1. Three Stages in the Evolution of the Trust
2. Sham and Illusory Trusts

Sham
- Ascertain the genuine intention of the parties
- Evidential role in admitting subsequent conduct

Illusory trust
- Ascertain the coherent intention of the parties
- *Clayton v Clayton* (2016)

3. The Central Core of the Trust

- The imposition of enforceable constraint over
- the ownership or control of trust property
- to devote it for a purpose or for the benefit of persons who are not only the trustee.
  + within the logical space of trust, party autonomy in the division of rights
4. The boundaries of the trust

Settlor
- Any rights or powers short of complete *de facto* control over the property
- Exercise or non-exercise of powers subject to fiduciary duty to act in good faith in the best interest of the beneficiaries
- *Clayton v Clayton vs Re Esteem Settlement*

Trustee (divided trusteeship)
- Minimum:
  - accountability,
  - denial of profits, no conflict of interest,
  - inaction does not amount to bad faith or reckless indifference to the interests of the beneficiaries

Non-trustees (protectors, advisers)
- Absence of bad faith or reckless indifference in the exercise or non-exercise of personal powers
Beneficiaries

- Minimum:
  - right, not necessarily exercisable by them, that the trustee is accountable and denies personal profits, and
  - that there are enforceable constraints on the exercise or non-exercise of powers over trust property.
- Enforcer subject to fully-fledged fiduciary duties & adequate monitoring
- STAR trusts do not necessarily meet this criterion

Is the trust complicit in the wealth gap?

Paradise papers: Is the Queen ripping off HER OWN TREASURY with offshore tax-dodging arrangements?