

REPRINTED BILL.

BILL

No. 17 of 1919.

An Act to amend the Medicine Hat Charter.

(Assented to , 1919.)

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

1. The Medicine Hat Charter, being chapter 63 of the Statutes of Alberta, 1906, and amendments thereto, is hereby further amended as follows:

1. Title III, section 1: By striking out the word "six" in the second line and substituting therefor the word "eight."

2. Title III, section 7: By adding after the word "incumbent" in the fourth line the words "provided that no such incumbent shall be removed or any proceedings taken within three months after the date upon which such incumbent assumed office."

3. Title IV, section 1: By adding the following:
"Provided that upon being satisfied that the name of any person assessed or registered has been inadvertently omitted from the voters' list the assessor or the clerk, respectively, may grant a certificate to any such person to that effect, and upon surrender of such certificate to the deputy returning officer at the poll at which such person is entitled to vote the said deputy returning officer shall permit such person to vote."

4. Title IV, section 5(a): By striking out the words and figures "of the value of \$200 or upwards" where they appear therein.

5. Title V, section 3: By adding the following after the word "taxes" in the sixth line thereof: "on the land in respect of which he qualifies."

6. Title V, section 6: By striking out the word "five" where it appears in the form of notice, and by substituting therefor the word "eight".

7. Title VI, section 4, subsection 2: By striking out the word "five" and substituting therefor the word "eight", and by striking out the word "afternoon" and substituting therefor the word "evening".

8. Title XXXIII, section 26: By adding the following subsection:

“(2) The word ‘Judge’ or any reference thereto in sections 23, 24, 25 and 26 hereof, shall mean and refer to the judge for the time being of the District Court of the Judicial District of Medicine Hat, or any judge acting in his absence.”

9. Title XXXV, section 23: By striking out the word “five” in the fifth line thereof and substituting therefor the word “eight.”

2. The council may by by-law levy, assess or charge against each householder in the city such sum or sums as in the opinion of the council may be required for the proper cleaning of the streets and for the removal and disposal of garbage, swill, refuse, excreta, decaying animal or vegetable matter and all other such material, and may in the said by-law fix the time or times of payment, and such levy, assessment or charge shall constitute a debt due to the city and may be recoverable by action in any court of competent jurisdiction. “Householder” shall mean the occupant or person in charge of any house or premises whether as owner, tenant, agent or otherwise howsoever.

3. The council is hereby authorized and empowered without the assent of the burgesses to issue debentures to the extent of not more than one hundred thousand dollars, on the credit of the City of Medicine Hat at large, during each of the years 1919, 1920, 1921, 1922 and 1923, the proceeds of the said debentures to be used only for the purpose of paying off and discharging the debenture principal maturing during each of the said years under By-laws numbered 35, 47, 48, 62, 63, 74, 75, 88, 89, 90, 92, 94, 101, 102, 103, 119, 120, 121, 124, 134, 153, 172, and 173 of the said City of Medicine Hat, and under By-laws numbered 4, 5, 6, 7, 8, 9, 10, 11, 13, 16, 18, 19, 22, 23, 25 and 26 of the Medicine Hat School District No. 76. The said debentures may bear such interest, be repayable and be in any form authorised by the Medicine Hat Charter.

4. By-law No. 181 of the City of Medicine Hat passed on the 23rd day of August, 1909, being a by-law to provide for the investment of sinking fund moneys and for the appointment of Sinking Fund Trustees of the City of Medicine Hat, is hereby declared to be legal, valid and binding, and the actions of any trustees heretofore or hereafter appointed in pursuance of the authority of the said by-law are hereby declared to be ratified and confirmed.

5. The council of the City of Medicine Hat may in its discretion, subject to the assent of the burgesses, increase

the rate of interest payable upon any unsold debenture to not more than six per centum per annum.

6. By-law No. 556 of the City of Medicine Hat set out in schedule A hereto, and the agreement annexed hereto, incorporated with and forming part of the said by-law, which said agreement is set out in schedule B hereto, are hereby ratified and confirmed and declared to be valid, legal and binding upon the City of Medicine Hat, notwithstanding any want of jurisdiction, power or authority (if any) on the part of the City of Medicine Hat to pass the said by-law or enter into the said agreement, and notwithstanding any defect or error in substance or form of the said by-law, and the City of Medicine Hat is hereby authorised and empowered to do all necessary and proper acts for the full and proper carrying out of the said by-law and agreement.

SCHEDULE A.

BY-LAW No. 556.

A by-law of the City of Medicine Hat authorizing the mayor and city clerk to sign and execute for and on behalf of the said city an agreement bearing date the 20th day of May, A.D. 1918, between The Municipal Corporation of the City of Medicine Hat (therein called the "Lessor"), and Joseph B. Swan, of Henryetta in the State of Oklahoma, Capitalist, (therein called the "Lessee") whereby the said city agreed to lease to the said Swan the "Ansley Spur" subject to the mutual covenants and conditions contained in the said agreement.

The Municipal Corporation of the City of Medicine Hat hereby enacts as follows:

1. That the mayor and city clerk be and they are hereby authorized and empowered to sign and execute for and on behalf of the City of Medicine Hat a certain agreement bearing date the 20th day of May, A.D. 1918, between the said city (in the said agreement called the "Lessor") and one Joseph B. Swan, of Henryetta in the State of Oklahoma, Capitalist (in the said agreement called the "Lessee"), a true copy of which said agreement is annexed hereto, and which is deemed to be incorporated in and made a part of this by-law.

2. That a vote of the persons duly qualified to vote thereon shall be taken on this by-law on the 29th day of October, 1918, at the City Hall, Medicine Hat, commencing at the hour of nine o'clock in the forenoon and continuing until the hour of five o'clock in the afternoon.

3. That Frederick Blackburn shall be the Returning Officer.

4. That on the 28th day of October, 1918, at eleven o'clock in the forenoon, the mayor shall attend at his office in the City Hall for the purpose of appointing persons to attend the polling place and at the final summing up of the votes by the returning officer on behalf of the persons interested in the promoting or opposing of this by-law respectively.

5. The returning officer shall attend at his office in the City Hall at eleven o'clock in the forenoon on the 30th day of October, 1918, to sum up the number of votes given for and against this by-law.

Read a first time this 20th day of May, A.D. 1918.

M. A. BROWN,
Mayor.

F. BLACKBURN,
City Clerk.

Read a second time this 20th day of May, A.D. 1918.

M. A. BROWN,
Mayor.

F. BLACKBURN,
City Clerk.

Read a third time and done and passed in open council this 26th day of December, A.D. 1918.

SCHEDULE B.

This agreement made the 20th day of May, A.D. 1918.
Between:

The Municipal Corporation of the City of Medicine
Hat, hereinafter called "the Lessor,"
and

Joseph B. Swan, of Henryetta in the State of Oklahoma,
Capitalist, hereinafter called "the Lessee."

1. In consideration of the rents, covenants and agreements hereinafter contained the Lessor has demised and leased unto the Lessee for the period and on the conditions hereinafter specified the lands constituting the Lessor's right of way for the railway spur known as "The Ansley Spur" shown upon a plan to be filed in the Land Titles Office for the South Alberta Land Registration District (a blue print of which is annexed hereto and is incorporated in and made a part of this agreement) commencing at the point designated "A" and thence west to the easterly limit of the road allowance paralleling the western boundary of Section Twenty-six, Township Twelve, Range Six, West of the Fourth Meridian, in the Province of Alberta, together with the rails, angle bars, anchors, plates, bolts, nuts, spikes and ties forming the railway track now constructed upon that part of the said right of way lying between the point aforesaid, designated "A" and the point designated

"B" on the said blue print, excepting and reserving thereout and therefrom all these portions of roads, streets, avenues, lanes or highways over, along, upon or through which said right of way runs, to have and to hold the same and every part thereof unto and to the use of the Lessee for the term of twenty-one years from the date hereof.

2. The rent payable by the Lessee to the Lessor hereunder shall be the sum of three hundred and sixty dollars per year, payable on the 1st day of June in each and every year during the continuance of the said term; the first payment thereof to be made on the 1st day of June, 1919.

3. The consent, permission and authority of the Lessor is hereby given and granted to the Lessee at any and all times during the term hereby demised to maintain and operate a steam-power railway over and upon the said right of way and every part thereof and over and upon all those portions of roads, streets, avenues, lanes or highways within the limits of the city (or any future extension thereof) lying between any portions of the right of way hereby demised or which it may be necessary for the Lessee to cross or run upon for the purpose of giving to him a continuous line of railway from the point designated "A" aforesaid, to the westerly limits of the city, together with the right at all times to enter upon the said roads, streets, avenues, lanes or highways (all of which may hereafter be referred to by the one word "streets") and to construct and make thereon grades, fills, bridges, trestles, tracks, switches, and side tracks, or such other works as may be necessary for the construction and maintenance of the said line of railway or the repair of the same.

4. Notwithstanding anything contained in these presents the Lessor may construct or grant to any other person, firm or corporation, the right to construct branch spur tracks to connect with the right of way and track hereby demised for the purpose of serving any manufacturing plant, industry or warehouse located in proximity to said right of way and track in order to facilitate the moving of goods thereto and therefrom, and in such event the Lessee agrees so far as he can do so without unreasonably interfering with his own use and enjoyment of the said track, and in so far as he may not be prohibited from so doing by any board or authority duly constituted under the laws of the Parliament of Canada or of the Legislature of the Province of Alberta or by any Act or Ordinance of the said Parliament or Legislature to move, switch or haul cars to or from such branch spur tracks to or along the said "Ansley Spur" to or from the point of interchange with the main line of the Canadian Pacific Railway Company, or the main line of any other railway company with which the said "Ansley Spur" may hereafter connect, but the Lessee

shall be entitled to charge for such moving, switching or hauling a reasonable charge to be fixed by agreement between the Lessee and the persons for whom such services may be performed, and in the absence of such agreement the rates to be charged shall be fixed by such Board constituted by Statute as may have jurisdiction to fix the said rates.

5. The Lessor agrees to put the right of way hereby demised and the railway track now constructed thereon as hereinbefore referred to in good and sufficient repair to enable the same to be used by the Lessee as aforesaid. All work to be done in connection with putting the said right of way and track in repair shall be done by the Lessee but the cost of same shall be borne by the Lessor and shall be deducted by the Lessee from the rentals hereafter to become due to the Lessor as hereinbefore provided.

6. The Lessee covenants with the Lessor as follows:

(a) That the Lessee will during the said term pay unto the said Lessor the rent hereby reserved in the manner hereinbefore mentioned;

(b) That the Lessee will during the said term from time to time well and sufficiently repair, maintain and keep the entire track constructed by the Lessor (except that portion lying east of the point designated "A" on the blue print) in as good a state of repair and condition as any portion hereafter constructed by the Lessee;

(c) That the Lessee will from time to time and at all times during the continuation of the said term observe all the requirements of the law from time to time applicable to the operation of the said track and will bear and pay all the expenses incurred in doing and performing all such acts, matters and things as may be necessary for the maintenance and operation of the said track in conformity with the laws of the Dominion of Canada and the Province of Alberta, respectively applicable thereto, and will indemnify and save harmless the Lessor of and from all costs, charges and expenses in the premises: Provided however that nothing herein contained shall be construed as imposing upon the Lessee any obligation to construct, or provide at his own expense any work or structure of a permanent character, or which can be regarded as a betterment, which is at any time during the said term directed under the laws of the said Dominion or Province or is directed or ordered by any Act of the Parliament of Canada or of the Legislature of the Province of Alberta;

(d) That the Lessee shall not nor will during the said term, assign, transfer or set over or otherwise by any act or deed permit the said term or any part thereof to be assigned, transferred, set over or sublet unto any person or persons, company or companies whomsoever without the

consent by resolution of the city council first had and obtained;

(e) That the Lessee at the expiration or other determination of the said term will yield up the Lessor's portion of the track in as good plight and condition in all respects as the same shall be when repaired by the Lessee preparatory to the use and operation thereof by the Lessee hereunder and as to any structure or other matter or thing covered by the Lessor's betterments in as good plight and condition as the same were on the completion of such respective betterments; and in case the said track or any part thereof shall not at the expiration or other determination of the term hereby granted be so delivered up in as good plight and condition as when repaired by the Lessee preparatory to the use and operation thereof or as to any such betterments in as good plight and condition as at the completion thereof respectively the Lessee will pay to the Lessor in cash such sum as shall be sufficient to cover the cost and all incidental expenses of bringing the said track or betterments or such of them as shall not be in such plight and condition as aforesaid in all respects up to such standard; and in case the parties cannot agree upon the amount payable hereunder the same shall be fixed by arbitration, it being expressly agreed that the Lessee shall not be entitled to any payment or allowance in respect of any betterments of any kind made or claimed to be made by the Lessee, the true intention and meaning of these presents being that any betterments made by the Lessee shall be deemed and understood to be made for the Lessee's own benefit during the said term.

7. The Lessor covenants agrees and undertakes with the Lessee to procure and have delivered to the Lessee at Medicine Hat, on or before the 1st day of September, 1918, a sufficient quantity of suitable track steel and accessories to enable the Lessee to extend and complete the said spur track from the most westerly point to which it is now built to the Ansley Coal Mine and the performance of this condition by the Lessor shall be a condition precedent to the performance of any of the covenants on the part of the Lessee to be performed hereunder. In consideration of the said covenant of the Lessor, the Lessee agrees to immediately order and to secure as soon as possible and thereafter to instal in the said mine, machinery and apparatus as will have a capacity of producing a maximum daily output of not less than one thousand tons of coal. The Lessee further covenants and agrees upon the arrival of the said steel, within the period aforesaid, and as soon thereafter as the necessary labour can be secured to extend and complete the said line of railway from the most westerly point to which it is now built to the Ansley Coal Mine aforesaid.

8. The Lessee covenants and agrees upon the completion of the said track and the installation of the said mining machinery to thereafter work and operate the said mine as the coal market warrants during the term hereby demised and that the Lessee will at all times while the said coal mine is in operation (and whether the option to purchase the said spur track and right of way hereinafter provided for be exercised by him or not) sell coal from the said mine to the Lessor for power purposes or to any industrial concern engaged in manufacturing operations within two miles of the city, for industrial purposes only, in such quantities, not less than railway car-load lots, as may from time to time reasonably be required, at a price of three dollars per ton for domestic lump coal, two and one-half dollars per ton for mine run coal and one dollar per ton for slack F.O.B. cars at any point on the "Ansley Spur" aforesaid selected by the Lessor; provided that in the event of the production of slack being insufficient to supply all demands therefor the Lessor shall have a prior right to purchase slack from the Lessee over any other consumer. The Lessee further agrees to sell coal at the prices aforesaid direct to any consumer for consumption in the City of Medicine Hat or the district adjacent thereto in carload lots F.O.B. cars at any point on the said spur selected by the Lessor, but such coal shall be sold only for consumption by the purchasers and not for the purpose of being resold by such purchasers at a profit. The Lessee will further sell coal to the Lessor at the prices and on the terms aforesaid for distribution to consumers in the City of Medicine Hat and District, but such coal shall not be resold by the Lessor at a price greater than the price paid by the Lessor therefor, plus the cost to the Lessor of handling the same.

9. Provided that in the event of non-payment of rent for a period of sixty days after the same shall be due or the breach of the Lessee of any covenants herein contained the Lessor may enter upon the said demised premises or any part thereof in the name of the whole to re-enter and the same to have again, re-possess and enjoy as of its former estate therein, anything herein contained to the contrary notwithstanding, and notwithstanding that the Lessor may not have taken advantage of some previous breach or default or event of a like nature to determine these presents, but such re-entry, re-possession or determination shall not affect any right, claim, demand or power which may have accrued to the Lessor or be enforceable by the Lessor by virtue of these presents.

10. The Lessor hereby covenants with the Lessee that the Lessee making the payments herein agreed to be made and performing, observing and fulfilling the covenants and the terms and conditions herein contained on the part of the Lessee to be observed, performed and fulfilled, shall from

time to time and at all times hereafter during the said term have and enjoy the use and occupation of the said demised premises according to the terms and conditions herein contained without interruption or interference by the Lessor or any other party or parties whomsoever lawfully claiming under the Lessor.

11. The Lessor covenants and agrees, within sixty days from the date of this agreement, to complete the construction of an electric power transmission line from its power house or some part of its system in the City of Medicine Hat to such point on the mine premises of the Lessee at the Ansley Coal Mine as the Lessee may select and to erect and instal the necessary transformers so as to supply the Lessee with all electrical energy required by him for the working of such machinery as the Lessee may from time to time require to be driven by mechanical power in and about the said mine and for the lighting of the mine premises: Provided that the cost of the said transformers shall be paid by the Lessee to the Lessor as soon as the same shall have been purchased by the Lessor. The Lessee hereby grants to the Lessor the right at all times to enter upon the lands of the Lessee for the purpose of erecting and maintaining thereon its poles and wires used in connection with any part of its electrical system.

12. The Lessor shall, so long as the said mine is operated, supply to the Lessee and the Lessee shall take from the Lessor all electrical energy required by him from time to time for the operation of his machinery, and the lighting of the said mine premises and the Lessee shall pay therefor, within twenty days after each account is rendered, the sum of one and one-half cents per kilowatt which price shall obtain so long as the electrical energy aforesaid is produced by the city by means of natural gas: Provided that if at any time the supply of natural gas fails and the city is compelled to raise its rate for the said electrical energy as a consequence, or if the Lessor is for any reason unable to furnish the Lessee with the amount of electrical energy required by him, the Lessee shall have the right to instal and operate his own electrical plant and this clause shall thereafter become inoperative. The Lessee shall pay to the Lessor such meter rental as may be fixed by the by-laws of the Lessor in that behalf from time to time.

13. All accounts shall be made up on the basis of the consumption recorded by the meter or meters which shall be taken as correct. Should however the Lessee doubt the accuracy of any meter the Lessee may on giving notice have such meter tested by the proper Government Inspector, and should the mean error be greater than five per cent. the Lessor will deduct from or add to the account in dispute

an amount equal to the error; if the meter is found to be accurate to within five per cent. it shall be deemed to be correct, and the Lessee shall pay all expenses incurred in testing. In the event of the meter ceasing to register a charge will be made estimated on the actual consumption for the three months immediately preceding the date when such meter ceased to register unless any heavy machinery shall have been added within such three months in which case the Lessor shall (in default of agreement) have a right to have the question of the amount consumed referred to arbitration.

14. The authorized servants of the Lessor shall at all reasonable times without notice be entitled to enter upon the premises of the Lessee to read meters. Any attempt to prevent such entry shall render the Lessee liable to have his supply immediately cut off, and reconnection shall not be made until the cost of disconnecting and reconnecting be paid by the Lessee.

15. The electrical energy supplied to the Lessee by the Lessor shall be on the three phase sixty cycle alternating current system at an average pressure of not less than thirteen thousand two hundred volts at the point of supply. The supply shall be available continuously except in cases of lockout or strike of the Lessor's employees, breakdown of mains or plant or any other cause over which the Lessor shall have no control, in any of which cases the Lessor shall not be responsible for any discontinuance of energy but the Lessor shall restore the supply as soon as reasonably may be done.

16. The Lessor shall be at liberty to temporarily cut off the supply after having given twenty-four hours' notice of the intention of the Lessor so to do for the purpose of adding or altering or repairing any mains or apparatus, and the Lessor shall not be responsible for any claims or damages in respect of such temporary interruption.

17. Upon the termination of the term hereby demised the Lessee may tear up, remove and retain for his own benefit all ties, rails and equipment connected therewith, laid or constructed by him upon that portion of the right of way hereby demised and upon streets over or across which the said spur line is constructed lying to the west of the point designated "B" on the blue print hereinbefore referred to.

18. In consideration of the premises and of the covenants on the part of the Lessee hereinbefore contained the Lessor hereby grants to the Lessee the option irrevocable during the term hereby demised to purchase from the Lessor the spur track and right of way hereby demised at and for the sum of \$25,000.00. The Lessee may accept the said option at any time by giving to the Lessor notice

in writing of his acceptance thereof and by paying to the Lessor within one month thereafter the full amount of the said purchase price in cash. And upon acceptance of this option and the payment of the purchase price in the manner aforesaid, the Lessor agrees to deliver to the Lessee a transfer under the Land Titles Act and all such other bills of sale or conveyances requisite and necessary to vest the said demised property in the Lessee free from encumbrances. And the Lessor upon the acceptance of the said option further covenants and agrees to execute and deliver to the Lessee an agreement securing to the Lessee the right at all times for a period of ninety-nine years thereafter to maintain and operate the said spur track along and upon those portions of the roads, streets, avenues, lanes or highways within the limits of the City of Medicine Hat, as now constituted or hereafter extended, which are required for the full use and enjoyment of the said right of way and railway and also the right in common with other industries to use and operate upon that portion of the "Ansley Spur" connecting the premises hereby demised with the Canadian Pacific Railway Company at Medicine Hat: Provided, however, that no obligation shall be cast upon the city of providing protection on any crossings of the said right of way or upon any of the streets affected thereby, it being the intention that all expenses of providing for such protection shall be borne by the Lessee.

19. The Lessor hereby covenants and agrees that it will not drill or sink any well on Section Thirty-one, in Township Twelve and Range Six, West of the Fourth Meridian, for the purpose of securing natural gas therefrom during the lifetime of any lease of the coal underlying the said lands granted to or owned by the Lessee or his assigns.

20. The provisions of clauses numbered 3, 4, 7, 8, 10, 11, 12, 13, 14, 15, 16 and 19 of this agreement shall be binding upon the Lessor and Lessee respectively, notwithstanding the termination of the lease hereby granted by the acceptance of the option referred to in paragraph 18 hereof.

21. The Lessor covenants and agrees that it will at any time, if required so to do by the Lessee or his assigns, submit a by-law to the ratepayers of the city for the ratification of this agreement or any of the provisions hereof provided that the Lessee shall in such case defray all costs of the Lessor incurred in connection with such submission.

22. The Lessor further covenants and agrees to and with the Lessee that it will, if and when required so to do by the Lessee, join with and assist the Lessee in any application which he may make to the Provincial Legislature for the passage of an Act to ratify and confirm this agreement.

23. This agreement and everything herein contained shall enure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns respectively.

In witness whereof the Lessor has hereunto caused its Corporate Seal to be affixed, attested by the hands of its proper officers and the Lessee has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the presence of S. G. BANNAN	}	CITY OF MEDICINE HAT: M. A. BROWN, <i>Mayor.</i> F. BLACKBURN, <i>City Clerk.</i> JOSEPH B. SWAN.
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No. 17.

SECOND SESSION
FOURTH LEGISLATURE
9 GEORGE V
1919

BILL

An Act to amend The Medicine Hat
Charter.

Received and read the

First time.....

Second time.....

Third time.....

MR. PINGLE.

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A. D. 1919