

1779.

(M. 10702.)

DAME ROBINA POLLOCK OF CRAWFORD,	<i>Appellant.</i>
MARY LOCKHART, relict of JOHN LOCKHART of } Lee, - - - - - }	<i>Respondent.</i>

SHORT  
v.  
SHORT.

House of Lords, 10th March 1779.

PRESCRIPTION—FOREIGN SUCCESSION.

For full report of this case, see (M. 10702.)

Where an English trust was created of estate in England, vested in English trustees in the English form; but for the benefit of parties natives of Scotland; and the trust fund having not been put to the uses mentioned; but transferred by the trustee to the first party beneficially called to succeed. Forty years after the present action was raised by the Scotch party, deprived of the benefit. Held, in the Court of Session, that the Scotch law of negative prescription, and not the English law, fell to be applied, and that the right of the parties favoured by the trust was cut off by the negative prescription.

Affirmed in the House of Lords.

For Appellant, *Al. Wedderburn, John Maddock.*

For Respondent, *Ar. Macdonald, J. Dunning.*

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[M. 5615.]

THOMAS SHORT, Optician in Edinburgh,	<i>Appellant;</i>
JOHN SHORT, - - - - -	<i>Respondent.</i>

House of Lords, 19th March 1779.

CONQUEST.

For full report of this case, *vide* Morison, p. 5615.

A brother disposed heritable bonds to his immediate elder brother, his heirs and assignees. Both brothers died without issue. The eldest son of a brother elder than either, claimed it as conquest. Held, in the Court of Session, that he was to be preferred as heir of conquest to their younger brother, who claimed as heir of line.