

in Alaska, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, including the year of location, for each and every twenty acres or excess fraction thereof.

SEC. 2. That no person shall hereafter locate any placer-mining claim in Alaska as attorney for another unless he is duly authorized thereto by a power of attorney in writing, duly acknowledged and recorded in any recorder's office in the judicial division where the location is made. Any person so authorized may locate placer-mining claims for not more than two individuals or one association under such power of attorney, but no such agent or attorney shall be authorized or permitted to locate more than two placer-mining claims for any one principal or association during any calendar month, and no placer-mining claim shall hereafter be located in Alaska except under the limitations of this Act.

SEC. 3. That no person shall hereafter locate, cause or procure to be located, for himself more than two placer-mining claims in any calendar month: *Provided*, That one or both of such locations may be included in an association claim.

SEC. 4. That no placer-mining claim hereafter located in Alaska shall be patented which shall contain a greater area than is fixed by law, nor which is longer than three times its greatest width.

SEC. 5. That any placer-mining claim attempted to be located in violation of this Act shall be null and void, and the whole area thereof may be located by any qualified locator as if no such prior attempt had been made.

Approved, August 1, 1912.

CHAP. 270.—An Act Granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That wherever in this Act the following words and phrases appear or are used they shall be held to have the following meaning, unless the context clearly indicates otherwise:

(a) "Association" shall mean and include Leland S. Conness, W. H. Johnson, and their associates and assigns, or such corporation as may be organized by them to take over and exercise the rights and privileges conferred by this Act.

(b) "Governor" shall mean the governor designated as such in the organic act.

(c) "Superintendent" shall mean the person from time to time acting as the superintendent of public works of the Territory of Hawaii referred to in the organic act, or any lawful successor in power or duty.

(d) "Railway" shall mean the rails, tracks, roadway, with its appurtenances, appliances, and connections, and the poles and underground or overhead equipment, which may be placed in, along, or upon the highways, streets, roads, thoroughfares, and places on the island of Hawaii, under the provisions of this Act.

(e) "District" shall mean that portion of the island of Hawaii which is included in the political subdivision known as the South Hilo district, as now defined in Act Eighty-four of the Session Laws of nineteen hundred and nine.

(f) "Board" shall mean the board of supervisors elected for the county of Hawaii, and acting under the provisions of Act Thirty-nine of the Session Laws of nineteen hundred and five and all amendments thereto, or any lawful successor in power or duty.

Assessment required.

Location by attorneys.

Restriction.

Number of locations limited.

Proviso. Ownership.

Area of claims.

Effect of violations.

August 1, 1912.
[H. R. 18041.]

[Public, No. 251.]

South Hilo, Hawaii.
Franchise to Leland S. Conness, and others.

Meaning of words.
"Association."

"Governor."

"Superintendent."

"Railway."

"District."

"Board."

Right granted to
build, etc., electric
street railways.

SEC. 2. That, subject to the provisions, conditions, requirements, and limitations in this Act contained, the right and authority is hereby granted to the association to take over and exercise the rights and privileges conferred by this Act; to construct, maintain, and operate a railway and railway system, for the transportation of passengers, freight, mail, and for other purposes, upon and along the streets, roads, and places hereinafter described and indicated, either of single or double track, or partly single and partly double track, with such curves, switches, turnouts, spurs, poles, wires, with underground or overhead conductors of power, and all equipment, appliances, and appurtenances as may from time to time be necessary or suitable for the efficient use and operation of a street railway system. The railway may be laid, constructed, maintained, and operated upon and along the following streets, roads, and places in said district, namely:

Location

(a) From a point on Front Street extension not over two miles from the county bridge across the Wailoa River, along said Front Street extension, and along Front Street to its intersection with Waianuenue Street; thence mauka along Waianuenue Street and the extension thereof for a distance of three and one-half miles; and along any road, street, or highway hereafter laid out or constructed between said Front Street extension and the water front.

(b) From a point on said Front Street extension over, across, and through the Government land of Waiakea, subject to existing leasehold rights therein, to any wharf or wharves hereafter constructed in Kuhio Bay, upon such exact location as may be approved by the superintendent.

(c) From the intersection of Cocoanut Island Road with Front Street extension, along said Cocoanut Island Road to Wharf Street, and along any road or street now or hereafter laid out or constructed and leading from said Cocoanut Island Road.

(d) Along Wharf Street from its junction with Cocoanut Island Road to its junction with Front Street, and along the unnamed street leading from Wharf Street to Front Street extension parallel with the Wailoa River.

(e) From a point on the Volcano Road not exceeding one mile on the Puna side of the Waiakea mill, along said Volcano Road to Volcano Street, and along said Volcano Street to its junction with Bridge Street, thence along Bridge Street to its intersection with Waianuenue Street.

(f) From the intersection of Waianuenue and Pitman Streets, along said Pitman Street to Wailuku Street, thence mauka along Wailuku Street to the junction therewith of Wainaku Road, thence along said Wainaku Road to Honolii Gulch.

(g) Whenever the majority of adult persons who are bona fide residents within a distance of five hundred feet from any street or road, or section of any street or road, in said district shall, in writing, petition the association to construct a railway upon or along said street or road, or section of street or road, and the governor shall approve thereof, such railway may be constructed thereon and thereafter maintained during the unexpired term of this franchise.

Electric power, etc.

SEC. 3. That the motive power for the operation of said railway, for any and all purposes, shall be electricity, applied either by the overhead trolley system or the underground conduit system, or by storage batteries, or by such other method or methods as may be an improvement upon either, or the motive power may be supplied by compressed air or such other motive power as the association may from time to time elect, subject always to the prior consent and approval of the governor: *And provided also*, That the railway may be operated in part by one motive power and in part by another or

Provisos.
Other power.

others, with the consent and approval aforesaid: *And provided further*, That no car, engine, or other vehicle emitting smoke, steam, or offensive odors to such a degree as to be a public nuisance, or, with animals attached, shall be operated or used upon the tracks of the railway.

Steam, etc., forbidden.

SEC. 4. (a) The railway, together with all its branches, parts, and connections, shall be thoroughly and substantially constructed according to the best modern practice, with rails level with the surface of the street where laid, and in such manner as to cause the least obstruction to the free use of the streets, roads, and places where laid; and the location in the streets shall be such as may be directed or approved by the board, subject to the provisions of this Act.

Construction. Road.

(b) All passenger cars shall be of approved and modern construction for the comfort, convenience, and safety of passengers, and be provided with fenders and brakes, and in the case of cars weighing more than thirty thousand pounds, with air brakes of the best pattern, with proper lighting and signaling appliances, and with proper numbers, route boards, or signs, all as shall be approved by the governor, which approval may from time to time be modified in accordance with the best engineering practice.

Cars.

(c) The association shall pay all expenses and damages and save the Territory and any subdivision thereof harmless and indemnified from all loss, cost, damage, and expense occasioned by or arising from the construction, maintenance, use, and operation of the railway; and shall also make and pay for all grading, filling, paving, repairing, and other work occasioned by or required for the construction, alteration, maintenance, use, or operation of the railway and every part thereof.

Construction damages.

And the association shall so provide for their electric current and provide such conductors thereof, and of return currents, that avoidable injury or deterioration shall not occur, nor be done to the water pipes, sewer pipes, gas pipes or other property of the Territory, or of any political subdivision thereof, or of any person or corporation, and shall save the Territory and any such subdivision or any person or corporation harmless and indemnified from all loss, cost, damage, and expenses by reason thereof.

Electrical damage.

(d) In constructing or repairing said railway not more than one block shall be closed to traffic at any one time, and all established crossings shall be maintained or substitute crossings provided during the progress of the work, and the work in any block shall be carried on continuously until completed.

Repairs, etc.

Whenever any road or street shall be less than eighteen feet in width in surfaced roadway the track of the railway (except switches or turnouts) shall be laid as nearly as possible parallel with but not upon said surfaced roadway.

(e) The construction of the railway shall be commenced and, at least, the sum of twenty thousand dollars shall have been expended or contracted to be expended within one year after the passage of this Act by the Congress of the United States, and at least two miles shall be completed, equipped, and ready for the transportation of passengers within two years after such commencement.

Commencement, etc.

Within ninety days after the passage of this Act by the Congress of the United States the association shall execute and deliver a bond to the county of Hawaii in the sum of five thousand dollars, with good security, to be approved by the governor as to form, security, and sufficiency, conditioned for such completion, equipment, and complete operation of at least two miles of said railway within said two years; and in case of a failure to comply with these requirements this franchise shall cease and be null and void.

Bond required.

At least two additional miles of the railway shall be completed, equipped, and ready for operation within six years from the passage

Additional construction.

of this Act by the Congress of the United States, and in case of failure to comply with such requirement the privileges granted by section two of this Act shall cease as to any streets, roads, thoroughfares, or places not then occupied.

Proviso.
Unavoidable delays.

Provided, That if there is any period during which work shall be suspended by reason of bona fide actions, suits, or injunctions, instituted through no fault of the association, but causing delay in the construction or commencement of operation of said railway, the time so lost shall not be counted as part of the periods of limitation above specified.

Additions and extensions.

Additions and extensions of the railway shall be constructed by the association and, when so constructed or constructed by others, shall thereafter be maintained and operated by it, whenever, after notice and an opportunity to be heard, it shall be directed so to do by a committee consisting of the governor, the secretary, and the chief justice of the Territory, the circuit judge of the fourth circuit, and the chairman of the board of supervisors of the county of Hawaii, or other officer designated by the legislature: *Provided*, That the commission shall not so direct unless in its opinion the earnings of the association when operating such additions and extensions, together with its previously existing railway system, will be sufficient for its reasonable expenses of maintenance and operation, interest and sinking fund on its indebtedness, and dividends of eight per centum per annum on its issued stock; and the commission may likewise permit the association to cease the maintenance and operation of any portion of the railway wherever in its opinion conditions so warrant or require.

Proviso.
Expense of maintenance, etc.

Track.

(f) The tracks shall not exceed four feet eight and one-half inches in width between the rails, and the style of rail to be used, the manner and detail of track foundations, substructures, and construction shall be subject to the approval of the board: *Provided, however*, That the weight of such rails shall not be less than fifty-six pounds per yard and that the tracks shall be laid flush with the streets, and the paving, grade, and macadamizing of the entire space between the tracks, and between the outside rails of double tracks, if more than one track be laid, and for one foot outside of the outer rails, and switches, turnout, and sidings, and outside the rails wherever occupied by the track or substructure, shall correspond and be maintained at all times with the grade and character of paving, or macadam of the remaining portion of the street, except as otherwise directed by the board: *Provided, however*, That when the tracks shall be laid parallel to but not upon any surfaced roadway, the above provision relating to paving and macadamizing shall not apply. The board may in writing require any work to be done or repairs made to conform to the requirements of this section, and the same shall be made by the association within a reasonable time from the receipt of such order.

Provisos.
Weight of rails, etc.

Paving, etc.

Exemption.

Repairs, etc.

Upon the failure of the association to perform such work within a reasonable period of time after the receipt in writing of such requirement, the board may in its discretion proceed with said work or repairs, and the cost of the same shall be charged against the association and shall constitute a lien on the profits and assets of the association.

Crossings.

(g) Whenever it shall be necessary to cross the tracks of any other railway or railroad, the association may construct and lay down, at their own expense, proper crossings and intersecting tracks, laid in a substantial and workmanlike manner and according to the best engineering practice, removing the rails so crossed for that purpose; but such removal and construction shall be so done as to interfere as little as possible with the traffic of such other railway or railroad; and after such crossings are laid the expense of maintenance thereof shall be borne equally with the owners of said track.

(h) Trolley wires shall be of a height of not less than sixteen feet above the street. All guard wires above and on both sides of the trolley wire shall be such as the board may deem expedient or necessary. The size and location of such wires and the manner of supporting them shall be subject to the approval of the board.

SEC. 5. That the association at all times shall maintain and operate such number of cars upon the railway for the carriage of passengers as the public convenience may in the opinion of the governor require.

SEC. 6. That the board, with the approval of the governor, from time to time may make reasonable general rules governing the speed at which cars may be operated, and with like approval may make reasonable special rules of similar character for particular sections of the district; for each violation of any such rule the association shall be subject to a fine of not more than one hundred dollars, to be recovered in the district court of South Hilo, at the suit of the county attorney of the county of Hawaii, or its successor, or any other person to the use of the county of Hawaii, or its successor: *Provided, however,* That nothing herein contained shall be construed as exempting the association from liability for loss, damage, or injury to persons or property occasioned by the association in operating its railway, whether the rate of speed of cars shall or shall not be in excess of the limits prescribed in such rules.

SEC. 7. That the association may charge, as rates of fare for transportation of passengers upon the cars of the railway, the following: For a continuous trip anywhere between any two extreme points within a radius of three miles from the intersection of Front and Waianuenue Streets, not to exceed the sum of five cents: *Provided,* That children under seventeen years of age, going to and from school, shall not be required to pay over half fare, for which purpose tickets shall be sold: *And provided further,* That children under five years of age, accompanied by a person paying fare, shall be allowed to ride free. Rates of fare outside of such radius may be fixed from time to time by the association, subject to the approval of the governor.

Upon a continuous trip persons riding upon the cars shall be entitled to receive transfers from one car to another within the radius above mentioned at any point or points where one line of the railway connects with, crosses, or intersects any other line thereof without the payment of extra fare for such transfer: *Provided,* That such passenger shall take the first available car passing the transfer point for which such transfer has been issued: *And provided,* That the board, subject to the approval of the governor, shall have power, from time to time, to revise and reduce the rates of fare promulgated under this Act or by the association.

Policemen, firemen, and letter carriers, when on duty and in full uniform, shall be entitled to free passage over any of the lines of the railway.

The association, its agents, and employees in charge of any car may refuse passage to any person or persons who refuse to pay the lawful fare, to any drunken, disorderly, or diseased person or persons, or vagrants or criminals, and may eject with force, if necessary, any such person or persons from the car.

If the association, or any agent or employee thereof, shall demand or charge a greater sum of money for fare on the cars of the association than that fixed by this Act the association, such agent, or employee shall forfeit to the person thus overcharged the sum of not more than one hundred dollars nor less than twenty-five dollars, to be recovered in a civil action in any court having jurisdiction thereof.

Upon the trial of an action for any of the sums forfeited as provided above, proof that the person demanding or receiving the money as fare or for the sale of a ticket was at the time of making the demand or receiving the money engaged in an office of the association, or on any

Trolley wires, etc.

Maintenance of cars.

Speed regulations.

Proviso.
Damages.

Fares.

Provisos.
School children.

Children under five, etc.

Transfers.

Provisos.
Use.

Revision of rates.

Policemen, etc., to ride free.

Drunken, etc., persons may be refused.

Penalty for excess fares.

Evidence.

- vehicle belonging to it, shall be prima facie evidence that such person was the agent, servant, or employee of the association to receive the money and the ticket mentioned.
- Operating regulations.** SEC. 8. That the association, with the approval of the governor, shall make reasonable and just regulations regarding the operation of the railway, and on failure of the association to make the same within a reasonable time after the receipt of written notice from the governor so to do the board, with the approval of the governor, may make such regulations. All regulations may be changed from time to time as the public interests may demand, at the discretion of the governor.
- Utility board.** If at any time there shall be constituted by or with the authority of the Congress of the United States a public utility board, for the regulation of public utility corporations in the Territory of Hawaii, the power of making the regulations given by this section shall be vested in said board.
- Right of way for cars.** The cars lawfully occupying and using the railway shall have the right of way upon its tracks, with due regard and warning to other vehicles and to pedestrians, except that in case of fire such right shall yield to fire engines and patrol, and in cases of emergency to the police authorities.
- Inspection.** SEC. 9. That the entire plant, system, tracks, rolling stock, poles, wire, conduits, and other apparatus of the association shall at all times be subject to inspection by the board or its representative designated for that purpose.
- Power stations, etc.** SEC. 10. That the association shall also have the power to acquire, construct, maintain, and operate at such place or places, as may from time to time be deemed necessary, adequate power stations or houses and such other buildings and structures as may be convenient, necessary, and desirable for the conduct of its business, and may install and use therein machinery for such purpose.
- Property rights.** SEC. 11. That the association may acquire, take, hold, sell, or otherwise dispose of any property, real, personal, or mixed, deemed necessary, convenient, desirable, or incidental to the proper conduct of its business and shall have the power to borrow money when deemed expedient, and secure the payment thereof, with interest, by mortgage or by the issuance of bonds secured by deed of trust, of all or any portion of its property and the franchises and privileges granted or obtained by virtue of this Act or otherwise, together with all future acquired property, as well as income and receipts from whatsoever source derived, in such form and under such terms as may be deemed advisable. Nothing herein contained, however, shall operate to prevent the association from obtaining the usual business credits and making promissory notes without security.
- Condemnation of lands for stations, rights of way, etc.** SEC. 12. That the association shall have the right to condemn lands, leaseholds, and other property for sites for power stations, houses and buildings necessarily pertaining thereto, and for rights of way for poles, lines, wires, cables, conduits, pipe lines, flumes, and other appliances for the generation, transmission, distribution, and supply of electricity, railways, tracks, and other like purposes necessary for the full enjoyment, operation, construction, and maintenance of the railway system authorized or permitted under the terms of this act, and all proceedings therefor shall be as near as may be in accordance with the provisions of chapter sixty-four of the Revised Laws of Hawaii, and all amendments thereto now or hereafter made.
- Rights of way across roads, etc.** The association shall be, and is hereby, granted a right of way along and across, under and over, the roads, streets, bridges, and thoroughfares in the county of Hawaii for such poles, wires, conductors, and conduits as may be necessary and suitable for the transmission of electrical and other power from such power stations as may be hereafter constructed and equipped for the use of said railway, to such

point or points as it may see fit to deliver such power for use upon its lines: *Provided, however,* That the lease or grant of any water power or other water privilege to the association by the Territory of Hawaii, or its officials, for the purpose of producing electricity, or other purpose, shall be made to the association only in the event of its being the highest responsible bidder therefor, at public sale, after due advertisement and notice of such proposed sale by the proper officials of the Territory.

Proviso.
Lease of water power; conditions.

SEC. 13. That any person who shall willfully or intentionally injure, molest, or destroy any of the poles, lines, wires, or other appliances, railway, tracks, or the material or property belonging thereto, or shall without permission or authority of the association connect or cause to be connected by poles, wires, or any device, anything with the wires, cables, or conductors of the association, for the purpose of obtaining current for light, heat, or power, shall be guilty of a misdemeanor, and upon conviction thereof in any court having jurisdiction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months: *Provided, however,* That nothing herein contained shall be deemed to affect the right of the association to recover by action at law damages for any injury done by such unlawful action.

Punishment for injuries to property, etc.

Proviso.
Damages.

SEC. 14. That whenever the association refuses or fails to do or perform or comply with any act, matter, or thing requisite or required to be done under the terms of this Act, and shall continue so to refuse or fail to do or perform or comply therewith after reasonable notice given by the governor to comply therewith, unless other provision is herein specifically made, the board shall, with the consent of the governor and the attorney general, cause proceedings to be instituted before the proper tribunal to have the franchise granted by this Act, and all rights and privileges granted thereunder, forfeited and declared null and void.

Forfeiture for violations of requirements.

SEC. 15. That the rights, privileges, and franchises hereby granted to the association shall continue until the expiration of the term of fifty years from the date of the passage of this Act by the Congress of the United States, subject only to the limitations in this Act contained.

Grant for 50 years.

SEC. 16. That all property of every kind and nature forming or used as a part of the railway and power system of the association, including this franchise, shall be exempt from any and all taxation under the laws of the Territory of Hawaii until the expiration of ten years from and after the passage of this Act by the Congress of the United States.

Exemption from taxation.

SEC. 17. That the association shall, within one month after the expiration of each calendar year, file with the board a detailed statement showing all of its receipts and expenditures during the preceding calendar year; and all of its books, papers, records, and accounts shall, at all reasonable times, be open to inspection by the governor, the board, and their respective agents appointed for such purpose.

Annual statements required.

The association shall not issue stock in excess of the amount paid to it therefor in cash and fifty thousand dollars additional, nor shall it issue bonds at less than ninety per centum of their par value; and the entire proceeds of its stock and bonds shall be applied to capital expenditure.

Stock and bonds authorized.

The association may pay, out of any earnings available for the purpose, after paying its expenses of operation and maintenance, interest and sinking fund on its bonds, and any other expenses properly payable out of earnings, cumulative dividends upon its stock at the rate of eight per centum per annum, and shall pay each year to the county of Hawaii, or such political division as the legislature shall from time to time designate, an amount equal to three times the amount, if any, which it shall pay in dividends in that year in excess of such cumulative dividends.

Dividends from earnings.

Stockholders not to have interest in contracts.

No member of the association, or of any assignee or successor of the same, and no stockholder or officer of any corporation securing any or all of the rights herein granted to the association shall become interested, directly or indirectly, in any contract made by the association, its assignees or successors, for the construction of any part of the railway or for the supply of its rolling stock.

Amendment, etc.

SEC. 18. That this franchise may at any time be amended or repealed by the Congress of the United States or by the Legislature of the Territory of Hawaii, with the approval of the Congress of the United States; and the rights, privileges, and powers by this Act conferred shall not be construed to be exclusive.

Purchase by Territory, etc., after twenty years, permitted.

SEC. 19. That the Territory of Hawaii, the county of Hawaii, or any political subdivision thereof, within or including the district of South Hilo, may at any time after the expiration of twenty years from the date of the passage of this Act by the Congress of the United States, and upon six months' notice in writing to the association, given pursuant to proper authority, acquire by purchase all the property of the association, subject to the then existing charges thereon. The amount to be paid to the association for such purchase shall be determined by a commission of three persons, one to be appointed by the association, or in case it should fail to do so within thirty days after requested to do so by the purchaser, then by the chief justice of the Supreme Court of Hawaii, one by the purchaser, and the third by the two so appointed, or in case they should fail to agree upon the third member within thirty days, then by said chief justice, but such amount shall in no case exceed the actual cost of the property and twenty per centum in addition thereto, less the charges thereon.

Terms. Commission to determine.

Appeal from decision.

Either the association or the purchaser may appeal to the Supreme Court of Hawaii from the decision of such commission by filing a written notice of appeal with the commission within five days after the decision is rendered. It shall thereupon be the duty of the commission immediately to certify up to the supreme court the record of its proceedings, showing in such certificate the valuation claimed by the association, the valuation claimed by the purchaser, and the valuation as determined by the commission. Such certificate shall be accompanied by copies of all papers, documents, and evidence upon which the decision of the commission was based and a copy of such decision. Upon any such appeal the supreme court may, in its behalf, take or require further evidence to be introduced by either party.

Hearings, etc., in supreme court.

Payment.

Within six months after the determination of the purchase price, as aforesaid, the same shall be paid to the association.

Approved, August 1, 1912.

August 3, 1912.
[H. R. 21480.]

[Public, No. 252.]

Apples. Standard barrel established for.

CHAP. 273.—An Act To establish a standard barrel and standard grades for apples when packed in barrels, and for other purposes.

Proviso. Steel barrels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the standard barrel for apples shall be of the following dimensions when measured without distention of its parts: Length of stave, twenty-eight and one-half inches; diameter of head, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches outside measurement, representing as nearly as possible seven thousand and fifty-six cubic inches: *Provided,* That steel barrels containing the interior dimensions provided for in this section shall be construed as a compliance therewith.

Grades established for apples in interstate, etc., commerce.

SEC. 2. That the standard grades for apples when packed in barrels which shall be shipped or delivered for shipment in interstate