

In bonis quibus, nor affectable by his Executor Creditor 15 March 1707  
 Ray contra Ray and others. An Assignment to one bearing to be for his  
 own and a third persons Relief of Cautionary, imports proportionable Relief  
 to either party according to their Engagements, and shall Relief to the  
 trustee in the first place, and to the other in the next 18 July 1671  
 Watson contra Bruce. But the property of goods bought by a trustee  
 in his own name, without mention of the trustee who never attained  
 possession, was found stated in the person of the trustee, and answer-  
 able by his Creditors, tho bought with the trustees Money 27 Jan-  
 uary 1672 Boyleston contra Robertson and Fleming. Because the  
 trust was but a personal obligation, and the property of the goods and  
 not be transferred to or vested in the trustee, unless he in some per-  
 son in his name had got possession. An Assignee to a debt in trust  
 being transferred the right assigned to a third party, was liable for  
 the sum assigned to the trustee, altho he offered to procure a let-  
 tice, which the trustee was not obliged to accept off 18 June 1672  
 Watson contra Bruce. And one who had had an approving man  
 debt assigned to him in trust, and upon other debts did to him-  
 self having dissoned the approving without the reservation of  
 such of his back bond granted to the creditor, was found liable to  
 the debt for so much of the sum assigned, as might have been  
 recovered 5 January 1673 North contra Pittarrio.

A person in whose name Trustment of Annual rent  
 taken in trust, was not liable in Diligence, nor Accountable in  
 omission but only for his actual Contradictions; he having no  
 allowance for his pains 18 Decemb. 1666 Cass contra Wals. Tho  
 is an assignee to a right in trust obliged to do Diligence, and  
 required to do it, or to Demand in favour of the trustee 18 July  
 1672 Watson contra Bruce. But a Merchant with whom bills  
 of Exchange with Blank Endorsations were Deposited into  
 having by a writ under his hand owned his Receiving the  
 and that he was to negotiate them for the Trustee, upon get-  
 allowance of his necessary Expenses and Disbursements, he  
 made liable to Exact Diligence 26 June 1714 Star contra  
 McKay.

The way for Recovering rights given in trust or getting  
 applied according to the trustees design is by a Declarator of trust  
 which, tho it may be libelled as an action prescriptis verbis,  
 premising the matter of fact and the Qualifications or Circumstances  
 of the trust, is in effect a Reduction of the trustees right and a Decl-

of the trustees right; and therefore should be debated as other Reductions  
 and Declarators beginning with the Will of the Trustor. Our Will is  
 and we Charge you that ye Lawfully Summon B. to compare &c. to  
 answer at the Instance of A. tho he who did Intrust the Defender and  
 took the right underwritten in his name, to the behoof of E. tho the De-  
 fender knew or might know that the Design and purpose of the Trustor  
 was not to Alienate or gift the said right, but that he might make the  
 same forthcoming to the behoof of the said E. viz. (here Insert the right  
 in trust) that is to say, the said Trustor to hear and see himself Decree  
 and to Exhibit and produce before the said Lords the said right granted  
 in his name by the said Trustor: And to hear and see it found and De-  
 clared by Decree of the said Lords, that the said right was granted in trust  
 to the behoof of the said E. for the Reasons and Causes following viz.  
 &c. And therefore he said Trustor to hear and see himself Decree  
 to Demand himself of the fore said right in the terms and tenor of the  
 Decree here with repeated and produce as a part of the Libel; and  
 Decree to subscribe before honorable witnesses the fore said Decree  
 to Demand the same with the fore said right and all that  
 shall follow thereupon, to receive and dispose of by him as his  
 own proper Evidence in all time coming; And to the said Trustor  
 to hear and see himself Decree to make count of the said right  
 and payment of the profit and benefit received by him or any living  
 right or person from him, by virtue of the said right, and  
 of which he might have received by doing the Diligence of a faith-  
 full trustee, conform to a Particular Account hereof herewith  
 produce, and repeated as a part hereof. Conform to the Laws and  
 usual practice of this our Realm according to Justice &c.  
 If the Trustor hath the right by process from others, the same may  
 be libelled accordingly. And if the Trustor is a singular Successor  
 to the trustee, it must be libelled that he was conscious of the trust  
 and that the assignment or Disposition made to him was a Breach  
 thereof.

Because trust is often given without writ and one who could  
 betray it, might be supposed capable also to swear falsely, trust with-  
 out formerly was not only libelled to be Instructed by writ or oath  
 of party, but also some times by witnesses Examined ex officio to  
 find out the truth 22 Feb. 1665 W. Livingston contra Fuller ton  
 6 Feb. 1669 E. Annandail contra Young and other Creditors of  
 Hume 9 June 1669 Seal contra Lang ton. Some times by Presump-  
 tions only 12 January 1666 Executors of Stevinson contra Crawford