Immunity... was intended to be given to Scotland. I will say with Dr Calvert, that the Law of the Place is to prevail; but Exceptions prove it; where the Act is Bona fide, if the Parties have it in Contemplation, & a Comity subsists:

Suppose a Traveller borrows Money in France, & pays 10 p Ct Int for it, if nothing is shewn to the Contrary, the Court would presume it legal, because bona fide there & that the Englishman had the Laws of France in Contemplation, & a Comity subsists between England & France; Suppose a Man was to contract for the Pudicitian of a Lady; tho it was bona fide, & tho, the Laws of France were in the Contemplation of the Contracting Parties, yet as the Comity is wanting, & it is contra Bonos Mores, Such Contract cannot subsist.

Suppose an Englishman met his Aunt abroad, & by the Permission of the Bp, or the Dispensation of the Pope, married her, the same Reason of being contra bonos mores, would render it invalid. This brings me to the Law of France Hericourt, an Advocate of the French Ecclesiastical Court, reports a Marriage A°. 1716. between a Frenchman & a Young Woman of Liege, where the Council of Trent prevaild; I thought says he) the Marriage good, for there was no fraud in the Contractors; but the Court was of Opinion, that the Law of France followd the Person of the Frenchman; the Laws of that Country require the Consent of Parents, the Presence of the Curate of the Parish, & many other Particulars to be punctually adhered to; & where they are wanting, consider the Act of Marriage, as a Rape by Seduction, & doom the Major to the Ultimum Supplicium, for the Offence. In Serimshire's Case, there was a bona fide Marriage, without Evasion, yet it was pronounced not to be good.

Every Act, will be deemed, to be done, mala fide, where the Object of the Contractors, is the Elusion of the Law, of the Country, where they are domiciled. Many Writers accord in this Point, as well as Huber, who the Solr Genl said, vouchd it merely as his Opinion, not founded on Judicial Decisions; the truth is, Huber wrote as a Gentleman, & not as a Reporter. He says,

Huber de Conflictu Legum diversarum in diversis Imperiis lib. 1. Tit. 3. fol. 340.

" Sæpe fit ut Adolescentes, sub Curatoribus Agentes, abeant
" in Asiam Orientalem, aliave loca, in quibus, Curatorum
" Consensus, ad matrimonium non requiritur, juxta leges
" Romanas, quæ apud nos hac parte cessant, celebrant
" ibi matrimonium, & mox redeunt in patriam, ego
" existimo, hanc rem manifesto pertinere, ad Evasionem
" Juris nostri, ac ideo non esse magistratus hic obligatos
" è jure Gentium, ejusmodi nuptias agnoscere, & ratas
" habere –

Brower de Jure Connubiorum lib. 2. c. 24.

" Si Liberi in eadem, cum parentibus Civitate degentes,
" parentibus Orbos, & ætate majores se simulaverint, fido
" vel adumbrato nomine, nuptias denunciari curaverint;
" vel non in patria, sed in alia Civitate, vel Regno, in quo
" ignoti sunt, hæc peregerint irritum esse eorum ma-
" trimonium, non tantum ob defectum Consensus, sed

" ob neglectam Legis, cui fraus facta est Observationem
" Hollandia Curia sæpe judicavit.

And speaking of Minors under Guardians, he says,

" Si se Majores simulaverint Minores, Dolo malo Pronomi-
" =na, Cognomina adumbraverint, ut nesciat Populus eorum
" nuptias prænunciari.
" Si in exteras terras, Domicilium, per aliquod tempus, simu-
" =late transtulerint, ut quasi Incolæ, ibi denunciatas, more
" recepto, nuptias conficerent; vel dolo malo fecerint, ne de
" nuptiis certiores reddere eorum Curatores, Nuptiis-Præfecti
" potuerint, (aliudve quid moliti fuerint, ut in tempore
" incidere non potuerint Curatores, in irritum deduci debet
" ab iis contractum matrimonium,) Hoc enim casus fraus
" Legi, cogitata, & facta, totum quod gestum est irritum opera-
" =tur negotium, ut quondam Curia Hollandia judicavit.

Brower supposes that the Runaways, are married accordg to the Law of the Country, & pretend themselves Majors; but what would he have said, if they had been married clandestinely, in the foreign Country, which includes every thing. Voet quotes the very Case, which is as good as if it was real; and he had been a Judge...

Voet in Pandectas lib. 1. Tit. 4. Sq.

" Domicilii Judex, Legem posit condere, qua suo per Domici-
" =lium subjecto, vetat quid facere, circa res immobiles, in
" alieno sitas Territorio; vel etiam in alieno Territorio, quoddam
" exercere actus, pœna in secus facientem, constituta, in
" quantum in eum reversum, pœnam comminatam
" executioni dare potest . . . . . .

To Shew by Analogy that the Common Law annulls every thing done in fraudem Legis; I shall mention the Case of Burrows. Bland & Robinson, where it was said by the Council, that a marriage in a foreign Country must be governd by the Law of that Country; & the Marriage of Persons going from hence were instanced; but Ld Mansfield observd that such Marriages might come under a different Consideration according to Huber.

" Feb. 1759 ..... In Bedford v Verney & Bogg Cal. Mr Bedford the Devisee over of 1000£ given to Miss Phillips, in Case she married without Consent of her Guardians, brought his Bill in Equity for Recovery thereof, wherein he stated that she was married to Barnes, without Consent of Guardians She & Barnes, answerd, as Husband & Wife, allowing the fact of Marriage, at Edingburgh, and Bogg & Verney the Guardians, answerd to their Belief; but it was stated to be in Evasion of the Statute; they therefore might have resided in Scotland 6 Months, for any thing that ap-
=peard to the Court, who committed the Husband . . . . .

Butler v Dolben The Lady ran away with Mr Butler Son of Jr Butler Esq Knight of the Shire for Sussex; She was between 20 & 30. Ld Hardwick when the Question came before him whether the Lady Sh: be committed for the Contempt, or for the Marriage? said for the Contempt & She was committed accordingly; he said the Ct of Chancery had no Jurisdiction to try the Validity of Marriage, &