

Upon the first branch of the case I am of opinion, that there is sufficient evidence to shew that this debt, once due to the estate of the late *John Hepburn*, has been long since paid and satisfied by the *Mollisons* themselves. And I might here safely rest the case; but a sense of duty to the state, and a respect for the apparent sincerity and zeal with which the claim has been pressed by the petitioner, induce me to proceed with the investigation in relation to its being barred by the statutory provision, by which it is said to be embraced, and by the presumption of satisfaction arising from the great lapse of time.

These terms of opposition are founded on the supposition, that there is no direct proof that the debt has been fully paid. And in proceeding upon that supposition, one of three positions must be taken; first, that no partial payment has been made, in which case the presumption of payment must begin to run from the first of April, 1776, when the whole debt became due; or secondly, that there has been a part payment made of £260, which being in itself an acknowledgment of the debt on the 12th of January, 1779, when it was made, the estimate of the presumption must commence from that day; but if, in the last place, as has been urged, the entry as to the £260 must not be considered as a payment, then there being no payment but that of the assignments in the year 1790, the presumption of satisfaction can only rest on the lapse of time since that period.

It must be recollected, however, that the positive statutory limitation here alluded to, (c) is not like the common statutes for limitation of actions, which allows the party a certain time to sue, after his right has accrued, but it specifies the first of September, 1787, as the day, after which no claims of the kind described therein shall be made against the state; and consequently, if that limitation embraces this case, this claim, as against the state at least, has been precluded and barred from that time. From the nature of this case, this positive limitation, and the presumption of satisfaction may, with convenience, be considered together, and I shall, therefore, so consider them.

I have shewn that it must have been the intention of the General Assembly, in referring this case to the Chancellor, that he should be governed by those substantial principles of equity applicable to all similar controversies; and that the mere forms of proceeding,