CHAPTER 48.

An Act to make further provision respecting the contribution out of moneys provided by Parliament towards the expenses of the Police Force in the Metropolitan Police District, and elsewhere in Great Britain.

[2d August 1875.]

WHEREAS in pursuance of certain Acts annual sums, not exceeding the amount mentioned in those Acts, are contributed by the Commissioners of Her Majesty's Treasury out of moneys provided by Parliament towards the expenses of the police force in the Metropolitan Police District, and elsewhere in Great Britain, and it is expedient to make further provision respecting such contributions: 19 & 20 Vict. c. 69. 20 & 21 Vict. c. 72. 31 & 32 Vict. c. 67.

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; (that is to say,)

1. This Act may be cited as the Police (Expenses) Act, 1875. Short title.

2. So much of any Act as limits the amount authorised to be contributed by the Commissioners of Her Majesty's Treasury out of moneys provided by Parliament towards the expenses of any police force in Great Britain to a particular amount, or a particular proportion of any annual sum or charge specified in such Act, shall, during the continuance of this Act, be repealed. Repeal of limit on amount of contribution by Treasury to police force.

3. This Act shall continue in force until the first day of September one thousand eight hundred and seventy-six. Duration of Act.

CHAPTER 49.

An Act for facilitating the Improvement of the Dwellings of the Working Classes in large Towns in Scotland. [2d August 1875.]

WHEREAS various portions of many cities and burghs in Scotland are so built, and the buildings thereon are so densely inhabited, as to be highly injurious to the moral and physical welfare of the inhabitants:

And whereas there are in such portions of cities and burghs as aforesaid a great number of houses, courts, and alleys which, by reason of the want of light, air, ventilation, or of proper conveniences, or from other causes, are unfit for human habitation, and fevers and diseases are constantly generated there, causing death and loss of health, not only in the courts and alleys but also in other parts of such cities and burghs:

And whereas it often happens that owing to the above circumstances, and to the fact that such houses, courts, and alleys are the property of several owners, it is not in the power of any one owner to make such alterations as are necessary for the public health:

And whereas it is necessary for the public health that many of such houses, courts, and alleys should be pulled down, and such portions of the said cities and burghs should be re-constructed:

And whereas in connexion with the re-construction of those portions of such cities and burghs it is expedient that provision be made for dwellings for the working class who may be displaced in consequence thereof:

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:

Preliminary.

1. This Act may be cited for all purposes as "The Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875." Short title of Act.

PART I.

Unhealthy Areas.

1. *Scheme by Local Authority.*

Application of Act and description of local authority.

2. This Act shall apply only to royal and parliamentary burghs in Scotland containing, according to the last published census, for the time being a population of twenty-five thousand and upwards, and the local authority shall be the local authority under the Public Health (Scotland) Act, 1867, within each such royal and parliamentary burgh.

Local authority on being satisfied by official representation of the unhealthiness of district to make scheme for its improvement.

3. Where an official representation as herein-after mentioned is made to the local authority that any houses, courts, or alleys within a certain area under the jurisdiction of the local authority are unfit for human habitation, or that diseases indicating a generally low condition of health amongst the population have been from time to time prevalent in a certain area within the jurisdiction of the local authority, and that such prevalence may reasonably be attributed to the closeness, narrowness, and bad arrangement or the bad condition of the streets and houses or groups of houses within such area, or to the want of light, air, ventilation, or proper conveniences, or to any other sanitary defects, or to one or more of such causes, and that the evils connected with such houses, courts, or alleys and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme for the re-arrangement and re-construction of the streets and houses within such area, or of some of such streets or houses, the local authority shall take such representation into their consideration, and if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that such area is an unhealthy area, and that an improvement scheme ought to be made in respect of such area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of such area:

Provided always, that no person being beneficially interested in any lands within such area shall vote as member of the local authority upon such resolution, or upon any question relating to the purchase or taking of lands in which he is so interested.

If any person votes in contravention of this proviso he shall, on summary conviction, incur a penalty not exceeding twenty pounds; but the fact of his giving such vote shall not invalidate any resolution passed by the local authority.

Provided always, that any number of such areas may be included in one improvement scheme.

Official representation, by whom to be made.

4. An official representation shall mean a representation made to the local authority by the medical officer of health of such authority. A medical officer acting in pursuance of this Act shall make such representation whenever he sees cause to make the same; and if two or more justices of the peace acting within the jurisdiction for which he is medical officer, or twelve or more persons liable to be rated to any rate out of the proceeds of which the expenses of the local authority under this Act are made payable, complain to him of the unhealthiness of any area within such jurisdiction, it shall be the duty of the officer forthwith to inspect such area, and to make an official representation stating the facts of the case, and whether in his opinion the area is an unhealthy area or not an unhealthy area, for the purposes of this Act.

Requisites of improvement scheme of local authority.

5. The improvement scheme of a local authority shall be accompanied by maps, particulars, and estimates; it may exclude any part of the area in respect of which an official representation is made, or include any neighbouring lands, if the local authority are of opinion that such exclusion is expedient or inclusion is necessary for making their scheme efficient for sanitary purposes; it may also provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health; also it shall distinguish the lands proposed to be taken compulsorily, and shall provide for the accommodation of at the least as many persons of the working class as may be displaced in the area with respect to which the scheme is proposed, in suitable dwellings, which, unless there are any special reasons to the contrary, shall be situate within the limits of the same area, or in the vicinity thereof, and shall also provide

for proper sanitary arrangements. It may also provide for such scheme or any part thereof being carried out and effected by the owner or with the concurrence of the owner of any property subject to the same, under the superintendence and control of the local authority, and upon such terms and conditions to be embodied in the scheme as may be agreed upon between the local authority and such owner.

2. *Confirmation of Scheme.*

Improvement scheme by provisional order to be confirmed by Parliament. Publication of notices.

6. Upon the completion of an improvement scheme the local authority shall—

Publish, during three consecutive weeks in the month of September, or October, or November, in some one and the same newspaper circulating within the jurisdiction of the local authority an advertisement stating the fact of a scheme having been made, the limits of the area to which the scheme relates, and naming a place within such area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours; and

Service of notices.

During the month next following the month in which such advertisement is published serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier of any lands proposed to be taken compulsorily, so far as such persons can reasonably be ascertained, stating that such lands are proposed to be taken compulsorily for the purpose of an improvement scheme, and in the case of any owner or reputed owner, lessee or reputed lessee, requiring an answer stating whether the person so served dissents or not in respect of taking such lands, such notice to be served—

(*a.*) By delivery of the same personally to the person required to be served, or if such person is absent abroad, or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the premises; or,

(*b.*) By leaving the same at the usual or last known place of abode of such person as aforesaid; or,

(*c.*) By forwarding the same by post in a prepaid letter addressed to the usual or last known place of abode of such person.

One notice addressed to the occupier or occupiers without naming him or them, and left at any house, shall be deemed to be a notice served on the occupier or on all the occupiers of any such house.

Petition to Secretary of State.

Upon compliance with the provisions contained in this section with respect to the publication of an advertisement and the service of notices the local authority shall present a petition to a Secretary of State, praying that an order may be made confirming such scheme. The petition shall be accompanied by a copy of the scheme, and shall state the names of the owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking their lands, and shall be supported by such evidence as the Secretary of State (in this Act referred to as the confirming authority) may from time to time require:

If, on consideration of the petition and on proof of the publication of the proper advertisements and the service of the proper notices, the confirming authority thinks fit to proceed with the case, he shall direct a local inquiry to be held in, or in the vicinity of, the area to which the scheme relates, for the purpose of ascertaining the correctness of the official representation made as to the area and the sufficiency of the scheme provided for its improvement, and any local objections to be made to such scheme:

After receiving the report made upon such inquiry, the confirming authority may make a provisional order declaring the limits of the area to which the scheme relates, and authorising such scheme to be carried into execution. Such provisional order may be made either absolutely or with such conditions and modifications of the scheme as the confirming authority may think fit, so that no addition be made to the lands proposed in the scheme to be taken compulsorily, and it shall be the duty of the local authority to serve a copy of any provisonal order so made in the manner and upon the persons in which and upon whom notices in respect of lands proposed to be taken compulsorily are required by this Act to be served, except tenants for a month or a less period than a month.

A provisional order made in pursuance of this section shall not be of any validity until and unless it has been confirmed by Act of Parliament; and it shall be lawful for

the confirming authority, as soon as conveniently may be, to obtain such confirmation, and any provisional order made in pursuance of this Act, when confirmed by Parliament, with such modifications as may seem fit to Parliament, shall be deemed to be a Public General Act of Parliament, and is in this Act referred to as the confirming Act.

The confirming authority may make such order as he thinks fit in favour of any person whose lands were proposed by the scheme to be taken compulsorily for the allowance of the reasonable costs, charges, and expenses properly incurred by him in opposing such scheme.

All costs, charges, and expenses incurred by the confirming authority in relation to any provisional order under this Act shall, to such amount as the confirming authority thinks proper to direct, and all costs, charges, and expenses of any person to such amount as may be allowed to him by the confirming authority in pursuance of the aforesaid power, shall be deemed to be an expense incurred by the local authority under this Act, and shall be paid to the confirming authority, and to such person respectively, in such manner and at such times and either in one sum or by instalments as the confirming authority may order, with power for the confirming authority to direct interest to be paid at such rate not exceeding five pounds in the hundred by the year as the confirming authority may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

The Court of Session may, on the application of the Lord Advocate, on behalf of the confirming authority or on the application of any person interested, interpone their authority to any order made by the confirming authority under this section, and grant decree conform thereto, upon which execution and diligence may proceed in common form.

Costs to be awarded in certain cases.

7. Where any Bill for confirming a provisional order authorising an improvement scheme is referred to a Committee of either House of Parliament upon the petition of any person opposing such Bill, the Committee shall take into consideration the circumstances under which such opposition is made to the Bill, and whether such opposition was or was not justified by such circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the Bill as the Committee may think just.

Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter twenty-seven.

The decision of the majority of the members of the Committee for the time being present and voting on any question under this section shall be deemed to be the decision of the Committee.

Inquiry on refusal of local authority to make an improvement scheme.

8. Where an official representation is made to the local authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to such representation, or pass a resolution to the effect that they will not proceed with such scheme, such local authority shall, as soon as possible, send a copy of the official representation, accompanied by their reasons for not acting upon it, to the confirming authority, and, upon the receipt thereof, the confirming authority may direct a local inquiry to be held, and a report to be made to him with respect to the correctness of the official representation made to the local authority, and any matters connected therewith on which the confirming authority may desire to be informed.

3. *Execution of Scheme by Local Authority.*

Duty of local authority to carry scheme when confirmed into execution.

9. When the confirming Act authorising any improvement scheme of a local authority under this Act has been passed by Parliament, it shall be the duty of that authority to take steps for purchasing the lands required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable. They may sell or let all or any part of the area to which such scheme relates to any purchasers or lessees for the purposes and under the condition that such purchasers or lessees will, as respects the land so purchased by or leased to them, carry the scheme into execution; and in particular they may insert in any grant or lease of any part of the area provisions binding the grantee

or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the buildings, and prohibiting the division of buildings, and any addition to or alteration of the character of buildings without the consent of the local authority, and for the re-vesting of the land in the local authority, or their re-entry thereon, on breach of any provision in the grant or lease. The local authority may also engage with any body of trustees, socicty or societies, persons or person, to carry the whole or any part of such scheme into effect upon such terms as the local authority may think expedient, but the local authority shall not themselves, without the express approval of the confirming authority, undertake the re-building of the houses or the execution of any part of the scheme, except that they may take down any or all of the buildings upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land purchased by them as they may think fit, and all streets so laid out and completed shall thenceforth be public streets, repairable by the same authority as other streets in the district.

Provided that in any grant or lease of any part of the area which may be appropriated by the scheme for the erection of dwellings for the working classes, the local authority shall impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and shall make due provision for the maintenance of proper sanitary arrangements.

Provided also, that in any case in which the local authority erect any dwellings out of funds to be provided under this Act, they shall, unless the confirming authority shall otherwise determine, sell and dispose of all such dwellings within ten years from the time of the completion thereof.

The local authority may, where they think it expedient so to do, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with the owner of any land comprised in an improvement scheme for the carrying out of the scheme in respect of such land by such owner.

Completion of scheme on failure by local authority.

10. If within five years after the removal of any buildings on the land set aside by any provisional order as sites for working men's dwellings the local authority have failed to sell or let such land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of the said dwellings, the confirming authority may order the said land to be sold by public auction or public tender, with full power to fix a reserve price, subject to the conditions imposed by the scheme, and to any modifications thereof which may be made in pursuance of this Act, and to a special condition on the part of the purchaser to erect upon the said land dwellings for the working classes, in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the confirming authority may deem necessary.

Notice to occupiers by Placards.

11. The local authority shall, not less than thirteen weeks before taking any fifteen houses or more, make known their intention to take the same by placards, handbills, or other general notices placed in public view upon or within a reasonable distance of such houses, and the local authority shall not take any such houses until they have obtained a certificate of a sheriff or sheriff substitute that it has been proved to his satisfaction that the local authority have made known, in manner required by this section, their intention to take such houses.

Power of confirming authority to modify authorised scheme.

12. The confirming authority, on application from the local authority, and on its being proved to their satisfaction that an improvement can be made in the details of any scheme, and that due provision has been made or secured for the accommodation in suitable dwellings of as many persons of the working class as may be displaced in the area to which such scheme relates, either in manner provided by the scheme or in some other manner, or will be more advantageously made or secured under the proposed alteration, may permit the local authority to modify any part of an improvement scheme authorised by the confirming Act which it may appear inexpedient to carry into execution in accordance with such Act.

A statement of any modifications permitted to be made in any part of an improvement scheme in pursuance of this section shall be laid by the confirming authority before both

Houses of Parliament as soon as practicable after they are made, if Parliament be then sitting, and if not, within one month after the next meeting of Parliament: Provided always, that if such modification or alteration shall require a larger public expenditure than that sanctioned by the former scheme, or the taking of any property otherwise than by agreement, or shall affect injuriously other property in a manner different to that proposed in the former scheme without the consent of the owner and occupier of any such property, it must be made by a provisional order to be confirmed by Act of Parliament in the manner provided in section six of this Act on the completion of an improvement scheme.

PART II.

PROVISIONS ANCILLARY TO IMPROVEMENT SCHEME.

As to Local Authority.

1. *Medical Officer.*

Provision in case of absence of medical officer of health.

13. In case of the illness or unavoidable absence of the medical officer of health, the local authority may (subject to the approval of the confirming authority) appoint a duly qualified medical practitioner who shall for the period of six calendar months or any less period to be named in the appointment have and perform all the powers and duties of a medical officer of health under this Act.

Inquiry on default of medical officer in certain cases.

14. Where twelve or more ratepayers have complained to a medical officer of the unhealthiness of any area within the jurisdiction of such officer, and the medical officer has failed to inspect such area, or to make an official representation with respect thereto, or has made an official representation to the effect that in his opinion the area is not an unhealthy area, such ratepayers may appeal to the confirming authority, and, upon their giving security to the satisfaction of that authority for costs, the confirming authority shall appoint a medical officer to inspect such area and to make a representation to the confirming authority, stating the facts of the case, and whether, in his opinion, the area is an unhealthy area or not an unhealthy area. The representation so made shall be transmitted by the confirming authority to the local authority, and if it state that the area is an unhealthy area the local authority shall proceed therein in the same manner as if it were an official representation made to that authority.

The confirming authority shall make such order as to the costs of the inquiry as he thinks just, with power to require the whole or any part of such costs to be paid by the appellants where the officer appointed is of opinion that the area is not an unhealthy area, and to declare the whole or any part of such costs to be payable by the local authority where such officer is of opinion that the area is an unhealthy area.

Any order made by the confirming authority under this section may be enforced in the same way as an order made under section six of this Act.

2. *Local Inquiry.*

Proceedings on local inquiry.

15. Where a local inquiry is directed, an officer shall be sent by the confirming authority to the area to which such inquiry relates for the purpose of making an inquiry into the correctness of the official representation made to the local authority as to such area being an unhealthy area, and into the sufficiency of the scheme provided for its improvement, and into any local objections to be made to such scheme.

Notice of inquiry to be publicly given.

16. Before commencing such inquiry the officer appointed to conduct the same shall make public by advertisement or otherwise, in such manner as he thinks best calculated to give information to the persons residing in the area, his intention to make such inquiry, and a statement of a time and place at which he will be prepared to hear all persons desirous of being heard before him upon the subject of the inquiry.

17. The officer conducting such inquiry shall have power to administer an oath; and he shall report the result of the inquiry to the confirming authority, who shall deal with such report in such manner as he thinks expedient. Power to administer oath.

3. *Acquisition of Land.*

18. The clauses of the Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the purchase and taking of lands otherwise than by agreement, shall not, except to the extent set forth in the schedule hereto, apply to any lands taken in pursuance of this Act, but, save as aforesaid, the said Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, as amended by the provisions contained in the schedule hereto, shall regulate and apply to the purchase and taking of lands in Scotland, and shall for that purpose be deemed to form part of this Act in the same manner as if they were enacted in the body thereof, subject to the provisions following; that is to say, Acquisition of land.

(1.) This Act shall authorise the taking by agreement any lands which the local authority may require for the purpose of carrying into effect the scheme authorised by any confirming Act, but it shall authorise the taking by the exercise of any compulsory powers of such lands only as are proposed by the scheme in the confirming Act to be taken compulsorily:

(2.) Whenever the compensation payable in respect of any lands or of any interests in any lands proposed to be taken compulsorily in pursuance of this Act requires to be assessed, the estimate of the value of such lands or interests shall be based upon the fair market value, as estimated at the time of the valuation being made of such lands, and of the several interests in such lands, due regard being had to the nature and then condition of the property, and the probable duration of the buildings, in their existing state, and to the state of repair thereof, and all circumstances affecting such value, without any additional allowance in respect of the compulsory purchase of an area or of any part of an area in respect of which an official representation has been made, or of any lands which in the opinion of the arbitrator have been included in a scheme as falling under the description of property named in the third section of this Act:

(3.) In the construction of the said Lands Clauses Consolidation Acts, and the provisions in the said schedule, this Act shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking; and the period after which the powers for the compulsory purchase or taking of lands shall not be exercised shall be three years after the passing of the confirming Act.

19. Upon the purchase by the local authority of any lands required for the purpose of carrying into effect any scheme authorised by a confirming Act, all rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under such lands, or part thereof, and all other rights or servitudes in or relating to such lands, or any part thereof, shall be extinguished, and the solum of such ways, and the property in the pipes, sewers, or drains, shall vest in the local authority, subject to this provision, that compensation shall be paid by the local authority to any persons or bodies of persons proved to have sustained loss by this section, and such compensation shall be determined in the manner in which compensation for lands is determinable under this Act, or as near thereto as circumstances admit. Extinction of rights of way and other servitudes.

4. *Expenses.*

20. A separate account shall be kept by the local authority of their receipts and expenditure in respect of any transactions under this Act. Their receipts shall form a fund (in this Act referred to as "The Dwelling-house Improvement Fund"), and their expenditure shall be made out of such fund. Formation of improvement fund for purposes of this Act.

The moneys required in the first instance to establish such fund, and any deficiency

for the purposes of this Act from time to time appearing in such fund by reason of the excess of expenditure over receipts, shall be supplied out of the local rate or out of moneys borrowed in pursuance of this Act.

In settling any accounts of the local authority in respect of any transactions under this Act, care shall be taken that, as far as may be practicable, all expenditure shall ultimately be defrayed out of the property dealt with under this Act; and any balances of profit made by the local authority under this Act shall be applicable to any purposes to which any other local rate is for the time being applicable.

The "local rate" shall mean an assessment to be levied and recovered by the local authority along with, but as a separate assessment from, any one of the assessments mentioned in section ninety-five of the Public Health (Scotland) Act, 1867.

The local authority may carry to the account of the Dwelling-house Improvement Fund any moneys or the produce of any property, which moneys or produce are or is legally applicable to purposes similar to the purposes of this Act; and in case of doubt as to whether, in any particular case, the purposes are similar to the purposes of this Act, it shall be lawful for the confirming authority to decide such question, and such decision shall be conclusive.

Power of borrowing money for the purposes of the Act.

21. Any local authority under this Act may for the purposes of this Act borrow any moneys on the security of any lands, houses, or other property acquired by them under this Act, and may mortgage such lands, houses, or other property to any person advancing such moneys, and it shall not be in any way incumbent on the mortgagees to see to the application of such moneys, nor shall they be responsible for the misapplication thereof.

Every local authority borrowing on the credit of such lands, houses, or other property as aforesaid may pay out of the local rate the interest of any moneys so borrowed by them.

Any local authority under this Act borrowing any moneys on the security of any lands, houses, or other property as aforesaid may execute such instruments by way of security, with such power of sale and other conditions as they think expedient.

Any local authority under this Act shall have the same power of borrowing on the credit of the local rate such sums of money as they may require for the purposes of this Act, as they have under section eighty-six of the Public Health (Scotland) Act, 1867, for the purpose of making, enlarging, or constructing sewers.

The Public Works Loan Commissioners, acting with the consent of the Treasury, may, on the recommendation of the confirming authority, lend to any local authority any money required by them for the purposes of this Act, on the security of the local rate. Such loan shall be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority, and shall bear interest at the rate of three and a half per cent. per annum, or such higher rate as may in the judgment of the Treasury be necessary to enable the loan to be made without loss to the Exchequer.

Any limit imposed on or in respect of local rates by any Act of Parliament other than this Act shall not apply to any rate required to be levied for the purpose of defraying any expenses under this Act.

Audit of accounts.

22. The accounts of a local authority in any burgh under this Act shall be audited in the same manner, and with the same power in the officers auditing the same, in which the account of the police assessment in such burgh is for the time being required to be audited under any general or local Act.

PART III.

GENERAL PROVISIONS.

Provision where local authority has no seal.

23. Any petition or document proceeding from a local authority may be authenticated by their seal where such authority have a seal, and in any other case by the signature of any two or more members of the local authority, or in such other manner as the confirming authority may require.

Notices.

Service of notice on the local authority.

24. Any notice required to be served upon the local authority may be lawfully served by delivering the same to the clerk of the local authority, or leaving the same at his office with some person employed there by him.

Power of confirming authority as to advertisements and notices.

25. The confirming authority may from time to time by order prescribe the forms of advertisements and notices under this Act; it shall not be obligatory on any persons to adopt such forms, but the same, when adopted, shall be deemed sufficient for all the purposes of this Act.

Power of confirming authority to dispense with notices in certain cases.

26. The confirming authority may, on the consideration of any petition of a local authority for an order confirming a scheme, dispense with the publication of any advertisement, or the service of any notice, proof of which publication or service is not given to him as required by this Act, where reasonable cause is shown to his satisfaction why such publication or service should be dispensed with, and such dispensation may be made by the confirming authority either unconditionally or upon such condition as to the publication of other advertisements, and the service of other notices or otherwise, as the confirming authority may think fit, due care being taken by the confirming authority to prevent the interest of any person being prejudiced by the fact of the publication of any advertisement or the service of any notice being dispensed with in pursuance of this section.

Authentication of notices served by the local authority.

27. Any notice served by the local authority for the purposes of this Act may be signed by the clerk of the local authority.

Penalties.

Penalty for obstructing officers in execution of Act.

28. Where any person obstructs the officer of health or any officer of the local or confirming authority acting in the performance of anything which the local or confirming authority are by this Act required or authorised to do, every person so offending shall, on summary conviction, for every such offence forfeit a sum not exceeding twenty pounds.

All penalties imposed under this Act shall be recovered before the sheriff of the county in the sheriff court, under the provisions of "The Summary Procedure Act, 1864," and all the jurisdiction, powers, and authorities necessary for this purpose are hereby conferred on sheriffs.

Every such penalty shall be recovered at the instance of the procurator fiscal of the jurisdiction.

Every penalty imposed by this Act may be reduced or mitigated according to the judgment of the sheriff.

It shall be competent to any person aggrieved by any conviction by a sheriff in any summary proceeding under this Act to appeal against the same to the next circuit court, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter 43, and any Acts amending the same, as relate to appeals in matters criminal, and by and under the rules, limitations, conditions, and restrictions contained in the said provisions.

Saving Clause.

Relation of local Acts to general Acts.

29. Where in any place to which this Act applies any local Act is in force providing for objects the same as or similar to the objects of this Act, the enactments of such local Act may be enforced at the discretion of the local authority either instead of or in concurrence with this Act; provided that the local authority of any place to which this Act applies shall not, by reason of any local Act within its jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under this Act.

Definitions.

Construction of terms of Act.

30. The expressions herein-after mentioned shall respectively have the meanings hereby assigned to them, unless there is something in the context inconsistent with such meanings; that is to say,

"Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"Person" shall include a body of persons, corporate or unincorporate:

"Lands" shall include lands and heritages of any tenure, and any right over land:

"Sell" shall include convey by way of feu or contract of ground annual:

"The Court of Session" shall mean either division of the Inner House thereof:

"The Treasury" shall mean the Lords Commissioners of the Treasury, or any two of them:

"This Act" includes any confirming Act as herein-before defined.

SCHEDULE.

PROVISIONS WITH RESPECT TO THE PURCHASE AND TAKING OF LANDS IN SCOTLAND OTHERWISE THAN BY AGREEMENT, AND OTHERWISE AMENDING THE LANDS CLAUSES CONSOLIDATION (SCOTLAND) ACT, 1845.

Deposit of Maps and Plans.

(1.) The local authority shall as soon as practicable after the passing of the confirming Act cause to be made out, and to be signed by their clerk or some other principal officer appointed by them, maps and schedules of all lands proposed to be taken compulsorily, (which lands are herein-after referred to as the scheduled lands,) together with the names, so far as the same can be reasonably ascertained, of all persons interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2.) The maps made by the local authority shall be upon such scale and be framed in such manner as may be prescribed by the confirming authority.

(3.) The local authority shall deposit such maps and schedules at the office of the confirming authority, and shall deposit and keep copies of such maps and schedules at the office of the local authority.

Appointment of Arbitrator.

(4.) After such deposit at the office of the confirming authority as aforesaid, it shall be lawful for the confirming authority, upon the application of the local authority, to appoint an arbitrator between the local authority and the persons interested in the scheduled lands, or lands injuriously affected by the execution of the scheme, so far as compensation for the same has not been made the subject of agreement.

Proceedings on Arbitration.

(5.) Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

'I *A.B.* do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of 'my skill and ability, hear and determine the matters referred to me under the provisions of the 'Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875. *A.B.*

'Made and subscribed in the presence of .'

And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a crime and offence.

(6.) As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and schedules deposited at their office, and the local authority shall publish once in each of three successive weeks the following particulars:—

(*a.*) The appointment of the arbitrator:

(*b.*) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with a description of the situation of such office, and a statement of the time at which such copies may be inspected by any person desirous of inspecting the same:

(*c.*) A requisition directing the owners of or parties by this Act enabled to sell and convey any of the said scheduled lands, or any lands injuriously affected by the execution of the scheme of the local authority, or any interest in such lands, to deliver to the arbitrator, on or

before a day fixed by the arbitrator and named in such requisition, (and being a day not earlier than twenty-one days from the date of the insertion of the last of such notices,) a short statement in writing of the nature of their respective claims.

(7.) The arbitrator shall, after the expiration of the period within which such claims are required to be delivered to him as aforesaid, and so far as such claims may not be settled by agreement, proceed to inquire into and adjudicate according to the basis provided in this Act upon the compensation to be paid in respect of the scheduled lands, and of the several interests in such lands, and the compensation to be made for injury to any lands as are mentioned in his appointment, injuriously affected by the execution of the scheme of the local authority.

(8.) The arbitrator shall, after due inquiry and examination, frame a provisional award, setting forth the compensation to be paid by the local authority in respect of the several interests in the said scheduled lands, and also, where any inquiry relates to injury to any lands injuriously affected by the execution of the scheme of the local authority, the compensation payable in respect of such injury.

(9.) The provisional award shall be deposited at the office of the confirming authority, and a copy shall be deposited at the office of the local authority.

(10.) The arbitrator shall cause notice of such award to be given to all persons entitled to compensation under the same, or who have made a claim before such arbitrator as claimants for compensation; the arbitrator shall cause notice to be published once in each of three successive weeks, stating that a copy of the provisional award has been deposited at the office of the local authority, and he shall in the notice of the award given to such persons as aforesaid, and also in the published notice, appoint a time and place, or times and places, for holding a meeting or meetings to hear objections against such provisional award (the first such meeting to be not earlier than twenty-one days after the last day of publication of the said notice).

(11.) The arbitrator shall hold such meeting or meetings according to such notices, and thereat hear and determine any objections which may then and there be made to such provisional award by any person interested therein, or adjourn the further hearing thereof, if the arbitrator see fit, to a future meeting, and may take any measures which he may deem proper for ascertaining the compensation payable in respect of any such lands or interests as aforesaid, or the justice or propriety of any other matter of such provisional award, and may from time to time, if he see occasion, appoint and hold further meetings for hearing and determining objections to such provisional award, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed.

(12.) When the arbitrator has heard and determined all such objections, and made such inquiries as he may think necessary in relation thereto, and made such alterations (if any) as he may deem proper in the provisional award, he shall sign and issue a final award accordingly; and thereupon such final award shall be binding and conclusive (subject to the provisions concerning an appeal herein-after contained) upon all persons whomsoever, and no such award shall be set aside for irregularity in matter of form.

(13.) Such final award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award so confirmed, and a further notice requiring all persons claiming to have any right to or interest in the lands (the compensation to be paid in respect of which is ascertained by such award) to deliver to the local authority, on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, together with a legal progress of the title deeds of the lands in respect of which the claim is made; and such statement, and an inventory of the title deeds forming such progress, shall be paid for by the local authority.

Payment of Purchase Money.

(14.) Within thirty days from the delivery of such statement and progress of titles as aforesaid to the local authority, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person, on demand, a certificate stating the amount of the compensation to which he is entitled under the said award.

(15.) Every such certificate shall be prepared by and at the costs of the local authority; and where any agreement has been entered into as to the compensation payable in respect of the interest of any person in any lands, the local authority may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

(16.) The local authority shall, thirty days after demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases herein-after mentioned, the amount

of moneys specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her heirs, executors, or assignees.

(17.) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to record the same in the books of council and session, or other judge's books competent, and to have a decree interponed thereto, and to be extracted with a view to execution, in the like manner as if a formal clause of registration had been contained therein; and all diligence and execution shall be competent thereon in the like manner and to all effects as upon any bond containing such formal clause of registration; and all moneys payable under such certificates, or to be recovered by such execution and diligence as aforesaid, shall be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

(18.) When and so soon as the local authority have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases herein-after mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his heirs, executors, or assignees, it shall be lawful for the local authority, upon obtaining such conveyance as herein-after mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

(19.) In every case in which any moneys are paid by any local authority under this Act, for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a conveyance of the lands in respect of which such moneys are paid, or of all the estate and interest of such party, and of all parties claiming under or through him, in such lands, and every such conveyance shall be prepared by and at the costs of the local authority.

(20.) If it appear to the local authority, from any such statement and progress of titles as aforesaid, or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the local authority, then and in every such case the amount to be paid by the local authority in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of "The Lands Clauses Consolidation (Scotland) Act, 1845," "with respect to the purchase money or compensation coming "to parties having limited interests, or prevented from treating, or not making title."

(21.) Where any person claiming any right or interest in any lands refuses to produce his title to the same, or where the local authority have under the provisions of this Act taken possession of any lands in respect of the compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the local authority taking possession, or if any party to whom any such certificate has been given or tendered refuses to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the local authority in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into any one of the incorporated or chartered banks in Scotland, in manner provided by the last-mentioned clauses of "The Lands Clauses Consolidation (Scotland) Act, 1845," and the amount so paid into the said bank shall be accordingly dealt with as by the said Act provided.

(22.) Nothing herein contained shall prevent the local authority from requiring any further evidence of title respecting any lands included in any such award as aforesaid, in addition to the statement and progress of titles herein-before mentioned, if they think fit, so as the same be obtained at the costs of the local authority.

(23.) If from any reason whatever the local authority does not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the local authority as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the costs and charges of the local authority, be enforced by any party or parties, by application to the Court of Session, in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the local authority by such application as aforesaid.

Entry on Lands on making Deposit.

(24.) Where the local authority are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions herein-before contained, it shall be lawful for the local authority, at any time, after the arbitrator has framed his provisional award, upon depositing in any of the banks before mentioned such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorised to be purchased or taken by the local authority, and mentioned in such provisional award, to enter upon and use such lands for the purposes of the improvement scheme of the local authority; and the arbitrator shall, upon the request of the local authority, at any time after he has framed such provisional award, certify under his hand the sum which, in his opinion, should be so deposited by the local authority in respect of any lands mentioned in such provisional award before they enter upon

and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such provisional award as the sum or sums to be paid by the local authority in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under this Act, shall be had, and payments made, as if such entry and deposit had not been made; provided that the local authority shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of this Act, such compensation is required to be paid into any of the said banks, then until the same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any compensation money the certificate to be delivered by the local authority in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

(25.) The money so deposited as last aforesaid shall be paid into any of the said banks to such account as may from time to time be directed by any regulation or Act for the time being in force in relation to moneys deposited in such bank in similar cases, or to such account as may be directed by any order of the Court of Session, and remain in the bank by way of security to the parties interested in the lands which have been so entered upon, for the payment of the money to become payable by the local authority in respect thereof under the award of the arbitrator; and the money so deposited may, on the application by petition of the local authority, be ordered to be invested in Government securities, and accumulated; and upon such payment as aforesaid by the local authority it shall be lawful for the Court of Session, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the local authority, or, in default of such payment as aforesaid by the local authority, it shall be lawful for the said court to order the same to be applied in such manner as it thinks fit for the benefit of the parties for whose security the same shall so have been deposited.

Appeal.

(26.) Where the party named in any certificate issued under the provisions herein-before contained of the amount of the compensation ascertained by any award under this Act (or any party claiming under the party so named) is dissatisfied with the amount in such certificate certified to be payable, and such amount exceeds five hundred pounds, and

Where any party claiming any interest in any moneys so paid into bank as aforesaid is dissatisfied with the amount of the price or compensation in respect of which such moneys are paid into bank, and such amount exceeds five hundred pounds, also

Where the local authority is dissatisfied with the amount of compensation which the arbitrator appointed under the provisions of this Act has awarded to be paid by the local authority to any person in respect of any estate or interest in lands, and such amount exceeds the sum of five hundred pounds;

The party dissatisfied may submit the question of the proper amount of compensation to a jury, provided that such party give notice in writing to the other party of their intention to appeal within ten days after notice has been given that the cause of appeal has arisen.

The cause of appeal shall be deemed to have arisen,—

(1.) Where a certificate has been issued as aforesaid, at the date of the issue of the certificate:

(2.) Where moneys have been paid into bank, at the date of the payment into bank:

(3.) Where the local authority appeals, at the date of the making of the final award.

(27.) Where a notice has been given under this Act of an appeal to a jury in respect of compensation for land, or any interest in land, a question of disputed compensation required to be determined by the verdict of a jury shall be deemed to have risen within the meaning of the Lands Clauses Consolidation (Scotland) Act, 1845, and all the provisions of that Act contained in sections thirty-seven to fifty-five, both inclusive, shall be deemed to apply, except section forty-six: Provided also, that in the construction of the said sections,—

(1.) Where the local authority appeals, that authority shall be deemed to be the pursuer, and the party entitled to compensation to be the defender; and,

(2.) Where the party claiming compensation appeals, then, in case the verdict of the jury is for a sum exceeding the award of the arbitrator, the local authority shall pay to such party the costs of the trial, such costs to be taxed and ascertained in the same manner as costs are by law ascertained in jury trials before the Court of Session; but in case the verdict of the jury is for a sum not exceeding the award of the arbitrator, the party appealing shall pay to the local authority the costs of the trial to be taxed and ascertained in manner aforesaid.

(3.) Where the local authority is the appellant,—

(1.) Notwithstanding the verdict of the jury may be for a sum less than that awarded by the arbitrator, the local authority shall pay to the other party such sum not exceeding twenty pounds for the costs of the trial as the sheriff or sheriff substitute before whom the same is tried shall direct; and,

(2.) In case the verdict of the jury is for a sum equal to or exceeding the award of the arbitrator, the local authority shall pay to the other party the costs of the trial, such costs to be taxed and ascertained in manner aforesaid.

(4.) The amount of compensation awarded by the arbitrator shall not be communicated to the jury, but they shall be required to make an independent assessment of the amount of compensation to which the party claiming compensation is entitled.

Costs of Arbitration.

(28.) The salary or remuneration, travelling and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of this Act into execution, shall be paid by the local authority; and the amount of such costs, charges, and expenses shall from time to time be certified by the confirming authority after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the local authority; and every certificate of the said confirming authority certifying the amount of such costs, charges, and expenses shall be taken as proof in all proceedings at law of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable in the same manner as the costs, charges, and expenses contained in any order of the confirming authority made under section six of this Act.

(29.) It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority; and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from such local authority, with interest at the rate of five per cent. for any time during which the same remains unpaid after such seven days as aforesaid, but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of such claim before the appointment of the arbitrator.

Miscellaneous.

(30.) The arbitrator may call for the production of any documents in the possession or power of the local authority, or of any party making any claim under the provisions of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under this Act, and may examine any such party and his witnesses, and the witnesses for the local authority, on oath, and administer the oaths necessary for that purpose.

(31.) If any arbitrator appointed in pursuance of this Act die, or refuse, decline, or become incapable to act, the confirming authority may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the local authority shall publish notice of such appointment in the Edinburgh Gazette.

(32.) All notices required by this schedule to be published shall be published in some one and the same newspapers circulating within the jurisdiction of the local authority; and where no other form of service is prescribed, all notices required to be served or given by the local authority under this schedule, or otherwise, upon any persons interested in or entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of an improvement scheme are directed by this Act to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers.