

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 100

**An Act to amend an Act for supplying the City of Quebec and parts adjacent thereto with water.
10th August, 1850.**

Whereas by an Act of the Legislature of this Province passed in the tenth year of Her Majesty's Reign, intituled, *An Act for supplying the City of Quebec and parts adjacent thereto with water*, powers were conferred upon the Mayor and Councillors of the said City with the intention of enabling them to obtain a supply of good and wholesome water from sources in the vicinity of said City: And whereas the inhabitants of the said City, in a public meeting duly convened, as well as the said Corporation, have expressed their desire that further statutory provisions should be made by the Legislature, for the attainment of an object in a great degree conducive to the public health and at the same time affording a protection against fires and disastrous conflagrations, to which the said City hath been exposed from the want of an early supply of water: 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 restriction imposed upon the said Corporation, by the twelfth section of the said Act, cited in the preamble to this Act, shall be and the same is by this Act removed; and it shall and may be lawful for the said Corporation, when and so soon as they are prepared to supply the said City, or any parts thereof, with water, to specify and declare by a Bye-law, that the proprietors or occupiers of houses, stores and similar buildings in the said City, or in such parts thereof as they are ready to supply as aforesaid, shall be subject to the annual rate or assessment, payable at the periods to be fixed by the said By-law, to the said Corporation, which rate or assessment shall not however be made payable before the water is ready to be supplied to the proprietors or occupiers, by the said Corporation, and shall not exceed one shilling and three pence in the pound on the assessed annual value of the houses occupied, and one half that amount on stores and similar buildings: Provided also that no other or further charge than the said rate or assessment of one shilling and three pence in the pound shall be made for the supply of the water as aforesaid; any thing in the said Act, or in this Act to the contrary notwithstanding.

II. And inasmuch as the establishment of the said water works will be for the advantage and protection of the said inhabitants generally, and the imposing of a general rate or assessment will render the procurement of the loan hereinafter mentioned more easy, and contribute to the reduction of the rate of interest thereon, Be it enacted, that the said rate or assessment shall be payable by such proprietors or occupiers as well by those who consent as by those who refuse to receive into their houses, stores or other buildings the water pipe to provide the same: Provided always, that the expense of introducing the said water into the said houses, stores or other buildings shall be borne by the said Corporation and the work performed by the same, but the

distribution of the said water through the said houses, stores or other buildings after being introduced into them shall be borne by such proprietors or occupiers if required by them.

III. And as it is necessary to substitute other provisions in lieu of those, contained in the thirteenth section of the said Act, which authorizes the issuing of Debentures or Corporation Bonds, Be it enacted, that the said thirteenth section shall be and the same is hereby repealed; and it shall and may be lawful for the said Corporation to borrow a sum of money not exceeding One hundred and twenty-five thousand pounds current money of this Province, for the purpose of establishing the said Water Works, and to issue Debentures or Corporation Bonds to that amount, under the band of the Mayor and the Seal of the said Corporation, payable on the first day of November, in the year of our Lord one thousand eight hundred and seventy, unless the said Corporation shall see fit to redeem the same at an earlier period, with the consent of the holders thereof, upon which Debentures or Corporation Bonds interest shall be payable semi-annually on the first day of November and May in every year, which interest may amount to and shall not exceed the rate of seven per centum per annum. Provided always, that all and every the provisions in the said Act contained, relating to the issuing of the Debentures or Corporation Bonds therein mentioned, and the moneys to be obtained by means thereof, shall apply equally to the provisions of this Act and the Debentures or Corporation Bonds herein mentioned and the moneys to be obtained by means thereof, except so far as altered by this Act.

IV. And be it enacted, That the said Corporation shall have power to make special agreements with parties interested for the supply of water for any steam engine, baths, breweries, distilleries, manufactories, livery stables, hotels or other special cases.

V. And inasmuch as the establishment and management of so great an undertaking as the said Water Works are inconsistent with, and the duties connected therewith are too various and complicated for a Committee of the said Corporation to perform, and further provisions are in this behalf necessary, Be it enacted, that it shall and maybe lawful for the said Corporation, by a By-law, to name and appoint a competent person to manage and superintend the construction of the said Water Works who may receive an annual salary not exceeding Three hundred pounds currency, and from time to time to remove the said Superintendent and appoint another in his place.

VI. And be it enacted, That the said Corporation shall have power to dispose of the said Debentures or Corporation Bonds upon such terms as the said Corporation shall find to be most advantageous for the said City; to enter into contracts for the purchase and acquiring of land and all necessary materials connected with the said works; to acquire the right of way when necessary; to settle and adjust the amount of land damage, and pay the amount agreed upon for the same; to contract with the parties who may agree to construct the said works, or any part thereof; to superintend and manage the works when completed; to appoint an Engineer, and all workmen found necessary; to fix their salaries or wages.

VII. And be it enacted, That if any person interested in lands or other property which the said Corporation may require or over which a right of way or servitude may be required for the said

works, or in lands in relation to which the said Corporation shall order any thing to be done in their opinion necessary to give effect to the provisions of the said Act and of this Act, shall not accept a proposal in writing made by them, for compensation for his land or for damages to be occasioned by the act of the said Corporation, the said Corporation may agree with such person to refer the same to one or more disinterested persons, the award of whom, or of the majority of whom, shall be binding and final in all matters under twenty-five pounds, and in all matters when the award shall exceed twenty-five pounds, the award shall be likewise binding and final unless appealed from by one or both of the parties, by petition to the Court of Quarter Sessions for the District of Quebec, at its first sitting after the making and publishing of the award, whereat a jury shall be empanelled to decide the amount payable by the said Corporation, as and for compensation for land or damages, as the case may be, and if the verdict of the jury shall declare the sum awarded to be sufficient, the appellant shall pay the costs of the appeal, and if, on the contrary, the sum awarded shall be declared insufficient, the costs shall be payable by the respondent: Provided always, that it shall be lawful for the said Corporation to take possession of the said lands, or exercise the right of way or servitude, or perform the work required so soon as the proposal aforesaid shall be made and the money therein mentioned tendered or paid into Court as hereinafter provided.

VIII. And be it enacted, That if the said parties cannot agree upon referees or *experts* for the purpose aforesaid, after the proposal or offer of the said Corporation shall be made, (after which, and tender of the money or payment into Court as aforesaid, the said Corporation may enter into possession of the lands required, servitude or right of way aforesaid, or order the thing required to be done as aforesaid) the party dissatisfied with such proposal or offer, may appoint an appraiser or expert and notify the Corporation, and require them to name a second appraiser or expert, and notify the same to him, which it shall be the duty of the said Corporation to do, and in the event of neglect or refusal, after three days notice in writing from the said party so dissatisfied, or in case the said Corporation shall have named an expert who shall refuse to act within three days after his appointment shall have been notified to him, any one of the Judges of Her Majesty's Superior Court, residing at the City of Quebec, shall, upon the summary petition of the party dissatisfied, and proof, upon the oath of one credible witness, of the refusal or neglect aforesaid, and of the service of the petition upon the said Corporation, forthwith appoint an appraiser or expert to act on the behalf of the said Corporation; and the appraisers or *experts* appointed as aforesaid, shall estimate the value or compensation to be paid by the said Corporation, and shall report the same to them in writing; and in case of disagreement between the appraisers or *experts*, they the said appraisers or *experts* shall appoint an umpire, or if they cannot agree upon the appointment of an umpire, one of the Judges aforesaid shall, without loss of time, on the summary petition of the said appraisers or *experts*, or of the said party dissatisfied, appoint an umpire, and the report of any two of the said appraisers or *experts* and umpire shall have equal effect as if the same had been, or were made by the two appraisers or *experts*, concurrently, and upon the amount of such estimated and reported value or compensation being so established, the same shall, after due payment, be a good and valid discharge to the said Corporation: Provided always, that if either party be dissatisfied with the said report, an appeal may be made as in the foregoing section of this Act is provided, to the said Court of Quarter Sessions, at its first sitting after the making and publishing of the said Report, when a Jury shall be empanelled as aforesaid, and in case the Report

shall be confirmed by the verdict of the Jury, the appellant shall recover costs, and in case of the same being set aside or altered thereby, the respondent shall recover costs, and the costs of the reference to *experts* shall be likewise borne by the unsuccessful party, when the award shall have been in accordance with the report: Provided always, that the costs may be awarded either by the Jury in cases of appeals, or by the referees, *experts* or appraisers in cases of reference.

IX. And as in certain cases it may be doubtful to whom the compensation ascertained by the award of referees, *experts* or appraisers, should be paid, and to whom the said Corporation should make their proposal or offer for land, the right of way or servitude, or for damage done in the exercise of the powers vested in them by this Act, Be it enacted, That it shall be lawful for the said Corporation to cause the amount of such compensation to be lodged in the hands of the prothonotary of the said Superior Court, sitting at Quebec, to await the distribution of the said Court to the party or among the parties lawfully entitled to such compensation, or to any part thereof; And the said Court shall prescribe the mode of calling before it all parties interested, and make such orders in relation to the same as in its discretion shall seem just.

X. And be it enacted, That it shall be lawful for all bodies, politic or corporate, tutors, curators, tenants for life or in substitution, to agree with the said Corporation in all the matters aforesaid, in relation to the said works; and any contracts or agreements, references, awards or verdicts rendered against or in favour of the said tenants for life or in substitution, tutors and curators, shall be equally binding on the parties represented by them or either of them, as if rendered against or in favour of the said parties whom they represent as aforesaid, and it shall be in the power of the said Corporation to act towards the said tenants for life, or in substitution, tutors or curators, in the same manner and way as if they were proprietors of the land in relation to which the Corporation desire to become proprietors, to obtain any right of way or servitude, or do any other matter or thing in furtherance of the provisions contained in the said Act and in this Act.

XI. And be it enacted, That this Act shall be deemed to be a Public Act.