

BILL

No. 1 of 1926.

An Act to amend the Acts and Ordinances constituting the Charter of the City of Calgary.

(Assented to _____, 1926.)

WHEREAS the City of Calgary has prayed for certain amendments to Ordinance 33 of 1893 of the North-West Territories and the amendments thereto;

And whereas it is expedient to grant the prayer of the said petition;

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

Ordinance 33 of 1893, North-West Territories and amendments thereto, is hereby amended as follows:

- 1.** By adding the following as Section 236 (a) thereto:
"The Sinking Fund Trustees of the City of Calgary shall be and shall be deemed to have always been a body corporate under the name of the Sinking Fund Trustees of the City of Calgary and by that name may sue and be sued in any Courts and have and use a common seal with power from time to time to renew, alter or break such seal and shall have all the rights, privileges and powers and shall perform the duties specified hereafter or in *The Charter of the City of Calgary* as hereinbefore amended."
Sinking Fund Trustees may use seal
- 2.** By amending Section 239 thereof by deleting all the words between and including the words "the Sinking Fund Trustees" and the word "vote" where they occur in the first four lines thereof and substituting therefor the following:
"The Sinking Fund Trustees shall annually at the first meeting in each year, appoint their own Chairman and Vice-Chairman. The Chairman and the Vice-Chairman when fulfilling the functions of the Chairman may vote on all occasions but shall have no casting vote."
Chairman and Vice-Chairman to be appointed annually
- 3.** By adding the following as section 239 (a) thereto:
"The Secretary for the Sinking Fund Trustees of the City of Calgary, shall be the Treasurer of the City of Calgary. The Assistant Secretary to the Sinking Fund Trustees shall be the Assistant Treasurer of the City of Calgary, who shall fulfil the functions of Secretary to the Trustees during the absence or incapacity of the Secretary. The Secretary shall
Treasurer and Assistant Treasurer to be Secretary and Assistant Secretary respectively

keep and the Trustees shall see that there is kept, a true record of each meeting of the Trustees and all resolutions passed by them."

4. By adding the following as Section 240 (a) thereto:

"Meetings of the Trustees may be called by the Secretary upon instructions of the Chairman or of any one of the other Trustees, by notice in writing mailed or delivered to each of the Trustees not later than twenty-four hours before the date of the proposed meeting."

5. By adding the following as Section 240 (b) thereto:

"All acts done or performed by the said quorum for or on behalf of the said Trustees, shall be as effectual as if done or performed by the four Trustees and shall be the acts of the Sinking Fund Trustees of the City of Calgary."

6. By adding the following as Section 240 (c) thereto:

"The Trustees may execute deeds and other writings under the name and style of the Sinking Fund Trustees of the City of Calgary, signed by the Chairman or any two of the Trustees and the Secretary and affix the seal to all deeds and other writings executed by them required by law to be under seal. The seal shall be in the custody of the Secretary and shall be affixed to any deeds or writings only when and as directed by resolution of the Trustees."

7. By adding the following as Section 240 (d) thereto:

"All cheques drawn on the consolidated Sinking Fund account, shall be signed by that Sinking Fund Trustee who may be the Mayor of the City of Calgary for the time being or any other one member of the Sinking Fund Trustees and shall be countersigned by the Secretary to the Sinking Fund Trustees or by the Assistant Secretary if the said Secretary is absent or incapacitated."

8. By adding the following as Section 240 (e) thereto:

No formal transfer of assets necessary, but Trustees fully empowered to deal with Sinking Fund securities

"It shall not be necessary to make a formal legal transfer of existing securities belonging to the Sinking Fund and held in the name of the City of Calgary, to the Sinking Fund Trustees of the City of Calgary, but the Trustees from time to time shall, notwithstanding, have full power to collect and administer all moneys and estate of every description belonging to the Sinking Fund and may take all necessary proceedings with reference thereto, and may take all steps in regard to the adjustment, compromise or collection of the same, and may take collateral security, both real and personal, from any debtor and shall have power to foreclose mortgages and other securities held by them, and the rights of all parties having any estate, interest or claim in and to the property or properties covered by such mortgages or other security, to exercise powers of sale under any such mortgages or other security and to convey the same to pur-

chasers, and to sell and convey any lands or other property to which they may acquire title by foreclosure proceedings or otherwise, and may sell and transfer any and all securities of every description in which the Sinking Fund may be invested, including any securities issued by the City of Calgary, and make further investments with the proceeds thereof and may deal with the Sinking Fund in as full and ample a manner as the same could be dealt with by a private individual in his own name, the intention being that in all things and under all circumstances subject to the restrictions mentioned in Section 247 of *The Charter of the City of Calgary*, the said Trustees shall have full power and authority to invest and reinvest the said Sinking Fund or any part thereof, and deal with the same for the benefit of the Sinking Fund in as full and ample a manner as they could do if acting for themselves in their names as private individuals. The proper officials of the City shall, nevertheless, when requested so to do by the Sinking Fund Trustees of the City of Calgary, make from time to time such legal transfers of the assets, holdings and securities of the Sinking Fund of the City of Calgary as may in the opinion of the Sinking Fund Trustees of the City of Calgary be necessary. All investments hereafter shall be made and taken in the name of the Sinking Fund Trustees of the City of Calgary, a body incorporated by the Statutes of the Province of Alberta."

9. By amending Section 247 by adding the words "debenture stock" after the word "bonds" where it occurs in the sixth line thereof and by adding the words "debenture stock" after the word "bonds" where it occurs in the eighth line thereof and by adding the words "debenture stock" after the word "bonds" where it occurs in the tenth line thereof and by adding the words "debenture stock" after the word "bonds" where it occurs in the eleventh line thereof.

Trustees
may invest
in approved
debenture
stock

10. By adding the following as Section 249 (a) thereto:

"The Trustees may from time to time when they deem it expedient so to do in the interests of the Sinking Fund, borrow for temporary purposes but only with the approval of a two-thirds vote of the Council of the City of Calgary, any sums of money not exceeding \$250,000 in all, at any time from a chartered bank of Canada, for a period not exceeding six months and as security for such advance made as aforesaid, they may pledge or hypothecate any stock, bonds, debentures or other securities held by them."

Trustees
may with
approval of
City Council
borrow for
temporary
purposes

11. By adding the following as Section 249 (b) thereto:

"The Trustees shall, by not later than the first day of March in each year, furnish the Council with a detailed statement showing the whole assets held by them and outstanding liabilities as of the date of the preceding thirty-first day of December. The Trustees may employ any Char-

Trustees to
furnish
annual
report to
Council

tered Accountant to audit and certify the said statement and to make any audit inspection of report that may be necessary from time to time and the Council may by resolution appoint the Comptroller or any Chartered Accountant to audit and certify the said statement and inspect the securities held by the Trustees and the Trustees shall give all necessary facilities to any such Auditor, Comptroller or Accountant making the said audits and inspections."

Term of office of existing Trustees extended

12. By adding the following as Section 249 (c) thereto:
 "Notwithstanding anything contained in *The Charter of the City of Calgary* or in Order No. B-13980 issued from the District Court of the Judicial District of Calgary, by His Honour Judge W. Roland Winter and dated the eleventh day of May, A.D. 1925, the term of office for the Sinking Fund Trustee appointed under the terms of the said Order for a term of two years from the eleventh day of May, A.D. 1925, shall be extended to and shall terminate on the thirty-first day of December, A.D. 1927, and the term of office of the Sinking Fund Trustee appointed for a term of three years from the eleventh day of May, A.D. 1925, shall be extended to and terminate on the thirty-first day of December, A.D. 1928."

City may purchase plant, machinery and equipment of Calgary Water Power Co., Ltd.

13. By adding the following as Section 250 thereto:
 "The Council of the City of Calgary is hereby empowered without a vote of the ratepayers but subject to the approval of the Board of Public Utility Commissioners, to purchase the plant, machinery and equipment as defined in Section 251 hereof, belonging to the Calgary Water Power Company, Limited, and used and useful in the distribution of electric energy whether for light or power purposes or both within the limits of the City of Calgary."

Plant, machinery and equipment defined

14. By adding the following as Section 251 thereto:
 "The words or terms, 'plant, machinery and equipment' are not to be deemed to include real estate or buildings or any of the River Works owned or operated by the Calgary Water Power Company, Limited, but shall mean and include the electric generating plant and distribution system of the Calgary Water Power Company, Limited, including all plant and apparatus now used and useful for the generation and distribution of electric energy in the City of Calgary and so as not to restrict the generality of the foregoing but more particularly to define the same, shall mean and include the following principal items of plant, machinery and equipment and their accessories:—

1. *Plant Equipment.*

- | | |
|---------------------------|-------------------------------------|
| (a) Machinery foundations | (j) Condensing equipment |
| (b) Engines | (k) Heaters and Purifiers |
| (c) Turbines | (l) Boilers |
| (d) Generators | (m) Pumps |
| (e) Economizers | (n) Grates and Stokers |
| (f) Tools | (o) Coal and Ash-handling apparatus |
| (g) Switchboards | (p) Coal Storage Bunkers |
| (h) Wiring | (q) Miscellaneous equipment |
| (i) Piping and Covering | |

2. *Electric Distribution System.*

- (a) Poles and Fittings
- (b) Transformers and Fittings
- (c) Meters
- (d) Pole Type Switches
- (e) Wire—Cable and Conduit
- (f) Cross-arms, Insulators and Pole Line Hardware
- (g) Lightning Arresters
- (h) Guy Wires, Guy Anchors, etc.
- (i) Service Wires and Attachments
- (j) Distribution Repair Equipment and Supplies
- (k) Miscellaneous Pole Line and Distribution Equipment.”

15. By adding the following as Section 252 thereto:

“The Council of the City of Calgary shall, if it desires to purchase as aforesaid, first pass a resolution to be approved by two-thirds of the Aldermen present and voting, authorizing the Mayor and Commissioners of the City to enter into negotiations for the purchase of the said plant, machinery and equipment, and pursuant to the said resolution shall cause to be sent to the Head Office of the Calgary Water Power Company, Limited, a registered notice advising the Company of its desire to purchase the plant, machinery and equipment as defined in Section 251 hereof.”

Procedure
for amicable
purchase

16. By adding the following as Section 253 thereto:

“(1) If within six months amicable arrangements are completed for the purchase of the plant, machinery and equipment, the Council shall pass a by-law as required by Section 261 hereof.

On failure
to make
amicable
arrangements
Council may
expropriate

“(2) Unless within six months from the date of the mailing of the said notice, the City and the Company have completed amicable arrangements for the purchase of the said plant, machinery and equipment as defined by Section 251 hereof, the Council of the City of Calgary may provide for the expropriation, in the manner hereinafter provided for, of the said plant, machinery and equipment, at a price to be fixed by arbitration as provided for hereinafter.”

17. By adding the following as Section 254 thereto:

“(1) The Council shall first submit to a vote of the ratepayers qualified to vote upon money by-laws, the question of the expropriation of the plant, machinery and equipment of the Calgary Water Power Company, Limited. If a majority of the ratepayers qualified to vote on money by-laws and voting on the question of expropriation are in favor of expropriation, then the Council shall, subject to the approval of the Board of Public Utility Commissioners, pass a by-law authorizing the commencement and completion of expropriation proceedings.

Procedure
upon
expropriation
Question to
be first
submitted to
ratepayers

“(2) The Council shall then by resolution appoint one arbitrator and shall notify the Company of the said appointment.

- How arbitrators are to be appointed “(3) The Company shall appoint one arbitrator and shall notify the City of Calgary of the said appointment.
- “(4) The Board of Public Utility Commissioners shall, upon the application of the City of Calgary, appoint a third arbitrator who shall act as Chairman and Convener of the board of arbitration.
- “(5) If the Company fails to appoint an arbitrator within thirty days after the third reading of the by-law referred to above in Subsection (1), the Board of Public Utility Commissioners shall, upon the application of the City of Calgary, appoint an arbitrator in lieu of the arbitrator who should have been appointed by the Company.”
- Duty of arbitrators **18.** By adding the following as Section 255 thereto:
 “Immediately after the appointments aforesaid, it shall be the duty of the arbitrators to make a valuation of the plant, machinery and equipment as defined in Section 251 hereof, of and belonging to the Calgary Water Power Company, Limited, and used and useful in the distribution of electric energy for light or power purposes or both, within the limits of the City of Calgary.”
- Basis of value **19.** By adding the following as Section 256 thereto:
 “The basis of value shall be the reproduction cost of the physical assets of the said Company represented by plant, machinery and equipment as defined by Section 251 hereof, used and useful in the distribution of electric energy within the limits of the City of Calgary, less a reasonable allowance for depreciation.”
- Allowance for goodwill **20.** By adding the following as Section 257 thereto:
 “To the value of the assets as found in accordance with Section 256 hereof, there shall be added an additional sum equivalent to ten per cent of the value of the said distribution plant, machinery and equipment, as defined herein, which additional ten per cent shall be considered to be the value of any license, privilege, right, franchise or goodwill covering the sale and distribution of electric energy within the limits of the City of Calgary and enjoyed by the Company pursuant to the terms of By-law No. 107 of the City of Calgary or otherwise, howsoever.”
- 21.** By adding the following as Section 258 thereto:
 “A valuation concurred in by any two of the arbitrators, shall be final and conclusive upon both of the parties hereto.”
- Costs to be borne by City **22.** By adding the following as Section 259 thereto:
 “The costs of the valuation shall be borne by the City of Calgary.”
- 23.** By adding the following as Section 260 thereto:
 “It shall be the duty of the arbitrators to make a report and valuation to the City, the Company and the Board of Public Utility Commissioners, as soon as possible after their appointment.”

24. By adding the following as Section 261 thereto:

"If the City has made amicable arrangements to purchase, or if not, then upon the receipt of the said report and valuation by the Board of Public Utility Commissioners, the City and the Company, the Council shall by further by-law, without a vote of the ratepayers but with the approval of the Board of Public Utility Commissioners, provide for the issue of debentures in an amount sufficient to pay for the plant, machinery and equipment as defined herein."

Council may pass by-law providing for purchase money

25. By adding the following as Section 262 thereto:

"Within six months from the date of the passing of the by-law providing for the issue of debentures in the manner provided for in the last preceding Section, the City shall pay to the Company in cash or transfer debentures of an equivalent to cash, in the amount of the valuation found and the Company shall transfer to the City free from all encumbrances, the plant, machinery and equipment as hereinbefore defined and the City of right and without any further formalities, may at the expiration of the period of six months, take possession of and exercise complete and undisputed control and rights of ownership over the said plant, machinery and equipment as defined herein."

City must pay amount found by arbitrators and may take possession and assume ownership of plant, etc., of Company

26. By adding the following as Section 263 thereto:

"Upon the purchase or final expropriation by the City of the plant, machinery and equipment of the Company, as defined herein, all licenses, rights, privileges and franchises enjoyed by the Company under By-law No. 107 or otherwise howsoever, with reference to the distribution of electric energy for light or power purposes or both, within the limits of the City of Calgary, shall be forever terminated, extinguished, cancelled and annulled and the said Calgary Water Power Company, Limited, shall have no right thereafter to sell or distribute electric energy within the limits of the City of Calgary or to use the streets, lanes or highways of the City of Calgary for the sale or distribution of electric energy for light or power purposes, or both, within the limits of the City of Calgary."

After purchase or expropriation Company's rights extinguished

27. By adding the following as Section 264 thereto:

"Notwithstanding anything contained in any By-law, Ordinance or Act, every license, right, privilege and franchise, whether under By-law No. 107 of the City of Calgary or otherwise, belonging to or enjoyed by the Calgary Water Power Company, Limited, in connection with the sale and distribution of electric energy, whether for light or power purposes or both, within the limits of the City of Calgary, shall be forever terminated, extinguished, cancelled and annulled on and after the first day of June, A.D. 1936, and the said Calgary Water Power Company, Limited, shall have no right after the said first day of June, A.D. 1936, to sell or distribute electric energy within the limits of the City of Calgary or to use the streets, lanes and highways for the sale and distribution of electric energy for light or power purposes or both, within the limits of the City of Calgary."

Franchise rights annulled after ten year period

28. This Act shall come into force on the day on which it is assented to.

No. 1.

SIXTH SESSION
FIFTH LEGISLATURE
16 GEORGE V
1926

BILL

An Act to amend the Acts and Ordinances constituting the Charter of the City of Calgary

Received and read the

First time.....

Second time.....

Third time.....

MR. WHITE.

EDMONTON:
W. D. MCLEAN, ACTING KING'S PRINTER
A.D. 1926.