

have made and adopted? if yea, from whom, and how did you derive your information?

*Answer.* I cannot positively say whether or not there is any usage or practice in the land office which has not been committed to writing, or by me made or adopted: But, I think, from the nature of the case, that there must be usages, and practices never reduced to writing, unless found in decisions given at large in writing: in fact, I have seen records or writings of very few usages and practices; but I cannot think otherwise than that several usages and practices have been established in the land office, arising merely from decisions of the judges, without any proclamation, instruction, or rule laid down by the proprietary. For instance, the warrant of resurvey is either expressly directed or recognized by the proprietary's instructions or proclamation—the authority given by it is to resurvey *an elder* tract or tracts, with liberty to throw out land comprehended in elder tracts, and to add contiguous vacancy:—No instruction, or proclamation, directed that the owner of the warrant should, from the date of the warrant, have for two years an exclusive right to take all vacancy contiguous to his elder tract; but so, I have every reason to believe, it was early determined by the judges: and ever since, it has been held, or at least it has long since been held that no man has a right under any kind of warrant to survey land contiguous to a patented tract of land on which a warrant of resurvey has been before taken out so long as the warrant remains in force. Whenever a new case, or a case new to me, arose before me, and I was apprized of no written law, usage, or practice, on the subject, it was natural for me to apply, and I did apply, to the register, who had many years before been employed in the office. Sometimes he recollected cases under the old government, which he quoted, and produced: sometimes he recollected no case, and, then I was obliged to determine as well as I could from analogy. In fact, I may say that I *have* derived information of usages and practices, prevailing in the land office, not reduced to writing: that I have derived information from no person except the register; but that I consider several usages and practices in the land office; without any writing, to be as well established as they could have been under a positive law.

*2nd Question.* Is there any rule or practice in the land office that permits a special warrant to run through an elder survey and to take up vacant land, that does not equally apply to a warrant of resurvey? And does the same construction apply to both when they run through elder tracts and take up vacant land over and beyond such elder tract, and not connected with the first part?