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2nd Session, 6th Parliament, 23 Victoria, 1860

BILL.

An Act to alter and amend the Act passed in the twentieth year of Her Majesty's reign, intituled "An Act for the construction of Water Works in the City of Hamilton."

[LOCAL BILL.]

Received and read, 1st time, Friday, 20
April, 1860.

Second reading, Monday, 23rd April, 1860

Mr BUCHANAN.

An Act to alter and amend the Act passed in the twentieth year of Her Majesty's Reign, intituled "An Act for the construction of Water Works in the City of Hamilton.

WHEREAS it is necessary and desirable to alter and amend the Act passed in the twentieth year of Her Majesty's Reign, entitled "An Act for the construction of Water Works in the City of Hamilton; Therefore, Her Majesty, &c., enacts as follows :

Preamble.
20 Vict. c. 84.

5 **1.** The Water Commissioners of the City of Hamilton shall, in addition to the powers conferred upon them by the said in part recited Act, have full power and authority to levy and raise such a yearly or other rate or assessment or water rent on all and singular, the real
10 property within the said city, whether owned by private individuals or bodies corporate, by, near or contiguous to which the water pipes may pass, and upon the stock in trade, household furniture and goods and chattels belonging to or in the possession of the owners or occupants of such real estate, as shall, in the opinion of the said Commissioners, be
15 sufficient to pay the yearly interest, at a rate not to exceed four per cent. per annum, on the cost of said Water Works and the yearly expenses thereof, or such portion of such interest and expenses as, in their judgment, should be levied and raised in each year, and be borne by such owners and occupants; and the said Commissioners shall have power and authority, from time to time, to fix the rate or rates such
20 owner or occupant, or both such owner and occupant, shall pay, having due regard to the advantages derived by such owner and occupant, or conferred on him or her or their property by the Water Works, and the locality in which the same is situated; and so much of the said water rate or rent as shall be assessed or levied upon the real estate, shall be-
25 come a continuing lien, unless paid upon such real estate, any thing in section ten of the Act 20 Victoria, chapter 64, to the contrary notwithstanding; and the said Water Commissioners shall also have power and authority, from time to time, to fix the rate or rent to be paid for the use of the water by hydrants, fire plugs, public buildings, and street
30 watering.

Water Commissioners may fix a yearly rate on real and personal property to pay interest and expenses.

35 **2.** The said Commissioners shall have full power, from time to time, to make and enforce all necessary by-laws, rules and regulations for the collection of the said water rate and water rent, and fixing the time and times when, and the places where, the same shall be payable, for allowing a discount for prepayment, and, in case of default in payment, to enforce payment by shutting off the water, or by suit at law before any Court of competent jurisdiction, or by distress and sale of the goods or property upon which such rates shall have become a lien; provided that such distress and sale shall be conducted in the same manner as
40 sales are now conducted for arrears of city taxes; and provided further, that the attempt to collect said rates by any process hereinbefore mentioned, shall not in any way invalidate the lien upon the said premises.

Water Commissioners may make by-laws for enforcing payment of such rates.

They may employ collectors and assessors.

3. The said Commissioners shall have power to employ collectors, assessors, and such other persons as in their opinion may be necessary to carry out the object of this Act, and to specify the duties of such persons so employed, and to fix their compensation, and all such persons shall hold their offices at the pleasure of the said Commissioners, and shall give such security as the said Commissioners shall from time to time require, and such collectors and assessors shall have as full power as the collectors and assessors in the cities of Upper Canada do now possess and enjoy. 5

Their powers.

Penalty on persons fraudulently using the water.

4. If any person or persons shall lay, or cause to be laid, any pipe or main to communicate with any pipe or main conveying to the said Water Works, or in any way obtain or use its water without the consent of the Commissioners, he or they shall forfeit and pay to the said Commissioners the sum of *twenty-five pounds* current money of the Province, and also a further sum of *one pound* for each day such pipe or main shall so remain, which said sum, together with costs of suit in that behalf, may be recovered by civil action in any Court of Law in the Province, having civil jurisdiction to that amount. 10 15

Penalty on persons fouling the water.

5. In order to preserve the water now or hereafter to be conveyed into the said city, and the parts thereto adjacent, clean and wholesome, if any person shall bathe or wash, or cleanse any cloth, wool, leather, skins, animals, or place any nuisance or offensive thing in any of the reservoirs, cisterns, ponds, sources or fountains, from which the water to supply the said City is to be obtained,—or convey or cast, throw or put any filth, dirt, dead carcasses or other noisome or offensive things therein, or cause, permit or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other annoyance to be done to the water therein, every such person shall on conviction thereof before any Justice of the Peace, on the oath of one credible witness, be by the said Justice before whom such person shall be tried or convicted, adjudged or condemned to pay a penalty for every such offence, not exceeding *five pounds* current money of this Province, one half to be applied to the use of the said Commissioners, and the other half to him or her who shall sue for the same; and in case the party suing for the same shall be the Commissioners themselves or any of their officers or servants, then the whole of the said penalty shall be applied to the uses of the said Commissioners; and the said Justice may also, in his discretion, further condemn such person to be confined in the Common Gaol for a space of time not exceeding one month, as to such Justice may seem meet. 20 25 30 35 40

Power to make by-laws to prevent waste or fraudulent use of the water.

6. It shall and may be lawful for the said Commissioners as aforesaid, and they are hereby authorized and empowered to make such By-laws as to them shall seem requisite and necessary for prohibiting by fine not exceeding *five pounds* currency, or imprisonment not exceeding one month, any person being occupant, tenant or inmate of any house supplied with water from the said Water Works from vending, selling or disposing of the said water, from giving it away or permitting it to be so taken or carried away, or from using or applying it to the use or benefit of others, or to any other than his, her or their own use and benefit, or increasing the supply of water agreed for with the said Commissioners, or wrongfully neglecting or improperly wasting the water, for regulating the time, manner, extent and nature of the supply of water to be provided and supplied by the said Works, the tenement or parties to which and to whom the same shall be furnished, the price or prices to be exacted therefor, the time and mode and circumstances of payment there- 45 50 55

for, and each and every other matter or thing relating to or connected therewith which it may be necessary or proper to direct, regulate or determine for issuing to the inhabitants of the City a continued and abundant supply of pure and wholesome water, and to prevent the practising
5 of frauds upon the said Commissioners with regard to the water so to be supplied.

7. The Mayor of the said City, and the Chairman of the Finance Committee of the City for the time being, shall leave seats at the Board of the said Water Commission, and be entitled to vote thereat, upon all
10 questions, in the same manner as the said Water Commissioner.

Mayor and Chairman of Finance Committee to have seats at the Board, &c.

8. The revenue derived from the said works, after paying the expenses thereof, shall, from time to time, be paid to the Chamberlain of the said City.

Revenue to be paid over.

9. All person and persons, bodies politic and corporate feeling himself, herself, or themselves aggrieved by any decision or assessment of the assessor, may appeal therefrom to the said Water Commissioners, and from that body to the Judge of the County Court in the same manner, and on taking the same steps as is provided for an appeal in case of
15 assessment for City taxes.

Appeal to persons aggrieved.

10. The said Water Commissioners are hereby empowered to arrange with the Corporation or individuals for the extension of pipes in suburbs or partially built portions of the City, either by allowing a deduction from the price charged for the water to such extent as the Commissioners shall see fit, on the cost of the said pipes when laid by the parties under the
20 direction of the Commissioners and subject to their approval, or the Commissioners may lay the pipes charging the said parties in addition to the usual water rate, a yearly interest upon the cost of such extension; which interest, or such portion as shall then be due, shall be paid at the same time and collected in the same manner as the water rates.

Provision as to extension of Water Works to Suburbs. &c.

11. In all cases where a vacant space intervenes between the line of the street and the wall of the building into which the water is to be taken, the Commissioners are empowered to lay the service pipe and charge the cost, of the same to the parties liable for the water rate for the premises, such charges to be payable with the first payment of
30 water rates and to be collected in the same manner.

Where there is a space between the street and any building.

12. The service pipe from the line of the street to the interior face of the outer wall of the building supplied, together with all branches, couplings, stop-cocks, and apparatus, placed thereon by the Commissioners, shall be under the control of the same, and if any damage be done to this
40 portion of the service pipe or its fittings, either by neglect or otherwise, the Commissioners may repair the same and charge the expense to the premises. The stop-cock placed by the Commissioners inside of the wall of the building, shall not be used by the water tenant, except in case of accident or for the protection of the building, or the pipes, and to prevent
45 flooding of premises.

Certain pipes, &c., to be under the control of the Commissioners.

13. All parties supplied with water by the Commissioners may be required to place only such taps for the drawing and shutting off the water as shall be approved of by the Commissioners.

Parties' cocks, &c., subject to approval of Commissioners.

14. Neither the said Water Commissioners nor the Corporation of the said City shall be liable for damages caused by the breaking of any
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No damages for shutting off water, &c.

service pipe or attachment, or for shutting off the water to repair mains or tap the pipes, provided notice be given of the intention to shut off the water, when the same is shut off, more than six hours at any one time.

Access allowed to Water Commissioners.

15. It shall be lawful for the officers of the said Water Commissioners and every person authorized by them for that purpose, to have free access at proper hours of the day to all parts of every building in which water is delivered and consumed.

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Penalty on unauthorized persons interfering with hydrants, &c.

16. If any person or persons, not being in the employment of the said Water Commissioners, or not being a member of the Fire Brigade of said City, and duly authorized in that behalf, shall wilfully open or close any hydrant, or obstruct the free access to any hydrant, stop-cock, stop-cock chamber or hydrant chamber, by placing on it any building material, rubbish or otherwise, every such person shall, on conviction before any of Her Majesty's Justices of the Peace, forfeit and pay for each offence a sum not exceeding *five pounds*, or in default of payment, be liable to be imprisoned in the gaol of the County for a term not to exceed thirty days, and that each time said hydrants are so interfered with, and each day said obstruction shall continue shall be considered a separate offence.

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Water Works property exempt from taxes.

17. The lands, buildings, machinery, reservoirs, pipes, and all other real and personal property connected with, or belonging to the Water Commissioners of the said city, shall from henceforth be exempt from taxation.

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Water Watchmen to be constables.

18. The watchman and other officers of the said Water Commissioners, shall be *ex officio* possessed of all the powers and authority of officers of the Peace.

25

Half-yearly statements of Commissioners.

19. Notwithstanding anything contained in the said in part recited Act, the said Water Commissioners shall prepare a statement of their affairs up to the thirtieth day of June, and the thirty-first day of December, in each year, and such statements shall, within thirty days from those respective dates, be rendered to the Corporation of the said city.

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Water may be supplied to parties without the city.

20. The said Water Commissioners shall have free power and authority to supply any person or persons with water, although he, she, or they, shall not reside within the City of Hamilton, but all the power conferred on such Water Commissioners, to be exercised within said city, shall, and may be exercised in the townships of Barton and Saltfleet.

35

Public Act.

21. This Act shall be deemed a Public Act.