

BILL

No. 26 of 1916.

An Act to authorize the Northern Commercial Company, Limited, to construct certain gas pipe lines and works in the Province of Alberta.

(Assented to _____, 1916.)

WHEREAS the Northern Commercial Company, Limited, incorporated pursuant to the laws of the Province of Alberta, has by its petition prayed for an Act in the terms hereinafter appearing, and it is expedient that the prayer of the said petitioner be granted;

Now therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. In this Act where the following words occur they shall be construed in the manner hereinafter mentioned unless a contrary intention appears:

1. "Land" or "lands" shall include any real estate messuages, lands, tenements and hereditaments of any tenure;

2. "Minister" shall mean the Minister of Public Works of the Province of Alberta for the time being;

3. "Highways" shall mean any public road, street, lane, or other public way or communication;

4. "Company" shall mean "The Northern Commercial Company, Limited;"

5. "Board" shall mean the Board of Public Utility Commissioners of the Province of Alberta for the time being.

2. Subject to such regulations and specific directions as may from time to time be given or made by the Minister, the said company, its successors and assigns and it and they are hereby authorized and empowered, outside the boundaries of any city or town, to put down, take up, re-lay, connect, disconnect, repair, maintain and operate its gas or oil pipe lines along, over and across all highways, roads, road allowances, bridges, waters, watercourses, streams and public places of every and any description whatsoever and over all or any other lands within the Province of Alberta now or at any time hereafter vested in His Majesty in the right of the province and to do all other matters and things incidental thereto.

(2) Subject to the terms and conditions of any contract made by it with any village, town or city, the company, its successors or assigns may within the limits of such city, town or village put down, take up, re-lay, connect, disconnect, repair, maintain and operate its gas or oil pipe lines along, over and across all highways, roads, bridges and public places of any and every description whatsoever and do all other matters and things incidental thereto.

3. Where any valid and subsisting franchise has already been granted by any city or town the company may acquire, operate and carry out the same as if originally named therein as the party to carry out and operate the said franchise.

4. The company, its successors and assigns, and it and they are hereby authorized and empowered to take and acquire private lands within the Province of Alberta for the purposes of a right-of-way for its pipe line or lines, and generally for the purposes of its undertaking with the powers and on the terms and conditions and in the manner following:

1. The company shall prepare a map or maps of its main pipe line or lines connecting its said gas or oil wells with the city, town or village to be served thereon and of the branches thereof connecting the said main pipe line or lines with other cities or towns (but excepting all other distributing lines) showing the general location of the proposed pipe line, the termini of the principal towns and places through which the said pipe line or lines are to pass, giving the names thereof and the railways and navigable streams (if any) to be crossed by the pipe line, and shall give such further and other information as the Minister may require.

(2) Such map shall be submitted to the board and prepared upon a scale of not less than six miles to the inch or upon such other appropriate scale as the board may determine, and shall be accompanied by an application requesting the board's approval of the general location as shown on the said map. .

(3) Before approving such map and location the board may make such changes and alterations therein as it may deem expedient and upon being satisfied therewith shall signify its approval upon the map and when so approved the map and application shall be filed in the office of the board and no change or alteration from the general location of the line of the pipe line or lines of the company as approved by the board shall be allowed unless such change or alteration has been first approved by the board. The board in approving any such map and location may approve the whole or any portion thereof and when it approves only a portion thereof, it shall signify its approval upon the map accordingly.

(4) Upon compliance with the preceding provisions of this section the company shall make a plan and book of reference of the pipe line or lines of the company; the plan shall show the right of way with lengths of sections in miles, the names of the terminal points, the property lines, owners' names, the areas and length and width of lands proposed to be taken in figures (every change of width being given) and the bearings, also all open drains, watercourses, highways and railways proposed to be crossed or affected; the book of reference shall describe the portion of land proposed to be taken in each quarter section to be traversed giving numbers of the quarter sections and the area, length and width of the portion thereof proposed to be taken, the names of owners and occupiers so far as they can be ascertained; the board may require any additional information for the proper understanding of the plan.

(5) The plan and book of reference may be of a section or sections of the pipe line or lines of the company.

(6) Such plan and book of reference shall be submitted to the board, who if satisfied therewith may sanction the same and by such sanction shall be deemed to have approved merely the location of the pipe line or lines of the company as shown in such plan, and book of reference, but not to have relieved the company from otherwise complying with this Act.

(7) Before sanctioning any plan or book of reference of a section of the pipe line or lines of the company the board may require the company to submit the plan and book of reference of the whole or any portion of the remainder of the pipe line or lines of the company or such further or other information as the board may deem expedient.

(8) The plan and book of reference when so sanctioned shall be deposited in the office of the board, and each plan shall be numbered consecutively in order of deposit; and the company shall also deposit copies thereof or of such parts thereof as relate to each land registration district through which the pipe line or lines of the company is to pass duly certified as copies by the board in the office of the registrar for such land registration districts respectively.

(9) The pipe line or lines of the company may be made, carried or placed across or upon the lands of any person on the located line although the name of such person has not been entered in the book of reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey or as interested in such lands.

(10) Where any omission, mis-statement or error is made in any plan or book of reference so registered the company may apply to the board for a certificate to correct the same; the board may in its discretion require notice to be given to parties interested and if it appears to the board that such omission, mis-statement or error arose from mistake may grant a certificate setting forth the nature of the omission, mis-statement or error and the correction allowed, and upon deposit of such certificate with the board and of copies thereof certified as such by the board with the registrar of the land registration district or districts respectively in which such lands are situated the plan or book of reference shall be taken to be corrected in accordance therewith and the company may thereupon subject to this Act construct the pipe line or lines of the company in accordance with such correction.

(11) Every registrar shall receive and preserve in his office all plans, books of reference, certified copies thereof and other documents required by this Act to be deposited with him and shall indorse thereon the day, hour and minute when the same were so deposited; and all persons may resort to the same and may make extracts therefrom and copies thereof if occasion requires paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted and fifty cents for each copy made of any plan; the registrar shall at the request of any person certify copies of any such plan, book of reference or document so deposited in his office or of such portions thereof as may be required on being paid therefor at the rate of ten cents for each hundred words copied and such additional sum for any copy of plan furnished by him as is reasonable and customary in like cases together with fifty cents for each certificate given by him.

(12) Such certificate of the registrar shall set forth that the plan or document a copy of which or any portion of which is certified by him is deposited in his office and state the time when it was so deposited and that he has carefully compared the copy certified with the document on file and that the same is a true copy of such original; and such certified copy shall in all courts be evidence that such original document was so deposited at the time stated and certified and shall be *prima facie* proof of the original so deposited and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed as shown or appearing by such certified copy and in the case of a plan that such plan is prepared according to a scale and in manner and form sanctioned by the board.

(13) A plan of the completed pipe line or lines of the company or of as much thereof as is completed and in operation and of the land taken or obtained for the use thereof shall within six months after completion of the undertaking or within such extended or renewed period as the board at any time directs be made and filed with

the board and plans of the parts thereof located in the different land registration districts prepared on such a scale and in such manner and form and signed or authenticated in such manner as may from time to time be designated by the board shall be filed in the offices of the land registration districts in which such parts are respectively situated; and every company which neglects or fails to file such plans with the board or to file such plans in such registry offices as hereinbefore provided shall be liable to a penalty of two hundred dollars and a like penalty for each and every month during which such failure or neglect continues.

(14) All plans required by law to be deposited by the company as hereinbefore provided shall be drawn on such scale with such detail upon such materials and of such character as the board may either by general regulation or in any case require or sanction and shall be certified and signed by the president or vice-president or general manager and also by the chief engineer of the company; and any book of reference required to be so deposited shall be prepared to the satisfaction of the board, and unless and until such plan and book of reference are so made satisfactory to the board it may refuse to sanction the same or to allow the same to be deposited with it within the meaning of this Act.

(15) In addition to such plans and books of reference the company shall with all reasonable expedition prepare and deposit with the board any other or further plans or books of reference of any portion of the pipe line or lines of the company or of any works thereof which the board may from time to time order or require.

(16) If any deviation, change or alteration is required by the company to be made in the pipe line or lines of the company or any portion thereof as already constructed or as merely located and sanctioned as aforesaid a plan and book of reference of the portion of such pipe line or lines of the company proposed to be changed showing the deviation, change or alteration proposed to be made shall in like manner as provided in section 73 hereof be submitted for the approval of and may be sanctioned by the board; and the same when so sanctioned shall be deposited and dealt with as provided in section 74 hereof and the company may thereupon make such deviation, change or alteration and all the provisions of this Act shall apply to the portion of such line of pipe line or lines of the company so at any time changed or proposed to be changed as to the original line.

(17) The board may either by general regulation or in any particular case exempt the company from submitting the plan and book of reference as in this section provided where such deviation, change or alteration is made or to be made for the purpose of lessening a curve, reducing a gradient or otherwise benefiting the pipe line or lines of the company or for any other purpose of public advantage as may seem to the board expedient providing such deviation, change or alteration does not exceed three hundred feet from the centre line of the pipe line or lines of the company located or constructed in accordance with the plans and books of reference deposited with the board under this Act.

(18) The company shall not commence the construction of the pipe line or lines of the company or any portion or section thereof until the provisions of sections 73 and 74 of this Act are fully complied with and shall not make any change, alteration or deviation in the pipe line or lines of the company or any portion thereof until the provisions of the last preceding section are fully complied with.

(19) The provisions of this section shall be deemed to be in substitution for clause 23 of the *Ordinance respecting Water, Gas, Electric and Telephone Companies*, being chapter 21 of the Ordinances of the North-West Territories for the year 1901.

LANDS AND THEIR VALUATION.

5. The lands which may be taken without the consent of the owner thereof for the right-of-way shall not exceed fifty feet in breadth.

6. Whenever the company requires at any place on the line of its pipe line or lines of the company, more ample space to secure the efficient construction, maintenance or operation of the pipe line or lines of the company, or its undertaking, than it then possesses or can take without the consent of the owners thereof, the company may cause a map or plan and book of reference to be made of the additional lands required at such place for the purposes aforesaid.

7. The company may transmit the map or plan and the book of reference to the board with an application on behalf of the company supported by affidavit referring to such map or plan and book of reference and stating that certain lands shown therein are necessary for such purposes and that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights and requesting the board to authorize the taking thereof for such purposes under this Act.

8. At least ten days' notice of such application shall be given to the owner or possessor of such property; and the correctness of the map or plan and book of reference and the truth of the allegations in such application shall be certified by the president or one of the directors of the company or by its general manager and by its engineer and such map or plan and book of reference and statement shall be made and transmitted to the board in duplicate.

9. The board shall inquire into the correctness of the map or plan and book of reference and the truth of the allegations of such application and if it is satisfied thereof shall grant a certificate to that effect and declaring it to be necessary in the public interest that the land shown on such map or plan and book of reference or any less quantity should be acquired by the company; and such certificate shall be annexed to one of the duplicates of the said map or plan and book of reference and statement and the other duplicate shall remain in the office of the board.

10. A copy of the duplicate of such map or plan and book of reference and statement and of such certificate shall be deposited in each of the land titles offices of the land registration districts respectively in which the lands lie.

11. Upon the granting of such certificate and by virtue thereof the company may without the consent of the owners take the land shown on such map or plan and book of reference as required for such purpose; and the company and all persons who could not otherwise convey the same to the company shall have with respect to any such land all the powers granted by this Act to companies and persons who could not otherwise convey the same with respect to lands which may be taken without the consent of the owners thereof; and all the provisions of law at any time applicable to the taking of land by the company and its valuation and the compensation therefor shall apply to the lands mentioned in such certificate.

12. The company either for the purpose of constructing or repairing its pipe line or lines of the company or for the purpose of carrying out the requirements of the Minister or the board or in the exercise of the powers conferred upon it by this Act and its memorandum of association and certificate of incorporation, may enter upon any land which is not more than two hundred yards distant from the centre of the located line of the pipe line or lines of the company and may occupy the said land as long as necessary for the purposes aforesaid; and all the provisions of law at any time applicable to the taking of land by the company and its valuation and the compensation therefor shall apply to the case of any land so required; but before entering upon any land for the purposes aforesaid the company shall in case the consent of the owner is not obtained pay into the office of the clerk of the court for the judicial district in which the lands are situated such sum with interest thereon for six months as is after two clear days' notice to the owner of the land or to the person empowered to convey the same or interested therein fixed by a judge.

13. All tenants for life, guardians, executors, administrators and trustees and all persons whomsoever not only for and on behalf of themselves, their heirs and successors but also for and on behalf of those whom they represent whether infants, issue unborn, lunatics, idiots, *femes covert* or other persons seized, possessed of or interested in any lands may contract for, sell, transfer and convey such lands unto the company all or any part thereof.

(2) When such persons have no right in law to sell or convey the rights of property of the said land they may obtain from a judge after due notice to the persons interested the right to sell the said land; and the said judge shall give such orders as are necessary to secure the investment of the purchase money in such a manner as he deems necessary in accordance with the law of the province to secure the interests of the owner of the said land.

14. Any contract, agreement, sale, conveyance and assurance so made hereunder shall be valid and effectual in law to all intents and purposes whatsoever and shall vest in the company receiving the same the fee simple

in the lands in such deed thereof described free and discharged from all trusts, restrictions and limitations whatsoever; and the person so conveying is hereby indemnified for what he does by virtue of or in pursuance of this Act.

15. The company shall not be responsible for the disposition of any purchase money for lands taken by it for its purposes if paid to the owner of the land or into court for his benefit.

16. Any contract or agreement made by any person authorized by this Act to convey lands either before the deposit of the plan and book of reference or before the setting out and ascertaining of the lands required for the railway shall be binding at the price agreed upon for the same lands if they are afterwards so set out and ascertained within one year from the date of contract or agreement and although such land has in the meantime become the property of a third person; and possession of the land may be taken and the agreement and price may be dealt with as if such price had been fixed by an award of arbitrators as hereinafter provided and the agreement shall be in the place of an award.

17. All persons who cannot in common course of law sell or alienate any lands so set out and ascertained shall agree upon a fixed annual rent as an equivalent and not upon a principal sum to be paid for the lands and if the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

18. Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of any lands or for any part of the purchase money of any lands which the vendor agrees to leave unpaid shall be chargeable as part of the working expenditure of the company upon the deed creating such charge and liability being duly registered in the land registry office of the proper registration district.

19. After the expiration of ten days from the deposit of the plan and book of reference in the office of the registrar of land titles and after notice thereof has been given in at least one newspaper if there is any published in each of the land registration districts through which the pipe line or lines of the company is intended to pass application may be made to the owners of lands or persons empowered to convey lands or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the company, and thereupon agreements and contracts may be made with such persons touching the said lands or the compensation to be paid for the same or for the damages or as to the mode in which such compensation shall be ascertained as seems expedient to both parties; and in case of disagreement between them or any of them all questions which arise between them shall be settled as hereinafter provided.

20. The deposit of a plan and book of reference and the notice of such deposit shall be deemed a general notice to all parties of the lands which will be required for the pipe line or lines of the company.

(2) The date of such agreement or the service of such notice or the order of the judge mentioned in section 105 shall be the time with reference to which any compensation or damages are to be ascertained.

21. The notice served upon the party shall contain—

- (a) A description of the lands to be taken or of the powers intended to be exercised with regard to any lands and describing the lands;
- (b) A declaration of readiness to pay some certain sum or rent as the case may be as compensation for such lands or for such damages;
- (c) The name of a person to be appointed as the arbitrator of the company if their offer be not accepted.

22. Such notice shall be accompanied by the certificate of a Dominion land surveyor or an Alberta surveyor or an engineer who is a disinterested person, which certificate shall state—

- (a) That the land if the notice relates to the taking of land shown on the said plan is required for the pipe line or lines of the company or is within the limit of deviation allowed by this Act;
- (b) That he knows the land or the amount of damage likely to arise from the exercise of the powers; and
- (c) That the sum so offered is in his opinion a fair compensation for the land and damages aforesaid.

(2) Where no land is taken and the company denies the owner's right to compensation a surveyor's certificate is unnecessary.

(3) The notice need not be under the corporate seal of the company.

(4) It is not desirable that the company's arbitrator should be one of their own officers.

23. If the opposite party is absent from the land registration district in which the lands lie or is unknown an application for service by advertisement may be made to a judge.

24. The application for service by advertisement shall be accompanied by such certificate as aforesaid and by an affidavit of some officer of the company that the opposite party is so absent or that after diligent inquiry the person on whom the notice ought to be served cannot be ascertained; and the judge shall order a notice as aforesaid but without such certificate to be inserted three times in the course of one month in a newspaper published in the judicial district in which the land is situated.

25. If within ten days after the service of such notice or within one month after the first publication thereof the opposite party does not give notice to the company

that he accepts the sum offered by it or notify it of the name of a person whom he appoints as arbitrator, the judge shall on the application of the company appoint a competent and disinterested person to be sole arbitrator for determining the compensation to be paid as aforesaid; if the opposite party within the time aforesaid notifies the company the name of his arbitrator then the two arbitrators shall jointly appoint a third or if they cannot agree upon a third then the judge shall upon the application of the party or of the company (previous notice of at least five clear days having been given to the other party) appoint a third arbitrator.

26. The arbitrators or the sole arbitrator as the case may be shall be sworn before a justice of the peace faithfully and impartially to perform the duties of their or his office; and shall proceed to ascertain such compensation in such way as they or he or a majority of them deem best; and the award of such arbitrator or of any two of them or of the sole arbitrator shall be final and conclusive except as hereinafter provided; but no such award shall be made nor any official act be done by such majority except at a meeting held at a time and place of which the other arbitrator has had at least two clear days' notice or to which some meeting at which the third arbitrator was present had been adjourned.

27. The arbitrators or arbitrator in deciding on such value or compensation shall take into consideration the increased value beyond the increased value common to all lands in the locality that will be given to any lands through or over which the pipe line or lines of the company will pass by reason of the passage of the pipe line or lines of the company through or over the same or by reason of the construction of the pipe line or lines of the company and shall set off such increased value that will attach to the said lands or grounds against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands as aforesaid.

28. If by an award of arbitrators made under this Act the sum awarded exceeds the sum offered by the company the costs of the arbitration shall be borne by the company; but if otherwise they shall be borne by the opposite party and be deducted from the compensation and in either case the amount of such costs if not agreed upon may be taxed by the judge.

29. The arbitrators or a majority of them or the sole arbitrator shall examine on oath or solemn affirmation the parties or such witnesses as appear before them or him.

(2) Such arbitrators or arbitrator shall have and may exercise with respect to such arbitration the following powers:

(a) Enter upon and inspect any place, building or works being the property or under the control of any company the entry or inspection of which appears to them or him requisite;

(b) Inspect any works, structure or property of the company;

(c) Require the production of all books, papers, plans, specifications, drawings and documents relating to the matter before them or him;

(d) Administer oaths, affirmations or declarations;

(e) And shall have the like power in summoning witnesses and enforcing their attendance and compelling them to give evidence and produce books, papers and things which they are required to produce as is vested in any court in civil cases; any person summoned to attend before such arbitrators or arbitrator shall be entitled to receive the like fees and allowances for so doing as if summoned to attend before the court and no person shall be excused from attending or testifying or from producing books, papers and documents on the ground or for the reason that the testimony or evidence documentary or otherwise required of him may tend to criminate or subject him to any proceeding or penalty; but no evidence so given nor any document so produced shall be used or receivable against such person in any criminal proceeding thereafter instituted against him other than a prosecution for perjury in giving such evidence.

(3) The arbitrators shall take down in writing the evidence brought before them unless either party requires that it be taken by means of stenography in which case a stenographer shall be named by the arbitrators unless the parties agree upon one and shall be sworn before the arbitrators or before any one of them before entering upon his duties; and the expense of such stenographer if not determined by agreement between the parties shall be taxed by the court or judge and shall in any case form part of the costs of the arbitration; and after making their award the arbitrators shall forthwith deliver or transmit by registered letter at the request of either party in writing the depositions together with the exhibits referred to therein and all papers connected with the reference except the award to the clerk of the court to be filed with the record of the said court.

30. A majority of the arbitrators at the first meeting after their appointment or the sole arbitrator shall fix a day on or before which the award shall be made.

(2) No award shall be invalidated by reason of any want of form or other technical objection if the requirements of this Act have been substantially complied with and if the award states clearly the sum awarded and the lands or other property, right or privilege for which such sum is to be the compensation; and the person to whom the sum is to be paid need not be named in the award.

31. If any arbitrator appointed by the judge dies before the award has been made or is disqualified or refuses or fails to act within a reasonable time the judge upon application of either party of which application six days' notice shall be given to the opposite party and upon being satisfied by affidavit or otherwise of such death, disqualification refusal or failure shall appoint another arbitrator in the place of such arbitrator:

Provided that in the case of any arbitrator named by one of the parties and appointed by the judge so dying or not acting such party may upon such application name the arbitrator who shall be appointed by the judge in the

place of the arbitrator so deceased or not acting; but no recommencement or repetition of the previous proceedings shall be required in any case.

32. Where the notice given improperly describes the land or materials intended to be taken or where the company decides not to take the land or materials mentioned in the notice it may abandon the notice and all proceedings thereunder but shall be liable to the person notified for all damages or costs incurred by him in consequence of such notice and abandonment, such costs to be taxed in the same manner as costs after an award; and the company may give to the same or any other person notice for other land or materials or for land or materials otherwise described notwithstanding the abandonment of the former notice.

33. The person offered or appointed as valuator or as sole arbitrator shall not be disqualified because he is professionally employed by either party or has previously expressed an opinion as to the amount of compensation or because he is related or of kin to any shareholder of the company if he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any arbitrator appointed by the judge after his appointment but the objection shall be made before the appointment and its validity or invalidity shall be summarily determined by the judge.

34. Whenever the award exceeds six hundred dollars any party to the arbitration may within one month after receiving a written notice from any one of the arbitrators or the sole arbitrator as the case may be of the making of the award appeal therefrom upon any question of law or fact to the court and upon the hearing of the appeal the court shall if the same is a question of fact, decide the same upon the evidence taken before the arbitrators as in a case of original jurisdiction.

(2) Upon such appeal the practice and proceedings shall be as nearly as may be the same as upon an appeal from the decision of an inferior court to the said court subject to any general rules or orders from time to time made by the said last mentioned court in respect to such appeals; which orders may amongst other things provide that any such appeal may be heard and determined by a single judge.

(3) The right of appeal hereby given shall not affect the existing law or practice in the province as to setting aside awards.

35. Upon payment of legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same or upon payment into court of the amount of such compensation in the manner hereinafter mentioned the award or agreement shall vest in the company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent has been awarded or agreed upon; and if any resistance or forcible opposition is made by any person to its so doing the judge shall on proof to his satisfaction of such award or agreement issue

his warrant to the sheriff of the judicial district or to a bailiff as he deems most suitable to put down such resistance or opposition and to put the company in possession; and the sheriff or bailiff shall take with him sufficient assistance for such purpose and shall put down such resistance or opposition and put the company in possession.

36. Such warrant shall also be granted by the judge without such award or agreement on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice is necessary to carry on some part of the pipe line or lines of the company with which the company is ready forthwith to proceed.

37. The judge shall not grant any warrant under the next preceding section unless ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or the person empowered to convey the land or interested in the land sought to be taken or which may suffer damage from the taking of materials sought to be taken or the exercise of the powers sought to be exercised or the doing of the thing sought to be done by the company; and unless the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration and not less than fifty per cent. above the amount mentioned in the notice served under section 101 of this Act.

38. The costs of any such application to and of any such hearing before the judge shall be borne by the company unless the compensation awarded is not more than the company had offered to pay; and no part of such money so paid into court or of any interest thereon shall be repaid or paid to such company or paid to such owner or party without an order from the judge which he may make in accordance with the terms of the award.

39. The compensation for any lands which may be taken without the consent of the owner shall stand in the stead of such lands and any claim to or encumbrance upon the said lands or any portion thereof shall as against the company be converted into a claim to the compensation or to like proportion thereof; and the company shall be responsible accordingly whenever it has paid such compensation or any part thereof to a person not entitled to receive the same saving always its recourse against such person.

40. If the company has reason to fear any claim, mortgage, hypothecation or encumbrance or if any person to whom the compensation or annual rent or any part thereof is payable refuses to execute the proper conveyances and guarantee or if the person entitled to claim the same cannot be found or is unknown to the company or if for any other reason the company deems it advisable the company may pay such compensation into court with the interest thereon for six months and may deliver to the clerk of such court an authentic copy of the conveyance or of the award or agreement if there is no conveyance; and such conveyance

or award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.

(2) A notice of such payment and delivery in such form and for such time as the court appoints shall be inserted three times within a month in a newspaper if there is any published in the judicial district in which the lands are situated which notice shall state that the title of the company (that is, the conveyance, agreement or award) is under this Act and shall call upon all persons claiming an interest in or entitled to the lands or any part thereof to file their claims to the compensation or any part thereof.

(3) All such claims filed shall be received and adjudicated upon by the court and the adjudication thereon shall forever bar all claims to the land or any part thereof including any dower, mortgage, hypothecation or encumbrance upon the same and the court shall make such order for the distribution, payment or investment of the compensation and for the security of the rights of all persons interested as to right and justice and to law appertains.

(4) The costs of the proceedings in whole or in part including the proper allowances to witnesses shall be paid by the company or by any other person as the court orders and if the order for distribution, payment or investment is obtained in less than six months from the payment of the compensation into court the court shall direct a proportionate part of the interest to be returned to the company and if from any error, fault or neglect of the company it is not obtained until after six months have expired the court shall order the company to pay into court as part of the compensation the interest for such period further as is right.

41. Subject to such regulations and specific directions as may from time to time be made or given in that behalf by the Minister of Railways and Telephones, the company, its successors and assigns, and it and they are hereby authorized and empowered to construct, maintain and operate, for the sole purposes of the company, a telephone line along, over and across any and all road allowances, highways and public places so as to follow as closely as possible any and all pipe lines owned or operated by the company, and over and across any and all lands acquired by the company, for the purposes of its undertaking.

42. The Minister may at his discretion request the company to submit a plan and profile of the pipe line or lines of the company which may be constructed along or across an existing highway, or which may be constructed across an existing railway, and such plan and profile shall show that portion of the highway or railway affected.

43. Nothing in this Act shall be taken to impair, abridge, take away or affect in any way the jurisdiction and powers of the Board of Public Utility Commissioners.

44. And the councils of all municipal corporations now or at any time hereafter organized within the Province of Alberta are hereby declared to have power to legally enter into contracts with the company, granting to the said company, its successors and assigns all or any rights, powers, liberties and privileges, exclusive or otherwise, for the supply of fuel, light, heating and power or otherwise, and to authorize the company to dig and open up trenches and mains, pipes and pipe lines and such branch or subsidiary lines as may be required under and along, over and across the streets of the municipality and make all necessary connections between the system of mains, pipes or other works hereby authorized, and any dwelling, shop, factory building, public or other place whatsoever within the municipality and to do all such other things as are necessary or convenient therefor; and to renew, alter, repair and maintain all or any of the said plant and works so installed, laid down and constructed, and to convey or force through such plant, mains, pipes and works natural gas or oil for the purposes aforesaid within the municipality and supply the same to the said municipality and the inhabitants thereof or users or refiners thereof. Such agreements, however, to be subject to such other terms and conditions as may be agreed upon by such municipalities as shall from time to time enter into agreements with the said company, its successors and assigns, with power to alter or modify such agreements or any of them that may hereafter be entered into by the company with any or all such municipal corporations; provided always, however, that any such contract or modifications thereof shall have been first authorized by a by-law ratified by at least three-fifths of the burgesses voting thereon in the manner provided by *The Town Act*.

No. 26.

FOURTH SESSION
THIRD LEGISLATURE
6 GEORGE V
1916

BILL

An Act to authorize the Northern Commercial Company, Limited, to construct certain gas pipe lines and works in the Province of Alberta.

Received and read the

First time

Second time

Third time

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