fere with the authority of the case of *Ferguson's Trustees*. That case exemplifies the general rule, and the present case illustrates the qualification of that rule depending on declared intention. My opinion is that the question ought to be answered in the affirmative.

LORD KINNEAR—I agree with the opinion of Lord Adam.

LORD TRAYNER—I concur in the opinion of your Lordship in the chair.

The Court answered the question in the affirmative.

Counsel for the First and Third Parties—Dundas—C. N. Johnstone. Agents—T. & W. A. M'Laren, W.S.

Counsel for the Second Party—Dickson—Cooper. Agent—John A. Cairns, S.S.C.

Thursday, July 20.

FIRST DIVISION.

LIQUIDATOR OF PROPERTY INVESTMENT COMPANY OF SCOTLAND, LIMITED, PETITIONER.

Company—Liquidation—Reclaiming-Note—Expenses.

The liquidator of the Property Investment Company of Scotland, Limited, presented a note to the Lord Ordinary for sanction of a compromise made by him with the directors of the company, the prayer of which was granted.

Mr Hugh Blaik and others, shareholders of the company, who objected to the compromise, unsuccessfully reclaimed to the Inner House.

Held that on account of certain peculiarities in the case the reclaimers should not be found liable in the expenses of the reclaiming-note.

LORD PRESIDENT—I should be slow to encourage the idea that when the Lord Ordinary, who is the Court in a liquidation, pronounces a judgment it is the right of any of the parties to adjourn the discussion to the Inner House, and there go over the same questions, but there are peculiarities in this case, on account of which I propose that we should give no expenses in the reclaiming-note, and leave the expenses in the Outer House as the Lord Ordinary has done. In giving no expenses I wish, however, to guard against the idea that a discontented shareholder may in the ordinary case take the case to the Inner House without being found liable in expenses if unsuccessful.

LORD ADAM, LORD M'LAREN, and LORD KINNEAR concurred.

Counsel for the Liquidator—H. Johnston—Gloag. Agents—Morton, Smart, & Macdonald, W.S.

Counsel for Blaik and Others—W. Campbell—M'Lennan—Trotter. Agent—W. Ritchie Rodger, S.S.C.

Thursday, July 20.

FIRST DIVISION.

[Lord Low, Ordinary.

LESLIE *v.* J. YOUNG & SONS.

Copyright—Time-Tables—Interdict.

In an action by the proprietor of a local time-table to have the proprietors of a rival time-table interdicted from publishing his work as being a breach of the complainer's copyright, the question was whether the respondents, instead of compiling a time-table for themselves from common and public sources of information, took advantage of the complainer's labour, and substantially copied his time-table. After a proof, the Lord Ordinary (Low) *affirmed* this proposition and *granted* interdict, but the First Division recalled this interlocutor and *refused* the prayer of the note.

Observations upon the nature of copyright in a time-table, and the use which may legitimately be made of such a publication by the compilers of a similar work.

Duncan Leslie, wholesale stationer, bookseller, and printer, Perth, the proprietor and publisher of a monthly publication called "Leslie's Time-Tables and Diary," entered at Stationers' Hall, brought an action of suspension and interdict in July 1891 against J. Young & Sons, printers, Perth, praying the Court "to interdict, prohibit, and discharge the respondents from selling or exposing to sale, circulating or distributing a publication printed by the respondents, entitled 'J. Young & Sons,' Perth, "A B C" Time-Tables,' and containing, *inter alia*, time-tables for the month of July 1891, and further to interdict, prohibit, and discharge the respondents from printing, publishing, selling or exposing to sale, circulating or distributing any time-tables or other publication copied or only colourably different from the publication known as 'Leslie's Time-Tables and Diary.'" Of consent, and upon the respondents undertaking to keep a correct statement and account of the sales of the book complained of, and the profits derived therefrom, the note was passed, but interim interdict was refused.

A record was made up in which the complainer averred that the information in his time-table "was gathered and arranged in systematised form at great expense, and as the result of great labour, skill, and experience. Many of the details are not to be found in the ordinary railway and steamboat guides. These were obtained by the complainer from other sources, and were the result of much labour and expense. Great accuracy has been secured by continual revision from month to month. After many years of care and skill the complainer has obtained for his time-tables a very wide circulation and a high reputation. In consequence of said reputation respondents have deliberately adopted his

system and selection, and, without exerting themselves to obtain their information from legitimate sources, have copied their details from complainer's publication. . . . The time-tables contained in the respondents' publication have, except in a few cases, been simply copied from the complainer's time-tables. They include numerous details borrowed from the complainer's publication which were compiled and arranged by the complainer, and which are not to be found in the ordinary official railway, steamboat, or coach time-tables, or in any other publication of the kind. The respondents have deliberately appropriated from the complainer's time-tables compilations, arrangements, and details which were embodied in the complainer's time-tables by means of special skill and labour. In the complainer's time-tables selections have been made from the official time-tables of certain trains and certain stations, and these selections have repeatedly been embodied, word for word and column for column, in the time-tables issued by the respondents."

The respondents denied the statements of the complainer, and explained that their time-tables "contain much more information, and are compiled upon a totally different principle from those of the complainer, the first 39 pages being upon what is called and known as the 'A B C' principle of compilation, while the whole remaining portion of the time-tables is compiled from the advance-sheets and time-tables and advertisements issued by the railway and other companies, and available to the public. The respondents' publication is superior to that of the complainer, and quite a new work."

The complainer pleaded—"(1) The complainer is entitled to interdict as prayed for, in respect that the respondents have unwarrantably infringed his copyright in the time-tables referred to."

The respondents pleaded—"(1) The complainer's statements being irrelevant in fact and in law, the suspension should at once be refused. (2) The respondents not having infringed any right which the complainer can instruct, the complainer is not entitled to obtain interdict as craved. (3) The complainer's averments being unfounded in fact, the respondents are entitled to have the note refused, and the complainer found liable in expenses. (4) In any event, the prayer of the note is too vague and indefinite."

The Lord Ordinary (Low) allowed a proof, the import of which sufficiently appears from his Lordship's note and the opinion of the Lord President, and thereafter, upon 31st January 1893, pronounced the following interlocutor:—"Finds (1) that the complainer has a copyright in 'Leslie's Time-Tables and Diary,' published by him; (2) that it is proved that the tables, information, and other printed matter contained upon pages 40 to 52, both inclusive, upon page 53, with the exception of the time-table for the West Coast Route, and upon pages 55, 57, 59, 61, 63, 65, 67, 69, 93, 95, and 98 of the respondents' publication complained of, viz., 'J. Young & Sons, Perth, A B C Time-Tables,' for the month of July 1891, were copied either literally or only with colourable differences and variations from the said publication of the complainer, and amount to a piracy thereof: Therefore, to the extent of the second of the above findings, sustains the reasons of suspension, and interdicts, prohibits, and discharges the respondents from selling or exposing to sale, circulating, or distributing the foresaid time-tables, information, and other matter printed upon the foresaid pages of their said publication; and *quoad ultra*, Repels the reasons of suspension, and refuses the prayer of the note, and decerns: Finds the complainer entitled to expenses.

"*Opinion.*—It was not, I think, disputed that a railway time-table applicable to a particular district may be the subject of copyright, but it was contended that a time-table, although it is issued month by month, with the necessary alterations, is not a 'periodical work' within the meaning of the Act, which is protected if the first number or volume is duly registered. I think that a railway time-table of the kind in question in this case is plainly a 'periodical work,' and if so, and if it is a work of a kind which is capable of being made the subject of copyright, I do no not see why it should not have the benefit of the 19th section of the Copyright Act.

"The question therefore seems to me to be mainly one of fact, viz., whether the respondents, instead of compiling a time-table for themselves from common and public sources of information, took advantage of the complainer's labour, and substantially copied their time-table.

"The complainers say that there is such absolute identity between their book and that of the respondents, not only in the selection of routes, trains, and stations, but in minor details, that the inference is unavoidable that one book was copied from the other.

"The respondents, on the other hand (and especially Mr J. M. Young, the member of the respondents' firm who was chiefly responsible for the preparation of their time-table), swear that it was compiled entirely from the books of the various railway companies and other public sources of information, and that the complainer's book was not made use of at all except in the case of the circular tours and one column, I think, of mileages.

"Now, it was inevitable that the two books, both being a selection of the routes, stations, and trains likely to be most useful to people residing in Perth, should bear a very close resemblance to each other, and probably the better the work was done by both parties the greater would be the similarity. Discounting, however, in the most liberal manner all similarity which may be accounted for by the fact that both compilers were working in the same somewhat narrow sphere from the same materials, and with the same object in view, there remains a number of points of identity between the two books which, in my opinion, it is impossible to account for except on the

supposition that the respondents' book was made up in the first instance to a great extent from that of the complainer.

"The complainer's evidence was based upon a comparison between his table for June 1891 and the first issue of the respondents' table, namely, that for July 1891. It appeared, however, when the respondents' evidence came to be led that their table had been set up in March and April 1891, and they produced an early copy of their table, No. 75 of process, which seems to have been the first proof which was thrown off. The comparison accordingly came to be chiefly between No. 75 of process and the complainer's table for March 1891, No. 95 of process. The similarity between No. 75 and No. 95 of process is more marked than that between the June issue of the complainer and the July issue of the respondents, because before the latter table was published various corrections and alterations had been made. To compare No. 75 with No. 95 therefore seems to me to be the most reliable test of the use which had been made of the complainer's publication.

"Now, although I am very unwilling to disbelieve the respondents' witnesses when they say that they did not use the complainer's table, I am unable to come to any other conclusion than that a number of the tables in No. 75 of process were copied from the complainer's book.

"I come to that conclusion because there are instances of identity of details so numerous as to exclude the idea of accidental coincidence, and of a kind which cannot be explained upon the supposition that both works were compiled from the same sources of information, the details to which I refer differing from the official time-tables from which the respondents say that their tables were made up. I shall give one or two examples. . . .

"These examples are, I think, sufficient to show the character of the evidence upon which I have come to the conclusion that there was copying on the part of the respondents, and I need not go further into details. I may, however, say that throughout the part of the book complained of there are numerous cases of the same mistakes being made, of the same variations being made upon the phraseology of the official books, of the same combinations of trains, and of the same foot and side notes.

"The respondents relied greatly upon the evidence which they produced of independent work, and which they say they never would have undertaken if they had intended to copy the complainer's book. . . . I do not think that these documents furnish evidence of independent work inconsistent with the idea that a great deal was taken directly from the complainer's book.

"The respondents also founded upon differences which appear between their tables and those of the complainer. . . .

"1. There are, in the first place, a good many cases in which the complainers give a correct hour and the respondents an incorrect one.

"2. There are cases in which mistakes in the complainer's tables are corrected in No. 75 of process. . . .

"3. There are, finally, a few cases in which it is admitted that the respondents' tables have been the result of independent work. That is particularly the case in regard to the West Coast route from England to Scotland.

"The first and third of these three classes of differences may, I think, be dismissed at once. The cases in which the respondents give an incorrect hour prove nothing, because from whatever source they took their information the error in the hour must have been caused by the mistake of the compositor who set up the type. Then, as regards the tables which bear evidence of being the result of independent work, it was quite legitimately contended for the respondents that the fact that some of the tables were admittedly the result of independent work went a long way to corroborate their evidence that the whole of the tables were in the same position. The argument is no doubt entitled to weight, but it does not appear to me to be an improbable thing that the respondents, while taking a number of tables from the complainer's book, might have rejected others in cases which they thought they could make a more useful table for themselves.

"The second class of differences to which I have referred was most strongly founded on by the respondents, as showing that even in those tables in which the points of identity are most strongly marked there is evidence of independent investigation. That is no doubt true to a certain extent, but it seems to me that although these differences show that the respondents checked the complainer's work to some extent by the official books, it does not necessarily show more.

"The conclusion at which I have arrived, as being the only one consistent with all the real evidence in the case, is that the respondents, having compiled the A B C part of their book, took the complainer's tables as the groundwork of the remainder. I think that it appears that they checked the complainer's tables, and also took some trouble to improve upon them, sometimes by varying the order in which the different lines were given, sometimes by leaving out or adding to stations and trains, and sometimes by altering the notes. But, except in the case of the West Coast route, and perhaps one or two other tables, I can come to no other conclusion than that the respondents' tables are not the result of independent work, but are the complainer's tables with some alterations and variations.

"Now, of course the respondents were entitled to make a time-table of the same kind as that of the complainer's, and to adopt the same principle and form of arrangement, but they were bound to do the work for themselves, and I apprehend that the only use which they were entitled to make of the complainer's work was to check and verify their own results when obtained—*Kelly* v. *Morris*, 1 Eq. 697.

"If, therefore, I am right in the view which I have taken of the evidence, the respondents have made an illegitimate use of the complainer's publication."

The respondents reclaimed, and argued—(1) Copyright in a time-table was of a very limited nature, confined to selection and arrangement and to protection from slavish copying. There was no copyright in the times, which were given by the railway companies in official time-tables open to the public, and the sources of both the complainer's and their time-tables. But even use to some extent of previously published compilations, such as dictionaries, guide-books, and time-tables, was recognised as legitimate, which would not be allowed in the case of strictly original works—See Copinger on Copyright (3rd ed.), pp. 196, 198, 204, and case of *Spiers* v. *Brown*, 1858, 6 Weekly Rep. 352, there referred to; also Scrutton on Copyright (2nd ed.), p. 110, and principles there laid down on the authority of *Jarrold* v. *Houlston*, 1857, 3 Kay & Johnston, 708. (2) Theirs was substantially a new work, as original as it could be in the circumstances. The selection and arrangement were their own, and the information had been taken from official sources, and not from the complainer's publication. That publication did not contain A B C tables, which were the feature of their work. The Lord Ordinary had laid too great stress upon the similarities which were necessarily there, and had overlooked the differences which showed the independence of the work. The Lord Ordinary had largely proceeded upon probabilities. The evidence supported their asertion of having committed no breach of copyright. Any use that had been made of the complainer's book was slight and justifiable.

Argued for complainer—(1) The law had been correctly set forth by the Lord Ordinary—See also *Maclean* v. *Moody*, June 23, 1858, 20 D. 1154; *Kelly* v. *Morris*, 1866, 1 Eq. 697, approved in *Morris* v. *Wright*, 1870, 5 Ch. App. 279; and the recent case of *Harpers, Limited* v. *Barry, Henry, & Company, Limited*, November 29, 1892, 20 R. 133. (2) The Lord Ordinary had reached a sound conclusion upon the evidence, which pointed to illegitimate use on the appellants' part of the complainer's publication.

At advising—

The Lord President, in delivering the judgment of the Court, said—The Lord Ordinary says in his opinion, "The question seems to me to be mainly one of fact, viz., whether the respondents, instead of compiling a time-table for themselves from common and public sources of information, took advantage of the complainer's labour and substantially copied his time-tables."

On this question of fact the author of the time-table, and the several persons engaged in its preparation have been examined as witnesses, and their testimony is primary and direct evidence. They all say that the former and not the latter of the two alternative methods specified by the Lord Ordinary was that which was actually adopted. I do not understand the Lord Ordinary to have been unfavourably impressed by any of these witnesses while they were being examined, or to have any reason for rejecting their testimony except what his Lordship considers the impossibility of reconciling it with the real evidence of the case. This being so, I do not know that we are in a less favourable position than the Lord Ordinary for weighing the evidence upon which the question is to be determined. And after full consideration of that evidence, I am unable to agree with the Lord Ordinary. I consider that on the issue stated by his Lordship the complainer has failed to prove his case.

We begin by finding that the respondents had in the compilers of their time-table, persons perfectly competent to do the work without illegitimate aid. The A B C part of the book is admittedly their own work, and it demanded more pains and originality than the part now in dispute. But further, it is indisputable that in what may be called relatively the broader features of the part of the book in dispute, the respondents have worked independently of the complainer's book. The selection of routes is different, the order is not the same, nor is the structure of the pages. Where a selection of stations is made, the stations selected are different in nearly as many instances as they are the same. That there should be even with independent work a coincidence or concurrence to the extent to which there is in what I call the broader features of the books, is almost inevitable from the necessary limitations of choice attending the enterprise.

Turning, then, to the region of detail in which the Lord Ordinary has found the grounds of his judgment, I observe that, except in a few instances, what the respondent is said to have purloined from the complainer is matter which the complainer had taken from the companies' tables, and which the respondents could equally have got from the same source. Now, it does not appear that there was any great temptation to use the complainer's book instead of the railway books, so far as saving of trouble was concerned. Mr Adam, indeed, who is conversant with work of this kind, thinks it would have been easier to go to the official sources at once.

These considerations seem to show that the respondents had the ability to do the work themselves; that in more difficult matters they put forth that ability; and that the matter in dispute did not present strong temptations to go wrong. And now I turn to an aspect of the case to which the Lord Ordinary does not seem to have attached the importance which I am disposed to assign to it. The respondent Mr J. M. Young, who is really the author of the book in dispute, has deponed in detail to the method he adopted for its compilation. He traces the various stages of its preparation and the various duties which were severally devolved on the compositors employed. He has produced MSS. which show or exemplify the scheme of the tables, and the marked copies of the official time-tables which indicated the stations selected,

and he depones that written slips were handed to the compositors indicating "where to find the page in each official book, and what they were to set up in the shape of stations and trains so as to fill the columns." With regard to the setting up of the different pages of the respondents' time-table, Mr. J. M. Young set up certain pages, which he names, and he gives in detail the pages which each of the compositors got to do. According to Mr J. M. Young's evidence, each man was supplied with instructions and materials which rendered him dependent solely on the official time-tables of the several companies, and which did not involve any further aid.

Now, it has been suggested that this method was impracticable; and if this had been made out it would have gone far to clear the way for the Lord Ordinary's conclusion. But according to the evidence the complainer's own time-table was originally made up, apparently without any difficulty, from the same materials; and one of the two skilled witnesses for the complainer in so many words affirms the practicability of the method in question. Accordingly, so far as the scheme of the book in question is concerned, it seems to me to be proved that it was entirely independent of the complainer's book, and was practicable without resort to the complainer's book, and without substantial temptation to those executing the scheme to resort to it.

The remaining question is, whether this scheme was not carried out, but was departed from in favour of the method of copying the complainer's book, or rather (and this is a material qualification of the proposition) in favour of the plan of copying the complainer's book in so far as this could be done in accordance with the differences which actually exist.

Now, a point was made of the condition of the MSS. said to have been used by the compositors. Those papers were said to be now too clean to have been used in the way alleged; but this difficulty was not put to the persons who said they used the MSS., or to the skilled witnesses. Various explanations are possible, and I am not prepared to reach conclusions adverse to sworn testimony on matters of fact where the soundness of the adverse inference is left to depend on what to me is only conjecture.

It is said, however, that when the two books are compared—that of the complainer and that of the respondents—various coincidences occur in points on which both books differ from the common sources of information, so numerous and so striking that they can only be accounted for by the use of the complainer's book in the preparation of the respondents' book. Now, that the complainer's book was known to the persons engaged in the preparation of the respondents' book, that it was in their hands, and that it was referred to, is admitted; and it is also admitted that certain pieces of information were taken from it—the mileage and the circular tours. I am disposed to think also that one or two of the compositors may now and then have looked at the complainer's book to see how it put things—how it arranged a column or indicated a route. I think this likely, and there are points of identity in detail for which it seems the natural explanation; although, as regards some of the more noticeable instances, I do not feel sure of it, as they were not put to the witnesses who did the work. Assuming, however, that in some instances a compositor has copied a bit here and a bit there of the complainer's book, I am prevented from inferring that the whole has been copied, or indeed any material part, by the fact that side by side with those points of identity there are points of difference which cannot be accounted for on the complainer's theory, as they negative any continuous or wholesale copying.

I must add that I do not think that a sound conclusion is reached in this case unless due regard is had to the nature of the printed matter in which the complainer has copyright. The thing is a compilation, and the complainer has no monopoly of each several part, for that is the work of the railway officials, from whose book it is taken. Accordingly, the mere fact that at one particular table the compositor has looked on at the complainer's book instead of the official book is not of itself a breach of the complainer's copyright, but may be evidence of a more comprehensive appropriation. For the reasons already given, I do not think that the more extensive inference can be drawn.

I am of opinion that the Lord Ordinary's interlocutor should be recalled, and the prayer of the note refused.

LORD ADAM—I am of the same opinion, and for the same reasons.

LORD M'LAREN — I concur, and would only add a few words with regard to the distinction that may be taken between the present case and the recent one of *Harper*, in which we held that a trade circular was entitled to the protection of the Copyright Act. It was there proved that the whole work was original. It was not originality of a very high order, consisting as it did of computing dimensions of pulleys, &c., and of fixing prices by aid of experience gained in the trade; but it was held that there was a sufficient amount of originality to satisfy the Copyright Act, and that it was not permissible for another firm to use the complainer's tables although the prices were different.

The publication of the complainer here does not profess to be an original work, but only an abridgment of the railway companies' time-tables. In case of such an abridgment, I should say that in general the only things the complainer is entitled to protect by copyright are the selection of routes and the order of the arrangement. It is clear that there can be no copyright in particulars extracted from the railway companies' tables. Now, when we come to what has been proved in this case, I think the respondent has shown that he made an independent selection of stations, and did

not appropriate the complainer's ideas. As to the question how the hours of the trains at the different stations were filled in after the selection of stations was made, it is clear the result would have been the same whether the times were taken from the companies' tables or from the complainer's book. The compositors, it may be, were entitled to fill in the columns in the way most convenient for them, but I hold it proved that they took the lines from the railway companies' tables, and that very little use was made of the complainer's book. There being no motive for literary piracy, and nothing taken in which the complainer can prove he had any exclusive right, I am against presuming in face of his sworn testimoney that the respondent here ran the risk of an action by using the complainer's tables instead of going to the sources open to both parties.

LORD KINNEAR—The question between the parties is only one of fact. The complainer's compilation is no doubt a useful one, but all the matter it contains was already in the possession of the public, and its compiler cannot complain merely because information similar to what he furnishes is to be found in the defender's publication. At the same time he is entitled to say that the defender must not take advantage of his time-table, but must go to the independent sources open to both. He must not copy the work which the complainer has made his own and has published. The real question then is, whether the defender's work is a mere copy of that of the complainer, or whether he has gone direct to the railway companies' tables and constructed by his own industry and intelligence from information contained in these public sources.

I agree with your Lordships on the facts. Had I read the Lord Ordinary's opinion as meaning that the defender was not a credible witness, I should have had great difficulty in reversing his Lordship's judgment, but I do not so understand his opinion. I think that he would have come to the same conclusion as your Lordships had he not thought that after a comparison of the two time-tables he could not give effect to the sworn testimony of the defender. We are therefore in an equally favourable position with the Lord Ordinary for judging of this matter. After comparing the publications we are to say whether the result is such as leads us to disbelieve the sworn testimony. I am of opinion that it does not.

The Court recalled the Lord Ordinary's interlocutor and refused the prayer of the note, with expenses.

Counsel for Complainer and Respondent—H. Johnston — Dewar. Agent—J. D. Turnbull, S.S.C.

Counsel for Respondent and Reclaimer—W. Campbell—Graham Stewart. Agent—Alexander Morison, S.S.C.

Saturday, July 8.

OUTER HOUSE.

[Lord Kyllachy.

HUNTER *v.* HUNTER.

Jurisdiction—Divorce—Husband and Wife—Domicile of Succession.

A husband, English by origin, married a Scotswoman in 1878, and from 1881 the spouses had their domicile in Scotland until after the commission of certain alleged acts of adultery by the wife in Edinburgh in 1892. In December of that year the husband went to live with his relations in England, while his wife remained in occupation of a house in Edinburgh, of which he continued to be tenant till Whitsunday 1893.

In April 1893 he raised an action of divorce for adultery, and at the proof in June he stated that he had then no intention of returning to Scotland.

Held that as he had not in fact changed his residence nor evinced any intention of doing so at the date of the action, the Scottish Court had jurisdiction to entertain the action.

The circumstances sufficiently appear from the Lord Ordinary's judgment.

"*Opinion.*—In this case I have come to the conclusion that the pursuer is entitled to decree of divorce.

"A question was raised as to jurisdiction, and I had some argument on the point whether anything short of a domicile of succession is a sufficient domicile to found jurisdiction in divorce.

"It was contended for the defender that there is now no such thing recognised in law as a matrimonial domicile, that is to say, a domicile distinct from the husband's domicile of succession, and accordingly that although adultery has been committed in Scotland and the spouses have had their domicile in Scotland until after the adultery, and until before the raising of the action of divorce, it is yet fatal to the jurisdiction of the Scottish Courts if the husband has at the date of the action left Scotland, and done so in such circumstances as to make it no longer his domicile of succession.

"I have not found it necessary to come to a conclusion on the interesting and perhaps somewhat difficult question thus raised. I shall only say that I am not satisfied that the doctrine can be stated so broadly as it was put in argument.

"As the facts of the present case stand I am prepared to hold that at the date of this action the husband, who is here the pursuer, had his domicile of succession in Scotland. His domicile of origin was no doubt English, but he had married a Scotswoman, and on his marriage, which took place in 1878, he had come to Scotland and settled there. From that time his only home was in Edinburgh, where he rented and furnished a house, and indeed it was not disputed that up to December 1892 he was for all