

matter to the (t) Governor or Secretary, had his complaint entered in the form of a *Caveat*, being in its nature, and from the etymology of the word, a *Caution* to the proper officer not to issue Patent in the case in question. The method of bringing these disputes to hearing and decision was essentially the same as at present. Defendants and witnesses were summoned, or the depositions of the latter taken by particular orders for that purpose. The matter was tried *summarily* and determined on (u) *principles of equity and good conscience*, by the Governor who was the sole judge in Land affairs, but generally availed himself of the assistance of the Secretary and the Surveyor General, and sometimes of his Council at large. The appointment of Judges of the Land Office by that denomination and their principles and modes of proceeding will be noticed in a succeeding part of this work.

It has been observed that Warrants were often so far special as to contain a designation of the particular district in which they were to be executed. A few words more are necessary upon that subject: Warrants are said to have a location when they are directed to be executed at a particular *place*, that is to say, on, or adjoining to, certain lands therein specified. All Warrants located are called special Warrants in contradistinction from common or general Warrants which may be executed any where; but Warrants may be special in other respects besides that of location. The Proprietary's Conditions of Plantation were general Warrants, authorising the proper officers to pass grants of land to all persons who could shew that they had, by the performance of certain requisites, entitled themselves thereto. Orders from the Proprietary in favour of particular individuals were *special* Warrants, and to those only the term was originally applied. The first notice of a distinction between special and common Warrants as referring to location is found in an act of Assembly of the year 1750 "concerning the Secretary's and Clerk's fees: in which it was directed that those officers

(t) By some of the examples that will be given of Caveats it will be perceived that at a certain period they were instituted and tried in the courts of law—But this was in Cromwell's time, and is not a part of the regular practice. The ministerial officers of the Proprietary were generally invested with the power of determining whether Patents should issue on the Certificates lying in his Land Office, and so far as those questions came under their cognizance they were governed by the principles that prevail at this day.

(u) It is on these principles that contests in the Land Office are determined at present, for so the law directs: So by stronger reason those contents must have been decided on grounds of equity under the Proprietary government, since the proceedings of the Land Office out of which these disputes generally arose, were in no particular regulated by law. The principles of decision here referred to, are prescribed explicitly in all commissions to the *Judges* of the Land Office.