

between an elder and junior survey. *Steuart v. Mason*, 3 H. & J. 507. See also, *Wilson v. Inloes*, 6 Gill, 122.

Parol evidence is not admissible to prove that land included in a return of the surveyor, never was surveyed. *Hammond v. Norris*, 2 H. & J. 130.

For a case holding that a presumption of a grant defeating a second grant, arises from a certificate of survey and long continued possession, see *Carroll v. Norwood*, 5 H. & J. 155. *Cf.* *Mundell v. Clerklee*, 3 H. & J. 468. See also, *Cockey v. Smith*, 3 H. & J. 20; *Hall v. Gough*, 1 H. & J. 127; *Carroll v. Norwood*, 4 H. & McH. 287; *Lloyd v. Gordon*, 2 H. & McH. 254; *Young v. Hawkins*, 1 H. & McH. 148; *Casey v. Inloes*, 1 Gill, 430.

For requisites of the description in the certificate of survey, see *Wilson v. Inloes*, 6 Gill, 121.

As to equitable circumstances preventing the relation of a grant to the certificate of survey, see *Garretson v. Cole*, 1 H. & J. 370; *Peter v. Mains*, 4 H. & McH. 428. *Cf.* *Ringgold v. Malott*, 1 H. & J. 317; *West v. Hughes*, 1 H. & J. 13; *Lloyd v. Tilghman*, 1 H. & McH. 85; *Kelly v. Greenfield*, 2 H. & McH. 121.

For an ejectment case holding that it was necessary to produce the certificate of survey, as well as the grant, see *Henderson v. Parker*, 3 H. & J. 117.

For cases involving the forgery of the certificate of survey, see *Boreing v. Singery*, 4 H. & McH. 403, and note (b); *Singery v. Attorney General*, 2 H. & J. 487; *Boreing v. Singery*, 2 H. & J. 455.

When certificates of survey were assigned, it was customary to issue grants to the assignees. *Lloyd v. Tilghman*, 1 H. & McH. 85.

Cited but not construed in *Cunningham v. Browning*, 1 Bl. 312 (see notes to section 41).

See notes to sections 39 and 41.

1904, art. 54, sec. 41. 1888, art. 54, sec. 38. 1860, art. 54, sec. 31. 1782, ch. 38, sec. 2.

41. If a certificate of survey shall be returned within the time herein prescribed and shall be found to be correct, and the whole composition or purchase money has been paid, and such certificate has laid six months in the land office and no caveat has been entered thereto, the person having such certificate returned, his assignees, devisees or heirs shall be entitled to a patent thereon; or if the certificate is released by adjudication or by the operation of law from the effect of the caveat, a patent shall issue thereon as if no caveat had been filed.

Nature and effect of a patent.

A patent simply grants the State's interest in land, and is subject to all existing rights. *Linthicum v. Coan*, 64 Md. 452.

What is the legal effect of a patent? *Jay v. Van Bibber*, 94 Md. 690; *Armstrong v. Bittinger*, 47 Md. 108; *Brown v. Shilling*, 9 Md. 80.

By a patent, the state warrants that the grant contains the number of acres specified. How a deficiency is made up. *Hoffman v. Johnson*, 1 Bl. 103. See also, *Tolson v. Lanham*, 2 H. & J. 175.

A patent passes nothing unless the land described is susceptible of location. Description in certificate of survey. *Wilson v. Inloes*, 6 Gill, 121. See also, *Budd v. Brooke*, 3 Gill, 198.

A patent, when granted, relates back to the date of the warrant. The legislature may direct the commissioner to issue a patent, but can not annul a patent already issued. *Smith v. Devecmon*, 30 Md. 481; *Owings v. Norwood*, 2 H. & J. 96; *Chesapeake, etc., Canal Co. v. B. & O. R. R. Co.*, 4 G. & J. 6; *Garretson v. Cole*, 2 H. & McH. 459. *Cf.* *Attorney General v. Snowden*, 1 H. & J. 332; *Kelly v. Greenfield*, 2 H. & McH. 121.

The patentee of land covered by navigable water, takes subject to the public rights of fishery and navigation. *Hammond v. Inloes*, 4 Md. 173; *Baltimore v. McKim*, 3 Bl. 453; *Wilson v. Inloes*, 11 G. & J. 359; *Browne v. Kennedy*, 5 H. & J. 195.