

Laws of Her Majesty's Province of Upper Canada, passed in the year 1840. York: Robert Stanton, 1840.

3 Victoria – Chapter 40

An Act to authorise the construction of a Mill Dam across the River Thames. Passed 10th February, 1840.

Whereas it hath been represented by the petition of sundry persons inhabiting the Townships adjacent to the banks of the River Thames, in the Township of Delaware, in the County of Middlesex, and District of London, that the erection of Mills upon the said River on Lot B, in the broken Concession of Delaware, at the Village of Kilworth, in the said Township, and which is situated upon the right bank or Southerly side of said River Thames, and between said River and the main Road leading from Delaware to London, would tend greatly to increase the general prosperity and wealth of the surrounding country: And whereas the natural fall of the said River at this place is not of such magnitude as to render the water-privilege efficient at all seasons of the year for Mill purposes, and it will be therefore necessary to erect a Dam across the said River at the above-mentioned site: And whereas the erection of a Dam of a sufficient height to fully effect the purpose desired, will not flood or otherwise injure any lands lying above the same: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,*" and by the authority of the same, That it shall and may be lawful for any person or persons owning the said lot B, in the broken Concession of Delaware, at the Village of Kilworth, on the said River Thames, to erect a Dam upon the above-mentioned site, of such height only as will not flood or otherwise injure any lands lying above the same: Provided always, that such Dam or Dams shall be constructed with suitable Locks, for the safe and convenient passage of such Boats or other Craft as are now or may hereafter be in use upon the said River; and also with inclined planes of not less than forty feet in length, and thirty feet in width, with good and sufficient aprons for the safe passage of Rafts and the ascent of Fish; to be maintained and kept in good repair by the person in possession of said water privilege, free from toll or other charge, as long as the said Dam or Dams shall exist.

II. And be it further enacted by the authority aforesaid, That if the passage aforesaid shall at any time be obstructed for the period of twenty days successively, the grant hereby intended to be made shall be absolutely void.

III. And be it further enacted by the authority aforesaid, That the owner or owners of the said Lot of Land, for the time being, shall be held to possess, and be beneficially interested in the said Dam so to be erected, so that he or they may be enabled to sustain actions at Law or in Equity against any person or persons who may hereafter break down, destroy or injure the said Dam, or who

shall in any wise prevent the use and enjoyment thereof by the owner or owners of the said Lot of Land: Provided always, that the said Dam shall be erected at a distance of not less than fifty yards up stream from the tail race of the Mill of Benjamin Woodhull, senior, and as nearly as may beat a right angle with the course of the River; and further, that nothing in this Act contained shall at any time prevent, or be construed to prevent the owners or occupiers of the Lot on the Northerly side of the River Thames, situated opposite to the Lot hereinbefore mentioned, to take and use in such way as they may deem proper from the Pond caused by the erection of said Dam, a sufficient quantity of the Water of the said River Thames, for the purpose of working any Mills or Machinery, which the owners or occupiers of the last-mentioned Lot may deem it advisable to erect thereon, doing no damage to the said Dam.

IV. And be it further enacted by the authority aforesaid, That if the said Dam shall not be erected and used for the purposes above-mentioned, within two years from the passing of this Act, the privilege and right granted shall from thenceforth cease and determine, as if this Act had not been passed.

V. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Legislature of this Province, at any time hereafter, when in their opinion the public interest shall require it, either to amend or repeal this Act.