

tion) by proof of the original running, and the act of November 1781 ch. 20, §. 12, directs that no patent shall issue for land which in the opinion of the chancellor may have been thrown out of the lines of a grant by the variation of the compass.

It was contended by the defendant's counsel that there was no proof of the land of Oliver Spry:—but it appears clearly that the tract called Scotland was to run with the land of Spry, wherever it lay, from Fishing creek to Scotcher's creek, and therefore there can be no vacancy to the south, between the line of Scotland (from one of the creeks to the other) and Spry's land;—and if there is any vacancy on that point, it must be to the south of the land that was Spry's.

On the whole the chancellor is satisfied from all the circumstances above stated that the location made by the defendant is not a just one, so as to shew any vacancy; and that the location made by the caveator, of the tract called Scotland, is sufficiently established by the calls, and the proof, to shew that the defendant's pretensions are within the lines of that tract, (the interest of the caveator in which has not been disputed); and he considers that it is not necessary or proper to send the parties to a jury, by ordering a patent for vacancy thus endeavoured to be shewn. It is therefore, this 14th day of January, 1807, adjudged, ordered, and decreed, that the caveat of Lancelot Warfield in this case be ruled good, and that the defendant John Merrikin pay the costs.

CHAPTER X.

INSTRUCTIONS TO SURVEYORS, AND TO REGISTERS OF THE LAND-OFFICE; ORDERS RELATING TO CAVEATS; &c.

I PROPOSE now, after a few previous remarks, to insert such instructions as have been issued by the governor and council for the direction of the officers concerned in the land office establishment; and also those orders which the chancellor has considered it within his province to prescribe relative to the entry and continuance of caveats. By what has been heretofore said concerning the powers of the judges of the land office it will be perceived that I do not consider them as possessing authority to institute rules, in general, for the government of the office. The registers are not personally under the direction of the judges, but under that of the