

Bank, No 2. p. 875. Consequently, the situs of the bank notes, like that of coin, is where the notes themselves are found to be.

No III.

Whether these notes are of a public or private banking company, does not alter the case. It is from the terms of the notes, and not the authority of the persons who issue them, that they are held as cash.

THE COURT found, 'That the distribution of the moveables in this case, must be regulated by the laws of Hamburg, where these moveables are, and were situated at the death of William Murray: That no action for such distribution lies, or is competent before this Court; therefore dismisses the foresaid process of multiplepinding, and competition relative thereto.'

A reclaiming petition against this interlocutor was ordered to be seen, in so far as respected the situs of the bank notes. On advising the petition with answers, the Court adhered.

For Davidson, *M'Laurin, Armstrong.*Alt. *J. Campbell, Cullen.**Fol. Dic. v. 3. p. 222. Fac. Col. No I. p. I.*

1778. January 13. HELEN HENDERSON against JOHN M'LEAN and Others.

JOHN M'LEAN, a captain of artillery in the East India Company's service, having been mortally wounded in an engagement at Tingarecotta, in the Mogul's country, immediately before his death, executed a will, by which he bequeathed his whole estate to his father, a brother, and sister, in certain proportions. The will was proved, in common form, in the Mayor's court of Madrass. The executors recovered the funds, which were all in India, and remitted them to the legatees in Scotland. Afterwards, Helen Henderson, M'Lean's widow brought an action against the legatees, claiming a third part of the defunct's moveables, as her *jus relictae*.

The same point was argued in this cause that was argued in the above, Whether the law of the defunct's domicil, or of the place where the effects were situated, regulates the succession in these effects?

A separate plea maintained for the pursuer was, that supposing the *lex loci* regulates the succession of moveables, no *lex loci* is here ascertained to exclude the law of Scotland. It was said, that the law of England does not extend to the Company's territory on the Corromandel coast; but, although the English law reached the territory of Madrass, Tingarecotta, where M'Lean died, being in the Mogul's country, the succession to such personal effects as he had with him there, would be regulated by the law of that country, if it were known. As it is not, and the effects are now in the hands of the legatees residing in Scotland, the Court has jurisdiction over them; and the widow's claim to her *jus relictae*, by the law of Scotland, ought to be sustained.

Answered for the legatees; The effects were recovered, and the legatees are in possession by authority of the law of the place where the effects were situated.

No III.

A Scotsman in India executed a settlement, bequeathing his whole estate to his father, a brother, and sister. Found, that his widow had no claim against the legatees for a third of the moveables as her *jus relictae*.

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.