

But it may be, that the claimant of *River's Bend*, at the time he made his location in the surveyor's book, had not any notice of the erroneous survey of *Clara Fisher*; because that location is in

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plainants have a right to the said patents for the said lands; and that the defendant do surrender the said patent unto his lordship's land office, to be vacated accordingly, with costs.

The said patents having been brought into court as directed,—

14th August, 1719.—*Ordered*, that the said patents be cancelled; which was done by tearing the seals off in open court: and *Ordered*, that a certificate thereof be made and sent to the provincial court, in order for their being noted in the records thereof.—*Chancery Proceedings, lib P. L. fol. 419, 445.*

THE ATTORNEY-GENERAL v. BIGGS.—This information was filed on the 9th of August, 1796, by the attorney-general, at the relation of Richard Winchester and James Winchester, against William Biggs. Its object was to have a patent vacated, which had been obtained by the defendant. The defendant answered; a commission was issued, under which depositions were taken and returned,—upon all which the case was brought before the court.

28th February, 1801.—HANSON, *Chancellor*.—The said cause standing ready for hearing, and coming on to be heard, the bill, answer, exhibits, depositions, and all other proceedings, were by the Chancellor read, and the arguments of the counsel on each side were by him heard and considered.

The complainants apply to this court to be relieved against a patent obtained by the defendant, on the ground, that at the time of obtaining it, he had had notice of the equitable title of Henry Zolf, to part of the land contained in the said patent, which part had been comprehended in a certificate of a tract of land called *The Resurvey on Stoney Ridge*, surveyed for the said Zolf, which the complainants are entitled to by an assignment from Norman Bruce, to whom the said Zolf had assigned, &c.

The defendant in his answer, expressly denies, that before obtaining his patent, he had received notice of the said equitable title; and it is by no means clear, that, agreeably to the rule established in this court, his answer can be considered as refuted. But it is perfectly clear that Norman Bruce, who knew of the defendant's proceeding to obtain his patent, and in whom the said equitable title was at that time vested, permitted him to obtain his patent without making any objection, on account of the said equitable interest; although he opposed the said Biggs' certificate, on other grounds, and actually obtained an order for the correction of Biggs' certificate, as it originally was returned. Bruce then, under whom the complainants' claim, by another established rule of this court, is to be considered as having forfeited all title to the aid of this court, on the ground of notice. And the complainants surely cannot be considered in a better situation than they would be in, if he had not made the assignment,—and, claiming under him, they ought to have made a full investigation of the circumstances attending his title, before they filed their bill. In short, whatever would have been decreed between the defendant and Bruce, in case Bruce had not assigned to them, is now to be decreed between them and the defendant.

*Decreed*, that the bill of Luther Martin, attorney-general, at the relation of Richard and James Winchester against William Biggs, be and it is hereby dismissed; that the said defendant William Biggs, be also hence dismissed; and that the said Richard and James Winchester do pay unto him the costs, by him sustained, in the defence of their suit against him, amounting, as taxed by the register of this court, to the quantity of three thousand eight hundred and seven pounds of tobacco.