because such evidence is only admissible where fraud has been alleged and proven. Here there is no allegation of fraud, neither is any attempted to be proven. on the contrary the agreement of Counsel above referred to distinctly acknowledges that the location of "Cairo" as set forth in the certificate and return of the survey or of Allegany County is correct and proper, and also conceded that "Birmingham Mines" does not affect or include any portion of Cairo" These concessions are abundantly and indisputably upheld by the testimony. The Caveators cannot introduce parol evidence, not even that of the surveyor himself. to show by what means and under what circumstances the signature of the surveyor was affixed to the certificate filed in this cause unless they specially charge fraud and clearly show it. The general rule above cited is too well known to require any citation of authorities to support it. I will therefore pass on to an enumeration of the maryland authorities (with a few casual comments upon each) touching upon the immediate point now under consideration to wit that parol evidence is inadmissible in this case where no fraud exists, either by allegation or proof. to set aside the survey under the warrant and the certificate of the survey or

The first Maryland authority that I have met with, is the case of Spaldings lessee or Rider reported in 1 H & McH page 187. In that case parol evidence was rejected which tended to prove that part of the land included in a patent issued upon a certificate based upon a common Warrant, was cultivated land, because as explained in a note to the case "The fraud was dehors and not apparent therefore the extrinsic matter could not be given in evidence,"

Again in the same book at page 320 the same law is declared and it is there said that "the rule of construction in avoiding the Kings grants is where there is falsehood expressed to the prejudice of the King"

The State now occupying the position, and holding the authority

of the King this rule applies in this case. Here all fraud is denied. and length of possession is insisted upon as giving title.

3 H & McH 322 supports the general rule above stated.

In Hammond et al vs Sheridane reported in 4 H & McH page 420, parol evidence offered to prove that the survey certified to was never made, until after grant issued and that the party for whom the certificate was made was deputy surveyor was declared inadmissible for those purposes.

In 1 H & J 22 & 23 the Court said that "the parol evidence of the surveyor himself together with the written instructions of the defendant was inadmissible which instructions it was allegedged and offered to be proven by the defendant, the surveyor had misconceived. And very properly too was such decision made. because said misconception did not amount to a fraud. How then can this parol evidence be admitted in this case where not even a misconception existed, where not the slightest shadow of fraud is manifest. and where the location of "Cairo" as set forth in the certificate attempted to be set aside, is admitted to be correct and proper.

Again in 1 H & J 349 the Court say that parol evidence is inadmissible to prove that the surveyor did not run out or survey the land included in a certificate returned until after grant issued thereon" Here is an authority directly opposing the admissibility of this parol evidence based upon the same rule quoted as above, because no fraud was alledged, and none appeared to have been perpetrated.

The gentleman opposing may undertake to maintain that such admissibility was denied because grant had issued," That is not the true reason of the ruling of the Court, the words after grant had issued" were used there merely to designate the time the survey was actually made, in contradistinction to the time it was certified to.