

TRUST.

TWEEDIE *against* LOCH.

WILLIAM Loch, writer, purchased, at a judicial sale, the lands of Earlshaugh. Tweedie alleged, that he had given a mandate to Loch to purchase these lands for him; that he had accepted of the mandate, and therefore he ought to denude in Tweedie's favour. Mr Loch denied the trust, and objected the Act 1696, and that it was not competent to rear up this mandate or trust by witnesses. The Lords allowed a proof before answer; and, upon advising the proof, assoilyied Mr Loch, upon the insufficiency of the proof.

Another cause,
SKEEN *against* BALFOUR RAMSAY,
was precisely similar.

MAXWELL *against* MAXWELL.

MR Bruce gave a commission to Mrs Maxwell to purchase for him, at a sale, the lands of Leckie-Bank. She purchased them, and entered into a minute of sale in her own name.

Mr Maxwell, assignee of Bruce, brought an action against her to denude: she denied the trust. A proof was allowed, by which the trust having been proved, her heirs (for she died during the dependance,) were decerned to denude, and found liable in expenses.

1771.

ALISON *against* ALISONS.

COLIN Alison, wright, embarrassed in his circumstances, put 40 guineas into the hands of his brother, Thomas Alison, glazier, to purchase for him a small tenement in Corri's Close: the rights were taken in Thomas's name, but no declaration of trust was given by Thomas. Thomas died. In an action at Colin's instance against Thomas's wife and daughter for establishing the trust, and to denude, the Lord Elliock, Ordinary, 31st January 1771, found no sufficient evidence of the alleged trust. The Lords, on advising a petition and answers, found it not competent to prove the trust by witnesses, 21st June 1771. But, on a second bill and answers, they found the trust proven by certain facts and circumstances. The trustee was dead.

In this case, it was pleaded, *inter alia*, that the Act 1696 applies only to persons who have granted disposition *ex facie* absolute, without taking a back-bond or declaration of trust in writing. In this case, Colin granted no disposition to