

times induced to believe a record book of patents might have been lost, but on the whole he thought no book was lost; and that the warrants are all recorded in different books from the books in which the certificates and grants are recorded; and he never heard, nor from many years examination of the records has he any reason to believe, that any record book of warrants was lost. The plaintiff also offered in evidence the certificate and grant of *Franklin's Delight and Ruth's Garden*, surveyed for *Thomas Franklin* on the 1st of October 1729, lying in the fork of *Gunpowder* river, and on the N side of the S branch of said river, on the head of a branch called the *Water Fall* Branch, &c. and that they were truly located on the plots as located by the defendant; and also that the grantee was the same person who is grantee in the deed from *Clark to Franklin*. Also the certificate of the tract of land called *Gibson's Ridge*, surveyed the 19th of September 1683, for *Miles Gibson*, lying on the S W branch of *Bush* River; and proved by a witness sworn, aged 61 years, that he has been well acquainted with the last mentioned tract of land for 37 years, and that no person of the name of *Franklin* has held or possessed any part of it during that time. That before 1767 the whole of the said land was possessed by *Thomas Bond*, &c. who were and had been in possession thereof for 45 years and upwards, and held and claimed the same under purchases from *Gibson*. That the said land lies now in *Harford* county, and about 15 miles from where *Franklin* lived. The defendant then offered to read in evidence the said three papers, (copies of the certificates of *Gibson's Forest* and *Warner's Chance*,) to support her title to the land for which she takes defence. To the reading of the said three papers to the jury the plaintiff objected. But the court did permit the said certificates to be read to the jury, to be determined by them whether they were or were not genuine. The plaintiff excepted.

3. The plaintiff then prayed the opinion of the court, and their direction to the jury, that from the evidence the jury are not at liberty, and cannot presume that patents issued for *Gibson's Forest* and *Warner's Chance*. Which opinion the court refused to give. The plaintiff excepted; and the verdict and judgment being against him, he appealed to this court.

1810.


 Cockey  
vs  
Smith