

the condition that the surplus, if any, should be paid or accounted for ; but, although the proclamation of 1756, immediately to be inserted, will shew that the proprietary had in no manner given up his claim to surplus land, I find that the petitioners for warrants of resurvey seldom say any thing about surplus after the year 1747, and I believe that, notwithstanding the final effort just referred to, the proprietary's pretensions in this particular became after the failure of the surplus warrants in 1738, by degrees, less and less respected, until they were brought to a state, which enabled the present government, upon succeeding to the proprietary rights, without any violent change, to give a *quietus* upon the article of surplus land in grants. As to the justice of the proprietary's claim in this respect, I shall let it rest upon the grounds set forth in his proclamations, only remarking that the argument against it, drawn from the words "*more or less*" in patents, which, taken literally, would seem to preclude any future accountability for excess, as well as any allowance for deficiency, had been early, and repeatedly declared by the first and second proprietaries to intend according to the rule they thought proper to adopt on that subject, *ten in the hundred over or under, and no more*. Why this established interpretation of the words in question, was never cited in the proclamations respecting surplus, I cannot judge, as it can scarcely be supposed that the fourth proprietary was not apprized of the public acts and regulations of his predecessors. There does however appear to have been a wonderful ignorance or uncertainty both in England and in the province concerning the conditions of plantation, and other documents and authorities relative to land affairs.—Frequent instances and proofs of this appear in the council records, including those of the upper house of assembly, from the year 1692 downwards. Whether from this or other causes there seems to have been a good deal of (a) feeble-

(a) It is not to be inferred from this that the governors and principal officers of the three last proprietaries were deficient in energy or ability, for there are many proofs to the contrary, nor is it to be supposed that the proprietaries themselves did not understand their affairs and their interests. The question of surplus land was extremely important to them, but the repetition of proclamations of the same tenor, though it might frighten a few individuals into compliance, served to demonstrate to the more discerning, that the coercive means of the government were not equal to its objects, and, so, to fortify their resistance to the claim. It appears therefore that the measures of this latter period in respect to surplus were ill taken, and the only reason that can be assigned for it is that the proprietaries above mentioned all came to the succession in their non-age, and that their respective guardians either through the want of a clear knowledge of the past transactions and the actual state of the province, or as not possessing in the idea of the people a power much to be respected, did not keep up a strong and uninterrupted hold upon surplus land, but left the claim to the support of these occasional proclama-