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No. 10.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to authorise the improvement of
Water-courses in Upper Canada.

Received and read first time, Tuesday, 16th
March, 1858.

Second reading, Tuesday, 23rd March, 1858.

MR. BENJAMIN.

TORONTO:

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An Act to authorise the improvement of Water-courses in Upper Canada.

WHEREAS the improvement of Water-courses in Upper Canada would be a source of great prosperity to the country, and a law having been passed by the Provincial Parliament for such purpose, confined in its operation to Lower Canada; Therefore Her Majesty, 5 &c., enacts as follows :

- I. All owners of land are hereby authorised and empowered to improve any water-course bordering upon and running along or passing through or across their respective properties, and to turn the same to account for their respective uses and benefit, by the construction of mills, manufactories, works and machinery of any description, —and for any such purpose to erect and construct in and about such water-course or water-courses, all the works necessary for efficient working, such as floodgates, canals, embankments, dams, dykes, and the like.
- 15 II. The owners or lessees of any such works shall be liable for all damages resulting therefrom, to any person whose property shall be thereby injured, whether such injury shall result from too great an elevation of the floodgates, or from any other portion of the works erected and constructed as aforesaid.
- 20 III. All such damages shall be ascertained by arbitrators to be appointed by the parties interested, in the usual manner; and in default of any one of the said parties to appoint an arbitrator, an arbitrator to be selected by the Warden of the County, shall act,— And the two arbitrators thus chosen shall appoint a third, and in case of their 25 disagreeing, then the County Judge shall appoint the third arbitrator: The arbitrators shall be sworn before a Justice of the Peace, well and truly to perform their duty in such capacity, and shall afterwards have power to swear all witnesses who may be brought before them. In assessing the damages and fixing the compensation to be paid, such 30 arbitrators, (if the case shall require it,) may set off, against the whole or any part of such damages, the increased value which the property of the claimants may have acquired by reason of the erection of such works, mills, manufactories or machinery as aforesaid.
- IV. In default of payment of the damages and indemnity so awarded, within six months from the date of the report of the arbitrators, together with legal interest to be computed from the said date, the party by or from whom the payment is due, shall be bound to demolish the works which he shall have erected or constructed as aforesaid, or

Preamble.

The owners of lands may turn water-courses adjoining them to account, and erect dams, &c.

Such owners to be liable for damages done thereby to other property.

Such damages to be estimated by arbitrators in case of dispute. Appointment of arbitrators.

They may set off increased value against damages.

Demolition of works, if damages are not paid within a certain time.

they shall be so demolished, at his cost and charges, upon judgment to that effect rendered, and this without prejudice to the amount of damages and interest thereon, awarded by the said arbitrators, under any arbitration as aforesaid.

5 V. This Act shall apply to Upper Canada only.

Act limited to
Upper Canada