

lowing remarks, made by him after reviewing the various systems advocated in this matter: "*Bien qu'il y ait quelques différences dans les termes employés par ces auteurs, on voit qu'ils aboutissent tous à cette conclusion que la prescription s'acquiert d'après la loi en vigueur au lieu où siège le juge compétent, pour statuer sur les actions personnelles formées contre celui qui oppose cette défense.*"

Troplong holds that the law of place of payment should rule in all cases.*

Savigny † is decidedly in favour of the doctrine maintained by the honourable judge. "Many say," he remarks, p. 201, "that laws as to prescription are laws of procedure, and must, therefore, be applied to all the actions brought within their territory, without respect to the local law of the obligation."

"According to the true doctrine, the local law of the obligation must determine as to the term of prescription, not that of the place of the action; and this rule, which has just been laid down in respect to exceptions in general, is further confirmed in the case of prescription, by the fact that the various grounds on which it rests, stand in connection with the substance of the obligation itself. Besides, this opinion has always been acknowledged to be correct by not a few writers."

Savigny finally holds the view that when a place of payment is specified, the law of that place should apply, in pursuance of the rule, *contraxisse unusquisque in eo loco intelligitur in quo, ut soleret, se obligavit*.

Savigny (in foot note *u*) further observes, that this doctrine is agreed to by Hert, § 65; Schaffner, § 87; Wachter, 2, pp. 408-412; Koch, 1, p. 133, note 23; and Bornemann, 1, p. 66; but that their agreement is only in regard to the principle, not to all the applications of it; since the local law of the obligation is not determined in the same way even by these writers. In fact Hert and Schaffner are of opinion that the *lex loci solutionis* should be entirely overlooked, and that the *lex loci contractûs* should rule in all cases.

In addition to the foregoing authorities referred to by Mr. Justice Mondelet, as supporting his decision, Demangeat, ‡ Domin-Petrushevez, § and Massé || may also be quoted.

* Prescriptions, No. 38.

† Conflict of Laws, Guthrie's ed., 1869.

‡ Demangeat on Félix, vol. 1, p. 223, note *a*.

§ Précis d'un Code de Droit International, art. 197, p. 88.

|| Dr. Com. vol. 1, Nos. 558-565, ed. 1861.