

confiscation acts allowed him to come in and have his claim passed by the commissioners, or the Auditor-General; and so far, therefore, his remedy was changed without being impaired.

In regard to this change of remedies, it is evident that the confiscation acts considered the *Mollisons* as deceased debtors, and the state as their trustee for the benefit of their creditors, citizens of this country; and as administering their assets according to the principles of equity. Upon a creditor's bill, in this court, all the assets of the deceased debtor are made subject to the payment of his debts, so that the personalty, or natural fund may, at the instance and for the benefit of the heirs and devisees, be first applied. And all his creditors are called in, by a general notice; and their claims, on being proved and adjusted, are ordered to be paid from the proceeds of the sale of the estate. If any claims are not brought in before a distribution is actually made, they are excluded from any satisfaction in that case. Such is the course of administering the estate of a deceased debtor in Chancery. (c) The course of proceeding prescribed by the confiscation acts, is strikingly analogous to it; those acts requiring that the creditors should endeavour first to obtain satisfaction from the debts due to their debtor in this state; and on there being no such debts, that their claims against the property taken by the state, should be exhibited within a limited time, or be excluded; and should be legally proved, if required, to the satisfaction of a jury.

Considering the actual situation of the *Mollisons*, and the whole subject in this point of view, it is manifest that *Hepburn's* remedy for the recovery of his debt, was in no manner whatever materially impaired or obstructed; that although in some respects different, it was as effectual as ever it had been; and although changed, it was altered not merely by one public act of Assembly, of which every one was bound to take notice; but by a whole system of public acts altogether in affirmance of the ancient pre-existing principles of confiscation as regards debtor and creditor; and of a character so important and interesting to the people at large, that *Hepburn* could not fail to have been actually well acquainted with them and all their provisions involving his interests.

Looking to those remedies, by some of which *Hepburn* might certainly have obtained payment of his claim against the *Mollisons*, if it had not been previously satisfied; I might here safely