

such patent, which day shall be at least sixty days from the day of filing the application, and warning all parties interested to appear before said commissioner on the day and hour therein designated to show cause, if any they have, why such patent should not be issued.

An. Code, 1924, sec. 21. 1912, sec. 22. 1904, sec. 21. 1888, sec. 19. 1852, ch. 361, sec. 1.

21. If no person appears to contest the said application on the day so appointed, a patent shall issue to the applicant; but if opposition be made to the issue of such patent, the party making such opposition shall, by a day to be designated by the commissioner of the land office, not exceeding thirty days, file in the land office his objections in writing to the issue of said patent.

An. Code, 1924, sec. 22. 1912, sec. 23. 1904, sec. 22. 1888, sec. 20. 1852, ch. 361, sec. 1.

22. The said commissioner shall fix some day, not less than ten nor more than twenty days after the objections are filed, to hear such application and shall then hear the respective parties, if they appear before him, and if not, he shall proceed to determine *ex parte* the rights of the parties claiming to be interested and shall, within thirty days after such hearing, decide in favor of or reject the application as to him shall seem right and proper, filing his reasons therefor in writing.

An. Code, 1924, sec. 23. 1912, sec. 24. 1904, sec. 23. 1888, sec. 21. 1781, ch. 20, sec. 6. 1789, ch. 35, sec. 4.

23. The said commissioner shall have full power and authority to hear and determine all disputes which may arise concerning the validity of surveys made under warrants or orders issued by him; and also all disputes 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, 1924, sec. 24. 1912, 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

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