

just compensation." The foundation and *raison d'être*, so to speak, of all these American statutes seems to be the necessity of mills for the public benefit. The old Massachusetts statutes speak of mills as greatly beneficial to the public; and the preamble of Provincial Statute 12 Am. c. 1, "An Act for upholding and regulating mills," recites that they sometimes fall into disrepair and are rendered useless and unserviceable, if not totally demolished, *to the hurt and detriment* of the public. Chap. 8 of same year speaks of "mills serviceable to the public good and the benefit of the town." In the case of *Beekman v. Saratoga and Schenectady Ry. Co.*, 3 Paige (N.Y.) 73, Chancellor Walworth, speaking of the right of eminent domain, says that it has been upon this principle that the Legislatures of the several States have authorized the condemnation of lands of individuals for mill sites where, from the nature of the country, such mill sites would not be established for the accommodation of the inhabitants, without overflowing lands thus condemned.

In 2 Am. Jurist, art. 11., the support of grist-mills and saw mills is said to have been, in those early days, a measure of vital necessity. And they were consequently encouraged in every possible manner.

If the "accommodation of the inhabitants," then, be another form of the expression "public good," let us see how far it will throw light upon this case.

The chief point in Mr. Plumb's argument, and that to which most of his evidence was directed, was that the Parry Sound Mill Co. gave employment to a great number of men, who would otherwise not be in that part of the country at all, and that thus a good market for their produce was afforded to the farmers around. Now it seems to me, this is a very indirect way of shewing the "public good" of this mill. It is not shown that the mill itself, *qua* mill, is of any benefit to the public around there, in the same way that the mills spoken of in the American cases referred to were, namely, by supplying flour and lumber to the settlers around, and which were spoken of as being a "vital necessity."

This mill last season, it was shown, manufactured some 15,000,000 feet of lumber. How much of this was required for the use of the "public" about Parry Sound, where there is also

another large saw mill? Would the total stoppage of this mill occasion any injury, or even inconvenience, to the people about? that is, so far as the manufactures of the mill are concerned. True, they are beneficial by the employment of a large number of men; but the same result would be obtained by almost any branch of industry which called for the use of manual labour to a large extent. And this result is constantly obtained now-a-days by the holding out of a bonus by a town or village to any one establishing a manufactory on a large scale.

Supposing, however, it be assumed that this mill is for the good of the public about Parry Sound without this reservoir, and still more so if the reservoir be established, what shall be said about the "public good" to a settlement some 20 miles distant? If the employment of a large number of men at Parry Sound benefits the public there, how far does it benefit the public about Lorimer Lake? They, it was shown, have several saw-mills sufficient for their wants about a quarter of the distance off that Parry Sound is.

The effect of this flooding upon the health of some of the residents has already been shown. True we have only the evidence of two of them, but if one of the other ten riparian proprietors were called—those opposing this application, stating that they had not the means of bringing any witnesses other than themselves the long distance of some 120 miles, (of these ten, too, some six had left for some cause or other since the raising of the dam)—we might reasonably have some doubt as to their having been benefited by it.

On the subject of the malarial sickness spoken of in the evidence, I find that in the Act of Florida when a mill owner wishes to overflow his neighbours land for mill purposes he obtains a writ of *ad quod damnum*, commanding the sheriff to summon twelve householders to examine the land. "But in no case is the writ to be granted if the jury, in their report, state that the injury likely to result to the neighbourhood from the erection of the dam, by sickness or otherwise, will be greater than the benefit to be derived from the same."—(Thompson's Digest of Laws of Florida, 401-402). Under that statute clearly this application cannot be granted, for the benefit to the neighbourhood is not even suggested, while the sickness spoken of, as well