

the survey by publication in some newspaper of the county, or city of Baltimore, in which the said lands may be situated, of at least two consecutive week insertions; said notice shall contain a description of the alleged land as stated in the said warrant, and if the surveyor shall for any reason fail to make the survey on the day named in the publication or notice he may proceed to do so at any time within thirty days after the expiration of the said notice, by posting three written notices on the land proposed to be located and surveyed by him, at least five days before proceeding to make the said survey; and in the certificate of survey, the surveyor shall certify to the Land Office to the publication or giving of notice as aforesaid.

An. Code, 1924, sec. 31. 1912, sec. 32. 1904, sec. 32. 1888, sec. 30. 1854, ch. 322, sec. 3. 1894, ch. 191.

31. The surveyor shall return to the land office within six months from the date of such warrant a certificate of survey and plot, together with the depositions relating to the possession and occupancy of the lands resurveyed and proof of the notice by publication or otherwise given to the owners or occupiers of the adjacent lands, and upon return of such certificate and proofs, if no caveat or objection be made within six months after such return, the commissioner of the land office shall issue a patent thereon to the person or his heirs, or assigns who obtained such warrant of resurvey.

Certificate accompanied by depositions taken as required by this section; patent issued—see notes to sec. 48. *Tyler v. Cedar Island Club*, 143 Md. 216.

Deputy surveyor has no authority to survey lands lying in another county. Caveat will be sustained on that ground, but if patent has been granted without fraud a good title passes. *Hammond v. Ridgely*, 5 H. & J. 245.

A warrant must be legally pursued within the time prescribed. *Proprietary v. Dorrel*, 1 H. & McH. 2.

As to plats returned by the surveyor being evidence, see *Chisholm v. Perry*, 4 Md. Ch. 32.

See notes to secs. 29, 39 and 40.

An. Code, 1924, sec. 32. 1912, sec. 33. 1904, sec. 33. 1888, sec. 31. 1781, ch. 20, sec. 8.

32. Any person may obtain an escheat warrant by application to the commissioner of the land office, unless some other person has obtained or is entitled to a warrant affecting the land.

If another person has already obtained or is entitled to a warrant, no title passes to party subsequently applying unless first party fails to comply with rules of land office. When such a warrant is issued, it amounts to notice that no other warrant will be issued within one year. The legislature may direct commissioner to issue a patent, but cannot annul a patent already issued. *Smith v. Devecmon*, 30 Md. 481; *Steyer v. Hoyer*, 12 G. & J. 202. See also *Chapman v. Hoskins*, 2 Md. Ch. 486; *Hoyer v. Johnston*, 2 Gill, 316; *Hammond v. Norris*, 2 H. & J. 130; *Hath v. Polk*, 1 H. & McH. 363; *Beall v. Beall*, 1 H. & J. 348; *Jones v. Badley*, 4 Md. Ch. 167.

The patent, when granted, relates back to date of warrant. *Smith v. Devecmon*, 30 Md. 481; *Owings v. Norwood*, 2 H. & J. 96; *Chesapeake Canal Co. v. B. & O. R. R. Co.*, 4 G. & J. 6; *Garretson v. Cole*, 2 H. & McH. 459; *Hammond v. Warfield*, 2 H. & J. 151; *Steyer v. Hoyer*, 12 G. & J. 202; *Howard v. Moale*, 2 H. & J. 249; *Howard v. Cromwell*, 1 H. & J. 118; *Howard v. Cromwell*, 4 H. & McH. 329; *Jones v. Badley*, 4 Md. Ch. 167. *Cf. Attorney General v. Snowden*, 1 H. & J. 332; *Kelly v. Greenfield*, 2 H. & McH. 121.

Lands held in trust, are liable to escheat. *Matthews v. Ward*, 10 G. & J. 443.

Land liable to confiscation, may be granted under an escheat warrant. *Owings v. Norwood*, 2 H. & J. 96.

While escheat lands cannot ordinarily be taken under a common warrant, if an honest mistake has been made, the grant will be made. *Jones v. Badley*, 4 Md. Ch. 167. *Cf. Smith v. Baker*, 4 Md. Ch. 30; *Partridge v. Colegate*, 3 H. & McH. 339.

Where there is an escheat, a subsequent grant by the proprietary without inquisition, etc., is valid. *Greaves v. Dempsy*, 1 H. & McH. 65.

Nature of escheat warrant; what passes to grantee. *Casey v. Inloes*, 1 Gill, 433; *Howard v. Moale*, 2 H. & J. 249; *Hall v. Gittings*, 2 H. & J. 112.