

land office, or none now to be found there on questions arising out of any state of things similar to that presented by these caveats.

It was contended, on the part of the *Rail Road Company*, that an assistant surveyor is only prohibited from receiving and entering the description of the location of a common warrant; but that he may receive the warrant and execute it without its being first delivered into the hands of the surveyor.

But it is clear, that all common warrants must be first lodged with the principal surveyor of the county before his assistant can be permitted to execute them in any way whatever. The second article explicitly requires four things to be entered and noted in the surveyor's book in all such cases. *First*, the time of receiving the warrant; *second*, the quantity of acres included therein; *third*, the date thereof; and *fourth*, at what place the person who obtains it locates the same. The three first of these notations are peremptorily required in all cases; but the last, it is evident, from its nature, and the express language of the rule itself, can only be made 'when any person desires to locate a warrant.' The restriction imposed upon assistant surveyors, by the nineteenth article, in the clearest terms, embraces all four of these notations; it is declared, that 'no assistant shall presume to receive or enter the location of any warrant whatever.' The one book in which all these entries are directed to be made, is to be kept by the surveyor; he alone, therefore, can make them, and produce that book to all other holders of warrants, who may come to have them entered and located on lands to which they may wish to acquire a right of pre-emption from that date, by giving and entering a special description of them. The obvious and expressly declared intention of these regulations is, 'to prevent all disputes about the priority of entries or locations of land.' But this object could not be attained, if the principal and assistant were each allowed to receive entries and locations, each of which was to be considered as equally available; nor could any one ascertain, from a view of the books and proceedings of either the principal or assistant surveyor alone, whether any other person had already entered a warrant to affect the land he wished to obtain.

I am therefore, satisfied, that although every survey must be dated on the day on which it was actually made; yet, in this instance, the survey of *Clara Fisher*, having been improvidently and erroneously made by the assistant, before the warrant had been lodged with and properly noted by the principal surveyor in