HOUSE OF LORDS.

Friday, November 16, 1900.

(Before the Lord Chancellor (Halsbury) and Lords Macnaghten, Shand, Brampton, and Lindley.)

M'GREGOR AND OTHERS *v.* COX AND OTHERS (COUNCIL OF UNIVERSITY COLLEGE, DUNDEE).

(*Ante*, December 8, 1897, 35 S.L.R. 273, and 25 R. 1216.)

(See also *ante*, 32 S.L.R. 182 and 402; 33 S.L.R. 405, and 34 S.L.R. 6; and 22 R. 210; 22 R. (H.L.) 13; 23 R. 559; and 23 R. (H.L.) 60.)

University — Universities (Scotland) Act 1889 (52 *and* 53 *Vict. c.* 55), *sec.* 16—*Affiliation of University College, Dundee, to University of St Andrews.*

This case is reported *ante ut supra.*

The pursuers and reclaimers appealed.

After the case had been partly heard on appeal it was suggested by some of the Lords that the appeal could not be entertained in respect of the judgment delivered in the House of Lords on July 27, 1896, in the case of *Metcalfe* v. *Cox*, reported *ante*, 34 S.L.R. 6, and 23 R. (H.L.) 60. An argument upon this question was presented by the Dean of Faculty for the respondents in the appeal, and by senior counsel for the appellants in reply.

The House refused to entertain the appeal in respect that in the case of *Metcalfe* v. *Cox, cit. supra*, they had already considered the validity of the Ordinance No. 46, St Andrews No. 5, the reduction of which, in so far as it purported to affiliate University College, Dundee, to, and to make it form part of the University of St Andrews, was the leading purpose of the present action, and had expressed opinions to the effect that the provisions for affiliation and incorporation contained in that Ordinance were within the authority conferred by the Universities (Scotland) Act 1889.

Appeal *dismissed*, and interlocutors appealed from *affirmed*.

Counsel for the Pursuers and Appellants —Fletcher Moulton, Q.C.—Pitman. Agents —Grahames, Currey, & Spens, for J. & F. Anderson, W.S.

Counsel for the Defenders and Respondents — Dean of Faculty (Asher, Q.C.) — Clyde. Agents—Martin & Leslie, for J. & D. Smith Clark, W.S.

Friday, March 29, 1901.

APPEAL COMMITTEE.

(Before the Lord Chancellor (Halsbury), and Lords Davey, Morris, Shand, Robertson, and Lindley.)

M'KINNON *v.* BARCLAY, CURLE, & COMPANY.

(*Ante*, February 1, 1901, 38 S.L.R. 321.)

Appeal to House of Lords—Competency—Workmen's Compensation Act 1897 (60 *and* 61 *Vict. c.* 37), *Second Schedule,* 14 (*c*).

Held by the Appeal Committee that it is not competent to appeal to the House of Lords against a judgment pronounced by the Court of Session in an appeal under the Workmen's Compensation Act 1897, Second Schedule, section 14 (*c*).

This case is reported *ante ut supra.*

The claimant Mrs Janet Osborne or M'Kinnon appealed to the House of Lords.

The respondents Barclay, Curle, & Company, Limited, petitioned the House to dismiss the appeal as incompetent, on the ground that the decision of the Court of Session was final and not appealable. This petition was ordered to be argued before the Appeal Committee by one counsel on each side.

The Workmen's Compensation Act 1897 (60 and 61 Vict. cap. 37) enacts as follows:—Second Schedule, 14 (*c*) "Any application to the Sheriff as arbitrator shall be heard, tried, and determined summarily in the manner provided by the fifty-second section of the Sheriff Courts (Scotland) Act 1876, save only that parties may be represented by any person authorised in writing to appear for them, and subject to this declaration, that it shall be competent to either party, within the time and in accordance with the conditions prescribed by Act of Sederunt, to require the Sheriff to state a case on any question of law determined by him, and his decision thereon in such case may be submitted to either Division of the Court of Session, who may hear and determine the same finally, and remit to the Sheriff with instructions as to the judgment to be pronounced."

Argued for the respondents—The appeal was not competent. The procedure under the Workmen's Compensation Act 1897 was peculiar, and had been specially prescribed by the statute. By section 14 (*c*) of the second schedule appended to the Act it was directed that applications to the Sheriff as arbitrator should be determined summarily under section 52 of the Sheriff Courts (Scotland) Act 1876. That section laid down the procedure in cases which the Sheriffs are allowed to dispose of summarily without their judgments being subject to review. Consequently, but for the proviso as to appeal in Workmen's Compensation Act cases the decision of the Sheriff would have been final and would not have been appealable to the Court of Session. The appeal allowed by section 14 (*c*) was not an