

one of the contracting parties ; because of the purchasers failing to comply with the conditions of plantation on their part ; or the lands which had been so disposed of by the proprietary were returned to him by forfeiture or escheat.

By several proclamations of the proprietary, the first of which was published in November 1725, it was made an express condition of all future contracts between himself and the purchasers of 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 of the certificate. (*p*) 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. (*q*)

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. (*r*) The inquests in all such cases, although there was at one time an escheator, (*s*) were ordered to be taken here, as

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(*p*) Land Ho. Ass. 319, 462, 469 ; 1795, ch. 88, s. 10.—(*q*) Land Ho. Ass. 196 ; *Gill. Exch.* 89 ; 1 *Chal. Opin. Em. Law*, 150.—(*r*) Land Ho. Ass. 154, 245.—(*s*) Land Ho. Ass. 224.