

endeavoured to postpone the determination thereof longer than was necessary to obtain a full hearing of the real merits of the case. This regulation still obtains, for it is not expressly superceded by the other, which however appears sufficient without the additional testimony of the caveated party to prevent the collusion that was apprehended in these cases.

CHAPTER III.

CONCERNING THE POWER OF THE GOVERNOR AND COUNCIL TO INSTRUCT THE TREASURERS, EXAMINERS, REGISTERS AND SURVEYORS, AND THE GENERAL DUTIES OF THOSE OFFICERS.

AS the practice of the land office was understood to rest in a great measure upon traditionary rules and usages, the legislature in re-establishing it, could not frame or adopt express regulations suited to all the cases that might arise: they therefore directed many things to be done without prescribing the exact manner of performing them: they spoke, for example, of different kinds of warrants, without defining their respective forms or properties, relying on the sufficiency of the descriptive appellations given to them to point out to the proper officers what was intended, and, in many other cases the meaning of the laws could be ascertained only by reference to the customary language and proceedings of the office. Nevertheless, as traditionary laws or customs, interpreted and applied without any check by ministerial officers, did not promise every thing that was to be desired in a business of such importance as that of the land office, it was thought proper to lodge a power somewhere of remedying the uncertainty or the injudiciousness of those customary laws, by ordaining positive regulations where they should appear to be wanting; and in imitation of the former system, this authority was given to the governor and council, as has been before mentioned, by the 6th section of the act of 1781, opening the land office, by which they were empowered to "make and establish rules and orders" for the direction of the treasurers, the examiner general (there being then but one) the registers, and the surveyors. In regard to the treasurers the business which these instructions were to regulate was specified; being that of issuing their titlings or orders for war-