

No. 66.

1st Session, 8th Parliament, 27th Victoria, 1863

BILL.

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

Received and read first time Monday, 7th
September, 1863.

Second reading, Wednesday, 9th Septem-
ber, 1863.

Mr. BUCHANAN.

QUEBEC:

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

2. The Debentures so to be issued shall be made payable on the thirtieth day of June, one thousand eight hundred and ninety-three, in this Province or in Great Britain, and in sterling or Provincial currency respectively, as the Debentures in place of which this issue is intended to be made are made payable, and shall be in sums of hundred pounds, 5 fifty pounds, thirty-five pounds, thirty pounds, or twenty-five pounds sterling or currency; and any sum or sums less than twenty-five pounds sterling remaining uncovered by such issue shall be payable by the Corporation, in cash, on demand, to the persons entitled thereto: Provided always that such Debentures may, at the option of the city, be redeemed 10 at any time prior to the said year, on giving notice in the *Canada Gazette* and London *Times* newspapers six months prior to such redemption.

Form of new Debentures.

3. The Debentures may be in the form given in the schedule to this Act, or as near thereto as the Corporation find convenient.

Interest when and at what rate payable.

4. The interest made payable by such Debentures shall be payable 15 half-yearly, at the places mentioned therein, and in the coupons attached thereto, and shall be at the rate of four per cent. per annum until the thirtieth day of June, one thousand eight hundred and seventy-three inclusive, and thereafter at the rate of five per cent. per annum until the thirtieth day of June, one thousand eight hundred and eighty- 20 three inclusive, and thereafter until the maturity of the said respective Debentures at the rate of six per cent. per annum, and coupons shall be attached to the said Debentures for the payment of the said interest. The first half-yearly payment of interest, which would be payable on the first day of January, one thousand eight hundred and sixty-four, 25 shall be payable within three months from the date of the acceptance of this Act.

Rates to be raised for payment of interest.

5. For the payment of the said interest there shall be levied and raised by the Corporation from time to time, yearly or half-yearly, or oftener if they think fit, upon the whole then assessable property of 30 the said city, a rate or rates of so many cents on the dollar as shall be required, until the said principal and interest shall be fully paid and discharged: Provided always, that if the rate or rates to be levied from time to time shall yield more than the rate of interest from time to time payable, the surplus shall be carried to a special account, to be called 35 the "Interest Account," and be applied to the payment of the next half-year's interest.

Sinking Fund from 1873-83.

6. From and after the first day of July, one thousand eight hundred and seventy-three, until the thirtieth day of June, one thousand eight hundred and eighty-three inclusive, it shall be incumbent on the Cor- 40 poration, in addition to the interest, to provide a yearly sum of pounds sterling, as and towards a general sinking fund of one per cent., for the purposes mentioned in this Act, and to impose a sufficient rate or rates for that purpose in addition to the rate or rates from time to time imposed under this Act, unless the 45 said rate or rates from time to time imposed shall be sufficient to cover both the interest and also the said yearly sum of pounds sterling; but it shall be incumbent upon the Corporation to impose a sufficient rate to make good any defi- 50 ciency that the rate or rates from time to time imposed shall be insuffi- cient to cover.

Sinking Fund from 1883-98.

7. From and after the first day of July, one thousand eight hundred and eighty-three, until the maturity of the said Debentures, inclusive, it shall be incumbent on the Corporation, in addition to the interest, to

provide a yearly sum of pounds sterling, as and towards a general sinking fund of two per cent. for the purposes hereinafter mentioned, and to impose and levy a sufficient rate or rates for that purpose in addition to the rate or rates for
 5 the time being imposed under this Act, for the payment of interest, unless the said rate or rates for the time being imposed shall be sufficient to cover both the interest and the said yearly sum of pounds sterling; but it shall be incumbent upon the Corporation to impose and levy a sufficient rate or rates to make
 10 good any deficiency that the rate or rates for the time being imposed shall be insufficient to cover.

8. The Collectors at the close of each year, and oftener if so required, shall lay before the Trustees constituted for the purposes of this Act, a statement, verified by oath or declaration, showing the amount realised
 15 by such rate or rates, 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, and in like manner verify, any further information which may from time to time be required. If they or either of them shall
 20 knowingly make any mis-statement in the above matters, he or they making such mis-statement, or swearing to the same, or declaring the truth thereof, shall be held guilty of perjury.

Information as to rates to be furnished to the Trustees.

9. If any ratepayer shall omit to pay his quota of the rate or rates authorised by this Act during the period of twelve calendar months
 25 after the time fixed for the payment thereof, and there shall be no personal property liable for the payment, the Mayor and Chamberlain, or in case of execution, the Sheriff shall cause a sufficient part of the lands of such ratepayer to be put up for sale by public auction and sold to the highest bidder, after advertisement for one month in the *Canada*
 30 *Gazette*, and in case of sale, shall apply the purchase-moneys in or towards payment of the rate or rates for the time being owing and unpaid by him, rendering the surplus monies, if any, to the persons entitled thereto, and a certificate in writing under the hand or hands of the Mayor and Chamberlain, or Sheriff, making the sale, describing the
 35 land sold, and stating that it was sold in due pursuance of this Act, and stating the time of the sale, shall in favour of every person afterwards claiming to be entitled to the land, be conclusive evidence of the facts therein stated.

Lands of defaulting ratepayer to be sold after 12 months' default.

10. If, and whenever the Corporation shall fail on or before the first
 40 day of October in any year after the issuing of any Debentures authorised by this Act, to appoint one or more collectors to collect the rate or rates authorised, or shall at any time fail to impose and levy a sufficient rate or rates for the purposes of this Act, it shall be lawful for the Trustees constituted for the purposes of this Act, or the majority of the
 45 Trustees, from time to time to appoint a Commissioner or Commissioners with such reasonable salary or salaries as the said Trustees or majority think fit, who shall have full power and authority to call for the Assessment Rolls of the current year, and to assess and impose, and levy such rate or rates, and also to prepare Collectors' Rolls, and place the same
 50 in the hands of Collectors of their own selection, who are hereby authorized to act in the same manner as if they had been appointed by the Corporation, and to do whatsoever else the Trustees, or majority, think fit, for any purposes of this Act.

Power for Trustees to appoint collectors, if none appointed by the Corporation.

11. Any officer or member of the Council interfering with or refusing
 55 to afford to any Commissioners or Collectors under this Act, any books, papers, or information necessary to enable them to perform the duties

Penalty on obstructing officer of Corporation.

cast upon them by this Act, shall be guilty of a misdemeanour, and be liable to be punished by imprisonment for any term, not being less than three calendar months or more than two years.

Power for Trustees to appoint collectors, if collectors appointed by the Corporation fail in their duty.

12. If it shall be made to appear to the satisfaction of a majority of the Trustees constituted for the purposes of this Act, that the Collector or Collectors appointed by the Corporation are not fairly and honestly performing the duties of their office, but are endeavoring to delay or prevent the collection of the rate or rates hereby authorized, it shall in the same manner be lawful for the Trustees or a majority of them, from time to time to appoint such Commissioner or Commissioners, with such salary or salaries as aforesaid, 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 or rates, with such interest thereon as may be owing, and to take all such steps as may be necessary for that purpose, whether by sale of the ratepayer's lands, if saleable under this Act, or otherwise; and it shall be the duty of the Collector or Collectors so complained of, forthwith to hand over their Rolls and any monies collected, to such Commissioner or Commissioners, or in default they shall be guilty of misdemeanor, and liable to be proceeded against accordingly, and upon conviction, be punished by fine or imprisonment, or by both, in the like manner and to the like extent as under section nine of this Act.

Salaries under the Act charged on Rates.

13. The salary or salaries which may be assigned under the authority of sections ten and twelve of this Act to any Commissioner or Commissioners appointed under those sections or either of them, shall be paid out of, and be a charge upon, the rate or rates authorized by this Act

Collectors to deduct percentage.

14. Any Collector or Collectors appointed under sections ten and twelve of this Act shall be entitled to deduct out of all monies levied by him or them on account of the rate or rates which they shall be empowered to collect, a percentage of not exceeding three per cent. as and for his or their remuneration.

General sinking fund

15. And when and so often as the amount of funds on hand shall amount to ten thousand dollars, or offener—if it shall be thought expedient or desirable so to do—it shall be the duty of the Trustees, by public advertisement in this Province and Great Britain, to invite tenders for the redemption of such Debentures, and to redeem so many as the funds on hand shall be sufficient to meet, and if no parties shall come forward to sell after such advertisement, or if the tenders received shall fail to exhaust the funds on hand, then the general sinking fund hereinbefore directed to be formed shall be employed by the Trustees constituted for the purposes of this Act, in or towards the redemption of the Debentures issued under this Act, and from time to time owing. If the holders of any of the said Debentures shall refuse to accept payment in full of their Debentures, at the market price thereof, the Trustees shall be entitled to draw by lots amongst the said Debentures the Debentures to be redeemed, and to redeem the same at the then market price. In the meantime, and until the said redemption shall take place, the said Trustees shall be at liberty to invest the monies standing to the account of the general sinking fund, in Provincial Government securities, or in such manner as they or a majority of them, with the consent of the Governor General in Council, shall think fit. The said Trustees may appoint the bank in which the said general sinking fund shall be placed to their account, to be their agent for the management from time to time of the said general sinking fund. But the Trustees shall not be liable

the one for any other, or for any banker, agent or other person or any of them for involuntary loss.

16. The following shall be the Trustees for the purposes of this Act ^{Trustees.} (that is to say), On behalf of the City of Hamilton, the class of Trustees shall be Isaac Buchanan, of Hamilton, J. Hillyard Cameron, of Toronto, and R. Cassels, of Toronto; and on behalf of Debenture holders, the class of Trustees shall be Edgar Walter Garland, of Queen's Gate, in the County of Middlesex, Esquire; Joseph Robert Morrison, of Hampstead, in the said County of Middlesex, Esquire; and William Stobart, of Cheshunt, in the County of Herts, Esquire.

17. If the Trustees named in this Act, or any of them, or any Trustees or Trustee appointed as hereinafter provided, shall die, or desire to be discharged, or refuse or become unfit or incapable to act, then and in every such case before the expiration of six calendar months ^{Power to appoint new Trustees.} after the occurrence of such vacancy or disqualification, the surviving or continuing Trustees or Trustee of the class in which such vacancy or disqualification shall occur (and for this purpose every refusing or retiring Trustee shall, if willing to act in the execution of this power, be considered a continuing Trustee), or the acting executors or administrators of the last surviving or continuing Trustee of the same class, shall appoint a new Trustee or new Trustees in the place of the Trustee or Trustees so dying or desiring to be discharged, or refusing or becoming unfit or incapable to act, and upon every such appointment, all the estates, monies, and powers respectively held and exercisable under this Act shall immediately, and by force of this Act, vest in the new Trustee or new Trustees jointly, with the surviving or continuing Trustees or Trustee, if any, and without the necessity of any transfer, conveyance, or assignment. If the appointment of a new Trustee or new Trustees hereinbefore directed, shall not be made within the period of six calendar months as aforesaid, it shall be lawful for the Governor General in Council, upon the petition of any one or more holders of the said Debentures, from time to time, to appoint a new Trustee or new Trustees to fill up the vacancy or vacancies for the time being amongst the Trustees for the purposes of this Act, and upon every such appointment all the estates, moneys, and powers then vested in the Trustees for the time being shall in like manner immediately vest in the new Trustee or Trustees jointly with the surviving or continuing Trustee or Trustees, if any, without the necessity of any transfer, conveyance, or assignment.

18. The remuneration of the Trustees shall be one hundred pounds ^{Remuneration of trustees.} sterling a year, which shall be divided between them in proportion to their attendances at meetings of the Trustees held for the purposes of this Act; but no such remuneration shall be payable until default shall have been made in the payment of the said coupons, or until the sinking fund shall commence under this Act.

19. The legal expenses and costs above referred to (including one thousand two hundred pounds sterling, due and payable to Messrs. Dawes & Sons, of Angel Court, Throgmorton Street, in the City of London, England, for legal expenses incurred by the committee of bondholders in London, and for the other expenses of the same committee), ^{Legal expenses a charge.} and the expenses of the Trustees and otherwise in carrying this Act into execution, shall be paid out of and be a first charge upon the rate or rates authorized by this Act.

20. Nothing herein contained shall interfere with the rights of the holders of any Debentures issued under this Act to pursue any other ^{on rates. Saving clause to Debenture holders.} 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 Debenture, but the production of the coupon shall be *prima facie* evidence that the holder of such coupon is the owner of the Debenture to which it was attached, and entitled to recover thereon; and a *bona fide* payment to the holder of such coupon shall discharge the City of Hamilton from all further liability thereon.

Issue of new Debentures, public meeting of Debenture holders.

21. From and after the acceptance of this Act by the Debenture holders at a public meeting to be called and held in the manner herein-after specified, all parties holding any of the Debentures of the said City of Hamilton, outstanding as hereinbefore recited, and having arrears of interest due to them as aforesaid, shall be bound to receive in exchange therefor, subject to the provisions hereinbefore contained, for payment in cash of sums under twenty-five pounds sterling, an amount of new Debentures to be issued under this Act, equivalent to the Debentures and arrears of interest which they or their predecessors held on the first day of July, one thousand eight hundred and sixty-three, such new Debentures being deliverable to creditors residing in Great Britain or in Ireland, at the City Bank, in the City of London; or at the

Banks, in the City of Glasgow; or at such other place or places 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 City of Hamilton; and at such meeting Debenture holders may be represented by proxies; and any person producing at such meeting any Debentures, shall be deemed to be the owner thereof, and entitled to vote thereupon; or in lieu thereof, any person attending such meeting may produce a certificate from the Manager of the City Bank aforesaid, or the Bank aforesaid, granted not more than three days previous to such meeting, or from the Chamberlain of the City of Hamilton, granted not more than three months previous to such meeting. Such Debentures being at the same time marked or stamped with the word "Registered," and signed by such Managers 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.

Evidence of Resolution of public meeting.

22. The Certificate in writing of the Chairman of the meeting referred to in section 21 shall be taken as *prima facie* proof of the acceptance of the 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 sufficient *prima facie* evidence of the contents thereof.

Proxy at meeting.

23. Any form of proxy authorizing the holder thereof to vote at such meeting shall be sufficient if accompanied by the production of the Debenture or such certificate as mentioned in section 21.

Acceptance of the Act.

24. The acceptance of this Act is contingent upon the payment of all arrears of interest not covered by the issue of new Debentures up to the first day of July, one thousand eight hundred and sixty-three, and of all costs of suit legally chargeable upon any suits or actions which were incurred previously to the first day of July, one thousand eight hundred and sixty-three, and which interest and costs shall be paid and borne by the said City of Hamilton; and the costs (other than any costs covered by the one thousand two hundred pounds sterling, to be

paid to Messrs. Dawes & Sons), shall, if desired, be taxed by the Taxing Officers of the Courts of Upper Canada in the usual manner.

25. From and after the acceptance of this Act, as herein provided, no action, suit or other proceeding shall be maintained by or on behalf of any holder of any Debenture hereinbefore referred to as outstanding on the first day of July, one thousand eight hundred and sixty-three, or of any Coupon to such Debenture; and no judgment at law or in equity 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 a new Debenture, under the provisions of this Act, had been duly lodged at such place as aforesaid, and that all arrears due to such Debenture holder, according to the terms and provisions of this Act, had been paid or tendered to him or duly lodged for him, and the same facts may be shown on motion to stay or set aside proceedings under any such judgment as aforesaid.

New Debentures a bar to recovery of old Debentures.

26. Nothing herein contained shall impair, affect or restrict the right of any holder of Debentures issued in respect of the Great Western Railway Company of this Province to share in the dividends payable on stock of that Company, but the holders of such Debentures shall be entitled to such dividends and 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 carried to the account of a special sinking fund, in the names of the Trustees, for the purposes of this Act, and shall be applied by them in or towards redemption of the said Railway Debentures in the manner as provided in the case of the general sinking fund for the redemption of the Debentures generally; and after redemption of all the said railway Debentures, the said dividends shall be carried to the account of the general sinking fund aforesaid, to a special account to be called the "Great Western Interest Account," and shall, from time to time, be applied to the payment, or in reduction of the next half year's interest on the Debentures in this clause mentioned.

Saving clause for Great Western Railway Debenture holders.

Special Sinking Fund.

27. Nothing herein contained shall 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 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 carried to the account of a special sinking fund, in the names of the said Trustees, and shall be applied for the redemption of the said Water Works Debentures in similar manner as in the last section provided; and after redemption of all the said Water Works Debentures, the said dividends shall be carried to the accounts of the general sinking fund aforesaid, a special account to be called the Water Works Interest Account, and shall from time to time be applied in payment or reduction of the next half year's interest on the Debentures in this clause mentioned.

Saving clause for Water-works Debenture holders.

Special sinking fund.

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

Title of new Debentures.

29. The Collectors referred to in the 10th and 12th sections 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

Security to be provided by collectors.

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 5 imposed upon 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 to time become necessary or 10 expedient.

Clause to
validate
power of
collectors, to
collect rates
of 1862.

30. And whereas the City Council, for the year one thousand eight hundred and sixty-two, neglected to appoint any Collector for that year, and it may be doubtful whether Collectors appointed by the Council for the present year can legally collect the rate imposed by the Council for 15 the said year one thousand eight hundred and sixty two, and it is desirable, nevertheless, that such rate should be collected and applied for the purposes of this Act so far as the same may extend, (but without prejudice to the power of the Council to impose any additional rate which may be requisite to meet the interest to become due in January and 20 July next ensuing the passing of this Act, and all other sums which may be required for the government of the Municipality, and other lawful purposes of the city during that period.) Therefore, 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 rates which were im- 25 posed 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 30 it they had been so appointed; and the said rate shall and may be levied, not only on the present owners and occupiers, 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 one thousand eight hundred and sixty-two, saving and granting to the person or persons paying the same his, 35 her or their remedies against any party or parties who, by agreement or otherwise, ought to make good the same.

31. Notwithstanding anything in the foregoing section contained, it shall be lawful for the Council, and they are hereby required, as soon as possible after this Act shall have been assented to, 40 as aforesaid, to impose, and levy, if necessary, in addition to the said rate of 1862, any such further rate as may be necessary for the purpose of meeting the said January and July interest and such other sums as are mentioned in the last preceding section of this Act.

32. In addition to the powers already possessed by the city 45 council of the said city, they may from time to time make by-laws which shall be binding on all persons for imposing a duty or duties on all fire insurance companies and agencies therefor doing business within the said city, and the agents of merchants residing with- 50 out the limits thereof, and on all other merchants and dealers resorting to or residing in the city, and taking or receiving orders therein by or according to sample contract, or agreement, or in any other way or manner whatsoever, and on all petty chapmen within the said city, and on all telegraph and express companies, and their agents doing busi- 55 ness within the said city; and for collecting the same by distress and sale in the manner to be fixed in the said by-law or by-laws.

33. This Act shall not take effect unless accepted by a majority ^{Acceptance of} consisting of three-fifths in value of the Debenture holders, present in ^{the Act.} person or by proxy, at a meeting to be held on or before the fourth day of December, one thousand eight hundred and sixty-three, in London, England, except the 30th and 31st clauses thereof which shall take effect and come into operation immediately after the passing hereof.

34. Due notice of the meeting or meetings referred to in the last ^{Notice of} preceding section shall be given in the *Official Gazette* of Canada, in ^{meeting.} the *London Times*, and in the *Edinburgh Gazette*, at least twenty-eight days before the meeting, but such meeting or meetings may be adjourned, if necessary, without a renewal of such notice.

35. In addition to the powers already possessed by the city ^{Additional} council of the said city, they may from time to time make by- ^{power.} laws which shall be binding on all persons for imposing a duty or duties on all Fire Insurance Companies and agencies therefor, and the agents of such companies doing business within the said city, and on all agents of merchants residing without the limits thereof, and on all other merchants and dealers resorting to or residing in the city, and taking or receiving orders therein, by or according to sample contract or agreement, or in any other manner or way whatsoever, and on all petty chapmen within the said city, and on all Telegraph and Express Companies and their agents, and for collecting the same by distress and sale or otherwise in the manner to be fixed in the said by-law or by-laws.

36. The Interpretation Act shall apply to this Act, and this Act ^{Public Act.]} shall be deemed a Public Act, and may for all purposes be cited as "The City of Hamilton Debentures Act, 1863."

SCHEDULE.

(Form of Debenture.)

No. £ Sterling.

PROVINCE OF CANADA.
CITY OF HAMILTON
DEBENTURE.

Under and by Virtue of the City of Hamilton Debentures Act 1863, and by Virtue of Bye-law No. whereby a Special Rate is imposed in pursuance of that Act,

The Mayor, Aldermen and Commonalty of the City of Hamilton, Promise to pay Bearer sterling, at the City Bank of London, England, on the 30th day of June, 1893, and will also pay the Half-yearly Coupons hereto attached, as the same shall severally become due.

Dated at Hamilton, Canada West, this day of 18

A. B. Mayor.

C.D. City Chamberlain.

CITY [L.S.] SEAL.