(3.) For the purposes of this Act the expression "conservancy authority" includes all persons entrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of any tidal water otherwise than for profit, and not being a joint stock company.

Application to colonial stock. 40 & 41 Vict. c. 59.

5. In the case of any colonial stock to which the Colonial Stock Act, 1877, applies, the Government of the colony of which the stock forms the whole or part of the public debt may, if they think fit, by declaration under their seal or under the signature of a person authorised by them in that behalf, and in either case deposited with the Commissioners of Inland Revenue, adopt this Act, and thereupon this Act shall apply to the colonial stock as if the registrar of the Government were a company and the stock were issued by him.

Short title.

6. This Act may be cited as the Forged Transfers Act, 1891.

CHAPTER 44.

An Act to amend the Law of Trusts in Scotland.

[5th August 1891.]

24 & 25 Vict. c. 84. 26 & 27 Vict. c. 115. 30 & 31 Vict. c. 97. 47 & 48 Vict. c. 63. 50 & 51 Vict. c. 18.

WHEREAS by an Act passed in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter eighty-four, intituled an Act to amend the law in Scotland relative to the resignation, powers, and liabilities of gratuitous trustees, and by an Act passed in the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, chapter one hundred and fifteen, intituled an Act to explain the Act for the amendment of the law relative to gratuitous trustees in Scotland, and by the Trusts (Scotland) Act, 1867, and by the Trusts (Scotland) Amendment Act, 1884, and by the Trusts (Scotland) Act, 1867, Amendment Act, 1887, certain powers are conferred on gratuitous trustees in Scotland:

And it is expedient further to amend the law of trusts in Scotland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Trusts (Scotland) Amendment Act, 1891, and the aforesaid Acts and this Act may be cited as the Trusts (Scotland) Acts, 1861 to 1891, and shall be read and construed together.

Explanatory.

2. For the purposes of this Act, the expressions "trust" and "trustee" shall have the meanings assigned to them by the Trusts (Scotland) Amendment Act, 1884, and the expression "the court" shall mean any court of competent jurisdiction in which a question relative to the actings, liability, or removal of a trustee comes to be tried.

Act to extend to cases of joint trustees.

3. The provisions of this Act relating to a trustee shall apply as well to several joint trustees as to a sole trustee.

Trustee not to be chargeable with breach of trust for lending money on security of any property on certain conditions.

4.—(1.) No trustee lending money upon the security of any property shall be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of such property at the time when the loan was made, provided that it shall appear to the court that in making such loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be an able practical valuator instructed and employed independently of any owner of the property, whether such valuator carried on business in the locality where the property is situated or elsewhere, and that the amount of the loan, by itself or in combination with any other loan or loans upon the property, ranking prior to or pari passu with the loan in question, does not exceed two equal third parts of the value of the property as stated in such report. And this section shall apply to a loan upon any property on which the trustee can lawfully lend.

(2.) This section shall apply to transfers of existing securities as well as to new securities, and in its application to a partial transfer of an existing security, the expression "the amount of the loan" shall include the amount of any other loan or loans upon the property, ranking prior to or pari passu with the loan in question. This section shall also apply to investments made as well before as after the passing of this Act, except where a reference or judicial proceeding shall be pending with reference thereto at the passing of this Act.

Extent of liability of trustee.

5.—(1.) Where a trustee shall have improperly advanced trust money on a heritable security, which would at the time of the investment have been a proper investment in all respects, for a less sum than was actually advanced thereon, the security shall be deemed an authorised investment for such less sum, and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

(2.) This section shall apply to investments made as well before as after the passing of this Act, unless a reference or judicial proceeding shall be pending with reference thereto at the passing of this Act.

Power of court to make orders in cases of breaches of trust.

6.—(1.) Where a trustee shall have committed a breach of trust at the instigation or request, or with the consent in writing, of a beneficiary, the court may, if it shall think fit, and notwithstanding that the beneficiary may be a married woman entitled for her separate use, whether she has or has not powers of disposal or alienation, make such order as to the court shall seem just for applying all or any part of the interest of the beneficiary in the trust estate, by way of indemnity to the trustee or person claiming through him.

(2.) This section shall apply to breaches of trust committed as well before as after the passing of this Act, except where a reference or judicial proceeding shall be pending with reference thereto at the passing of this Act.

In case of resignation of trustees. 30 & 31 Vict. c. 97.

7. Where a trustee entitled to resign (not being a sole trustee) shall have resigned in either of the modes provided by the Trusts (Scotland) Act, 1867, or otherwise, and his resignation shall have been duly completed, such trustee shall be thereby divested of the whole property and estate of the trust, which shall accrue to or devolve upon the continuing trustees or trustee, without the necessity of any conveyance or other transfer by the resigning trustee, but without prejudice to the right of the continuing trustees or trustee to require the resigning trustee to execute and deliver to the continuing trustees or trustee, at the expense of the trust, a conveyance or transfer (or conveyances or transfers) of the property or estate belonging to the trust or any part thereof, if the continuing trustees or trustee shall consider this expedient, and the resigning trustee when so required, shall be bound, at the expense of the trust, to execute and deliver such conveyance or conveyances, transfer or transfers accordingly.

Court to have power to remove trustees in cases of insanity, &c.

8. In the event of any trustee being or becoming insane, or incapable of acting by reason of physical or mental disability or by continuous absence from the United Kingdon for a period of six calendar months or upwards, such trustee in the case of insanity or incapacity of acting by reason of physical or mental disability shall, and in the case of continuous absence from the United Kingdom for a period of six calendar months or upwards may, on application in manner herein-after mentioned by any co-trustee or any beneficiary in the trust estate, be removed from office upon such evidence as shall satisfy the court of the insanity, incapacity, or continuous absence of such trustee. Such application, in the case of a mortis causa trust, may be made either to the Court of Session or to the sheriff court from which the original confirmation of the trustees as executors issued, and in the case of a marriage contract may be made either to the Court of Session or to the sheriff court of the district in which the spouses are, or the survivor of them is, domiciled; and in all other cases shall be made to the Court of Session.

Application of Act.

9.—(1.) This Act shall apply to trusts coming into operation before as well as after the passing of this Act.

(2.) Provided always, that save as in this Act expressly provided nothing therein contained shall authorise any trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do.

(3.) And provided also, that nothing herein contained shall be held to extend the liability of trustees.

CHAPTER 45.

An Act to provide for and regulate the user by purchasing tenants of Rights of Turbary. [5th August 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: