

persons which may be given to or known by them, or such of them as may be so acting; but if no part of the name or names be given to or known by the said Commissioners, or such of them as shall be so acting, they or such of them as shall be acting may describe the person or persons proceeded against in any manner by which he, she or they may be capable of being identified; And it is hereby declared that all such proceedings as aforesaid, containing the name or description, or purporting to give the name or description of any such person as aforesaid, according to this Act, shall *prima facie* be deemed to be sufficient; any thing to the contrary notwithstanding.

XIV. And be it enacted, That all Sheriffs, Gaolers and Peace Officers, to whom any such process shall be so directed by such Commissioners or any or either of them, are hereby required to obey the same, and all other Officers upon reasonable requisition to be aiding and assisting in the execution thereof.

Sheriff, &c., to obey process.

C A P . L X X V .

An Act for the protection of Mill-owners in Upper Canada.

[24th July, 1850.]

WHEREAS it often happens that persons purchase Crown Lands and Clergy Reserves in Upper Canada from the Crown, which, at the time of the purchase, and of the issuing of the patent therefor, were in the whole or in part overflowed by the waters of some mill stream, in consequence of the erection and continuation of Mill Dams thereon: And whereas it often happens that such persons, at the time they purchase such Lands, are well aware of their being so overflowed, and have in consequence thereof obtained a reduction or allowance in the price paid for the same, but, nevertheless, obtain Patents for the whole of such Lots, and afterwards bring actions against the proprietors or occupiers of the Mills for the use of which such Dams have been erected: For remedy thereof, Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That when in any action hereafter to be brought against the proprietor or occupier of any Mill, for the overflowing of, or injury to any Land, caused by the erection or continuation of any Dam for the purposes of such Mill, it shall appear that such overflowing or other injury was caused by the erection or continuation of a Dam which was built before the purchase by, and grant thereof to the Grantee of the Crown of such Land, and that such purchaser obtained a reduction in the price of such Land, or was otherwise indemnified in consequence of its being so overflowed or otherwise injured, then, the Jury on the trial of any such cause may take such facts into their consideration, and if they think it just and equitable, may, in consequence thereof, find a verdict for the Defendant in any suit so to be brought.

Preamble

Grantee of Crown not to recover damages for injury caused to lands by dam erected before patent issued in certain cases.

II. And be it enacted, That in any such action, it shall and may be lawful for the Defendant to plead the general issue, and under such plea, on entering a note of this Act in the margin thereof, to avail himself of this Act and of the matters of defence herein given.

Defendant may plead the general issue, &c.

III. And be it enacted, That this Act shall extend to Upper Canada only.

Extent of Act.