It had been laid down in Argument at the Bar,
" That a Marriage in a foreign Country, must be governd "
" by the Law of that Country where the Marriage was had "
" which says Ld Mansfield, is in general, true. But the "
" Marriages in Scotland, of Persons going from hence "
" for that purpose, was instanced by way of Example. "
" they may come under a very different Consideration "
p. 33. . . . " according to the Opinion of Huberus, & other Writers; "
" Then goes on, to mention, the Case of such a Marriage at "
" Ostend, which Ld Hardwick ordered to be tried in the — "
" Ecclesiastical Court "
With respect to the General Principle, contended for, in favor of these Marriages, the Opinion of another great Judge, given in the same Cause, is not immaterial, (Ld Ch: Justice Wilmot,) " The Law of the Place where " the Thing happens, does not always prevail; In " many Countries, a Contract may be maintained by " a Courtesan, for the Price of her Prostitution; & one " may suppose such an Action, to be brought here, upon " such a Contract, which arose in such a Country; but " that would never be allowd in this Country; there= " =fore the Lex loci, cannot in all Cases, govern, and " direct "
It was stated by one of the Gentlemen, that it was urged in an Argument by Council, in the Case of Bedford & Verney, against the Marriage, that Sr Edw: Simpson, the late Dean of the Arches, before whom, this very Cause, would have been brought, if it had com= =menced two Years sooner, had declared, he would not grant Administration to a Person, claiming it, as Husband, or Wife, under one of these Marriages. And I believe his Opinion, as to the Validity of them, is pretty well known; & there have been few Opinions which are held in higher Estimation, in the Courts, in which he practiced . . . .
So that, there is reason to apprehend, that Persons of great ability & Experience have thought differently upon this Question; but they were none of them called upon to decide it judicially. It now waits for that Decision from your Lordships; & I believe all agree, it is high time it should be decided.
As Council for the Plt, I hope it has been made out to your Lps Satisfaction, that the Case stated, in her Libel, is within both the Spirit and the Letter of the 26 of Geo. 2. . . .

2dly That the Law of the Place where the Marriage was had, ought not to prevail, but that of the Country of the two Parties, between whom it was had —
3dly. That there is nothing peculiarly harsh, & unfavorable, or unusual in the Provisions of this Law, or peculiar in the nature of the Contract relative to which it is made, which will require or warrant, a narrower Interpretation than other Statutes are to be construed by —
and therefore, I hope, you will admit the Plts Libel, & in due Time, pronounce according to the Prayer of it —

Adj: to 28th Jan: 1769.

See the rest of the Arguments. Fol. & seq:

N° 171.

Arches — Stevens Jun: — Thomas & Maddox. v. Williams — Fountain
Mich: T. 8 Geo: — Dr Wynne — Dr Calvert

Dr Calvert . . . This is a Cause of Substraction of Church Rate, brought 1763 in the Consistory of Hereford, by Watkin Thomas & Jn Maddox Churchwardens of Bredwardine in the Diocese of Hereford agt James Williams.
The Foundation of the Churchwardens Suit, is the Church Rate; & here no Church Rate is exhibited; I never knew a Cause where it was not produced, & annexed: Till the Rate is confirmed by the Ordinary, no Suit can be brought upon it: as far as the Parishioners may go, it is binding, but not for a Suit.
Qu: . . . Suppose a Will, in which a Legacy was bequeathd; no Suit could be brought thereon, unless the Will was proved by the Ordinary.
The Question is, whether the Rate is formal?
One Witness alledges a Notice; one Witness, a Son to the Party in this Cause, swears the Clerk of the Parish, has not given notice there 13 Years, on account of an Impediment in his Speech, tho. the former Clerks always did: He is contradicted by the other Witnesses, who say they have heard the Clerk several times give Notice; Maddox is a willing Witness, & much impeached: Bevan is as credible as Maddox, or more so; if he speaks true, there must have been a Confusion as to the Meeting: there is no satisfactory Proof of Notice, or of the meeting when the Churchwardens Accounts were made up, & this Transaction passed . . . .
Judge? Dr Hay? . . . . This has been a very long & expensive Suite, which was begun in 1763, & not brought for Judgement till 1768. during that Period Offers of Accomodation have been made without effect: It is a Suite very favorable to the Church Wardens; who are obliged to repair the Church & are liable to be punished by the Ordinary, if they do not; but it is their Duty to take care that the Assessm:

Qu: Is the Rate formal & legal . . . .