

No 53.
sustained,
though the
writer was
not designed,
being formal
by the *lex*
loci.

it was written in England, and so was sufficient, although wanting that solemnity, which could not extend to a writ done without the kingdom, where the law was made.—And it being *duplied*, That this assignation being made by one Scotsman to another, and of debts in Scotland, it ought to be ruled by the Scots law; the LORDS repelled the allegiance, and sustained the assignation, being made in England, where they found that there was no necessity that the writ should design the writer; neither yet would the party offer to design his name, the cedent being dead, and it being written by an Englishman, who might be unknown to the assignee; neither was it respected that the parties were Scotsmen and of a Scottish subject, being done out of the country, and by the cedent, who was then an actual resider in England, and servant to the King.

Act. *Gibson*.

Alt. ———.

Clerk, *Gibson*.

Fol. Dic. v. 1. p. 321. Durie, p. 817.

1664. December 15. DAVID ERSKINE against DAVID RAMSAY.

No 54.
An assign-
ation made
in England,
by one Scots-
man to ano-
ther, of a bond
due in Scot-
land, was
sustained,
though it
was subscrib-
ed by one
notary only,
being formal
by the *lex*
loci.

DAVID ERSKINE of Dun, assignee constitute by Elizabeth Erskine and Cecil Ritchie, heirs-portioners to umquhile James Abercromby, to a bond granted by umquhile — Ramsay of Ballinbrock, pursues David Ramsay, as representing his father, for payment.—It was *alleged* no process upon the assignation, the same not being valid according to law, it being an assignation to 1000 merks, and subscribed by one notary only.—To which it was *replied*, That the cedent living in Queensbridge, and born there, the assignation was subscribed according to the custom of that place, by one notary, which custom the pursuer offered him to prove.—THE LORDS, in regard the cedents were out of the country, found that the assignee should either produce a procuratory from the cedents, or prove the custom of Queensbridge to be such, or that the assignee should find caution *de rato*.

Fol. Dic. v. 1. p. 321. Newbyth, MS. p. 12.

No 55.

1676. November 28. SCOT against TOISH.

AN assignation, being made in Holland, according to the custom there, by way of instrument, under the hand of a notary, a tabellion having retained the warrant in his hands, signed by the parties, was sustained, in respect of the custom and *consuetudo loci*.

Reporter, *Justice-Clerk*.

Fol. Dic. v. 1. p. 321. Dirleton, No 390. p. 191.