

1883-4.

Legislative Council.

## PASTORAL DAMS BILL.

(New Clauses to be proposed in Committee of the Whole by  
SIR ALFRED STEPHEN.)

**W**HEREAS it is expedient that protection should be afforded to Preamble.  
persons constructing dams in the interior of the Colony for the  
conservation of water for the use of stock depasturing on lands con-  
tiguous thereto Be it therefore enacted by the Queen's Most Excel-  
lent Majesty by and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in Parliament  
assembled and by the authority of the same as follows:—

1. Subject to the limitations hereinafter contained any owner Power to construct  
and maintain dams.  
or Crown lessee of lands having frontage to a river creek or water-  
course may at any part abutting on such lands construct dams across  
the same as the case may require for the conservation of water for the  
use of stock on such lands and may alter or repair any dam already so  
constructed or complete any in progress of construction and may there-  
after maintain every such dam Provided that no dam shall be con-  
structed across a navigable river at any part that is navigable.

2. No dam shall be within the protection of this Act which Limitation as to  
construction.  
shall have any boundary more than two feet above the ordinary level  
of the bank of the stream at the place of construction or which shall  
conserve more water than is required to fill the boundary-line or  
circumference of the reservoir formed by such dam or which shall not  
have a by-wash or overflow whereby all surplus water may be returned  
to the stream except at times of excessive rainfall or flood And no  
dam shall be constructed whereby the use of any public crossing-place  
over a stream is impeded.

3. Where the lands or any of them having frontage as aforesaid Power to enter  
contiguous lands.  
at the site or proposed site of a dam are in the occupation of different  
persons any person authorized by this Act to construct complete alter  
or repair such dam may enter by himself his servants and workmen  
upon any such lands and remain thereon doing no unnecessary damage  
on the occasion so far and so long as may be necessary for any such  
purpose.

4. Every dam constructed completed altered or repaired under Injuries done to  
dam.  
the authority of this Act shall be vested and the care and right of  
conservancy thereof shall reside in the person constructing or otherwise  
entitled to maintain the same and every person so entitled or being the  
owner or Crown lessee of contiguous lands may recover damages by  
action at law against any person unlawfully injuring such dam.

5. Provided always that nothing in this Act shall defeat or Damage sustained by  
third persons.  
abridge any common law right possessed by the owner or occupier of  
land injured by the construction alteration repair or maintenance of a  
dam to recover damages thereby sustained by him but so nevertheless  
that the mere stoppage of the flow of water occasioned by such dam  
if authorized by this Act shall not be deemed an injury within this  
provision.

Existing actions saved.

6. No action pending at the time of the passing of this Act in respect of the diversion or stoppage of the flow of water in any stream by the construction alteration or repairing of any dam shall be affected by any provision in this Act.

Constructions &c. unauthorised.

7. Every person who shall without lawful cause or in any manner in contravention of this Act construct complete alter or repair any dam shall over and above his liability to damages as aforesaid be liable to a penalty not exceeding *five hundred* pounds (the amount to be at the discretion of the Court) to the use of Her Majesty recoverable by action of debt at the suit of the Attorney-General.

Wilful injuries to dams.

8. Every person who shall unlawfully and wilfully break or cut down or otherwise destroy or injure any dam lawfully maintained under the authority of this Act during its construction alteration or repair or shall wilfully pollute the water in any such dam shall be deemed guilty of a misdemeanor and be liable to imprisonment with or without hard labor for any term not exceeding *two* years or to a fine not exceeding *five hundred* pounds.

Dams deemed improvements within meaning of Crown Lands Acts.

9. Every dam constructed and maintained under the authority of this Act shall in respect of all Crown Lands substantially benefited thereby be deemed to be an improvement within the meaning of all Acts now or hereafter passed for regulating the alienation or occupation of Crown Lands except in so far as such provision may be repugnant to any provision in any such Act.

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MR. OGILVIE.*)

2. No dam shall be within the protection of this Act which shall excepting as hereinafter provided have its summit more than four feet above the level of the bottom or bed of the stream or watercourse at the place of construction. Limitation as to construction. Provided that this restriction shall not apply to any dam which shall be the last or lowest down stream of all dams constructed or proposed to be constructed across any stream or watercourse. Such dams shall for the purposes of this Act be designated terminal dams and may be constructed to any desired height. Any dam other than such terminal dams may be raised to any desired height above the four feet hereinbefore specified provided that a sluice or floodgate of capacity sufficient to allow of the passage through the dam of any flow of water the volume of which is not too great to be retained within the natural banks of the stream or watercourse the sill of such sluice or floodgate not to be at a higher level than four feet above the bottom or bed of the stream or watercourse as hereinbefore provided. All such sluices or floodgates shall except as hereinafter provided be kept permanently open under a penalty of pounds. Provided that it shall be lawful to close the floodgate of the dam next above the terminal dam whenever the water at the terminal dam shall have reached the level of the summit of the natural banks of the stream or watercourse and it shall be lawful to close the floodgates of all the dams in succession whenever the water shall have reached such level in the next dam below. No terminal dam shall be at a greater distance than mile from the point of confluence of the stream or watercourse across which it is placed with some stream lake marsh or other permanent water supply of like nature and accessible for the watering of stock.

LABORATORY