

An Act respecting the improvement of Water-courses, in Upper Canada.

WHEREAS to prevent harassing litigation, and encourage the improvement of non-navigable streams, it is expedient to make the provisions hereinafter contained; Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble.

I. Every owner of land having therein an estate in fee simple in possession, or any one by his authority, may improve any water-course bordering upon and running along, or passing through or across such land, and may turn the same to account by the construction of mills, manufactories, and machinery of any description,—and may, for any such purpose, erect and maintain, in and about such water course, all the works necessary for efficient working, such as floodgates, canals, embankments, dams, dykes, and the like; but this right is subject to the conditions and regulations hereinafter contained.

Owners of land may turn to account water courses on or adjoining such lands.

CONDITIONS AND REGULATIONS.

II. No such works shall be erected or maintained to the injury of any mill lawfully existing either above or below them on the same stream, unless by agreement or otherwise independently of this Act the same might be so erected and maintained; nor (except in that case) shall any such works be erected or maintained, to the injury of any mill site on the same stream on which a mill or mill dam had theretofore been erected and used, unless the right to maintain a mill or such site had been lost; nor to the injury of any rail-road or public highway, or of the mansion house of any one, or the outhouses, yard, garden, or orchards belonging thereto.

Not to injure other mills, etc.

III. The height to which the water may be raised by a mill dam under the authority of this Act, and the time in every year that the dam may be kept up under the foregoing provisions, shall be subject to restriction by the verdict of a Jury, or the decision of a Court, as hereinafter provided.

Height of dam and how regulated.

IV. This Act does not authorize the diverting of the water from any stream unless the same is again returned to its natural channel.

Water to be returned to natural channel.

V. This Act shall not prevent any person whose property is injuriously affected, or is likely to be injuriously affected, by any such works, from obtaining an injunction to restrain the same, if the Court to which the application is made does not deem it just under all the circumstances of the particular case, to suffer the works to be erected or maintained: Or the Court may require any sum of money to be first paid, or any security to be first given, either for damages past or future, or both, or as the price of the property injured or likely to be injured by the proposed

Injunction may be obtained against any injurious work.

Or Court may assign conditions.