

the matter stands thus : land escheatable to the state without becoming so, in any degree, by means of the declaration of independence, or the confiscation act, the assembly was willing should be purchased, or taken, for two thirds of the estimated value : for lands not escheatable without the aid of personal disabilities, attaching through those acts upon individuals who would otherwise have been entitled to inherit, they thought proper on the contrary, to exact the full value : any person, conceiving land to be escheatable, might take a warrant on the usual suggestion. I will say nothing of a warrant taken under the first of the before recited provisions alone, where a British heir was afterwards discovered ; nor of warrants taken between the declaration of independence and the act of 1780, as I have constantly avoided raising questions about the validity of past proceedings ; but, under the joint provisions of 1780 and 1781, any person, on taking a warrant, might make his own calculation of the probability of its ever appearing that there was an heir, barred only being a British subject. If he was satisfied that there was none, he, of course, paid but two thirds of the valuation of the lands and improvements on the return of his certificate : If he knew, or strongly believed, that there was an heir so barred, he would be apt to pay the full value at once, in order that he might not, upon the proof of such an heir, have to pay an additional two thirds, making altogether one third more than the whole value : if it was a matter of doubt only, he made his election as in an affair of chance : if he was disposed to risk, he paid two thirds, and took his patent ; the consequence of which was that, if the existence of an heir, barred as aforesaid, should never be made appear, he obtained the land for one third less, and if the contrary happened, he paid one third more, than the real value : and this is what I mean by the states exacting the whole value for escheats of this kind, as, an even chance for more or less was calculated to result, taking one case with another, in the full value. As to those who in a doubtful case preferred security to hazard, they would pay the full value at once. This is my solution of these two provisions, and so far as concerns the existence of British or alien heirs, where there are none in the United States, I do not perceive but that they are still in operation ; but in respect to the limitation to heirs of the half blood in the second degree those provisions are virtually abrogated by our act of descents, passed at the session of 1786 (ch. 45) which has narrowed the law of escheat in proportion as it has widened that of heritable descent, and to that act the reader may, in a negative sense, be referred for the actual law of escheat, which is now stripped of its feudal doctrines and appendages, and only comes in, of necessity, when no heir is found, or at least makes a claim, within the