

No. 156

1st Session, 15th Legislature, Alberta
12 Elizabeth II

BILL 156

A Bill respecting The Calgary-Canadian Pacific
Agreement

HON. MR. MANNING

BILL

No. 156 of 1964

An Act respecting The Calgary-Canadian Pacific Agreement

(Assented to _____, 1964)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Calgary-Canadian Pacific Agreement Act*".

2. In this Act,

- (a) "Agreement" means the agreement made the 27th day of January 1964, between the City and Canadian Pacific respecting the removal of the railway trackage of Canadian Pacific from the downtown area of the City and for the redevelopment of the present railway right-of-way for commercial purposes as such agreement is modified pursuant to this Act;
- (b) "Canadian Pacific" means Canadian Pacific Railway Company;
- (c) "City" means the corporation of The City of Calgary;
- (d) "council" means the municipal council of the City;
- (e) "new right-of-way" has the same meaning as in the Agreement;
- (f) "present right-of-way" has the same meaning as in the Agreement.

3. Upon the City and Canadian Pacific duly executing an Agreement containing the clauses in the said agreement made the 27th day of January, 1964, modified as follows:

(a) Section 1.1 of Article 1—by substituting therefor the following:

"railway operations" means all railway operations which a railway company has authority to carry on pursuant to the Railway Act, Revised Statutes of Canada, 1952, Chapter 234, and includes the use of all property real and personal required and used for the construction and working of a railway.

(b) Section 9.3 of Article 9—by substituting therefor the following:

9.3 The City shall bear all costs of repair, maintenance and reconstruction of the parkway and related facilities and extensions thereto, provided, however, that Canadian Pacific shall be responsible for damage thereto (other than damage from vibration or subsidence) resulting from railway operations.

- (c) Section 12.6 (a) of Article 12—by substituting therefor the following:

Except as otherwise provided in this Article 12 the present right-of-way shall be free from taxation by the City, provided however that if in any year after the year when Canadian Pacific commences to use the new main line for all its through main line trains the taxes payable to the City in respect of the present right-of-way, exclusive of taxes payable in such year in respect of those areas of the present right-of-way for which the City was entitled to levy taxes for 1964, amount to less than the taxes which would be payable in such year on an assessed value equal to the 1964 assessment roll value (including imputed assessed value for City owned land) of the property within the boundaries of the new right-of-way, then Canadian Pacific shall pay to the City the amount of the deficiency.

- (d) Article 14—by deleting the same.

- (e) Section 15.1 of Article 15—by substituting therefor the following:

15.1 This Agreement shall be null and void and of no effect between the parties as if it had not been entered into if

- (i) the City does not pass on or before such date as the parties hereafter may agree upon, such by-law as may be necessary for creating a debt to enable the City to carry out its obligations under this Agreement, or
- (ii) the right to obtain and enter upon all of the land necessary for the new right-of-way has not been acquired by the parties or either of them prior to the 1st day of April, 1965, or such later date as the parties may agree,

provided however, that until this Agreement becomes so null and void and of no effect all rights and obligations of each of the parties under this agreement within their present respective powers shall be effective and binding on each of them on and from the date of this Agreement, and if this Agreement becomes so null and void and of no effect neither party shall have any claim or recourse against the other party for anything done by either or both of them pursuant to this Agreement.

the Agreement so duly executed is hereby validated, ratified and confirmed and the City declared to have the power to execute and perform the same.

4. The Agreement shall not become binding on the City or on Canadian Pacific until the City holds a plebiscite of the proprietary electors of the City and a majority of the proprietary electors voting on the plebiscite vote in favour of the Agreement.

5. (1) Where the Agreement is approved by the proprietary electors, a by-law passed at a regular or special meeting of the council by a vote of a two-thirds majority of the members of the council present and voting thereon authorizing the borrowing of such amounts of money as may be required to enable the City to carry out its obligations under the Agreement shall be sufficient to authorize the borrowing of such money and the assent of the proprietary electors to the by-law is not required.

(2) Subsection (1) applies to any other by-law passed by the council to authorize the borrowing of additional moneys required to enable the City to perform its obligations or any of them under the Agreement.

6. (1) The City, in addition to its powers under *The City Act* to acquire land for City purposes by purchase or expropriation, may acquire by purchase or expropriation and convey to Canadian Pacific any land required pursuant to the Agreement to be acquired for the new right-of-way.

(2) Except as provided in this section, *The Expropriation Procedure Act* governs the expropriation by the City of land to be acquired for the purposes of the Agreement.

(3) The City is not required to pass a by-law to authorize an expropriation referred to in subsection (2) and

(a) the provisions of Part II of *The Expropriation Procedure Act* respecting such by-laws are not applicable, and

(b) the expropriation is effected by the filing of the plan of survey, only, in the land registry,

but the plan shall not be so filed until the owners of the land affected have been given the period of notice fixed by the Public Utilities Board.

(4) Notwithstanding that an application to fix compensation is to be made to the Public Utilities Board or is pending before the Board, the City may exercise every right acquired in the expropriated land and may occupy and use the same for the purpose of its works and may transfer the land or any part thereof to Canadian Pacific, and Canadian Pacific may enter upon the land, whether or not the land has been transferred to it, for the purpose of the works to be undertaken by Canadian Pacific pursuant to the Agreement.

(5) Nothing in the Agreement shall impair or affect the rights of any person, either existing at common law or conferred by statute, respecting claims for injurious affection arising out of the construction of City works or the new right-of-way and the new main line thereon or of the operation of the railway and related facilities to be relocated on the new right-of-way.

7. Nothing in this Act or the Agreement restricts or in any way affects the power of the Province to expropriate land.

8. Canadian Pacific is not required to provide public roadways under section 24 of *The Planning Act* on any subdivision of the land contained in the present right-of-way, but notwithstanding anything contained in the Agreement, all the other provisions of *The Planning Act* apply to the development of the present right-of-way.

9. (1) Notwithstanding anything in this Act or the Agreement, if the constitutional limitation on the Legislature's power to tax the Canadian Pacific Railway and all stations and station grounds, workshops, buildings, yards and other property, rolling stock and appurtenances required and used for the construction and working thereof is removed, then the land and improvements exempted from assessment and taxation by this Act and the Agreement shall become subject to assessment and taxation by the City in the manner prescribed by the Lieutenant Governor in Council.

(2) Nothing in subsection (1) operates so as to reduce the liability to assessment and taxation of any property within the present right-of-way where such property becomes liable to assessment and taxation under the terms of the Agreement.

10. Where any property becomes liable to taxation pursuant to this Act or the Agreement, the assessment of the property to be used for the purposes of *The Municipalities Assessment and Equalization Act* in any year shall bear the same proportion to the full assessment that the tax payable in the preceding year pursuant to this Act or the Agreement bears to the full tax that otherwise would be payable in that year.

11. This Act comes into force on the day upon which it is assented to.

No. 156

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act respecting The Calgary-
Canadian Pacific Agreement

Received and read the

First time

Second time

Third time

HON. MR. MANNING
