to recollect, that the proceedings by caveat in the Orphans' Court; *Dep. Com. Gu.* 160; 1798, ch. 101, sub-ch. 2, s. 9; as derived from the Ecclesiastical Courts of England; 1 *Jac. Law Dict.* 407; is essentially different from the caveat in Chancery against the emanation of a patent. And the term caveat has in our judicial proceedings been applied in other cases as an admonition to the Court not to do certain acts, to which a party objected, until he could be heard; as not to record depositions taken under a commission to mark and bound lands; *Roch* v. *Giles*, 1 *H. & McH.* 186; or not to enter up a judgment or pass a decree upon an award, and the like. *Dorsey* v. *Jeoffray*, 3 *H. & McH.* 121; *Shelf. Lun. & Idiots*, 104, 654, 624; *In matter of Fust*, 1 *Cox*, 418.

We may now pass on to the consideration of the case brought before the Court by this caveat in the land office.

According to the known and long established principles upon which public lands may be acquired by an individual from the State, the title commences with the designation of the tract by the purchaser. After the date of the designation, and before a grant has been issued, the title is inchoative, and imperfect; but when a grant has been obtained, the title is then absolute and complete. A sufficient description of the land intended to be secured gives an

325 *incipient title against every person who has not before taken some method to secure the same land. *Land Ho. Ass.* 461. It is held, upon common law principles, that the grant relates back to the date of the specification; and, by a kind of *jus postliminii*, the purchaser is deemed to have had a perfect legal title from that period to all intents and purposes whatever. 3 *Blac. Com.* 210. He may maintain an action of trespass for any injury done to the land within that interval of time; *Chapline* v. *Harvey*, 3 *H. & McH.* 396; and he may, in that interval, if he has paid the whole caution money, obtain a warrant of resurvey, which is only incident to a legal title, and cannot be founded upon a mere equitable right of any kind. *Land Ho. Ass.* 152, 149, 420, 427, 447, 455. On the death intestate of the holder of such an imperfect legal title, the right descends to his heirs, as real estate, to whom alone the patent can be granted. This doctrine of relation is founded upon principles of common law altogether and exclusively. *Lloyd* v. *Tilghman*, 1 *H. & McH.* 85; *Spalding* v. *Reeder*, 1 *H. & McH.* 189; *Hath's Lessee* v. *Polk*, 1 *H. & McH.* 363; *Report of D. Dulany*, 1 *H. & McH.* 553; *Kelly's Lessee* v. *Greenfield*, 2 *H. & McH.* 133; *West* v. *Hughes*, 1 *H. & J.* 13; *Beall's Lessee* v. *Beall*, 1 *H. & J.* 347. There are, however, some cases in which this imperfect title, which precedes the grant, is spoken of as being an equitable interest. *Howard* v. *Cromwell*, 4 *H. & McH.* 329, & 1 *H. & J.* 118; *Ringgold* v. *Malott*, 1 *H. & J.* 317; *Beall's Lessee* v. *Beall*, 1 *H. & J.* 348. But that cannot properly be called an equitable title, which a Court of equity cannot enforce, or have specifically executed.