

An. Code, 1924, sec. 39. 1912, sec. 40. 1904, sec. 40. 1888, sec. 37. 1795, ch. 88, sec. 7. 1902, ch. 270.

39. All certificates of survey returned under this article shall be examined by the commissioner of the land office, and if found to be correct shall be by him recorded, and if found to be incorrect he shall return them to the surveyor returning the same, or to some other surveyor, as he may order and direct, ordering such surveyor to correct such certificate; and a corrected certificate shall be returned to the land office within two months from the date of such order; provided, however, that the commissioner may for good cause shown extend the time for the return of the corrected certificates.

Land included in a grant but excluded from certificate of survey cannot be taken up as vacant. A grant cannot be corrected or controlled by certificate of survey. Method of correcting grant for more or less land than that contained in such certificate. *Tolson v. Lanahan*, 2 H. & J. 175. See also *Carroll v. Llewellyn*, 1 H. & McH. 162.

A patent will not be granted under a warrant of re-survey unless the land is contiguous, though survey may be corrected. *Wilson v. Markle*, 4 Md. Ch. 535; *Buckingham v. Dorsey*, 1 Md. Ch. 32; *Baker v. Naylor*, 4 Md. Ch. 543.

If vacant land, not contiguous, is included in certificate of survey, it is not notice of location of warrant until certificate is returned to land office. *Hammond v. Warfield*, 2 H. & J. 151.

Deputy surveyor has no authority to survey lands lying in another county. A caveat will be sustained on that ground, but if patent has been granted without fraud, good title passes. *Hammond v. Ridgely*, 5 H. & J. 245.

When depositions under a warrant of re-survey are evidence in a later suit. To what matters proof may extend. Caution money. Priority between 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 description in certificate of survey, see *Wilson v. Inloes*, 6 Gill, 121.

As to equitable circumstances preventing relation of grant to 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 ejectment case holding that it was necessary to produce 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 *Boering 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 assignees. *Lloyd v. Tilghman*, 1 H. & McH. 85.

Cited but not construed in *Cunningham v. Browning*, 1 Bl. 312 (see notes to sec. 40).

See notes to secs. 38 and 40.

An. Code, 1924, sec. 40. 1912, sec. 41. 1904, sec. 41. 1888, sec. 38. 1872, ch. 38, sec. 2. 1918, ch. 135.

40. 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 lain six months in the land office and no caveat has been entered thereto within said period of six months, the same shall not thereafter be permitted to be entered, and 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 operation of law from the effect of the caveat, 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.