

land; and was always, from a very early period of the Provincial government, essentially the same as at present. *Land Ho. Ass.* 73, 83. On a caveat being entered, both parties may be considered as actors; for, if called for, by either party, an order may be passed appointing a day for hearing; but no caveat can be dismissed without hearing, or giving the parties an opportunity of being heard. *Garretson v. Cole*, 1 *H. & J.* 374; April, 1782, ch. 38, s. 8. After a party has thus obtained an order appointing a day for hearing, subpœna is issued from the Chancery office under the great seal, as formerly, to summon the opposite party to appear before the Chancellor to maintain, or to answer the caveat. And subpœnas may, in like manner, be issued to summon witnesses to testify. *Land Ho. Ass.* 331, 488; April, 1782, ch. 38, s. 11. If required, the parties may, by the same or a separate order, obtain authority to take the depositions of witnesses before any justice of the peace on giving notice as usual, and also, a direction to the surveyor of the county, or some other impartial person to survey the lands, and lay down the conflicting pretensions of the parties; and the surveyor may summon witnesses to give evidence on the survey. *Land Ho. Ass.* 426, 488; 1789, ch. 35, s. 6. Upon the return of all which, on the day appointed, the arguments of the parties are received by themselves, or their attorneys either orally or in writing; unless before, or on that day, further time be allowed for the hearing, of which the party obtaining the order must give his antagonist notice. *Land Ho. Ass.* 489.

The applicant for the patent must make out his case by shewing himself entitled to a patent for the tract of land he has caused to be designated in his warrant, his entry on the surveyor's book, or by his certificate; and thus, in general, holding the affirmative, he opens and concludes the argument. *Land Ho. Ass.* 453. After which the case is \*decided by the Chancellor according to right, to reason, and to good conscience; or in other words, **320** according to the rules of the land office, and the whole law properly applicable to the case: *Land Ho. Ass.* 316, 373, 374, 400, 446, 452, 462; November, 1781, ch. 20, s. 6; or he may decree thereon according to equity and good conscience, and agreeably to the principles established in the High Court of Chancery, as if the matter were brought before him by a bill in Chancery. 1789, ch. 35, s. 4; *Land Ho. Ass.* 384; *Hammond v. Warfield*, 2 *H. & J.* 151. If the certificate be incorrect the Chancellor may, at the instance of the party, order the survey to be corrected in such manner as he shall direct. *Land Ho. Ass.* 403, 420, 450; *West v. Hughes*, 1 *H. & J.* 9. In some cases, if the certificate be vacated, he may order other warrant to be issued to the party to the amount of the vacated certificate on which the composition had been paid; *Land Ho. Ass.* 473, and, as in Chancery, he may award costs and enforce the payment of them to the prevailing party. 1797, ch. 114, s. 8.