five pounds per annum was secured to the Chancellor during the continuance of his commission. The faith of the State was, as he

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coloring may be given to it by a party who has thus ascertained at what point his proofs were weak or insufficient.

It is universally admitted that the consent of parties cannot give to a Court jurisdiction of a case of which it has no cognizance; and yet it seems to have become quite common of late to agree to the passing of a decree *pro forma* merely for the purpose of appealing, and thus in effect transferring the original jurisdiction to the Court of Appeals and sinking the Court of first resort into a mere ministerial agent.

It is obvious then, that proper appellate judicial duty must be much less complicated and laborious than that which is original: because after all the circumstances of the controversy have been brought before the first Court and the points in dispute have been there specially designated, discussed and decided upon, the case must have been considerably reduced in its compass, and the question to be determined in the ultimate tribunal must have been so fully developed that there can be then no very heavy obstacles to remove, nor any great difficulty to encounter in coming to a correct conclusion. Considering these matters, in this point of view, it is perfectly clear, that the Judges of the Court of last resort with less, or certainly with a no greater requisite degree of skill, have nothing like the same amount of judicial duty to perform as the Judges of the Courts of original jurisdiction.

It is evident, that a Court of ultimate resort constituted, like that of England or of New York, of a great number of members, the majority of whom may not be lawyers by profession, would find it utterly impracticable to deal with, or to endure any thing like the distracting complexity of original jurisdiction, or to exercise any thing more than a simple and proper appellate authority. But it has been found, that an appellate tribunal constituted even of a few members, each of great legal ability, may be crushed, or totally obstructed in its course either by allowing every suitor, at his own pleasure, to crowd into it with his appeal, or by casting into it complicated controversies to be there first dealt with as by a Court of original jurisdiction.—(*Tucker's Letter*, 2 *Mun. Rep. intro.* 17; *Debates Virg. Con.* 1829, *page* 760.)

It must have been owing to this comparative view of the nature and amount of the skill and labor which had been in fact, or could only with propriety be required of or assigned to the Judges of the ultimate Court, that the judicial salaries in Maryland have, in this respect, been always graduated; estimating the labor of a law Judge in each of the six judicial districts, into which the State was divided, as being for some time more than equal, and as being for some years past not far short of being equal to double the amount of that of a Judge of the Court of last resort. Delay, vacillation, or obscurity in the proceedings and adjudications of a Court of ultimate resort, to which a suitor may, without restraint, appeal, cannot fail very considerably to retard the administration of justice; to render it extremely expensive, and oppressive to the poor; and very injuriously to disturb its course in every inferior branch of the judicial department. (*Debates N. York Conv.* 1821, *p.* 607.) It was with a view to prevent these evils, that the various statutes of amendment and jeofails have been made; that the forms and ceremonies of judicial proceedings have been adjusted, so as not on the one hand altogether to disappoint the eagerness of a plaintiff for an expeditious termination of his suit, while on the other, an honest defendant might be secured from oppression by allowing him a reasonable