

to the Lord Proprietary in Council, where the case was regularly heard, investigated, and disposed of as justice required. (*q*)

Hence it appears, that in Maryland as well as in England, where the property of a debtor was in any way, either because of his crimes, or of his death intestate without heirs or next of kin confiscated, escheated, or taken into the public treasury, his creditors were always paid; and that they were not left without remedy for 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 favour 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; (*r*) and provided by law, that no conviction should work a corruption of blood or forfeiture of estate. (*s*) 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

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(*q*) Robert Fuller's case, 14 May, 1680, *Land Records, lib. C. B. 45*; John Webster's case, 27 November, 1680, *Land Records, lib. C. B. 60, 102*; Richard Russell's case, 7 May, 1681, *Land Records, lib. C. B. 96, 144, 150, and 166*.—(*r*) 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.—(*s*) 1809, ch. 138, s. 10.