

be granted consistently with the rules of the Land Office; and the claim of the applicant should, nevertheless, have a solid foundation in equity and justice, the Legislature, exercising a large discretionary power over such anomalous cases, has never failed to provide for the correction of mistakes, or to grant relief by dispensing with those settled rules by which the party had been excluded from the benefit of a patent. (*m*) And, on the other hand, it has always been an established rule, never lost sight of in the office, that whenever there is any doubt as to the validity of the caveator's objections; and it appears, that they may be as well, and as effectually considered in the ordinary and regular course of judicial proceedings, after the claimant's legal title has been perfected; and that the pretensions of the caveator cannot be prejudiced, to permit the patent to be issued. (*n*)

From which it appears, that although it may be the duty of the Chancellor, in controversies of this kind, on the one hand, to intercept patents about to be irregularly issued, to quiet possessions and prevent litigation; (*o*) so, on the other, he has ever held it to

been surveyed, has nothing more to do than, by a collusion with the Surveyor, or indeed, without such collusion, after his certificate shall have been returned to the office, and there minuted to withdraw it again, under pretence of having it examined, of settling with the agent, or for some other purpose; and, for the future, keeping it in his hands in order totally to prevent his Lordship from receiving one shilling for the land, either from the party himself or by sale of it to any other person.

The warrants granted to Doctor Ross being of such a nature as oblige him, over and above the caution money paid by him at the time they were obtained, to pay for any improvements on the land or cultivation, the Lord Proprietary's interest seems, in this case, to have been consulted as much, in every respect, as it would have been had warrants issued under the proclamation. Nor do I conceive warrants under the proclamation could do any thing more besides describing the land, and intimating, that the person for whom the same lands was formerly surveyed had neglected to sue out patents within the two years, according to his Lordship's 11th instruction, quoted in the above statement.

If then Doctor Ross has been regular in his application and proceedings, did pay the caution money to his Lordship on obtaining his warrants, and has done every thing in his power to entitle himself to patents; while, on the contrary, there has been great irregularity and neglect, at least, on the part of Mr. Bladen; and the laying the former under any difficulties would tend to prevent application to the office for the future for lands liable to be taken up under his Lordship's instruction, I am of opinion, with you, that patents should forthwith issue to Doctor Ross for the 2,254 acres by him affected in the manner above stated.—*Land Records, lib. B. C. & G. S. No. 15, fol. 814.*

(*m*) 1801, Reso. No. 2, 3, 4, 5, 6 and 8.—(*n*) *Cunningham v. Browning*, 1 Bland, 320; *The Rail Road v. Hoyer*, 2 Bland, 258.—(*o*) *Land Ho. Assis.* 425.