

AUBERT-GALLION v. ROY.

44, 45 Vict., c. 90 (P.Q.)—Toll-bridge—Franchise of—Free bridge—Interference by—Injunction.

By 44, 45 Vict. (P.Q.), c. 90, s. 3, granting to respondent a statutory privilege to construct a toll-bridge across the Chaudière River, in the parish of St. George, it is enacted that "So soon as the bridge shall be open to the public as aforesaid, during thirty years no person shall erect, or cause to be erected, any bridge or bridges, or works, or use or cause to be used any means of passage for the conveyance of any persons, vehicles, or cattle, for lucre or gain, across the said river, within the distance of one league above and one league below the bridge, which shall be measured along the banks of the river and following its windings; and any person or persons who shall build or cause to be built a toll-bridge or toll-bridges, or who shall use or cause to be used, for lucre or gain, any other means of passage across the said river, for the conveyance of persons, vehicles, or cattle, within such limits, shall pay to the said David Roy three times the amount of the tolls imposed by the present Act for the persons, cattle, or vehicles which shall thus pass over such bridge or bridges; and if any person or persons shall at any time, for lucre or gain, convey across the river any person or persons, cattle, or vehicles, within the above-mentioned limits, such offender shall incur a penalty not exceeding ten dollars for each person, animal, or vehicle which shall have thus passed the said river: provided always that nothing contained in the present Act shall be of a nature to prevent any persons, cattle, vehicles, or loads from crossing such river within the said limits by a ford, or in a canoe or other vessel, without charge."

After the bridge had been used for several years, the appellant municipality passed a by-law to erect a free bridge across the Chaudière in close proximity to the toll-bridge in existence. The respondent thereupon by petition for injunction prayed that the appellant municipality be restrained from proceeding to the erection of a free bridge.

Held, affirming the judgments of the courts below, that the erection of the free bridge would be an infringement of the respondent's franchise of a toll-bridge, and an injunction should be granted.

Appeal dismissed with costs.

Lemieux, Q.C., and *Taschereau*, Q.C., for appellant.

Fitzpatrick, Q.C., for respondent.

MCGREGOR v. CANADA INVESTMENT & AGENCY COMPANY.

Will—Construction—Usufruct—Sheriff's sale—Effect of—Art. 711, C.C.P.

The will of the late J. McG. contained the following provisions:

"Fifthly. I give, devise, and bequeath unto Helen Mahers, of the said parish of Montreal, my present wife, the usufruct, use, and enjoyment during all her natural lifetime of the rest and residue of my property, movable or immovable, . . . which I may have any right, interest, or share at the time of my death, without any exception or reserve.