

20th June, 1827.—BLAND, Chancellor.—This *caveat* standing ready for hearing, and the argument of the caveator's attorney having been heard, and the notes of *Browning's* counsel having been read, the proceedings were thereupon read and considered.

The Chancery Court of England has always been considered as the prototype of that of Maryland; and, that the one has been in fact the exemplar of the other, in almost every respect, might be shewn by a comparison of the various offices, powers, and jurisdictions of each of them. The chancery of Maryland, as well as of England, was originally resorted to as an *Officina Brevium*. In cases of *scire facias*, to repeal letters patent, and in some others, in which the Chancellor sits as a court of common law, his authority is substantially the same in Maryland as in England. As mere courts of equity, there is scarcely any difference between the Court of Chancery of Maryland, and that of England. And the form of proceeding by *caveat*, according to which the Chancellor is now called upon to act, is one which has been derived from the chancery of England; and is regulated by forms and principles similar to those by which the English mode of proceeding by *caveat* is governed. It may be well, therefore, for the better understanding of this, and all similar cases, briefly to review the mode of obtaining a patent grant for land in England, and in this State; and the general doctrine in relation to *caveats*, before the merits of the case, now before the court, are taken up, considered and determined.

The king of England being invested with a limited sovereignty over the realm, all public property belongs to him in that capacity; and all lands are said to be held directly or indirectly of him. The king is also invested with authority to create corporations, to grant franchises, and to dispose of any lands, or public property, at his pleasure. Anciently, a large proportion of the king's revenue arose from lands granted by him; as to which the Chancellor and Treasurer had checks upon one another. The Chancellor made out all patents for lands; for, no real estate was to be parted with by the crown without the great seal; but then the rents of such tenures were to be accounted for before the Treasurer.^(a) The granting of a franchise, or of any estate of inheritance in lands, could only be done by a regular patent under the great seal, specifying particularly the franchise, or estate granted. But the same degree of

(a) Gilb. Exch. 9, 10.