required to be stated on record — that it was neither necessary nor expedient that the claims of parties should be set forth in detail, and that it was not necessary to read the portions of the record, founded on by the pursuer as excluding the claim, in so strict a way as to give them such effect, and that they were to be read in the light of those to which they were an answer. Their Lordships expressed their concurrence with the views of the Lord Ordinary upon the claims of partners to remuneration for services, and the grounds on which such must be based.

Judgment accordingly.

Counsel for the Pursuer—Mr Gifford and Mr Orr Paterson. Agents—J. & A. Peddie, W.S.

Counsel for the Defender—Mr Shand and Mr MacLean. Agent—W. Mitchell, S.S.C.

Friday, Feb. 15.

FIRST DIVISION.

PET.—MACKENZIE OR BRODIE.

Judicial Factor—Parish Minister. The Court will not appoint a parish minister a judicial factor.

Process—Petition. When an estate is small, the appointment of a factor and authority to make up titles may be asked in one petition.

This petition for the appointment of a judicial factor was reported by Lord Mure (1) because the person proposed to be appointed was a parish minister; and (2) because the petition for the appointment contained also a prayer for authority to make up titles to certain heritable subjects. His Lordship stated that the Court were not in use to appoint parish ministers to such an office; and, in regard to the second point, that although an application for authority to make up titles was generally the subject of a separate application, there were cases in which it had been held competent, as the estate was small, to combine it with the application for the factor's appointment.

BIRNIE, for the petitioner, cited Kirk, 14 S. 814, and Campbell, 12 D. 913, as cases in which parish ministers had been appointed. The estate was trifling, and the minister would act without remuneration.

The Court expressed their unwillingness to multiply precedents for appointing parish ministers, and another person was accordingly suggested and appointed. In regard to the other point, they thought that in this case the appointment and the authority to make up titles might be granted under the same application.

Agents for Petitioner—G. & J. Binny, W.S.

Saturday, Feb. 16.

FIRST DIVISION.

MACKAY *v.* M'CULLOCH.

Process—Reclaiming Note—Lodging—A. S. 24th Dec. 1838. A reclaiming note against an interlocutor refusing a note of suspension must be marked as lodged by the clerk to the process within fourteen days.

This was a reclaiming note against an interlocutor pronounced in the Bill Chamber refusing a note of suspension. It had been boxed and marked as boxed within the reclaiming days, but it was not presented to the clerk of the process to be marked as lodged until after they had expired. The clerk having refused to receive it,

W. N. M'LAREN, for the reclaimer, moved the Court to allow it to be received.

MACLEAN, for the respondent, objected.

The Act of Sederunt 24th Dec. 1838, sec. 5, provides, in regard to reclaiming notes of the kind in question, that they "shall be intimated to the agent of the opposite party and clerk of the bills, and in time of session be duly marked and boxed within fourteen days from the date of the interlocutor reclaimed against."

The Court had no doubt that the marking referred to in the Act of Sederunt was the marking by the clerk to the process, and that the marking by the boxing clerk did not satisfy the provision. They therefore refused to write on the reclaiming note.

Agent for Reclaimer—J. M. Macqueen, S.S.C.

Agent for Respondent—John Ross, S.S.C.

HOUSE OF LORDS.

Monday, Feb. 11.

LORD ADVOCATE *v.* HUNT.

(In Court of Session, 3 Macp. 426.)

Property—Bounding Charter—Barony—Parts and Pertinents—Prescriptive Possession. In an action to have it declared that the ruins of the Royal Palace of Dunfermline and the ground on which they stand belong to the Crown, the defender pleaded prescriptive possession following upon a bounding charter, or otherwise upon a barony title with parts and pertinents. Held 1. (aff. Court of Session) that the ground claimed was not embraced within the boundary title; and 2. (rev. Court of Session) that although the defender had been in possession for the requisite period, it was not proved that he had possessed the subject as a part and pertinent of the barony.

This is an appeal from an interlocutor of the First Division of the Court of Session, assoilzieing the respondent from the conclusions of a summons in an action raised against him by the Lord Advocate on behalf of the Commissioners of her Majesty's Woods and Forests. Those conclusions were to the effect that it should be found and declared that Mr Hunt had no legal right or title to certain pieces of land enumerated and described in the summons, and situate in the vicinity of the Abbey of Dunfermline. The only conclusion, however, ultimately persisted in was that which related to the piece of ground on which stand the ruins of the royal palace. The abbey or monastery of Dunfermline had very extensive properties, which were partly appropriated to the Crown and partly made over to private families. The lordship of Dunfermline, which appears to have included the royal palace, was annexed to the Crown by the Act 1593, c. 189. In the year 1589, James VI., on his marriage, made a grant of the lordship to Queen Anne of Denmark, which was confirmed by Parliament by the Act 1593, c. 190. A second charter of the lordship was granted by the King in 1593, in favour of Queen Anne and the heirs lawfully procreated, or to be procreated, of the marriage between her and the King, whom failing, to the King's heirs and successors whatsomever to the Crown of Scotland; and this charter was ratified by Parliament