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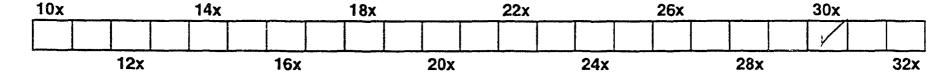
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4th Session, 3rd Parliament, 14 Victoria, 1851.

## BILL.

An Act to encourage and protect the erection of Water Power for manufacturing purposes in Upper Canada.

Received and read a first time, Thursday, 5th June, 1851.

Second Reading, Tuesday, 10th June, 1851.

Mr. MEYERS.

## BILL.

An Act to encourage and protect the creation of Water Power for manufacturing purposes in Upper Canada.

THEREAS it is desirable to encourage and protect Preamble. the creation of water power for manufacturing purposes in Upper Canada: Be it therefore enacted, &c.,

That if any action shall hereafter be commenced against Mode of pro-5 any person or persons, or body corporate, for damages done suits for by overflowing land, caused by the erection of any dam or damages ocdams for the creation of water power, it shall and may the overflowbe lawful to and for the defendant in such suit to sue ing of lands out from the Court in which such action shall have from duties. 10 been commenced, a rule or summons to the defendant, to shew cause why the matters in dispute in such suit should not be referred to arbitrators to be appointed by the parties, which rule or summons, upon service thereof, shall operate as a stay of proceedings in 15 such suit until cause shewn therein; and if no sufficient cause shall be shewn to the contrary, an order or rule shall be made therein, referring the matters in dispute in such suit to arbitrators, according to the terms of the rule or summons so issued, or varied as shall seem proper to 20 the said Court or the Judge presiding; and upon order or Arbitrators to rule made therein for such reference, the said parties be appointed. shall appoint arbitrators, who, in case of difference, between them, shall apoint an umpire, and in case either

shall not agree in appointing an umpire, it shall be lawful How appoints for any Judge of the Court out of which such rule or edif the parties do not

summons issued, upon application to him, of which suffi- agree, &c. cient notice shall be given to the opposite party, to appoint 30 such arbitrator or umpire, by whom the matters in dispute shall be considered; Provided always, that claims for Proviso. damages to any dwelling house or occupied buildings erected before the construction of the dam complained of, shall not come within the meaning of this Act.

party shall not, within one month from the making of such 25 rule or order, appoint an arbitrator, or the said arbitrators

II. And be it enacted, That such arbitrators or um- Form in which pire shall estimate separately the damages, if any, already the award shall be made: sustained by the plaintiff in such suit, to be paid by the division of defendant to him, and the value of the land overflowed damages. or damaged by reason of the erection of such dam, or 35 the value of the interest of the plaintiff therein, if the

When the award shall be mude.

same shall not be owned in fee by him, and the award or umpirage shall be made within one month from the appointment of such arbitrators or umpire, and shall state the value of the damages then already sustained by the plaintiff, if any, and the value of the land over- 5 flowed or damaged, or of the plaintiff's interest therein as aforesaid, and shall set out by sufficient boundaries the land so overflowed or damaged, and direct costs to be paid by either party at the discretion of such arbitrators or umpire: Provided always, that the time for making such award or 10 umpirage may be extended by the arbitrators or umpire, by any memorandum in writing expressing such intention, or by consent of parties.

Proviso.

Defendant may offer the value of the land.

conveyance

thereof.

to and for the defendant in such suit, at any time within 15 three months after the making of such award or umpirage. to tender to the plaintiff the value of the land so overflowed or damaged, together with such other sum, if any, as shall or may have been found against him by such award. And obtain a and the defendant shall and may thereupon demand from 20 the plainiff, and the plaintiff shall thereupon execute to the defendant, a sufficient conveyance in fee, or of his interest if not held by him in fee, of or in the said land so over-Proviso: as to flowed or damaged: Provided always, that any applicacation made against the award of such arbitrators or um- 25 pire, shall be made at the term of the Court in which such proceedings shall be had, which shall commence next. after the expiration of two weeks from the day of publication of such award; and that in case a rule nisi shall be granted for setting aside such award, which rule shall 30 afterwards be discharged, it shall be lawful for the

III. And be it enacted. That it shall and may be lawful

applications to set aside sward.

As to lands overflowed before they were granted by the Crown.

IV. And be it enacted, That no person or persons who shall acquire land by grant or purchase from the 35 Crown, shall maintain an action for or by reason of the overflowing of any portion of such land, or for or by reason of the penning back the water of any such stream between the banks thereof, by the erection of a dam as aforesaid, if such dam shall have been erected and such 40 land overflowed prior to such grant or purchase being made.

defendant to make such tender as aforesaid within one month after such rule shall have been so discharged.