the applicant had, in some way, failed to comply with the conditions of plantation; *Land Ho. Ass.* 327, 453; 1795, ch. 88, s. 11; *Lloyd* v. *Tilghman*, 1 *H. & McH.* 86; *Hammond* v. *Ridgely*, 5 *H. & J.* 263; as where under a warrant of resurvey, two or more distinct tracts, not contiguous by means of vacancy or otherwise, were attempted to be included in one patent, *Land Ho. Ass.* 390, 421, 422, 447; *West* v. *Hughes*, 1 *H. & J.* 11 & 13; or where the special warrant contained more than one location; *Land Ho. Ass.* 444; or because the facts and circumstances set forth in the proceedings were, in some material particular, irregular, or untrue;

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hended in his patent; unless the Chancellor is thoroughly satisfied, that the fact is so, it is the invariable practice to dismiss the caveat, suffer á patent to be issued on the certificate, and leave the parties to contend at law, before a Court and jury. And for this plain reason, that a dismission puts an end to the pretensions on one side, but leaves the other party, viz. the caveator, in a condition so to contend. Besides, the State is interested. If the caveat be allowed, it may be, that the State thereby loses the benefit of granting vacant land.

But independently of the claim or pretensions of a caveator, or caveators, it is clear that, if in any case it appears, that the land comprehended in a survey is not properly grantable, no patent ought to issue for the same. That this position is just, appears from the decree of Chancellor ROGERS, who in the year 1786, vacated a patent, on the ground that the land therein contained was not grantable. For surely, if a patent be repealed, or vacated on that ground, it must be supposed, that a patent would not have issued, if the ground had been known, before the patent was granted.

That the law respecting accretion, alluvion, and islands, in small waters or rivers, is part of the law of Maryland, as well as of the law of England, and indeed as of the law of nature, the Chancellor, on reflection, entertains not a doubt; and in his conception, it is of no consequence, whether the persons, having lands on such waters, acquired their title before, or after the islands, opposite to their lands, were formed. They had, at any rate, a common right to the river; and, of course, either one, or all of them, has a right to the benefit of an island formed in the river. And, even, if they have not an exclusive right to the benefit of such islands, it seems, at least, that all those, having lands in the river, or the inhabitants in general of the State, must have that right. In this State, it may be said, that a man can claim nothing, except what is contained, or described in his patent. But the right of following the water, or having the benefit of accretion, has been admitted; and mighty inconvenience would result if it were not so settled. And the common right of those having land on small waters to the little islands, which are formed after their titles acquired, seems at least as reasonable, as the right of accretion. But the principle of the case decided by Mr. ROGERS applies to the present case. In short, it appears to the Chancellor, that a patent cannot possibly, with propriety, issue to the defendant in this cause; although what person, or persons, or whether any person may be exclusively entitled to the flat, island, or marsh, surveyed by the defendant, may hereafter be a subject of litigation.

Upon the whole, it is adjudged, ordered, and decreed, that the caveat of the said Charles Ridgely against Horatio Johnson's certificate of a tract of land, called Johnson's Meadows, be, and it is hereby declared to be, allowed, and ruled good.