

## HOUSE OF LORDS.

LONDON, 19 July, 1897.

BARRACLOUGH v. BROWN (32 L.J.)

*Ship—Wreck—Abandonment by owners—Removal by navigation authority—Liability of shipowners for expenses.*

Where a statute provides that a sum due or damages incurred shall be recovered in a Court of summary jurisdiction, it is not competent for the claimant to take proceedings for the recovery of the sum before any other tribunal than that provided by the Act, even for the purpose of ascertaining the right.

Section 47 of the Aire and Calder Navigation Act, 1889, provides that if any vessel shall be sunk within the limits of the undertakers' jurisdiction, the owner, in default of removal by him, shall be liable for the expenses of removal, and such expenses shall be recovered before a Court of summary jurisdiction.

*Held*, that the time when the expenses were incurred, and not the time when the vessel sank, was the period to determine ownership, and that the original owners, who had abandoned the vessel to the underwriters before the expenses were incurred, were not liable to the undertakers for the expenses incurred by the latter in removing the wreck.

Respondents' counsel were not heard.

Their Lordships (Lord Herschell, Lord Watson, Lord Shand and Lord Davey), after consideration, affirmed the decision of the Court of Appeal, 65 Law J. Rep. Q. B. 333.

*THE VALUATION AND PAYMENT OF ANNUITIES.*

Fifty years ago Vice-Chancellor Knight Bruce, in *Wroughton v. Colquhoun*, decided, in accordance with older authorities, that where a testator's effects are insufficient to satisfy an annuity as well as pecuniary legacies bequeathed by his will, the proper course of administration is to value the annuity and to pay the amount of the valuation at once to the annuitant, subject to an abatement in proportion to the abatement of the pecuniary legacies. The result of this is that, although the annuitant may die before the time when the payment of the annuity in full would have equalled the abated amount of the valuation, the other legatees will be unable to claim the surplus of that amount,