due to the estate, but the cestui que trust on giving indemnity can require the trustee to lend his name as a party. He may also require the trustee to execute conveyances of the legal estate according to his directions. Trust property, if parted with by the trustee in fraud of the trust may be followed by the cestui que trust, even into the hands of a purchaser for value with notice of the trust. The cestui que trust may lose his rights by fraud, by laches, and by concurrence or acquiescence in a breach of trust. Though no lapse of time bars his remedy against the trustee personally, he cannot, by the terms of the Real Property Limitation Act, 1874, recover land or rent vested in a trustee upon an express trust after twelve years from the time when the right accrued or six years after the cesser of any disability. The equitable right of the cestui que trust has sometimes been recognized by statute in cases where it would be manifestly unjust that he should suffer dis­ability by virtue of his having merely an equitable interest. The cestui que trust has the right of voting for members of parliament, and is qualified to serve as a juror. On bankruptcy of the trustee the trust estate is not affected. Nor was it affected even before the Felony Act, 1870, by the conviction and attainder of the trustee for felony. Attainder of the trustee for treason involved, however, forfeiture of a trust estate of inheritance. (See Trea­son.) The recognition of the cestui que trust as owner is still not complete. Thus no notice of a trust is recognized in certain public documents, as the books of the Bank of England and the registers kept under the Merchant Shipping Act, 1854, the Com­panies Act, 1862, the Land Transfer Act, 1875, and the Colonial Stock Act, 1877.

*Procedure.—*This is regulated almost entirely by legislation. Proceedings relating to a trust may be brought in different courts of first instance,—(1) the Chancery Division of the High Court of Justice or the Chancery Court of the County Palatine of Lancaster, (2) a court of bankruptcy, (3) a county court, (4) a criminal court. (1) By the Judicature Act, 1873, § 34, the execution of trusts, charitable or private, is assigned to the Chancery Division. The rules of the Supreme Court, 1883, provide for special indorse­ment in an action on a trust, for the parties to the action, for interrogatories and pleading, and for proceeding by originating summons. (See Summons. ) Forms of pleading are given in the appendix to the rules. An injunction rather than an action may sometimes be the proper remedy, as in the case of threatened breach of trast. The Trustee Relief Acts, the Trustee Act, and Lord St Leonards’s Act of 1859 provide for proceeding by petition or sum­mons. Applications under the Conveyancing Act must be in chambers in the first instance, and so must applications under the Trustee Relief Acts where the money or securities in court do not exceed £1000 or £1000 nominal value. The procedure in charit­able trusts differs to some extent from that in use in private trusts. The most usual course of proceeding is by information in the name of the attorney-general. Another mode is by petition under Sir Samuel Romilly’s Act, 52 Geo. III. c. 101, superseding the cumbrous procedure by commission which had been previously in use under 43 Eliz. c. 4. A third mode is under the powers of the Charitable Trusts Acts, the first of which was passed in 1853. No proceeding under these Acts can be taken without the authority of the charity commissioners. (2) The equitable debt due from the trustee to the cestui que trust will support a petition in bankruptcy, and is a debt provable in bankruptcy. An order of discharge in bankruptcy does not release the bankrupt from any debt or liability incurred by means of fraudulent breach of trust, nor does it release a co-trustee of the bankrupt. (3) The County Courts Equitable Jurisdiction Act, 1865, confers on county courts the authority of the High Court in the execution of trusts and proceedings under the Trustee Acts where the trust estate does not exceed £500 in amount or value. By the County Courts Act, 1867, applications may be made at chambers for transfer to a county court of an action pending in the High Court where the property does not exceed £500 in amount or value. The same Act allows trust funds not exceeding that limit to be paid into the post office savings bank in a county court town in the name of the registrar. A county court has jurisdiction in charitable trusts where the income of a charity does not exceed £50. The county court rules, 1886, contain orders regulating the practice with respect to both private and charitable trusts. Powers similar to those given to county courts in England have been conferred upon the civil bill courts in Ireland. (4) At common law trustees committing a fraudulent breach of trust could not be punished criminally. This was altered by the Fraudulent Trustees Act of 1857, now superseded by the Larceny Act, 1861, under which a trustee on an express trust, whether public or private, created by deed, will, or instru­ment in writing, who with intent to defraud converts to his own use or benefit or the use or benefit of any other person than the cestui que trust, or for any purpose other than the public or charit­able purpose, or otherwise disposes of or destroys such property or any part thereof, is guilty of misdemeanour and punishable with penal servitude for a term not exceeding seven years. No prosecu­tion is to be commenced without the sanction of the attorney­general or—where civil proceedings have been already taken against the trustee—without the sanction of the civil court. The offence cannot be prosecuted at quarter sessions.@@1

*Scotland.—*The history of the law differs considerably from that of England, though perhaps the position of the Scotch trustee is now not very different from that of the trustee in England. The Statute of Uses did not apply to Scotland, since neither that nor any similar legislation was necessary in a system in which law and equity were administered by the same tribunals. Trusts seem to have existed from time immemorial, and have been frequently regulated by statute. The policy of the English Statute of Frauds was no doubt intentionally imitated in the Act 1696, c. 25, enacting that no action of declarator of trust should be sustained as to any deed of trust made for thereafter, except upon a declaration or back- bond of trust lawfully subscribed by the person alleged to be trustee and against whom or his heirs or assignees the declarator should be intended, or unless the same were referred to the oath of the party *simpliciter.* The Act does not apply to all cases, but only to those in which by the act of parties documents of title are in the name of a trustee, but the beneficial interest in another. The person creating the trust is called the *truster,* a term unknown in England. On the other hand the term *cestui que trust* is unknown in Scotland. The office of trustee is *prima facie* gratuitous, as in England, it being considered to fall under the contract of mandate. Some of the main differences between English and Scotch law are these. There is no presumption in Scotland of a resulting trust in favour of a purchaser. A trust which lapses by the failure of a beneficiary goes to the crown as *ultimus heres,* not to the trustee. The office of trustee is not a joint office, therefore there is no right of survivorship, and on the death of a trustee the survivors are in­competent to act, unless a certain number be declared or presumed to be a *quorum,* or the office be conferred on trustees and the accedors and survivors of them. Sometimes the concurrence of one trustee is rendered absolutely necessary by his being named *sine quo non.* The Court of Session may appoint new trustees, but generally appoints a judicial factor. There has been a considerable amount of recent legislation, chiefly in the direction of extending the powers of trustees and of the court, in trust matters. By 24 and 25 Vict. c. 84 (amended by 26 and 27 Vict. c. 115) an appointment of gratuitous trustees by deed or local act was to be held to include certain provisions usually included in deeds of appointment, *i.e.,* powers of resignation and of assumption of new trustees, and provisions that the majority of trustees accepting and surviving should be a *quorum,* and that each trustee should only be liable for his own acts and intromissions and should not be liable for omissions. The Trusts Act, 1867 (30 and 31 Vict. c. 97), added to the common law powers of trustees by giving them authority to appoint factors and law agents, to discharge trustees who have resigned, to grant leases for a limited period, to uplift, discharge, or assign debts, to compromise claims, to grant all necessary deeds, and to pay debts due by the truster or the trust estate. It also gave the Court of Session power (exercisable by the lord ordinary in the first instance) beyond what it possessed by its *nobile officium,* in cases of expediency, of selling the trust estate, of granting feus or long leases, and of borrowing and excambion. Power was given to trustees to appoint additional trustees by deed of assumption, and where such assumption could not be made the court might appoint. Authority was conferred upon the beneficiary of a lapsed trust to complete title on petition. The powers of investment given to trustees have since been largely increased by the Trusts Amendment Act, 1884. They are now much the same as those allowed in England. The principal differences are that in Scotland there is a statutory power to vary securities, and that statutory investment by a Scotch trustee is not allowed in Bank of Ireland stock or on real security in Ireland. The Titles to Land Consolida­tion Act, 1868 (31 and 32 Vict. c. 101), contained provisions as to the mode of completing title by a judicial factor on a trust estate and by trustees in sequestration and as to the vesting in trustees of heritable property conveyed for religious or educational purposes. The Conveyancing Act, 1874 (37 and 38 Vict. c. 94), dealt with compositions payable by trustees on the death of a vassal, and with completion of title by the heir of a sole or last sur­viving trustee, by a successor of an *ex officio* trustee, and by trustees where words of conveyance are not expressed to be in favour of such trustees. Forms of documents relating to trust property will be found in Juridical Styles and in the schedules to the Acts of 1867, 1868, and 1874. A conveyance in trust may be either absolute with a back-bond or in form a conveyance in trast. A trustee is responsible for the due execution of the trust, subject to the limitations contained in 24 and 25 Vict. c. 84. The provision of the Companies Act, 1862, that no trust is to be entered on the

@@@1 The principal authority is Lewin’s *Law of Trusts* (8th ed., 1885). The powers of trustees under the Conveyancing and Settled Land Acts will be found summarized in the treatises on these acts by Wolstenholme and Turner. The principal authorities on charitable trusts are Shelford and Tudor (1862). For the history may be consulted Bacon, *Law Tracts* ; Reading, *on the Statute of Uses;* Gilbert, *on Uses;* Sanders, *On Uses and Trusts;* Spence, *Equitable Juris­diction,* vol. i. p. 435 ; Digby, *Hist. of the Law of Real Property,* chaps. vi. vii.