

land, without proclamation of banns, or the parties acknowledging, before a magistrate, that they were married persons; which, by the law of that country, is a null marriage. This marriage, nevertheless, the President said was a good marriage in Scotland, in the same manner as a testament made in Friesland, with only two witnesses, where the law of the country requires seven, would be a good testament in Scotland. And with him agreed the rest of the Lords. He further said, that nothing more was wanted to make a marriage, by the law of Scotland, but the deliberate consent of parties; and if that was fully proved, though no *copula* followed, it was a marriage. *Vide* 29th June 1756, *Malcolm*.

*N.B.* The rule laid down by the President, with respect to marriage, will extend to all contracts; so that the rule of the *lex loci*, in contracts, comes to this, That a contract made in a foreign country is valid two ways,—if it be made according to the laws of the country where the parties were at the time of contracting, or if it be made according to the laws of the country in which it is sued upon. This rule, therefore, of the *lex loci* may support contracts that are not made according to the laws of the country where execution is demanded upon them, but can never destroy contracts that are made according to the laws of that country.

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1756. December 21. DAVID SCOT of SCOTSTARVET *against* ———.

A LADY, having a right of liferent over an estate, purchased in some debts affecting that estate: the question was, Whether prescription of such debts could run during the lady's possession upon her liferent? And the Lords unanimously found, That it could not, and that it was not necessary for a creditor, in such a case, to assign his debts, in order to have process sued upon them, or to raise a reduction and improbation of all other rights that might interfere with them, or to take any document whatever upon them. This they determined upon the general principle, that a man, having several rights in his person, may ascribe his possession to any one of them, and prescription will not run against the rest, though they cannot be taken up separately by any heir or creditor, but must follow the right upon which the party chooses to possess; as was found in the case of *Creditors of Easterfearn*, in November 1751.

The case of *Pitrichie* was quoted here, where, the President said, the point was established.

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