

party, by affidavit or otherwise. The serving, or giving notice, of all new orders rests on the party obtaining them. It would be difficult to state all the circumstances which might be considered as good cause for a continuance, as they must necessarily be in a great measure in the discretion of the judge. The inability of a party, through sickness or otherwise, to attend; a desire to take further testimony; or the necessity of giving time for correction of plats produced for illustration, but found obscure or defective, are among the usual causes of continuance.

As to the continuing of caveats beyond the time prescribed by law for their remaining in operation, which the judges of the land office are authorised to do, "under special circumstances," by the act of 1797, ch 114, it is certainly not every common cause of continuance, or rather of postponement within the year, that ought to be considered among the special circumstances here intended; especially if those circumstances are alledged on the part of the caveator, to whom the time allowed by law ought to be sufficient for the prosecution of his caveat to a final hearing. The circumstances that induce the judge to enlarge the period assigned for the operation of caveats ought to be very weighty, for the law has limited the time, and quite liberally enough, as it is double what was finally allowed under the former government; and it was only meant to leave a discretion to be used in extraordinary cases. The pendency of a bill in chancery, for vacating a patent obtained by a caveator, and on the validity of which depended that of his caveat, has been deemed a ground for continuing the caveat in force until the question of vacation was decided. The orders of the chancellor, heretofore inserted, for suspending the operation of the act of November session 1797 on caveats existing at the time of its passage, were grounded upon a circumstance, indeed, of an extraordinary nature, to wit, that caveators were misled by the opinions of counsel relative to the construction of the law;—but, which ought not to serve as a precedent for such extensions; for, persons are to follow the opinions of their counsel at their own risk, and the opposite parties are entitled to the benefit of the law according to its true construction, of which, in the instance referred to, the chancellor appeared to have no doubt. Other general grounds of continuance have also been shewn in the orders of the chancellor upon that subject. In regard to the revival of caveats, after they have expired for want of prosecution, it has not been often attempted in the name of the same persons, and has not been considered admissible, without the order of the judge of the office; but it is sometimes done in other names, and the chancellor, upon being applied to by the register, has declined a positive interference.