persons having interest are parties to the petition, and that it is just another way of giving effect to the object of the petition, I think it may be allowed.

LORD PRESIDENT and LORD M'LAREN concurred.

LORD KINNEAR was absent at the hearing.

The petitioners thereupon proposed to amend the prayer of the petition by substituting for the words "to remove" down to "is now situated" the following — "Authorise and ordain the trustees under the trust-disposition of 16th April 1849, or a quorum of their number, to dispone and convey the property held by them as trustees to and in favour of His Grace William Henry Walter Duke of Buccleuch and Queensberry, K.T., John Murray, Esq. of Wooplaw, in the county of Roxburgh; Lieutenant-General John Sprot of Riddell in the said county, Charles Erskine, Esq., residing at Friarshall, Melrose, and the Right Rev. John Dowden, D.D., residing at Lynn House, Gillsland Road, Edinburgh, the present Bishop of Edinburgh in the Scottish Episcopal Church and his successors, so long as Trinity Church, Melrose, is situated in the diocese of Edinburgh, and thereafter the Bishop of the diocese of the said Scottish Episcopal Church in which Trinity Church, Melrose, may for the time be situated, and that as trustees for the purposes and subject to the conditions and declarations contained in the said trust-disposition."

The Court allowed the prayer of the petition to be amended as proposed, and thereupon granted the first alternative as craved.

Counsel for the Petitioners — Mackay. Agents—Strathern & Blair, W.S.

Saturday, June 17.

FIRST DIVISION.

STEWART & COMPANY *v.* JOHNSTONE.

Process—Expenses—Objections to Auditor's Report—Time of Lodging—Act of Sederunt of 6th February 1806.

The Act of Sederunt of 6th February 1806 provides that "in case either party means to object to the report of the Auditor, he shall immediately lodge with the clerk a note of his objections."

Held that objections to an Auditor's report must be lodged within forty-eight hours, unless special cause is shown to justify further delay, and that objections lodged a month after an account had been taxed came too late.

In this case the Court found the defender entitled to expenses under deduction of one-fourth. The defender's account was taxed on 11th May, and objections thereto by the defender were lodged on 10th June.

The pursuers argued — The objections came too late and could not be entertained. They should, according to the construction usually put upon the Act of Sederunt, have been lodged within forty-eight hours — *Adamson & Gulland* v. *Gardner*, July 4, 1878, 15 S.L.R. 664.

The defender argued—The delay in lodging the objections had been caused by there having been double agency in the case, but intimation of the objections had been made to the pursuers' agents soon after the taxing. Further, the question raised was really whether the Auditor had construed the Court's interlocutor correctly. In taxing the account he had first disallowed expenses wherever the defender had been unsuccessful, and had then deducted a fourth from the remainder. The objections proceeded on the footing that the fourth alone should have been deducted. In these circumstances the terms of the Act of Sederunt should not be construed too strictly against the defender.

At advising—

LORD PRESIDENT—The Act of Sederunt requires that objections to the Auditor's report shall be lodged immediately. According to custom forty-eight hours has been regarded as the measure of latitude thus allowed. It is not necessary to hold this an inflexible rule if special cause were shown why compliance with it could not be rendered. It is enough to say that in the present case no such cause has been shown, for here the departure from the duty of lodging objections immediately is wide and has not been excused.

LORDS ADAM, M'LAREN, and KINNEAR concurred.

The Court refused the note of objections.

Counsel for the Pursuers—A. S. D. Thomson. Agents—Ronald & Ritchie, S.S.C.

Counsel for the Defender—W. Thomson. Agent—Arthur S. Muir, S.S.C.

Tuesday, June 20.

FIRST DIVISION.

[Lord Low, Ordinary.

MARTIN *v.* FERGUSON'S TRUSTEES.

Succession — Marriage-Contract — Mutual Settlement—Power to Revoke—Husband and Wife.

An antenuptial marriage-contract contained certain provisions in favour of the next-of-kin of the spouses in the event (which happened) of there being no children of the marriage, and a condition that the survivor of the spouses should forfeit certain benefits in the event of re-marriage.