therefore dismissed, but without costs; no plats having been returned by the defendant.

ZACHARIAS a COVER } *Land-office, August 8th* 1806.

On the hearing of the caveat, a warrant of resurvey was produced by the caveator, which issued on the 9th of November 1805, which was after the survey on the certificate caveated; and it is alledged that, by allowing the variation, the vacancy taken by Cover's special warrant will be included in the tract of land called Neighbourly Kindness; but this is not sufficient to prevent a patent issuing, after which the effect of that variation may be determined at law—The certificate and plat of the tract called Neighbourly Kindness, resurveyed in 1770, is produced; but there is nothing to shew that the 3¼ acres of vacancy returned on Cover's special warrant is included in that or any elder survey. The caveator alledges that he had 5 acres due on a common warrant; but that cannot affect the present case.

The caveat is therefore dismissed with costs.

G. M'CAUSLAND *vs.* J. RUTLEDGE. } *Caveat in the Land-office, September* 18, 1806.

This case was set down to be heard on the 16th instant, and, in presence of the parties, was continued to the 17th, when it was argued by the counsel for the caveator and the defendant.

The ground of the caveat is that the land surveyed for the defendant includes or runs through a tract of land called Bishop's contrivance, deeded to the caveator, or that a part of the defendant's pretensions are included in that tract.—For the caveator it is also contended, in argument, that the interference with a tract of land before granted is sufficient to prevent the issuing of a patent, without shewing any interest in the caveator in such tract.

In support of the location, as made, on the plat for illustration, of Bishop's contrivance, the caveator has produced a certificate, purporting to be a copy from the books of James Calder, respecting a survey of land in the reserve of Baltimore county in 1771, by the name of Bishop's contrivance, and several depositions, some of which are referred to on the plat for illustration;—and has also produced a deed, executed by the chancellor, in June 1804, to the caveator, for a tract of