

AN ACT TO GRANT TO THE LEPANTO MINING COMPANY, INCORPORATED, A FRANCHISE TO CONSTRUCT A HIGHWAY FROM A POINT NEAR COMILLAS, PROVINCE OF LEPANTO-BONTOC, IN A GENERAL WESTERLY DIR...

Act No. 1700, August 30, 1907

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

SECTION 1. Authority is hereby granted to the Lepanto Mining Company, a corporation duly organized and existing under and by virtue of the laws of the Philippine Islands, and to its successors and assigns, to locate and construct, and, for a period of fifty years from the date of the passage of this Act, to maintain, use, and operate a highway, under the terms and conditions set forth in this Act. The said highway shall have a minimum width of four and twenty-five hundredths meters, and shall extend from a point on the Abra River near Comillas, Province of Lepanto-Bontoc, and about four miles south of Cervantes, in a general westerly direction to the China Sea at a point near the town of Bangar, Province of La Union.

SEC. 2. During the continuance of this franchise the grantee shall enjoy the following powers, privileges, and exemptions:

(a) To occupy, with the prior approval of the Governor-General, any part of the public domain necessary for the purpose of the enjoyment of the franchise granted by this Act,

(b) With the written approval of the Governor-General, to open and work quarries and gravel pits on any public lands and to take from such lands earth, stone, timber, and other materials for the construction and maintenance of the said highway. Where, however, the said highway runs through any public lands, the grantee shall not cut any trees growing within thirty-five meters of either side of the center line of the said highway, except such as are necessary in clear sufficient ground for the construction of the said highway: Provided, however, That in the event of the grantee availing itself of the right to construct the railroad as authorized by this Act, then the grantee's right, if any, to cut trees within the said tract of land shall be determined by the concessionary contract hereinafter provided for. The provisions of the foregoing portions of this section 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.

(c) To acquire by condemnation proceedings land for the purpose of constructing the said highway where its course lies through private land. The width of the right of way so obtained shall than necessary for the location and construction of the and shall be approved by the Director of Public right of condemnation or eminent domain shall be exercised by the grantee in accordance with the laws of the Philippine Islands at the time being in force.

(d) With the approval of the Governor-General, to cross or occupy such parts of public highways, roads, trails, alleys, avenues, and squares, and, with similar approval, to acquire title to such other municipal or provincial lands as may be necessary for the location and construction of the said highway, on terms to be agreed upon by the grantee and the proper provincial or municipal authorities, as the ease 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 under the foregoing provisions of this section, shall revert to the governments by which they are respectively granted, upon the termination of this franchise or concession, or upon its revocation or repeal.

(e) To acquire from corporations or private individuals, by purchase, contract, lease, grant, or donation, any lands which may be necessary or useful by the construction, maintenance, and operation of the said, highway.

(f) To establish along the length of the said highway, telegraph, and other telephone, and electrical transmission lines for the exclusive use of the grantee and for such other purposes as may be approved by the Secretary of Commerce and Police. All posts for such lines shall carry free of charge the number of wires which the Philippine Government may consider it necessary to install for public service.

(g) To act as common carrier over the said highway and to carry passengers, freight, and produce for hire in all classes of vehicles, including those drawn or propelled by mechanical power: Provided, however, That the grantee shall establish at such points as may be fixed by the Director of Public Works, with the approval of the Secretary of Commerce and Police, suitable turnouts of such width as will enable vehicles of all classes to pass each other.

(h) To erect suitable tollgates and to collect tolls or charges for the passage over the said highway of all classes of vehicles carrying passengers, freight, or produce for hire, including those drawn or propelled by mechanical power.

All tolls or rates whether charged by the said grantee for the use of the said highway or for its services as common carrier, shall be reasonable and nondiscriminatory in accordance with any public Commission or other Government.

(j) To construct upon the said highway a railroad to be operated by steam, electricity, or other motive power. In order to avail itself of the right to construct a railroad the grantee must organize a railroad corporation under the laws of the Philippine Islands, or under the laws of the United States or of any State thereof, and this franchise may be thereupon transferred to such railroad, corporation, and thereafter the grantee shall have the right to maintain and operate a railroad upon the said highway.

The railroad shall be constructed, equipped, maintained, and operated in accordance with the laws of the Philippine Islands governing railroad corporations at the time being in force, and under a concessionary contract to be entered into between the said corporation and the Philippine Government. The Governor-General is hereby authorized to determine the terms and conditions of the said contract and to execute the same on behalf of the Philippine Government.

(j) To recover, in an action at law, with costs, the actual damages, and also exemplary damages of not less than five pesos, nor more than one hundred pesos, from any person who may unlawfully—

1. Cut, break down, or otherwise destroy any tollgate or remove earth, stone, or timber from the said highway to the damage of the same; or
2. Draw or haul any logs, timber, or other material on the bed of the said highway, unless the same shall be entirely lifted, on wheels, above the surface of the road; or
3. Drive or lead upon the said highway any vehicle with the wheels rigid with the axle to which they are attached, or any sled, or any vehicle for the purpose of handling freight or produce with a tire of less width than authorized by the laws of the Philippine Islands, at the time being in force, in regard to the use of well-constructed or improved public roads by vehicles: Provided, however, That, the said highway is hereby expressly exempted from any provisions of law authorizing the Governor-General to suspend temporarily the laws regulating the width of tires; or
4. Divert any stream of water, and thereby cause water to overflow any part of the said highway; or
5. Remove from the said highway any tool or road making material belonging to the grantee; or

6. Do any act by which the roadbed or any ditch, gutter, sluice, culvert, drain, or bridge pertaining to the said highway shall be injured or obstructed ; or
7. Cause any of the above acts to be done.

The provisions of section sixteen of Act Numbered Fifteen hundred and eleven, and of any law of the Philippine Islands whereby any of the Acts enumerated in subsection (j) of this section are made criminal offenses if committed on public highways, are hereby made a part of this franchise; and the offender or offenders may be prosecuted criminally thereunder should the grantee elect not to recover damages for the said acts in a civil action. (k) To recover in an action at law three times the amount of said toll, with costs, pay a bio to the grantee, from any person who, being subject; to toll, may unlawfully refuse to pay the same, or may turn out of the said highway and pass a tollgate and again enter the said highway with intent to avoid payment of the toll.

For the better enforcement of the provisions of subsections (j) and (k) of this section, the provincial boards of the respective provinces within which the said highway lies may, upon the petition of the grantee first had, appoint as many of the persons in the employment of the said grantee as may be necessary to act as special police officers on the said highway. Every special police officer, whose appointment is hereby authorized, shall be sworn before a justice of the peace and shall hold office until his appointment is duly revoked by the proper provincial board or until the grantee shall give due notice to the provincial board that it no longer requires the services of the said officer.

SEC. 3. It shall be the duty of the grantee—

- (a) To make a proper survey of the proposed location and route of the said highway, and to submit a map, profile, and description map' of such location and route for the approval in writing of the Governor-General. The map and description shall show the location ill' the trees which the grantee desires permission to cut in order to clear sufficient ground for the construction of the said highway.
- (b) To submit detailed plans and specifications for a substantial and permanent highway to the Secretary of Commerce and Police, through the Director of Public Works. The approval of the Secretary of Commerce and Police shall be necessary before construction is commenced on any section of the said highway.
- (c) To establish a. system of maintenance of the said highway which shall be approved by the Director of Public Works and shall provide for an average of at least one man continually employed in the maintenance of each kilometer of road in the rainy season, and an average of at least one man for each two kilometers of the road in the dry season, and to keep and maintain said highway in good repair. The system of maintenance provided for in this paragraph shall be immediately put in operation on any completed portion of the said highway and shall be continued in operation during the life of this franchise or until the grantee shall construct railroad on the said highway, as authorized by this Act.
- (d) Whatever the means of transportation used by the grantee, to carry the mails, in the event of the Director of Posts so desiring, upon such terms and conditions and at such rates as may be agreed upon between the Director of Posts and the grantee. In case the Director of Posts and the grantee can not agree on terms, conditions, or as to rates of transportation of the mails, the Governor-General of the Philippine Islands, after giving the grantee opportunity to be heard, shall fix the rates of transportation and the terms and conditions under which the mails shall be carried by the grantee over the said highway.
- (e) To permit the public, after the said highway has been opened for travel, to make free and unrestricted use of the same, subject to no toll or charge therefor except such as has already been provided for in this Act: Provided, however, That no public road, highway, or trail occupied or used under the provisions of subsection (d) of section two of this Act shall be closed to travel or use by the public for any cause whatever, without the prior approval of the Governor-General: And provided further, That after the highway to be constructed under this franchise has been opened for travel the same shall not be closed to travel or to the use of the public

without the approval of the Secretary of Commerce and Police. should the grantee elect to construct a railroad on such highway, the concessionary contract therefor shall define the future status of the said highway in regard to its use by the public.

(f) To deposit at the same time of acceptance of this franchise with the Insular Treasurer, ten thousand pesos, or negotiable bonds of the United States or other securities, approved by the Secretary of Commerce and Police, of the face value of ten thousand pesos as a guaranty to the franchise has been accepted in good faith and that the construction of said highway shall be begun on or before the first day of November, nineteen hundred and eight, and shall be completed and ready for use on or before the thirty-first day of December, nineteen hundred and ten.

If the deposit is made in money, the same shall be deposit and at interest in some interest-paying bank approved by the Insular Treasurer, and all interest accruing or due on said deposit or negotiable bonds of the United States or other securities shall be collected by the Insular Treasurer and paid to the grantee. should the grantee in any cause other than the act of God, the public enemy, usurped or military power, martial law, riot or civil commotion, or enevitable cause, fail, refuse or neglect to begin construction and complete said highway within the time prescribed by this franchise, then the deposit prescribed by this section to be made with the Insular Treasurer, weather in money, bonds or other securities, shall become the property of the Philippine Government as liquidated damages caused to such Government by such failure, refusal, or neglect, and thereafter no interest on said bonds or other securities shall be paid to the grantee. Should the said grantee observe all the terms and conditions of this franchise, the said deposit, bonds, or other securities deposit shall be returned by the Insular Treasurer to the grantee.

(g) To pay the Insular Treasurer, annually, after any portion of the said highway, or of the said railroad, is opened for traffic, one and one-half per centum of all gross receipts from any business authorized by this Act, and the said percentage shall be in lieu of all taxes on the franchise or earnings thereof.

SEC. 4. The right is hereby reserved to the Philippine Government to purchase the said highway from the grantee at any time after the expiration of twenty years from the date of the passage of this Act. The purchase price shall be the fair value of the said highway at the date of the purchase and shall be appraised by a board consisting of one appraiser selected by the grantee, one selected by the Governor-General and The third to be chosen by the two thus selected, or in case of their failure to agree, the third to be appointed by the Chief Justice of the Supreme Court. Should the grantee fail or refuse to select an appraiser within thirty days, the Chief Justice of the Supreme Court of the Philippine Islands, the senior associate justice of the said Supreme Court, and the appraiser selected by the Governor-General shall act as such board. The award of the majority of the appraisers shall be deemed the award of the board.

SEC. 5. The said highway shall be a post route and military road, subject to the use of the Philippine Government and the United States of America, for postal, military, naval, and other governmental service, and also subject to such reasonable regulations as the Philippine Government, with the approval of the Secretary of War. shall impose restricting the charges for such Government transportation.

Reasonable compensation shall be allowed for the urgent transportation of mail, troops, bullion, ammunition, or freight for the Government at other hours or on a different schedule than ordinarily maintained by the grantee as a common carrier. The grantee shall provide such facilities for such purposes as may be necessary at any bonds, day or night.

SEC. 6. The failure, refusal, or neglect to comply with any of the terms and conditions required of the grantee by this Act shall forfeit this franchise, and said highway or railroad, as the case may be, and all improvements and equipment thereon, and all pertaining thereto, shall thereupon become the property of the Philippine Government, unless such failure, refusal, or neglect was directly and primarily caused by an act of God, the public enemy,

usurped or military power, martial law, riot or civil commotion or inevitable cause. The time during which the grantee is prevented from carrying out the terms and conditions of this franchise by any of the causes cited herein shall be added, by executive order of the Governor-General, to the time allowed by this franchise for compliance with its provisions.

SEC. 7. The books and accounts of the grantee shall be subject to official inspection at any and all times by the Insular Auditor, his authorized representatives, or any other representative of the Government appointed by the Governor-General.

SEC. 8. This franchise or concession is subject to amendment, alteration, or repeal by the Congress of the United States; no stock or bonds shall be issued by the grantee hereunder except in exchange for actual cash, or for property at a fair valuation equal to the par value of the stock or bonds so issued; the grantee shall not declare stock or bond dividends.

The foregoing and all other terms and provisions of section seventy-four of the Act of Congress approved July first, nineteen hundred and two, entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and of sections four and five of the Act of Congress approved February sixth, nineteen hundred and five, relating to the construction of railroads in the Philippine Islands in so far as the same are applicable to this franchise, are hereby applied to incorporated into, and made a part of this franchise with the same effect as if they were set out herein at length.

SEC. 9. The word "grantee" herein shall be held to include and apply to the successors and assigns of said grantee.

SEC. 10. The grantee may assign, transfer, or sell this franchise only after the approval of the Governor-General in writing has been obtained: Provided, however, That in the case of the assignment, transfer, or sale to a railroad corporation as provided in this Act, such approval shall not be necessary. In any event, the limitation' assignment, transfer or sale shall be made only to a corporation organized under the laws of the Philippine Islands or of any State of the United States of America.

SEC. 11. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 12. This Act shall take effect upon its passage: Provided, however, That the grant of the franchise shall not become operative or effective unless the grantee shall, within nine months after the passage of this Act, file with the Secretary of Commerce and Police its acceptance of the franchise and its agreement to comply with all the terms of the Act and make the deposit required by section three (f) of this Act. With this acceptance shall be filed an amendment to the charter of the grantee, in a form satisfactory to the Attorney-General of the Philippine Islands, wherein the said corporation shall be duly authorized to enjoy all powers, privileges, and exemptions granted by this Act.

Enacted, August 30, 1907.

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