



No. 210.

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3d Session, 3d-Parliament, 13 and 14, Vict., 1850.

## BILL.

An Act for referring disputes occasioned  
by the overflowing of Land by Mill-  
dams to arbitration.

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Received and Read a first time, Tuesday, 23rd  
July, 1850.

Second Reading, Thursday, 25th July, 1850.

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Hon. Mr. BOULTON.

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TORONTO : PRINTED BY LOVELL AND GIBSON.

## BILL.

An Act for referring disputes occasioned by the overflowing of Land by Mill-dams to arbitration.

**B**E it enacted, &c., as follows :—

- 1st. That all disputes respecting the overflowing of un- How disputes touching damages by overflowing of lands by Mill-dams, shall be settled.  
cultivated Lands, not exceeding acres, by  
5 the erection of Mill-dams, shall be left to Arbitrators at the instance of either party.
- 2nd. Either party may give notice in writing to the other to name an Arbitrator, and either party neglecting to name an Arbitrator on his behalf for the space of one Appointment of Arbitrators.  
10 month, shall be bound by the award to be made by the one first named.
- 3rd. If each party names an Arbitrator, these two shall Umpire.  
within days after being notified of their nomination,  
15 within days after such nomination, appoint a time and place for holding their first meeting, which, if desired by either party, shall be at, or as near the Dam occasioning the injury complained of as may be convenient, giving ten days notice to both parties of the time and place of such  
20 meeting.
- 4th. The Arbitrators first named shall administer an Oath of office.  
oath to the umpire, and he shall, in like manner, administer an oath to the other two, well and truly to hear and determine the matter in dispute between the parties, and  
25 a just and true award to make according to the evidence, without fear, favour or affection, or hope of reward.
- 5th. The third Arbitrator shall preside at all meetings Duty of Umpire.  
of the Arbitrators, issue a summons or warrant if necessary to compel the attendance of witnesses—shall swear,  
30 all the witnesses and record the testimony given, and which shall be signed by the witnesses, respectively.
- 6th. If required by either party, the Arbitrators shall View.  
proceed to the land overflowed, and personally view the premises before making their award.
- 35 7th. The Arbitrators shall determine as well all past Damages.  
damages as also the value of the land overflowed, and the loss it would occasion to the owner were he permanently

deprived thereof, having a reference to the size of the whole parcel or tract, whereof the portion overflowed or injured forms a part, the separation of one part from another, and all other circumstances presented to their consideration, and award such a sum as in their judgment shall be a fair compensation to the party, as well for past damages as for the permanent loss of the land, as well as for all other incidental damages he may sustain by reason of the maintaining of the said Dam. 5

Proceedings, if the amount awarded be not paid ;

8th. Upon the award being made, the amount awarded, together with such costs as the Arbitrators shall tax to the complainant, shall be paid within the time limited by the award for the payment thereof, or in default thereof, the Arbitrators shall issue their warrant, under their hands and seals, to any person to be named therein for that purpose, to proceed to the Dam, and take out and remove therefrom either the Flood-gates or such part of the Dam as shall be necessary to draw off the water from the land of the Complainant, and also to levy by distress and sale of the goods and chattels of the party against whom such award shall have been made, the amount of the costs awarded against him. 10 15 20

And if it be paid.

9th. If the amount of the award shall be paid in pursuance of such arbitrament, the Complainant shall thereupon execute a release of all his right, title and interest of, in and to the land overflowed, to hold the same to the party claiming such deed, his heirs and assigns for ever. 25

Awards may be made a rule of Court.

10th. All awards made under the provisions of this Act may be made a Rule of any Superior Court of Record in Upper Canada, and shall and may be dealt with as if the submission had been by Bond, according to the Statute in that behalf made. 30