them or the persons in possession of them.

In the case of Pumphrey v. Wallace, the reasons for allowing the *caveat* of the latter are not expressed, and can only be inferred from what appears on the papers; because it would be totally improper to take the opinion of C. Wallace, as expressed in his deposition, or that of any other person, as evidence of such reasons. Pumphrey's warrant was dated the 28th of December, 1792, and executed on the 6th of February 1793. But Wallace had taken out a warrant of resurvey on the 18th of January, 1793; so that the question must have been how far the location made in Pumphrey's warrant was binding, so as to prevent the operation of the warrant of Wallace, which bound all the contiguous vacancy, supposing it not previously secured. The vacancy in dispute consisted of cultivated land, as appears by the receipt of the treasurer for improvements; and it may be inferred, that the *caveat* was ruled good on the ground of the location in Pumphrey's warrant being vague and indefinite, as was decided in the case of Beatty v. Orendorf, in 1793, (*Land Ho. Ass.* 400,) in which the vacancy was also cultivated land, and the claim of Orendorf on a warrant of resurvey.

It is not, however, necessary in the present cases, to determine whether the location or description in the warrant, was sufficient to bind or secure the vacancy aimed at, or to say what would be the result of the facts established by the depositions and the surveys returned, because the several parcels of land returned in Goodwin's certificates do not appear to have been cultivated, or to have had improvements thereon; and therefore must be taken as uncultivated, and liable to be affected by a common warrant, and it will be observed, that two of the certificates returned by the caveator on his warrant, supposed to include the same land, are for uncultivated land, and the improvements on the other three are only a few fence logs.

It was stated in the argument, that the warrant was not a proper one—that it was neither a special nor a common warrant. But, although it was not simply a common warrant, yet it might be used as such, and the general tenor of special warrants was, and still is, to direct the surveyor to lay out the said quantity, be the same cultivated or otherwise. On this subject the following points appear to have been settled:—That a special warrant shall be allowed to do every thing which a common warrant might do;—that a special warrant may abandon its first intention, and may be used to affect any lands which may be affected by a common warrant, however distant they may be from the land described in the special warrant; and that, in such case,