

“ of the record wherein the warrant upon which such certificate was made hath been recorded.”

It will be recollected that the aforesaid act provided that such persons as were in other respects entitled under the warrants before mentioned should obtain patents if their warrants had not been exceeded more than one fourth, and that by a supplementary act of 1785, ch. 67, a conditional provision was made for those cases in which the warrants had been exceeded more than one fourth. By this the chancellor was authorised to determine, by reference at once to *equity and justice* and to *the former practice of the land office*, those cases in which the warrants had or had not been improperly exceeded, and to order patents, or declare the certificates void, accordingly. The provision has been recited in a former chapter; the practice to which it directed the chancellor's enquiry was that of the examiner in passing certificates containing more land than was expressed in the warrants, and that of the judges of the office in issuing grants on those certificates. It is not material in this place to enquire whether the chancellor ever discovered and applied the former practice in this particular. The matter is noticed only to illustrate the intention which I attribute to the legislature relative to the principle on which questions in the land office should be decided, that is by the law and usage of the office, aided, where necessary, by the general rules of equity.

The case in which the chancellor is authorised to vacate a patent as judge of the land office is that of a county surveyor, or his deputy, taking up land, while he acts as such, contrary to the circumstances in which he is expressly allowed so to do, which circumstances have been heretofore stated: the act of 1789, ch. 35, provides that where a patent shall have issued to any person acting under a secret trust for any such surveyor or deputy, it shall be liable to be vacated, upon a petition made within two years from the date thereof to the chancellor, as judge of the land office, and that there shall be the same proceedings on such petition as upon caveats to certificates. The legislature is undoubtedly competent to ordain that a patent shall be vacated in any manner they think proper, and this case was supposed to call for a prompt remedy, but it does not enlarge the general power in respect to the vacation of patents.

The 12th and 13th sections of the act of 1781, ch. 20, which have been inserted under the head of general regulations, need not be here repeated, but they deserve particular attention in considering the powers of the judges of the land office. It will be seen by the decrees presently to be exhibited that, although the chancellor was by these sections empower