

THE LORDS sustained the objection against the bill, and found, That it must be understood to have been drawn for the Major's own behoof, and that this case doth not fall under the act of Parliament 1696, anent trusts, and that Currie's Representatives had no more right to the bill, than they could have had to so much of the Major's money that had been found in Currie's hand.

*Fol. Dic. v. 2. p. 272. Forbes, p. 395.*

No 659.

1731. December. LORD STRATHNAVER against M'BEATH.

TRUST, in moveables, falls not under the act 1696, and is therefore relevant to be proved by witnesses. See APPENDIX.

*Fol. Dic. v. 2. p. 272.*

No 660.

1748. July 30. RAMSAY against CORPORATION OF BUTCHERS IN PERTH.

In the year 1728, Nathaniel Ramsay butcher in Perth, granted a disposition of all his moveables in general, to Jean Stalker his wife, bearing to be with the burden of his debts, leaving a tenement in Perth, which he had purchased from Graham of Redford, by a minute of sale, but whereof the price, being 1100 merks, was not yet paid, to descend to Mary Ramsay, his daughter, and only child.

Jean Stalker, the relict, after having introrritted *per universitatem*, with her husband's moveables, acquired, in her own name, two adjudications, affecting the said tenement, one of which stood in the person of John Graham, son to Redford, who concurred with the Representatives of William Caddel, in whose person the other stood, in the disposition to her, which proceeded upon the narrative of the minute of sale, and of her having paid the 1100 merks to the representatives of William Caddel.

Jean Stalker, after the death of her daughter, sold this tenement to the Corporation of Butchers, against whom Euphan Ramsay, the sister and heir of Nathaniel, brought a reduction, in which she prevailed on this ground, That the purchase of the adjudications, by Jean Stalker the relict, appeared from its proceeding on the narrative of the minute of sale, to have been a trust for her daughter, and therefore the right in the corporation was *a non habente*; notwithstanding it was argued, that, by the act of Parliament 1696, trust could not otherwise be proved than by oath of party, or writ expressly acknowledging it; in respect of the answer, that the act is not to be so understood, but that trust may be inferred from writs importing a trust, though there be no express declaration of trust.

It was then insisted, That as, upon a fair count and reckoning, it would appear that the moveables disposed by Nathaniel Ramsay to Jean Stalker were

No 661.

Trust implied from circumstances. Effect of payment made in consequence of a general disposition of moveables.