

hands of the Surveyor, but antecedent to their issuing out of the Land Office. Lib. No. 86

Upon the Subject, whether it was proper or not to open the Office, in respect of Lands to the westward of Fort Cumberland, we gave our opinion on the 26th March last to which we refer, and in a day or two afterwards, the Agent demanded an Inspection of our Proceedings, and his Requisition was submitted to by our Clerk.

The Course is, when Vacant Lands are to be taken up, under the Conditions of Plantation, to pay the Consideration or Caution money to the Agent, who thereupon gives an order, or Titling to the Land Office specifying the sum received by him and the number of Acres the party is to have surveyed upon this order the warrant for making the Survey issues from the Land office, directed to the Surveyor of the County where the vacant Lands are & these orders being preserved in the Land Office, are a check on the Agent in settling his accounts of the Caution Money received: When the Surveyor returns his Certificate to the Land Office, it remains there for three months before a Patent issues, after which the party is entitled to a Grant by the established Rules of the Office; wherefore we apprehend, that this Rule, after the Caution money is paid, constitutes the contract to be performed with the Party, and consequently that the Faith of Government is engaged that it shall be in this manner complied with, but if this Rule be altered (which the Agent in his Letter seems to consider as an unalterable Rule of Right) and the Alteration is to be made with a view of obtaining an order to prevent the issuing of Grants; and if the Attempt to induce such an order should be successful, the Parties will have reason to be alarmed, to complain of a breach of Contract & of the precarious dependance on Acts of Government. If there be no intention to obtain an order to prevent the issuing of Grants, we shall not undertake to conjecture, why the Agent thought it expedient to express his Zeal on this Occasion for the Interests of the Proprietor, and to insist on his behalf, that there should be a new retrospective Regulation of the Land Office; should there be in consequence of his unexpected Representation an order not to issue Patents to those who have paid the caution Money executed their Warrants in pursuance of his Tittlings, return'd Certificates and entitled themselves to Grants according to the common course and invariable Rules of the Land Office, it may be with Propriety asked, how are the Parties to be indemnified? a return of the Caution Money received and repayment of the several Fees, with Interest will be insufficient for this Purpose. The Trouble & Expence in