CHAPTER clxxii.

An Act for effecting the sale and transfer to the Local Board for Sutton-in-Ashfield, in the county of Nottingham, of the undertaking of the Sutton-in-Ashfield Gaslight and Coke Company; and for other purposes. [22d July 1878.] A.D. 1878.

WHEREAS by the Sutton-in-Ashfield Gas Order, 1874 (in this Act called "the Order of 1874"), the Sutton-in-Ashfield Gaslight and Coke Company, established by deed of settlement dated the thirteenth day of August one thousand eight hundred and fifty-two, were authorised to manufacture and supply gas within their limits of supply, which were therein defined to be the parishes of Sutton-in-Ashfield, Skegby, Teversal, Kirkby-in-Ashfield, Newstead, and Annesley, all in the county of Nottingham, and the Company are accordingly now supplying gas for public and private purposes within those parishes or some of them: 37 & 38 Vict. c. lxxxvii.

And whereas, under the Order of 1874, the share capital of the Company was fixed at ten thousand pounds original share capital, of which six thousand five hundred pounds has been paid up, and ten thousand pounds additional share capital, no part of which has been paid up, and the Company have borrowed and now owe the sum of four thousand two hundred pounds secured by debenture stock:

And whereas it is expedient that the power of supplying gas under the Order of 1874, and of extending and improving the Company's works, be vested in the Local Board of Health for the district of Sutton-in-Ashfield, and that a transfer to the Local Board of the undertaking of the Company be effected upon the terms in this Act stated, which have been agreed upon by the Company and the Local Board:

And whereas it is expedient that the Local Board be empowered to raise money for the purposes of this Act:

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

A.D. 1878.

And whereas an estimate has been prepared by the Local Board for the purchase of the undertaking of the Company, and for the extension and improvement of the works, and such estimate amounts to the sum of thirty thousand three hundred and thirteen pounds:

And whereas the undertaking agreed to be purchased, and the proposed extension and improvement of the works, are permanent works within the meaning of the two hundred and thirty-fourth section of the Public Health Act, 1875:

38 & 39 Vict. c. 55.

And whereas an absolute majority of the whole number of the members of the Local Board, at a meeting held on the third day of December one thousand eight hundred and seventy-seven, after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Nottingham Journal, a local newspaper published or circulating in the district, such notice being in addition to the ordinary notices required for summoning such meeting, resolved that the expense in relation to promoting the Bill for this Act should be charged on the general district rate of the district:

And whereas such resolution was published twice in the said Nottingham Journal, 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 members of the Local Board, at a further special meeting held in pursuance of a similar notice on the eleventh day of January one thousand eight hundred and seventy-eight, being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the district, by resolution passed in the manner prescribed by the Public Health Act, 1875 (Schedule III.), have consented to the promotion of the Bill for this Act:

38 & 39 Vict. c. 55.

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; (that is to say,)

Short title.

1. This Act may be cited as the Sutton-in-Ashfield Local Board Gas Act, 1878.

Incorporation of general Acts. 10 & 11 Vict. c. 15.

2. The Gasworks Clauses Act, 1847, (except the provisions thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit,) so far as the same are applicable for the purposes of and are

not inconsistent with the provisions of this Act, are incorporated with and form part of this Act; and the Gasworks Clauses Act, 1871, shall (subject to the provisions of the Order of 1874) apply to the gas undertaking of the Local Board as if the same were hereby authorised. 34 & 35 Vict. c. 41.

Interpretation of terms.

3. In this Act—

"The Local Board" means the Local Board of Health for the district of Sutton-in-Ashfield, in the county of Nottingham;

"The district fund" and "the general district rate" respectively mean the district fund and the general district rate of the Local Board;

"The Company" means the Sutton-in-Ashfield Gaslight and Coke Company;

"The Public Health Acts" means the Public Health Act, 1875, and all other Acts for the time being in force amending that Act; 38 & 39 Vict. c. 55.

"Person" includes a body corporate.

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

Limits of Act.

4. The limits of this Act for the supply of gas shall be the parishes and places within the limits of supply of the Order of 1874.

Act to be executed by the Board.

5. This Act shall be executed by the Local Board, with the powers and indemnities and according to the provisions of the Public Health Acts; and those Acts shall, in relation to the Local Board and the several purposes of this Act, be read and construed as if the purposes and provisions of this Act were purposes and provisions of the Public Health Acts.

Board may appoint gas committee.

6. For more conveniently carrying this Act into execution, the Local Board may from time to time appoint out of their own body a committee, to be called the Gas Committee, and to consist of such number of persons as the Local Board think fit, to manage, transact, and carry into effect all or any of the matters and purposes which the Local Board are by this Act directed or authorised, expressly or

A.D. 1878.

by reference, to execute or perform, and may fix the quorum of such committee, which committee shall have such of the powers and authorities by this Act given to the Local Board as the Local Board shall think proper to delegate to such committee, and the acts of such committee within the limits of such delegation shall be deemed to be acts of the Local Board: Provided that the acts of such committee shall, if required by the Local Board, but not otherwise, be submitted to the Local Board for approval, and that such committee shall in no case be authorised to borrow any money or make any rate.

Quorum of committee.

7. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they may think proper, for carrying into effect the purposes of their appointment, but no business shall be transacted at any meeting of the Committee unless the quorum (if any) fixed by the Local Board be present, and if no quorum be fixed, unless three members be present; and at all meetings of the committee one of the members present shall be appointed chairman, and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Purchase by Local Board of Gas Company's undertaking.

8. The Company shall sell, and the Local Board shall purchase, as from the thirty-first day of December one thousand eight hundred and seventy-eight (which time is in this Act referred to as the date of purchase), all the undertaking, works, lands, messuages, buildings, gas-meters, gas-holders, mains, pipes, apparatus, stock in trade, plant, property, goods, stores, effects, powers, rights, and privileges whatsoever of or belonging to the Company (except their book debts), and all deeds, books, writings, maps, plans, goods, chattels, and effects belonging to the Company, subject to the debts, debentures, obligations, and liabilities of the Company at the date of purchase, and subject also to all the covenants, liabilities, contracts, agreements, and engagements of the Company of every description which shall or may be subsisting at the date of purchase (all which undertaking and other things belonging to the Gas Company in this section specified are in this Act referred to as "the gas undertaking"); and the Company and the Local Board respectively shall perform all acts and execute all deeds necessary to carry out such sale and purchase, and for making the Local Board liable for the payment, carrying out, fulfilment, observance, performance, and adoption of such debts, debentures, obligations, liabilities, covenants, contracts, agreements, and engagements, and for the indemnifying of the Company from and against the same

respectively, and the Local Board shall accept the title of the Company to all property of every description constituting the gas undertaking.

Consideration for gas undertaking.

9. The price or consideration for the gas undertaking shall be the sum of sixteen thousand two hundred and fifty pounds, which shall be paid by the Local Board to the Company at the date of purchase.

Local Board to pay arrears of dividends and value of coal, &c.

10. The Local Board shall at the date of purchase pay to the Company the further sum of seven hundred and fifty pounds, being equal to one moiety of the dividends now in arrear, which the Company are, under the provisions of the Order of 1874, authorised to divide in respect of their paid-up share capital, and shall also pay to the Company the value of all coal, lime, tar, gas, coke, ammoniacal liquor, and other residual products in or about the premises of the Company at the date of purchase (except as in this Act mentioned); and in case there shall be any dispute or difference with respect to such value between the Company and the Local Board, the amount thereof shall be referred to the decision of two arbitrators, one to be appointed by the Company, and the other by the Local Board; and in case such arbitrators do not agree, the said amount shall be fixed by the decision of an umpire, to be appointed by the Local Government Board on the application of either party.

Purchase not to include Company's reserve fund.

11. The purchase authorised by this Act shall not include the reserve fund of the Company, amounting to the sum of four hundred pounds or thereabouts, which shall be retained by and shall continue to belong to the Company, and may be applied by them as they think fit either in giving gratuities for the loss of office or employment, or otherwise as in their discretion they shall decide.

Application of Company's Order of 1874 to Local Board.

12. From and after the completion of the purchase, all the powers, authorities, rights, and privileges of the Company under the Order of 1874 shall be, by virtue of this Act, transferred to and vested in the Local Board, and that Order shall be read and have effect as if the Local Board had been therein named instead of the Company, subject nevertheless and according to the following exceptions and provisions; (that is to say,)

1. Section one hundred and forty of the Companies Clauses Consolidation Act, 1845, incorporated with the Order of 1874, shall not apply to the Local Board: 8 & 9 Vict. c. 16.
2. None of the provisions of the Order of 1874, or the Acts incorporated therewith, in any way relating to the share or loan capital of the Company shall apply to the Local Board.

A.D. 1878.

Company to pay dividends and receive credits up to date of purchase.

13. The Company may, either before or after the date of purchase, pay all dividends and debits and receive all credits due to or from them up to the date of purchase on their revenue account; and the balance of such account, if against the Company, shall be paid by them, and if in their favour shall be retained by and shall continue to belong to the Company, to be applied by them as they may think fit, provided that the dividends in this section mentioned shall not include any unpaid dividends.

Undertaking to be delivered to Local Board in good order.

14. On the completion of the purchase, the Company will deliver over to the Local Board the gas undertaking in good working order as a going concern, with gas in the Company's holders equal in quantity and quality to the ordinary proper and sufficient supply of gas, together with a supply of coal sufficient for carrying on the gas undertaking for not less than one week.

Title deeds and books of Company to be delivered to Local Board.

15. On the completion of the purchase, the Company shall deliver to the Local Board all the title deeds of the Company, and within three months next after such completion the Company shall deliver to the Local Board the books of account and current books of account of the Company, and in the meantime the Local Board shall be allowed to inspect and take copies of and extracts from those books.

As to completion of purchase.

16. The purchase shall be completed by the execution of a proper deed of conveyance, or other deeds (duly stamped and truly stating the consideration), to be prepared by and at the expense of the Local Board, except the perusal and execution thereof by the Company; and from the date of purchase until such completion the Local Board shall pay to the Company interest upon the purchase money at the rate of five pounds per centum per annum, and the Company shall retain their undertaking and conduct their business in all respects as they in their discretion shall consider proper, but solely for the benefit of the Local Board, and shall and will account to the Local Board accordingly, and shall and will maintain and keep the undertaking in good repair and working order as a going concern (reasonable wear and tear only excepted), and may proceed with the making and completion of retorts, furnaces, mains, and all other works, apparatus, and processes, at their discretion, and as if the undertaking were not intended to be transferred, but all profits made after the date of purchase shall belong to the Local Board.

Receipt for purchase money to be

17. The receipts in writing of three directors of the Company for all payments to be made to the Company by the Local Board

under this Act shall effectually discharge the Local Board from the sums which in such receipts shall be acknowledged to have been received, and from being answerable or accountable for the loss, misapplication, or non-application thereof. sufficient discharge.

18. The Company shall hold all money paid to them by the Local Board under this Act, and all other money for the time being belonging to the Company, in trust to pay thereout all debts and liabilities (if any) properly payable by the Company under this Act, and any costs, charges, and expenses not payable by the Local Board, and to distribute the residue among the shareholders of the Company, their respective executors, administrators, or assigns, rateably in proportion to their respective shares and interests in the capital of the Company, without preference or priority; and the receipt in writing of the committee or guardian of the estate of a lunatic or infant shareholder shall discharge the Company from the money therein expressed to be received, and from any obligation affecting the share or interest in respect whereof that money is paid. Application of purchase money.

19. If the directors of the Company are for six months after the receipt by them of the purchase money unable, after diligent inquiry, to ascertain the person to whom any part thereof ought to be paid, or cannot obtain a sufficient discharge for the same, the said directors may pay the same into the Chancery Division of the High Court of Justice under any Act from time to time in force for the relief of trustees, and every such payment into court shall conclusively discharge the Company and the said directors from all further liability with respect to the money so paid into court, and for the purpose of this Act shall be deemed payment thereof to a person absolutely entitled thereto, and any person afterwards showing to the satisfaction of the Court that he is entitled thereto may obtain payment thereof out of court accordingly. Payments into court by the Company.

20. On and from the completion of the purchase, all the powers, authorities, and privileges of the Company under the Order of 1874 shall cease to belong to and be exerciseable by the Company, except such of the same powers, authorities, and privileges as the Company may require for the purposes of suing for, recovering, and receiving all debts, sums of money, matters, and things which may be due to them at the date of purchase, and for the purpose of distributing the Company's assets. Company's powers, &c. to cease after date of purchase.

21. The directors of the Company may exercise all powers necessary and proper for distributing the assets and winding up the affairs of the Company, and when and as soon as the assets of Winding up and dissolution of Company.

A.D. 1878.

the Company have been distributed, and their affairs have been wound up, the Company shall be by virtue of this Act dissolved.

Company's debts, &c. to be paid, &c. by Local Board.

22. The mortgage or debenture debt of the Company, and all other debts and all rents, charges, and sums of money which at the date of purchase are due from the Company, shall be paid, discharged, and satisfied by the Local Board.

Contracts, &c. prior to Act to be binding.

23. All purchases, sales, conveyances, grants, assurances, deeds, securities, contracts, bonds, and agreements entered into or made before the passing of this Act by, to, or with the Company shall be as binding and of as full force and effect in every respect against or in favour of the Local Board, and may be enforced as fully and effectually, as if, instead of the Company, the Local Board had been a party thereto, and after the date of purchase the Local Board shall be at liberty to use the name of the Company (but at the costs and expense in all things of the Local Board) in enforcing any contract made with the Company.

Powers as to construction and maintenance of gasworks, &c.

24. After the transfer of the gas undertaking to the Local Board, subject to the provisions of this Act, the Local Board may from time to time maintain, alter, improve, and enlarge the existing gasworks of the Company upon the lands described in the Schedule to this Act, and they may also erect, lay down, provide, and from time to time maintain, alter, improve, enlarge, extend, and renew or discontinue, additional and other retorts, gas-holders, condensers, purifiers, drains, sewers, mains, pipes, meters, lamps, lamp-posts, burners, stop-cocks, machinery, and other works, apparatus, and conveniences, and may do all such acts as they may think proper for making and storing gas, and for supplying gas within the limits of this Act, and may make, store, and supply gas accordingly, and may manufacture, sell, provide, supply, let on hire, and deal in coal, coke, tar, pitch, asphaltum, ammoniacal liquor, lime, and all other products or residuum of any materials employed in or resulting from the manufacture of gas, and also meters, fittings, tubes, pipes, gas-cooking apparatus, and other articles and things in any way connected with gasworks or with the supply of gas, as they may from time to time think fit.

Power to borrow on mortgage.

25. The Local Board may from time to time, under the authority of this Act, in addition to any money which they are or may be authorised to borrow under the Public Health Acts, borrow at interest on mortgage of the revenue of their gas undertaking, and of the general district rate and district fund, or of any such securities, either together or separately, all such sums as they may from time to time think requisite for any of the purposes of this

Act, not exceeding in the whole the sum of thirty thousand three hundred and thirteen pounds, and in addition thereto the Local Board may, with the previous approval of the Local Government Board, borrow at interest on the like securities such further sums as the Local Government Board may think fit. A.D. 1878.

Power to raise money under provisions of 38 & 39 Vict. c. 83.

26. The Local Board may from time to time, on the securities described in the last preceding section, or any of them, raise the money therein authorised to be borrowed by the issue of debentures, debenture stock, or annuity certificates, in manner prescribed by and subject to the provisions of the Local Loans Act, 1875.

Certain regulations of 38 & 39 Vict. c. 55. as to borrowing not to apply.

27. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section two hundred and thirty-four of the Public Health Act, 1875, and in calculating the amount which the Local Board may borrow under that Act any sums which they may borrow under this Act shall not be reckoned.

Payment of money borrowed.

38 & 39 Vict. c. 83.

28. The Local Board shall pay off all money borrowed by them under the powers of this Act, and the interest thereon, within fifty-five years after the same is borrowed, by any one or more of the methods (including a sinking fund) mentioned in the Local Loans Act, 1875, with respect to the discharge of loans borrowed in the manner provided by that Act, but they shall not be bound to commence paying off any of such moneys until the expiration of one year from the passing of this Act.

Power to re-borrow.

29. The Local Board may from time to time re-borrow any amount borrowed by them under this Act, and paid off otherwise than in compliance with the provisions of the last preceding section.

For making up any deficiency in gas account.

30. If in any year the amount standing to the credit of the gas account herein-after mentioned be insufficient for the payment of the charges thereon and the execution of this Act, the deficiency shall be made up out of the general district rate by carrying an adequate sum therefrom to the credit of the gas account; and the Local Board, from time to time, in preparing the estimates of the amount required in their judgment to be raised by means of a general district rate for the purposes of the district, may include therein such sums respectively (if any) as in the judgment of the Local Board are necessary to be provided in aid of the deficiency from time to time arising as aforesaid in the gas account, and shall collect the same as part of such general district rate.

A.D. 1878.

Application of revenue.

31. The Local Board shall keep an account in respect of their gas undertaking (which shall be called the Gas Account) separate from all their other accounts, and shall apply all money from time to time received by them in respect of their gas undertaking (except borrowed money) as follows:

First, in payment of the expenses properly chargeable to revenue of conducting, managing, and maintaining the gasworks, and otherwise carrying on the gas undertaking of the Local Board;

Secondly, in payment of the interest upon money borrowed under this Act;

Thirdly, in providing the requisite instalments, sinking fund, or other periodical payments under this Act;

Fourthly, in improving and extending the gasworks and mains, and in payment of any charges and expenses for the time being paid out of the district fund or general district rate in respect thereof;

and shall carry to the district fund account any balance remaining in any year.

Application of money borrowed.

32. All moneys borrowed by the Local Board under this Act shall be applied in and for the effectual execution of the purposes of this Act, and the extension and improvement of their gas undertaking in respect of objects to which capital money is properly applicable, and for no other purpose.

Annual return to Local Government Board with respect to sinking fund.

33. The clerk to the Local Board shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund under this Act, transmit to the Local Government Board a return, in such form as may be prescribed by that Board, and verified by statutory declaration if so required by them, showing the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and also showing the purposes to which any portion of the moneys invested for the sinking fund, and all interest thereon, have been applied during the same period, and the total amount remaining invested at the end of the year; and in the event of any wilful default in making such return, such clerk shall be liable to a penalty of not exceeding twenty pounds. If it appear to the Local Government Board, by such return or otherwise, that the Local Board have failed to set apart the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund to any purposes other

than those authorised by this Act, the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court of Justice, and the provisions of this section shall, mutatis mutandis, apply to annual instalments and appropriations.

Power to purchase lands by agreement.

34. The Local Board may purchase by agreement, but not otherwise, any lands and hereditaments, not exceeding in the whole four acres, which they may from time to time require for the purposes of their gas undertaking; provided that it shall not be lawful for the Local Board to manufacture gas or residual products except upon the lands described in the Schedule to this Act.

Power to lay pipes against buildings.

35. The Local Board, with the consent of the owner and occupier of any building, may lay any pipe, branch, or any other necessary apparatus from any main or branch pipe into, through, or against such building for the purpose of lighting it, and may, with the like consent, provide and set up any apparatus necessary for securing to such building a proper and complete supply of gas, and for measuring and ascertaining the extent of such supply, and may from time to time, with the like consent, repair, replace, alter, discontinue, and remove any such pipe, branch, or apparatus.

Local Board to pay interest on deposit.

36. Where any money is deposited by any person by way of security with the Local Board for the payment to them of all moneys which may become due to them by such person in respect of any supply of gas or of the purchase or hire of any meter, the Local Board shall pay interest at the rate of four pounds per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands.

Contracts with local authorities, &c. for supply of gas.

37. The Local Board may from time to time enter into and carry into effect agreements with any other sanitary or local authority, or any highway board, or the trustees of any turnpike road, for or with reference to the supply of gas, and may from time to time rescind or alter any such agreements.

Authentication of notices.

38. Any summons, warrant, demand, or notice, or other such document to be issued or given for any of the purposes of this Act may be in writing or print, or partly in writing and partly in print, and if the same require authentication by the Local Board

A.D. 1878.

the signature thereof by the clerk to the Local Board shall be a sufficient authentication.

Notice to Local Board to discontinue supply.

39. A notice to the Local Board from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing, and be left at the principal office for the time being of the Local Board.

Application of penalties.

40. Every penalty imposed by this Act shall (except where otherwise expressly provided, and except where the Local Board shall be the party by whom the penalty has to be paid,) be paid to the Local Board.

Sale of portions of gas undertaking to sanitary authorities.

41. If at any time after the passing of this Act any rural sanitary district within the limits of the gas supply of the Local Board shall be constituted an urban sanitary district, and the urban sanitary authority of such district shall give not less than six months notice in writing to the Local Board of their desire to purchase that portion of the undertaking of the Local Board which is contained within such district, and shall obtain the consent of the Local Government Board to such purchase, and shall apply to Parliament or the Local Government Board for power to purchase such portion of the undertaking of the Local Board (except the mains and pipes or other apparatus which shall be necessary for supplying with gas any other part of the Local Board's limits of supply), and to supply gas within such district, then it shall not be lawful for the Local Board to oppose such application (except as to the details thereof); and if such powers be granted the Local Board shall sell, and such sanitary authority shall purchase, such portion of the undertaking of the Local Board (except as aforesaid) within the district of such sanitary authority, at such price as shall be fixed, in default of agreement, by arbitration under the provisions of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869; and the Local Board shall apply the proceeds of any sale under this section in the same manner as they are required to apply moneys borrowed under the powers of this Act: Provided always, that no such authority shall be authorised until after the completion of such purchase to supply gas to any part of such district, and that after the completion of such purchase all obligation on the part of the Local Board to supply gas within such district shall cease and determine.

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

Expenses of Act.

42. The costs, charges, and expenses preliminary to and of and incidental to the preparing of, and applying for, and the obtaining

and passing of this Act, including the costs, charges, and expenses preliminary to and of and connected with the obtaining of the resolution of owners and ratepayers aforesaid, shall be paid by the Local Board out of the district fund and general district rate, or out of any moneys borrowed on the security thereof, or out of any other funds under their control. A.D. 1878.

A.D. 1878.

The SCHEDULE referred to in the foregoing Act.

Description of Gas Lands.

All that parcel of freehold land situate in the parish of Sutton-in-Ashfield, in the county of Nottingham, belonging or reputed to belong to and in the occupation of the Company or their under-tenants, bounded on the south-west by Forest Street, on the north-west by lands belonging or reputed to belong to Mr. John Gelsthorpe, on the north-east by a stream known as the Idlewell Brook, and on the south-east in part by a public footway known as Tenter Lane, and in part by lands or buildings the property or reputed property of the heirs of the late Abraham Wass, the same containing by admeasurement one acre three roods and nine perches or thereabouts.

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