

to the pursuer; repel the objection made to the pursuer's title, and remit to the Lord Ordinary to proceed accordingly."

No. 26.

Lord Ordinary, *Monboddoo.* For Grant, *Macqueen.* For Chalmers, *Rolland.* Clerk, *Pringle.*
R. H. *Fac. Coll. No. 105. p. 318.*

1791. *May 25.* DAVID ALLAN and Others, *against* JAMES MACRAE.

A NUMBER of people in the parish of Fettercairn, in Kincardineshire, who formed themselves into a religious society, under the denomination of Bereans, and chose Mr. Macrae for their pastor, purchased a piece of ground, on which they erected a place of worship, the whole expense being defrayed by the voluntary contributions of the members. The property having been acquired in the name of a committee of their number, as trustees for the congregation, the feudal right was vested in these trustees by infestment.

Afterwards, however, a schism happened in this congregation, a part of them adhering to Mr. Macrae, and another part renouncing all connection with him; in consequence of which, the question came to be agitated in a process of declarator, at whose disposal the property of the society should be.

The Lord Ordinary reported the cause; when

The Court, contrary to the decision in the case of Gibb's meeting-house in 1752, and agreeably to those of Jobson in 1771, No. 5. p. 14555. which related to a seceding meeting-house at Dundee, and of Smith in 1779, respecting a meeting-house at Falkirk,

"Found, That the feu-right obtained by David Allan and others, as managers for building a meeting-house for divine-worship, was a trust in their persons, for behoof of the contributors for purchasing the area, and building the meeting-house in question; and that the said trustees are bound to denude themselves of said trust, in favour of the said contributors, or the majority of them, or managers named by the majority."

Reporter, *Lord Dreghorn.* Act. *Solicitor General Stewart.* Alt. *Dean of Faculty Gillies.*
Clerk, *Sinclair.*

S. *Fol. Dic. v. 4. p. 287. Fac. Coll. No. 181. p. 367.*

1791. *June 17.* MONTGOMERY *against* FORRESTERS and COMPANY.

FORRESTERS and Company fitted out a ship for the Greenland whale-fishery, and advertised a division of the property in her into thirty-two shares, of £.150 each; and it was stipulated that the majority of the adventurers should direct the employ and disposal of the ship, and that the contract should subsist for three years. Forresters and Company subscribed themselves for ten shares, Montgomery

No. 28.