

BILL

No. 43 of 1923.

An Act to Prescribe the Duties of The Board of Public Utility Commissioners.

(Assented to , 1923.)

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

SHORT TITLE.

1. This Act may be cited as "*The Public Utilities Act, 1923.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

- (a) "Board" shall mean the Board of Public Utility Commissioners appointed or continued under the provisions of this Act;
- (b) "Court of Appeal" shall mean the Appellate Division of the Supreme Court of Alberta;
- (c) "Charter" shall mean any special or general Legislative Act of the Province or Ordinance of the North-West Territories by or by virtue of which a corporation or company is incorporated, and the certificate of incorporation or other document issued in virtue of any such Act or Ordinance;
- (d) "Local authority" shall mean the council of a city, town, village or municipal district, the board of trustees of a school district or of a municipal hospital district;
- (e) "Minister" shall mean the Minister of Municipal Affairs;
- (f) "Municipality" shall mean any city, town, village or municipal district;
- (g) "Proprietor of Public Utility" or "Proprietor" shall mean every corporation other than a municipal corporation which has not voluntarily come under this Act in the manner hereinafter provided, and every firm, person or association of persons, the business and operations whereof are subject to the

legislative authority of this Province, and their lessees, trustees, liquidators, or receivers appointed by any Court that own, operate, manage or control any public utility;

- (h) "Public Utility" shall mean any system, works, plant or equipment for the conveyance of telegraph or telephone messages or for the conveyance of travellers or goods over a railway, street railway or tramway, or for the production, transmission, delivery or furnishing of water, gas, heat, light or power, either directly or indirectly, to or for the public;
- (i) "Registered plan" shall mean a plan of subdivision, duly registered in a Land Titles Office;
- (j) "Urban Municipality" shall mean a city, town or village.

PART I.

ORGANIZATION, POWERS AND PROCEDURE.

ORGANIZATION OF BOARD.

3.—(1) There shall be a Board to be styled "The Board of Public Utility Commissioners," to be composed of members to be appointed by the Lieutenant Governor in Council, one of whom shall be appointed as chairman and shall be entitled to hold the position of chairman as long as he continues a member of the Board.

(2) The Board of Public Utility Commissioners constituted under *The Public Utilities Act* is hereby continued.

(3) In the case of the absence of any member or members of the Board, or of his or their inability to act, and in the case of any vacancy or vacancies on the Board, the member or members of the Board present and able to act may exercise all the jurisdictions and powers of the Board.

(4) In case of the absence or disability of the chairman, all orders, rules, regulations and other documents may be signed by any one member, and when so signed shall have the like effect as if signed by the chairman.

(5) Whenever it appears that a member other than the chairman has acted for and in the place of the chairman, it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

(6) Each of the members shall hold office during good behaviour for a period of ten years from the date of his appointment, but shall be removable by the Lieutenant Governor on address of the Legislative Assembly.

(7) A member may at any time be suspended by the Lieutenant Governor in Council for cause assigned, and another person appointed to act in his stead until the next Session of the Legislative Assembly.

(8) Vacancies caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council.

(9) Every member shall, subject to the provisions of *The Superannuation Act* as to reappointment or continuance in office, cease to hold office upon reaching the age of sixty-five years.

(10) Every member on the expiration of his term of office shall, if not disqualified by age, be eligible for re-appointment.

(11) The members shall receive such remuneration, conduct such investigations, make such reports and perform such other duties, in addition to the duties assigned to them by this Act as may be determined by the Lieutenant Governor in Council.

4. The Board shall be a body corporate with perpetual succession and a common seal of such design as may be approved by the Lieutenant Governor in Council, and such seal shall be judicially noticed.

5.—(1) Subject to the provisions of subsection (2) hereof, the Lieutenant Governor in Council may appoint such additional temporary members of the Board as may be necessary.

(2) Such additional members may be appointed only—

- (a) to act during the sickness or absence of a member, or in a matter wherein a member of the Board is personally interested;
- (b) to carry out or assist in carrying out any duty or duties specially assigned to the Board by the Lieutenant Governor in Council under the provisions of section 3 hereof;
- (c) for a period of not more than one year.

(3) Any additional member may be reappointed from time to time for a period of one year if the duty with respect to which he was originally appointed has not been fully completed.

(4) Every such additional member shall only exercise such powers as are given to him by the Order in Council appointing him.

6. The Lieutenant Governor in Council may, upon the recommendation of the Board, from time to time appoint one or more experts, or persons having technical or special knowledge of the matter in question, to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.

7.—(1) There shall be associated with the Board for advisory purposes a committee consisting of two members to be appointed annually, one by the executive of the provincial organization representing municipal districts and the other by the executive of the provincial organization representing urban municipalities.

(2) The duties of the committee shall be to confer with the Board from time to time concerning matters of general interest in relation to the carrying out of this Act.

(3) The members of the committee shall receive, for attendance at meetings at which they are requested to be present, such per diem allowance and travelling expenses as may be determined by the Lieutenant Governor in Council.

8. The Board may with the approval of the Lieutenant Governor in Council appoint or employ a secretary and such other officers, clerks or servants as it may deem necessary, and any person so appointed or employed shall receive such remuneration as shall be determined by the Lieutenant Governor in Council.

9. The secretary shall—

- (a) keep a record of all proceedings conducted before the Board or any member thereof;
- (b) have the custody and care of all records and documents belonging to or pertaining to the Board and filed in his office;
- (c) obey all rules or directions given by the Board touching his duties or office;
- (d) see that every regulation and order made by the Board is drawn pursuant to the direction of the Board, properly authenticated and filed in his office.

10. Upon application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any such regulation or order.

11. In the absence of the secretary the Board may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary.

12. The Board or the chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board, and such member shall, when so authorized, have all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for the purpose of such report; and, upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper.

13. For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this Act or by Order in Council, the Board may, with the consent of the Minister in charge of any Department of the Government, avail itself of the services of any officer or other employee of such Department.

14. Whenever the Board, acting within its jurisdiction, appoints or directs any person, other than a member of its staff, to perform any service required by this Act, such person shall be paid therefor such sum for services and expenses as the Lieutenant Governor in Council may, upon the recommendation of the Board, determine.

15. The salaries and all expenses incurred by the Board in the performance of its duties, including all reasonable travelling and subsistence expenses of the members and the secretary, and of such members of the staff of the Board as may be required by the Board, shall be paid monthly, out of the Consolidated Revenue Fund of the Province.

16. The Commissioners shall, during their term of office, reside in such places as the Lieutenant Governor in Council from time to time determines.

17. The Lieutenant Governor in Council shall fix the place where the Board shall sit and shall have its office, and shall also provide it with suitable quarters, furniture and facilities for the holding of its sittings and the transaction of its business generally.

18. Whenever circumstances render it expedient to hold a sitting of the Board elsewhere than in the place fixed by the Lieutenant Governor in Council, the Board may hold such sitting in any part of the Province.

19.—(1) Where sittings of the Board, or of any member thereof, are appointed to be held in any city, town or place in which a court house is situate, the member presiding at any such sittings shall have, in all respects, the same authority as a judge of the Supreme Court with regard to the use of the court house and other buildings or apartments set apart in the judicial district for the administration of justice; but subject to the prior right of the court and of judicial and administrative officers to use such buildings and apartments for the purposes of the administration of justice.

(2) Where sittings are appointed to be held in any municipality where there is a hall belonging to the municipality, the municipality shall, upon request, allow such sittings to be held in such hall without charge.

20. The members of the Board shall devote their whole time to the performance of their duties under this Act, and shall not accept any office or employment inconsistent with this section.

DISQUALIFICATION OF MEMBERS.

21. The members shall, during their term of office, be subject to the following disqualifications:

- (a) No member shall, directly or indirectly, hold, purchase, or become interested in any stock, debenture or other security issued by a local authority in Alberta, or become concerned or interested in a bargain or contract for the construction of any work made with or on behalf of any such local authority, or become or remain a member of any company which deals in the securities of local authorities or is concerned or interested in any such bargain or contract;
- (b) No member shall hold, acquire or become interested in, for his own behalf, any stock, share, bond, debenture or other security of any public utility;
- (c) No member shall have any interest in any device, appliance, machine, patent, process or article, or in any part thereof, which may be used for the purpose of the business of a public utility.

JURISDICTION AND POWERS.

22. The Board shall have power—

- (a) to deal with public utilities and the proprietors thereof as is provided in Part II of this Act;

- (b) to inquire into the merit of any application of a local authority for permission to raise money by way of debenture or upon the security of stock, and to grant or refuse such permission as is provided in Part III of this Act;
- (c) to supervise the expenditure of moneys borrowed by a local authority under this Act;
- (d) to deal with the financial affairs of local authorities, as provided in Part IV of this Act;
- (e) to grant permission for the extension of the time for repaying the indebtedness incurred by local authorities for the cost of municipal public works, as provided in Part V of this Act;
- (f) to separate land from an urban municipality as provided in Part VI of this Act;
- (g) to order compromises of tax arrears as provided in part VII of this Act;
- (h) to deal with plans of subdivision as provided in Part VIII of this Act;
- (i) to administer *The Sale of Shares Act*;
- (j) to perform such other duties as are now or shall be hereafter from time to time assigned to the Board by Statute or under statutory authority.

23.—(1) In matters within its jurisdiction the Board may order and require any person, or local authority to do forthwith or within or at any specified time and in any manner prescribed by the Board, so far as it is not inconsistent with this Act or any other Act conferring jurisdiction, any act, matter or thing which such person, or local authority, is or may be required to do under this Act or under any other general or special Act, and may forbid the doing or continuing of any act, matter or thing which is in contravention of any such Act or of any regulation, order or direction of the Board.

(2) The Board shall, as to matters within its jurisdiction, have authority to hear and determine all questions of law or of fact.

(3) The Board shall, except as herein otherwise provided, as respects the amendment of proceedings, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its order, the payment of costs, and all other matters necessary or proper for the due exercise of its jurisdiction or otherwise for carrying any of its powers into effect, have all such powers, rights and privileges as are vested in the Supreme Court of Alberta.

(4) The Board may in its discretion accept and act upon evidence by affidavit or written affirmation or by the report of any officer or engineer appointed by it or obtained in such other manner as it may decide.

(5) All hearings and investigations before the Board shall be governed by rules adopted by the Board, and in the conduct thereof the Board shall not be bound by the technical rules of legal evidence.

(6) No person shall be excused from testifying or from producing any book, document or paper in any investigation or inquiry by or upon the hearing before said Board, when ordered so to do by the Board, upon the ground that the testimony or evidence, book, document or paper required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

(7) Nothing herein contained is intended to give or shall be construed as in any manner giving to any corporation immunity of any kind.

(8) No member or employee of the Board shall be required to give testimony in any civil suit to which the Board is not a party, with regard to information obtained by him in the discharge of his official duty.

(9) The Board or any person authorized by the Board to make inquiry or report, may when it appears expedient—

- (a) enter upon and inspect any place, building, works or other property;
- (b) require the attendance of all such persons as it or he thinks fit to summon and examine and take the testimony of such persons;
- (c) require the production of all books, plans, specifications, drawing and documents;
- (d) administer oaths, affirmations or declarations, and shall have the like powers to summon witnesses, enforce their attendance, and compel them to give evidence and produce the books, plans, specifications, drawings and documents, which it or he may require them to produce, as is vested in the Supreme Court.

24.—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant Governor in Council inquire into, hear and determine any matter or thing within its jurisdiction.

(2) Any power or authority vested in the Board under this Act or any other Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion requires.

25. If default is made by any person or local authority in the doing of any act, matter or thing, which the Board has authority, under this or any other Act, general or special,

to direct and has directed to be done, the Board may authorize such person as it sees fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the person or local authority in default as money paid for and at the request of such person or local authority, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof.

PRACTICE AND PROCEDURE.

26. Every municipal council, whenever it deems that the interests of the public in a municipality or in a considerable part of a municipality are sufficiently concerned, may by resolution authorize the municipality to become a complainant or intervenant in any matter within the jurisdiction of the Board; and for that purpose the council is authorized to take any steps and to incur any expense and to take any proceedings necessary to submit the question in dispute to the decision of the Board, and if necessary to authorize the municipality to become a party to an appeal therefrom.

27. If the Attorney General, a municipality or any party interested makes a complaint to the Board that any corporation or person has unlawfully done or unlawfully failed to do, or is about unlawfully to do, or unlawfully not to do, something relating to a matter over which the Board has jurisdiction, and prays that the Board do make some order in the premises, the Board shall, after hearing such evidence as it may think fit to require, make such order as it thinks proper under the circumstances.

28.—(1) The Board may make rules of practice, not inconsistent with this Act, regulating its procedure and the times of its sittings.

(2) Such rules of practice shall come into force from the date of their publication in *The Alberta Gazette*.

29.—(1) The Board may, where in its opinion the attendance of any witness before the Board is desirable, cause to be served upon such witness a notice requiring his attendance before the Board, which notice shall be signed by a member or the secretary thereof.

(2) In all other cases, the procedure relating to the attendance of witnesses before the Board shall be the same as is now in force, or may for the time being be in force, in the Supreme Court of Alberta.

30. Any notice with regard to matters before or to come before the Board required or authorized to be given in writing—

- (a) by the Board, may be signed by the chairman, any other member of the Board, or the secretary;
- (b) by any person appointed by the Board, may be signed by such person;
- (c) by any other person, may be signed by such person or his duly authorized agent or solicitor.

31. Any such notice required to be given to a company, a municipal or other corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the same, or a copy thereof, within the time, if any, limited therefor—

- (a) in the case of a municipal corporation, to the head of the municipality or to the clerk or secretary;
- (b) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office or chief place of business within the Province;
- (c) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and
- (d) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

32.—(1) If, in any case within the jurisdiction of the Board, it is made to appear, to the satisfaction of the Board, that service of any such notice cannot conveniently be made in the manner hereinbefore provided, the Board may order and allow service to be made by publication in *The Alberta Gazette*, and also, if thought desirable, in a local newspaper; and such publication in each case shall be deemed to be equivalent to service in the manner provided in the said section.

(2) Any regulations, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this or section 31.

33. Sheriffs, deputy sheriffs, constables and other peace officers shall, whenever required so to do, aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act.

34.—(1) The officials of any local authority to whom the Board makes application for statements, reports, copies of documents or information of any kind, shall furnish the required statements, copies or information to the Board free of cost.

(2) The Registrars of Land Titles in the different land registration districts throughout the Province and the Department of Public Works shall furnish the Board with such certificates and certified copies of documents as the Board may in writing require, without charge, and the Board and any member or official of the Board thereunto authorized may at any time search in the public records of the Land Titles Offices without charge.

35. Every written or printed document purporting to have been issued or authorized by a corporation or any officer, agent or employee of a corporation, or by any other person or corporation, for or on its behalf, shall, as against the corporation, be received as *prima facie* evidence of the issue of such document by the corporation, and of the contents thereof, without any further proof than the mere production of such document.

36.—(1) Every document purporting to be signed by the chairman and secretary of the Board or by a single member of the Board, or by any officer of the Board, shall, without proof of the signature, be *prima facie* evidence that such document was duly signed, and shall be sufficient notice to a company and all parties interested, if served in the manner hereinbefore provided for service of notice, that such document was duly signed and issued by the Board or any officer of the Board, as the case may be.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or any of its officers, it shall be *prima facie* evidence of such regulation, order, direction, decision or report, and, when served in the manner hereinbefore provided shall be sufficient notice of such regulation, order, direction, decision or report from the time of such service.

37.—(1) Any document purporting to be certified by the secretary as being a copy of any document deposited with the Board, or of any portion thereof, shall, without proof of signature of the secretary, be *prima facie* evidence of such original document, and that the same is so deposited, and is signed, certified, attested or 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 from such certified copy, and also, if such certificate states the time when such original was so deposited, that the same was deposited at the time so stated.

(2) A copy of any regulations, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, shall be *prima facie* evidence of such regulations, order or document without proof of the signature of the secretary.

38. Any rule, regulation, order or decision of the Board shall, when published by the Board, in two successive issues of *The Alberta Gazette*, and while the same remains in force, have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof.

39. In contentious matters, the Board may require such notice of an application to or hearing by the Board to be given, as may be deemed requisite.

40.—(1) When the Board is authorized to hear an application, complaint or dispute, or make an order upon notice to the parties interested, it may, upon the ground of urgency or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice.

(2) A person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application as may seem to it just.

ORDERS OF THE BOARD.

41.—(1) The Board may direct in any order that the same, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition in such order specified, or upon the performance, to the satisfaction of the Board or person named by it for the purpose, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole or any portion of such order shall have force for a limited time or until the happening of any specified event.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application.

42. Upon any application to the Board, the Board may make an order granting the whole or part only of such application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board seems just and proper, as fully and in all respects as if such application had been for such partial, further or other relief.

43. The Board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, petition, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board deems necessary to enable the matter to be heard and determined.

44. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time, the Board may, if the circumstances of the case in its opinion so require, upon giving such notice as it deems reasonable, or in its discretion without notice, extend the time so specified.

45.—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses.

(3) Any application, petition, matter or complaint over which the Board has jurisdiction under this Act or any other Act may be heard by a single member of the Board who, after such hearing, shall report his findings to the Board, and the Board may thereupon deal with the application, petition, matter or complaint as if such hearing had been before the full Board.

46. The Board may rehear an application before deciding it, and may review, rescind, change, alter or vary any decision or order made by it.

47.—(1) An order of the Board need not show upon its face that any proceeding or notice was had or taken, or that any circumstances existed, necessary to give it jurisdiction to make such order.

(2) Every order of the Board authorizing an act to be done by a local authority, shall in case such act is not done become null and void at the expiration of one year from its date, unless further extended by the Board.

48.—(1) The observance of the orders of the Board may be enforced by a written direction to the sheriff of any judicial district indorsed upon or annexed to a certified copy of any such order and signed by the said Board, and in the case of an order for payment of any money, costs, expenses or penalty, the sheriff receiving such direction shall levy the amount with his costs and expenses in like manner and with the same powers as if the order were an execution against the goods of the party to pay issued out of the Supreme Court of Alberta.

(2) In the case of an order of the Board for payment of any money, costs, expenses or penalty, a certificate of the order signed by the secretary may be registered in any Land Titles Office in the Province, and when so registered shall constitute a lien and charge upon any lands or interest therein of the party or person or company ordered to pay the money in the land titles district in which such office is situated to the same extent and in the same manner as such lands would be bound by the registration of an execution issued after judgment in the Supreme Court of Alberta.

(3) The amount ordered to be paid by any such order so registered may be realized in the same manner and by similar proceedings as the amount of any registered execution of the Supreme Court of Alberta.

49.—(1) An appeal shall lie from the Board to the Appellate Division upon a question of jurisdiction, but such appeal shall not lie unless leave to appeal is obtained from a judge of the Supreme Court sitting in chambers within one month after the making of the order or decision sought to be appealed from or within such further time as the judge, under the special circumstances of the case, shall allow, after notice to the opposite party stating the grounds of appeal.

(2) Upon such leave being obtained, the registrar shall set the appeal down for hearing at the next sittings; and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors, if any, by whom such parties were represented before the Board and to the secretary, notice in writing that the case has been so set down and the appeal shall be heard by the Court as speedily as practicable.

(3) On the hearing of the appeal the Court may draw all such inferences as are not inconsistent with the facts

expressly found by the Board and are necessary for determining the question of jurisdiction, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

(4) The Board shall be entitled to be heard by counsel or otherwise, upon the argument of any such appeal.

(5) The Appellate Division shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeal and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to the Appellate Division shall be applicable to appeals under this Act.

(6) Neither the Board nor any member of the Board shall in any case be liable to costs by reason or in respect of an appeal or application.

(7) Save as otherwise provided—

(a) every decision or order of the Board shall be final; and

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any Court.

(8) Every order of the Board shall go into effect at the time prescribed by the order, and its operation shall not be suspended by any such appeal to the Appellate Division unless otherwise ordered by the said Appellate Division, but the Board itself may suspend the operation of its order, when appealed from, until the decision of the Appellate Division is rendered, if the Board thinks fit.

50. The Lieutenant Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of any matter subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the Order in Council.

51.—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Board may prescribe a scale under which such costs shall be taxed.

(4) The Board may, with the approval of the Lieutenant Governor in Council prescribe the fees to be paid by local authorities or persons interested in the matters which come before it.

ANNUAL REPORT.

52.—(1) The Board shall, in the month of January in each year, transmit to the president of the Executive Council for the year ending on the thirty-first day of December previous, a report showing briefly—

- (a) applications to the Board and summaries of the findings made thereon;
- (b) the number and the nature of the inquiries which it has held of its own motion;
- (c) such matters as the Lieutenant Governor in Council directs.

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PART II.
— — —

POWERS AS TO PUBLIC UTILITIES.
— — —

APPLICATION OF PART II.

53.—(1) This Part shall apply—

- (a) to all public utilities owned or operated by or under the control of the Government of the Province;

- (b) to all public utilities owned or operated by or under the control of any company or corporation that is subject to the legislative authority of the Province, or that have by virtue of any agreement with any municipality, submitted to the jurisdiction and control of the Board;
- (c) to every person, company or corporation owning or operating any public utility including railway, street railway, or tramway to which the jurisdiction of the Province extends, but not including any railway, street railway, tramway or other public utility owned and operated by any municipality which has not passed a by-law under subsection (2) hereof.

(2) This Part shall not apply to any public utility owned or operated by any municipal corporation unless and until the same is brought under this Act by by-law approved of by an Order of the Lieutenant Governor in Council.

JURISDICTION AND POWERS OF BOARD IN RESPECT OF PUBLIC UTILITIES.

54. The Board shall have jurisdiction in all questions relating to the transportation of goods or passengers on any part of the lines of any tramway company or street railway company or steam railway company under the jurisdiction of the Legislature of Alberta, and may authorize or require any such company to carry goods or passengers on its lines or any part thereof for any period of time and at such prices as it may fix.

55. Whenever it is made to appear to the Board, upon the complaint of any proprietor of a public utility, or of any person or persons having an interest, present or contingent, in the matter in respect of which the complaint is made, that there is reason to believe that the tolls demanded by any proprietor of a public utility exceed what is just and reasonable, having regard to the nature and quality of the service rendered or of the commodity supplied, the Board may proceed to hold such investigation as it sees fit into all matters relating to the nature and quality of the service or the commodity in question, or to the performance of such service and the tolls or charges demanded therefor, and may make such order respecting the improvement of the service or commodity and as to the tolls or charges demanded, as seems to it to be just and reasonable, and may disallow or change, as it thinks reasonable, any such tolls or charges as, in its opinion, are excessive, unjust or unreasonable or unjustly discriminate between different persons or different municipalities, but subject however to such of the provisions of any contract existing between

56. - (1) Whenever by any contract between a proprietor of a public utility and any other corporation or person for the supply of any commodity or service by means of the said public utility any rate, toll or charge is agreed upon either as a fixed or variable rate, toll or charge, or as a maximum or minimum rate, toll or charge, and whether such rate, toll or charge be agreed upon with respect to a present or future supply of an existing or non-existing commodity or service, than, notwithstanding any other provisions of this Act, and upon the application of such proprietor, corporation or person and if upon the hearing of such application it be shown that the said rate, toll or charge is insufficient, excessive, unjust or unreasonable, the Board shall have power to change such rate, toll or charge to such other greater or lesser rate, toll or charge, as it may deem fair and reasonable.

(2) In the case of contracts made before the first day of May, 1925, this section shall not apply thereto except by the consent of the parties thereto duly filed with the Board prior to the hearing of the application and all statutory provisions applicable to such contracts and to the price to be charged for the supply of a commodity or service thereunder shall be applicable thereto in the absence of a filed consent.

(3) Nothing in this section shall be deemed to be, or involve any declaration as to the state of the law in force prior to this section coming into force.

Board for permission to use such roadway or watercourse, or to fix the terms and conditions of such use, the Board may permit the use of such roadway or watercourse, and prescribe the terms and conditions thereof.

58. Whenever a proprietor of a public utility, being unable to extend its system, line or apparatus from a point where it lawfully does business to another point or points where it is authorized to do business, without placing its rails, posts, wires, pipes, conduits or other apparatus upon, along, across, over or under some public road, street, square, watercourse or part thereof, which it cannot lawfully so use without the consent of the municipal corporation having control of the same, and being unable to come to an agreement with the said municipal corporation, applies to the Board for permission to use such public road, street, square, watercourse or part thereof, for the purpose of such extension only, and without unduly preventing the use thereof by other persons or companies

already lawfully using the same, the Board may permit such use, notwithstanding any law or contract granting any other person or corporation exclusive rights with respect thereto, but shall prescribe the terms and conditions upon which such proprietor may use such road, street, square or watercourse, or part thereof.

59.—(1) In all differences arising between a proprietor of a public utility and a municipality with reference to the performance of the terms and conditions mentioned in the next two preceding sections, the Board may change such terms and conditions if, in its opinion, such changes are necessary or desirable.

(2) Upon the complaint of any municipality that a proprietor of a public utility doing business in such municipality fails to extend its services to any part of such municipality, after hearing the parties and their witnesses, and making such inquiry into the matter as it sees fit, the Board may order the extension of such services and specify the conditions under which the same shall be done, including the cost of all necessary works, which it may apportion between the public utility and the municipality in any manner it deems equitable.

60. Subject to the terms of any contract between any proprietor of a public utility and any municipality, and of the franchise or rights of the proprietor the Board may define or prescribe the terms and conditions upon which a proprietor shall or may use, for any of the purposes of a public utility, any highway or any public bridge or subway constructed or to be constructed by the municipality, or two or more municipalities, and may enforce compliance with such terms and conditions.

61.—(1) Without in any way affecting the jurisdiction of the Board, other than as expressly provided for herein, the Board shall have power to hear any application on behalf of the council of any municipality within which natural gas is distributed or supplied as a public utility and to investigate the question of the supply of natural gas, and the cost of producing, conveying, distributing, supplying and selling natural gas to consumers within the municipality, and to investigate any other matter or question in the opinion of the Board incidental to or bearing upon the main question or matter under investigation, and to make a report thereon to the council of the municipality and the person operating the public utility.

(2) If the council of any municipality in its said application or by any subsequent application makes request therefor the Board shall, when in its opinion the supply of natural gas is inadequate for the demand of consumers of

natural gas within the municipality, prescribe reasonable rules and regulations requiring the person conveying natural gas to, or distributing it within, the municipality, to augment the supply of natural gas so conveyed or distributed, when in the judgment of the Board it is necessary.

Subsection (3) of Section 61.

(3) If any such request as aforesaid is made the Board shall fix and determine a reasonable price or prices at which natural gas shall be sold within the municipality, having regard to the purpose for which the same is used, and shall fix the period during which the said prices shall be in effect; and may also prescribe fair and reasonable rates and charges for producing, conveying, distributing, buying or selling natural gas, or may establish a fair and equitable division of the proceeds of the sale of natural gas between the person producing or supplying the natural gas, and the person distributing or selling the same to consumers within the municipality.

its powers and rights with respect to the summoning and examination of witnesses, the production and inspection of documents.

(5) The costs of any such investigation shall be in the discretion of the Board.

62.—(1) The Board shall have a general supervision over all public utilities and the proprietors thereof subject to the legislative authority of the Province, and may make such orders regarding equipment, appliances, safety devices, extension of works or systems, reporting and other matters, as are necessary for the safety or convenience of the public or for the proper carrying out of any contract, charter or franchise involving the use of public property or rights.

(2) The Board shall conduct all inquiries necessary for the obtaining of complete information as to the manner in which proprietors of public utilities comply with the law, or as to any other matter or thing within the jurisdiction of the Board.

63. The fact that a receiver, manager or other official of any public utility, or a sequestrator of the property thereof, has been appointed by any court in the Province, or is managing or operating a public utility under the authority of any such court, shall not prevent the exercise by the Board of any jurisdiction conferred by this Act; but every such receiver, manager or official shall be bound to manage and operate any such public utility in accordance

with this Act and with the orders and directions of the Board, whether general or referring particularly to such public utility; and every such receiver, manager or official, and every person acting under him, shall obey all orders of the Board within its jurisdiction in respect of such public utility, and be subject to have them enforced against him by the Board, notwithstanding the fact that such receiver, manager, official or person is appointed by, or acts under the authority of, any court.

64. The Board shall have power—

- (a) to investigate, upon its own initiative or upon complaint in writing, any matter concerning any public utility;
- (b) from time to time to appraise and value the property of any public utility whenever in the judgment of the Board it shall be necessary so to do, for the purpose of carrying out any of the provisions of this Act, and in making such valuation the Board may have access to and use any books, documents or records in the possession of any department or board of the Province or any municipality thereof;
- (c) to require every public utility as herein defined to file with it complete schedules of every classification employed and of every individual or joint rate, toll, fare or charge made, charged or enacted by it for any product supplied or service rendered within this Province as specified in such requirement;
- (d) to impose and enforce regulations for the safety and protection of employees of any public utility;
- (e) to impose and enforce regulations in case of accidents, howsoever happening, in or about a public utility or the operation thereof, and for the remedying of the cause thereof and prevention of recurrence.

65. The Board shall have power by order in writing made, after notice to and hearing of the parties interested—

- (a) to fix just and reasonable individual rates, joint rates, tolls, charges or schedules thereof, as well as commutation, mileage and other special rates which shall be imposed, observed and followed thereafter by any proprietor whenever the Board shall determine any existing individual rate, joint rate, toll, charge or schedule thereof or commutation, mileage or other special rate to be unjust, unreasonable, insufficient or unjustly discriminatory or preferential;

- (b) to fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed thereafter by any proprietor;
- (c) to direct any railroad or street railway company to establish and maintain at any junction or point of connection or intersection with any other line of the said road, or with any line of any other railroad, street railway or traction company, such just and reasonable connections as may be necessary to promote the convenience of shippers of property, or of passengers, and in like manner to direct any railroad, street railway or traction company engaged in carrying merchandise to construct, maintain and operate, upon reasonable terms, a switch connection with any private side-track, which may be constructed by any private shipper to connect with the railroad or street railway where, in the judgment of the Board, such connection is reasonable and practicable and can be put in with safety, and will furnish sufficient business to justify the construction and maintenance of the same;
- (d) to require every proprietor of a public utility—
 - (i) to comply with the laws of this Province and any municipal by-law affecting the public utility, and to conform to the duties imposed thereby, or by the provisions of its own charter, or by any agreement with any municipality or other proprietor;
 - (ii) to furnish safe, adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so;
 - (iii) to establish, construct, maintain and operate any reasonable extension of its existing facilities when in the judgment of the Board such extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same, and when the financial condition of the said proprietor reasonably warrants the original expenditure required in making and operating such extension;
 - (iv) to keep its books, records and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end to require all proprietors of public utilities of

the same class to adopt a uniform system of accounting, which system may be prescribed by the Board;

- (v) to furnish periodically, and whenever the Board shall require, a detailed report of finances and operations, in such form and containing such matters and verified in such manner as the Board may from time to time by order prescribe;
- (vi) to carry, whenever in the judgment of the Board it may reasonably be required, for the protection of stockholders, bondholders, debenture holders or creditors, a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the Board may prescribe, and the Board shall from time to time ascertain and determine, and by order in writing after hearing, fix proper and adequate rates of depreciation of the property of each public utility, in accordance with such regulations or classifications, which rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry, and each proprietor of a public utility shall make its depreciation accounts conform to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund, and the income from investments of moneys in such fund shall likewise be carried in such fund, and this fund shall not be expended otherwise than for depreciation, improvements, new constructions, extensions or additions to the property of such public utility;
- (vii) to give such notice to the Board as it may by order require of any and all accidents which may occur within this Province upon the property of the public utility or which directly or indirectly arise out of or are connected with its maintenance or operation, and to investigate any such accident, and the Board may make such order or recommendation with respect thereto as in its judgment may be just and reasonable.

66. In considering and acting upon any application or matter before the Board involving the question of rates to be charged for service by any public utility, the Board shall not make any ruling or direction to raise rates for any such service beyond what the owners of any public utility may desire to impose.

67. Where it is in the public interest or where, as a means of saving expense, it is in the interest of any public utilities that there be joint user of the means of distribution, such as poles, conduits or other equipment, the Board may, after notice to all parties concerned, in cases where it shall be practicable, order such joint user and declare the terms thereof, and by such order or subsequent order make such provisions as may be necessary for the convenient and effectual carrying out of the work, and the operation of the services by means of the equipment so to be jointly used.

68.—(1) For the purpose of clearing and improving the appearance of streets, and wherever it may be found practicable to do so, the Board may, after notice to all parties concerned, direct that the wires known as span wires of street railway companies shall, on any street or part of a street, be affixed to buildings on the properties abutting on the street.

(2) No such direction shall be made as to involve any expense to the owner of any such building, but the expense shall be paid by the municipality or street railway company, or by the two jointly, as the Board may direct.

(3) Such directions shall be given and the work shall be so carried out as to cause no permanent injury to any building or inconvenience to the owner or occupant thereof.

(4) The necessary access to any building for this purpose shall be afforded and, in case of any question affecting the same, the Board shall give proper directions.

69. The Board shall have power to require every corporation, which is a proprietor of a public utility, to file with the Board a statement in writing, verified by the oaths of the president and secretary thereof, respectively, setting forth the name, title of office or position and post office address, and the authority, power and duties, of every officer, member of the board of directors, trustee, executive committee, superintendent, chief or head of construction and operation, or department, division or line of construction and operation thereof, in such form as to disclose the source and origin of each administrative act, rule, decision, order or other action of the corporation, and within ten days after any change is made in the title

utilities that there be joint users of the means of distribution, of, or authority, powers or duties appertaining to, any such office or position, or the person holding the same, to file with the Board a like statement, verified in like manner, setting forth such change.

70. Any application, petition, matter or complaint over which the Board has jurisdiction under this Act or any other Act may be heard by a single member of the Board who, after such hearing, shall report his findings to the Board, and the Board may thereupon deal with the application, petition, matter or complaint as if such hearing had been before the full Board.

RESTRICTION ON POWERS OF PROPRIETORS OF PUBLIC
UTILITIES.

71. No proprietor of a public utility shall—

- (a) make, impose or exact any unjust or unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, commutation rate, mileage or other special rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within this Province;
- (b) adopt or impose any unjust or unreasonable classification in the making or as the basis of any individual or joint rate, toll, fare, charge or schedule for any product or service rendered by it within this Province;
- (c) adopt, maintain or enforce any regulation, practice or measurement which shall be unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or otherwise in violation of law, or provide or maintain any service that is unsafe, improper or inadequate, or withhold or refuse any service which can reasonably be demanded and furnished when ordered by the Board;
- (d) make, or give, directly or indirectly, any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever;
- (e) issue any stocks, stock certificates, bonds or other evidences of indebtedness, payable in more than one year from the date thereof, until it shall have first obtained authority from the Board for such proposed issue, which authority shall be granted

upon the Board being satisfied that the proposed issue is to be made in accordance with law and the purpose of such issue being approved by the Board;

- (f) capitalize its right to exist as a corporation; capitalize any right, franchise or privilege in excess of the amount (exclusive of any tax or annual charge) actually paid to the Province or any municipality thereof as the consideration therefor; capitalize any contract for consolidation, merger or lease; issue any bonds or other evidence of indebtedness against or as a lien upon any contract for consolidation, merger or lease: provided, however, that the provisions of this paragraph shall not prevent the issuance of stock, bonds or other evidences of indebtedness, subject to the approval of said Board, in respect of any lawfully merged or consolidated public utilities not in contravention of the provisions of this paragraph;
- (g) without the approval of the Board, sell, lease, mortgage or otherwise dispose of or incumber its property, franchises, privileges or rights, or any part thereof; or merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other public utility as herein defined, and every sale, lease, mortgage, disposition, incumbrance, merger or consolidation made in violation of any of the provisions hereof shall be void and of no effect, but nothing herein contained shall be construed in any wise to prevent the sale, lease or other disposition of any of the property of any public utility in the ordinary course of its business.

72.—(1) No corporate proprietor of a public utility, incorporated under the laws of this Province, shall sell, nor shall any such proprietor make or permit to be made upon its books any transfer of any share or shares of its capital stock to any other proprietor, unless authorized to do so by the Board, nor shall any such proprietor without the authorization of the Board sell any share or shares of its capital stock or make or permit any transfer thereof to be made upon its books, to any corporation, domestic or foreign, the result of which sale or transfer, in itself or in connection with other previous sales or transfers, would be to vest in such corporation more than one-half of the outstanding capital stock of the said corporate proprietor.

(2) Every purported assignment, transfer, contract or agreement for assignment or transfer by or through any person or corporation to any corporation in violation of

73. - (1) In the case of a proprietor which has for its object the construction, working or maintaining of telegraph, telephone or transmission lines, or the delivery or sale of water, gas, heat, light or power, the following conditions shall be fulfilled, over and above those which may be prescribed by the Board, that is to say:

(a) the proprietor shall not interfere with the public right of travel and shall not in the construction of any such lines obstruct the entrance to any door or gateway existing at the date of the construction, or free access to any then existing building;

(b) the proprietor shall not erect any more than one line of poles along any highway and shall not permit any wire to be less than sixteen feet above any highway or public place except such wires as are required for grounding, staying, supporting or strengthening purposes, provided that the line wires used for telephone or telegraph purposes outside any city, town or village need not be more than twelve feet above the ground, save where they cross the crown of the highway.

~~feet~~ over a highway or public place, save where ~~they~~ they cross the same;

(c) The proprietor shall not unnecessarily cut down or mutilate any shade, fruit or ornamental tree;

(d) The opening up of any street, square or other public place, for the erection of poles, or for the carrying of wires underground, shall be subject to the supervision of such person as the municipal council may appoint, and such street, square or other public place shall, without unnecessary delay, be restored as far as possible to its former condition;

(e) If, in the exercise of the public right of travel, it is necessary that wires or poles be temporarily removed by cutting or otherwise, the proprietor shall upon reasonable notice in writing from any person desiring it and at such party's expense, remove such poles and wire; but the proprietor may, pending an appeal to the Board, refuse to remove such poles and wires, if in its opinion the moving will jeopardize the service of the utility to the public.

(2) The proprietor shall be responsible for all unnecessary damage which it causes in carrying out, maintaining or operating any of its works.

(3) The proprietor, unless ordered by the Board, shall not be entitled to compensation on account of its poles or wires

being cut by order of the officer in charge of the fire brigade at any fire, if in the opinion of such officer, it is advisable that such poles or wires be cut.

Subsection (4) of Section 73.

(4) The Board shall have power to approve construction standards for the erection of telephone and telegraph lines and such standards when approved shall be considered as the Board's regulation standards and any proprietor of a utility who has constructed such lines in accordance with such approved standards shall thereby be relieved from all liability for damages arising out of such construction.

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GENERAL BY THE CHIEF.

74.—(1) No change in any existing individual rates, joint rates, tolls, charges or schedules thereof or any commutation, mileage or other special rates shall be made by any proprietor of a public utility, nor shall any new schedule of any such rates, tolls or charges be established until such changed rates or new rates are approved by the Board, when they shall come into force on a date to be fixed by the Board, and the Board shall have power, either upon written complaint or upon its own initiative, to hear and determine whether the proposed increases, changes or alterations are just and reasonable.

(2) The burden of proof to show that any such increases, changes or alterations are just and reasonable shall be upon the proprietor seeking to make the same.

75. Every municipality operating any form of public utility service shall keep the accounts thereof in the manner prescribed by the Board for the accounting of similar public utilities, and shall file with the said Board such statements thereof as may be directed by the Board.

76. No railway company within the legislative authority of this Province shall, without first obtaining the approval of the Board, abandon any railway station or stop the sale of passenger tickets, or cease to maintain an agent to receive and discharge freight, at any station in this Province, at which passenger tickets are regularly sold, or at which an agent is maintained.

77. No highway shall be constructed across the tracks of any such railway company at grade, nor shall the tracks of any such railway company, or of any street railway or traction company be laid across any highway, so as to make a new crossing at grade, nor shall the tracks of any such

railway or street railway or traction company be laid across the tracks of any other railway or street railway or traction company, without first obtaining therefor permission from the Board; provided, however, that this section shall not apply to the replacement of lawfully existing tracks.

78. Whenever it appears to the Board that a public highway and a railway within the legislative authority of this Province cross one another, or that a public highway and a street railway cross one another, or that such a railway and a street railway cross one another at the same level, and that conditions at such grade crossing make it necessary for the protection of the travelling public at such grade crossing that gates be erected or that some other reasonable provision for the protection of the travelling public at such grade crossing should be adopted, the Board may order and direct such railway company or such street railway company, or either or both of them, to install such protective device or devices or adopt such other reasonable provision for the protection of the travelling public at such crossing as in the opinion of the Board shall be necessary.

79.—(1) No privilege or franchise hereafter granted to any proprietor of a public utility by any municipality of this Province shall be valid until approved by the Board.

(2) Such approval shall be given when, after hearing the parties interested, the Board determines that such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests.

(3) The Board shall have power in so approving to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require.

80.—(1) No municipality shall enter into any agreement with, or grant any franchise to, any company, the business and operations of which are not subject to the legislative authority of this Province, for the operation, management or control of any system, works, plant or equipment for the production, transmission, delivery or furnishing of water, gas, heat, light or power, either directly or indirectly, to such municipality, unless there is contained in such agreement or grant a provision whereby the company agrees to submit the business and operations thereof to the control and supervision of the Board of Public Utility Commissioners, in all respects as any such company would have been subject to such control and supervision had it come within the provisions or description of paragraph (g) of section 2 of this Act.

(2) Such provisions shall, before the final entering into of any such agreement or the granting of any such franchise before mentioned, be submitted for approval to the Board of Public Utility Commissioners.

(3) Any agreement entered into between any municipality and any such company referred to in this section, or any franchise granted by any municipality to any such company in contravention of this section, shall be absolutely null and void.

81. Where, by any general or special Act, a public utility is authorized to unite with any other public utility, such union shall be subject to the consent of the Board, and shall have no effect until the order authorizing the same is published in *The Alberta Gazette*.

82. Every order made by the Board under this Part shall be served upon the person affected thereby within ten days from the time the said order is signed, or within such longer time as the Board may direct.

83. Orders and other documents requiring to be served may be served by personally delivering or by mailing a certified copy thereof, in a sealed package, with postage prepaid, to the person to be affected thereby, or, in case of a corporation, to any officer or agent thereof upon whom a summons may be served in accordance with the provisions of the law in this Province.

84.—(1) Every order of the Board made under this Part to continue service or rates in affect at the time the said order is made shall be immediately operative.

(2) Every other order made under this Part shall become effective upon the date specified therein, which shall be at least twenty days after the date of the said order, unless the Bord shall, for good reason, specially provide for an earlier date.

85.—(1) The Board may take such steps and employ such persons as are necessary for the enforcement of any order made by it and for the purposes thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the movable and immovable property of any public utility, together with the books and offices thereof, and may, until such order has been enforced, assume and take over the management of the business thereof for and in the interest of the shareholders and the public, and all or any of the powers, duties, rights and functions of the directors and officers of the public utility in all respects, including the employment and dismissal of officers and servants thereof, for such time as the Board continues to direct such management.

(2) Upon the Board so taking possession of such property, it shall be the duty of every officer and employee of the public utility to obey the orders of the Board or of such person or persons as it places in authority in the management of any or all departments of the undertaking.

(3) The Board may, upon so taking possession of such undertaking and property, determine, receive and pay out all moneys due to or owing by the proprietor of the public utility, and give cheques, acquittances and receipts for moneys to the same extent and as fully as the proper officers thereof could do if no such possession had been taken.

(4) The costs and expenses of and incidental to proceedings to be taken by the Board under this section shall be in the discretion of the Board, and the Board may direct by whom and to what extent they shall be paid.

86.—(1) If it is proved that the proprietor of a public utility has not complied with an order given by the Board, and if of opinion that there are no effectual means of compelling it to obey such order, the Board, as an alternative, shall transmit to the Attorney General a certificate, signed by the Board and secretary, setting forth the nature of the order and the default of the proprietor in complying therewith.

(2) Such default so established shall be ground, after public notice in *The Alberta Gazette* of the receipt of the said certificate by the Attorney General, for an action to dissolve the proprietor if a corporation or to revoke the certificate of incorporation thereof.

(3) The proceedings upon such action shall be governed by the rules of procedure of the Supreme Court.

87. When in the exercise of the powers conferred upon it by this Act or by any special Act the Board directs any structure, appliances, equipment or works to be provided, constructed, reconstructed, altered, repaired, installed, used or maintained, it may order by what company, municipality or persons interested and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision such work shall be carried out.

88. No order involving any outlay, loss or deprivation to the proprietor of any public utility or to any municipality or person shall be made without due notice and full opportunity to all parties concerned, to make proof to be heard at a public sitting of the Board, except in case of urgency, and, in such case, as soon as practicable thereafter,

the Board shall, on the application of any party affected by such order, rehear and reconsider the matter and make such order as shall seem just.

89. Every proprietor of a public utility shall, as soon as possible after having received or having been served with any order or other document of the Board, notify the same to each of its or his officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy in some place where his work or duties or some of them are to be performed.

GENERAL PROVISIONS.

90. Every municipal corporation owning or operating any public utility within the meaning of this Act may, by by-law of the council thereof, approved of by the Lieutenant Governor in Council, provide that such public utility shall come under the operation of this Act and be subject to the control and orders of the said Board; and, if any such by-law is so passed and approved, the public utility owned or operated by such municipality shall thereafter come under the operation of this Act and under the control and management of the said Board.

OFFENCES AND PENALTIES.

91. In default of compliance with any order of the Board, when the same shall become effective, the person so in default shall be subject to a penalty of one hundred dollars per day for every day during which such default continues, the amount of such penalty to be fixed and determined by the Board by order signed by it under the seal of the Board.

92. Any person who shall knowingly and wilfully perform, commit or do, or participate in performing, committing or doing, or who shall knowingly or wilfully cause, participate or join with others in causing, any proprietor of a public utility or any corporation or company to do, perform or commit, or who shall advise, solicit, persuade or knowingly and wilfully instruct, direct or order any officer, agent or employee of any proprietor, corporation or company, to perform, commit or do any act or thing forbidden or prohibited by this Part, shall be guilty of an offence against this Part.

93. Any person who shall knowingly and wilfully neglect, fail or omit to do or perform, or who shall knowingly and wilfully cause or join or participate with others in causing any proprietor, corporation or company to neglect,

fail or omit to do or perform, or who shall advise, solicit or persuade, or knowingly or wilfully instruct, direct or order any officer, agent or employee of any proprietor, corporation or company to neglect, fail or omit to do, any act or thing required to be done by this Part, shall be guilty of an offence against this Part.

94. Any proprietor, corporation or company which shall perform, commit or do any act or thing hereby prohibited or forbidden, or which shall neglect, fail or omit to do or perform any act or thing hereby required to be done or performed by it, shall be guilty of an offence against this Part.

95. Every person guilty of an offence under this Part shall, in addition to all other penalties, be liable, on summary conviction before a police magistrate or two justices of the peace, to a fine of not less than fifty dollars nor more than five hundred dollars, besides costs of prosecution, and, in default of payment, if an individual, to imprisonment for a term not exceeding six months.

96. This Part shall not have the effect of releasing or waiving any right of action by the Board or by any person for any right, penalty or forfeiture which may have arisen, or which may arise, under any of the laws of this Province, and any penalty or forfeiture enforceable under this Act shall not affect or bar any action at law or prosecution, against any proprietor of a public utility, or its officers, directors, agents or employees.

PART III.

LOANS TO LOCAL AUTHORITIES.

97. When a local authority desires to provide for raising a loan by way of debenture or other security for the purpose of any work or undertaking, the acquisition of property or any other object within its jurisdiction, application shall be made to the Board for permission to do so.

98.—(1) In the case of a city or town such application shall be made prior to or forthwith after the first reading of a by-law providing for the loan and before such by-law is submitted to a vote of the burgesses; and no further action shall be taken by the council upon a by-law until the authorization of the Board has been obtained as hereinafter provided.

(2) In the case of villages and municipal districts the council shall continue to follow the procedure now provided by *The Village Act* and *The Municipal Districts Act* respectively for obtaining leave to borrow money.

(3) In the case of school districts the school boards shall follow the procedure laid down in *The School Act* for obtaining permission to borrow money.

99. Every application shall be addressed to the secretary of the Board, and shall be accompanied in the case of applications by the councils of cities or towns by a certified copy of the by-law dealing with the proposed loan, and in other cases by the documents prescribed by the various Statutes, if any, governing the application, and such other information as the Board may require.

DEALING WITH LOAN APPLICATIONS.

100. The Board in conducting its inquiry and in arriving at its decision shall consider the nature of the work, undertaking or other object of the proposed loan, the necessity for or expediency of the same, the financial position of the local authority and all such other matters as in the opinion of the Board may call for consideration.

101. The Board in the course of an inquiry may summon and examine on oath any person whose evidence it desires to obtain, and may fix a date for the hearing of all parties interested in the granting or refusing of an application, in which case it may order that proper public notice be given of the hearing.

102. When a local authority proposes to borrow money by way of debenture or other security, for the purpose of establishing or extending a system of waterworks or of constructing, altering or extending a common sewer or system of sewerage, the Board shall not grant the permission applied for until the certificate of the Provincial Board of Health approving the proposed undertaking has first been obtained under the provisions of *The Public Health Act*.

103.—(1) All debentures issued by local authorities shall contain, in addition to the other particulars required by law, a note or memorandum under the seal of the Board, signed by the chairman or in his absence by one of the other members of the Board authorizing the issue.

(2) Nothing contained in this section or in any other section of this Act shall be deemed to repeal any of the provisions concerning the countersigning of debentures or debenture coupons by a Minister or Deputy Minister contained in any Act now in force in Alberta.

104. With every application for permission to raise money by way of loan or debentures or other security there shall be paid in the case of cities a fee of five dollars, in the case of towns three dollars, and in all other cases a fee of one dollar, and such fee shall in all cases accompany the application.

PART IV.

MUNICIPAL FINANCES.

105.—(1) Whenever it is shown to the satisfaction of the Board that a local authority—

- (a) has failed to retire its debentures or debenture coupons as they became due and were duly presented for payment; or
- (b) is in such serious financial difficulties as to render default in payment of its outstanding debentures or debenture coupons probable; or
- (c) has failed to pay sums of money due by it, the default in payment of which is in the opinion of the Board due to the fact that it is in financial difficulties,

the Board may institute an inquiry thereinto.

(2) Such inquiry shall only be instituted upon the request of the Minister, or of the local authority, or of the holders of one-fourth in value of the amount of the bonded indebtedness of the local authority.

(3) Where school taxes are collected by a municipality then a request by or in regard to either the school district or the municipality may be treated as a request by both for the purposes of the preceding subsection.

(4) The Board shall give such notice of any inquiry to be held under the provisions of this section, and to such persons, as it may deem proper.

106. The Board if satisfied of the propriety of such a course shall have power to—

- (a) order the retirement of existing debentures or the consolidation of debenture debts secured by different issues of debentures or of debenture debts and debts existing in respect of outstanding accounts, and to authorize the issue of new debentures securing the payment of such debts and to determine the form of such debentures, the method and time or

times of the repayment of principal or payment of interest, the rate of interest payable and such other terms and conditions in connection therewith as may seem proper;

- (b) order that the time for the payment of debentures or of any part of them be extended for a fixed period;
- (c) order that the liability of the local authority to pay money into a sinking fund be postponed or reduced in whole or in part;
- (d) order a variation in the rate of interest payable upon any debt of the local authority;
- (e) order that arrears of interest payable upon any debt of the local authority be rebated or funded;
- (f) order that surplus capital moneys of the local authority be disposed of in any way which may seem good to the Board;
- (g) order the imposition of a service tax of a like nature to any such tax which can be lawfully imposed in a city, but with such restrictions or extensions thereof as may be expressly approved by the Lieutenant Governor in Council;
- (h) order that any plan of a registered subdivision be dealt with under the provisions of Part VIII of this Act;
- (i) appoint a time and place at which debentures or receipts for debts may be deposited or offered in exchange for debentures authorized under this Part;
- (j) order that the levy of a rate or sum imposed or required to be levied by the by-law under the authority of which any existing debenture issue or debt was made or incurred, shall or shall not be made in any year or years and make such order operative upon the fulfilment of any condition or conditions attached thereto;
- (k) order that taxes, whether in arrears or not, be set aside to be used for any specific purpose or purposes;
- (l) ratify any agreement entered into by a local authority with the holders of its existing debentures or its creditors, if the terms of the agreement are such as might be ordered by the Board and give to such agreement the same effect as an order of the Board;

- (m) prescribe and regulate the rates, rents, charges or fees to be charged, levied or collected for the services of municipal public works;
- (n) prescribe the fees to be charged for licences.

107. Whenever the Board makes an order under this Part no action or other proceeding shall be maintained with regard to any debentures, account or other cause of action specifically dealt with in such order, as long as such order is operative, and judgment recovered heretofore or hereafter in any such action or other proceeding shall not be enforceable in any way against the local authority concerned.

108. Upon an order of the Board directing the retirement or consolidation of debentures, or of debentures and other debts outstanding at the date of the order, no action or other proceeding shall be maintained by or on behalf of the holders of such debentures or of coupons thereto or on any such debt, and judgment recovered in respect of any such debenture, coupon or debt shall not be in any way enforceable against the local authority concerned.

109. No order made under the provisions of this Part shall be binding until it has received the consent of the holders of three-fifths in value of the amount of the bonded indebtedness affected by such order, and the approval of the Lieutenant Governor in Council, but upon receipt of such consent and approval, such order shall be valid and binding upon all persons whom it purports to bind, and all such persons shall have power to do as is directed by the order, notwithstanding any statutory requirement, restriction or limitation which might otherwise be applicable thereto.

110. All debentures purporting to be issued under the authority of this Part shall be submitted for the approval of the Board, and such approval when reduced to writing shall be conclusive evidence of the legality of the issue of such debentures and their validity shall not be questioned by any Court, but the same shall be a good and indefeasible security in the hands of any *bona fide* holder thereof.

111.—(1) As long as any order of the Board continues in force the local authority shall, unless the Board otherwise directs, submit annually to the Board its estimates and its proposed rate or rates of taxation.

(2) If such estimates and rates are approved of by the Board they shall immediately become effective, but the Board may vary the said estimates and rates by order

and such order shall be final and binding upon the local authority concerned, its officers and officials, and all persons interested therein or affected thereby.

112. If any local authority applies any money in contravention of the order made by the Board under the provisions of this Part, the members of the council or trustees who voted for such misapplication shall be jointly and severally liable to restore the amount misapplied and such liability may be enforced by action by the local authority or by any person paying taxes to such local authority, or by any person holding a debenture issued by such authority.

113. Where the Board reports to the Lieutenant Governor that it is expedient that the council of a municipality or the board of trustees of a school district should be dismissed, and that an administrator of its affairs should be appointed, then the Lieutenant Governor in Council may dismiss such council or board and appoint an administrator of its affairs, and fix his salary.

114.—(1) Where school taxes are collected by a local authority other than the school district in respect of which they are payable and an administrator is appointed, then such administrator shall also be official trustee of the said school district and upon his appointment the board of trustees of the said school district shall cease to hold office.

(2) Any administrator appointed under this section may be removed from office at any time and a successor may be appointed to him who shall have the like powers and authority and shall be charged with the like duties and responsibilities as his predecessor in office.

115.—(1) Notwithstanding anything in any Act, Ordinance or charter contained, the administrator shall have all the powers, and may perform all the duties of a council, mayor, reeve, commissioner, clerk, secretary-treasurer, assessor, collector of taxes and of any other official appointed or that might be appointed or elected under any Act or charter applicable to the local authority of which he is administrator, and he shall be responsible for the due performance of all such duties and shall have the right and power to discharge any official of the local authority and to appoint his successor, and he may employ such assistants as he may deem advisable to assist him in the discharge of any and all such duties and shall fix the salary of each and every such official and assistant and all such salaries and the cost generally of administering the affairs of the local authority, including his own salary shall be paid out of the funds of the local authority.

(2) Upon the removal of any administrator appointed under this Act the council or board of trustees of the local authority of the affairs of which he was administrator and, if necessary, the board of school trustees, may be reinstated by the Lieutenant Governor in Council, or directions may be given by him as to the election of a council and if necessary a board of school trustees to take the place of the administrator so removed.

116. The Board shall have power to inquire from time to time into the financial affairs of local authorities and for that purpose shall be entitled to obtain from any local authority at any time a statement in detail of its assets and liabilities and of its revenue and expenditure for any definite period and any other statement of its affairs which it may deem expedient, and shall have such general supervision of the financial affairs of local authorities as is necessary to insure that no local authority incurs debts beyond the amount permitted to it by law, nor imposes taxation beyond the limits imposed by law.

117.—(1) Whenever any money is borrowed by a local authority the Board may direct the formation of a sinking fund for the payment thereof.

(2) All such sinking funds shall be under the supervision of the Board, which may direct the deposit of the same with the Provincial Treasurer or any other disposition thereof, and shall be entitled to receive such information as to, and such report upon the sinking fund as it may from time to time demand.

118.—(1) The Board may from time to time make regulations as to the accounts to be kept by local authorities, the methods of keeping the same and the audit thereof, and may from time to time prescribe penalties for neglect to levy rates for the upkeep of any necessary sinking fund, and for the disposal of any surplus moneys which may occur in connection therewith.

(2) All regulations made by the Board under the provisions of this Part shall be laid upon the table of the House at the next Session of the Legislative Assembly and if then disallowed by the said Assembly shall cease to have any effect.

119. The Board may undertake the management of the sinking fund of any local authority, and upon so doing shall be at liberty to invest the same in all or any of the securities in which trustees having trust money in their hands are authorized to invest it under the provisions of *The Trustees Act*; it shall have all the powers and authorities conferred upon sinking fund trustees by the

city or town charter applicable to the case, or *The Town Act*, respectively; and the treasurer of the local authority shall be subject to the control and requisition of the Board and shall deposit the sinking fund as required by the city or town charter applicable to the case, or *The Town Act*, as the case may be.

120.—(1) The Provincial Auditor shall arrange for an annual audit of the accounts of the Board in connection with sinking funds and their management, and an inspection of the books and records of the Board connected with such funds for the preceding year.

(2) Such audit and inspection shall be under the supervision of the Provincial Auditor and the costs and expenses thereof shall be paid by the Board as part of the cost of managing the funds at its disposal.

PART V.

REPAYMENT OF MUNICIPAL DEBENTURES.

121.—(1) When a local authority has issued debentures or has passed a by-law duly authorizing the issue of debentures and the council is of the opinion that the period for payment of such debentures is less than the lifetime of the work or undertaking and desires to pass a new by-law extending the payment for the work or undertaking over the lifetime of the same, then the local authority may make application to the Board for permission to do so.

(2) In case the Board decides to grant such application it shall do so on such terms as it may deem advisable and shall fix the period over which the indebtedness may be spread, such period to be based on the lifetime of the work or undertaking or other object of the proposed extending by-law, as the same may be estimated by the Board.

(3) When the proposed by-law is one relating to local improvements and the council desires to alter the mode of assessment, it may do so under the local improvement sections of the respective Act or Acts applicable thereto upon first obtaining the consent of the Board to such altered mode of assessment, and the reassessment shall be made accordingly.

122. Notwithstanding anything contained in any Act or law to the contrary, there shall be no appeal against such assessment except on the ground that there is an error

in the frontage assessed, but the local authority shall forward notices of any such reassessment to the party assessed, giving particulars thereof as provided by the Act respecting such notice:

Provided that the nontransmission or nondelivery of such notice shall not invalidate any such reassessment but the same shall be valid and binding in all respects.

123.—(1) In case the assessment and charges of a local improvement have been commuted and a different mode or method of assessment is adopted whereby a lesser assessment is made against the property affected, then the local authority shall rebate the difference, if any, to the party entitled thereto. If, however, the new methods of assessment shall result in a heavier assessment or charge being placed against the property affected, then the local authority shall assess and levy the additional charge in the same manner as it would an original charge pursuant to the provisions of the Act or Acts respectively applicable thereto.

(2) Upon the consent of the Board being obtained as herein provided, the local authority is hereby authorized, without the assent of the burgesses authorized to vote on money by-laws, to pass a by-law or by-laws of the municipality providing for raising a sum of money and levying a rate or rates sufficient therefor to meet the indebtedness at the maturity of the extended period as herein provided.

(3) From and after the passage of such superseding by-law and the execution and issue of debentures as thereby authorized, the local authority shall levy yearly the respective sums thereby required to be raised sufficient with interest compounded yearly at the rate of four per cent. per annum to meet the indebtedness at maturity, taking into consideration the amount of the money at the credit of the sinking fund under the superseded by-law, to form a sinking fund for the payment of the principal of the said debentures, and shall cease to levy the respective sums required to be levied by and under the by-law or by-laws superseded for the purpose of forming sinking funds for the payment of the principal of the debentures issued under such by-laws respectively.

(4) The local authority shall continue to levy yearly under the superseded by-law the respective amounts required to pay the interest on the debentures issued under such by-laws or on such of the debentures issued under such by-laws as may be outstanding.

(5) The superseding by-law shall make provision for the issue of debentures for an amount sufficient to meet the principal at maturity, bearing the same rate of interest as that provided for by the superseded by-law, but no

levy shall be made for such interest during the period that levies are being made for interest under the superseded by-law.

(6) Such superseding by-law shall also provide for the issue of a debenture or debentures to an amount sufficient to meet any difference which may arise in the sinking fund from year to year between the amount provided by the superseded by-law and the amount provided by the superseding by-law, such debenture or debentures to be placed ~~to the credit of the sinking fund until such time as it may~~

Subsection (7) of Section 123.

(7) Any debentures, provision for the issue of which is made under the previous subsection shall **not** be sold without the consent of the Board and only when the proceeds of such sale shall be required to redeem debentures issued under the superseded by-law or by-laws:

Provided that no levy shall be made for interest on the debentures issued under the superseding by-law or by-laws during the period that levies are being made for interest under the superseded by-law or by-laws.

debentures in such form as it may deem expedient, and may, if agreed, exchange such debentures for outstanding debentures under the same by-law, which outstanding debentures shall be forwarded to the Board for cancellation.

(2) The local authority may, in case any debentures authorized by any by-law have not been issued, or, having been issued have become the property of the local authority, provide by by-law that such debentures if issued be destroyed and if unissued be not issued, and may authorize debentures to be issued under the authority of the by-law providing for the extended period of payment for any work or undertaking.

(3) The purchaser of any of the debentures which may be issued under the authority of this Part shall not be bound to see that the purchase money is applied for the purposes herein or in the by-laws specified.

125. No portion of any loan raised by a local authority under the provisions of a superseded by-law shall, after the passage of a superseding by-law, form part of the general debt of the local authority within the meaning of any Act limiting the borrowing powers of local authorities, and it shall not be necessary to recite the amount of the loan secured by such superseded by-law.

126. Any by-law passed under the provisions of this Act, unless otherwise provided, shall not be repealed until the debt created under the by-law is fully paid and satisfied.

127. The provisions of Acts relating to local authorities shall, except in so far as inconsistent herewith, be applicable hereto.

128.—(1) Application may be made to the Board for authority to any local authority to provide a fund sufficient with interest at four per cent. per annum to retire the debenture indebtedness under any by-law during the estimated lifetime of the work or undertaking, and prior to the maturity of the debenture.

(2) In case the Board decides to grant such application it shall fix the period within which a sufficient amount to retire the indebtedness within such shorter period is to be raised.

(3) The local authority shall thereupon pass a by-law without referring the same to the burgesses, which shall make provision for an annual levy sufficient, with interest compounded yearly at four per cent. per annum to raise the amount within the fixed period, such by-law to be in a form approved by the Board.

(4) The amount of such annual levy shall from time to time be placed to the credit of the sinking fund account of the local authority, but shall be specially marked "Depreciation Fund," such fund shall be subject to the same provisions as to the raising and investment thereof as the sinking fund.

(5) Application may from time to time be made to the Board for permission to use such fund or portion thereof to replace the work or undertaking or such part thereof required to be replaced, and upon such consent being obtained the local authority may use so much of the "Depreciation Fund" as the said Board may authorize.

129. Notwithstanding anything contained in any Act or law to the contrary the by-law and debentures herein referred to may be in such form as may be approved of by the Board, and upon such approval being obtained no irregularities in the form of any of the debentures issued under the authority of this Act or any by-law authorizing the issue thereof of any other by-law herein referred to shall render the same invalid or be allowed as a defence to any action against the local authority for the recovery of the amount thereof or the interest thereon or any part thereof.

130. Unless the context otherwise requires, where the word "debentures" or "debenture" is used herein it shall be construed to include "stock" or "consolidated stock."

PART VI.

SEPARATION OF LAND FROM URBAN MUNICIPALITY.

Section 131 - subsections (1), (2) and (3).

131. - (1) Upon petition of an owner of any parcel of land within an urban municipality and containing at least eight acres in respect of which there is no subsisting registered plan, or which is an unsubdivided part of a registered plan, the Board may order that such parcel shall cease to form part of the urban municipality.

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(2) Such order shall be published by the Board in The Alberta Gazette and shall thereupon become effective and may be made subject to such terms and conditions as to the Board may seem proper.

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(3) Any such parcel when taken out of the urban municipality shall continue liable for the payment of any debenture indebtedness to which it was subject when comprised in the urban municipality and shall be liable for all such debenture rates or taxes imposed in respect of such indebtedness and to all the remedies for the recovery of any such payment or rate or tax by the municipality as it would have been liable to if it had remained in the municipality.

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such parcel shall cease to form a part of the urban municipality it may direct that upon the sale of any part of such parcel an increment tax at a fixed rate shall be payable to the municipality, and may fix the basis upon which the amount of such increment tax is to be arrived at and the mode of collecting the same.

(6) No such parcel shall be separated from any urban municipality except under the provisions of this section.

132. Where, from the number of petitions for separation from an urban municipality, or from any facts which come to the notice of the Board during the hearing of any such petition, it seems expedient to the Board that a general plan including lands, whether subdivided or not, and of any acreage, other than those comprised in the petition should be adopted, then the Board, upon giving such notice to all parties interested as to it seems proper, may treat all lands comprised in the general plan as if they were a parcel of land duly included under a petition made under the previous section.

133. If the rate of taxation of an urban municipality be changed by the Board, such change shall not in any way affect the right of the municipality to levy and collect a debenture rate necessary to fulfil the terms of any municipal debentures issued by the municipality prior to such order.

134. Any terms or conditions comprised in any order made under the preceding section shall have the same effect as a covenant running with the land and shall bind each owner of any parcel concerned during his ownership thereof.

135. A copy of such order shall be registered by the Board in the Land Titles Office of the land registration district in which the parcel is situated.

PART VII.

ARREARS OF TAXES.

136.—(1) The Board may order a compromise of tax arrears to be entered into between any tax payer and any local authority, or the Minister in the case of land lying within an improvement district.

(2) Such compromise may only be ordered—

- (a) with respect to a parcel of land in an urban municipality subject to an application for separation from a city under section . . . hereof; or
- (b) upon the application of a tax payer, where the tax payer and the authority imposing the taxes cannot agree as to the terms of a compromise which is permitted by law; or
- (c) with respect to lands lying within a municipality or school district dealt with under the sections dealing with municipal finances.

137. Any compromise made under the powers given by the preceding section may provide for an extension of the time of payment of such arrears, the reduction of the amount thereof, the acceptance of the land affected by the taxes due, or a part thereof, or of other land in whole or in part payment of such taxes, or the payment to the local authority or Minister of an increment tax upon the subsequent sale of any part of the lands affected by the order at a fixed rate, and may fix the basis upon which the amount of such increment tax is to be arrived at and the mode of collecting the same.

138. In case the amount of arrears as fixed by the Board, with respect to any parcel is not paid within the time so limited the Board may order that the title to such parcel shall be transferred to the local authority or Minister, whereupon the Registrar of the land titles district in which the parcel concerned is situated shall issue to such authority or to the Minister as the case may be, a certificate of title, free of all incumbrances except such arrears of taxes as may be payable to any other authority, upon the payment of a fee of fifty cents for each certificate of title.

139. Whenever any arrears of taxes are reduced or otherwise made the subject of a compromise under the provisions of this section, then in the event of the local authority having previously incurred any liability upon the credit of the existence of such arrears, the Board may direct the issue of debentures by such authority for raising the amount or any part of the amount required to discharge such liability, which debentures shall be made payable upon such terms and conditions, at such rates of interest and at such periods, and be secured by such methods as the Board may think fit.

140. Notwithstanding any Act to the contrary, a compromise may be ordered under the provisions of this Part in the case of lands which by reason of nonpayment of taxes—

- (a) have been forfeited to the Crown or a local authority and have not been sold to and completely paid for by a purchaser thereof;
- (b) have been put up for sale under the provisions of *The Tax Recovery Act*, and have not been sold to and completely paid for by a purchaser thereof;
- (c) have been transferred to the Crown or a local authority under the provisions of *The Tax Recovery Act*, 1922, but the ownership thereof has not been finally acquired under the provisions of the said Act,

but in such cases the order shall provide for the payment of all costs incurred by the Crown or local authority in respect of such forfeiture, sale or transfer.

PART VIII.

CANCELLATION OF PLANS OF SUBDIVISIONS.

141.—(1) The Board may upon the application of the owner or beneficial owner of any parcel of land included in a registered plan of subdivision, and upon such terms and conditions as to costs or otherwise as it may fix, order the cancellation in whole or in part, or the amendment or alteration of such registered plan.

(2) The Board may give such notice of the hearing of the said application, and may thereat hear such persons as it deems proper.

142.—(1) The Board may by such order direct that any parcel of land in such subdivision, or any right or interest in any parcel of land therein, be vested in the applicant, and the Board may make such order as to the vesting or re-vesting of any land included in such plan or survey as it may think fit.

(2) "Right or interest" in this Part shall include the right or interest of any mortgagee or incumbrancer, and of any owner of a charge against land and the interest of any local authority or the Crown in any roads, streets, lanes or other parcels of land.

143. Where, upon such application, any parcel of land, or any right or interest therein, is ordered to be vested in the applicant, the Board shall fix the amount of compensation payable therefor to the owner thereof, or may require such owner to accept by way of entire or partial compensation therefor, any other parcel of land, or any right or interest therein, whether in that subdivision or not.

144. Where a plan of subdivision or part thereof has been ordered to be cancelled, under the provisions of this Part, all taxes, assessments or rates in arrears, or due upon the separate parcels of land within the area, the plan of which has been so ordered to be cancelled, shall become taxes, assessments, or rates upon or in respect of such area, and all the remedies for the enforcement and collection of taxes theretofore applicable for the recovery of the taxes, assessments or rates upon such separate parcels of land, shall apply in the same manner as if the taxes, rates, or assessments had been levied against the

Section 145

(2) Whenever owing to the operation of an order made under the provisions of this Part the ownership of any roads, streets or lanes would vest in a mortgagor, then the Board may direct that such roads, streets or lanes shall be included in any mortgage or other security previously given to any mortgagee of lands adjoining such roads, streets or lanes.

(3) Upon receipt by the registrar of any order vesting any roads, streets or lanes in a mortgagor he shall make a memorandum upon the mortgage of the fact that the roads, streets or lanes mentioned in the order are included in the parcels subject to the mortgage and thereupon the mortgage shall operate as if such roads, streets or lanes had been included therein at the date of its making.

(4) "Mortgagee" in the two preceding subsections shall include any mortgagee or chargee having a security upon land adjoining such roads, streets or lanes, whether his mortgage or charge is registered in the Land Titles Office, or not, and "mortgage" and "mortgagor" shall have a meaning similarly extended.

REPEALS.

147. The Public Utilities Act, being chapter 20 of the Revised Statutes of Alberta, 1922, The Taxation Revision Act, being chapter 129 of the Revised Statutes of Alberta, 1922 and The Municipal Finances Commission Act, being chapter 131 of the Revised Statutes of Alberta, 1922 are hereby repealed, and any application which has been partly heard or enquiry which has been partly made, and all other proceedings begun under any of such Acts shall be dealt with as if they had been originally made or begun under the provisions of this Act.

No. 43.

THIRD SESSION
FIFTH LEGISLATURE
13 GEORGE V
1923

BILL

An Act to Prescribe the Duties of
The Board of Public Utility
Commissioners.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. BROWNLEE.

EDMONTON:
PRINTED BY J. W. JEFFERY, KING'S PRINTER
1923