

and penalties shall be accounted for to His Majesty, his Heirs and Successors, in such manner and form, as he or they shall direct, through the Lords Commissioners of His Majesty's Treasury, for the time being.

Public Act.

XII. And be it further enacted by the authority aforesaid, that this Act shall be deemed a public Act, and shall be judicially taken notice of as such, by all Judges, Justices of the Peace and all other persons whomsoever, without being specially pleaded.

## C A P. XXXV.

AN ACT to authorise *Thimothé Dufour* to build a Toll-Bridge over the River of Malbaie, in the County of Northumberland.

(22 March, 1817.)

Preamble.

WHEREAS the erection of a Bridge over the River of Malbaie, in the parish of Saint Etienne, in the County of Northumberland, would materially augment the convenience and facility of the intercourse of the inhabitants of the adjacent parishes and concessions, and of the public at large. And whereas *Thimothé Dufour*, of the said parish of Saint Etienne, in the County aforesaid, by his petition in that behalf, hath prayed leave to erect a Toll-Bridge over the said River of Malbaie; may it therefore 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 to and for the said *Thimothé Dufour*, and he is hereby authorised and empowered, at his own costs and charges, to erect and build a good and substantial Bridge over the said River of Malbaie, and to erect or build one Toll-House and Turnpike, with 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; and farther, that for the purpose of erecting, building, maintaining and supporting the said Bridge, the said *Thimothé Dufour*, his heirs, executors, curators and assigns, shall have full power and authority to take from time to time and use the land on either side of the said River of Malbaie, and there to work up or cause to be worked up the materials and other things necessary for erecting, constructing

*Thimothé Dufour* authorised to Build a Toll Bridge over the River of Malbaie with a Turnpike and other dependencies.

fructing or repairing the said Bridge accordingly: the said *Thimothé Dufour*, 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 all 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, of and 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 authorised and empowered to hear, settle and finally determine the amount of such compensation in consequence. Provided always, that the said *Thimothé Dufour*, his heirs or successors, shall not commence the erection of the said Bridge and other works, by which any person may be deprived of his land or of part thereof, or may suffer damage, before the price or value of the said land and damages estimated and settled in the 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 *Thimothé Dufour* shall have deposited it at the Office of the Court of King's Bench for the District of Quebec.

Proviso.

Bridge &c. vested in the said *Thimothé Dufour*, his heirs and assigns; at the expiration of 50 years His Majesty may assume the possession of the said Bridge, &c. paying to *Thimothé Dufour* the full value thereof.

Certain Tolls granted to *Thimothé Dufour* for postage.

II. 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 gotten or provided, for erecting, building, or making, maintaining and repairing the same, shall be vested in the said *Thimothé Dufour*, his heirs and assigns for ever. Provided, that after the expiration of fifty years, to be accounted 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 *Thimothé Dufour*, his heirs, executors, curators or assigns, the full and entire value which the same may at the time of such assumption, bear and be worth, and 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 be 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 of the Peace, and be advertised in the Quebec Gazette, it shall be lawful for the said *Thimothé Dufour*, his heirs, executors, curators and assigns, from time to time, and at all times to ask, demand, receive, recover and take

take toll, and for their own proper use and behoof, for portage, 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-wheeled 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 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, six pence, currency; and drawn by one Horse or other Beast of draught, five pence, currency; for every Cart, Sied or other such Carriage, loaded or unloaded, drawn by two Horses, Oxen or other Beasts of draught, with the drivers, five pence, currency; and drawn by one Horse or other Beast of draught, four 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 half-penny, currency; for every person on horse-back, two pence half-penny, 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 half-penny, currency.

Exemption in certain cases.

III. 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 not laden, 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 or rate whatsoever. Provided also, that it shall and may be lawful for the said *Thimothé Dufour*, 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 authorized to be taken. Provided also, that the said *Thimothé Dufour*, 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.

Thimothé Dufour may reduce and afterwards advance the tolls.

Table of rates to be fixed in conspicuous place at each Toll Gate.

Tolls vested in Thimothé Dufour.

Unless His Majesty, at the end of fifty years shall assume the possession of the Bridge, &c. then the same shall be vested in his Majesty.

IV. And be it further enacted by the authority aforesaid, that the said Tolls, shall be, and the same are hereby vested in the said *Thimothé Dufour*, 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 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 *Thimothé Dufour*, his heirs and assigns, for all and every the purposes of this Act.

V.

Penalty on persons forcibly passing the Turnpike without paying Toll or who shall obstruct the said *Thimothé Dufour*, in building the Bridge, &c.

V. And be it further enacted by the authority aforesaid, that if any person shall forcibly pass through the said Turnpike without paying the Toll or any part thereof; or shall interrupt or disturb the said *Thimothé Dufour*, 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.

As soon as the Bridge is completed, no other bridge to be erected within half a league on each side.

Penalty.

Proviso.

VI. 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 works or use any Ferry for the Carriage of any Persons, Cattle or Carriages whatsoever, for hire, across the said River of Malbaie, within half a league above the said Bridge 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 *Thimothé Dufour*, 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 of Malbaie, within the said limits aforesaid, such offender or offenders, shall, for each Person, Carriage, or Animal so carried across, forfeit and pay a sum not exceeding forty shillings, currency. Provided that nothing in this Act contained, shall be construed to prevent the public from passing any of the Fords in the said River within the limits aforesaid, or Canoes, without gain or hire.

Penalty on persons pulling down the Bridge or toll House.

VII. 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 being thereof legally convicted, shall be deemed guilty of felony.

*Thimothé Dufour* required to erect the Bridge within three years.

VIII. And be it further enacted by the authority aforesaid, the said *Thimothé Dufour*, 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 five years from the day of the passing of this Act; and if the same shall not be completed within the time last mentioned; so as to afford a convenient and safe passage over the said Bridge, he the said *Thimothé Dufour*, 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

belong to His Majesty; and the said *Thimothé Dufour* shall not, by the said Tolls, or in any other manner or way, be entitled to any reimbursement of the expences he 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, he the said *Thimothé Dufour*, 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 him or 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 so repaired or rebuilt, as the case may require, then the said Bridge or such part or 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 *Thimothé Dufour*, his heirs, executors, curators or assigns, shall cease to have any right, title or claim of, in, to or out of the said Bridge or the remaining parts thereof; and the Tolls hereby granted, and his and their rights in the premises, shall be wholly and for ever determined.

Penalty if not completed.

If the inhabitants of the Parish of Malbaie shall take the necessary steps for obtaining a *procès verbal*, and that the same be ratified before 1st January, 1818, and shall erect the Bridge within one year, in that case *Thimothé Dufour* shall not avail himself of this Act, for erecting the Bridge and levying the Tolls.

IX. Provided always and be it further enacted by the authority aforesaid; that if the Inhabitants of the said Parish of Malbaie shall take the necessary steps to obtain a *procès verbal* and to cause the same to be ratified according to Law, before the first day of January, one thousand eight hundred and eighteen, for the purpose of causing the said Bridge to be erected by the Parish according to the Laws now in force, and shall thereafter in virtue of the said *procès verbal*, erect the said Bridge within one year, to be computed from the date of the ratification of the said *procès verbal*, then and in such case, the said *Thimothé Dufour* shall not avail himself of this Act, for the purpose of himself erecting the said Bridge and levying the said rates of Toll.

Not to affect the King's rights.

X. And be it further enacted by the authority aforesaid; that the present Act or any of 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 therein mentioned, (except as to the power and authority hereby given to the said *Thimothé Dufour*, his heirs and assigns, and except as to the rights which are hereby altered or extinguished,) but that His Majesty the King, his heirs and successors, and all and every person or persons, body politic or corporate, their

their heirs and assigns, Executors and Administrators shall have and exercise the same rights as they and each of them had before the passing of this Act, with the exceptions aforesaid, to every effect and purpose whatsoever, and in as ample manner as if this act had never been passed.

Penalties how recoverable.

XI. 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 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 goods and chattels, one half of which penalties, respectively, when paid or levied, shall belong to His Majesty, and the other half to the person suing for the same.

Money levied by this Act and not granted to Thimothé Dufour, and the several fines and penalties granted to His Majesty to be accounted for to His Majesty.

XII. 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 *Thimothé Dufour*, his heirs and assigns, and the several fines and penalties hereby inflicted, shall be, and the same are hereby granted, and reserved to His Majesty, his Heirs and Successors, for the public uses of this Province, and the Government thereof, in manner herein-before set forth and contained: and the due application of such moneys, 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.

Public Act.

XIII. And be it further enacted by the authority aforesaid, that this Act shall be deemed a public Act, and shall be judicially taken notice of as such, by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.