CHAPTER lxxvii.

An Act to enable the Local Board for the district of Ryton (Parish), in the county of Durham, to acquire Waters and lands for the purposes of their Water undertaking. A.D. 1881.

[27th June 1881.]

WHEREAS the Ryton (Parish) Local Board (herein-after called "the Local Board") are the sanitary authority for the urban sanitary district of Ryton (Parish), in the county of Durham:

And whereas the Local Board are about to construct works for supplying the district with water under the powers contained in the Public Health Act 1875; but those powers are not sufficient to enable the Local Board to take and appropriate certain waters and lands herein-after mentioned which are necessary for supplying the district with water, and it is therefore expedient that the Local Board should be empowered to purchase, take, and appropriate those waters and lands in the manner provided by this Act: 38 & 39 Vict. c. 55.

And whereas an absolute majority of the whole number of the Local Board at a meeting held on the thirteenth day of December, one thousand eight hundred and eighty, after ten clear days notice by public advertisement of the meeting and of the purpose thereof in the "Newcastle Daily Chronicle," being a local newspaper published and circulating in the district, that notice being in addition to the ordinary notices required for summoning the meeting, resolved that the expense in relation to promoting the Bill for this Act should be charged on the district fund and general district rate:

And whereas that resolution was published twice in the "Newcastle Daily Chronicle," a newspaper circulating in the district, and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Local Board at a further special meeting held in pursuance of a similar notice on the tenth day of January, one thousand eight hundred and eighty-one, being not less than fourteen days after the deposit of the Bill for this Act in Parliament:

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And whereas the owners and ratepayers of the district, by resolution in the manner provided in the Third Schedule of the Public Health Act 1875, consented to the promotion of the Bill for this Act:

And whereas plans showing the waters and lands required, or which may be taken, for the purposes or under the powers of this Act, and a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said waters and lands were duly deposited with the clerk of the peace for the county of Durham, and are herein-after respectively referred to as the deposited plans and book of reference:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please 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:

Short title.

1. This Act may be cited for all purposes as the Ryton (Parish) Local Board (Water) Act 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106 32 & 33 Vict. c. 18.

2. The Lands Clauses Consolidation Acts 1845, 1860, and 1869, are, except where those Acts are expressly varied by or are inconsistent with the provisions of this Act, incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there is something in the subject or context repugnant to such interpretation:—

The expression "the district" means the urban sanitary district of Ryton (Parish);

The expression "the Local Board" means the Ryton (Parish) Local Board, acting as the sanitary authority for the district;

The several words and expressions to which by the Acts incorporated with this Act meanings are assigned have in this Act the same respective meanings unless there is something in the subject or context repugnant to such interpretation, and the expression "superior courts," or "court of competent jurisdiction," or any other like expression in the said Acts shall be read and have effect as if the debt or demand in respect of which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Power to take and divert water.

4. Subject to the provisions of this Act the Local Board may, for the purpose of supplying the district with water, take, collect,

impound, use, divert, appropriate, and distribute, for the purposes of their waterworks, the water of the following springs (that is to say): All springs in the north-west portion of Chopwell Plantation, numbered 279 on the Ordnance map of the township of Chopwell, in the parish or parochial chapelry of Winlaton or parish of Ryton, in the county of Durham; the spring in inclosure numbered 247 on the Ordnance map of the township of Chopwell, in the parish or parochial chapelry of Winlaton aforesaid, in the said county; the springs in inclosure numbered 307 on the Ordnance map of the township of Chopwell aforesaid; and all springs in the line of the waterworks of the Local Board, or upon, under, arising in, or flowing through any of the lands which the Local Board are or may be authorised to purchase or take, and other springs, streams, and waters which may be intercepted by their waterworks in or upon any lands acquired or to be acquired by them under the powers of this Act, or of the Public Health Act 1875, or any Act amending the same, and the waters of which springs and streams, or some of them, now flow into the River Derwent: Provided always, that the Local Board shall not take any water from existing streams, or any of them, which Messieurs John Annandale and Sons at present use, lying to the east of the road leading from West Chopwell Farm to Chopwell Plantation: Provided also, that the Local Board in the exercise of the powers hereby conferred shall be subject to the conditions and restrictions contained in the Waterworks Clauses Acts 1847 and 1863 with respect to the exercise of the like powers, and that any compensation payable by them in respect of the exercise of the said powers shall be determined in manner provided by the Lands Clauses Consolidation Act 1845, with respect to the purchase and taking of lands otherwise than by agreement: Provided further, that nothing herein contained shall authorise the Local Board to take, collect, impound, use, divert, or appropriate any water upon, under, arising in, or flowing through any land belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods Forests and Land Revenues, or either of them, or to divert or obstruct the usual and accustomed flow of water into any such land.

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10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93.

5. The Board shall not under the powers of this Act take or collect during each period of twenty-four hours, commencing at noon, more than one hundred and forty-four thousand gallons of water from the said spring in inclosure numbered 247 and the like quantity of water from the said springs in inclosures numbered 279 and 307.

Limit as to quantity of water to be taken.

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Power to take lands.

6. Subject to the provisions of this Act, the Local Board may, for the purposes aforesaid, enter upon, take, and use so much of the lands herein-after described as are shown on the deposited plans, and thereon enclosed within a dotted line, and described in the deposited book of reference, viz. :

1. A piece of land situate in Chopwell Plantation, numbered 279 on the Ordnance map, in the township of Chopwell aforesaid ;
2. A piece of land situate in inclosure, numbered 247 on the Ordnance map, in the township of Chopwell aforesaid ;
3. A piece of land situate in the township of Ryton Woodside, in the parish of Ryton, in the county of Durham, numbered 491 on the Ordnance map ;
4. A piece of land situate in the township of Ryton Woodside, in the parish of Ryton, numbered 226 on the Ordnance map.

Period for compulsory purchase of lands, &c.

7. The powers of the Local Board for the compulsory purchase of waters and lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Power to take easements &c. by agreement.

8. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may, if they think fit, subject to the provisions of those Acts and of this Act, grant to the Local Board any easement, right, or privilege required for the purposes of this Act in, over, or affecting lands, and the provisions of the Lands Clauses Acts with respect to lands and rentcharges, as far as the same are applicable in this behalf, shall extend and apply to such grant, easements, rights, and privileges as aforesaid respectively.

Power for Blaydon Local Board to have supply of water.

9. If at any time after the passing of this Act the Blaydon Local Board or other the urban sanitary authority of the district of Blaydon shall require a supply of water from the source or sources taken under this Act for any part of that district not extending beyond the east end of the village of Winlaton, the Local Board shall allow the Blaydon Local Board to take such supply by means of a junction with the Local Board's line of pipes at such point as may be found most suitable, the quantity to be restricted, if considered necessary by the Local Board, to the same quantity per head of the respective populations supplied in the Blaydon district, and the Ryton district, and such supply shall be furnished to the Blaydon Local Board on the following terms (that is to say): In case the Blaydon Local Board shall require a supply within the period of eight years from the time of the completion of such works, the Blaydon Local Board shall repay to the Local Board one half of the cost of the works from the source of supply to such point of junction, together with interest on the same at the same rate as the

Local Board shall pay to the Public Works Loan Commissioners or other lenders for the money borrowed for the purpose of carrying out such works, from the time of completion thereof to the time of payment by the Blaydon Local Board; but if the Blaydon Local Board shall not require a supply within that period, then that Board shall pay one half only of the cost of the works from the source of supply to such point of junction, without any interest whatever.

Confirmation of Agreement in Schedule.

10. The Agreement set forth in the schedule to this Act is hereby confirmed and made binding on the parties thereto, and full effect may and shall be given thereto.

Power to borrow.

11. The Local Board may and shall for the purposes of this Act exercise all the powers of borrowing which they possess under the Public Health Act 1875; and for that purpose that Act shall be deemed to be incorporated with this Act, and as if the purposes of this Act were purposes under the Public Health Act 1875, and all provisions for repayment of money, formation of sinking fund and audit, shall apply as if it were a case of expenditure by the Local Board under that Act.

Expenses of Act.

12. The costs, charges, and expenses preliminary to and of and incidental to the preparing applying for and obtaining and passing of this Act shall be paid by the Local Board out of the district fund and general district rate of the district, or out of moneys borrowed on the security thereof, and such costs shall include the costs incurred by the Local Board in complying with the provisions of the Act passed in the session of Parliament held in the thirty-fifth and thirty-sixth years of the reign of Her present Majesty, chapter ninety-one, with respect to the Bill for this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons, and for the purposes of this section the obtaining of this Act and all costs incidental thereto shall be deemed to be one of the purposes of the Public Health Act 1875 for which the Local Board are empowered to borrow money.

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SCHEDULE referred to in the foregoing Act.

AGREEMENT made the tenth day of February, one thousand eight hundred and eighty-one, between the Ryton (Parish) Local Board (herein-after called "the Board") of the first part, the Most Honourable John Patrick Crichton Stuart, Marquess of Bute and Earl of Dumfries (herein-after called "the Marquess"), of the second part, and Elizabeth Ann Surtees and Eleanor Surtees, both of Hamsterley Hall, in the county of Durham, spinsters (herein-after called "the Misses Surtees"), of the third part (as follows):—

1. Whereas the Board are promoting in Parliament a Bill to acquire water and lands for the purposes of their undertaking:

2. And whereas the Marquess is the owner in fee simple of the piece of land referred to in the said Bill as No. 307 in the Ordnance map of the township of Chopwell, and he is also the owner in fee simple of a portion of the piece of land referred to in the said Bill as No. 279 in the said Ordnance map of the said township, and the said piece of land and portion of a piece of land are herein-after referred to as "the Marquess's lands":

3. And whereas the Misses Surtees are the owners in fee simple of the piece of land referred to as No 247 in the said Ordnance map of the township of Chopwell, and the same piece of land is herein-after referred to as "the Surtees's land":

4. And whereas the Misses Surtees are also the owners in fee simple of a mill and forge, called Derwent Cote Mill and Forge, subject to an agreement for a lease to George Carr Barker for twenty-one years, computed from the twelfth day of May, one thousand eight hundred and eighty, and which mill and forge are worked, or partly worked, by means of the water flowing from the herein-after mentioned spring in the Surtees's land:

5. And whereas the Marquess and the Misses Surtees have respectively agreed not to oppose the said Bill in consideration of these presents being entered into.

6. Now it hereby agreed in manner following (that is to say):—

7. It shall be provided in the said Bill that the Board shall not take more than one hundred and forty-four thousand gallons of water from the herein-after mentioned springs in the Marquess's lands during each period of twenty-four hours, commencing at noon, and that the Board shall not take more than the like quantity of water from the herein-after mentioned spring on the Surtees's land during each like period of twenty-four hours.

8. The Marquess will grant unto the Board a lease of, first, the piece of land marked 279A in the deposited plans, which piece of land contains eight perches and is part of the said portion of the said piece of land No 279; secondly, right, and liberty within such limits as aforesaid to take water from the springs marked

279A and 307A in the deposited plans, so far, but so far only, as the Marquess lawfully can grant such right and liberty; thirdly, the right and liberty to lay and maintain a line of underground water-pipes through the Marquess's lands in the direction shown on the deposited plans, and the said lease shall be for the term of ninety-nine years computed from the first day of May, one thousand eight hundred and eighty-two, at the yearly rent of nine pounds eight shillings and sixpence, payable half-yearly.

9. The Misses Surtees will grant unto the Board a lease of, first, the piece of land, containing eight perches, being that part of the Surtees's land which is on the deposited plans inclosed within a dotted line, with right and liberty within such limits as aforesaid to take the water flowing from the spring in the same piece of land so far, but so far only, as the Misses Surtees can grant the same right and liberty; secondly, right and liberty to lay and maintain a line of underground water-pipes from the said piece of land through the other parts of the Surtees's land in the direction shown on the deposited plans, and the same lease shall be for the term of ninety-nine years, computed from the first day of May, one thousand eight hundred and eighty-two, at the yearly rent of nine pounds three shillings and sixpence, payable half-yearly, and from the determination of the said George Carr Barker's lease such additional rent as shall be equal to the annual rent or sum which the Board has agreed or shall agree to pay to the said George Carr Barker, but such annual rent or sum shall be payable so long only as the water supply is diminished and the said Derwent Cote Mill is used as a water mill.

10. Both the said leases shall provide that all land injured by the laying, maintenance, or use of the said pipes, or by the making or maintaining of the works of the Board on the said pieces of land, shall be restored as soon as practicable, and that compensation be paid by the Board to the occupiers of the land for any injury sustained by them; and the said leases respectively shall also provide that all mines, quarries, and minerals be excepted; and that as to the Marquess's lands, and any other lands in the township of Chopwell under which the mines of coal, or any other mines, now belong, either at law or in equity, to the Marquess, his heirs and assigns, and as to the Surtees's land the Misses Surtees and their respective heirs and assigns, shall have full and unlimited power and authority in, through, over, upon, or under and from their said respective lands, and either by mining, or by open day working, or by both those means, or by any other means to search for, win, work, convey, manufacture, and carry on not only all or any of the mines, quarries, and minerals within or under the same, but also all or any mines, quarries, and minerals whatsoever within or under any other lands or hereditaments whatsoever, wheresoever, and to whomsoever belonging, and to do, have, use, and enjoy all things, whether of past or present use or of future invention, including the erection of dwelling-houses for workmen and agents, which are or shall be from time to time necessary or convenient for all or any of the aforesaid purposes; and as to underground operations, either with or without leaving support for the surface, and so that neither the Marquess, his heirs or assigns, nor the Misses Surtees, their heirs or assigns, shall be liable to pay any compensation whatsoever for any injury which the Board may sustain by the exercise of any of the powers and authorities aforesaid, and especially shall not be responsible for the partial or

A.D. 1881. total failure of all or any of the said springs, but in the event of the total failure of any spring the rent paid for the water taken from such spring shall thenceforth cease, so long as such failure shall continue: Provided always, that no pit shall be sunk, or open day working made on the surface of the piece of land firstly mentioned in the eighth clause, or in the piece of land firstly mentioned in the ninth clause.

11. The said leases shall be settled by Thomas Ridley, of Newcastle-upon-Tyne, barrister-at-law, and, him failing, by such other conveyancing barrister-at-law as shall be nominated by the town clerk for the time being of the borough of Newcastle-upon-Tyne, and shall contain such covenants, clauses, and provisions, in addition to those herein-before mentioned, as the said Thomas Ridley, or other barrister, shall determine to be proper.

12. All the costs attending the intended petition against the said Bill, and the negotiations for and preparation and execution of these presents, as well as the costs of the said leases and all other costs of carrying these presents into effect, shall be borne and paid by the Board.

13. The Board shall not, by virtue of the said intended Act, be entitled to require from the Marquess, his heirs or assigns, or the Misses Surtees, their heirs or assigns, any land or any springs and waters, or any easements or rights in or over any land or water other than the said leases, with the exception of such easements or rights as may be necessary to enable the Local Board to obtain access to the said pieces of land with carts, horses, and workmen, for the purpose of necessary repairs.

14. In witness whereof the said Board have caused their common seal to be hereunto affixed and the said parties hereto have set their hands the day and year first before written.

The Common Seal of the above Local Board was hereunto affixed at a meeting of the said Local Board by
JOHN BELL SIMPSON, Chairman,
In the presence of
HENRY DALTON, Clerk of the said Board. L.S.

Signed by the said John Patrick Crichton Stuart, Marquess of Bute and Earl of Dumfries, in the presence of } BUTE & DUMFRIES.

FREDERICK PITMAN,
of No. 48, Castle Street, Edinburgh.

Witness to the signing hereof by the said Elizabeth Anne Surtees and Eleanor Surtees } ELIZABETH ANNE SURTEES. ELEANOR SURTEES.

THOMAS J. ARMSTRONG,
Newcastle-upon-Tyne. Land Agent.

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