

said that they were of the opinion that the *lex loci contractûs* or *solutionis* should rule in all cases of prescription of personal actions. No authority was quoted, no argument made to support the proposition. "Je pense," said again Mr. Justice Caron, "que le juge Mondelet a bien jugé en disant que c'était d'après la loi du lieu où avait été fait le billet ou bien de celui où il avait été mis payable, que la cause se devait décider; *cela étant*, d'après la preuve, la prescription n'était pas acquise, et le défendeur a été bien condamné." By *cela étant*, does the learned judge intend to convey the idea that the proposition he enunciated should be accepted as a matter of course. The question, however, is extremely complicated and difficult; and as it is the only point worthy of any notice in the decision of the learned judges, we shall say nothing further of the judgment of the Court of Queen's Bench; and we will now endeavour to show that the rule laid down by Mondelet, Drummond, and Caron, JJ., is unfounded in law, and that the *lex fori* should govern in all cases.

Relying upon the authority of Boullenois, Pardessus, Félix, Troplong and Savigny, Mr. Justice Mondelet drew the conclusion "that the true doctrine is that the prescription of the place of payment must govern, and where the place of payment is not specified, then that of the place where the contract was created."

Boullenois holds the law of the place of payment, and if no place of payment be specified, the law of the domicile of the debtor, and not, as the learned judge asserts, the *lex loci contractûs*.*

The old French commentators, moreover, do not appear to concur in the opinion of Boullenois.

Dunod, † contends that the law of the domicile of the debtor, at the time of the contract, governs.

Merlin ‡ quotes two *arrêts* of the Parlement de Flandre, the first of the 17th July, 1692, the second, of the 30th October, 1705, which held the law of domicile of the debtor at the time of the institution of the action to rule in all cases of conflict of personal prescriptions; and he further reports another case which originated before the Code Napoleon, and was decided in the same sense by the *Cour de Bruxelles*, on the 24th September, 1814.

* T. 1, p. 530; t. 2, p. 488.

† Des Prescriptions, part 1, ch. 14.

‡ Répertoire, vo. Prescription, s. 1, § 3, par. 7.