

stated in the former book, and, indeed, shewn by the forms of commissions, that the judges were to decide all questions coming before them *according to right reason and good conscience*, having regard, at the same time, to the instructions of the proprietary, which, in matters regarding the land office, were considered at least by his officers, equivalent to laws.] The late chancellor, Mr. Hanson, a number of whose decrees will presently be exhibited, seems however, not to have been aware that the state legislature, in directing that trials in the land office should be conducted on chancery principles, adopted no new rule. It is true that this direction was not expressly given until the year 1789; but it is seen that questions were determined under the former government on principles of general equity, though subjected, in their application, to a conformity with positive ordinances. In like manner, the principles of equity which now govern those decisions cannot be so applied as to overbear positive laws, and it is only the general and acknowledged principles of chancery proceedings, and not the accidental powers of the chancellor, which are permitted to be applied in contests in the land office. The meaning of this distinction is that no special authorities given to the chancellor, *as such*, by acts of assembly, enlarge his power, or alter his rules of proceeding, as judge of the land office. The matter rests then substantially upon its ancient footing. The equitable right, or incipient title, acquired under warrants and certificates of survey, which are the subjects of contest in the land office, is tried and determined on principles of equity, subject, as I presume they are also in *courts* of equitable jurisdiction, to the controul of the law, and it could, I believe, be determined on no other.

Having said thus much relative to the general principle of decision in the land office, which, on account of the kind of judicial power therein exercised, has been sometimes deemed, as has been before hinted, to partake of the nature of a court of record, I shall proceed to notice the provisions of our acts of assembly on that subject. The chancellor was, *in effect*, created judge of the land office by the act of 1781, ch. 20, which provided that *if any dispute should arise concerning the validity of surveys, or the grant of lands*, the same should be heard and determined by the CHANCELLOR, *as to all warrants or surveys theretofore granted or made, agreeable to the former rules of the land office*; and, *as to all warrants and surveys thereafter to be issued or executed, according to such rules and orders as should be established by the governor and council*, who, by the same act, were empowered to *make and establish rules and orders* for the government of the office, by instructions to the treasurers in regard to the issuing of titlings for warrants,