called for five hundred acres "adjoining the west line of Gore," it was held, that the description "was sufficient to * bind the vacancy to a certain extent;" but it is not said how far. **329** *Mortland* v. *Smith*, MS. 19th April, 1815.

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adjoining to the following tracts of land, or some of them, viz. Nicholas and John, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th discoveries, &c. Several certificates, including those now in dispute, were returned in May, 1776; and patents thereon not having been issued, the present caveats were entered in September, 1807.

One of the objections stated by the caveator is, that patents were not taken out within two years, according to the 11th section of the orders and instructions in 1733. The Chancellor is not satisfied of the validity of this objection; nor is he informed 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 expressed 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