

[Act No. 1111, April 08, 1904]

AN ACT GRANTING A FRANCHISE TO CHARLES W. CARSON TO CONSTRUCT, MAINTAIN, AND OPERATE BY ANIMAL POWER A TRAMWAY WITHIN THE LIMITS OF THE MUNICIPALITY OF DAET, IN THE PROVINCE OF AMBOS CAMARINES, FROM THE WHARVES OF THE BARRIO OF MERCEDES, IN SAID MUNICIPALITY, TO THE TOWN PROPER OR POBLACION OF DAET, AND THROUGH THE SAID TOWN OF DAET TO A POINT ON THE PUBLIC HIGHWAY ONE MILE DISTANT FROM THE MUNICIPAL BUILDING OF SAID MUNICIPALITY OF DAET IN THE DIRECTION OF THE TOWN OF TALISAY.

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

SECTION 1. Charles W. Carson, a citizen of the United States, upon the terms and conditions hereinafter set out, is hereby authorized to construct and. for a period of thirty-five years after the passage of this Act, to maintain and operate by animal power a tramway over the public highway from the shore line at the port of Mercedes, a barrio of the municipality of Daet, in the Province of Ambos Caniarines, to the town proper or poblacion of Daet, and through said town proper or poblacion of Daet, to a point on said public highway one mile distant from the municipal building of Daet in the direction of the town proper or poblacion of Talisay and to construct and maintain such switches, sidetracks loops, turn-outs, and passing places as may he necessary for the convenient operation of the tramway.

SEC. 2. The tramway shall be a single line and with necessary switches, sidetracks, loops, turn-outs, and passing places shall be constructed along one side of the public road or highway mentioned in section one so as to leave at least twenty feet of the width of the public road for its entire length free and clear of the tracks, roadbeds, switches, sidetracks, loops, turn-outs, and passing places of said tramway. Within the town proper or poblacion of Daet and within the barrio proper or poblacion of Mercedes, said tramway, with its switches, sidetracks, loops, turn-outs, and passing places, shall be so constructed and located that it shall not unreasonably, interfere with traffic over the entire width of the streets or street crossings of said town proper or poblacion of Daet or of said barrio proper or poblacion of Mercedes. In case of dispute between the authorities of the municipality of Daet and the grantee as to the location of the track in the town proper or poblacion of Daet or in the barrio proper or poblacion of Mercedes, or as to whether such track when constructed will unreasonably interfere with traffic, the matter shall be referred to the supervisor of the province for decision, and the decision of such supervisor shall be final.

SEC. 3. The tramway shall be of three feet gauge, but this gauge may be increased or diminished by permission of the Consulting Engineer to the Commission previously obtained.

SEC. 4. The grantee shall begin the construction of the tramway within six months after the acceptance in writing of this franchise and shall fully complete the same and put it in operation for the public convenience for its entire length within twelve months from the date of said acceptance, and for failure to begin the work of

construction or to complete the tramway and put the same in operation for public convenience within the time and as prescribed, the franchise hereby granted shall be forfeited and the grantee shall be subject to the liabilities hereinafter prescribed for such failure.

SEC. 5. The materials employed in the construction of the tramway shall be all of good class and quality and suitable for the purpose for which they are used or to which they are applied.

SEC. 6. The grantee shall construct and maintain and keep in good repair such drains, culverts, or waterways as the tramway or its operation or maintenance may render necessary for the proper drainage of the road, highway, or street over which it passes, and the construction and maintenance of said drains, culverts, and waterways shall be under the direction and supervision of the Consulting Engineer to the Commission, or his authorized subordinate, to the extent necessary for the protection of the public interests.

SEC. 7. All culverts, bridges, and drains constructed by the grantee crossing the road, highway, or street shall be constructed and maintained by the grantee for the full width of the road, highway or street and in such a manner as not to interfere with the traffic over the road, highway, or street or to prevent convenient use thereof by the public.

SEC. 8. The grantee shall be under a continuing obligation to keep in good repair the roadbed of said tramway and the surface of the road, highway or street between the rails and between the tracks of the tramway and for eighteen inches on each side of said tracks for the entire length of the tramway, and within the town proper or poblacion or municipality of Daet and within the barrio proper or poblacion of any barrio of said municipality through which said tramway passes, the space between the rails and tracks of the tramway and for eighteen inches on each side of said tracks to be filled flush to the top of the rails by the grantee with the same material as that used in the construction of the road, highway, or street and as may be prescribed by ordinance of the municipality of Daet: *Provided, however,* That in case of dispute between the municipality and the grantee, the work shall be done with the material and in the manner prescribed by the Consulting Engineer to the Commission: *And provided further,* That if the municipality shall order a change in the kind of material after the same has once been laid by the grantee, the material necessary to make the change shall be furnished by the municipality and the work of laying such material and putting the same in place shall be borne by the grantee at his own proper cost and expense.

SEC. 9. Before commencing the work on the tramway and within thirty days after the passage of this Act the grantee shall file in duplicate with the Consulting Engineer to the Commission a map or plan showing the location, direction, and general course of said tramway, the estimated distance between changes of course, accompanied by an explanatory statement as to the route of the tramway and its relation to the road, highway, or streets over which it passes. Should the Consulting Engineer refuse to approve said map or plan, the grantee shall make such changes therein as may be prescribed by the Consulting Engineer to the Commission. One copy of the map or plan, when finally approved, shall be filed by the Consulting Engineer in his office and one copy shall be returned by him with his approval to the grantee. The failure or refusal of the grantee to file the map required by this section

within the time prescribed or to change within a reasonable time the said map or plan when so directed by the said Consulting Engineer to the Commission shall render null and void the franchise granted by this Act.

SEC. 10. Within thirty days after the map or plan of the tramway furnished by the grantee is returned to him by the Consulting Engineer finally approved, the grantee shall file with the Secretary of Commerce and Police his acceptance in writing of the franchise granted by this Act and at the same time shall deposit in the provincial treasury of Ambos Camarines the sum of one thousand pesos, Philippine currency, or negotiable bonds of the United States or other securities of equal value approved by the Civil Governor. Said deposit of one thousand pesos, Philippine currency shall be made as an earnest of good faith of the acceptance and as a guaranty that within six months from the date of said acceptance the sum of nine thousand pesos, Philippine currency, or negotiable bonds of the United States or other securities of equal value approved by the Civil Governor shall be deposited with the provincial treasurer of said province. The whole deposit of ten thousand pesos, Philippine currency, thus made, shall be retained in the provincial treasury as security for the completion of the work and operation of the tramway for its entire Length within twelve months from the date of acceptance. In case said deposit of nine thousand pesos, Philippine currency, is not made as herein set out or the grantee fails to commence the work within six months after the acceptance of the franchise, the deposit of one thousand pesos, Philippine currency, made on the acceptance of the franchise, shall be forfeited to the municipality of Daet. In case the tramway shall not be completed and put in operation for the public convenience within twelve months from the date of acceptance, the whole deposit shall be forfeited as liquidated damages for breach of the contract created by the acceptance of the franchise, and such deposit shall be divided equally between said municipality of Daet and the Province of Ambos Camarines: *Provided, However,* That any moneys deposited with the provincial treasurer may, with the approval of the Civil Governor, be paid by the provincial treasurer to the grantee monthly or quarterly in the proportion which the work done bears to the whole work to be done, such proportion to be certified by the Consulting Engineer to the Commission or his duly authorized subordinate. If the deposits required by this section to be made by the grantee, or either of them, is in interest bearing bonds or other interest bearing securities, the interest shall be collected by the provincial treasurer of Ambos Camarines and shall be turned over to the grantee as it is collected, unless the grantee shall fail to perform the obligations required of him by this franchise, in which case the accruing interest shall be withheld by the said provincial treasurer and shall constitute a part of the deposit to be divided equally between the Province of Ambos Camarines and the municipality of Daet as liquidated damages resulting from the default of the grantee.

SEC. 11. This franchise is granted with the understanding and on the condition that it shall be subject to amendment, modification, alteration, or repeal by the Congress of the United States and that all lands or rights of use or occupation of lands secured by any corporation by virtue of this franchise, and all lands or rights of use or occupation of lands granted by this franchise on the public domain or public lands shall revert upon the termination of this franchise and concession, or upon the revocation, repeal, forfeiture, or lapse thereof, to the Insular, provincial, or municipal government which owned said lands or enjoyed said rights at the time of the grant of said franchise or concession.

The grantee of this franchise, his successors, and assigns are forbidden to issue stock or bonds under this franchise 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. Neither shall the grantee, his successors, or assigns declare any stock or bond dividend. It shall be unlawful for the grantee, his successors, or assigns to use or employ or contract for the labor of persons claimed or alleged to be held in involuntary servitude, and any person, company, or corporation exercising the rights and privileges conferred by this franchise who shall use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude shall not only forfeit all such rights and privileges and the franchise hereby granted, but shall also be deemed guilty of an offense and shall be punished by a fine of not less than ten thousand dollars, United States currency.

SEC. 12. The rates to be charged by the grantee, his lessees, successors, or assigns for the transportation of passengers or freight or for other service shall always be subject to regulation by Act of the Commission or other legislative authority of the Islands.

SEC. 13. The grantee, his lessees, successors, or assigns shall pay into the treasury of the Province of Ambos Camarines, in consideration of the granting of this franchise, one and one-half per centum of the gross income earned by the tramway or resulting from its operation. One per centum of the gross income so paid into the provincial treasury shall be paid by the provincial treasurer to the municipality of Knot for municipal purposes, and the remaining one-half per centum of said gross income and earnings shall be retained in the provincial treasury for provincial purposes. The percentage of gross income and gross earnings of said tramway required by this section to be paid into the treasury of Ambos Camarines by the grantee, his lessees, successors, or assigns shall be due and payable quarterly after said tramway shall have been put in operation for the whole or any part of its length.

SEC. 14. The grantee may refuse to transport any package or parcel suspected to contain goods of a dangerous nature or whose transport shall be prohibited by the Government.

SEC. 15. The grantee shall enjoy the following powers, privileges, and exemptions:

- a. To occupy any part of the public domain, not occupied for other public purposes, which may be necessary for the purposes of the enjoyment of tin's franchise and may be approved by the Consulting Engineer. The land to be taken under this power shall be acquired by the grantee in the following manner: The grantee shall file a petition describing the land which he desires to acquire from the public domain, showing that the same belongs to the public domain, is not in use for any other public purpose, and is property necessary for the enjoyment of the franchise to construct and maintain the railroad herein described, and praying that the same may be conveyed to him for uses and purposes of the enjoyment of said franchise. The petition shall be accompanied by a plat and survey of the land described in the petition. The Consulting Engineer, after an examination of the petition and the plat and the taking of evidence, if necessary, shall approve the same, if he finds the land petitioned for to be necessary and proper for the enjoyment of the franchise herein granted. The Consulting Engineer shall then forward the petition, with