

No 12. at the time of the defunct's death; and, therefore, no claim of succession to them, on the law of this country, can be sustained against the legatees. Had they been brought here, without authority, it is not the law of Scotland, but of the country where they were at the time of the defunct's death, that would regulate the succession to them.

The British residing in the East Indies, whether in a civil or military capacity, are under the law of England; and every question as to their persons or effects, must be governed by that law, as received in the English courts there.

Captain M'Lean died upon an expedition into an enemy's country. The law of it could not regulate his succession while in the British camp.

THE COURT found, ' That the pursuer has no claim to a *jus relictæ* out of the estate and effects of the said Captain M'Lean, conveyed by the said will.

For the Pursuer, *M'Conochie, Blair.*

Alt. *Grosbie, Solicitor-General, Rae.*

Fol. Dic. v. 3. p. 223. Fac. Col. No 2. p. 4.

1785. January 19. MARY MORRIS *against* ROBERT WRIGHT.

No 113.
Succession of
moveables
governed by
the law of the
place in which
they were si-
tuated at the
death of the
proprietor.

MARY MORRIS, as next of kin, according to the law of England, brought an action against Robert Wright, who, as executor by the law of Scotland, had intruded with moveable effects situated in this country, but which had belonged to a person whose domicil was in England.

Thus the general question again occurred, Whether succession in moveables should be regulated by the law of the place in which the deceased proprietor resided, or by the law of the country in which the effects were situated at his death? The case was taken to report upon informations; and the Lords, without entering into a particular discussion of it, considered the point as now firmly established, that the *lex loci* ought to be the rule. Accordingly, it was

Observed on the Bench; Such was the decision in the case of Duncan, in 1738, (*See APPENDIX*), and in the competition for the moveable estate of Lord Daire, in 1744., as well as in the more recent cases of Davidson *contra* Elcher-son, No 111. p. 4613., and Henderson *contra* M'Lean, No 112. p. 4615. The determination in the case of Brown of Braid, No 109. p. 4604., the only one which could be adduced in support of a contrary doctrine, was given by a thin Bench, upon a verbal report; and though not altered, because never brought under review, was exploded by the most eminent lawyers of the time.

' THE LORDS unanimously sustained the defences.'

Reporter, *Lord Hailes.*

Act. *Lord Advocate Campbell.*

Alt. *Wight.*

Clerk, *Orme.*

Fol. Dic. v. 3. p. 223. Fac. Col. No 193. p. 304.