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2nd Session, 7th Parliament, 26 Victoria, 1863.

BILL.

**An Act to consolidate the Debt of the City
of Hamilton, and to facilitate the arrange-
ment thereof.**

(PRIVATE BILL.)

Received and read first time, Tuesday, 21st
April, 1863.

Second reading, Thursday, 23rd April, 1863.

Mr. BUCHANAN.

QUEBEC :

**PRINTED FOR THE CONTRACTORS BY HUNTER,
ROSE & LEMIEUX, ST. URSCLE STREET.**

An Act to consolidate the Debt of the City of Hamilton, and to facilitate the arrangement thereof.

WHEREAS the Corporation of the city of Hamilton have from time to time issued Debentures to the extent of \$938,880 to aid in the construction of the Great Western, Galt and Guelph, Preston and Berlin, and Hamilton and Port Dover Railways, which from various causes have proved to be unremunerative, and have incurred further heavy liabilities in the construction of Water Works and other local improvements from which no adequate return is at present received, such liabilities amounting in the whole to \$2,277,000, and the finances of the said city have consequently become embarrassed, and several of the creditors have obtained Judgments against them, and much litigation is now pending;

And Whereas the Corporation of the said city are satisfied that if time is granted to them they will be eventually in a position to discharge the full amount of Principal, but that the assessable property of the Municipality is at present quite inadequate to meet the interest upon the Debt at the rate of six per cent.; and they have made an offer to their creditors for the payment of the said Principal debt at the time hereinafter mentioned, with interest at the rates hereinafter specified, which the creditors generally are disposed to accept; but, in order to give effect to such arrangement; and to give increased facilities to the creditors to enforce the same, the intervention of the Legislature is necessary;

Therefore, Her Majesty by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The corporation of the city of Hamilton may from time to time pass a By-law or By-laws for authorizing the issue of Debentures for a sum not exceeding the sum of two millions two hundred and seventy seven thousand dollars to redeem the Debentures already issued by the said city.

2. The Debentures so to be issued shall be made payable on the first day of January, in the year of our Lord one thousand eight hundred and ninety-two, at such place or places, either in this Province or Great Britain, and in Sterling or Provincial currency, in the same manner as the Debentures in place of which this issue is intended to be made.

3. The interest made payable by such Debentures shall be payable half-yearly at the places mentioned therein, and in the Coupons attached thereto, and shall be at the rate of three per cent. per annum until the thirty-first day of December, in the year of our Lord one thousand eight hundred and sixty-eight, inclusive, and thenceforth at the rate of four per cent. until the thirty-first day of December, in the year of our Lord one thousand eight hundred and seventy-three, inclusive, and thereafter at the rate of five per cent. until the thirty-first day of December one thousand eight hundred and seventy-eight, inclusive, and thereafter until the maturity of the said Debentures, at the rate of six per cent.,

and Coupons shall be attached to the said Debentures for the payment of the said interest.

- Rate to meet interest.** **4.** For the payment of the said interest there shall be levied and raised upon the whole assessable property of the said city a rate of fifteen cents in the dollar until the said principal and interest shall be fully paid and discharged; Provided always, that if the said rate shall yield more than the rates of interest so payable, the surplus shall be invested in such manner as the Council of the said city, with the consent of the Governor in Council may think proper, and the funds so invested shall, subject to the exception hereinafter specified, be applied either as a sinking fund towards the redemption of the principal, or towards payment of the increased rate of interest, if the fifteen cents above imposed shall be insufficient for that purpose. And provided further that if the rate above imposed shall at any time be insufficient to meet and discharge the increased rate of interest, it shall be incumbent on the Council of the said city to impose such a rate as will be sufficient for that purpose, but nothing herein contained shall be held to prevent the Council from applying any portion of such surplus funds (if any should arise) in the redemption of the Debentures authorized by this Act, whether the same shall be then due or otherwise.
- Proviso—if there be any surplus.** 5
- Proviso—if the rate be insufficient.** 10
- Sinking Fund after the year 1871.** **5.** From and after the thirty-first day of December, in the year of our Lord one thousand eight hundred and seventy-one, it shall be incumbent on the Council, in addition to the interest, to provide a sum of one per cent. per annum as a sinking fund for the payment of the principal of the said Debentures, and to impose a sufficient rate for that purpose in addition to the rate hereby imposed, unless the said rate shall be sufficient to cover the interest and the said sinking fund, but it shall be incumbent upon the Council to impose a sufficient rate to make good any deficiency that the said fifteen cent rate shall be insufficient to cover.
- Rate for sinking fund.** **6.** In the Collectors' Rolls, made up after the issue of the Debentures authorized by this Act, there shall be a column headed, "fifteen cent rate, under the Act of 1863," and it shall be the duty of the Clerk of the City Council to see that such rate is inserted upon the Rolls, and the Collectors shall apply any moneys received by them in the first place to the payment of the said rate, and shall make a special return thereof to the Chamberlain, who shall keep in his books a separate account or accounts for the said special rate, and shall deposit the moneys so received, in one of the chartered banks of this Province, separate and apart from all other moneys of the Municipality, and the moneys so collected, received or deposited, shall be applicable only to the purposes mentioned in this Act, and shall be applied in no other manner whatever; and any officer of the city applying such proceeds for any other purpose than is provided for in this Act, shall be civilly liable for the amount, and shall be further held guilty of a misdemeanor, and be liable to be punished by fine or imprisonment, or both, and any member of the Council authorizing any such application, or assenting thereto, shall, in like manner, be civilly and criminally responsible.
- A separate head in the Collector's rate for rates under this Act.** 30
- Separate accounts.** 35
- Penalty for applying proceeds to any other purpose.** 40
- Yearly report to Government.** **7.** It shall be the duty of the Mayor, for the time being, at the close of each year and oftener, if so required, to forward to the Provincial Secretary a statement verified by oath or declaration of himself and the Chamberlain, showing the amount realized by such rate, the amount remaining uncollected, and the reasons alleged for the non-collection, and the amounts uncollected for the previous years, and showing also how the same have been applied, and shall furnish any further information which may from time to time be required. And any person who shall
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wilfully and corruptly make and subscribe any declaration which may be required under this Act, knowing the same to be untrue in any material particular, shall be deemed guilty of perjury. Pebalty for any false statement.

8. If the Council shall fail, on or before the first day of October, in any one year after the issuing of any Debentures authorized by this Act, to appoint one or more Collectors to collect the rate hereby authorized, or shall, at any time, neglect or refuse to impose a sufficient rate to meet such increased rates of interest, it shall be lawful for the Governor General in Council, from time to time, to appoint a Commissioner or Commissioners, who shall have full power and authority to call for the assessment rolls of the current year, and to assess and impose such rate, and also to prepare Collectors' Rolls, and place the same in the hands of Collectors of his or their own selection, who are hereby authorized and empowered to proceed with the collection of the rate hereby authorized, in the same manner as if they had been appointed by the Council; and any officer or member of the Council interfering with or refusing to afford to the said Commissioners or Collectors any books papers or information necessary to enable them to perform the duties cast upon them by this Act, shall be guilty of a misdemeanor, and be liable to fine and imprisonment. If the council fails to impose sufficient rates, the Governor may appoint commissioners to do so.

9. If it shall be made to appear to the satisfaction of His Excellency, in Council, that the Collector or Collectors appointed by the Council are not fairly and honestly performing the duties of their office, but are endeavoring to delay or prevent the collection of the rate hereby imposed, it shall in the same manner be lawful for His Excellency to appoint such Commissioner or Commissioners, who shall have the like power and authority to appoint a Collector or Collectors to proceed with the collection of the uncollected portion of such rate, and to take all such steps as may be necessary for that purpose; and it shall be the duty of the Collector so complained of, forthwith, on demand, to hand over their Rolls and any moneys collected to such Commissioner or Commissioners, or in default they shall be guilty of a misdemeanor, and be liable to be proceeded against accordingly, and upon conviction, to fine and imprisonment; and the sureties of such Collector shall be liable to make good any moneys by him collected, and shall, in addition, be liable to make good any damages or expenses incurred by such default, and the appointment of such Commissioner or Commissioners and Collectors as aforesaid. And so if the municipal collectors are acting unfairly about such rate.

10. Nothing herein contained shall be held to interfere with the rights of the holders of any Debentures issued under this Act to pursue any other remedies at law or in equity for the recovery of the principal or interest by the said Debentures secured, and in any proceedings for the recovery of any interest, it shall not be necessary to produce the Debentures, but the production of the Coupon shall be prima facie evidence that the holder is the owner of the Debenture to which it was attached, and entitled to recover thereon. Act not to prevent any other remedy on such debentures.

11. From and after the acceptance of this Act by the Debenture holders, at a public meeting to be called and held in the manner hereinafter specified. All parties holding Debentures of the said city shall be bound to receive, in exchange therefor, an equivalent amount of new Debentures to be issued under this Act; such Debentures being deliverable to the holders of Sterling Debentures, at the City Bank, in the City of London, or such other place as may be specified in the resolution adopted at such meeting, and in the case of all other creditors, at the office of the Chamberlain of the said city, and at such meeting Deben- After this Act is accepted by the debenture holder,—
The new debentures to be exchanged for those outstanding.

ture holders may be represented by Proxies, and any person producing at such meeting any Debentures, shall be deemed to be the owners thereof, and entitled to vote thereon, or, in lieu thereof, any person attending such meeting may produce a certificate from the Manager of the City Bank aforesaid, granted not more than two months previous to such meeting, or from the City Chamberlain of the City of Hamilton, (such Debentures being at the same time stamped or marked with the word, "Registered," and signed by such Manager or Chamberlain) to the effect that the party named therein had requested to be registered, and was the registered owner of such, and so many of the said Debentures as shall be specified in such certificate, and upon the production of such certificate, shall be entitled to vote either in person or by proxy in the same manner as if he had produced the Debenture or Debentures mentioned in such certificate; and the certificate in writing of the chairman of such meeting shall be taken as prima facie proof of the acceptance of this Act by such Debenture holders, which certificate shall be filed in the office of the Provincial Secretary of Canada, and certified copies thereof by the said Secretary shall be taken and considered by all Courts of law and equity in this Province as sufficient prima facie evidence of the contents thereof.

Form of proxy.

12. Any form of proxy authorizing the holder thereof to vote at such meeting shall be sufficient, if accompanied by the production of the Debentures or such certificate as aforesaid.

The acceptance of this Act contingent on certain payments.

13. The acceptance of this Act is contingent upon the payment of all arrears of interest up to the thirty-first day of December one thousand eight hundred and sixty-one, and of interest at the rate of three per cent. up to the thirty-first day of December one thousand eight hundred and sixty-two; all costs of suit legally chargeable upon any suits or actions which were incurred previously to the first day of January last, and all other costs and expenses incurred by the holders of Debentures, as between solicitor and client, shall also be paid and borne by the said city, and shall, if desired, be taxed by the taxing officers of the Courts of Upper Canada in the usual manner.

Council may raise a sum to pay arrears of interest.

14. It shall be incumbent on the Council immediately after the passing of this Act to levy and raise a sum sufficient to pay and discharge the arrears of interest for the year one thousand eight hundred and sixty-one, and which by the terms of the foregoing section of this Act, are to be paid in full at the rate of six per cent, such assessment being based and struck upon the Assessment Rolls of 1862, and to appoint a special Collector or Collectors for that purpose, and the powers and penalties given by this Act, shall be applicable to such levy in the same manner as is herein provided for the levying of the other special rates by this Act, directed to be levied.

Special rate for interest for years 1862-63.

15. It shall, in like manner, be incumbent on the City Council within two months after the acceptance of this Act, in the manner hereinafter provided, to impose and assess a special rate of thirty cents in the dollar for the purpose of meeting the interest for the years one thousand eight hundred and sixty-two, and one thousand eight hundred and sixty-three as herein provided, and levy and raise the same with all reasonable despatch, and all such interest as shall be due at the time of such acceptance, shall be paid at the same time as the Debentures to be granted under this Act shall be interchanged with the holders of existing Debentures, and thereafter on the first days of January and July, as hereinbefore provided: Provided always, that if the city shall obtain by loan or otherwise a sum sufficient to pay off the interest for one thousand eight

Proviso.

hundred and sixty-two, and one thousand eight hundred and sixty-three, or any part thereof, it shall be lawful, upon the moneys being lodged, to the credit of a special fund to be called the one thousand eight hundred and sixty-three Interest Fund, in the Gore Bank, to dispense with or
 5 reduce the said last mentioned special rate to such a sum as may be required to meet the deficiency.

16. From and after the acceptance of this Act as herein provided, no action, suit or other proceeding shall be maintainable by or on behalf of any holder of any Debenture at present outstanding, or of any Coupon
 10 to such Debenture, and no judgment recovered in respect of such Debenture or Coupon shall be enforceable against the city, its property or effects; and it shall be a sufficient plea to any such suit or action to state that new Bonds under the provisions of this Act had been lodged
 15 at the City Bank or other such place in London as aforesaid, or at the office of the City Chamberlain, as the case may be, and that all arrears due to such creditor, according to the terms and provisions of this Act, had been paid or tendered to such creditor, or lodged for him at the said City Bank or other such place, or at the office of such Chamberlain, and the like facts may be shown on motion to set aside proceedings under
 20 any such judgment as aforesaid.

Acceptance of this Act to stay actions by holders of debentures, etc.

17. Nothing herein contained shall be held to impair, affect or restrict the right of any holder of Debentures issued in payment of stock in the Great Western Railway Company to share in the dividends payable on such stock, but the holders of such Debentures shall be entitled
 25 to such dividends and to such proportion of the interest above mentioned as shall make up the total amount of interest to six per cent. : Provided always, that if such dividends and interest shall exceed the said sum of six per cent., the surplus shall be applicable to the general purposes of the said city.

Rights of holders of Great Western Railway debentures reserved.

30 18. Nothing herein contained shall be held to impair, affect or restrict the rights of holders of Water Works' Debentures to the security they at present hold, but they shall in addition to the interest payable by the said Debentures, be entitled to receive any profits derivable from the said Water Works, after deduction of working expenses, including the
 35 cost of extending the line of pipes, introducing service pipes, and keeping the said works in repair; so as the said interest and dividends shall not in the whole exceed six per cent., and any surplus shall be applied in the manner specified in the last preceding section.

Rights of water works debentures secured for.

19. The Debentures issued under this Act shall be expressed to be
 40 issued under the Act of 1863, but those mentioned in the two last preceding sections, shall be stamped or otherwise designated as "Great Western Railway" or "Water Works" Debentures.

Debentures under this Act, how to be expressed

20. The Collectors referred to in the eighth section of this Act shall, before entering upon the duties of their office, give security to the Municipality, in the same manner as is provided for in the case of other Collectors; and they and all other officers of the Corporation shall, for the purposes of this Act, be amenable to the process of the Supreme Courts of law of the Province, and be liable to be summarily proceeded against by attachment or otherwise for non-performance of the duties imposed
 45 or required of them by this Act, in the same manner as if they had been executing a Writ issued by the said Courts respectively; and the said Courts or a Judge thereof, are hereby empowered to make such rules or orders upon such officers for the due enforcing of the provisions of this Act, as may from time become necessary or expedient.

Collectors to give security to the municipality

Recital.

Doubts as to
a appointment
and powers
of collector
removed.

21. And whereas the City Council for the year one thousand eight hundred and sixty-two neglected to appoint any Collectors for that year, and it may be doubtful whether Collectors appointed by the Council of the present can legally collect the rate imposed by the Council for the year one thousand eight hundred and sixty-two; To remove such doubts it is enacted that the City Council of the said city for the present year may appoint a Collector or Collectors to collect, levy, and raise the taxes which were imposed under a By-law of the Council for the year one thousand eight hundred and sixty-two, and the said Collector or Collectors may use all and every the same means for the collection of the said rates as if they had been duly and legally appointed within the time fixed by law, and the Bond to be given by them and their sureties shall be as valid and effectual as if they had been so appointed; and the said Council are also hereby authorized and empowered to impose any other rate or rates which may be necessary to carry fully into effect the several provisions of this Act.

Upon the
rates for 1862
may be levied.

22. The rate referred to in the last preceding section includes one moiety of the rate mentioned in the fourth section of this Act, being the 15 cent rate required to meet the interest for the year 1862; and it is hereby enacted that the said rate shall and may be levied not only on the present owners, but on any person or persons who would have been liable to pay the same if the same had been duly enforced in the year 1862, saving to the person or persons paying the same, his, her, or their remedies against any party who by agreement ought to make good the same.

Council may
issue debentures
to meet
interest re-
ferred to in
section 15.

23. For the purpose of raising money to meet the interest referred to in the fifteenth section of this Act, and to reduce the rate required to meet such interest in the present year, it shall be lawful for the Council to issue Debentures for a sum not exceeding the said arrears of interest in such amounts (not less than one hundred dollars each) as they may think proper, which Debentures shall be payable within six years at the farthest from the date of such issue, and shall be payable with or without interest, and at such times respectively as shall be expressed in the By-law or By-laws authorizing the issue thereof, and for payment thereof, there shall be levied in each year an equal special rate, which rate, according to the Assessment Rolls of the present year shall be sufficient to pay and discharge the said Debentures and the interest thereof (if the same shall be made payable with interest) at the times when the same are respectively payable; or the Council may, in lieu of such Debentures or some portion thereof, issue Corporation notes of the value of five shilling and ten shillings each, not exceeding in the whole the sum above mentioned, payable one year after date, and as the same shall fall due and be redeemed, issue others to replace the same, redeeming the amount at the rate of one-sixth in each year, so that the whole of such notes and renewals shall be fully paid off and discharged at the expiration of six years from the date of such first issue.

When only
this Act shall
take effect.

24. This Act shall not take effect unless or until accepted by a Majority, consisting of _____ in amount of the Debenture holders present, in person or by proxy, at a meeting to be held on or before the _____ day of _____ next, in London, England, after _____ notice of such meeting in the official *Gazette*, of Canada, and in the *London Times*, except the 15th clause thereof, which shall take effect and come into operation immediately after the passing thereof.

Exception.

25. The Interpretation Act shall apply to this Act, and this Act shall be deemed a public Act.