

and to the examiner, registers, and surveyers, relative to every part of their duties.

The former rules of the land office were, then, expressly made applicable to matters taking their commencement under the proprietary government, and prior to the passing of this act,—in exclusion of any new rules which might be adopted for the future government of the office ; but, there arises, here, a question whether those old rules were to continue to be applied, also, to new business, until they should be superceded by other regulations. This question is raised by the chancellor in the case of *Wilcoxon vs. Edmundson*: He admits that no new rule, applicable to the point in issue, has been prescribed by the governor and council, and then proposes a query whether the former rule of the office or the “dictate of equity,” as sanctioned by the act of 1789, is to govern ; but he does not determine the question thus stated, because the result, he observes, must be the same in either way. The question however is not difficult. The law of the land office necessarily consists, in part, of usage or custom : An usage capable of a precise application becomes erected into a rule : those which regard matters possessing too many shades of difference to be comprehended under a single description continue to bear the name of usages, and the points to which they are applied must be determined by precedent, or by analogy. The rule of equity was not intended to supplant the known rules of the office ; for, the chancellor, who applies this in his decisions, was not authorised to prescribe new rules, that power being left with the executive, and consequently he cannot abrogate the old ones. This last position, I think, is undeniable, and the conclusion from it is that, so far as the governor and council have not ordained new rules, the former ones are in force. In short there is, notwithstanding that the contrary has sometimes been advanced, a LAW of the land office, composed first of the acts of assembly ; which, so far as they go, nothing can controul ; then, of known rules of office, either expressly prescribed or confirmed, or tacitly sanctioned, by the governor and council ; and lastly, of usages not reducible, or at least not reduced, to the form of definite rules, which are also sanctioned in a tacit manner by the governor and council, in their not having exercised the power which they possess of superceding, by express regulations, both rules and usages,—in a word, every thing but the law itself : and, to this law of the land office the principle of equity is applied, in the decision of contests, in the same manner, and no other, as the same principle is applied in the chancery court to the law of the land. I proceed to notice the further provisions of the acts of assembly that the reader may judge for himself ; and, in the first place, that which regards