

The Provincial Statutes of Lower-Canada, Being the first session of the twelfth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1825.

5 George IV – Chapter 35

An Act to authorize François Cloutier to build a Toll-Bridge over the River Sainte Anne, in the County of Northumberland. (22d March, 1825.)

Whereas the erection of a Bridge over the River commonly called the Grande Rivière Sainte Anne, which separates the Parish of Sainte Anne from that of Saint Joachim, in the County of Northumberland, would materially contribute to the convenience of the inhabitants of the adjacent Parishes: And whereas François Cloutier hath, by his Petition in this behalf, prayed for leave to build a Tollbridge over the said River, at the aforesaid place.—Therefore may it please your Majesty, that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, '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 it is hereby enacted by the authority of the same, that it shall be lawful for the said François Cloutier, and he is hereby authorized and empowered at his own costs and charges to erect and build a good and substantial Bridge over the said Grande Rivière Sainte Anne, within the distance of, two arpents above the actual fording place of the said River, and to erect and build a Toll-House and Turnpike and other dependencies, on or near the said Bridge; and also to do, perform, and execute all other matters and things requisite and necessary, useful or convenient for erecting and building, maintaining and supporting the said intended bridge, toll-house, turnpike, and other dependencies according to the tenor and true meaning of this Act.

II. And be it further enacted by the authority aforesaid, that for the purpose of erecting, building and maintaining or supporting the said bridge, the said François Cloutier, his heirs, executors, curators and assigns, shall, from time to time, have full power and authority to take, and use the land on either side of the said River, and there to work up, or cause to be worked up, the materials and other things necessary for erecting, constructing, or repairing the said bridge accordingly; the said François Cloutier, his heirs, executors, curators, and assigns, and the persons by him or them employed, doing as little damage as may be, and making reasonable and just satisfaction to the respective owners and occupiers of such lands and grounds as shall be altered, damaged, or made use of for the value of such land as well as for that of the alteration or of the damages which they may cause to the proprietors by means of, or for the purpose of erecting the said bridge, and the said house as above designated; and in case of difference of opinion and dispute about the quantum of such satisfaction, the same shall be settled by His Majesty's Court of King's Bench, for the District of Quebec, after a previous visitation, examination and estimation of the premises shall have been made by experts to be named by the parties respectively; and in default of such nomination by them, or either of them, then by the said Court; in manner and form prescribed by law, and the said Court is hereby authorized and empowered

to hear, settle, and finally determine the amount of such compensation in consequence. Provided always, that, the said François Cloutier, his heirs, executors, curators and assigns, shall not commence the erection of the said bridge and other works, by which any person may be deprived of his land or part thereof, or may suffer damage, before the price or value of the said land and damages, estimated and settled in manner before prescribed, shall have been paid to such person, or after such price or value shall have been offered to him, or that on his refusal the said François Cloutier, his heirs or successors, shall have deposited it at the office of the Prothonotary of the Court, of King's Bench for the District of Quebec.

III. And be it further enacted by the authority aforesaid, that the said bridge and the said toll-house, turnpike and dependencies to be erected thereon, or near thereto, and also the ascents or approaches to the said bridge, and all materials which shall be from time to time found or provided, for erecting, building, or maintaining and repairing the same, shall be vested in the said François Cloutier, his heirs and assigns forever. Provided that after the expiration of fifty years from the passing of this Act, it shall and may be lawful for His Majesty, his heirs and successors, to assume the possession and property of the said bridge, toll-house, turnpike and dependencies, and the ascents and the approaches thereto, upon paying to the said François Cloutier, his heirs, executors, curators or assigns, the full and entire value which the same shall, at the time of such assumption, bear and be worth.

IV. And be it further enacted by the authority aforesaid, that when and so soon as the said bridge shall be erected and built, and made fit and proper for the passage of travellers, cattle and carriages, and that the same shall have been certified by any two or more Justices of the Peace, for the District of Quebec, after examination thereof, by three experts, to be appointed and sworn by the said Justices and shall have been advertised in the Quebec Gazette, it shall be lawful for the said François Cloutier, his heirs, executors, curators and assigns, from time to time, and at all times to ask, demand, receive, recover and take toll, and for their own proper use, benefit and behoof for pontage as, or in the name of a toll or duty, before any passage over the said bridge shall be permitted, the several sums following, that is to say: for every coach or other four wheel carriage, loaded or unloaded, with the driver and four persons, or less, drawn by two or more horses, or other beasts of draught, one shilling and six pence currency; for every waggon, or other four wheel carriage, loaded or unloaded, one shilling and three pence currency; for every chaise, calash, chair with two wheels, or cariole, or other such carriage, loaded or unloaded, with the driver and two persons, or less, drawn by two horses or other beasts of draught, seven pence currency; and drawn by one horse other beast of draught, four pence currency;. for every cart, sled, or other such carriage, loaded or unloaded, drawn by two horses, oxen, or other beasts of draught, with the driver four pence currency; and if drawn by one horse or other beast of draught, three pence currency; for every person on foot, one penny currency; for every horse, mare, mule, or other beast of draught, laden or unladen, two pence currency; for every, bull, ox, cow, and all other horned and neat cattle, each one penny currency; for every hog, goat, sheep, calf or lamb, one halfpenny currency.

V. Provided always, and be it further enacted by the authority aforesaid, that no person, horse or carriage, employed in conveying a Mail or Letters under the authority of His Majesty's Post Office, nor for the horses or carriages, laden or unladen, and drivers attending officers and soldiers of His Majesty's forces, or of the militia, whilst upon their march or on duty, nor the said officers or soldiers, or any of

them, nor carriages and drivers or guards sent with prisoners of any description, shall be chargeable with any toll of rate whatsoever. Provided also, that it shall and may be lawful for the said François Cloutier, his heirs, executors, curators, or assigns, to diminish the said tolls, or any of them, and afterwards, if he or they shall see fit, again to augment: the same, or any of them, so as not to exceed in any case the rates herein-before authorised to be taken. Provided also, that the said François Cloutier, his heirs, executors, curators, or assigns, shall affix, or cause to be affixed, in some conspicuous place, at or near such toll-gate, a table of the rates payable for passing over the said bridge; and so often as such rates may be diminished or augmented, he or they shall cause such alteration to be affixed in manner aforesaid.

VI. And be it further enacted by the authority aforesaid, that the said tolls shall be, and the same are hereby vested in the said François Cloutier, his heirs and assigns, for ever. Provided that, if His Majesty shall, in the manner herein-before mentioned, after the expiration of fifty years from the passing of this Act, assume the possession and property of the said bridge, toll-house, turnpike and dependencies, and the ascents and approaches thereto, then the said tolls shall, from the time of such assumption, appertain and belong to His Majesty, his heirs and successors, who shall from thence-forward be substituted in the place and stead of the said François Cloutier, his heirs and assigns, for all and every the purposes of this Act.

VII. And be it further enacted by the authority aforesaid, that if any person shall forcibly pass through the said Turnpike, without paying the said toll or any part thereof, or shall interrupt or disturb the said François Cloutier, his heirs, executors, curators or assigns, or any person or persons employed by him, or them, for building or repairing the said Bridge, or making or repairing the way over the same, or any road or avenue leading thereto, every person so offending, in each of the cases aforesaid, shall, for every such offence, forfeit a sum not exceeding forty shillings, currency.

VIII. And be it further enacted by the authority aforesaid, that, as soon as the said Bridge shall be passable and opened for the use of the public, no person or persons shall erect, or cause to be erected, any bridge or bridges, or work, or use any ferry for the carriage of any persons, cattle or carriages whatsoever, for hire, across the said River, half a league above and below the said Bridge, and if any person or persons shall erect a toll-bridge or toll-bridges over the said River, within the said limits, he or they shall pay to The said François Cloutier, his heirs, executors, curators and assigns, treble the tolls hereby imposed, for the persons, cattle and carriages which shall pass over such bridge or bridges; and if any person or persons shall, at any time, for hire or gain, pass or convey any person or persons, cattle or carriages, across the said River, within the limits aforesaid, such offender or offenders shall, for each carriage, or person, or animal, so carried across, forfeit and pay a sum not exceeding forty shillings, currency.

IX. Provided always, and be it further enacted by the authority aforesaid, that nothing herein contained shall be construed to extend to prevent the public from fording the said Great River Saint Anne, within the limits above mentioned, nor from crossing the same in canoes, without profit or fare, nor to deprive the public of any highways or bye-roads now existing in order to ford the said River; and that all highways, bye-roads or fords, now used by the public and having been so for at least ten years

last past, shall remain open and free to the public use, and shall not in any way be confined, closed or obstructed any thing herein contained; or any Law, custom or usage to the contrary notwithstanding.

X. And be it further enacted by the authority aforesaid, that if any person shall maliciously pull down, burn or destroy the said bridge, or any part thereof, or the toll-house to be erected by virtue of this Act every person so offending, and thereof legally convicted, shall be deemed, guilty of felony.

XI. And be it further enacted by the authority aforesaid, that the said François Cloutier, to entitle himself to the benefits and advantages to him by this Act granted, shall and he is hereby required to erect and complete the said bridge, toll-house, turnpike and dependencies, within three years from the day of the passing of this Act; and if the same shall not be completed within the term last mentioned, so as to afford a convenient and safe passage over the said bridge, the said François Cloutier, his heirs, executors, curators and assigns, shall cease to have any right, title or claim of, in, or to the tolls hereby imposed, which shall from thence forward belong to His Majesty; and the said François Cloutier, his heirs or successors, shall not, by the said tolls, or in any other manner or way, be entitled to any reimbursement of the expenses they may have incurred in and about the building of the said bridge; and in case the said bridge, after it shall have been erected and completed, shall at any time become impassable or unsafe for travellers, cattle or carriages, the said François Cloutier, his heirs, executors, curators or assigns, shall, and they are hereby required, within two years from the time at which the said bridge shall, by His Majesty's Court of General Quarter Sessions of the Peace, in and for the said District of Quebec, be ascertained to be impassable or unsafe, and notice thereof to them, or any of them, by the said Court given, to cause the same to be rebuilt or repaired, and made safe and commodious for the passage of travellers, cattle and carriages; and if, within the time last mentioned, the said bridge be not repaired or rebuilt, as the case may require, then the said bridge or such parts thereof as shall be remaining, shall be, and be taken and considered to be the property of His Majesty; and after such default to repair or rebuild the said bridge, the said François Cloutier, his heirs, executors, curators or assigns, shall cease to have any right, title or claim of, in, or to the said bridge, or the remaining parts thereof, and the tolls hereby granted, and their and each and every of their rights in the premises shall be wholly and for ever determined.

XII. And be it further enacted by the authority aforesaid, that the present Act, or any or the dispositions therein-contained, shall not extend, or be construed to extend to weaken, diminish, or extinguish the rights and privileges of His Majesty the King, his heirs and successors, nor of any person or persons, body politic or corporate, in any of the things herein-mentioned, (except as to the power and authority hereby given to the said François Cloutier, his heirs and assigns, and except as to the rights which are hereby expressly altered and extinguished,) but that His Majesty the King, his heirs and successors, and all and every person or persons, body politic or corporate, their heirs and assigns, executors and administrators, shall have and exercise the same rights (with the exceptions aforesaid,) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, and in as ample a manner as if this Act had never been passed.

XIII. And be it further enacted by the authority aforesaid, that the penalties hereby inflicted shall, upon proof of the offences respectively, before any one or more of the Justices of the Peace for the District of Quebec, either by the confession of the offender, or by the oath of one or more credible Witness, or

Witnesses, (which oath such Justice is hereby empowered and required to administer,) be levied by distress and sale of the goods and chattels of such offender, by Warrant signed by such Justice or Justices, and the overplus, after such penalties and the charges of such distress and sale are deducted, shall be returned upon demand to the owner of such arsons and chattels, one half of which penalties, respectively, when paid and levied, shall belong to His Majesty, and the other half to the person suing for the same.

XIV. And be it further enacted by the authority aforesaid, that the monies to be levied by virtue of this Act, and not herein before granted to the said François Cloutier, his Heirs and Assigns, and the several fines and penalties hereby inflicted, shall be, and the same are hereby reserved to His Majesty, his Heirs and Successors, for the public uses of this Province, and the support of the Government thereof, in manner herein-before set forth and contained; and the due application of such money, fines and penalties shall be accounted for to His Majesty, his Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, his Heirs and Successors shall direct.

XV. Provided always, and be it further enacted by the authority aforesaid, that the said François Cloutier to entitle himself to the benefit of this Act, shall, and he is hereby required within three months, from and after the passing of this Act, to give notice during three weeks in the Quebec Gazette, and in writing, to be affixed at the Church doors of the Parishes of Saint Joachim and Sainte Anne, during the same space of time, and publicly read after Divine Service in the morning of each Sunday and Holiday, intervening in the course of that time, that he is hereby authorized to build and construct a bridge, and toll house over the said River Sainte Anne, at the place above-mentioned; and that the inhabitants of the said Parishes are entitled to apply to the Grand-Voyer, or to his Deputy, within three months after such notification, for the purpose of themselves building the said bridge, which said notice shall be before a Justice of the Peace, certified upon the oaths of any two Officers of Militia, residing in each, of the said Parishes to have been duly made and given; which Certificate, upon oath, with a copy of the aforesaid notice, shall be deposited with any Notary Public, residing in either of the said Parishes.

XVI. Provided always, and be it further enacted by the authority aforesaid, that if the inhabitants of the said Parishes shall, within three months after such notification as aforesaid, apply by Petition to the Grand Voyer of the District of Quebec or to his Deputy, to obtain a Procès Verbal, and shall cause the same to be ratified according to law, before the twenty-first day of January one thousand eight hundred and twenty six, setting forth, that the said bridge is to be erected by the said inhabitants of the said Parishes, or part of the same, according to the laws now in force, and if the said inhabitants shall thereafter in virtue of the said Procès Verbal, erect the said bridge within one year, to be computed from the date of the homologation of the said Procès Verbal, then, and in such case, the said François Cloutier, shall not avail himself of this Act for the purpose of erecting the said bridge, and levying the said rates or toll. Provided always, that if such Petition as above-mentioned, be not made and presented to the Grand Voyer, or to his Deputy, as aforesaid, within three months, and a copy thereof served upon the said François Cloutier, within three months after such notification as aforesaid, it shall forthwith, after the expiration of the said three months, be lawful for the said François Cloutier to avail

himself of this Act, and to proceed immediately thereafter to the erection and construction of the said bridge and toll-house.

XVII. Provided always, and be it further enacted by the authority aforesaid, that if the aforesaid Inhabitants shall obtain the Procès Verbal above mentioned, for erecting the said Bridge, they shall be held and obliged to reimburse and pay to the said François Cloutier, all and every the sum and sums of money which he shall have advanced, as well for the publication of notices as to defray in part the Printing of this Act.

XVIII. And be it further enacted by the authority aforesaid, that this Act shall be deemed a Private Act, and shall be deemed and taken to be such, at all times and places, and to all intents and purposes whatever, and shall not be judicially noticed by any Judges, Justices of the Peace or others whom it may concern, without being specially pleaded.