

*The Provincial Statutes of Lower-Canada, Being the second session of the ninth Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1818.

58 George III – Chapter 19

**An Act to authorize Claude Dénéchau and Joseph Fraser, Esquires, to erect a Toll-Bridge over the River Du Sud, in the Parish of Saint François, in the County of Hertford. (1st April, 1818.)**

Whereas the erection of a Bridge over the River du Sud [Rivière-du-Sud], at the Ford near the residence of Joseph Fraser, esquire, in the Parish of Saint-François, in the County of Hertford, would materially improve the convenience and facility of the intercourse of the inhabitants of the adjacent parishes and concessions, and of the public at large: And whereas Claude Dénéchau, of the City of Quebec, esquire, and Joseph Fraser, of the said parish of Saint François, in the County aforesaid, esquire, by their Petition in that behalf, have prayed leave to erect a Toll-bridge over the said River du Sud – 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 Claude Dénéchau and Joseph Fraser, and they are hereby authorized and empowered at their own costs and charges to erect and build a good and substantial Bridge over the said River du Sud, at the Ford near to the place of residence of the said Joseph Fraser, esquire, 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 further, that for the purpose of erecting, building, maintaining, or supporting the said bridge, the said Claude Dénéchau and Joseph Fraser, their 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 du Sud, 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 Claude Dénéchau and Joseph Fraser, their heirs, executors, curators and assigns, and the persons by 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, or 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 forms 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 Claude Dénéchau and Joseph Fraser, their heirs or successors, shall not commence the erection of the said bridge and other works, before the price and value of the said land and damage 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 Claude Dénéchau and Joseph Fraser shall have deposited it at the Prothonotary's office of the Court of King's Bench for the District of Quebec.

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 furnished, or provided, for erecting, building, making, maintaining, and repairing the same, shall be vested in the said Claude Dénéchau and Joseph Fraser, their 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 approaches thereto, upon paying to the said Claude Dénéchau and Joseph Fraser, their 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 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 of the Peace, and have been advertised in the Quebec Gazette, it shall be lawful for the said Claude Dénéchau and Joseph Fraser, their 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 and behoof, for pontage, as, or in the name of a toll or duty, before any passage over the said bridge is permitted, the several sums following, that is to say: for every coach or 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, chaise 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, sled, or other such carriage, loaded or unloaded, drawn by two horses, oxen, or other beasts of draught, with the driver, 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 unladed, two-pence halfpenny currency; for every person on horseback, two-pence halfpenny currency; for every bull, ox, cow, and all other horned and neat cattle, each, one penny halfpenny currency; for every hog, goat, sheep, calf or lamb, one halfpenny, currency.

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 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 Claude Dénéchau and Joseph Fraser, their heirs, executors, curators or assigns, to diminish the said tolls, or any

of them, and afterwards if 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 Claude Dénéchau and Joseph Fraser, their 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.

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 Claude Dénéchau and Joseph Fraser, their 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 property and possession 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 thenceforward be substituted in the place and stead of the said Claude Dénéchau and Joseph Fraser, their heirs and assigns, for all and every the purposes of this Act.

V. And be it further enacted by the authority aforesaid, that if any person shall forcibly pass through the said turnpike, without paying the tolls or any part thereof, or shall interrupt or disturb the said Claude Dénéchau and Joseph Fraser, their heirs, executors, curators or assigns or any person or persons employed, for 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.

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 du Sud, 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 Claude Dénéchau and Joseph Fraser, their heirs, executors, curators, or 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 du Sud, 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 in canoes, without gain or hire.

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.

VIII. And be it further enacted by the authority aforesaid, that the said Claude Dénéchau and Joseph Fraser, to entitle themselves to the benefits and advantages to them, by this Act granted shall, and they are 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, then the said Claude Dénéchau and Joseph Fraser, their 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 thenceforward belong to His Majesty; and the said Claude Dénéchau and Joseph Fraser, 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, they the said Claude Dénéchau and Joseph Fraser, their heirs, executors, curators, or assigns, shall, and they are hereby required, within two years of the time at which the said bridge shall, by His Majesty's Court of General Quarter Session of the Peace, in and for the said District of Quebec, be ascertained to be impassable or unsafe, and notice thereof, to 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 Claude Dénéchau and Joseph Fraser, their heirs, executors, curators and 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 their rights in the premises shall be wholly and for ever determined.

IX. And be it further enacted by the authority aforesaid, that the present Act, or any of the dispositions therein-contained, shall not extend, nor 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 Claude Dénéchau and Joseph Fraser, their heirs and assigns, and except as to the rights which are hereby expressly altered or distinguished,) 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 as they and each of them had before the passing of this Act, with exceptions aforesaid, to every effect and purpose whatsoever, and in as ample manner as if this Act had never been passed.

X. 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 required and empowered to administer), be levied by distress and sale of the goods and chattels of such offender, by warrant signed by such Justice of the Peace, 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.

XI. 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 Claude Dénéchau and Joseph Fraser, their 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 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 so 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.

XII. Provided always, and be it further enacted by the authority aforesaid, that the said bridge hereby authorized to be built and erected over and upon the said River du Sud, be made sufficiently high, and that sufficient room be left between the pillars or quays of the said bridge, to leave a free and navigable passage for rafts of forty feet square.

XIII. Provided always, and be it further enacted by the authority aforesaid, that the said Claude Dénéchau and Joseph Fraser, to entitle themselves to the benefit of this Act, shall, and they are hereby required within two months from and after the passing of this Act, to give public notice three weeks in the Quebec Gazette, and in writing, to be affixed at the church door of the Parish of Saint François, Rivière du Sud, 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 they are thereby authorized to build and construct a bridge and toll-house over the said river du Sud, at the place above-mentioned; and that the inhabitants of the said parish 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 notices shall be before a Justice of the Peace, certified upon the oath of any two Officers of Militia, residing in the County of Hertford, 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 the county of Hertford.

XIV. Provided always, and be it further enacted by the authority aforesaid, that if the inhabitants of the parish of Saint François, rivière du Sud, 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 July, one thousand eight hundred and nineteen, for the purpose of causing the said bridge to be erected by the said parish of Saint-François, Rivière du Sud, 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 constructed from the date of the homologation of the said Procès Verbal, then, and in such case, the said Claude Dénéchau and Joseph Fraser, shall not avail themselves of this Act, for the purpose of erecting the said bridge, and levying the said rates of 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 copy thereof served upon the said Claude Dénéchau and Joseph Fraser, within three months after such notification as aforesaid, it shall forthwith, after the expiration of the said three months, be lawful for the said Claude Dénéchau and Joseph Fraser, to avail themselves of this Act, and to proceed immediately thereafter to the erection and construction of the said bridge and toll-house.

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XV. 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.