

Taking the old practice with the new, I am of opinion that caveats ought in no manner to be renewed, except upon special circumstances, which, of course, are not to be judged of by the register of the office. There is another way however of keeping a certificate under caveat longer than the time intended, that is by a second person's caveating the same certificate on which the caveat of another remains undecided. This is permitted in the office, and there would be a danger in refusing it; for the first might be a sham caveat, which, when it had shut out others, might be suddenly withdrawn, and the certificate, however objectionable be admitted to patent. In regard to cross caveats of which some instances will be found in the adjudications, when a person caveats the certificate of another and has, himself a certificate including the same land, or part of it, it is a plain fact that the land is *in dispute*, and the caveator's certificate is marked by endorsement to that effect, and will not be patented until the caveat is disposed of. But as this is not always perceived in the office, it is best for the caveated party to make an express entry of a cross caveat.

It remains to consider what grounds are sufficient to support a caveat. In regard to the entry, it has already been observed that no particular cause of caveat is, of necessity, to be assigned; and where causes are exhibited, it is presumed they may afterwards be amended. Where a caveator, however, files his cause of caveat, under such attendant circumstances as to make it apparent that he means to advance nothing further, and the said cause is not, even when the fact is admitted, sufficient to prevent a grant, it is supposed that the judge may dismiss the caveat without a formal hearing: but this must depend in a manner upon consent of the party, who might claim a reinstatement of the caveat if his intentions were misunderstood. As to the point of an interest to be shewn by the caveator, on hearing, I shall leave it where the testimony of the late chancellor has placed it, only observing that on a full review of the practice it does not appear to me that there ever was a rule requiring that a caveat should be dismissed because the caveator did not shew an interest in the matter in dispute. I believe in short, that the judge may on caveat, or on an application for patent where there is no caveat, refuse a patent on account of a violation of the rules of the office, or for any valid cause of objection apparent on the certificate; but, where an interest is set up, it appears by decisions that it must have originated prior to the entry of the caveat, or, in the case of a defendant, the means of defence must have existed prior to the entry of the objection. Thus, for example, the validity of a warrant of resurvey,