

No 42.

a Latin *senatusconsultum* in November 1599, desiring foreign courts to hold our extracts of writs as authentic, and promising to give the same authority to those coming from them, when produced before the Session. Yea in the Roman Empire itself, where there was but one [authority, law, and jurisdiction, the sentences pronounced at Rome could not be executed in the provinces *sine novo jussu*, l. 15. § 1. *D. De re jud.* which the Doctors now call *litteras requisitorias*; and Voet *De statutis* wishes there were such a reciprocal correspondence settled for executing the decrees of one another. But for the two united kingdoms of Britain, this will require an act of Parliament.—*Duplied*, Sir John Swinton can never decline the force of this decree, being subject to the jurisdiction of the Queen's Bench, both *ratione domicilii*, being then *incola* at London, *et ratione loci contractus*, *et ratione comparationis*, having owned and prorogated the jurisdiction by his compearance, and by his acquiescence, in neither taking out a writ of error nor an appeal; and that contracts are valid and sustained by us, if made *secundum consuetudinem loci*, and the solemnities of the place where they are made.—THE LORDS abstracted from that nice point, whether the English decree might have the strength of a *res judicata* with us; but went upon the ground of the homologation, and by a scrimp plurality found his declaration on Mrs Goddard's releasing his cautioner, was a ratifying of the decret, whether defective or not; and was a passing from any pretence he had to quarrel the same.

Fol. Dic. v. 1. p. 434. Fountainball, v. 2. p. 514.

* * See No 78. p. 4533.

SECT. VIII.

How far Conventional Provisions imply Discharge of a Wife's Legal Provisions.

No 44.

1663. June 24. SCRIMZEOUR *against* MURRAYS.

A BOND being granted to a husband and wife, the longest liver of them two, and the heirs procreated betwixt them, without clauses of infestment or annual-rent, it was found that the relict might have the choice of the liferent, or of half of the sum, being moveable *quoad relictam*; but that she could not have both.

Fol. Dic. v. 1. p. 434. Stair.

* * See this case, No 7. p. 464.