

[Act No. 2771, March 05, 1918]

AN ACT GRANTING TO THE FIRM LIZARRAGA HERMANOS, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO ESTABLISH, CONSTRUCT, EQUIP, MAINTAIN, AND OPERATE A RAILROAD BETWEEN THE MUNICIPALITIES OF KABANKALAN AND HOG, IN THE PROVINCE OF OCCIDENTAL NEGROS.

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. *Name of the grantee; term of the franchise.*— A franchise is hereby granted to the firm Lizarraga Hermanos, domiciled in the Province of Iloilo, Philippine Islands, for a term of ninety-nine years, to operate and maintain a railroad for the transportation of freight and passengers, connecting the municipalities of Kabankalan and Hog, in the Province of Occidental Negros, approximately fourteen kilometers in length, subject to the terms and conditions specified in this Act, with the right, however, to modify the proposed line when the circumstances and conditions of the land, the safety of the line, and the public interest require it: *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.

Whenever in the following sections the term "grantee" is used, the same shall be held and understood to refer to the grantee firm "Lizarraga Hermanos."

SEC. 2. *Special condition for the acceptance of this franchise.*—The concession of the privilege 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 sixteen, nineteen hundred and thirteen; that said grantee binds itself not to engage in or aid, by means of contributions 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. *Rights, powers, and exemptions of the grantee.*— The grantee shall have the following powers, rights, and exemptions:

(a) To enjoy, with the approval of the Governor-General first had, a right of way thirty meters wide through the public lands of the Philippine Government for the purposes of the franchise as well as for the construction of stations and station buildings, machine shops and similar shops necessary for the operation of the road, water stations, warehouses, terminals, including wharves, dock fronts, switches, sidetracks, and turntables. Also, with the approval of the Governor-General, extra public land beyond the thirty meters herein specified may be set aside for the same purposes. But none of these provisions shall be held to authorize the use of public land other than timber land of the Philippine Government or land available for homestead settlement or for sale under the Public Land Act.

(b) To cross or occupy, for the purposes of the franchise, any public road, street, avenue, or square, with the approval of the Governor-General.

(c) To acquire and hold provincial or municipal land in such manner as may be agreed upon between the grantee and the province or municipality concerned, and in case of disagreement, the decision of the Governor-General shall be final; to acquire from other corporations, entities or companies by purchase, lease, donation, or any other legal means the land necessary for the purposes of the franchise.

He shall also have the right to acquire by contract, agreement, or, in the last instance, by expropriation, the land necessary for its right of way of thirty meters or for bridges, terminals, wharves, dock fronts, sidetracks, stations, warehouses, shops, turntables, switches, and other means suitable for the operation of the road, or for fills, cuts, excavations, and quarries, or for the deviation of watercourses, wagon roads, drainage of marshy lands, dams, and other works necessary for the protection of the track from inundations. But the grantee shall not occupy any land within the limits of any province or municipality if the same is used for provincial or municipal purposes, without due authorization by the proper authorities. The right of eminent domain granted by this Act shall be exercised by the grantee in conformity with the laws in force at the time.

(d) To sell, convey, or transfer this franchise or lease the same to any person, corporation or entity; but such sale, conveyance or transfer shall not take effect until the purchaser, transferee, or lessee shall have filed in the office of the Secretary of Commerce and Communications an agreement in writing binding itself to comply with all the terms and conditions imposed upon the grantee by the franchise and accepting the franchise subject to all its existing terms and conditions.

(e) With the approval of the Secretary of Agriculture and Natural Resources, to open and work quarries and gravel pits upon any public land and take from the same stone, timber, and other materials for the construction of the road, provided such public land is available for home stead settlement or for sale under the Public Land Act.

(f) To appear in court, petition for, initiate, prosecute, and abandon judicial or extrajudicial proceedings. To appoint and remove freely its employees and agents,

assigning to them such compensation as it may see fit.

(g) To have the title to or possession of any personal or real property, easement, or other real right, by purchase, assignment, donation, or any other legal means; and to acquire, possess, lease, barter, pledge, encumber, sell, or dispose of the same entirely or in part, in accordance with law.

(h) To construct, maintain, and operate or modify the course of the railroad covered by the franchise, construct buildings, stations, shops, fills, aqueducts, bridges, wharves, roads, crossings, ditches, drains, pillars, arches, retaining walls, and fences on land of its own, and also to cross any railroad, tramway, river, canal, creek, lake, shore, culvert, road, or public highway, upon obtaining the necessary authorization therefor from the public or private persons, entities or corporations whom it may concern or affect.

(i) On land owned by the grantee or leased by it, to open quarries, gather stones from the surface of the land, cut timber, excavate the ground or construct and operate ovens for lime, gypsum, and bricks for the construction, operation, or maintenance of the railroad.

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

(k) To contract indebtedness for the construction, completion, maintenance, or operation of the road or for any other legal purpose, issuing or negotiating promissory notes, chits, bonds, and 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; guarantee such indebtedness by mortgages in the shape of public instruments encumbering property already acquired, or capital of the road actually invested. These bonds, chits, promissory notes, or other documents representing value shall be redeemed ten years after their issue or sooner if the grantee deem it advisable, in such manner that twenty per centum of the total of those issued shall be paid each year.

(l) To have and to hold the personal or real property useful and necessary for the operation of the line, free from any taxation, Insular, provincial, or municipal, from the granting of the franchise until its expiration, and to import duty free such material as it may be necessary to import from Europe and America for the construction, maintenance, or preservation of the railroad. In no case shall such imported material be sold or used for purposes other than those authorized in this paragraph unless the Secretary of Finance is satisfied that, having become unnecessary for said purposes, the import duties thereon have been duly paid.

(m) To retain, until full payment of the freight charges, such articles or merchandise carried as have not been recovered on account of delay, refusal or failure to pay. The owner, consignee, or person claiming goods or merchandise of which delivery has not been taken for over forty-eight hours after arrival at their destination, shall also be required to pay the storage charges thereon.

When any articles, freight, merchandise, or baggage carried have not been claimed by the owner or consignee for a period of more than two months, the grantee may petition the justice of the peace of the municipality in which the station is located for

an order for the sale at public auction of the same. And 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 court concerned for an order for the sale at public auction of the perishable goods. The proceeds of the sale shall be applied primarily to the judicial costs and expenses incurred on account of such sale, and then to the payment of the freight and transportation expenses. The remainder, if any, shall be deposited in the court in which the petition has been filed, at the disposal of the person entitled to claim it.

The grantee shall have the right to refuse to transport perishable goods unless the freight charges thereon are paid in advance, as well as merchandise considered dangerous to the public safety or the carriage of which is prohibited by the Government.

SEC. 4. *Duties and obligations of the grantee.*—The grantee shall have the following duties and obligations:

(a) To place suitable gates in charge of guards at the points where the railroad crosses public highways or roads.

(b) To establish a telegraph line along the entire right of way for the exclusive use of the grantee. The poles of this line shall carry such wires as the Government may deem necessary; but the custody and maintenance of the same shall be at the expense of the Government.

(c) To carry the mails free of charge, in the manner stipulated with the Director of Posts, for which purpose it shall provide a suitable and adequate place on its trains. In case of failure to arrive at an agreement, the Secretary of Commerce and Communications shall establish the manner in which said mails shall be carried. But it shall be entitled to a reasonable compensation in case the Government requires, in addition to the ordinary mail service, the transportation of urgent mail or orders at other hours than those established by the grantee or at a greater speed than that of the ordinary trains, or the transportation of troops, ammunition, funds, or freight, in which cases it shall be the duty of the grantee to transport the same in a suitable and adequate manner.

(d) To equip the locomotives used in the operation of the road with a bell and a steam-whistle, and have the bell rung and the whistle blown at a distance of at least three hundred meters from any point where the railroad crosses a road or highway, said ringing to continue until such road or highway has been crossed. The locomotives shall also be equipped with the apparatus necessary to protect the property adjacent to the railroad from the danger of fire from the sparks of the engine.

(e) To reduce the velocity of the trains upon crossing streets or public thoroughfares to a maximum of thirty-two kilometers per hour.

(f) To issue receipts from a stub book for merchandise or articles booked and to properly label such merchandise or articles.

(g) To provide the personnel of the train service with a uniform, without which no