

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 150

An Act to amend the Sydenham Mountain Road Act, and to vest in George Rolph, Esquire, his heirs and assigns, certain privileges therewith connected. 30th August, 1851.

Whereas the inhabitants of the District of Gore have failed in taking advantage of the Act to establish the Sydenham Mountain Road; And whereas George Rolph, one of the former Petitioners to Parliament for the said Act, has made and macadamized the said Road, at his own expense, and completed the same at a cost of Two Thousand Six Hundred and Fifty Pounds; And whereas the fee simple of the land composing the said Road is his own private property; And whereas it is but just and right that the said George Rolph, having benefited the country by the expenditure of his capital and labor in malting the said Road, should be secured in all the advantages set forth in the Act aforesaid; And whereas the Municipal Township Council of the Township of West Flamborough has passed a By-law recognising the payment of Tolls on the said Road, and to shut up the old Kill Horse Road, now useless to the public by the formation of the Sydenham Road, as by reference to the Act of the Municipal Council of the said Township, passed in January last, will more fully appear: 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 the whole of the said Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to establish a Company by the name of the Sydenham Mountain Road Company*, is hereby repealed, excepting that portion which relates to the amount of Tolls to be demanded and taken, which Tolls are hereby vested in George Rolph, his heirs and assigns, for ever.

II. And be it enacted, That the said George Rolph, his heirs and assigns, shall have full power and authority to demand, sue for, collect and recover the Tolls allowed by this Act, in the same manner as is pointed out by the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, and that all the provisions of the said last mentioned Act against parties evading or assisting others to evade Tolls, shall extend and apply to the Tolls authorized to be levied under this Act.

III. And be it enacted, That whenever the Tolls shall in annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said Road, and to afford an annual income to the said George Rolph, his heirs and assigns, of ten per cent, profit, on the Capital expended in the construction of the said Road from the commencement of its being travelled upon, then and in such case the said Tolls shall be reduced, so as not to exceed the ten per cent, profit to the said George Rolph, his heirs and assigns.

IV. And be it enacted, That the Government of this Province or the County Municipal Council, shall be at liberty, at any time whatever, to purchase the said Road from the said George Rolph, his heirs and assigns, paying to the said George Rolph, his heirs and assigns, the Capital hereinbefore mentioned, together with fifteen per cent, advance thereupon; and it is also hereby provided and declared that if any deficiency of the said ten per cent, annual profit should occur in the case of the said Road, such deficiency shall be chargeable against the increasing revenue of the subsequent years, so that the said George Rolph, his heirs and assigns, may fairly and actually receive ten per cent, profit on their said expenditure of Two Thousand Six Hundred and Fifty Pounds.

V. And be it enacted, That after purchase by the Government of this Province, or by the Municipal Council of the United Counties of Wentworth and Halton, it shall and may be lawful for the Township Municipality of the Township of West Flamborough, or the Town Council of the Town of Dundas, to purchase from the Government, or the said County Municipality, the said Road, together with all Tolls, Rights and Advantages thereto belonging.

VI. And be it enacted, That the said George Rolph, his heirs and assigns, shall annually, if required, exhibit an account to either branch of the Legislature of the Province, or to the Municipal County Council, of the Tolls collected and the amount thereof received, and of the sums expended in keeping the Road in repair; and also such accounts authenticated in such manner and form as the authority so requiring the same may deem satisfactory.

VII. And be it enacted, as it was found necessary to alter the original Survey of the Road, That the same shall commence and terminate agreeably to the last Survey made by Hugh McMahon, Esquire, Deputy Provincial Surveyor, that is to say: commencing on the centre of said Road at its junction with Melville Street, in the Town of Dundas; thence, north, eight degrees thirty minutes, east, twelve chains thirty- four links, to the lower bridge; thence, north, twenty degrees ten minutes, west, eight chains seventy links, to the northern limits of the aforesaid Town of Dundas; thence, on the same course, north, twenty degrees ten minutes, west, three chains two links, to the Toll-Gate; thence, north, twenty-six degrees thirty minutes, west, seven chains seventy-five links; thence, north, eighty-seven degrees forty-five minutes, east, four chains; thence, north, fifty-eight degrees, east, five chains twenty-eight links; thence, north, thirty-eight degrees, thirty minutes, east, one chain fifty links; thence, north, sixty- three degrees, east, two chains forty-six links; thence, north, sixty-four degrees thirty minutes, east, eight chains sixty-four links; thence, north, fifty-two degrees, east, fifteen chains ninety-three links, to the top of the Mountain; thence, north, forty-seven degrees thirty minutes, east, two chains twelve links; thence, north, twenty-four degrees, east, five chains eighty links, to the old Road,—the breadth of the Road for the first thirty-one chains eighty-one links being forty feet; thence, for twenty-one chains eighty-one links, being sixty-six feet in width; thence, tapering to the top of the Mountain, where, on account of the great depth of rock cut through, it is only thirty feet in width, but from the top of the rock increases to forty feet in breadth, to the old Road, commencing secondly on Melville Street; thence, south, ten degrees west, eleven chains, more or less, to King Street, the breadth of this section as now established.

VIII. And whereas it may be found necessary hereafter to enter upon the lands of persons adjoining the said Road, for the purpose of draining off the water which overflows, at certain seasons, the Sydenham Road, that the Road may be more effectually saved from injury, by the formation of a culvert or drain across the said lands into the old Kill Horse Road: Be it therefore enacted, That the Municipal Council of West Flamborough shall have power and authority to enter upon the said lands, and make and construct such culverts or drains as may be necessary to protect the said Sydenham Road, the said George Rolph, his heirs and assigns, paying to the said Council the expenses of making the same.

IX. And be it enacted, That the said Kill Horse Road referred to in the preamble of this Act, shall be shut up as far as the same passes through the property of the said George Rolph, from the top of the Mountain to the north-east corner of the land belonging to James Hare, of Dundas, and no further, and be enclosed by him so long as the said Sydenham Road is kept open to the public, upon due payment of Tolls allowed by this Act.

X. And be it enacted, That this Act shall be deemed and taken to be a Public Act.