

BILL

No. 9 of 1944.

An Act to amend the Acts constituting The Edmonton Charter and to Validate a Certain By-law authorizing the Borrowing of Money.

(Assented to _____, 1944.)

WHEREAS a petition has been presented by the Council of The City of Edmonton for an amendment of the Acts constituting *The Edmonton Charter* and the validating of certain by-laws authorizing the borrowing of money; and

Whereas it is reasonable that the prayer of the said petition shall be granted.

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

The Edmonton Charter, being chapter 23 of the Statutes of Alberta, 1913 (First Session), as amended from time to time, is hereby further amended as follows:

1. As to section 8 thereof,—

By deleting therefrom the following words where the same occur therein, namely; “thence following the sinuosities of the centre line of the said river up stream to its intersection with the north boundary of section fourteen of said township fifty-two in range twenty-five; thence east along the north boundaries of sections fourteen and,” and by substituting therefor the following words; “thence following the sinuosities of the centre line of the said river down stream to its intersection with the west boundary of section twenty-four, township fifty-two, range twenty-five, west of the fourth meridian; thence southerly along the last named west boundary to its intersection with the easterly boundary of road diversion as shown on Plan 6408-E.T. filed in the Land Titles Office for the North Alberta Land Registration District; thence along the easterly boundary of said road diversion to its intersection with the west boundary of section twenty-four, township fifty-two, range twenty-four, west of the fourth meridian; thence along the said last named west boundary to the intersection of the north boundary of section.”

The portion of land and that part of the Government Road Allowance (known within the City as 142nd Street) excluded by this section from the boundaries of the City is hereby included within the boundaries of the Municipal District of Strathcona, No. 517 of the Province of Alberta.

2. By adding thereto the following section:

"92a.—(1) Notwithstanding that the name of a person does not appear on the list of electors prepared by the city assessor pursuant to the provisions of subsection (c) of section 84 hereof for the polling subdivision in which such person resides, the person concerned if a *bona fide* permanent resident of the City shall nevertheless be entitled to vote as an elector upon signing and swearing before the deputy returning officer or assistant deputy returning officer at the poll for the polling subdivision in which the person concerned is then residing, an affidavit in the form hereinafter prescribed, provided that at the same time a resident of said polling subdivision whose name appears on the list of electors for such polling subdivision identifies the said person by affidavit in the form hereinafter prescribed;

"(2) The oath to be taken by the person whose name does not appear upon the list of electors as aforesaid shall be in the following form:

"I, of
 (Name in full) (Street address)
 Edmonton, Alberta, make oath and say:

"1. That I am a British subject by birth or naturalization and am of the full age of twenty-one years or over.

"2. That I am a *bona fide* permanent resident of the City of Edmonton and have continuously resided or had my fixed and permanent domicile within the City of Edmonton since the first day of December next preceding the date hereof.

"3. That I am a
 (Insert Public or Separate, as the case may be.)
 School supporter.

"4. That I have not voted at this election at any other poll and will not do so nor attempt to do so.

"Sworn before me at the City of
 Edmonton, in the Province of
 Alberta, this day
 of, 19..... }

.....
D.R.O. or A.D.R.O.

"(3) The oath to be taken by an elector identifying any person whose name does not appear on the list of electors as aforesaid shall be in the following form, namely:

"I, of
 (Name in full) (Street address)
 Edmonton, Alberta, make oath and say:

"1. That I am whose name
 (Insert name as on list)
 appears on the list of electors for polling subdivision No.
 of the City of Edmonton.

"2. That I personally know
 (Insert name of person applying to vote)
 who is applying to vote as an elector at the election for

mayor, aldermen and school trustees of the City of Edmonton being held on this date.

"3. That the said is a
(Name of person applying to vote)
bona fide permanent resident of the City of Edmonton and
to my personal knowledge has continuously resided within
the limits of the City of Edmonton since the 1st day of
December next preceding the date hereof.

"Sworn before me at the City of
Edmonton, in the Province of
Alberta, this day
of, 19.....

D.R.O. or A.D.R.O.

“(4) Upon the signing and swearing of the affidavits in the foregoing forms, the Deputy Returning Officer or Assistant Deputy Returning Officer shall add the name of the person concerned to the list of electors and shall then issue to the person concerned ballot papers as in the case of persons whose names appear in the list of electors and shall at the conclusion of the polling, deliver said affidavits with the list of electors to the Returning Officer.

“(5) Any person,—

“(a) who votes or attempts to vote knowing that he has no right to vote; or

“(b) who takes a false oath; or

“(c) who induces or procures or attempts to induce or procure or who aids and abets any other person to vote or attempt to vote knowing such person has no right to vote,—

shall be guilty of an offence against the provisions of this section and liable upon conviction therefor to a penalty for each offence of not less than One Hundred Dollars and costs, or in default of payment to imprisonment for not more than three months."

3. As to section 217,—

By deleting the form of oath appearing in subsection (2) thereof and by substituting therefor the following:

"I, the undersigned, swear that I am the person shown on the list of electors as.....;

(Insert name and street address as in list)

that I am a.....school supporter

(Insert Public or Separte, as the case may be)

and desire to vote as such and to have the list of electors amended accordingly."

4. As to section 246 thereof,—

By repealing the same and by substituting therefor the following:

“246. By-laws for contracting debts, which provide for the issuing of debentures, need not provide for the levying

of any rate but a rate sufficient to raise the amount required in any year to pay the interest on the debentures so issued and the instalment of principal falling due in such year or the annual amount required by way of Sinking Fund, as the case may be, shall, without the passing of any by-law for that purpose, be levied in each year during the currency of the debentures; and this provision shall apply to debenture by-laws heretofore passed."

5. As to section 247 thereof,—

By deleting paragraph (c) of said section and by substituting therefor the following:

"(c) the rate or rates of interest payable on the indebtedness."

6. As to section 249 thereof,—

By repealing the same and by substituting therefor the following:

"249. The by-law may provide that the indebtedness shall be repaid at the end of the period of years during which the debentures are to run or be repaid within the period of years during which the debentures are to run in such equal or unequal instalments, periodical or otherwise, or partly at the end of such period and partly by instalments as aforesaid, as the Council may determine, with interest payable annually or semi-annually on the amount of the indebtedness from time to time unpaid at such rate or rates as the Council may determine; provided that nothing herein contained shall prevent the Council from making provision for payment in a combined or blended form of the principal and interest falling due in any year under any such by-law."

7. As to section 250 thereof,—

By adding thereto the following proviso:

"Provided that the Board of Public Utility Commissioners for the Province of Alberta may, from time to time, upon application of the Council extend the time for passing the by-law for a period not exceeding six months from the date of the approval of any such by-law by the burgesses and such extension may be granted by said Board although the application for the same is not made until after the expiration of such period of three months, and the by-law may be passed by Council at any time within the period of extension so granted by said Board."

8. As to section 252 thereof,—

- (a) By deleting therefrom paragraph (c) of subsection (1), and by substituting therefor the following:

"(c) the rate or rates of interest payable on the indebtedness."

- (b) By deleting therefrom paragraph (d) of subsection (1) and by substituting therefor the following:

“(d) the mode or modes of repayment of the indebtedness.”

- (c) By deleting therefrom subsection (2) and by substituting therefor the following:

“(2) The notice may be in the following form or to the like effect, and any number of matters may be included in one notice:

PUBLIC NOTICE.

“Notice is hereby given that the municipal council of the City of Edmonton hereby refers to the burgesses for their approval the following questions:

(a) Shall Council pass a by-law creating a debenture debt in the sum of \$..... for (*here state purpose*) ;

“The mode or modes of repayment and the interest rate or rates are as follows: (*Set out mode or modes of repayment and interest rate or rates*).

“Rateable property according to last revised assessment roll \$.....

“Total debenture debt \$.....

“Local Improvement and other debts not affecting 30% borrowing power \$.....

“Debenture debt affected by 30% limit \$.....

“No amount of the principal or interest is in arrear (or as the case may be).

or

“(b) Shall the Council pass a by-law granting to..... the franchise specified in the following agreement;

(*Set out agreement in full*)

or

“(c) Shall the Council pass a by-law authorizing the execution of the following agreement:

(*Set out agreement in full*)

“The mayor will attend at..... on..... for appointment of agents to attend polls on behalf of persons opposing or promoting the said questions. The vote will be held on..... day, the..... day of....., 19....., between the hours of..... a.m. and..... p.m., (hours to be fixed by resolution of council) at the places named in By-law No. The result of poll will be declared at..... at the hour of..... noon on.....

“City Clerk.”

9. As to section 293a thereof,—

By repealing the same and by substituting therefor the following:

"293a. The debentures or other securities authorized to be issued under any by-law of the City of Edmonton may be made payable as to principal and interest in the currency or currencies of such country or countries, and at such place or places, either in Canada or elsewhere, as the Council may deem expedient."

10. By adding thereto the following section:

"296d.—(1) Notwithstanding anything contained in *The Edmonton Charter*, and in addition to all other powers contained therein, the council of the city may, from time to time and at any time or times, pass by-laws, without obtaining the consent of the burgesses, to authorize the issue and sale of new debentures of the city in such amount or amounts, bearing such rate or rates of interest, not in excess of four and one-half per centum per annum, payable in such manner and in such currency or currencies and at such place or places, and at such time or times, all as the council may deem expedient, to realize moneys for the purpose of enabling the City to purchase or redeem in advance of the maturity thereof the whole or any part or parts of the consolidated debentures of the city issued pursuant to the order of the Board of Public Utility Commissioners of the Province of Alberta, dated the 24th day of November, 1937. Any such by-law may be passed and any such new debentures may be issued and sold either before or after arrangements are made for the purchase or redemption of consolidated debentures to be purchased or redeemed with the moneys realized from such new debentures, and in determining the amount of new debentures to be issued and sold at any time the council need not take into account the moneys or assets, if any, which may be held by the sinking fund trustees of the City of Edmonton in respect of such consolidated debentures, or any of them.

"(2) The net amount realized by the issue and sale of new debentures issued under any by-law passed pursuant to this section 296d shall be applied in the purchase or redemption of consolidated debentures issued pursuant to the said order in the manner provided in this subsection (2), namely:

"(a) Subject to the provisions of paragraph (b) of this subsection (2) such net amount shall be paid to the sinking fund trustees as other moneys referred to in section 13 of the said order and the amount so paid shall be used by the trustees only in the manner provided in section 12 of the said order, namely:

- "(i)** In the purchase in the open market or by private or public tender of consolidated debentures at a price not greater than face value and accrued interest; or
- "(ii)** The redemption on any interest due date at face value and accrued interest of consolidated debentures as the sinking fund trustees may choose by drawing as hereinafter provided. In drawings under this clause consolidated debentures shall be

redeemed in the order of the maturity of old debentures for which they have been exchanged, all in accordance with the provisions set forth in said section 12 of said order.

“(b) At the option of the council such net amount, or any part thereof, may be applied by the city itself in the redemption of consolidated debentures called for redemption by the city in accordance with the provisions of section 14 of said order, and the council shall have the rights of redemption set out in said section 14, namely:

“In addition to the right of redemption under said Section 12 of said Order, and provided the City is not in default under any of the provisions of said Order, the City shall have the right to call for redemption on any interest due date at face value and accrued interest the whole or any part of the Consolidated Debentures then outstanding, provided, however, that if such a call is made for redemption prior to February 1st, 1947, for part of the outstanding Consolidated Debentures, the debentures so called shall be chosen by a drawing.

“(3) Nothing herein contained shall in any way affect the provisions of said Order relating to the levying of local improvement taxes or the charging to and collecting of any sums from the public utilities of the said City.

“(4) The provisions of section 291 of *The Edmonton Charter* shall not in any way limit or prevent the issue by the city of new debentures pursuant to the provisions of this section 296d.

“(5) If the permission or authorization of the Board of Public Utility Commissioners of the Province of Alberta under Part IV of *The Public Utilities Act* shall have been given to the issue of debentures under any by-law authorized by this section, every such by-law when finally passed, and every debenture issued thereunder, shall for all purposes be valid and binding upon the city and the ratepayers thereof and upon the property liable for any rate levied or to be levied to pay the debentures and interest, and the validity of the by-law and every such debenture, and the coupons thereto attached, shall not be open to question on any ground whatsoever.

“(6) In case all of the consolidated debentures shall be paid off in advance of maturity whether or not with the moneys realized from the sale of new debentures issued under by-laws passed pursuant to this section, the moneys or assets, if any, which may have been held by the sinking fund trustees of the City of Edmonton in respect of such consolidated debentures or any of them shall continue to be held by the sinking fund trustees and be available for the payment or redemption of any new debentures so issued. Provided, however, that the council without the assent of the burgesses may at any time and from time to time direct that such moneys and the proceeds of such assets, or any part or parts thereof, shall be paid over to the city and be used for one or more capital expenditures, the nature of

which shall be set out in such by-law and for which it would otherwise be necessary to issue debentures of the city, but in every such case, an application shall be made to the Board of Public Utility Commissioners of the Province of Alberta for permission to use such moneys for such purposes. Such application may be made to the said Board in the same manner as applications for permission to raise loans under Part IV of *The Public Utilities Act*, and the Board shall have the same powers of enquiry and authorization as are conferred upon it by said part and the by-law shall not be finally passed until an order has been made by said Board granting permission to the proposed use of such moneys. The use by council for any such authorized capital purpose as aforesaid when the permission of said Board of Public Utility Commissioners has been obtained shall not constitute a contravention of the provisions of section 313 of said charter.

“(7) Consolidated debentures purchased or redeemed as in this section provided shall be cancelled.

“(8) New debentures may be issued under the authority of this section 296*d* notwithstanding that the principal amount of such new debentures may exceed the principal amount of the consolidated debentures which may be purchased or redeemed out of the moneys realized from the sale of such new debentures. If the net amount realized by the issue of new debentures authorized by this section shall be more than sufficient to purchase or redeem all of the consolidated debentures outstanding, the portion of such net amount not applied in such purchase or redemption shall, if not then held by the sinking fund trustees of the city, be paid over to the sinking fund trustees and shall be held available in such manner as the said trustees may determine for the payment or redemption of new debentures issued under the authority of this section.

“(9) In addition to the powers hereinbefore in this section contained, the council of the city may from time to time and at any time or times pass by-laws without the assent of the burgesses to authorize the borrowing of money on the credit of the city by way of temporary loan or loans to raise moneys for the purposes set out in subsection (1) of this section 296*d*, and may issue a note or notes or treasury bill or treasury bills or other security for any such temporary loan, in such amount or amounts, payable in such currency or currencies, at such place or places, and at such time or times, not exceeding five years from the date of issue thereof, bearing such rate or rates of interest, and having such provisions for repayment prior to maturity thereof, all as the council may deem expedient. The proceeds of any such temporary loan shall be either applied by the city itself in the redemption of consolidated debentures, in the manner set forth in paragraph (b) of subsection (2) of this section or paid to the sinking fund trustees and applied in the purchase or redemption of consolidated debentures in the manner set forth in paragraph (a) of sub-

section (2) of this section. The council may also from time to time and at any time or times pass by-laws without the assent of the burgesses to authorize the issue of new debentures of the city in such amounts as will realize the net sum required for the payment of the whole or any part or parts of any such temporary loan. A recital or declaration in the by-law authorizing the issue of such new debentures to the effect that the amount of the new debentures so authorized is necessary to realize the net sum required to be raised for such purpose shall be conclusive evidence of that fact.

“(10) No by-law authorized by this section 296*d* shall be finally passed until the authorization of the Board of Public Utility Commissioners of the Province of Alberta shall have been obtained pursuant to Part IV of *The Public Utilities Act*.”

11. As to section 297,—

By deleting therefrom the words “to the alternative mode of payment authorized by section 249” and by substituting therefor the following; “to any other mode or modes of payment.”

12. As to section 298, —

(a) By deleting therefrom the words “Provided that the by-law, not being a local improvement by-law, has received the assent of the burgesses as in this Act provided, and that no successful application has been made to quash it within two months after its final passing,” and by substituting therefor the following:

“Provided that no successful application has been made to quash the by-law within two months after its final passage, and provided further in the case of a by-law requiring the assent of the burgesses under this Act that such assent has been given.”

(b) By adding thereto the following subsection:

“(2) Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture which has matured has been paid by the city, the by-law and the debentures issued under it shall be valid and binding upon the city.”

13. As to section 301,—

By repealing the same and by substituting therefor the following:

“**301.** The council, by the by-law authorizing the issue of any debentures, may provide that all or any part of the debentures so authorized shall be redeemable at the option of the city on any date prior to maturity, and in such case the following provisions shall apply:

“(a) The by-law shall specify the place of redemption and the value at which such debentures may be so redeemed

which value may include such premium or premiums on redemption as the council may determine, not exceeding three per cent of the principal amount of any debenture to be redeemed.

“(b) Interest shall be paid to the date set for such redemption and shall cease thereafter to accrue.

“(c) Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture is registered, at the address shown in the register referred to in section 307.

“(d) At least sixty days prior to the date set for such redemption, notice of intention so to redeem shall be published in such manner as may be set out in the by-law.

“(e) Any debentures issued under such by-law shall bear an endorsement to the effect that they are issued subject to redemption, and such endorsement shall specify the place of redemption, the value at which the debenture may be redeemed, and the manner of publication of notice of intention to redeem.”

14. As to section 302,—

By adding thereto the following subsection:

“(3) In case a debenture bears the endorsement provided for by subsection (2) of this section 302, it shall not be necessary that it bear the endorsement provided by subsection (1) of this section 302.”

(1) By inserting between the words “outstanding” and “and,” where said words occur in the fifth line of subsection (1) thereof, the words: “or to redeem in advance of the maturity date thereof any redeemable debentures, stock or other securities of the City from time to time outstanding.”

(2) By inserting between the words “outstanding” and “provided,” where said words occur in the tenth line of subsection (1) thereof, the words: “or for redeeming in advance of the maturity date thereof any redeemable debentures, stock or other securities of the City from time to time outstanding.”

(3) By inserting between the words “purchase” and “shall,” where said words occur in the twelfth line of subsection (1) thereof, the words: “or redemption.”

(4) By inserting between the words “in” and “shall,” where said words occur in the second line of subsection (2) thereof, the words: “or redeemed.”

(5) By inserting between the words “in” and “and,” where said words occur in the fifth line of subsection (2) thereof, the words: “or redeemed.”

(6) By inserting between the words “in” and “and,” where said words occur in the eleventh line of subsection (2) thereof, the words: “or redeemed.”

(7) By inserting between the words “in” and “any,” where said words occur in the fourteenth line of subsection

(2) thereof, the words: "or redeeming."

(8) By inserting between the words "City" and "and," where said words occur in the fourth line of subsection (3) thereof, the words: "or redeeming in advance of the maturity date thereof any redeemable debentures, stocks or other securities of the city from time to time outstanding."

16. As to section 315,—

(a) By deleting therefrom the words "two of whom shall be appointed by a judge on application by the city solicitor on behalf of the city" where the said words occur therein and by substituting therefor the words "two or whom shall on application of the city solicitor on behalf of the city, be appointed by a judge for a period not exceeding five years and with the approval of said judge one of the said two trustees may, for a period not exceeding two years from the coming into force of this amendment, be an officer or official of the city nominated by council.

(b) By deleting therefrom the words "the said trustees shall hold office until removed by the court or by the council, as the case may be, according to the manner of their several appointments", where the said words occur therein, and by substituting the words "the trustees appointed by a judge as aforesaid may be removed at any time by a judge and the trustee who is the chairman of the finance committee, may be removed from office at any time by resolution of council".

17. As to section 467,—

By deleting the same and by substituting therefor the following:

"**467.**—(1) All works of a public utility nature owned by the city may be assessed as if owned and operated by private persons under a franchise from the city.

"(2) The Council may from time to time,—

"(a) fix such assessment on the value as a going concern of each of said works, including the value of the plant, machinery, fixtures, buildings, structures and all other things used in or in connection with each of the said works, and in addition thereto the value of the franchise in respect of each of such works and restrict such assessment to municipal purposes alone;

"(b) fix the rate or rates to be levied upon the assessments so fixed at such amount as council may deem expedient, and said rate or rates may differ in respect of each of said works.

"(3) In estimating the value of land, business or special franchise of any private person holding a franchise, no regard shall be had or given of the assessment of said works under the powers contained in this section;

“(4) Said assessment may be made and the rate or rates imposed for the year 1944 notwithstanding that the assessment roll for the said year may have been completed.

18. By adding thereto the following new section:

“**532e.** Whereas the city granted to Northern Alberta Natural Gas Development Company, Limited, its successors and assigns, an exclusive franchise for the sale of natural gas within the City of Edmonton for a period of twenty (20) years from the 16th November, 1915, on the terms and conditions contained in a written agreement printed as chapter 29 of the Statutes of Alberta, 1916; and

“Whereas in the year 1923 said Northern Alberta Natural Gas Development Company, Limited, assigned all its interest in said agreement to Northwestern Utilities, Limited (hereinafter for convenience referred to as “the Company”); and

“Whereas by section 14 of chapter 88 of the Statutes of Alberta, 1935, the exclusive period of said franchise to the Company for the sale of natural gas for domestic and heating purposes was extended for the further period of 10 years from the 16th day of November, 1935; and

“Whereas the city and the company have agreed that the said exclusive franchise shall be renewed for a further period of ten (10) years from the said 16th day of November, 1945;

“Now, therefore, in consideration of the premises, it is enacted that:

“The said agreement, dated the 16th day of November, 1915, be and the same is hereby amended by striking out the words ‘thirty years’, where the same occur therein, and substituting therefor the words ‘forty years’, and the said agreement shall for all purposes be read and construed accordingly. Provided, however, that notwithstanding this amendment the city may give the notice in writing referred to in paragraph (12) of the said agreement on or before the 15th day of May, 1945, and upon its so doing, this amendment shall cease to be effective, otherwise to continue in full force, virtue and effect.

“Nothing in this section contained shall interfere with, prejudice or affect the jurisdiction and powers of the Board of Public Utility Commissioners under *The Public Utilities Act*, nor affect any rights which may exist under section 19 of chapter 4 of the Statutes of Alberta, 1922.

19. As to section 3 of chapter 65 of the Statutes of Alberta, 1930,—

(a) By deleting therefrom the words “to a day in the second week in November”, where the same occur therein, and by substituting therefor the words “to the first Wednesday in the month of November”.

(b) By deleting subsection (2) thereof.

20. By-law Number 1049 of the city, passed on the..... day of February, 1944, entitled "A By-law to create a debt in the sum of \$1,770,000 for the purpose of raising moneys to buy in certain outstanding debentures of the City of Edmonton and to issue debentures in the said sum of \$1,770,000," is hereby validated and confirmed and declared to be legal, valid and binding upon the City of Edmonton and the ratepayers or burgesses thereof affected thereby, and the same shall not be open to question on any ground whatsoever; and all debentures and the coupons attached thereto issued or to be issued, or purporting to be issued under the said by-law are hereby declared to be issued on the credit and security of the municipality at large and are hereby declared to be legal, valid and binding upon the City of Edmonton and the ratepayers or burgesses thereof, and the same shall not be open to question on any ground whatsoever.

21. By-law Number 1048 of the city, passed on the..... day of February, 1944, entitled "A By-law to authorize an agreement between the City of Edmonton and the Sinking Fund Trustees of the City of Edmonton to provide for the buying in by the city of certain outstanding debentures," and the agreement set forth as a schedule to the said by-law, are hereby validated and confirmed and declared to be legal, valid and binding upon the City of Edmonton and the ratepayers or burgesses thereof affected thereby and upon the sinking fund trustees of the city, and the said by-law and agreement shall not be open to question on any ground whatsoever. It is hereby declared that the city and the sinking fund trustees of the city were duly empowered to enter into the said agreement.

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

FOURTH SESSION
NINTH LEGISLATURE
8 GEORGE VI
1944

BILL

An Act to amend the Acts constituting
The Edmonton Charter and to Vali-
date a Certain Bylaw authorizing
the Borrowing of Money.

Received and read the

First time.....

Second time.....

Third time.....

MR. MACDONALD.

EDMONTON:
A Shnitka, King's Printer
1944