

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbshire & George Desbarats, 1849.

12 Victoria – Chapter 188

An Act to authorize Amable Archambault and others to erect a Toll-Bridge over the River L'Assomption, and for other purposes therein mentioned. 30th May, 1849.

Whereas the convenience and the facility of intercourse of the inhabitants of the adjacent Parishes and Concessions, and of the public in general, would be much promoted by the erection of a Toll-bridge over the River L'Assomption, at the Village of L'Assomption, in the County of Leinster, and District of Montreal: And whereas Pierre Urgel Archambault, Narcisse Galarneau, Joseph Pelletier, the younger, Amable Elzéar Archambault, Amable Archambault, Cyriac Chaput, Camille Archambault, and Agapit Chaput, all of the said Village of L'Assomption, and Joseph Félix Larocque, of the City of Montreal, but now absent in Europe, have by their Petition in this behalf, prayed for leave to build a Toll-bridge over the said River, at the aforesaid place: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority, of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Pierre Urgel Archambault, Narcisse Galarneau, Joseph Pelletier, the younger, Amable Elzéar Archambault, Amable Archambault, Cyriac Chaput, Camille Archambault, Agapit Chaput, and Joseph Félix Larocque, hereinafter called the Petitioners aforesaid, and they are hereby authorized and empowered at their own costs and charges, to erect and build a good and substantial Toll-bridge over the said River L'Assomption, at some convenient point or place situate in and opposite to the said Village of L'Assomption, and nearly opposite to the Parish Church in the said Village, and to erect and 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.

II. And be it enacted, That for the purpose of erecting, building, maintaining and supporting the said Bridge, the Petitioners aforesaid, their 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, and also to take possession of and use as their own property, certain pieces of ground on each side of the said River, at the place where they shall erect and build the said Bridge, for the purpose of establishing, making and opening any road or roads which may be requisite to communicate between the said Bridge and the public road or Queen's highway, on either side of the said River; the Petitioners aforesaid, their 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 Toll-house, and the opening of the communications aforesaid, as above designated; and in case of difference of opinion and dispute about the *quantum* of such satisfaction, the same shall be settled by Her Majesty's Court of Queen's Bench for the District of Montreal, 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 Petitioners aforesaid, their 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 such price or value shall have been offered to him, and that on his refusal thereof, the Petitioners aforesaid, shall have deposited it at the Office of the Prothonotary of the Court of Queen's Bench for the said District of Montreal.

III. And be it enacted, 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 Petitioners aforesaid, their heirs and assigns, for the term of fifty years, from the passing of this Act, and at the end of the said term of fifty years, the said Bridge, Toll-house, Turnpike and dependencies, and the ascents and approaches thereto, shall be vested in Her Majesty, her heirs and successors, and be free for public use, and it shall then be lawful for the Petitioners aforesaid, their heirs, executors, curators and assigns, to claim and obtain from Her Majesty, her heirs and successors, the full and entire value, which the same shall at the end of the said fifty years bear and be worth, exclusive of the value of any Toll or privilege, the said value to be ascertained by three Arbitrators, one of whom to be named by the Governor of the Province for the time being, another by the Petitioners aforesaid, their heirs, executors, curators or assigns, and the third by the said two Arbitrators; Provided that at any time before the expiration of the said term of fifty years, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession of the said Bridge and of the dependencies thereof, and the Toils thereon, upon paying to the Petitioners aforesaid, their heirs or assigns, the full and entire value which the rights and privileges hereby granted to them shall be worth, for that portion of the said term of fifty years then remaining unexpired, such value to be ascertained in case of difference of opinion in the manner provided by law, with regard to property taken by the Commissioners of Public Works, for the public service, the said payment not to be less than the value at the time of the Bridge and dependencies, exclusive of the Tolls and privilege; Provided always, that nothing herein contained shall be construed to prevent the Municipality of the County or Parish, or any number of inhabitants interested in the said Bridge, from assuming at any time the possession and property of the said Bridge, Toll-house, Turnpike and dependencies, and ascents and approaches thereto, upon paying to the Petitioners aforesaid, their heirs, executors, curators and assigns, the full and intrinsic value, which the same shall at the

time of such assumption bear or be worth, with an addition of twenty-five per cent, upon such intrinsic value, and that after such assumption of the said Bridge, it shall become a free Bridge.

IV. And be it enacted, That in erecting the said Bridge, an opening shall be left between the piers thereof, placed on each side in the middle of the river, or of its principal channel, of at least eighty feet in width, so as to leave a free passage for rafts and other craft, and that over the channel or deepest part of the said River there shall be a Draw-bridge or Swing-bridge of at least thirty feet clear opening, to be at all times opened for the passage of any steamboat or other vessel with masts or funnels.

V. And be it enacted, 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 Montreal, after the examination thereof by three Experts to be appointed and sworn by the said Justices, and shall have been advertised in one of the public newspapers published in the City of Montreal in both languages, it shall be lawful for the Petitioners aforesaid, their heirs, executors, curators and assigns, from time to time, and at all times, to ask, demand, receive, recover and take, to 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 each coach or other four-wheeled carriage or winter carriage, drawn by two horses or other beast of draught, six pence currency;

For each four-wheel or two-wheel carriage, or winter carriage, drawn by only one horse or other beast of draught, four pence currency;

For each additional horse or other beast of draught to any of the carriages aforesaid, two pence currency;

For each person on horseback, two pence and one half-penny currency;

For each person on foot, one penny currency;

For each beast of draught or head of neat cattle, one penny and one half-penny currency;

For each sheep, calf, lamb, goat, hog, or other animal of like size, one half-penny currency.

VI. Provided always, and be it enacted, That it shall be lawful for the Petitioners aforesaid, to establish such regulations as they may deem necessary, and as shall not be repugnant to this Act or to the Laws of Lower Canada, for the management and keeping in repair of the said Bridge, and the commutation of the Tolls, and the rates and conditions of such commutation, and all questions which arise among themselves relative to the said purposes, shall be decided by the majority of votes: Provided always, that no more than one full Toll shall be demanded for passing and re-passing once during the same day over the said Bridge, nor shall any Toll be demanded from

persons going to or returning from Divine Service at any Church in the Village of L'Assomption on any Sunday or Holy-day, provided they reside in the Parish of L'Assomption, and all Funerals shall pass over the said Bridge free of Toll, whether in going or returning.

VII. Provided always, and be it enacted, That no person, horse or carriage, employed in conveying a mail or letters under the authority of Her Majesty's Post Office, nor the horses or carriages, laden or unladen, and drivers, attending officers and soldiers of Her Majesty's Forces or of the Militia, whilst upon their march, or on duty, nor the said officers or soldiers, nor any of them, nor carriages and drivers or guards, sent with prisoners of any description, as well going as coming, provided they are not otherwise loaded, shall be chargeable with any Toll or Rate whatsoever: Provided also, that it shall and may be lawful for the Petitioners aforesaid, their 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 hereinbefore authorized to be taken: Provided also, that the Petitioners aforesaid, their heirs, executors, curators or assigns, shall affix or cause to be affixed, in some conspicuous place at or near the said 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.

VIII. And be it enacted, That the said Tolls shall be and the same are hereby vested in the Petitioners aforesaid, their heirs and assigns for ever: Provided, that if Her Majesty shall, in the manner hereinbefore 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 Her Majesty, Her Heirs and Successors, who shall from thenceforward be substituted in the place and stead of the Petitioners aforesaid, their heirs and assigns, for all and every the purposes of this Act.

IX. And be it enacted, 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 Petitioners aforesaid, their heirs, executors, curators or assigns, or any person or persons employed by them, for building or repairing the said Bridge, or making or repairing the way over the same, or any road or avenue leading thereto, or shall at any time drive faster than a walk on the said Bridge, every person so offending, in each of the cases aforesaid, shall, for every such offence, forfeit a sum not exceeding forty shillings currency.

X. And be it enacted, 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 carriage whatsoever, for hire, across the said River, nor shall any person erect or cause to be erected any Bridge whatsoever, between the site of the said Bridge and the Ruisseau du Point du Jour towards the north-east of the said Village, and any point within the distance of one league below the said Bridge to the south-west, measuring along the bank of the said River, and following the windings thereof; 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 Petitioners aforesaid, their 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: 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 or other water carriage without gain or hire, or to prevent any person from keeping a Ferry for crossing foot passengers only, in a canoe or skiff, at the place commonly known as Marcille's Ferry.

XI. And be it enacted, 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.

XII. And be it enacted, That the Petitioners aforesaid, 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 two 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, they the Petitioners aforesaid, 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 Her Majesty; and the Petitioners aforesaid shall not, by the said Tolls, or in any other manner or way, be entitled to any reimbursement of the expense 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 Petitioners aforesaid, their heirs, executors, curators or assigns, shall, and they are hereby required, within two years from the time at which the said Bridge shall, by Her Majesty's Court of General Quarter Sessions of the Peace in and for the said District of Montreal, 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 Her Majesty, and after such default to repair or rebuild the said Bridge, the Petitioners aforesaid, their 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.

XIII. And be it enacted, 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 Her Majesty the Queen, Her 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 Petitioners aforesaid, their heirs and assigns, and except as to the rights which are

hereby expressly altered and extinguished,) but that Her Majesty the Queen, Her 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.

XIV. And be it enacted, That the penalties hereby inflicted shall, upon proof of the offence, respectively, before any one or more of the Justices of the Peace for the said District of Montreal, 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 of the Peace, and the overplus, after such penalties and charges of such distress and sale are deducted, shall be returned, upon demand, to the owner of such goods and chattels; and one half of such penalties, respectively, when paid and levied, shall belong to Her Majesty, and the other half to the person suing for the same.

XV. And be it enacted, That the moneys to be levied by virtue of this Act, and not hereinbefore granted to the Petitioners aforesaid, their heirs and assigns, and the several fines and penalties hereby imposed, shall be, and the same are hereby reserved to Her Majesty, Her Heirs and Successors, for the public uses of this Province and the support of the Government thereof, in the manner hereinbefore set forth and contained; and the due application of such moneys, lines and penalties shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XVI. Provided always, and be it enacted, That the said Bridge hereby authorized to be built and erected, over and upon the said River L'Assomption, shall have an elevation under the principal Arch thereof of at least seven feet above the level of the said River, at the time at which the waters thereof are usually at the highest.

XVII. And be it enacted, 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.