vid. Huber. §8. . . That the Injury is rather done to that Country, which affords an Opportunity to the Subjects of the other to evade the Laws of their own Country.

It must be, & was admitted, that the Law of the Place where the Transaction is entered into, cannot be the Rule, when the Performance, the Operation is to be in another Country: On this Principle in the Case of Sir J. Champant agt. Ld Ranelagh, when a Bond was made in England, & sent over to Ireland, for the Money to be paid there, without mentioning what Interest was to be paid; the Ld Keeper was of Opinion it should carry Irish Interest: Surely this Reasoning will apply, to a marriage celebrated in a Foreign Country, between Persons, intending to return, & reside in England immediately. They are to perform the Duties at Home: If any Inconvenience arises from the Conjunction of such Persons, their own Country is to feel them . . . Political Reasons for forbidding it, may be very strong in one Country, which dont operate at all in the other; or are otherwise provided for . . .

Prec: in Chan: 128.

In this manner Huber argues §10. of the same Treatise. "Non ita respiciendus est locus, in quo Contractus est initus, ut si Partes alium in contrahendo locum respexerint, ille non potius sit considerandus." . . . . .

L. 21 ff de R. J. "Contrahi se mutuo quisque in eo loco intelligitur, in quo ut solveret se obligavit". . . . . .

"Proinde et locus matrimonii contracti, non tam is est ubi Contractus nuptialis initus est, quam in quo contrahentes matrimonium exercere voluerunt. Utomni die fit, homines in Frisia Indigenas, aut Incolas, ducere Uxores in Hollandia, quas inde statim in Frisiam deducunt; idque si in ipso contractu ineundo, propositum habeant, non oritur Communio Bonorum, etsi pacta dotalia sileant, secundum Jus Hollandiae, Sed Jus Frisiae, in hoc casu, est Loco Contractus".

But Consider what is the Respect shewn to the Policy, either of England, or Scotland, by the Parties who get there Marriages performed? & how far the Laws of either are observed in them? . . . . .

By the Statute 10 Anne of the Parl.t of Great Britain Cap. 7. §6. It is Enacted, "That no Episcopal Minister within that part of the United Kingdom, called Scotland, presume to marry any Persons, but those, whose Banns have been duly published, three several Lords Days in the Episcopal Congregations, which the 2 Parties frequent; & in the Church to which they belong, as Parishioners, by virtue of their Residence; & that upon the same Pains & Punishments as are already inflicted by the Laws of Scotland, in Cases of Clandestine Marriages—

There cant be the least Question, that such a Marriage as this is pleaded to have been, performd by a man,

who calls himself, Minister of the English Chapel at Dumfries, & (as he certifies) after the manner of the Church of England, at a private House, & without Publication of Banns, between Parties who never did frequent any Episcopal Congregation in Scotland, is within the View of this Statute, & subject to the Pains & Punishments of Clandestine Marriages, by the Law of Scotland. . . §3

By an Act of the first Parl.t of Car. 2. 1661. Sess. 1. Cap. 34. "Whoever marries in a Clandestine, inorderly way, or by Persons not authorized by the Kirk, shall be imprisoned 3 Months, & besides, shall pay, each Nobleman 1500 £ each Gentl.n & Burgess 500 £ & each other Person 100 Marks, & that they remain in Prison till they pay. That the Celebrator be banished, not to return on pain of Death".

By an Act of Parl.t 2. Car. 2. Sess. 3. A.o 1672. "Whoever shall be married in Scotland, by any Person not lawfully authorized; they shall lose any Right, they may have by that Marriage, Jure Mariti, vel Jure Relictae, & that by & attour the Pains & Penalties, provided by the Act of Parl.t in 1661; which Act is hereby ratified & renewed."

By Stat. 1 Wm & M.r Sess 3. cap. 12. "Persons so clandestinely married, are obliged, when required, to declare the names of the Celebrator & Witnesses, under the Pains of 2000 £ y Nobleman the landed Gentleman 2000 Marks: any other Gentleman or Burgess 1000 £. any other, 200 Marks. & to be imprisoned till they declare, or pay: the Celebrator is punishable not only with Banishment, but by such pecunial or Corporal Pains, as the Council shall think fit: Also the Witnesses are made liable, in the Sum of 100."

Now if these Acts of Parl.t were to have their Effect overall Marriages entered into in Scotland to evade the 26 Geo. 2 They might go a great way to prevent them; But if any one should offer to set up a Prosecution upon them, to Imprison, or recover the Penalty, it would immediately be said, what have we to do with the Laws of Scotland? we are English; no Regard is paid to the Scots Law here — My Notice is, to shew the Scots are sensible of the Inconvenience of Clandestine Marriages. If notwithstanding, the Marriage is valid in England, the Substance of the Doctrine will be this.

The Legislatures both of England & Scotland, (as long as they had distinct Legislatures) have been very sensible of the many Mischiefs & Inconveniencies arising from Clandestine Marriages, & have prohibited them by very Severe Laws—

In England, they are now, utterly null, & Void. . . .

In Scotland, they are stripped of all, or most of the beneficial Civil Effects, & the Parties are punished by heavy Fines & Imprisonment.