4. Section fifteen of the Exchequer Bills and Bonds Act, 1866, (which section relates to the forgery of Exchequer bills,) shall apply to all Exchequer bonds issued in pursuance of this Act in like manner as if it were herein enacted with the substitution of Exchequer bond for Exchequer bill. Extension of 29 & 30 Vict. c. 25. as to forgery, &c., to bonds.

5. This Act may be cited as the Exchequer Bonds Act, 1878, and the Exchequer Bills and Bonds Act, 1866, and this Act may be cited together as the Exchequer Bonds Acts, 1866 and 1878. Short title.

CHAPTER 8.

An Act to enable Local Authorities to acquire and lay out land for Public Parks and Pleasure Grounds in Scotland. [18th March 1878.]

WHEREAS it is desirable to assimilate the laws respecting the acquisition of land by local authorities for certain purposes otherwise than by agreement:

And whereas the Public Health Act, 1875, and the Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875, contain powers in this respect which may with great advantage be extended: 38 & 39 Vict. c. 55. 38 & 39 Vict. c. 49.

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:

Preliminary.

1. This Act may be cited for all purposes as the Public Parks (Scotland) Act, 1878. Short title.

2. This Act shall apply only to Scotland, and the local authority shall be the local authority of any burgh under the Public Health (Scotland) Act, 1867. Application of Act and description of local authority.

Public Parks, Pleasure Grounds, &c.

3. From and after the passing of this Act any local authority may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as parks, public walks, or pleasure grounds, and may support or contribute to the support of parks, public walks, or pleasure grounds provided by any person whomsoever. Local authorities may provide places of public recreation.

4. Any local authority may make byelaws for the regulation of any such parks, public walks, or pleasure grounds, and may by such byelaws provide for the removal from such parks, public walks, or pleasure grounds of any person infringing any such byelaw by any officer of the local authority or constable. Local authorities may make bye-laws.

Purchase of Lands.

5. Any local authority may, for the purposes and subject to the provisions of this Act, purchase or take on lease, sell, or exchange any lands, whether situated within or without their district. Power to purchase lands.

Any lands acquired by a local authority in pursuance of any powers in this Act contained, and not required for the purpose for which they were acquired, shall (unless the Secretary of State otherwise direct, and subject to the provision herein-after contained, in the case of lands taken compulsorily,) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund or otherwise, of any principal moneys which have been borrowed by such authority on the security or rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of any fund or rate of such local authority.

Provided that where any lands acquired compulsorily under the powers of this Act are not required for the purpose for which they were acquired, it shall not be lawful for the local authority to sell them or any portion thereof in terms of this section, or to let them or any portion thereof for building purposes, until they shall first have offered to

sell them or such portion thereof to the person or persons then entitled to the lands from which they were originally severed; and if any person entitled to such pre-emption shall within six weeks after an offer has been made to him in terms of this section intimate his desire to purchase any such lands, and such person and the local authority do not agree as to the price thereof, then such price shall be ascertained by arbitration in manner provided by the Lands Clauses Consolidation (Scotland) Acts.

Regulations as to purchase of lands.

6. With respect to the purchase of lands by a local authority for the purposes of this Act the following regulations shall be observed; (that is to say,)

(1.) The Lands Clauses Consolidation (Scotland) Acts, to the extent herein-after mentioned, shall be incorporated with this Act:

(2.) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall publish once at the least in each of three consecutive weeks in the month of October, in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further serve a notice in the month of November on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands:

(3.) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition to the Secretary of State. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neuter in respect of the taking such lands, or who have returned no answer to the notice; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation (Scotland) Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Secretary of State may require:

(4.) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served, the Secretary of State shall take such petition into consideration, and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof:

(5.) After the completion of such inquiry, the Secretary of State may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation (Scotland) Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as he may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

Provided that the notices by this section required to be given in the months of October and November may be given in the months of September and October; and any notices or orders by this section required to be served on a number of persons having any right in, over, or on lands in common may be served on any three or more of such persons on behalf of all such persons.

Power to let lands.

7. Any local authority may, with the consent of the Secretary of State, let for any term any lands which they may possess as and when they can conveniently spare the same.

Provisional Orders by Secretary of State.

As to provisional orders made by Secretary of State.

8. With respect to provisional orders authorised to be made by the Secretary of State under this Act, the following enactments shall be made:

(1.) The Secretary of State shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:

(2.) Before making any such provisional order the Secretary of State shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject-matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections:

(3.) The Secretary of State may submit to Parliament for confirmation any provisional order made by him in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament:

(4.) If while the Bill confirming any such order is pending in either House of Parliament a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills:

(5.) The Secretary of State may revoke, either wholly or partially, any provisional order made by him before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament:

(6.) The making of a provisional order shall be primâ facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with:

(7.) Every Act confirming any such provisional order shall be deemed to be a Public General Act.

Costs to be awarded in certain cases.

9. Where any Bill for confirming a provisional order under this Act 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.

Costs of provisional order.

10. The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Secretary of State, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly; and if thought expedient by the Secretary of State, the local authority may contract a loan for the purpose of defraying such costs.

Acquisition of Land.

Acquisition of land.

11. The clauses of the Lands Clauses Consolidation (Scotland) Acts 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) Acts, (except sections one hundred and twenty to one hundred and twenty-two, both inclusive, of the Lands Clauses Consolidation (Scotland) Act, 1845,) as amended by the provisions contained in 8 & 9 Vict. c. 19.

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,

(1.) This Act shall authorise the taking by agreement any lands which the local authority may require for the purposes of this Act, and it shall authorise the taking by the exercise of any compulsory powers of such lands as are required for the purposes of this 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, such lands or interests shall be valued as if they were lands or interests taken compulsorily under the provisions of the Lands Clauses Consolidation (Scotland) Acts.

Extinction of rights of way and other servitudes.

12. Upon the purchase by the local authority of any lands required for the purpose of carrying this Act into effect, 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.

Expenses.

Separate account to be kept for the purposes of this Act.

13. A separate account shall be kept by the local authority in respect of any transactions under this Act.

The moneys required for the purposes of this Act shall be supplied out of the local rate, or out of moneys borrowed in pursuance of this Act.

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.

30 & 31 Vict. c. 101.

Power of borrowing money for the purposes of this Act.

14. Any local authority under this Act may, for the purposes of this Act, borrow any moneys on the security of any lands acquired by them under this Act, and may mortgage such lands 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 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 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.

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.

15. 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.

Byelaws.

Authentication and alteration of byelaws.

16. All byelaws made by a local authority under and for the purposes of this Act shall be signed by the clerk thereof; and any such byelaws may be altered or repealed by

subsequent byelaws made pursuant to the provisions of this Act: Provided that no byelaws made under this Act by a local authority shall be of any effect if repugnant to the laws of Scotland or to the provisions of this Act.

Power to impose penalties on breach of byelaws.

17. Any local authority may, by any byelaws made by them under this Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the local authority; but all such byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Confirmation of byelaws.

18. Byelaws made by a local authority under this Act shall not take effect unless and until they have been submitted to and confirmed by the Secretary of State, who is hereby empowered to allow or disallow the same as he may think proper; nor shall any such byelaws be confirmed—

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulated within the district to which such byelaws relate one month at least before the making of such application; and

Unless for one month at least before any such application a copy of the proposed byelaws has been kept at the office of the local authority, and has been open during office hours thereat to the inspection of the ratepayers of the district to which such byelaws relate, without fee or reward.

The clerk of the local authority shall, on the application of any such ratepayer, furnish him with a copy of such proposed byelaws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

Byelaws to be printed, &c.

19. All byelaws made by a local authority under this Act shall be printed and hung up in the office of such authority, and a copy thereof shall be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same.

Evidence of byelaws.

20. A copy of any byelaws made under this Act by a local authority, signed and certified by the clerk of such authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making, confirmation, and existence of such byelaws, without further or other proof.

Places of recreation vested in town councils or other bodies.

21. Where in any burgh or place places of recreation as described in this Act are at present or may become vested in magistrates and town councils or other bodies or trustees for behoof of the community of such burgh or place, all the powers of making and enforcing byelaws conferred by this Act upon local authorities are hereby conferred upon and may be exercised by such magistrates and town council or other bodies or trustees with reference to such places of recreation to the like effect as if they were hereby constituted local authorities.

General Provisions.

Provision where local authority has no seal.

22. 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 Secretary of State may require.

Notices.

Service of notice on the local authority.

23. 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.

Authentication of notices served by the local authority.

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

Penalties how recovered.

27 & 28 Vict. c. 53.

25. 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.

Saving Clause.

Relation of local Acts to this Act.

26. 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.

Definitions.

Construction of terms of Act.

27. 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.

8 & 9 Vict. c. 19. 23 & 24 Vict. c. 106.

"The Lands Clauses Consolidation (Scotland) Acts" shall mean the Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860.

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

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

"Burgh" shall have the meaning assigned to it in the Public Health (Scotland) Act, 1867.

"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.

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, before advertising their intention to take lands, 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 local authority shall deposit such maps and schedules at the office of the Secretary of State, and shall deposit and keep copies of such maps and schedules at the office of the local authority.

Appointment of Arbitrator.

3. After such deposit at the office of the Secretary of State as aforesaid, it shall be lawful for the Secretary of State, upon the application of the local authority, to appoint an arbitrator between the local authority and the persons interested in the scheduled lands, so far as compensation for the same has not been made the subject of agreement.

Proceedings on Arbitration.

4. 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 "Public Parks (Scotland) Act, 1878.

"*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.

5. As soon as an arbitrator has been appointed as aforesaid the Secretary of State shall deliver to him the maps and schedules deposited at his 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 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.

6. 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.

7. 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.

8. The provisional award shall be deposited at the office of the Secretary of State, and a copy shall be deposited at the office of the local authority.

9. 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 by 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.)

10. 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 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 herein-before directed.

11. 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.

12. Such final award as aforesaid shall be deposited at the office of the Secretary of State, 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 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.

13. 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.

14. Every such certificate shall be prepared by and at the cost 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.

15. 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.

16. 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.

17. 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.

18. 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 cost of the local authority.

19. 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.

8 & 9 Vict. c. 19.

20. 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.

8 & 9 Vict. c. 19.

21. 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 cost of the local authority.

22. 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.

23. 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 this Act, 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.

24. 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 the 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.

25. 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 the 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.

26. Where a notice has been given under the Act of an appeal to a jury in respect of compensation for land, a question of disputed compensation required to be determined by a 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, so far as they are still in force, shall be deemed to apply, except section forty-six: Provided also, that in the construction of the said sections— 8 & 9 Vict. c. 19.

(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.

27. The salary or remuneration, travelling or other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the Secretary of State 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 Secretary of State, 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 Secretary of State certifying the amount of such 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 Secretary of State made under section six of the Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875.

38 & 39 Vict. c. 49.

28. 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 centum 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.

29. 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.

30. If any arbitrator appointed in pursuance of this Act die, or refuse, decline, or become incapable to act, the Secretary of State 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.

31. All notices required by this schedule to be published shall be published in some one and the same newspaper circulating within the jurisdiction of the local authority, and where no 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 and entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of this Act are directed by this Act to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers.

CHAPTER 9.

An Act to apply certain Sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March one thousand eight hundred and seventy-seven, one thousand eight hundred and seventy-eight, and one thousand eight hundred and seventy-nine. [28th March 1878.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, towards making good the supply which we have cheerfully granted to your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sums herein-after mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and 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: