

Hall. This surplus she has disposed of by her assignment to Mr. Darnall, and such surplus, therefore, must be paid to him.

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GEORGE H. STEWART, for Petitioner.  
A. RANDALL, for Darnall.

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RICHARD GOODWIN AND OTHERS } IN THE LAND OFFICE,  
vs. } JUNE, 1848.  
WILLIAM CATON. }

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[RECITAL IN ESCHEAT WARRANT.]

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THE recitals in an escheat warrant of the death of a party without heirs, are not *prima facie* evidence that the land is liable to escheat so as to throw the burden of proving the contrary upon the party who resists the patent. Where a certificate has been regularly returned on an escheat warrant, and has remained long enough in the land office to justify the issuing of a grant, a reasonable *prima facie* presumption arises that the land is escheatable. An escheat grant is *prima facie* evidence that the land granted is liable to escheat.

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[William Caton obtained a special warrant of escheat from the land office, on the 22d of May, 1844, to resurvey and affect a tract of land in Anne Arundel county, called "Eleanor Meek's Land," "for want of heirs of a certain John Warmsley and John Goodwin, who died seized thereof, intestate and without heirs, as it is apprehended," to correct and amend the errors in the original survey, and to add contiguous vacancies, &c. The certificate of survey was executed in September, 1844, and returned the 10th of July, 1845, and on the same day was caveated by Richard Goodwin and others. Testimony was then ordered to be taken, the purport of which sufficiently appears from the following opinion of the Chancellor, as Judge of the Land Office, delivered on the 26th of June, 1848.]