land as in England; insomuch so as to leave little room to doubt, that the law and the forms of proceeding of Maryland, in relation to the making out of grants, and the proceeding by caveat, were

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of the hearing. The defendant, James Coleston, now appears here, in person, and prays the Chancellor to proceed to a decision.

As Mr. Hopper's application for a postponement is principally grounded on the idea, that the Chancellor may direct new evidence to be taken, before he decides, in the same manner, as if he were about to exercise an original jurisdiction, this ground must certainly fail. An appellate jurisdiction has to decide merely whether or not the inferior jurisdiction gave a just decision on the case before it. Were the appellate jurisdiction to admit new proofs, it would decide on a case, different from that which was before the lower tribunal; and therefore, it would not appear, from its decision, whether the first decision was right or wrong.

The Chancellor proceeded to examine the transcript, with a view of being informed of the nature of the case. Mr. Hopper had, in his letter, stated, that indisposition would prevent his attendance on this day. It was the Chancellor's intention, if the case should appear difficult, or if the transcript should be materially defective, to postpone the decision.

It is certain, that the plat, for illustration, ought to have been part of the proceedings, transmitted to this office; but the full perspicuous statement, made by the Judge enables the Chancellor to understand the case as fully without, as with the plat; and there seems to be not the least difficulty in the case, every point therein having long since been settled in this office.

A question indeed might be made, whether or not an Appellate Court can give relief to an appellee; that is to say, whether or not the said Court ought not to confine itself to the question, whether or not the appellant is entitled to relief. But the High Court of Appeals, in the case of Scott against Chapline, gave relief to Scott, who was satisfied, and did not appeal, against Chapline who was dissatisfied, and therefore did appeal. But setting this precedent aside, the Chancellor conceives it his duty to rectify mistakes in whatever way he may be apprised of them; and particularly to have the rules here established to prevail on the Eastern Shore.

The Judge of the Eastern Shore Land Office in effect has said, that Coleston could, under his warrant, survey no land which did not correspond to the description or location of his warrant. But it has been here long since settled, that a special warrant shall be allowed to do every thing, which a common warrant might do. It appears, that a common warrant might have affected any part of the vacancy comprehended in Coleston's certificate, that is to say, that no other warrant affected it; and therefore it is rightly comprehended in Coleston's certificate. The Chancellor is glad of an opportunity of informing the Judge of the Eastern Shore Land Office of an important point, of which the said Judge could not reasonably be supposed to be apprised; and which whether it be right or wrong the present Chancellor did not decide. It was in fact decided under the former Government.

Under a common warrant any uncultivated vacant land, not before surveyed, or located, may be affected. A special warrant of vacant cultivation is intended to affect a particular vacancy described in the warrant. If it accurately describes the vacancy, it effectually binds it against all subsequent warrants or locations. But nothing is better established than this,—that a special warrant of vacant cultivation may abandon its first intention and may be used to affect any lands, which may be affected by a common