

valuation of the land. That the legislature, in warranting the title of purchasers on those terms, meant to secure them in the possession of the lands, and not by any means, to restore the lands to the British claimant, and refund the money paid by those purchasers, is plain from the substance of the warranty ; for in the case of a man's having paid the two thirds, and finding afterwards that there existed a British heir, by means of which his title would not be good without paying two thirds again, it would be absurd to suppose that on making this second payment he was only to have his former one restored, and to have no land ; and equally so if on paying this second sum he was to have the whole refunded. The state therefore meant on compliance in either way, with the terms beforementioned, to perfect the title of the purchasers by escheat, by releasing its own right to the lands ; for if the escheat warrant was not good, and the British heir could not hold the land, the right must have been in the state by confiscation, or by escheat, which last title so far as it was withheld provisionally from the takers of warrants, was reserved to the state itself, or the whole I must suppose, from the structure of these provisions, that there was some difficulty felt, and some inconvenience apprehended, in escheating lands of which the heirs had so newly acquired the charter of aliens, and that as an indemnification for such inconvenience, the state resolved, if it did pass and guarantee a title, to have (contrary to the rule in other escheats) at least the full value of the land, and even a third more unless the parties, by way of precaution, paid the full value at once. This last provision seems at the first view inequitable, and indeed absurd, but may be thus explained. A merit has generally been attached to discoveries of escheat land, because it is so much absolutely gained which would have been lost to the state, if some person had not ascertained, and given information, that the land was escheatable : this is sometimes attended with trouble, and no person, in a general way, would take that trouble, and incur the ill will of those who are interested against the escheat, without some prospect of advantage. On this ground one third of the value of the property was given, for many years, by the provincial government, and is now given by the state, to discoverers, being abated in the purchase of the land : but, in the cases of which we have just been speaking, no such merit was perhaps admitted, as the discoverers would not have ascertained that there was no heir in existence capable under the common law of inheriting, but only that there was no heir in the United States. However, not to distinguish between one discoverer and another at the time of taking a warrant, for they all, in fact, suggest the same thing, to wit, that the owner of the land died seized in fee, intestate, and without heirs,