From all which it appears, that the mode of obtaining a grant of public lands, and proceedings by *caveat*, on the common law

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really doubtful, whether, under all circumstances, the appeal should be said to be dismissed, or the decision of the judge be said to be affirmed. The meaning of the Chancellor is, that nothing be gained by the appeal, and that hereafter it be no obstacle to the said Wright's obtaining a patent.

The said act of assembly does not direct, what shall be done in case of an affirmance on an appeal. But the Chancellor conceives, that he may with propriety direct, and accordingly he does hereby direct, that the transcript aforesaid be returned, along with an attested copy of this adjudication, order or decree, to the register of the land office of the Eastern Shore; and that, on the receipt of the said transcript, there shall be the same proceedings in the said office, on the certificate of resurvey of Sowan Wright, which was *caveated* by Evans Willing, as if there had been no appeal as aforesaid.

HOPPER *v.* COLESTON.—*2d March*, 1803.—HANSON, *Chancellor*.—The said William Hopper appeals from the decision of the judge of the land office for the Eastern Shore, on a *caveat* there instituted by him against the appellee, or defendant. The transcript of the proceedings in the said office on the said *caveat*, except the plat there exhibited for illustration, are here filed by the said *appellee;* and it was, at his instance, that this day was appointed for hearing the appeal, by an order, passed on the 1st day of December last. It appears, that a copy of the said order has been duly served on the appellant, from whom the Chancellor lately received a letter, praying a postponement 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 apprized of them; and particularly to have the rules here established to prevail on the Eastern Shore.