

# APPENDIX.

## PART I.

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### SUCCESSION.

1800. *January 15.* JEAN COLVILLE *against* WILLIAM LAUDER.

IN 1793, David Lauder, a native of Scotland, went to the island of St. Vincent, under indenture to follow his trade as a carpenter, leaving his wife, Jean Colville, with her relations at Leith.

He remained at St. Vincent till the 21st July 1797, when he wrote to his father William Lauder: 'As I never loved the West Indies, and as my health is very much hurt by a long continuance in it, I have determined to go off to America in a ship that sails from this in a few days, hoping my health may be re-established by a change of climate. I have, during my stay in this part, made shift to lay up some money, £200 of which I have converted into a bill of exchange, which is sent you indorsed, reserving to myself no more than will defray my necessary expenses to New-York, where, if it please God that I arrive, you shall hear from me; but as a considerable time will be necessary before I can fix upon any plan of life, I will then be more explicit; only draw the money, and secure it for me; for if I do not succeed to my wishes in America, I will return to my native country. I have wrote three different times to our friends at Leith, but have never been favoured with an answer. There must be some very grave and important reasons for so very extraordinary omission, but what they are I can't conceive. However, be pleased to let them know that I have no desire to give them a fourth trouble. Dear father, it may so happen from the common accidents of life, that you may never hear from me again, the money is either at your or my dear mother's disposal.'

He sailed to New-York soon after, and remained there till spring 1798, when he went to Canada, where he was drowned in the following September.

No. 1.  
The succession of a Scotsman dying abroad is regulated by the law of Scotland, when he has not a fixed domicile elsewhere.

No. 1. It appeared from some jottings in his possession, that he meant to have returned to Scotland in a few months.

His widow claimed one half of his funds as *jus relictæ*.

In defence, his father founded on the letter above quoted, as excluding her right to any share of the £200 remitted to him.

The Lord Ordinary repelled the defences.

The defender, in a petition,

Pleaded : When a Scotsman lives for years abroad in prosecution of his employment, he acquires a domicil there, which must regulate his succession, though he may intend to return to Scotland at some future period. In this case, therefore, the law of England must prevail, according to which, the letter in question would be held as a testament effectually excluding the claim of the widow ; Blackstone, Vol. 2. p. 402. 434.

The widow,

Answered : In the whole circumstances of this case, the deceased cannot be considered abroad *animo remanendi*, or to have formed a domicil elsewhere, and therefore the law of his nativity must govern ; Ersk. B. 3. T. 9. § 4. ; so that it is unnecessary to investigate the effect of the letter in question by the law of England.

Observed on the Bench : When the deceased was in St. Vincent, his succession would have been regulated by the law of England ; but after leaving that island, he must, in the whole circumstances, be considered as *in transitu* to Scotland.

The Lords adhered.

Lord Ordinary, *Balmuto*.

Act. *Inglis*.

Alt. *C. Brown*.

Clerk, *Menzies*.

*D. D.*

*Fac. Coll. No. 156. p. 350.*