

AN ACT GRANTING SEÑOR VICENTE SOTELO Y MATTI, A NATIVE AND RESIDENT OF THE CITY OF MANILA, PHILIPPINE ISLANDS, AND HIS SUCCESSORS AND ASSIGNS, A FRANCHISE TO ESTABLISH, CONSTRUC...

Act No. 2485, February 05, 1915

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By authority of the United States, be it enacted by the Philippine Legislature, that:

SECTION 1. A franchise is hereby granted to Señor Vicente Sotelo y Matti, a native of the city of Manila, Philippine Islands, to construct, subject to the terms and conditions hereinafter set forth, and to operate and maintain for a period of ninety-nine years from and after the passage of this Act, an economic agricultural railroad on the Island of Negros, Philippine Islands, which, parting from island of Negros, the port of Pulupandan, municipality of Valladolid, Province of Occidental Negros, and going in a southwesterly direction, shall pass through La Rama, La Carlota, Zaragoza, La Granja, Danao, and La Castellana, and terminating at Isabela, on the Malipay River, as well as such branches as may, after the completion of this line, be deemed necessary to develop it.

SEC. 2. The length of this railroad shall be approximately sixty kilometers.

SEC. 3. The grantee may make in the route described such variations as a careful investigation of the locality may show to be necessary in order to avoid inundations and large cuts and fills, diminish curves, reduce grades, or feed the road.

SEC. 4. The maximum grade of the construction shall be two per centum and the minimum curve shall have a radius of two hundred meters. The grade on curves shall be compensated in such manner that the maximum grade on minimum radius curves shall not exceed one and six-tenths per centum.

SEC. 5. The grantee shall construct and maintain stations at Pulupandan, La Rama, La Carlota, Zaragoza, La Granja, Danao, La Castellana, and La Isabela, and freight sheds, locomotive sheds, and water tanks wherever he may consider such necessary.

SEC. 6. All material used in the construction of the line and shall be of good quality and adapted to the conditions of the country. The rails shall be steel rails weighing fifteen kilograms per meter, with a resistance of three thousand five hundred kilos. On each kilometer of track there shall be used at least twelve hundred ties of native hard wood, one meter and fifty centimeters long, seven inches wide and five inches thick.

SEC 7. The railroad shall be single track, of seventy-five to ninety centimeter gauge, with the necessary sidings to allow of the trains passing each other at each station. The width of the fills and cuts shall be that required for the development of the track.

SEC. 8. All material used in the construction of buildings shall be of good class and quality. The roofing shall be of galvanized iron. The bridges and culverts shall be constructed of native hard wood, which may be replaced by masonry and steel when the development of the traffic warrants the expense.

SEC. 9. The grantee shall acquire for the laying of the track a strip of land approximately thirty meters wide, except in the places where more space is needed for stations, buildings, fills, cuts, and excavations, quarries, and all other land necessary for the deviation of watercourses, wagon roads, drainage of marshy land, dams, and other works necessary for the protection of the track from inundation, and for the construction of yards, shops, wharves, platforms, warehouses, turntables, switches, or other means suitable for the operation of the railroad. In case any of the land necessary for the proper construction of the line can not be obtained by free contract with its owners, the grantee shall be entitled to expropriation in the form established by law.

SEC. 10. Before commencing with the construction of each utfmy commissioners'; of the sections of the road, the grantee shall file with the Board of Public Utility Commissioners three copies of the plan and cross section thereof of the project and its construction, accompanied by three copies of the descriptive report for approval by the Governor-General. Upon approval of the plans, two of the three copies thereof and of the descriptive report shall be filed in the proper offices of the Government and the other shall be delivered to the grantee.

SEC. 11. It shall be the duty of the grantee, in order to prevent accidents, to place gates in charge of guards at the points where the railroad crosses much frequented public highways or roads.

SEC. 12. Along the entire right of way the grantee shall establish a telegraph line for the exclusive use of the railroad. The poles of this line may also carry such wires as the Government may deem necessary; but the maintenance and custody of the latter shall be at the expense of the Government.

SEC. 13. Before opening all or part of the road to the public for the transportation of passengers or freight, the grantee shall notify the Board of Public Utility Commissioners in writing, stating the date on which it is desired to begin operation. Upon receiving such notice, the Board of Public Utility Commissioners shall direct an immediate inspection to be made of all the works on the section, engines and rolling stock to be used, and if it finds everything in accordance with the law, it shall authorize the opening of the road or of the part thereof fit for traffic.

SEC. 14. The grantee shall enjoy the following powers, privileges, and exemptions:

(a) To convey or transfer this privilege to another person, company, or corporation.

(b) To acquire the right of way through the public lands of the Philippine Government for the construction, operation, and maintenance of the railroad herein authorized to the extent of thirty meters in width where it may pass through the public domain, including all necessary ground for depots, machine shops, station buildings, workshops, water stations, warehouses, terminals, including wharves and dock fronts, switches, sidetracks, and turntables, and also such extra lands beyond such thirty meters as may be found necessary for said purposes: Provided, That the same be approved by the Governor-General as a part of the definite plans hereinbefore provided for, and the right, power, and authority shall thereunder be given to said grantee, with the written approval of the Governor-General, to open and work quarries and gravel pits upon any public lands and take from such lands earth, stone, timber, and other materials for the construction of such railway; but the provisions of this paragraph shall only apply to public lands available for homestead settlement or for sale under the Public Land Act or to timber lands of the Philippine Government, and shall not apply to lands used and assigned for other purposes.

The grantee shall have the right, with the approval of the Governor-General, to cross or occupy such parts of public roads, alleys, avenues, and squares, acquire title to such other municipal or provincial lands, as may be necessary, on terms to be agreed upon by the grantee and the proper provincial or municipal authorities, as the case may be; and in case of failure to agree upon the terms thereof, such terms shall be fixed by the Governor-General.

Lands or rights of use and occupation of lands granted ~«vei'si°n of rishts> under the foregoing provisions of

this paragraph shall revert to the governments by which they were respectively granted upon the termination of this franchise or concession, or upon its revocation or repeal.

(c) To acquire from the provincial or municipal governments, corporations, or private individuals, by contract or expropriation, the land necessary for the construction, maintenance, and operation of the railroad; but the grantee shall not occupy any land within the limits of any province or municipality, if the same is set aside for another purpose, nor shall he occupy land within said limits without authorization by the proper authorities.

(d) To appear in, petition for, initiate, prosecute, and abandon judicial or extra judicial proceedings of any kind; to sue; to appoint and remove freely the employees and agents necessary for the operation, assigning to them such compensation as he may see fit.

(e) To acquire for the railroad by purchase, donation, or any method permitted by law, the title to or possession of land and other real and personal property, easements, or other property rights, and acquire, possess, lease, exchange, mortgage, pledge, sell, or dispose of the same entirely or in part, in accordance with law.

(f) To construct and alter, substitute, maintain, and operate the road for which a franchise has been granted; construct all buildings, stations, shops, fills, aqueducts, bridges, wharves, roads, thoroughfares, crossings, ditches, drains, pillars, arches, retaining walls, and fences on land of his own, and to cross any railroad, tramway, river, canal, creek, lake, shore, culvert, road, and public thoroughfare, upon obtaining the necessary authorization therefor from the public or private corporations or persons whose rights may be affected.

(g) To open quarries, gather stones from the surface of the land, cut timber, excavate the ground for material, and construct and operate ovens for lime, gypsum, and bricks on land owned or leased for these purposes by the grantee.

(h) To conduct water to the railroad, for its use; to acquire the land and construct the roads necessary to facilitate access to the stations from the pueblos.

(i) To borrow money and contract the necessary indebtedness for the construction, completion, maintenance, and operation of the road and for any other legal purpose; to issue or negotiate promissory notes, chits, bonds, or other documents representing value for any sum borrowed or indebtedness contracted, at a rate of interest of not less than four per centum nor more than eight, and to guarantee such indebtedness by mortgages, encumbering property already acquired, or capital actually invested at the time of contracting the indebtedness with said securities. Twenty per centum of such bonds, notes, promissory notes, etc., shall be redeemed annually ten years after their issue or prior thereto if the grantee deem it advisable.

(j) None of the personal or real property in use and necessary for the operation of the road shall be burdened with imposts and taxes by the province or municipality from the date of the franchise to that of the expiration thereof.

(k) All material which it may be found necessary to import from Europe or America for the construction of the railroad shall be exempt from the payment of customs duties.

(l) In case of refusal; delay, or failure of the payment of the freight charges on merchandise, either for the entire distance or part thereof, the grantee may retain the said merchandise until payment is made. Such payment shall include all storage charges on merchandise left with the railroad for over forty-eight hours after arrival at its destination.

(m) To petition the justice of the peace of the district in which the station is located, for the sale at public auction of all articles, freight, merchandise, or baggage transported by the grantee and not claimed by the owner or consignee within a period of two months. In the cases hereinbefore set forth, or when the owner or consignee is not known or refuses to receive the articles transported, or if he refuses the transportation expenses, the grantee may petition the justice of the peace for an order for the sale at public auction of perishable goods. The proceeds of the sale shall be applied primarily to the payment of the costs and expenses of such sale, and then to that of the account of the railroad for freight and expenses on said goods, and the remainder, if any, shall be deposited in the court at the disposal of the person entitled to claim it. The grantee shall have the right to refuse to accept perishable goods for transportation unless the freight charges thereon are paid in advance.

SEC. 15. The grantee binds himself to provide on his trains a suitable and adequate place for the mails and shall carry them in the manner stipulated between the Director of Posts and the said grantee. In case of failure to arrive at an agreement, the Governor-General shall establish the manner in which said mails shall be carried, after hearing and considering the arguments of the said Director and grantee. Said mails shall be carried free of charge: Provided, That in case the Government requires, in addition to the ordinary mail service, the transportation of urgent mail or orders at other hours or a greater speed than those of the ordinary trains, or the transportation of troops, ammunition, funds, or freight, the grantee shall take the necessary steps to comply therewith and shall receive a reasonable compensation for such service.

SEC. 16. The grantee shall not hinder the crossing of his road by any other railroad or wagon road authorized by the Government, provided the same pays the proper indemnity and complies with the railroad police regulations.

SEC. 17. The legal domicile of the grantee shall be the city of Iloilo, Philippine Islands; but if he consider it advisable and necessary, he may have a representative in Manila, properly authorized and empowered to deal with the Insular Government with respect of this franchise.

SEC. 18. From and after the date when the railroad is opened to the public service in its entirety or in part, the grantee shall have the regular passenger and freight train service keep as closely as possible within schedule time.

SEC. 19. The grantee shall allow all passengers having first-class tickets fifty kilograms of baggage free of charge and shall allow thirty kilograms to passengers having tickets of an inferior class. Baggage shall be understood to include clothing of current use, bicycles, and such other articles as a person may need for practising a profession or trade. Baggage shall be accepted by the grantee only when contained in receptacles assuring its safety during transportation, and the grantee shall not be liable for more than three hundred pesos for each fifty kilograms of baggage unless the owner thereof, upon presenting it for transportation, declares its contents and pays for it a reasonable insurance for the additional liability assumed by the grantee.

SEC. 20. Each locomotive used in the operation of the road shall be equipped with a bell and a steam whistle. The bell shall be rung and the whistle blown at a distance of at least three hundred meters from each point where the railroad crosses any road and the ringing shall be continued until the locomotive has crossed such road. Each passenger train shall have adequate and efficient means of establishing immediate communication with the engineer, to the end that the latter can be advised immediately to stop the train.

The grantee shall install on all trains and locomotives Air brakes-the necessary pneumatic air brakes for the protection of lives and property on grade crossings and other points of danger. The locomotives shall be provided with the necessary apparatus for preventing the sparks from setting fire to the property adjacent to the right of way.

SEC. 21. The velocity of the trains upon passing on streets of the pueblos or public thoroughfares where there are no bars shall not exceed thirty-two kilometers per hour.

SEC. 22. It shall be the duty of the grantee to issue receipts from a stub book for merchandise or articles booked, and to label such merchandise or articles.

SEC. 23. It shall be the duty of the grantee to provide uniforms for the personnel in his service, issuing to them a special badge without which they shall not be allowed to perform any official duty or apply for assistance to the peace officers.

SEC. 24. The grantee may refuse to accept for transportation goods of a dangerous character or goods the transportation whereof is prohibited by the Government.

SEC. 25. The grantee shall establish his schedules of passenger and freight rates and the Board of Public Utility Commissioners shall exercise control over them in accordance with the provisions of Act Numbered Twenty-three hundred and seven of the Philippine Legislature and its amendments. The schedules adopted shall be posted in conspicuous places at the stations.

SEC. 26. Before the inauguration of the first section of the road covered by this concession, the grantee shall submit for approval by the Board of Public Utility Commissioners, the regulations for the operation of the road, train and station service, accounting, conditions of traffic, care and maintenance of the tracks and other appurtenances for the government of his employees. These regulations upon approval by said Board shall have the force of law; but shall be subject to such amendments as practice may counsel. The amendments, duly approved by said Board, shall always have the force of law.

SEC. 27. Within one hundred and twenty days from and after the acceptance of this Act, as hereinafter provided, the grantee shall deposit in the office of the Insular Treasurer at Manila a sum equal to fifty pesos Philippine currency per kilometer of the concession. This deposit shall be returned in proportion as the work is completed in sections of not less than twenty kilometers.

The grantee shall forfeit all or part of said deposit if two years elapse without the work on the railroad having been begun, or over five after such work has begun, without its being completed. The forfeiture of this bond shall not take place if the completion of the work has been hindered totally or partially by force majeure or fortuitous events.

SEC. 28. The grantee or his successors shall pay into the Insular Treasury of the Islands, as compensation for the concession of this franchise, one-half of one per centum of the gross receipts from the passenger and freight traffic on this railroad. This percentage shall be paid monthly and shall be in lieu of all privilege, profit, income, and franchise taxes, and the grantee is hereby declared exempt from all classes of taxes.

SEC. 29. The grantee shall keep a record of all receipts for passengers and freight of the railroad herein mentioned, which shall be subject to inspection by the authorities, who shall audit and approve the accounts and designate the sum due to the Government.

SEC. 30. The concession of this franchise shall be subject in all respects to the restrictions imposed upon corporations and franchises by the Act of Congress approved July first, nineteen hundred and two, entitled "An Act temporarily to provide for the administration of the affairs of the Civil Government in the Philippine Islands, and for other purposes," and to the provisions of Act Numbered Twenty-three hundred and seven of the Philippine Legislature and its amendments, any provisions hereof to the contrary notwithstanding.

SEC. 31. This Act shall take effect on its passage; but the franchise shall not be effective unless within sixty days after the said passage the grantee shall file with the Government his acceptance in due form, binding himself to comply with all the terms hereof.

Enacted, February 5, 1915.

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