

[Act No. 2848, March 08, 1919]

AN ACT GRANTING TO THE ISABELA SUGAR COMPANY, INCORPORATED, OF THE CITY OF MANILA, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO ESTABLISH, CONSTRUCT, EQUIP, MAINTAIN, AND OPERATE A RAILROAD IN THE PROVINCE OF OCCIDENTAL NEGROS, PHILIPPINE ISLANDS.

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. A franchise is hereby granted to the Isabela Sugar Company Incorporated, of the city of Manila, a corporation duly organized under the laws of the Philippine Islands, the principal office of which is established at the city of Manila, to construct, equip, and operate for a term of fifty years from and after the date of the approval of this Act, subject to the terms and conditions hereinafter set forth, an agricultural railroad for the transportation of freight, in the Province of Occidental Negros, generally and approximately as hereinafter indicated, and subject to such variations, changes, and extensions of the main line and branches as the Governor-General may approve, within the limits of the municipality of Isabela, with extensions to the barrio of Soledad, in the municipality of Binalbagan, to La Castellana, in the municipality of La Castellana, and as far as the Hinigaran River, in the municipality of Hinigaran: *Provided*, That this franchise shall not take effect until the grantee shall have obtained from the Public Utility Commission a certificate showing the public necessity and convenience of the same, in accordance with the purpose of section twenty-three of Act Numbered Twenty-three hundred and seven, as amended, and shall have filed such certificate with the Secretary of Commerce and Communications: *And provided, further*, That the grantee shall apply for such certificate within three months from and after the approval of this Act and that this franchise shall become null and void at the expiration of said period if it fails to make such application within the same: *Provided, further*, That if the grantee fails to file with the Secretary of Commerce and Communications, within the period of sixty days from and after the date on which it secured the certificate required in section one hereof, together with said certificate, its acceptance in due form, binding itself to comply with the terms and conditions established in this Act, this franchise shall become null and void.

SEC. 2. The concession of the right, privilege, and authority mentioned in the preceding section shall not take effect unless the grantee shall accept in writing and make part of this concession the following condition, to wit:

"That the grantee state in writing that it is informed of the message of the President of the United States addressed to the Filipino people and communicated to said people by the Governor-General of the Philippine Islands on the sixth day of October, nineteen hundred and thirteen, and of the reply message of the Philippine Assembly made in the name of the Filipino people and approved and sent on October sixteenth, nineteen hundred and thirteen; that said grantee binds itself not to engage in or aid, by means of contribution in cash or otherwise, any propaganda directed against the policy of the Government of the United States outlined in such message of the President and the aspirations of the

Filipino people set forth in said reply message of the Philippine Assembly, whether under the pretext of vested interests or under any other pretext, and that said grantee shall further bind itself to exact a similar engagement from its administrators, agents, successors, and assigns."

SEC. 3. The length of the railroad shall be approximately fifty kilometers, exclusive of the branches, but inclusive of the extensions.

SEC. 4. 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. 5. 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. 6. The grantee shall construct and maintain stations at La Castellana, Soledad, Magallon, Mampahubog, and Hinigaran, and in such other places as may be deemed necessary for an adequate public service.

SEC. 7. All material used in the construction of the line 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. 8. 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. 9. The motive power of said railroad shall be steam; but with the consent of the Governor-General, any part of said railroad or of its extensions and branches may be operated by electricity or any other equivalent motive power.

SEC. 10. All materials 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 reinforced concrete or of masonry and steel.

SEC. 11. In harmony with and by virtue of this Act, and subject to the approval of the Governor-General, the grantee is hereby given the right of way through the public lands of the Philippine Government for the construction, operation, and maintenance of the railroad and its branches and extensions 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 and be approved by the Governor-General: *Provided*, That 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 public 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.

The grantee shall also have the right to acquire from corporations and other entities, by purchase, contract, lease, concession, or donation, the land necessary or useful for the construction, maintenance and operation of the railroad and its extensions and branches.

The grantee shall also have the right to acquire, by contract or expropriation, the land necessary for right of way, of thirty meters approximately, for bridges, terminals, wharves, docks, sidetracks, depots, warehouses, shops, platforms, turntables, switches, and other means suitable for the operation of the railroad, and may, in a like manner, acquire the land necessary for 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: *Provided*, That the grantee shall not occupy any land within the limits of any province or municipality, if the same is actually used for provincial or municipal purposes, nor shall it occupy land within said limits without authorization by the proper authorities.

The right of eminent domain granted by this franchise shall be exercised by the grantee in conformity with the laws of the Philippine Islands in force at the time.

SEC. 12. The grantee shall have and enjoy, besides, the a following powers, privileges, and exemptions:

(a) With the 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, and shall not apply to lands used and assigned for other purposes;

(b) To appear in, petition for, initiate, prosecute, and abandon judicial or extrajudicial 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 it may see fit;

(c) 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;

(d) To construct and alter, substitute, maintain, and operate the railroad; 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 entities or persons whose rights may be affected;

(e) To open quarries, gather stone 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;

(f) 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;

(g) 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.

(h) 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;

(i) 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;

(j) 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 to pay 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, and likewise goods considered as dangerous for the public safety or the transportation of which is prohibited by the Government.

SEC. 13. 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.