

2. The defendant then, to show title in *Franklin* and those claiming under him, down to her the defendant, in and to *Gibson's Forest* and *Warner's Chance*, read in evidence a commission from *Benjamin Tasker* and *Benjamin Young*, registers and chief judges of the land office, to *Thomas Jennings*, bearing date the 18th of May 1746, constituting and appointing him chief clerk of the land office. She also gave in evidence, that *Jennings* continued to hold and execute the office of clerk of the land office, under the said commission, until the time of his death, which took place some time in 1759. And also, to prove that some of the records of the land office have been lost, she gave in evidence, that original patents for land have been found in the state of which no record ever could be discovered in the land office, or elsewhere; and that in the year 1776 or 1777, the records of the land office were removed from *Annapolis* to *Upper Marlborough* in *Prince-George's* county, where they remained one year and upwards; and that there has been a tradition or report in the land office of the loss of some of its records prior to 1746. She also gave in evidence, that no certificates, warrants or patents, for the tracts of land called *Gibson's Forest* and *Warner's Chance*, or either of them, or of any tracts of either of those names, can be found among the records of the land office, now existing, where they have been repeatedly searched for, and that no such record books as *Liber D D*, No. 8, or *Liber No. 28*, do now exist or can be found among the records of the land office, or elsewhere. The defendant then produced two papers, purporting to be true copies from certain books of records in the land office, one called *Liber D D*, No. 8, and the other called *Liber No. 28*, certified by the said *Jennings* then clerk of the land office, under his hand as clerk thereof, of two certificates of surveys, one of *Gibson's Forest*, and the other of *Warner's Chance*, the first surveyed for *Miles Gibson* on the 20th of October 1695, and the latter surveyed for *John Warner* on the 17th of November 1710, and describing each of those tracts as they are described in the deed from *Clark* to *Franklin* as herein before set forth. She also proved, by witnesses produced and sworn, who were well acquainted with the said *Jennings*, and with his signature, that the name *Thomas Jennings*, subscribed to the said papers, purporting to be co-

1810.


 Cockez
vs
Smith