

*other person* ; but I know of no rule or practice which directs that in every case whatever an equitable interest in an elder grant shall be a ground for a warrant of resurvey.—See the case of Schofield, in point, as to a certificate of resurvey on an unpatented certificate. If there are other cases in which an equitable interest has been deemed sufficient, they can be shewn, and the court will judge of them—I am reminded of the case of a mortgagor taking out a warrant of resurvey : It may not be proper for me to attempt to inform the court, by making distinctions, but I trust I may be excused for saying that it is a rule in the court of chancery to consider either the mortgagor or the mortgagee as the legal tenant, just as convenience requires ; that is to say, if it be convenient for the mortgagor to be so considered, and not injurious to the mortgagee, the court will consider the mortgagor as the legal tenant notwithstanding his conveyance.—It is well known that a positive law of 1789 directs the chancellor in the land office to decide on the established rules of chancery.

*7th Question.* Whether or not do you know any instance under the proprietary government where a person taking out a warrant of resurvey on a tract of land and returning a certificate including vacancy, and compounding for the said vacancy at a time when no other person had by any act obtained an interest therein, being, by refusal of a grant for it deprived of the vacancy so taken up and paid for because he had not a legal title to the original ? if so, in what case, and between whom ?

*Answer.* In my answer I might say this question is too indefinite, for this simple reason, that it involves a variety of points. 1st Whether any other person had obtained an interest might be difficult for the chancellor to decide, supposing him even referred to a particular case in which the question should be made. Upon the whole, I can only say I know of no such case as is stated in this question : I do not recollect a case where a man taking out a warrant of resurvey, returning thereon a certificate, and compounding on it, has been deprived of the vacancy because he had not a legal title to the original : but by saying this I do not mean that there can be no such case, or that there ought to be no such case. I only say I do not remember such a case decided by myself : as to former cases I must depend on the register's information, or records or papers which I peruse over occasionally.

*8th Question.* Whether or not do you know of any instance where patents were refused by the judge of the land office under the proprietary government, though the certificates were not caveated, except where the certificates were supposed to interfere with the proprietor's manors or reserves ? if so, in what cases, and for what reasons ?