

**AGENCY AND TRUSTS FOR
PAYMENT OF
DEBTS UNDER
PRIVATE ARRANGEMENT**

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Agency and Trusts for Payment of Debts Under Private Arrangement by William Brown

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OR

THE CROWN, THE DUKE OF CORNWALL, AND
PRIVATE PERSONS.

AGENCY AND TRUSTS

FOR

PAYMENT OF DEBTS

UNDER

PRIVATE ARRANGEMENT.

BY

WILLIAM BROWN, ESQ.

OF GRAY'S INN, BARRISTER-AT-LAW.

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PREFACE.

BETWEEN that class of instruments made for the discharging of debts, which, although expressing a trust in favour of the creditors, yet, in fact, create a trust, or rather a mere *agency*, in favour of the *debtor* alone, within the principle applied in the cases of *Wallwyn v. Coutts* (a), *Garrard v. Lord Lauderdale* (b) and others following them, and that class of instruments made for the like purpose creating a *trust* for the *creditors*, and not within that principle, a broad and clear distinction exists. Clear, however, as the distinction is, and easily as it may be expressed, the question, whether a given instrument made for paying the debts of the maker be one of mere agency for the debtor alone or one of trust for the creditors, is frequently difficult to determine. A case in practice involving this question led the writer to investigate the various

(a) 3 Mer. 707; 3 Sim. 14.

(b) 3 Sim. 1; 2 Russ. & M. 451.

authorities, direct and indirect, upon the subject, and the investigation suggested the possible utility, for practical purposes, of the publication of the following pages.

GRAY'S INN,
January, 1868.

CONTENTS.

CHAPTER I.

OF INSTRUMENTS IN GENERAL MADE FOR DISCHARGING THE DEBTS OF THE MAKERS.

	PAGE
1. The Kinds of Instruments to be considered	1
2. Extent of the Power of disposition of Debtors.. ..	2
3. Distinction between voluntary Settlements and Instruments for the Payment of Debts	2
4. Voluntary Conveyances as Settlements	2
5. Voluntary Conveyances in Trust to pay Creditors ..	3
6. Result of the Authorities as to the two Classes of Conveyances	3
7. Nature of the Distinction.. .. .	4
8. How the Distinction is determined	4
9. Different Modes of making Instruments for Payment of Debts	5
10. Deeds of this Nature in Titles to Real Estate, as between Vendor and Purchaser	6

CHAPTER II.

OF INSTRUMENTS FOR THE PAYMENT OF DEBTS MADE WITHOUT THE PRIVACY OF, OR ANY COMMUNICATION WITH, ANY CREDITOR.

1. Principle of Law where Property is placed in the Hands of an Agent	8
2. Application of this Principle in relation to Instruments for Payment of Debts, but not a new Doctrine ..	8
3. How these Instruments are viewed	10
4. The Grounds of the Decisions of <i>Wallreyn v. Coutts</i> and <i>Garrard v. Lord Lauderdale</i> , and the Question they determined	11
5. Remarks on the Extent to which the Doctrine has been applied	13