

concerning the issuing of patents; and in all disputes that come before him, he shall have full power to decree thereon according to equity and good conscience and the principles established in courts of equity.

A caveat will not be dismissed because the caveator fails to show an interest in the matter in dispute. When a caveat will be dismissed. Where a warrant is applied for on land already granted, the party holding the former grant should be summoned and heard. *Armstrong v. Bittinger*, 47 Md. 111; *Patterson v. Gelston*, 23 Md. 446 (overruling on the latter point, *Gittings v. Moale*, 21 Md. 135); *Chisholm v. Perry*, 4 Md. Ch. 32.

In the absence of positive law or rules of the land office, general principles of equity control. *Chapman v. Hoskins*, 2 Md. Ch. 486; *Jones v. Badley*, 4 Md. Ch. 167.

When the applicant obtains an equitable interest agreeably to the rules of the land office, he can compel a grant. *Howard v. Moale*, 2 H. & J. 249.

This section referred to in distinguishing between the commissioner's ministerial and judicial duties. *Jay v. Van Bibber*, 94 Md. 693.

Formerly the chancellor was judge of the land office. *The Chancellor's Case*, 1 Bl. 649.

Cited but not construed in *Cunningham v. Browning*, 1 Bl. 312.

See secs. 40 and 44 and notes.

An. Code, sec. 25. 1904, sec. 24. 1888, sec. 22. 1846, ch. 92.

24. In any matter pending in the land office in which the commissioner for the time being may have been counsel or may be interested or related to the parties and on that account incompetent to act, he shall certify the same in writing to the judges of the fifth judicial district, who shall thereupon hear and decide such case or appoint some person to do so, which decision shall have the same effect and be liable to the same incidents as the decision of the commissioner of the land office.¹

An. Code, sec. 26. 1904, sec. 25. 1888, sec. 23. 1781, ch. 20, secs. 4, 8. 1874, ch. 354.

25. Any vacant land, whether cultivated or uncultivated, and any land which has escheated by reason of the last owner in fee simple dying intestate thereof and without heirs may be taken up by any person by complying with the provisions herein contained.

With reference to necessity of owner having died seized of land in *fee simple*, see *Cunningham v. Browning*, 1 Bl. 316, note (g). See also *Kelly v. Greenfield*, 2 H. & McH. 121.

For case involving act of 1781, ch. 20, sec. 8, in connection with the confiscation acts, see *Owings v. Norwood*, 2 H. & J. 103.

Cited but not construed in *Southgate v. Annan*, 31 Md. 117.

See secs. 32 and 40 and notes.

An. Code, sec. 27. 1904, sec. 26. 1888, sec. 24. 1860, ch. 35. 1861, ch. 3. 1894, ch. 191. 1910, ch. 748 (p. 165).

26. Any person may obtain a special warrant by applying to the commissioner of the land office, on paying the caution money for one acre of land, and the sum of five dollars (\$5.00) the cost of the warrant. And a special warrant shall also have the same effect and application as a common warrant heretofore had; and no common warrant shall hereafter be issued. The application for a special warrant shall state in what election district of the county or ward of Baltimore city the alleged vacant land is situate, and a sufficient description of the lands and lines bounding on the alleged vacant land; and before proceeding to the execution of the warrant, the

¹ On secs. 24 to 44 of this article, see art. 91, "Surveyor," secs. 1 to 18.