lodged along with reclaiming-notes. These were regulated by the same statute, and to say that the omission of a few words was to be followed with the result that the reclaiming-note was to be held to be incompetent is not well founded. Accordingly, I think that this provision is directory only —not in the sense that a party may or may not follow it at his convenience, but that the Court may recognise a certain latitude in the way it is to be observed, and be satisfied if there has been substantial compliance with it.

In this case I think that there has been substantial compliance with the enactments.

The cases to which reference was made are in an entirely different category. In all of them except *Muir* (2 R. 26) the objection taken was that the whole record was not before the Court for consideration. In the case of *Carter* (9 D. 598) the pleas-in-law of the pursuers were omitted altogether. In *Williamson* (1 F. 864) part of the summons was omitted, and again in *Gibson* (2 F. 1079) an essential part of the interlocutor submitted to review was not printed at all. All these cases were probably well decided. The case of *Muir* (2 R. 26) resembled this case except in one important particular, viz., the extent of the amendments. The report of that case says that "considering the extent of the additions" the requirements of the statute and Act of Sederunt had not been complied with.

I should have no hesitation in following that decision, because in it there was no substantial compliance with the provision of the Act. But then I agree with your Lordship that the additions in manuscript in this case are not extensive but insignificant in extent, and I think it would be entirely wrong to throw out the case when the whole record is actually before the Court and a few words only are in manuscript.

LORD M'LAREN—I agree with your Lordships. The question is as stated by Lord Adam, whether there has been substantial compliance with the Act of Parliament and Act of Sederunt. Whenever the omission is of the category of a clerical or printer's error I should have no difficulty in holding that the enactments had been complied with. The present case is not a case of omission. The objection is that certain words added by way of amendment to the record have been inserted in manuscript. Now, when cases come before us and amendments are allowed, we are generally content to have them written on the record, so as not to put the parties to the expense of reprinting. The result of sustaining the present objection would be that in the event of any amendment, however slight, being allowed by the Lord Ordinary the party would be put to the expense of reprinting the record as amended as a condition of bringing the case into the Inner House for review. It is not to be overlooked in construing this provision of the Judicature Act, that the general power of amendment was given by a later statute, and consequently such amendments as we have now under consideration were not within the view of the framers of that Act.

LORD KINNEAR concurred.

The Court repelled the objections to the competency and sent the case to the roll.

Counsel for the Reclaimer—Guy. Agents —Gordon, Petrie, & Shand, S.S.C.

Counsel for the Respondents — Chree. Agents—Hamilton, Kinnear, & Beatson, W.S.

HOUSE OF LORDS.

Friday, March 20.

APPEAL COMMITTEE.

(Before Lord Macnaghten, Lord Shand, Lord Davey, Lord Robertson, and Lord Lindley.)

BARRIE *v.* CALEDONIAN RAILWAY COMPANY.

(*Ante*, November 1, 1902, 40 S.L.R. 50.)

Appeal to House of Lords—Competency—Appeal on Question of Expenses only.

An appeal to the House of Lords on the question of expenses only is not competent.

This case is reported *ante ut supra.*

The Caledonian Railway Company (defenders and appellants) appealed to the House of Lords, but upon the question of expenses only.

The pursuer and respondent objected to the competency of the appeal, in respect that it was taken upon the question of expenses only, and cited Macqueen's Practice of the House of Lords, p. 94; Denison & Scott's House of Lords Appeal Practice, p. 67; *Tod* v. *Tod* (1827), 2 W. & S. 542; *Horne* v. *Pringle* (1840), 8 Cl. & F. 264; and Court of Session (Scotland) Act 1825 (6 Geo. IV. c. 120) (Judicature Act), sec. 40.

The Appeal Committee held that the appeal, being on the question of expenses only, was incompetent, and dismissed the appeal with five guineas costs.

Agents for the Pursuer and Respondent—A. & W. Beveridge, Westminster—Smith & Watt, W.S., Edinburgh.

Agents for the Defenders and Appellants —Grahames, Currey, & Spens, Westminster—Hope, Todd, & Kirk, W.S., Edinburgh—H. B. Neave, Glasgow.