

AN ACT AUTHORIZING THE MERGER OR CONSOLIDATION OF CERTAIN CORPORATIONS, AND FOR OTHER PURPOSES.

Act No. 2772, March 06, 1918

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Any corporation organized, or to be organized, under any law, or laws, of the Philippine Islands may merge or consolidate into a single corporation with any other corporation organized, or to be organized, under any law, or laws, of the United States or of any State or Territory of the United States, or of the Philippine Islands, and owning and operating any railway lines within the Philippine Islands, which said consolidated corporation shall, upon the payment of a proper charter fee, thereby become a domestic corporation of the Philippine Islands, and may be either one of said merging or consolidating corporations, or a new corporation to be formed by means of such merger or consolidation, so that by virtue of this Act, and the proceedings had pursuant thereto, such corporations shall be merged or consolidated, so that all property, rights, franchises, and privileges by law vested in such corporations so merged or consolidated shall be transferred to and vested in the corporation into which such merger or consolidation shall be made: Provided, however, That no such merger or consolidation shall take place between any railroad corporation or between any railroad corporations and other carrier by land or water whereby competing agencies of transportation are reduced to one control.

SEC. 2. Such merger or consolidation shall be made in the following manner and under the conditions, provisions, restrictions, and with the powers following, that is to say:

(a) The boards of directors of the several corporations proposing to merge or consolidate shall enter into a joint agreement under the corporate seals of their respective corporations for the merger or consolidation of such corporations, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number, names, and places of residence of the directors, and principal officers of such new or consolidated corporations, who shall hold their offices until their successors be chosen and qualified, either according to law or according to the by-laws of the said corporation; the aggregate principal amount and the rate of interest of the bonds, if any, and the number of shares of the capital stock, with the par value of each share proposed to be issued in connection with such merger or consolidation, and if the capital stock is to be divided into classes, the classes thereof, with the terms on which issued; the manner of converting the capital stock of each of said merging or consolidating corporations into the stock or obligations of such new corporation, and, in case of the creation of a new corporation, how and when the directors and principal officers to succeed those named in the agreement shall be chosen or appointed; together with all such other provisions and details as to the board of directors entering into said agreement shall seem necessary or convenient to perfect the merger or consolidation of said corporations.

(b) The agreement shall be submitted to the stockholders of each of said merging or consolidating corporations separately, at a meeting thereof to be called for the purpose of taking the same into consideration; of the time, place, and general object of which meeting due notice shall be given by publication at least six times a week, for

two successive weeks, in a newspaper published in or near the place where the principal office in the Philippine Islands of the corporation is located, and by mailing a copy of such notice at least ten days prior to such meeting to the last known post-office address of each of the stockholders of record; and at said meeting the said agreement shall be considered, and a vote by ballot, in person or by proxy, shall be taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote; and if a majority of all the votes cast at each of such meetings shall be in favor of said agreement, consolidation, and merger, then that fact shall be certified by the president, or one of the vice-presidents of the corporation, under the corporate seal, attested by the secretary, and said certificates, duly acknowledged by the president or vice-president signing the same, and by the secretary of the several corporations, before an officer authorized to administer oaths, together with a copy of the agreement, shall be presented to the Public Utility Commission, who shall ascertain and declare whether the applicants have, by complying with the requirements of this Act, entitled themselves to the merger or consolidation applied for, and shall issue or refuse a certificate thereof accordingly; if it be issued, the said agreement and certificate, with the order thereon of the Commission, shall be certified by the Commission to the chief of the division of archives, patents, copyrights, trademarks, and corporations of the Bureau of Commerce and Industry, and shall be filed in the manner prescribed by the existing law for the filing of original articles of incorporation, whereupon the said merger or consolidation shall be complete and the merged or consolidated corporation may proceed to carry out the details of said merger or consolidation according to the terms of the agreement and to transact and carry on the business for which it was formed: Provided, however, That if any stockholder of either of the corporations so merged or consolidated, who shall not have given assent thereto, and who shall not be satisfied therewith, shall signify such dissent by notice in writing, served on the president, secretary, or treasurer of the new corporation, at any time within three months after the said meeting of his corporation to act thereon, he shall receive from such new corporation the fair cash value of his stock as of the day before the vote for the agreement or consolidation of his corporation was so cast as aforesaid, which, if not agreed on, shall be appraised by three disinterested persons, resident in the Philippine Islands, appointed by the judge of the Court of First Instance of the province wherein the principal office of the corporation of such dissatisfied stockholder is located, and it shall be the duty of said judge to make such appointment on reasonable notice, on the application of either party; and upon the payment of the agreed value of his stock and interest thereon, such stockholder shall deliver up his certificate of stock, if any such has been issued, and, if none such has been issued, shall make a due assignment to the merged or consolidated corporation of all his right in respect thereto; and the corporation may thereafter, in lieu thereof, reissue the same amount of stock to any other person or persons.

SEC. 3. Upon the perfecting, as aforesaid, of the said merger or consolidation, the several corporations parties thereto shall be deemed and taken as one corporation, upon the terms and conditions set forth in said agreement, and all and singular the rights, privileges, and franchises of each of said corporations, except as expressly restricted by this Act, and all property, real and personal, and all debts due on whatever account, belonging to each of such corporations, and all interests created and rights of way shall be taken and deemed as transferred to and vested in such new corporation without further act or deed; and the title to real estate, either by deed or otherwise, under the laws of the Philippine Islands vested in either corporation, shall not be deemed in any way impaired by reason of this Act: Provided, however, That the rights of creditors and all liens upon the property of either of said corporations shall be preserved unimpaired; and the respective corporations shall be deemed to continue in existence to preserve the same; and all debts, liabilities, and duties of either of said corporations shall thenceforth attach to said new corporation and be enforced against it to the same extent as if the said debts, liabilities, and duties had been incurred or contracted by it.

SEC. 4. Such new corporation shall, as soon as convenient, after such merger or consolidation, establish a principal office in the Philippine Islands, giving public notice thereof in some newspaper published in the city of

Manila, and filing a memorandum thereof in the division of archives, patents, copyrights, trademarks, and corporations of the Bureau of Commerce and Industry.

SEC. 5. Suits may be brought by and maintained against such new corporation in any of the courts of the Philippine Islands in the same manner as any other corporation formed under the Corporation Law.

SEC. 6. Any action or proceeding pending by or against either of the corporations consolidated may be prosecuted to judgment as if such consolidation had not taken place, or the new corporation may be substituted in its place.

SEC. 7. In all cases of merger or consolidation of two or more corporations under and by virtue of the provisions of this Act, the said merged or consolidated corporation shall have all the powers, and except as otherwise provided by this Act, be subject to all the restrictions imposed upon corporations of the same class formed under the Corporation Law; and said merged or consolidated corporation shall be empowered to do and perform any and all things necessary to carry out and perform the agreement of merger or consolidation in the way of issuing bonds and other evidences of debt, and securing the payment thereof by mortgage or deed of trust on all its business, property, and franchises, or any part thereof, of issuing stock, or otherwise. Nothing in this Act contained shall be construed to prevent the new corporation from thereafter issuing bonds, entering into obligations, securing the same by deed of trust or otherwise, or from issuing stock in the same manner as any other corporation organized under the Corporation Law.

SEC. 8. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

SEC. 9. This Act shall take effect on its approval.

Approved, March 6, 1918.

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