

Mill Dams and Mills.

CHAPTER 95.

AN ACT to Amend Chapter Thirty-nine (39) of the Political Code of 1877.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

§ 1. WHEN MILL OWNER MAY ENTER UPON LAND OF ANOTHER.]
At the close of section twenty-two (22), of chapter thirty-nine (39), of the *Political Code* [Code of Civil Procedure] of 1877, add the following proviso: *Provided, however:* Where the water, backed up by any dam belonging to any mill owner or machinery, is about to break through or over the banks of the stream or race, or to wash a channel so as to turn the water of such stream or race, or any part thereof, out of its ordinary channel whereby such mill or machinery will be injured or affected, the owner or occupier of such mill or machinery if he does not own such banks or the lands lying contiguous thereto, may if necessary, enter thereon and erect and keep in repair such embankments and other works as shall be necessary to prevent such water from breaking through or over the banks of such stream or race, or washing a channel as aforesaid, such owner or occupier committing thereon no unnecessary waste or damage and being liable to pay any damages which the owner of the land may actually sustain by the erection and repair, aforesaid. *And provided further:* That if any person shall injure, destroy or remove any such embankment or other works, the owner or occupier of such mill or machinery may recover of such person all damages he may sustain by reason of such injury, destruction or removal.

§ 3. This act shall take effect and be in force on and after its passage and approval.

ENDORSED.—Received at Executive Office, February 28, at 5:30 P. M.

Note by the Secretary of the Territory.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly in which it originated, within the time prescribed by the Organic Act, has become a law without his approval.

Geo. H. Hand,
Secretary of the Territory.