

1775. *November 28.* MRS CARSTAIRS' TRUSTEES, Petitioners.

IN another case, in November 1775, they also refused to interpose. For Mrs Carstairs having made a settlement upon three gentlemen, in trust for several others, the Trustees accepted; but one of them, a merchant, having, from age and infirmity, retired from business, declined to act farther; so did the other two, being clergymen, and unacquainted with business. Whereupon they all, trustees and those interested, applied to the Court, by petition, to name other trustees, or at least factors *loco tutorum*, in their room. The Lords, 28th November 1775, ordered the petition to be intimated on the wall, and allowed the petitioners to give in a memorial, and to print the trust-deed for the consideration of the Court. From the deed it appeared that the trust was to the trustees and the survivor, without power of choosing others. So that it fell by their death. But, as yet, they were all alive, and had accepted. The Lords therefore refused to interfere, or even to name a factor, leaving them to extricate the trust as they best could.

1775. *July 4.* THOMAS BAILLIE of POLKEMMET *against* SIR STAIR AGNEW.

SIR Stair Agnew was married to a daughter of Thomas Baillie of Polkemmet, by whom he had several children. His wife having died, and Sir Stair having contracted unusual habits of drinking, in which he proceeded to high acts of ferocity and maltreatment, and terror to his children, so that, in their grandfather's apprehension, they were in danger of their lives; the grandfather, March 1775, applied by summary petition to the Court, setting forth the facts, and praying the Lords to give such directions for putting the children in a place of safety as they should see proper. The petition being read with shut doors, and the Court having no doubt of their power, *ex nobili officio*, to interpose in this case; Mr Thomas Baillie, and his son Mr William Baillie, emitted a deposition that they had reason to believe that the facts set forth in the petition were true, and that the lives of the children were in danger. Whereupon the Lords issued the following warrant and deliverance:—11th March 1775, "The Lords, having heard this petition, and also the above depositions of Thomas and William Baillies, grant warrant to the macers of Court, or any of them, forthwith to serve this petition upon the within mentioned Sir Stair Agnew of Lochnawe, baronet, by delivering to him personally, or leaving at his dwelling-place, a full copy thereof, and of this deliverance thereon; and appoint him to give in answers thereto against the second Sederunt day of June next. And, in the mean time, the Lords, in respect of the circumstances of the case, and of the necessity of their immediate interposition, sequesterate the persons of the within-mentioned _____ and _____, and decern and ordain the said Sir Stair Agnew their father, and all other persons in