without any Quality are in bona fide to purchase it, if upon pretence
of a latent Extrinsick back bond their right might be questioned: a
all over Security of Land rights and singular Successors by the Regist
would be Disappointed and Signify Nothing. As to the pretence of prejud
to those Commonly in use to grant assignations upon back bonds
order to apprize or adjudge, such back bond should not affect the
apprising al the assignies Instance, that is of the Weight: seeing
they trust the assignays, and it is their own fault if they
their trust in an undeserving persone. Besides they have a
by Instrumenting the back bonds that are upon the Smaller
where as a singular Successor is quite Remediless. 6° That such
bonds should affect apprizings not only before but after
during the Legal, and thereafter should Cease to Qualify the
seems to be Inconsistent with and against the Principles of

A Trustee's Declaration on death bed cannot affect his
or prove against him 26 Novemb. 1674 Falcon contra

The proper Exception in a Declarator of trust, is founded on
Necessary and profitable Expenses Incurred by the Defender in
of the trust, which affect the Project given in trust 15 Feb. 1683 C.
more contra Lord Stair Dominie and ought to be Restored to the
before he be Compelled to Divest himself thereof Stair lib 1 Tit.
& lib. 1 Tit. 6 § 56 The Trustee being thereby Lucrated or a Gainer

When Infeftment is granted to one heir heirs or assignays
use and behoof of another single person and his heirs, if the
Expressed in the Superiors Charter the Superior must Expect
Casualties of Ward Marriage &c. So fail not with Respect to
person Infeft by his death or Delinquency, but with Respect
the person for whose behoof the Right is granted; who may
Compell the Vassal to Denude himself in his favour without
Superiors Consent, and oblige the Superior himself to Receive
Since he Consented to the trust Stuart Answers to Durlet. double
Trustees in Infeftment. But if such Infeftment was granted
behoof of an Incorporation, the Casualties of Superiority would
due with Respect to the person Infeft: seeing that appears
been the Design of the trust that the Superior should have
particular Mortal person for his vassal by whose death his
nal lies might fail and not an Incorporation which never
dies. Therefore the Superior might Justly decline to Receive

an Incorporation for his Vassals or to allow the trustee to Invest them selves in
their favours, by whom his superiority would be rendered Hereditable and Sen
profitable, Stuart ibid.

Prescription being a way of acquiring and Losing of which the two
and Honerable nevertheless it falls naturally to be Considered how often it
been Explained.

Chap. 3.
of Prescription.

Prescription, as a manner of acquireing and Losing a right or Exemption
by the Speciall Styles, Title or Order from Time now, to which Time:
for that it Runs and like a boundary to the line between Right
acquired by one, and Lost by another. That so after acquired the Property
and Estate for a certain portion of Time, Expressed by the Law, to the
Immemorial Possession or Prescription of Time out of Mind or Custom
to Remove all odious Inquiries about Rights and Titles, and to prevent
is Discouraged from it that Possession for a long Time of Years
rights are accounted as a long Enjoyment, and as a sure and Secure
ing Title.

The Power was given to the Praetors to Establish the
Civil Division of Estates, Except of Lands which could
accompanie to others than Subjects, and so to Introduce the Use
of Inveighing was Ignorant of the Nature of Prescriptions, for Servius
that after Possessed Estates Could Return to Them selves before
every 50th year; and that one should have power to Immediately Lay
Enjoyment of his Estate in the Interval of Years that
Remain from the Day of the Alienation to the 50th which Year
was to Restore all Estates to the primitive Owners Lib. 2
25 v. 8 & Legg. 29. 30. This Constitution Shows so further how of
than that it was peculiar to that people, and of no force in other
Nations. The Roman Law Introduced the Use of Prescriptions Partly
Natural and wholly Civil Justifiable upon Several Accounts. As 1° That
there may be some end of Pleas for the publick Interest, which suffers
much by Endless Law Suits. 2° For the Incouraging of Property and En
couraging the Improvement of it: seeing No man can be Supposed to
take such care of what he possesses, which his property hangs in Uncertain
ty, and lies Exposed to be called in Question if Not Recovered from him by
Some pretender to a better Right, as one who with Quiet and Tranquillity
can Safely Call that his own which he possesses. 3° Prescriptions
Grounded upon this presumption that he who Enjoys a right is Suppos
ed to have a Just title to it without which he had Not been Suffered
to Enjoy it so long; that he who Ceases to Exercise a right