

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1808.* Saint John, NB: Jacob Mott, Printer to the King's Most Excellent Majesty, 1808.

48 George III – Chapter 4

**An Act to make more effectual provision for repairing the Aboideau [Aboiteau] or Bridge across the Marsh Creek in the City and County of Saint John. Passed the 30th of July, 1808.**

Whereas the Aboideau or Bridge across the Marsh Creek in the City and County of Saint John, upon the Westmorland Road, so called, was originally built in part at the public expence of the Province, the residue of the expence of the building thereof being defrayed by the proprietors of the Marsh Lands from which the tide was shut out by the said Bridge: And whereas the said Bridge is of great public utility, and it is expedient that effectual means should be provided for the repairing of the same from time to time so that the same may not go to ruin.

I. Be it enacted by the President, Council and Assembly, That whenever the said Bridge or Aboideau shall stand in need of being repaired for the preservation and security thereof, it shall and may be lawful for the said proprietors of the said Marsh Lands or of the greater part thereof, and they are hereby authorised and required to make a representation to the Justices of the Court of General Sessions of the Peace in the said County of Saint John, setting forth the necessity of such repairs, and the said Justices in the said Court or the greater part of them then and there assembled, are hereby authorised and required upon any such application so to be made to them forthwith to appoint three or more commissioners not being proprietors of such Marsh Lands, as they in their discretion shall think fit, to inspect and examine the state and Condition of the said Bridge, and make report thereon without delay to the said Court, and at the same time to report to the said Court the sum which in the opinion of the said commissioners or of the greater part of them, may be necessary for repairing the said Aboideau and Bridge, and if upon such report, the proprietors of the said Marsh Lands or any of them, shall give security with two good sureties in a Bond to be entered into to the Treasurer of the said County in a penalty equal to the sum so to be reported by the said commissioners, with condition to pay into the hands of the said Treasurer, one equal third part (the whole into three equal parts to be divided) of the said sum so to be reported by the said commissioners, and the proprietor or proprietors of any Mill or Mills already erected or hereafter to be erected at and adjoining or contiguous to the said Bridge, shall give similar security for the payment of one other equal third part of such sum to be reported as aforesaid, and if there shall be no Mill or Mills at and adjoining or contiguous to the said Bridge, if then and in such case the said proprietors of the said Marsh Lands or any of them shall give similar security for the payment of one equal moiety or half part of the sum so lo be reported as aforesaid, then and in either of the cases before mentioned upon security to be given as aforesaid for the payment of two third parts or of one moiety of the said sum so to be reported as aforesaid, as the case may be, into the hands of the said County Treasurer for the purpose of making such repairs as aforesaid, it shall and may be lawful for the said Justices in the said Court or the greater part of them then and there assembled, and they are hereby authorised and required to make an assessment of the other third part or moiety of such sum so to be reported as aforesaid, as the case may be upon the several Towns and Parishes in the said County, to be assessed, levied,

collected and paid in such manner and under the same regulations, restrictions, penalties and forfeitures as any other County charges, can or may by Law be rated, assessed, levied, collected and paid.

II. Provided always, and be it further enacted, That if the proprietor or proprietors of any Mill or Mills already erected, or hereafter to be erected, at and adjoining or contiguous to the said Bridge, shall upon such report as aforesaid refuse or neglect within the space of ten days next after such report as aforesaid made to give security as herein before mentioned for the payment of one equal third part as herein before mentioned of such sum to be reported as aforesaid, then and in such case it shall and may be lawful for the said commissioners and the said proprietors of the said Marsh Lands or any of them, and they and each of them are hereby authorised and required forthwith to take down and remove or cause to be taken down or removed any sluice-gate or gates or other work or works erected for the purpose of admitting or stopping in the water for the convenience, use and accommodation of such Mill or Mills and instead thereof to make or cause to be made and put and permanently fixed in the said Aboideau or Bridge, there to remain until another assessment shall become necessary for the repairing of the said Aboideau or Bridge such Clappers as are usual in such cases to prevent the influx of the tide within or above the said Bridge or Aboideau, and it shall not be lawful again to make use of or employ such Mill or Mills until another assessment shall become necessary as aforesaid, and so as often as such case shall happen, and thereupon and in such case the said proprietors of the said Marsh Lands or any of them, shall give similar security as aforesaid for the payment of one equal moiety or half part of the said sum so to be reported as aforesaid, and upon such security being given for the payment of such moiety it shall and may be lawful for the said Justices in the said Court or the greater part of them as aforesaid, to make an assessment of the other moiety of such sum so to be reported as aforesaid, upon the several Towns and Parishes in the said County in the same manner as is herein before in that behalf mentioned and provided in case there shall be no Mill or Mills at or adjoining or contiguous to the said Bridge: Provided always, that the expence of taking down and removing such sluice-gates or other works, and of making, putting in and fixing such Clappers as aforesaid, shall be added to the said sum so to be reported as aforesaid, and be paid and assessed in the same manner and in the same proportions as such sum so to be reported as aforesaid, is hereby directed to be paid and assessed. Provided also, that any proprietor or proprietors of the said Marsh Lands who shall in any of the cases before mentioned give the security required by this Act shall be entitled to have and receive from any other proprietor or proprietors of such Marsh Lands; not joining in such security a rateable proportion of the sum to be paid in pursuance and by virtue of such security and of this Act, according to the number of acres of such Marsh Lands owned by each proprietor respectively, and shall and may recover such proportion in an action upon the case for money laid out and expended to be brought for that purpose against any such other proprietor or proprietors not joining in such security.

III. And be it further enacted, That the said Justices in the said Court or the greater part of them, then and there assembled, shall appoint one or more fit person or persons as Trustees to be joined with an equal number of fit persons to be appointed as Trustees by the said proprietors, so giving security as aforesaid for the payment of one moiety or two third parts of the said expence as aforesaid, as the case may be, which persons so to be appointed Trustees by the said Justices

and the said proprietors or the greater part of them, are hereby authorised and empowered to covenant, contract and agree for the well and sufficient repairing of the said Aboideau and Bridge in such manner as they the said Trustees or the greater part of them shall think most effectual for the security and preservation of the said Bridge.

IV. Provided always, and be it further enacted, That the said Aboideau and Bridge, and the passage across the same shall not be at any time obstructed or incumbered by any logs, timber, plank, boards, or other materials, but that the same shall remain free and open as a common public highway, and that any such incumbrances shall be considered and may be proceeded against as nuisances in any streets, highways or roads in this Province.