CHAP. xxiii.

An Act for authorising the construction by the Corporation of Huddersfield of additional Waterworks, and for carrying into effect arrangements between the Corporation and the Commissioners of the Wessenden Reservoir, and for extending the limits of and amending the Huddersfield Water Act, 1869; and for other purposes. [25th May 1871.]

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WHEREAS by the Huddersfield Water Act, 1869, the mayor, aldermen, and burgesses of the borough of Huddersfield in the west riding of the county of York (in this Act called the Corporation) were empowered to construct waterworks, and therefrom and from works transferred to them by that Act to supply water to the borough of Huddersfield (in this Act referred to as the borough) and its neighbourhood: 32 & 33 Vict. c. cx.

And whereas in 1836 an Act (described in the first schedule to this Act) was passed relative to waterworks in the valley of Wessenden, in the neighbourhood of the borough (in this Act referred to as the Wessenden Act of 1836): 6 & 7 W. 4. c. xciv.

And whereas by the Wessenden Act of 1836 the Commissioners of the Wessenden Reservoir were constituted and incorporated (in this Act referred to as the Wessenden commissioners), and were empowered to make and maintain a reservoir called the Wessenden reservoir, and to levy rates on persons occupying falls supplied with water from the parts of the Wessenden brook and River Colne therein described, and to borrow money on the credit of those rates:

And whereas it would be of mutual advantage to the borough and its neighbourhood, and to the millowners and others interested in the waters of the Wessenden reservoir and Wessenden brook, if the Wessenden reservoir were enlarged, and if the water stored therein were made available for the purposes of the Wessenden Act of 1836, and if the other waters now flowing into or forming Wessenden brook were made available for the purposes of the water-

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works undertaking of the Corporation, and it is expedient that arrangements in that behalf made between the Corporation and the Wessenden commissioners, and embodied in this Act, be carried into effect accordingly:

And whereas it is expedient that the limits of supply of water by the Corporation be extended, and that the Corporation be empowered to construct additional waterworks, and to borrow money for the purposes of this Act, and that further and other powers be conferred on the Corporation in relation to their waterworks undertaking, and that the Huddersfield Water Act, 1869, be in divers respects amended:

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

And whereas plans and sections describing the lines, situations, and levels of the intended new waterworks and other works, and plans describing the lands intended to be taken compulsorily for the purposes of this Act, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of lands in the line of the proposed works, or within the limits of deviation as defined on the plans, and of the other lands described on the plans, and further describing all those lands, have been deposited with the clerk of the peace for the west riding of the county of York (which are in this Act referred to as the deposited plans, sections, and book of reference):

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 Huddersfield Waterworks Act, 1871.

Provisions of general Acts herein named incorporated.

2. The following enactments (as far as the same are applicable for the purposes and not inconsistent with the provisions of this Act) are hereby incorporated with this Act; namely,

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:

The Waterworks Clauses Acts, 1847 and 1863, except the provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit:

The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof:

The provisions of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, except sections eighty-four and eighty-five.

Interpretation of terms.

3. With respect to the interpretation of terms in and for the purposes of this Act, the following provisions shall have effect; namely,

(1.) In this Act, and in any enactment incorporated with this Act, the term "quarter sessions" or "court of quarter sessions" shall be taken to mean the court of general or quarter sessions of the peace for the west riding of the county of York:

(2.) In this Act, and in any enactment incorporated with this Act, the term "superior court, or court of competent jurisdiction," shall have effect as if the debt or demand with respect to which that term is used was an ordinary simple contract debt, and not a debt or demand created by statute:

(3.) In the provisions of the Commissioners Clauses Act, 1847, incorporated with this Act, the terms "the commissioners," and "the clerk to the commissioners," and "the office of the commissioners," shall be taken to mean respectively the Corporation and the town clerk of the borough and the town clerk's office:

(4.) Subject to the foregoing interpretations the several terms to which meanings are assigned by the Acts incorporated wholly or in part with this Act have in this Act the same respective meanings:

(5.) In this Act the term "the borough" means the borough of Huddersfield in the west riding of the county of York, and the term "the Corporation" means the mayor, aldermen, and burgesses of the borough:

(6.) In this Act the term "the Wessenden Act of 1836" means the Act described in the first schedule to this Act, and the term "the Wessenden commissioners" means the commissioners incorporated by that Act.

Power to make works and take lands, &c.

4. Subject to the provisions of this Act, the Corporation may, in accordance with the deposited plans and sections, make and maintain the reservoir, enlargement and extension of reservoir, catch-water drains, lines of pipes, conduits, road diversions, and other works shown on the deposited plans, with all proper approaches, works, and conveniences connected therewith, and vary, alter, or discontinue the pipe or aqueduct, and any other work authorised by the Huddersfield Water Act, 1869, for delivery of compensation water from their Deer Hill reservoir, and may enter on, take, and use such of the lands

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described in the deposited plans and book of reference as they require for the purposes of their waterworks undertaking, and may take, use, get, and appropriate for those purposes all streams and waters shown or mentioned on the deposited plans as intended to be intercepted or otherwise taken by any of their intended or authorised waterworks, and all waters found in, on, or under any lands taken or held by them under this Act, but so that nothing herein contained shall extend to authorise the Corporation to execute any works of sinking wells or driving driftways beyond the limits of deviation shown on the deposited plans, and may stop up all roads and ways within the limits of deviation defined on the deposited plans which are shown thereon as intended to be stopped up, and may appropriate for the purposes of this Act the sites of roads and ways so stopped up.

Application of Act of 1869.

5. The waterworks and undertaking authorised by this Act shall be deemed part of the waterworks undertaking of the Corporation under the Huddersfield Water Act, 1869.

Raising of top level of Wessenden reservoir.

6. As compensation for the taking of the waters by the foregoing provisions of this Act authorised to be taken by the Corporation, the Corporation shall, by means of the works of enlargement of the Wessenden reservoir by this Act authorised, raise the top-water level of that reservoir by the height of fourteen feet six inches, and shall, within seven years after the passing of this Act and before commencing those works, pay off and discharge the mortgage debt of the Wessenden commissioners existing at the passing of this Act, by paying to those commissioners the several sums making up the aggregate thereof, as and when the same become payable, on delivery of the securities for the same respectively, or by taking upon themselves all liability of the said commissioners in respect of the same, together with all interest which may from time to time afterwards become due on such sums respectively until the said sums shall be paid off, and the Corporation shall complete such works of enlargement within two years from the time of commencing the same.

Payment by Corporation of mortgage debt of Wessenden commissioners.

Extinction of re-borrowing power.

7. On payment by the Corporation of, or on their taking upon themselves, in accordance with the provisions of this Act, any part of the mortgage debt of the Wessenden commissioners, the power of re-borrowing vested in those commissioners shall, to the extent of the sum so paid or undertaken by the Corporation, be, by virtue of this Act, extinguished.

On payment of interest on debt rating under Wes-

8. On payment by the Corporation of any sum by way of interest from time to time due in respect of the mortgage debt of the Wessenden commissioners to those commissioners, or to the

person entitled to the same in accordance with the provisions of this Act, the said commissioners shall not make any rate for the payment of such interest: Provided always, that any sum paid to the Wessenden commissioners in manner aforesaid shall be applied by them in payment of such interest to the person entitled thereto.

Wessenden Act not to be exercised.

9. When and as soon as the mortgage debt of the Wessenden commissioners existing at the passing of this Act has been paid off and discharged, with all interest accrued thereon, the provisions of the Wessenden Act of 1836 respecting rating for the purpose of paying such interest, but not otherwise, shall, by virtue of this Act, cease to operate, but not so as to alter any of those provisions as far as regards the qualification of any person to be a Wessenden commissioner.

Cesser of rating under Wessenden Act.

10. The Corporation, as soon as they think fit after the passing of this Act, and before making the compensation aforesaid, or any part thereof, may take, use, and appropriate (for the period of five years from the passing of this Act, but not longer, except by the consent of the said commissioners), for the purposes of their waterworks undertaking, the Great Dyke, Blake Clough, and Blakeley Clough streams and springs of water, subject nevertheless to the restrictions and on the terms following; (namely,)

Power to Corporation to take Great Dyke, &c.

(1.) The Corporation shall not take therefrom more than three hundred and fifty thousand gallons of water per day at any time before the completion by them of the enlargement of the Wessenden reservoir:

(2.) The Corporation shall not take therefrom before the completion by them of the enlargement of the Wessenden reservoir any water whenever and as long as the flow of water from the Wessenden reservoir is less than one million six hundred and eighty-seven thousand five hundred gallons per day (or whatever may be for the time being the statutory supply of water to Upper Bank Bottom Mill):

(3.) As compensation for the water so taken the Corporation shall, for or during the continuance of such taking, but not for or during any suspension of such taking under this section, pay to the Wessenden commissioners a sum equal to the interest for the time being payable in respect of the mortgage debt of the Wessenden commissioners existing at the passing of this Act:

(4.) While any interruption to the beneficial user of the Wessenden reservoir is caused by the execution by the Corporation of the works of enlargement thereof by this Act authorised, the right by this section conferred on the Corporation of taking water shall be and remain suspended unless the

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Corporation on and during the continuance of such interruption deliver into the Wessenden stream at or above the reservoir of Upper Bank Bottom Mill a daily quantity of water equal to that taken by them under this section.

Provision for flow of water drawn from Wessenden reservoir.

11. Before the interruption by means of any new reservoir or works of the Corporation by this Act authorised of the water drawn by or under the direction of the Wessenden commissioners from the Wessenden reservoir, the Corporation shall make due provision by means of pipes of sufficient capacity for the flow of such drawn water past their new reservoir or reservoirs to or into the reservoir of Upper Bank Bottom Mill, and such pipes shall be for ever thereafter maintained and kept in repair by the Corporation; and if any difference arises between the Corporation and the Wessenden commissioners as to the dimensions of such pipes, the same shall be referred to the engineer to be appointed under section thirty of the Huddersfield Water Act, 1869.

Gauges to be erected.

12. The Corporation shall construct suitable measuring gauges over or through which the water taken by the Corporation under this Act from the Great Dyke, Blake Clough, and Blakely Clough streams and springs of water shall flow, and during their taking of such water shall maintain those gauges, and the same shall be open to the inspection and examination of the owners and occupiers of the several present and future mills, works, and navigations interested therein.

Restrictions on taking of water by Corporation.

13. Notwithstanding anything in this or any other Act, it shall not be lawful for the Corporation to execute any catch-water or other drain or work so as to divert, disturb, or diminish the natural flow of water to the Wessenden reservoir from the natural watershed thereof, as defined on a certain map thereof agreed on and intended to be deposited with the deposited plans, except to the extent and in the manner shown on such map at or near the Great Dyke springs.

Restriction on Wessenden commissioners.

14. Notwithstanding anything in this or any other Act, it shall not be lawful for the Wessenden commissioners after the passing of this Act to execute, or to continue if already executed, any catch-water or other drain or work, so as to divert into the Wessenden reservoir any water from beyond the natural watershed thereof as defined on the said map, or any water which the Corporation are by this Act authorised to take, use, and appropriate; but nothing in this Act shall prevent the Wessenden commissioners from constructing an additional reservoir at their own expense and risk in the valley above the Wessenden reservoir.

Corporation to maintain

15. On the passing of this Act the power and obligation to maintain the Wessenden reservoir and works connected therewith

conferred and imposed on the Wessenden commissioners by section twenty-eight and other provisions of the Wessenden Act of 1836 shall be and the same are hereby transferred to and conferred and imposed on the Corporation. Wessenden reservoir.

16. The Corporation shall at their own cost for ever maintain and repair, and from time to time (if need be) renew, the outlet pipe of the Wessenden reservoir when enlarged, but the Wessenden commissioners shall have full control of the drawings of water from such reservoir, and the Corporation shall at their own expense provide for and keep up the discharge of water from that reservoir when enlarged, at such times and in such quantities as the Wessenden commissioners from time to time require, but the outlet pipe of the Wessenden reservoir, as existing at the passing of this Act, shall not be enlarged either by the Corporation or by the commissioners without the consent of the other of them. Discharge of water from Wessenden reservoir.

17. The Corporation shall pay to the Wessenden commissioners yearly, on the first day of January, the sum of fifteen pounds for or towards the expenses incurred by the commissioners in controlling and regulating the drawing of water from the Wessenden reservoir when enlarged. Yearly payment to Wessenden commissioners.

18. The Corporation shall have at all times free and unrestricted access by their officers and workmen and otherwise to the Wessenden reservoir and works connected therewith. Access to Wessenden reservoir.

19. The Wessenden commissioners may from time to time, at their own expense, cleanse the Wessenden reservoir, and remove therefrom mud or other substances accumulated therein. Cleansing of reservoir.

20. From and after the passing of this Act the following provisions of the Wessenden Act of 1836, namely, section fifty-five (relating to entry and materials for repairs in case of accident) and section fifty-six (relating to compensation for damages), shall have effect as if the Corporation had been therein named instead of the Wessenden commissioners. Corporation to be liable for accident, &c.

21. Nothing in this Act shall be deemed to transfer the property in the Wessenden reservoir and works connected therewith, or any of them, to the Corporation, and the same shall remain and be as if this Act had not been passed. Property in Wessenden reservoir.

22. In case of any neglect on the part of the Corporation to maintain in a state of efficiency any gauge required by this Act, and in case of any neglect on their part by or in consequence of which the quantity of water which they are limited to take under this Act is in any case exceeded, or the discharge of water from the Wessenden reservoir when enlarged is not duly provided for and Penalty for neglect of Corporation as regards water.

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kept up, then and in every such case the Corporation shall, for every day on which such neglect occurs, after the expiration of twenty-four hours from notice thereof in writing served on them by or on behalf of the occupiers of mills and works affected thereby, or any of them, forfeit and pay to the occupiers of each of the mills and works affected thereby (who may sue for and recover the same) the sum of five pounds, and shall in addition make compensation for any loss, damage, or injury sustained by such occupiers, or any of them, in respect of which such penalties are an insufficient compensation, and such occupiers may respectively from time to time recover such compensation with costs from the Corporation by proceedings in any court of competent jurisdiction.

Costs of Wessenden commissioners.

23. The reasonable costs, charges, and expenses of the Wessenden commissioners preliminary to and of and incidental to the application for and passing of this Act shall be paid by the Corporation.

Maintenance of new roads.

24. Every road, whether public or private, constructed by the Corporation on the embankment of a reservoir, and the drains, culverts, and fences thereof, shall be maintained by and at the cost of the Corporation for ever, and every road constructed by them not on an embankment, and the drains, culverts, and fences thereof, shall be maintained by and at the cost of the Corporation for one year after the completion of the road and of the Lower Wessenden reservoir by this Act authorised, of which respective completion a certificate of two justices shall be conclusive evidence (which certificate two justices shall give on such respective completion being proved to their satisfaction), and on the expiration of the aforesaid respective periods of one year each such road, being a substituted or diverted road, shall become and the same shall thenceforth be a public highway or private road (as the case requires), and shall be repairable as such accordingly.

Limits of lateral deviation.

25. Where the line of any work shown on the deposited plans passes along any road, and limits of lateral deviation are not marked thereon, the Corporation may in constructing the works deviate laterally from the line thereof as laid down on those plans to the extent of the boundaries of the road, and elsewhere the Corporation may, in constructing the works by this Act authorised, deviate laterally from the lines thereof as laid down on the deposited plans to the extent of the limits of lateral deviation shown thereon, but not further in either case, except with the consent of the owner of the lands through or in which the deviation is made.

Limits of vertical deviation.

26. In constructing the works by this Act authorised the Corporation may deviate vertically from the levels of their new reservoirs,

as shown on the deposited sections, to any extent not exceeding four feet, and from the levels of any other works, as shown on those sections, to any extent not exceeding six feet.

Compensation for damage.

27. The Corporation shall be liable to make good to owners, lessees, and occupiers of lands, and all other persons, all damage of what nature or kind soever, as well immediate as consequential, incurred by such owners, lessees, or occupiers, or other persons, by reason or in consequence of the giving way of any reservoir, embankment, or other work of the Corporation authorised by this Act.

Limit of time for compulsory purchase.

28. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of seven years from the passing of this Act.

As to lands of Thomas Joseph Sunderland.

29. And whereas it is alleged by Thomas Joseph Sunderland, Esquire, that the taking of the portions of his lands and buildings situate at Marsden-in-Almondbury, which are shown upon the deposited plan as intended to be taken for the purposes of this Act, will materially injure and render unfit for beneficial occupation the residue thereof: Therefore the Corporation shall, within the time limited by this Act for the compulsory purchase of land, take and purchase from the said Thomas Joseph Sunderland the entirety of his lands and buildings in Marsden aforesaid, and the amount of compensation to be paid for the same shall be ascertained and determined in the manner provided by the Lands Clauses Consolidation Act, 1845, unless the said Thomas Joseph Sunderland and the Corporation shall mutually agree upon the amount of such compensation.

Power to take additional lands by agreement.

30. The Corporation may from time to time for the purposes of their waterworks undertaking take by agreement, in addition to lands which they are authorised to take by compulsion, any lands, and may hold the same, not exceeding in the whole at one time of moorland or uninclosed land one hundred acres, and of cultivated or inclosed land fifty acres.

Power to agree for easements, &c.

31. The Corporation may take by agreement, and any person by the Lands Clauses Consolidation Act of 1845, or otherwise, enabled to sell lands, may grant to them, any term, estate, easement, interest, right, or privilege, not of water, in, over, affecting, or belonging to lands, at a yearly rent or otherwise, subject always and according to the provisions relative to the taking of lands by agreement contained in the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, for which purpose any such term, estate, easement, interest, right, or privilege shall be deemed lands within the meaning of those Acts.

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Rights of Corporation as owners of land.

32. The Corporation shall in relation to any streams and waters flowing or being through or in any lands acquired for the purposes of their waterworks undertaking, and held by them, be in the like position in all respects as any person being a riparian or other owner of land is at common law or otherwise in relation to streams or waters flowing or being through or in the same.

Application of Railways Clauses Act.

33. The parts of the Railways Clauses Consolidation Act, 1845, incorporated with this Act shall, for the purposes of this Act only, apply to the reservoirs by this Act authorised and the works immediately connected therewith, and shall apply thereto as if those reservoirs and works were referred to in those provisions instead of the railway, and the respective boundaries of those reservoirs and works instead of the centre of the railway, and as if fifty yards were therein mentioned instead of five hundred yards or two hundred yards, as the case may be.

Limitation of time for construction of works.

34. If the works shown on the deposited plans and by this Act authorised are not completed within twenty years from the passing of this Act, then and on the expiration of that period the powers by this Act granted to the Corporation for constructing the works, or in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed; but nothing in this Act shall restrict the Corporation from extending, enlarging, altering, or removing any of their engines, machinery, mains, or pipes, or improving their supply of water from the sources of supply authorised by this Act, at any time or from time to time as occasion may require.

Power to borrow for works, &c. subject to Act of 1869, altered as to payment of interest, sinking fund, &c.

35. The Corporation, independently of any other borrowing power, may from time to time borrow and re-borrow at interest on the security of their waterworks undertaking and of the borough fund any money not exceeding in the whole at any one time the sum of one hundred and fifty thousand pounds, and may mortgage their waterworks undertaking and the borough fund accordingly, and sections forty-nine to sixty-two, inclusive, of the Huddersfield Water Act, 1869, shall apply and have effect to and in relation to such borrowing, re-borrowing, and mortgaging as aforesaid as if those sections were re-enacted in this Act, subject and according to the following provisions; (namely,)

(1.) Mortgages granted by the Corporation on the security of their waterworks undertaking or of the borough fund before the passing of this Act shall, during the respective continuance thereof, have priority over all mortgages granted on the same respective security under this Act:

(2.) Money so borrowed shall be applicable, as far as requisite, in or towards discharge of the mortgage debt of the

Wessenden commissioners existing at passing of this Act:

(3.) Section forty-nine of the Huddersfield Water Act, 1869, (relating to application of borrowed money,) shall not have effect for the purposes of that Act, or of this Act, so as to control payment of interest on money borrowed as in that section mentioned, or under this Act, until the Corporation begin to give a general supply of water to the inhabitants of the [illegible] waterworks which they are by the Huddersfield Water Act, 1869, or this Act, authorised to construct:

(4.) Section fifty-one of the Huddersfield Water Act, 1869, (relating to payment of borrowed money,) shall for the purposes of that Act and of this Act have effect as if the following words had not been inserted therein (namely), "together with a sum equal to the interest formerly paid "on the sum paid off."

Extension of limits of Act of 1869.

36. The limits for supply of water of the Huddersfield Water Act, 1869, are hereby extended so as to comprise the townships and places described in the second schedule to this Act, and the Huddersfield Water Act, 1869, and this Act shall have effect as if those townships and places had been originally mentioned in section sixty-three of the Huddersfield Water Act, 1869, and included within the limits therein defined.

Recovery of water rent paid by owner.

37. Where, under section seventy-two of the Huddersfield Water Act, 1869, such an owner as therein described pays any water rent to the Corporation, the occupier shall repay to him the amount thereof, unless it has been agreed that the owner is to pay the water rent, and any money payable by an occupier to an owner under this section, if not paid on demand, may be recovered as arrears of rent could be recovered from the occupier by the owner.

Days of payment of water rent.

38. Section seventy-four of the Huddersfield Water Act, 1869, (relating to the payment of water rent,) shall, as from and after the passing of this Act, have effect as if, instead of the days therein mentioned, the first day of March and the first day of September had been therein mentioned.

Rating of railway companies, &c.

39. In order to effectuate section ninety-seven of the Huddersfield Water Act, 1869, (relating to the rating of railways and certain other classes of property,) the Corporation or the overseers, in collecting rates levied on the borough or on any of the townships comprised in the borough (as the case may be), shall from time to time make such variation or inequality in their assessments and

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rates made and levied on railways and other property coming within that section as may from time to time be requisite in that behalf, or shall by means of deduction from particular assessments allow the exemptions by that section conferred.

Saving rights of Corporation.

40. Nothing in this Act shall take away or abridge any of the rights, powers, or privileges of the Corporation.

Expenses of Act.

41. The costs, charges, and expenses incurred by the Corporation preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act, including such costs, charges, and expenses of the Wessenden commissioners as have been agreed to be paid by the Corporation, shall be paid by the Corporation out of the borough fund.

The SCHEDULES to which this Act refers.

THE FIRST SCHEDULE.

The Wessenden Act of 1836.

6 and 7 Will. IV. c. xciv.—An Act for enlarging the embankment of a reservoir in the valley of Wessenden, in the township of Marsden and parish of Almondbury, in the west riding of the county of York; and for other purposes.

THE SECOND SCHEDULE.

Extended Limits for Water Supply.

The township of Marsden-in-Almondbury in the parish of Almondbury, the township of Marsden-in-Huddersfield in the parish of Huddersfield, the township of Mirfield in the parish of Mirfield, the township of Kirkheaton in the parish of Kirkheaton, and so much of the township or chapelry of Hartishead-cum-Clifton in the parish of Dewsbury as is situate to the east and south-east of a line drawn parallel with and at one hundred yards distance to the west and north of the Huddersfield and Birstal turnpike road, which traverses the said township or chapelry from Cooper Bridge to the stream called Nunbrook.

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