

" It ought always to be remembered that the question, whether the *status* has been constituted by means of a legal marriage, is perfectly distinct from the consideration of the rights, powers and capacities which the *status* confers.

" The enquiry whether the *status* has been constituted, is answered by the law of the country in which the marriage was contracted.

" If by a marriage, which, according to that law, is valid, the *status* is constituted, the connections of the parties with the law of that country ceases, unless that place be the domicile of the husband; and then its law governs, not because the marriage was celebrated there, but because it is the country of the husband's domicile. The parties, if they do not, by an express agreement on their marriage, stipulate as to their future rights and capacities, are presumed to submit to them as they have been defined by some municipal law; and the law which, it is presumed, they contemplate, is not that of a country in which they have no intention to reside, and to which, therefore, their *status* cannot be subject, but that of the country in which, as it is the place of their domicile, their rights and capacities are to be exercised.

" Jurists, therefore, concur in selecting the law of the domicile of the husband and wife, as that which determines the personal powers and capacities incident to their *status*, and not the law of the place in which the marriage was celebrated."

Burge, Col. and For. Laws, vol. I., page 245; Pothier, Community, Nos. 5, 14.

" Whatever contrariety of opinion may exist respecting the effect of a change of domicile on rights of property acquired under the law of the matrimonial domicile, there is a general concurrence among jurists in holding that, although the law which confers those rights, powers, and capacities is strictly a personal law, yet its influence exists so long only as the parties remain subject to it by retaining their matrimonial domicile. When they quit that domicile, and establish another, their *status* is governed by the law of the latter, and their capacities and powers are those which that law confers."

Burge, Col. and For. Law, vol. I., page 253.

Merlin Tome 1, sec. 10, pages 532 and 533.

Pothier, Community, No. 89.

Pothier, Coutume D'Orleans Intro., No. 15.

" A, born at Amsterdam, and the Dutch Consul at Smyrna, married B at Smyrna, and they entered into an ante-nuptial contract relative to their respective property. The wife after-