

the recovery of their claims. I am aware, that, from the language used in such cases, the relief appears to have been granted as a matter of grace; but it was a favor so imperiously dictated by the public opinion of the age, and the irresistible justice of the claims of creditors, that what thus appears to have been glossed over as a courtesy was, in truth, well understood, long before our Revolution, to have ripened into law and right; although no compulsion, under such circumstances, could have been used against the Province any more than against the State now.

It is obvious, therefore, that if the property of the Mollisons had been taken into the treasury, according to the law as in force and practice when the debt became due, and before the passage of the Confiscation Acts, Hepburn would have had a well established and effectual remedy for the recovery of his claim; a remedy of which he would have been bound to take notice, and one substantially similar to, and altogether as effectual as that given him against the administrator of his deceased debtor; because in such case the State would have taken upon itself to stand as the administrator for the benefit of creditors of the property of the debtor whose estate it held. But it having been declared, that there ought to be no forfeiture, except only on attainder of murder or treason; (d) and provided by law, that no conviction should work a corruption of blood or forfeiture of estate. 1809, ch. 138, s. 10. The whole of this learning in relation to confiscation may be regarded as now; and, it is to be hoped, forever entirely obsolete.

The first of our Revolutionary Confiscation Acts, as appears by the marginal notes to most of the Acts, of the same session, was **115** * not passed until the second day of February, 1781, although it is referred to as October, 1780, ch. 45. The enactments upon this subject are numerous, running through a series of several years, and embracing a great variety of matter. But in regard to this case, they need only to be considered so far as they have a bearing upon the means which, but for them, Hepburn would have had, or which they gave him of recovering his claim due from the Mollisons. That they changed his remedies, in some respects, is clear; but did they not give him others as effectual as those which they virtually destroyed? And did they place in obscurity, or remove beyond his reach, any part of the estate of his debtors against which he might before have had recourse? These are the only questions.

It is admitted on all hands, that the Mollisons, who were then living, were not brought within the scope of those laws, as trai-

(d) Decla. of Rights, Art. 4. Peter Shuman having been convicted of treason, and executed in the year 1781, the General Assembly released the right of the State to his real and personal estate, and vested the whole in his widow and eleven children, 1796, ch. 15.