ment speaks of the redeeming of the casualty of a feu, meaning, it is conceded, that where there is one feu then the casualty of superiority must either be redeemed in whole or not at all. Looking to the structure of this deed, I entertain no doubt that there is only one subject in the feudal sense. The charter of 1730 not only conveys the old lands of Calsayseat which the disponee inherited from his ancestors, but also a piece of muir land which was then given over for the first time, and it provided that the muir land should be a pertinent of the lands of Calsayseat. As Lord Kinnear has pointed out, if it were not for the parenthetical clause in which it is explained how the fourteen pounds is made up—six pounds for the old lands and eight pounds for the new—there could be no question that this is one estate and held under one condition of feu. But while there is this explanation of how the feu-duty was arrived at, I think it is impossible to look at the feudal clauses without seeing that, for any feudal purpose, the subjects are to be taken as one undivided estate. In the *tenendas* clause, the lands to be held are described as the lands of Calsayseat, with the piece of muir ground now annexed thereto and declared part and pertinent thereof, and the salmon fishing. We have the same expression in the *reddendo* clause. Then there is the provision for the entry of heirs, and, lastly, the clause of warrandice is to the effect that the Provost, Bailies, and community of Aberdeen bind and oblige themselves and their successors to warrant, acquit, and defend to the said Mr Alexander Fraser younger of Powis, his heirs-male and assignees, the said lands of Calsayseat and piece of muir ground annexed thereto, and haill pertinents thereof within the bounds and marshes specified. Again, in the precept of sasine, infeftment is to be given in relation to the whole lands. Now, nothing has been done since 1730 to change the position of matters; the title stands on the old description. Even if there had been a variation, yet as this is a question between contracting parties into which prescription does not enter, it is always competent to go back to the original charter to ascertain how the subjects are held. Whether it be possible by dividing the lands to accomplish the object which the pursuers desire I do not know. I think the Lord Ordinary has rightly held that this is not a process in which we can determine that question. In the actual state of the titles I agree that the proposal to relieve part of the lands of this casualty is not in accordance with the statute.

The LORD PRESIDENT concurred.

LORD ADAM was absent.

The Court adhered.

Counsel for the Pursuers—Rankine, Q.C. —Macfarlane. Agents—Scott Moncrieff & Trail, W.S.

Counsel for the Defenders—Balfour, Q.C. —Kennedy. Agents—Gordon, Falconer, & Fairweather, W.S.

Thursday, July 7.

SECOND DIVISION.

[Sheriff-Substitute of Inverness-shire.

M'NEILL *v.* MACKINNON.

Slander — Privilege — Malice — Statement Made at Meeting of Dissenting Religious Body.

A was employed as a catechist in connection with a Free Church congregation. His affairs became embarrassed and his salary was arrested. Many of the people among whom he worked thereupon requested the collectors for the funds of the Free Church to give their contributions to A for his own use instead of handing them to the church treasurer, and the collectors did as requested by these contributors. An inquiry was held into this matter, and in consequence of his action in accepting the money, and also of other things which were not approved of in his conduct, A was dismissed from the office of catechist but was allowed to remain an elder. As the result of this an estrangement arose between A and B, also an elder, who had been active in the investigation, and had voted for his dismissal. A secession from the Free Church having taken place, and a new body having been formed with which A desired to become associated, and of which B was a member and office-bearer, A, more than two years after his dismissal, applied to the members of the presbytery of the new body by letter to effect a reconciliation between him and B. At a meeting of the presbytery A's letter was read, and the parties were given leave to speak, whereupon, in the course of conversation upon the matter, B said—"Have you [meaning A] kept the money that should have gone to Edinburgh." No record of this part of the business appeared in the minutes, and the members of presbytery had agreed beforehand not to treat this matter as formal presbytery business, but it was allowed to be taken up between the parties themselves "as Christian brethren." A brought an action of damages for slander against B, and averred that by the words used upon the occasion referred to, B meant that A had received money belonging to the Free Church which he should have remitted to Edinburgh, but that he had instead retained it for his own use—thus persisting in a charge which he knew to be false.

Held (1) that the occasion upon which the words were used was privileged; (2) that the words did not bear the innuendo libelled; (3) that malice was not proved; and that consequently B was entitled to decree of absolvitor.

Observed by Lord Moncreiff that malice might have been inferred from

the defender's conduct in persisting in the charge, if the innuendo had been proved.

This was an action brought in the Sheriff Court at Portree by Donald M'Neill, retired catechist, Portree, against Neill MacKinnon, merchant there, in which the pursuer craved decree for £250 as damages for slander

The pursuer alleged that on 13th August 1894, at a meeting of the Presbytery of a religious body, styling themselves the Free Presbyterian Church of Scotland, held at Portree, the defender stated maliciously and without probable cause that the pursuer, while acting as catechist of the Free Church at Braes in Skye, "had kept the money of the Church in his own pocket, and the money which should have gone to Edinburgh he had used for his own purposes," or used words to the like effect, meaning thereby that the pursuer while acting as catechist at Braes received certain moneys belonging to the Free Church of Scotland which he should have remitted to the treasurer of said Church at Edinburgh, and retained them in his own pocket and used them for his own purposes.

The defender averred that on a certain Sunday in 1890 he conducted a service for the pursuer at Braes, and at the end of the service intimated that during that week the collectors would go round and collect the contributions to the funds of the Church, and that the collectors went round accordingly and received the people's contributions. He also averred as follows:—"The majority of the said collectors sent the contributions collected by them to the Church's treasurer at Portree, but one or more of said collectors handed the money so collected by them to the pursuer that he might transmit the same to the treasurer of the said Church. The pursuer did not, however, transmit to the Church treasurer the said sums handed to him as aforesaid. At this time it is believed he was in embarrassed circumstances, and it was matter of common report in Braes and Portree that he did not account to the treasurer of the Church for the sums paid to him by the said collectors as aforesaid, but applied the same to his own purposes."

With regard to the occasion on which the slander was said to have been uttered, the defender averred that what he said was said in response to the invitation of the moderator of the Presbytery, who proceeded upon a request by the pursuer that the Presbytery should effect a reconciliation between him and the defender.

The defender pleaded, *inter alia*—"(3) The statements by the defender having been made in good faith to a competent court appealed to by the pursuer for that purpose, and in response to an invitation from it, the same are privileged."

There was no plea of *veritas*.

After sundry procedure a proof was allowed by which the following facts were established:—Previous to 23rd February 1892 the pursuer and the defender were, the former for about thirty years, and the latter for about five years respectively, elders and members of the Kirk-Session of the Free Church congregation at Portree. For some time prior to that date the pursuer had also been catechist in connection with that congregation at Braes. In 1890 the pursuer was in embarrassed circumstances, and his salary as catechist was arrested for a debt due to the Caledonian Banking Company, Limited. The pursuer's salary as catechist was his sole means of support, and the great majority of the people of Braes among whom he lived and worked, sympathising with him in being deprived of his livelihood, determined, instead of giving their usual contributions to the funds of the Free Church, to give all they could spare to the pursuer personally. On a certain Sunday in September 1890 the defender, who was conducting a service for the pursuer at Braes, intimated that during the ensuing week the collectors for the funds of the Free Church would go round and make the collections. The collectors accordingly went round the people and collected money from them, but they were directed by the large majority of the contributors, instead of handing the contributions to the treasurer of the Free Church, to hand them to the pursuer for his own use, as it was their desire that the money should be paid to him and not to the Free Church. The collectors accordingly paid the money given to them with these directions to the pursuer, who retained it for his own use. The collectors who had acted in this manner were subsequently summoned before the Deacon's Court of the Free Church congregation at Portree, and remonstrated with for what they had done. They were told not to do so again, and they promised that they would not. There was also a good deal of talk in the parish of Portree with regard to the conduct of the collectors and the pursuer in regard to this matter.

On 22nd February 1892 the Kirk-Session of the Free Church congregation at Portree, after investigation into the conduct of the pursuer with reference to the collection on his behalf, and also with reference to certain charges made by him in the course of his bankruptcy examination against the agent of the Caledonian Banking Company, Limited, who was a fellow elder in the Free Church, dismissed the pursuer from his office of catechist, but allowed him to retain his office as an elder and member of session until he retired of his own accord in May 1893. The defender took an active part in the investigation into the pursuer's conduct, and voted for his dismissal. Thereafter the pursuer and defender ceased to be on friendly terms.

Prior to May 1893 a number of persons, including the defender, formerly connected with the Free Church congregation at Portree, seceded from the Free Church, and along with others, formed themselves into another body, which assumed the name and designation of the Free Presbyterian Church of Scotland.

The pursuer was desirous of becoming connected with this new religious denomi-

nation, and attended their meetings. On July 4th 1894 he wrote the following letter and sent it to the members of the Presbytery of the Free Presbyterian Church of Scotland:—"Rev. and Dear Sir,—Would you, as a member of the Free Church Presbytery of Scotland, be kind enough to take the following into your consideration and to report the same to the first meeting of your party. You are probably aware that some difference arose between Mr Neill MacKinnon, elder, and me two years ago. Owing to that difference I am unable to associate so freely with Secession Congregation in Portree as I otherwise would. Having repeatedly spoken without any effect to various members of the Presbytery to take the matter into consideration, and if possible, without any prejudice to truth, to effect a reconciliation between Mr MacKinnon and myself, I now make my last appeal to your body to take cognizance of my case. In making this appeal to you I am persuaded that I am soliciting nothing else than what the Word of God recommends should be done under such circumstances. If you fail in doing this I shall feel obliged to sever my connection with your body, as well as to make a *public* declaration of what I consider to be the true state of the issues at stake. It does not, I think, augur very well for the success of your party if at such an early stage of its existence you can afford to ignore a rule of procedure so clearly set down in the Word of God. There are many who will be but too glad to see breaches in our ranks here. I should be very sorry to give any occasion for such rejoicing, but in fairness to myself I shall feel obliged to take the course I have indicated in the event of the Presbytery continuing to deny my request. This letter is strictly private, and if I am under the necessity of dissenting from the Presbytery of Scotland, and give reasons for my dissent, the correspondence between me and Mr MacKinnon and the Presbytery of your Church will be given to the *public* in full.—I remain, Rev. and dear Sir, yours sincerely,

"DONALD M'NEILL."

In consequence of this appeal the matter was taken up at a meeting of the Presbytery held at Portree on 13th August 1894 at which both the pursuer and the defender were present. The defender was a member of the Presbytery. The pursuer's letter was read to the Presbytery, and the parties were called upon to speak to the matter therein referred to. The defender thereupon, in the course of conversation on the matter, used these words—"Have you" (meaning the pursuer) "kept the money that should have gone to Edinburgh?" The pursuer then flew into a violent rage, and his conduct was such that the Presbytery did not consider it advisable to proceed further in the matter. No record of this part of the business, or of the conversation between the parties, or between either of them and members of Presbytery, was entered in the minutes, and the clerk deponed that he made this omission in accordance with the instructions of the meeting. Mr Donald Macfarlane, minister of the Free Presbyterian Church at Raasay, who was moderator of the meeting, deponed as follows—"Before the meeting commenced, we, the members of the Presbytery, had agreed among ourselves privately that nothing was to be said at the meeting regarding the questions in dispute between the pursuer and defender, and that is the reason that nothing appears in the minutes regarding the matter. At the request of Mr M'Neill the matter was allowed to be taken up between themselves and settled as Christian brethren."

The defender deponed—"I don't know that the charge against the pursuer having appropriated money belonging to the Church was proved or not . . . I found out, to the satisfaction of my own mind, that the report as to pursuer's honesty was well founded and true. It was my wish that M'Neill should be dealt with by the Session . . . I don't yet believe that the money was collected for M'Neill, but I believe the money was given to him by the collectors. (Q) Are you in the belief that the money collected by these men, and which was given to M'Neill, was Sustentation Fund money, and shonld have been by them given towards the Sustentation Fund?—(A) I believe that. . . . There was a report out that pursuer appropriated money belonging to the Free Church, and I wanted him to clear himself before I would have anything to do with him. . . . I would not have anything to do with him until he would make a thorough confession. I was not to be the judge of his confession or fault."

By interlocutor dated 16th March 1898 the Sheriff-Substitute (FRASER), after sundry findings in fact, found in law that the defender had falsely and maliciously slandered the pursuer, and was liable to him in damages: Assessed the damages at the sum of £30: Repelled the defender's defences and pleas, and decerned against him for said sum of £30, with expenses.

Note.—"The defender has pled 'privilege' against the pursuer, and I have repelled the plea, because, as I think, the circumstances of the case did not call for or warrant it. The meeting on the 13th August 1894, at which the defender slandered the pursuer, was not then constituted as a church. It was simply a private meeting of five or six men who were trying at the time to form a church. The meeting refused to take up or consider the case between the pursuer and defender.

"The action is founded upon a statement alleged to have been made by the defender at a meeting held at Portree for the purpose of forming a new church, and the first point to be considered is, whether the alleged statement, or any statement having or bearing the same meaning, was really made by the defender. At the commencement of his examination as a witness for the pursuer he readily and distinctly denied that he made any such statement; but subsequently, in course of the same examination, he admitted that he did make a statement at the meeting on the occasion referred to, which, though it is not exactly

in the same words as those alleged by the pursuer to have been used, I take as having the same meaning. This admission by the defender is to my mind a sufficient admission of his guilt of the charge made against him by the pursuer.

"The next point to be considered is whether the statement as now admitted was a true or a false one. As bearing upon that it must be borne in mind that in course of his examination he confessed that he believes that the men mentioned in the minutes of evidence as collectors paid the money received by them in September 1890 to the pursuer, and the men referred to have sworn that they collected the money for and paid it to the pursuer by express instructions from the contributors. This I think sufficiently disposes of the charge of dishonesty made by the defender against the pursuer.

"It will be observed that the defender has stated that he does not know whether the charge of dishonesty against the pursuer was proved or not, but he has added that the pursuer was dismissed from office, and that he (defender) in course of his investigations found out to the satisfaction of his own mind that the report which was current in the district as to the pursuer's dishonesty was well founded and true. At anyrate he acted at the meeting of the Kirk Session as one fully convinced upon the point, and voted for the dismissal of the pursuer.

"On the whole, and after repeated and careful consideration of the record and evidence, I have come to the conclusion that the pursuer has proved the slander condescended on, and is entitled to obtain decree for damages as prayed for in the original petition."

The defender appealed to the Court of Session, and argued—(1) In view of the pursuer's own averments and the letter which he wrote, it clearly appeared that the occasion was privileged. There could be no doubt that this would have been the case if this had been a meeting of a Presbytery of the Established Church. But as regards this question there was no difference between the governing bodies of the Established Church and those of dissenting churches—*Gibb* v. *Barron*, July 1, 1859, 21 D. 1099; *M'Millan* v. *Free Church*, July 9, 1862, 24 D. 1282; *Edwards* v. *Begbie*, June 28, 1850, 12 D. 1134. See also *Hamilton* v. *Hope*, March 10, 1827, 5 S. 569, which was a case of words uttered at a meeting of a University Senatus. The criterion in all such cases was whether there was legitimate occasion to speak the words complained of, and it did not matter in this view whether the meeting was a duly constituted presbytery or not, or whether the matter was dealt with as part of the formal business or not. Here, at the least, the words complained of were used in consequence of the pursuer's request that his fellow-Christians should endeavour to bring about a reconciliation between him and the defender. (2) Malice was not proved. The defender only spoke when requested. His words were based upon the result of investigation and in consequence of the *fama* against the pursuer. Moreover, all he did was to ask the pursuer a question.

Argued for the pursuer and respondent—The ground of privilege averred—namely, that the defender had spoken in response to a request of the moderator of the Presbytery—was not proved. The pursuer asked that the difference between him and the defender should be inquired into by the Presbytery, but the Presbytery did not do so. The matter was not dealt with as part of the regular Presbytery business, and the persons present merely acted as private individuals and not as a Presbytery. The authorities quoted were therefore inapplicable. [Lord Young referred to *Stuart* v. *Bell* [1891], 2 Q.B. 341, *per* Lindley, L.J., at page 350.] Even if the occasion was privileged, malice was proved. The defender persisted in making this charge against the pursuer after it had been shown beyond all reasonable doubt that the money which he kept had been subscribed for him personally and not for the Church. That was sufficient proof of malice—*Shaw* v. *Morgan*, July 11, 1888, 15 R. 865, *per* Lord Young at page 871.

LORD JUSTICE-CLERK—[*After stating the facts*]—Now, I think this is very clearly a case of privilege. This meeting of Presbytery had been called, and that at the instance of the pursuer, for consideration of the difference which had arisen between these two persons. It is said that the defender slandered the pursuer in saying at the meeting to the pursuer that he could not be reconciled to him until he purged himself of a charge made against him by the Session or Deacons' Court at Portree that he had misappropriated money belonging to the Free Church at Portree. But the occasion was one on which it was his duty to say that inquiry must be made into that matter, and the defender cannot be found to have done so out of malice—taking advantage of that privileged occasion—unless some specific case of malice be averred and proved against him. The very fact that he was silent about the matter for several years, and only spoke about it when called upon at that meeting, is important evidence in favour of that construction of his conduct which points to his exercising a right and a duty, and not to that construction which suggests the indulgence of malice.

I think that no malice has been proved, and that the pursuer's case has not been established.

LORD YOUNG—I am substantially of the same opinion.

It appears to be certain that in 1890 the collectors of the Free Church in Skye got money from several contributors, amounting in all to £7, 11s., which they handed to the pursuer, stating, and apparently quite truly—the contrary is not alleged—that the contributors asked that their contributions should not go to the Sustentation Fund but to the pursuer himself. When that got to be known in the district it was a good deal

talked about. Some people thought that a person in the pursuer's position ought not to have lent himself to such a transaction. I am not surprised. The collectors were remonstrated with for what they had done and told not to do it again. They agreed to this, and they did not do it again.

In 1892, in respect of this incident and other things which were not thought to be quite proper in the pursuer's conduct, he was dismissed from his position as catechist, and from that time down to 1894 he and the defender were not on good terms.

In these circumstances the pursuer wrote to this Presbytery of this small religious body which had seceded from the Free Church, and asked them to aid him in being reconciled to the defender, and the Presbytery accordingly appointed a meeting in order that they might come together in Christian harmony. They did not succeed in effecting a reconciliation. When the matter was referred to at the meeting the pursuer was asked by the defender whether he had "kept the money that should have gone to Edinburgh." This expression is the ground of action, the allegation being that the defender accused the pursuer of dishonestly keeping money which was not his. I do not think this was what he meant. I am not sure that the defender did not think that the honesty of the pursuer was more than doubtful, but the question is what he meant to convey to the Presbytery by the question which he asked. The evidence does not make the impression upon my mind that he meant the Presbytery to understand anything more than that the pursuer had improperly kept the money. When the defender put the question about the money the pursuer got so angry that the Presbytery stopped the business, so that the effort at reconciliation came to nothing.

The first question is, whether this occasion was privileged—that is, so privileged as to displace the presumption arising from a slanderous statement that it was made falsely and maliciously. The law assumes that a slanderous statement, if made without any proper occasion for making it, as mere gossip or tittle-tattle, is false and malicious. But if the occasion upon which the statement is made is such as to displace this presumption, then unless malice is proved the person complaining of the slanderous statement is not entitled to damages. I think that here there was privilege, and I also think that the pursuer has failed to prove malice. I am therefore of opinion that the judgment of the Sheriff-Substitute was erroneous, and that the defender should be assoilzied.

Lord Moncreiff — I am of the same opinion. The occasion was clearly privileged. The pursuer being desirous of joining the Secession Church, wished that the estrangement between himself and the defender, who was a prominent member of that Church, should be brought to an end; and he called upon the Presbytery to assist him to effect this. Accordingly, on his solicitation, the defender was called upon at the meeting to say what was the cause of the differences between him and the pursuer. That occasion was thus undoubtedly privileged, and the defender will be protected unless the privilege was exceeded. What was said by the defender was said at the pursuer's request with a view to the differences between himself and the defender being healed. I have therefore no doubt that the defender was justified in speaking unless he did so maliciously.

I had some doubt whether there was not proof of malice, looking to the persistency with which the defender has adhered to his charge against the pursuer. But on a consideration of the whole evidence I have come to the conclusion that there is not sufficient evidence of malice to overcome the presumption in the defender's favour which arises from the occasion upon which the words were uttered. The defender was asked to explain why he refused to associate with the pursuer, and in reply he asked the pursuer, "Have you kept the money that should have gone to Edinburgh?" This question might imply that he accused the pursuer of misappropriating money belonging to the Free Church. If he meant, and was understood to imply, a charge of theft or dishonesty against the pursuer, the fact that, in full knowledge of the circumstances which are disclosed in the evidence, he persisted in making such a charge might be evidence of malice. But I do not think that meaning is necessarily to be put upon the words used. There is ground for believing that the defender meant no more than this, that it was an improper thing for the collectors to take the money for the pursuer and to give it to him, and for him to accept it, even although the contributors said they wished their contributions to go to the pursuer. It is to be observed that in the result this money was taken from the Sustentation Fund, because people who usually contributed to that fund did not subscribe that year owing to their having given all they could spare to the collectors for the pursuer. It thus appears that in what the defender said he was only indicating the view which he entertained as to the impropriety of the pursuer's conduct; and I think that he was so understood.

Again, the fact that the defender had not spoken about this matter at all for about two years since the investigation seems to negative the idea of malice. Moreover, he only spoke about it in 1894, when asked to do so by the pursuer himself with a view to their differences being settled, and with the aid of the Presbytery.

On the whole matter I think that there is not sufficient evidence of malice, and that consequently privilege being established, we should recal the interlocutor of the Sheriff-Substitute and assoilzie the defender.

Lord Trayner was absent.

The Court pronounced the following interlocutor:—

"Sustain the appeal and recal the interlocutor appealed against: Find in

fact (1) that previous to 23rd February 1892 the pursuer and the defender were, the former for about thirty years, and the latter for about five years, respectively elders and members of the kirk-session of the Free Church congregation at Portree, and that at same date pursuer was also catechist of the congregation for about three years; (2) that on or about said date the said kirk-session dismissed the pursuer from his office of catechist and allowed the pursuer to retain his office as an elder and member of session until he retired of his own accord in May 1893; (3) that prior to May 1893 a number of persons, including defender, formerly connected with said congregation, seceded and formed themselves into another body, which assumed the name and designation of the Free Presbyterian Church of Scotland; (4) that pursuer wrote to the members of the Presbytery of said body the letter No. 10 of process; (5) that the said letter was read to a meeting of said Presbytery, and the parties were called on to speak to the matter therein referred to; (6) that the defender thereupon used the words 'Have you [meaning the pursuer] kept the money that should have gone to Edinburgh?' (7) that the words used by the defender do not bear the innuendo placed upon them by the pursuer; and (8) that the defender in using these words was not actuated by malice: Find in law that the occasion on which said words were used was privileged: Therefore assoilzie the defender from the conclusions of the action, and decern: Find the defender entitled to expenses in this and in the Inferior Court," &c.

Counsel for the Pursuer—Jameson, Q.C. —Glegg. Agents — George Inglis & Orr, S.S.C.

Counsel for the Defender—W. Campbell, Q.C.—A. S. D. Thomson. Agents—Duncan Smith & MacLaren, S.S.C.

Friday, July 8.

SECOND DIVISION.

[Lord Kincairney, Ordinary.

MULCAHY *v.* HERBERT.

Contract—Constitution of Contract—Voluntary Association—Whether Contract Implied in Becoming a Member of a Community of Sisters of Mercy.

An action of damages for breach of contract was brought by a woman who had been consecrated a member of a community of Sisters of Mercy, against the Mother Superior as representing the community, and against the Bishop of the diocese. The pursuer averred that in becoming a member of the community she had entered into a contract with the defenders by which she had agreed to perform the whole obligations incumbent upon its members, namely, to devote herself for life exclusively to the service of the poor, sick, and ignorant, according to the rule and constitution of the community, while the community thereby became bound to provide her with a home and with all necessary clothing and aliment during her lifetime, and that she had been wrongously dismissed from the community in breach of its contract with her. The pursuer did not found upon the constitution of the community as supporting her averment of contract, nor did she aver that any express verbal contract to the effect condescended on had been entered into with her by any person authorised to act for the community.

The Court *dismissed* the action as irrelevant.

This was an action at the instance of Mary Mulcahy, otherwise Sister Mary de Sales, residing near Elgin, against Eliza Herbert, otherwise Mother Mary Benedict, Mother Superior of Saint Marie's Convent of Mercy at Elgin as an individual, and as representing the congregation or community of Sisters of Mercy at Elgin, Keith, Tomintoul, and Dornie; and the Reverend Hugh Macdonald, Bishop of the Roman Catholic Diocese of Aberdeen, as an individual, and as Bishop aforesaid, in which the pursuer concluded for payment of £500 as damages for breach of contract.

The pursuer averred (Cond. 4)—"The pursuer became a member of the said community of Sisters of Mercy at Tomintoul on 9th December 1891, taking the necessary vows as stated below . . . The formal act of profession by which pursuer became a member of said community took place at the convent at Tomintoul on 9th December 1891. The pursuer was then solemnly consecrated, and took the vows of religion in presence of the then Mother Superior of the community, Mother Mary Bernard, the assistant or local Superior Mother Mary Benedict (now Mother Superior, and here called as a defender), and Reverend John Paul, priest at Tomintoul, as representing the defender, the Reverend Hugh Macdonald. By said act of profession the pursuer solemnly vowed and promised poverty, chastity, and obedience, and the service of the poor, sick, and ignorant, and to continue or persevere until death in said community or congregation of nuns, known as the congregation of our Lady of Mercy, according to its approved rule and constitutions, under the authority of the Right Reverend Hugh Macdonald, Bishop of said diocese, and of the said Mother Superior, Mary Bernard, and of said assistant or local Mother Superior, the defender. Part of the ceremony consisted of an address from the said Reverend John Paul, as representing the defender, the said Bishop, in which he stated to the pursuer and another novice, who took the vows at the same time, that the vows they were taking bound them for their whole lives, and told