

his lands, that the purchaser should, after the survey, pay the whole purchase money and take out a patent within two years from the date of the warrant; or, on his failing to do so, he should forfeit the imperfect title he had so acquired, if any one should thereafter discover the fact, and take out a warrant, and obtain a patent thereon for the same land; who as a reward for his discovery was allowed a warrant on the payment, at the time, of one-tenth of the amount of the composition money then due, and the remaining nine-tenths on the return or the certificate: *Land Ho. Ass.* 319, 462, 469; 1795, ch. 88, s. 10. This may be regarded as a kind of escheat; and the power of the Proprietary, in such cases, to make a new disposition of the land as being thus, according to the terms of the contract, restored to him by operation of law without any inquest of office whatever; for the contract between the Proprietary and the then immediate purchaser and holder, being upon record, was considered as equivalent to an inquest of office. *Land Ho. Ass.* 186; *Gilb. Exch.* 89; 1 *Chal. Opin. Em. Law*, 150.

But where, after the whole legal estate in fee simple had passed out of the Proprietary, the individual owner had, by being convicted of a crime, forfeited his estate; or where the lands which had been so granted had, by the death of the owner intestate and without heirs, escheated, it seems to have been deemed necessary, during the earlier periods of the Proprietary government, here, as in England, to have the fact of such title and of the nature and extent of the lands ascertained by an inquest of office before the same lands could be again disposed of by the Proprietary. The first settlers being, for the most part, poor adventurers, it often happened, that they died intestate without leaving any known heirs; and, therefore it was, that, for many years after the settlement of the country, cases of escheat for want of heirs were so very frequent. *Land Ho. Ass.* 154, 245. The inquests in all such cases, although there was at one time an escheator, *Land Ho. Ass.* 224; were ordered to be taken here, as * in England, by a writ of mandamus, or a *diem clausit extremum*, directed to the sheriff of the county in which the lands lay, upon the return of which, as a reward to the discoverer, at whose instance the mandamus had been issued, he was allowed to have the pre-emption of the land so escheated at two-thirds of its value, or that it should be sold, and one-third of the proceeds of sale paid to him. *Land Ho. Ass.* 102, 114, 174, 194, 261, 283, 319; *Lord Proprietary v. Jennings*, 1 *H. & McH.* 119; *Kilt. Rep.*; 14 *Ed.* 3, c. 8, & 8 *H.* 6, c. 16; *Land Records*, lib. C. B. 13, &c.; *Chan. Pro.* lib. C. D. 78; lib. P. L. fol. 90; lib. J. R. fol. 242, &c.

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But, in that interval of time, between the years 1692 and 1715, when the government of the Province was taken into the hands of the king, although the Proprietary's right of soil was admitted, it