

several stores; and, as it would seem, in the midst of the Maryland debtors of the *Mollisons*.

But it has been urged, that this creditor *Samuel C. Hepburn* had no knowledge of the fact, that any portion of the property of the *Mollisons* had been confiscated and taken into the treasury. The records of the treasury must certainly shew what has been at any time past, received into it from every source as well as from the ordinary one of taxation; they are public and open to the inspection and use of every one at all interested in any fund, that may have been carried into it. And it is a well known historical fact, that the system of the revolutionary confiscation laws, from the time of the passage of the first of them, and for many years after, agitated, interested and engaged the attention of the people of Maryland more intensely than any other set of laws, that ever were passed by their representatives. With regard to the *Mollisons* in particular it appears, in addition to what has been already stated, that a large amount of their property, which had been confiscated, was publicly advertised for sale, and sold at auction on the 20th of October, 1783, and the proceeds paid into the treasury; out of which one of their creditors, it appears, was ordered by the Legislature to be satisfied, on the ground of its being then, 1805, shewn, that there were at that time no debts due to them. (d)

From all these circumstances, it is but fair to presume, and I cannot withhold my belief of the fact, that *Samuel C. Hepburn* did know, or might, by any reasonable degree of diligence have informed himself, of an amount of those debts of the *Mollisons* abundantly sufficient to satisfy his claim. But apart from those funds; and if he actually did not know of any of them, and after using due industry, had failed to discover any of them, then he would have so laid that foundation, upon which to claim satisfaction out of the proceeds of the confiscated property of the *Mollisons* which had been taken into the treasury. (e) And finally, having failed in every particular; either to shew a want of remedy; or a want of funds, or an ignorance of funds against which his remedy might have been directed, his claim is left exposed to the whole force of the presumption against it arising from lapse of time, by which it is completely covered and extinguished.

Upon the whole then, it is my opinion, in the first place, that there is evidence sufficient to shew, that this claim was actually