

But those officers whose duty it is, thus carefully to examine and consider the nature of the proposed grant, before they pass it, cannot be presumed to know any thing more of it than what appears upon its face, or than what is represented to them by the applicant; and yet there may be a variety of circumstances, not so apparent, or disclosed, which, if made known, would clearly demonstrate the great impropriety and injustice of passing it. Hence, in all such cases, where the interests of a third person are likely to be materially affected by the granting of a patent, its emanation may be opposed by such third person; for, when the immediate possession of land is granted to two several persons, it begets suits and troubles, which the common law will not suffer in the king's grants under the great seal; (i) and therefore, to prevent such mischief, it is said, that there are three several stages at which the making out of a patent may be opposed; *first*, when it is under the consideration of the king; *secondly*, when it comes to the privy seal; and *thirdly*, by a *caveat* when it comes to the great seal. (j) This last appears to be the most formal and usual course.

In putting the great seal to a patent the Chancellor acts in his *legal* capacity; and therefore, in hearing and deciding upon any controversy which may arise, as to the propriety of passing a patent, he sits as a court of common law; (k) and so long as an application thus stands before the Chancellor for the great seal, he may indulge the parties with further time upon such terms as he may deem equitable and proper; but after the great seal has been once put to the patent, then all further control over it by the Chancellor in a summary way on a *caveat* ceases. (l)

A *caveat* in chancery is a petition or suggestion entered by the party, who supposes himself likely to be injured by the granting of a patent, respectfully cautioning the Chancellor not to put the great seal to the instrument until the applicant has been called upon to make out a proper case for his patent; and, also to shew cause, if any he has, why the objections thus made to its being granted should not be allowed. Upon which a day is appointed for the hearing, of which the applicant is notified; and in the interval the parties are allowed, if required, to take testimony in relation to any controverted facts. And at the hearing, the applicant for the patent, considered as a plaintiff, or as holding the affirmative of the

(i) The Case of Alton Woods, 1 Co. 50.—(j) 1 Mad. Chan. 13. 1 Chal. Opin. Em. Law, 55.—(k) 3 Blac. Com. 49.—(l) *Ex parte* Beck, 1 Bro. C. C. 578; *Ex parte* Koops, 6 Ves. 599.