

SENATE....No. 122.

Commonwealth of Massachusetts.

IN SENATE, April 20, 1853.

The Committee on the Judiciary, to whom was committed bills concerning reservoir dams, report that the same ought to pass in a new draft.

EDW. B. GILLETT.

Commonwealth of Massachusetts.

In the year One Thousand Eight Hundred and Fifty-
Three.

AN ACT

Relating to Mill and Reservoir Dams.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

1 SECT. 1. It is hereby made the duty of the county
2 commissioners of the several counties in this Com-
3 monwealth, on application made to them in writing by
4 any person or persons owning mill or other property
5 liable to destruction or damage by the breaking of any
6 mill or reservoir dam—or on application of the select-
7 men of any town on account of the liability of dam-
8 age to any roads or bridges from the same cause in
9 such town, to view and thoroughly examine such dam
10 or dams, and give notice to the adverse party of the
11 time and place of such view and examination, and if,

12 in the judgment of said commissioners, the same are
13 not sufficiently strong and substantial to resist the
14 action of the water under any circumstances which
15 may be reasonably supposed to exist, it shall be the
16 duty of said commissioners to determine and direct
17 what alterations or additions are required to make
18 such dam permanent and secure, and they shall give
19 a written direction to the owner or owners of such
20 dam to make such alterations or repairs within a rea-
21 sonable time, and a record shall be made of the result
22 of such examination by the said commissioners, and
23 any such record shall be taken as admissible evidence
24 in the trial of any issue involving the liability of the
25 owner or owners of such dam, if the owners had an
26 opportunity to be heard before the said commissioners.

1 SECT. 2. If the owner or owners of any dam thus
2 examined and adjudged to be unsafe, shall neglect or
3 refuse to make such alterations, additions, or repairs as
4 shall have been ordered by said commissioners, it shall be
5 the duty of said commissioners, on being notified by
6 the party or parties making application, of such neg-
7 lect or refusal, to cause said dam or such parts thereof
8 as they may deem necessary for the safety of property,
9 roads, or bridges on the stream below, to be removed ;
10 and after such removal of said dam or parts thereof,
11 no structure shall be erected except in compliance with
12 the requirements of the commissioners.

1 SECT. 3. If at any time when a dam is adjudged
2 to be unsafe according to the provisions of this act,
3 and the pond caused by said dam should be so filled
4 with water that the dam cannot be removed without

5 danger to mill and other property, it shall be the duty
6 of the county commissioners to cause such dam to be
7 forthwith raised, or otherwise altered and made safe,
8 at the expense of the owner or owners of said dam;
9 such owner, upon notice, neglecting to raise or other-
10 wise alter, and make safe, the said dam.

1 SECT. 4. The cost or expense of all examinations
2 of dams made by any board of commissioners under
3 this act, shall be paid by the party making application
4 for the same: *provided*, the said commissioners shall
5 order no alterations or additions to such dams, other-
6 wise the expense shall be paid by the owner or owners
7 of the same; and in all cases where the party making
8 application for such examination is the owner of the
9 dam, the expense shall be paid by the applicant.

1 SECT. 5. This act shall take effect from and after
2 its passage.