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guilty of a misdemeanor, and upon conviction thereof in the district court of Honolulu, or other court having jurisdiction thereof, shall be punished by a fine not exceeding one hundred dollars or by imprisonment with hard labor not exceeding six months: *Provided, however*, That nothing herein contained shall be deemed to affect the right of the company to recover by action at law damages for any injury done by such unlawful action.

"GRANT NOT EXCLUSIVE.

Grant not exclusive.

"SEC. 15. It is hereby expressly provided that nothing herein contained shall be so construed as to grant to the company the exclusive right to furnish, sell, or supply electric light or power.

"SEC. 16. This act shall take effect and become law from and after the date of its approval.

"Approved this 28th day of April, A. D. 1903.

"SANFORD B. DOLE,
"Governor of the Territory of Hawaii."

Amendment.

SEC. 2. That Congress or the legislature of the Territory of Hawaii, with the approval of Congress, may at any time alter, amend, or repeal this Act.

Approved, April 21, 1904.

April 21, 1904.
[H. R. 9643.]
[Public, No. 129.]

CHAP. 1406.—An Act To ratify, approve, and confirm an act duly enacted by the legislature of the Territory of Hawaii, to authorize and provide for the maintenance and supply of fuel and illuminating gas and its by-products in Honolulu.

Preamble.

Whereas the legislature of the Territory of Hawaii did, by an act duly passed at the nineteen hundred and three session thereof, authorize W. W. Dimond, his associates, successors, and assigns, to manufacture and supply fuel and illuminating gas and its by-products in Honolulu; and

Whereas the governor of said Territory did approve said act on the fifteenth day of April, nineteen hundred and three; and

Whereas the Act of Congress to provide a government for the Territory of Hawaii, approved April thirtieth, nineteen hundred, provides that the legislature of the Territory of Hawaii shall not grant to any corporation, association, or individual any special privilege or franchise without the approval of the Congress of the United States: Now, therefore,

Hawaii.
Act of legislature granting gas franchise, ratified.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of the legislature of the Territory of Hawaii entitled "An act to authorize W. W. Dimond, his associates, successors, and assigns to manufacture and supply fuel and illuminating gas and its by-products in Honolulu," approved by the governor of the Territory April fifteenth, nineteen hundred and three, be, modified, and as so modified is hereby, ratified, approved, and confirmed, and amended so as to read as follows, to wit:

"ACT NUMBERED THIRTY.

Provision of act.

"An act to authorize W. W. Dimond, his associates, successors, and assigns to manufacture and supply fuel and illuminating gas and its by-products in Honolulu.

W. W. Dimond.
Authorized to manufacture gas, etc., in Honolulu, Hawaii.

"*Be it enacted by the legislature of the Territory of Hawaii, Section 1.* That W. W. Dimond, of Honolulu, island of Oahu, Territory of Hawaii, his associates, successors, and assigns, or such corporation as he or they shall cause to be incorporated under the laws of the Terri-

tory of Hawaii (he or they being hereinafter referred to as W. W. Dimond), are hereby authorized and empowered to manufacture and supply gas for use as a fuel, for illuminating purposes, and otherwise, in Honolulu, which, for the purposes of this act, shall be held to include all of that portion of the island of Oahu extending from the westerly limits of Moanalua to the southeastern extremity of said island, and lying to the southwest of the Konahuanui range of mountains on said island.

Buildings, etc.

"SEC. 2. Said W. W. Dimond shall have the right to erect and maintain at such places, within the limits mentioned in section one, as the superintendent of public works shall approve, such buildings, machinery, and appurtenances as may be necessary for the production, manufacture, and storage of such gas, together with its various by-products, as may be required from time to time during the existence of the rights hereby granted.

Pipes.

"SEC. 3. Said W. W. Dimond, for the purpose of distributing such gas for use as by this act authorized, shall have the right from time to time to lay pipes or other conduits for such distribution, in or under the streets, roads, and places in the said district; and whenever supply pipes and mains shall be laid in any block, connections shall be made and pipes shall be laid from said main to the curb line of the street for the purpose of supplying gas to the property holders adjoining such street, and each of such connections shall be provided with stopcocks inside of such curb line: *Provided*, That nothing herein shall prevent the laying down of additional branches or connections at any time when future requirements render the same necessary. But the methods by which such streets, roads, and places are to be used shall be subject to prior consent and approval of the superintendent of public works, and all instructions and directions made by him shall be strictly followed, to the end that the general public shall be inconvenienced as little as possible; and provided, likewise, that whenever any street, road, or other place shall be excavated and holes or trenches made therein for laying, maintaining, replacing or repairing such pipes, conduits, or connections, such holes or trenches shall be safeguarded and refilled as soon as possible, and the pavement, if any, and such street, road, or place shall be replaced in good order and condition: *Provided*, That if such repair or restoration shall not be made to the satisfaction of the superintendent of public works within a reasonable time, whereof he shall be judge, he may cause it to be done at the expense of the said W. W. Dimond.

Street lamps, etc.

"SEC. 4. Said W. W. Dimond shall also have the right to erect and maintain lamp-posts or other appliances for lighting streets, roads, or other places, and of connecting the same with the supply pipes: *Provided*, That such use of said streets, roads, or other places shall first be approved by said superintendent of public works: *And provided further*, That if said W. W. Dimond shall manufacture and supply illuminating gas, as well as gas for fuel, and shall erect lamp-posts as aforesaid, he shall, on requisition of the superintendent of public works, furnish free of cost gas for fifty street lights, and thereafter shall each year furnish five more in addition to the number furnished the preceding year.

Meters.

"SEC. 5. Said W. W. Dimond shall also have the right to maintain and use gas meters or other means for measuring the amount of gas used from time to time and in such places as may be deemed necessary, and to operate the same for all purposes connected with the use of such gas, and shall also have the right to charge, receive, and collect from all consumers of gas such reasonable prices as he or such persons or corporation may from time to time fix and determine, but not at any time to exceed two dollars and twenty-five cents per thousand cubic feet, with a discount of ten per cent on all payments made within

ten days after due and demanded, and shall also have the right to charge consumers or intended consumers of gas for the cost and expense of making connections between the mains and premises where such gas is to be used, and may include also the price for all connecting pipe, gas fixtures, and other material necessary: *Provided*, That power is hereby conferred upon the courts of appropriate jurisdiction at all times and upon the petition of any consumer or the said W. W. Dimond, his associates, successors, or assigns, or of such corporation to hear and determine from time to time what rate or rates are reasonable, and to enforce the same by appropriate judgment or decree.

Cutting off supply.

"SEC. 6. Said W. W. Dimond shall also have the right to cut off the supply of gas from any consumer who shall refuse or fail to pay amounts due for gas so supplied by the said W. W. Dimond, within such reasonable time as may be fixed for payment of the same; but such cutting off shall not prevent the said W. W. Dimond from using any remedies now or which may hereafter be authorized by law for collecting debts.

General powers.

"SEC. 7. Said W. W. Dimond may erect and construct all buildings, machinery, and other appurtenances necessary to the operation of the rights hereby granted, and may maintain and operate the plant necessary to the enjoyment of the rights hereby granted, either personally or in connection with others as partners; or the rights, powers, and authorities hereby granted may be assigned to other persons, or to a corporation to be by him or them incorporated under the laws of the Territory of Hawaii, but in all cases, by whomsoever the rights, powers, and authorities hereby granted shall be exercised, such exercise and operation shall be in such manner as to cause the least inconvenience to the public, and he or they shall, in such use, provide fuel and illuminating gas of the best quality obtainable, which quality shall be subject to the control of such reasonable rules and regulations as the superintendent of public works shall from time to time deem necessary for the protection of the public, and the buildings and machinery, with all appurtenances, to be erected, and general plant to be maintained in connection therewith, together with the offices, books, and accounts of the said persons or corporation shall be open to examination and inspection at all times by the superintendent of public works or his agent duly authorized for that purpose.

Limitations.

"SEC. 8. It is further provided that the rights hereby granted shall cease and determine, if operations hereunder are not commenced by beginning the construction of buildings or other works for manufacturing or supplying such gas, or by laying pipes or other conduits in any of such streets, roads, or places within one year from and after the passage of this act, or within one year after the franchise hereby granted shall be approved by the Congress of the United States, should such approval be deemed necessary to the legality hereof; and also that such works shall be in operation and gas shall be supplied for the purpose of this act within two years after such work has been so commenced: *Provided*, That the rights hereby granted shall not be considered exclusive.

Grant not exclusive.

"SEC. 9. On the first day of July of each year there shall be payable to the treasurer of the Territory of Hawaii, for and on behalf of such Territory, two and one-half per centum of the gross receipts of said W. W. Dimond for all gas furnished to consumers under the terms of this act.

"SEC. 10. This act shall take effect from and after the date of its approval.

"Approved this 15th day of April, 1903.

"SANFORD B. DOLE,
"Governor of the Territory of Hawaii."

Amendment.

SEC. 2. That Congress, or the legislature of the Territory of Hawaii with the approval of Congress, may at any time alter, amend, or repeal said Act.

Approved, April 21, 1904.

April 21, 1904.
[H. R. 12446.]
[Public, No. 130.]

CHAP. 1407.—An Act Making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

Fortifications appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sums of money herein provided for be, and the same are hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available until expended, namely:

FORTIFICATIONS AND OTHER WORKS OF DEFENSE.

Gun and mortar batteries.

For construction of gun and mortar batteries, seven hundred thousand dollars.

Range finders.

For installation of range and position finders, two hundred and twenty-five thousand dollars.

Sites.

For the procurement or reclamation of land, or right pertaining thereto, needed for the site, location, construction, or prosecution of works for fortifications and coast defenses, one hundred thousand dollars.

Searchlights

For purchase and installation of searchlights for the defenses of our most important harbors, one hundred and fifty thousand dollars.

Preservation, etc.

For the protection, preservation, and repair of fortifications for which there may be no special appropriation available, three hundred thousand dollars.

Plans.

For preparation of plans for fortifications, five thousand dollars.

Electric plants.

For tools, electrical and engine supplies and appliances, to be furnished by the Engineer Department, for the use of the troops for maintaining and operating electric light and power plants in gun and mortar batteries, thirty-five thousand dollars.

Sea walls.

For construction of sea walls and embankments, ninety-nine thousand dollars.

Submarine mines.

For the construction of mining casemates, cable galleries, torpedo storehouses, cable tanks, and other structures necessary for the operation, preservation, and care of submarine mines and their accessories, eighty-seven thousand dollars, to be expended by the Engineer Department.

Contracts.

It shall be the duty of the Secretary of War to apply the money herein appropriated under the heading "Fortifications and other works of defense," in carrying on the various works, by contract or otherwise, as may be most economical and advantageous to the Government. Where said works are done by contract, such contract shall be made after sufficient public advertisement for proposals, in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution and completion of the work according to such contract.

Armament.

ARMAMENT OF FORTIFICATIONS.

Machine guns.

For the purchase, manufacture, test, and issue of machine and automatic guns, including their carriages, sights, implements, equipments, and the machinery necessary for their manufacture at the arsenals, two hundred and ten thousand two hundred and twenty-nine dollars.