

their creditors, and to pay into the public treasury the balance by him collected. These special Acts were, soon after the peace of 1783 repealed. 1784, ch. 74.

But the general law of 1780, as well as these special Acts of 1782, without at all affecting any remedy which Hepburn had against the Mollisons' personalty, or any other portions of their property, did in the most explicit terms preserve, and even improve all his remedies against their debts which were the subject of those enactments. For, it is expressly declared by the general law, that all sums of money so paid into the treasury should be 'liable to the attachment of creditors;' and it is positively provided by the special Acts, that nothing therein contained should affect the creditor's right to proceed by attachment. Hepburn, as a creditor of the Mollisons, could have reached their debts, for the purpose of obtaining satisfaction of his own claim, in no other mode than by an attachment, making their debtors garnishees; and here it is distinctly declared, that the State may, in effect, be made a garnishee under certain circumstances, in place of the debtors. So far then the direction of the remedy was changed; but it was in fact thereby much improved; because, it was more easy to ascertain whether the State held any thing, and how much; than any individual who might be summoned as garnishee. *Ware v. Hylton*, 3 *Dall.* 268.

It was declared, that no book, papers, or evidences of debts due to British subjects, such as the Mollisons then were, should be *taken out of the country; but, in the absence of a resident citizen agent should be deposited with the treasurer of the State. October, 1780, ch. 45, s. 10. And it was further provided, that the factors of British creditors should not collect and remit debts due to them until they had lodged with the auditor a list of all balances due to such creditors, and given bond to satisfy the citizen creditors of those British creditors. 1786, ch. 49. Thus preserving, for the benefit of citizen creditors, the vouchers, and the funds within their reach so as to enable them to levy their attachments with more certainty and effect. 123

From these various views of the subject it clearly appears, that all Hepburn's remedies for the recovery of the debt he alleges to be due to him from the Mollisons were preserved in the most effectual form by the Confiscation Acts. And, that, supposing those Acts out of the question, there was nothing in the war; or in the circumstances or situation of the Mollisons, that could, in the slightest degree, affect his remedies, and therefore, there is nothing under which his claim can take shelter from the presumption against it, unless it may be found in the last position assumed by him; which is, that there were, in fact, no debts due to the Mollisons which he could have attached, or if there were, that he was wholly ignorant of there being any such debts; and also of the fact of any pro-