

VOLUME: V

TATI CONCESSIONS LAND

CHAPTER: 32:05

ARRANGEMENT OF SECTIONS

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Schedule

Proc. 2, 1911,
Cap. 90, 1948,
Cap. 112, 1959,
HMC Order 1, 1963,
L.N. 84, 1966,
Act 54, 1968,
Act 62, 1970.

An Act to confirm the Tati Concessions, Limited, in the full, free and undisturbed possession as owners of all the land usually known as the Tati District.

[Date of Commencement: 21st January, 1911]

1. Short title

This Act may be cited as the Tati Concessions Land Act.

2. Land in the Tati District vested in the Tati Concessions, Ltd

The Tati Concessions, Limited, its successors and assigns, is hereby confirmed in the full, free and undisturbed possession as owners of all the land within the Tati District, the limits of which district are as follows, viz.: From the place where the Shashe River rises to its junction with the Tati and Ramokgwebana Rivers, thence along the Ramokgwebana River to where it rises and thence along the watershed of those rivers, subject to all the terms and conditions of this Act and in accordance with the laws now or hereafter in force within Botswana.

3. Effect of Act on rights or obligations of the National Railways of Zimbabwe

Nothing in this Act shall add to or take away from any rights or obligations which have been conferred on or imposed on the National Railways of Zimbabwe (formerly known as the Rhodesia Railways, Limited), by the agreement of November, 1910, between that company and the Tati Concessions, Limited, a copy whereof is

set out in the Schedule, and the plans annexed to which have been deposited as hereinbefore recited.

4. Land may be disposed of by Company by sale or lease

The Tati Concessions, Limited, shall have full power and authority to dispose by sale, lease, or otherwise of any portion of the land within the Tati District not being land reserved as aforesaid for the National Railways of Zimbabwe; and the purchaser or lessee or occupier under any agreement with the Tati Concessions, Limited, shall have the right of full, free and undisturbed possession subject to the terms of the said purchase, lease or agreement, and to the terms of this Act.

5. Sales and leases prior to 21st January, 1911, to remain valid

All sales, leases or agreements whereunder occupation of land has been given by the Tati Concessions, Limited, prior to 21st January, 1911, and still binding, shall be recognized as valid and shall subject to the terms thereof and to the provisions of this Act, be regarded as conferring upon the purchaser, lessee or occupier, a right of full, free and undisturbed possession in respect of the said land.

6. Rights to minerals and precious stones reserved to the Company

The right to all minerals and precious stones under the land in the Tati District is reserved to the Tati Concessions, Limited, and also the right of prospecting for and working the same, but no mining operations shall be carried on under any land on which buildings have been erected or improvements made unless compensation has been paid for any loss to be sustained by the owner or owners of such buildings or improvements by reason of such operations and in the case of land reserved for the National Railways of Zimbabwe, no prospecting or mining operations shall be carried on in such manner as to interfere with the working and safety of the said line of railway or with any works constructed for the purposes of the said railway.

7. Government officials have right to cut timber and graze stock

All officials of the Government of Botswana, including members of the Botswana Police Force, shall have reasonable facilities for cutting timber required for ordinary public purposes upon any portion of land within the Tati District free of charge, and shall also have the like facilities for the grazing of stock or animals:

Provided that:

- (i) the said rights of grazing and cutting wood shall be exercised reasonably both in extent and manner and such rights shall not extend to land which has been *bona fide* sold or leased by the Tati Concessions, Limited; and
- (ii) such rights shall not be exercised in such manner as to interfere with the planting of trees by the company or with young trees, but nothing contained in this section shall be held to interfere with reasonable rights of outspan by the Botswana Police Force in any part of the Tati District.

8. Company may not make laws or levy taxes

Nothing in this Act or in any other law shall authorize the said Company to make or administer laws within the Tati District, or to levy any rate, tax, licence, duty or impost therein and all powers of legislation, administration and taxation are reserved to and remain vested in the President, but nothing shall interfere with the rights of the company as owners to grant or refuse to grant permission to prospect or mine upon their lands or to impose such conditions upon the grant of any such rights as they may deem fit.

9. Nothing in this Act shall affect the B.S.A. Co.'s Charter

Nothing in this Act shall affect or interfere with any of the provisions of Her Majesty's Charter granted to the British South Africa Company, but the said provisions shall in so far as they relate to or affect the Tati Concessions, Limited, or the Tati District be and remain operative.

SCHEDULE
AGREEMENT BETWEEN TATI CONCESSIONS, LIMITED AND RHODESIA RAILWAYS, LIMITED

(s. 3)

Agreement under seal made the second day of November, one thousand nine hundred and ten, between the Tati Concessions, Limited (hereinafter called "the Tati Company", and which expression shall include the successors and assigns of the Tati Concessions, Limited, where the context permits) of the one part and the Rhodesia Railways, Limited (hereinafter called "the Railway Company") and which expression shall include the successors and assigns of the Rhodesia Railways, Limited, where the context permits) of the other part.

Whereas the Railway Company has constructed a railway through the Tati Concessions which is of the length of seventy and one half miles or thereabouts;

And whereas as the result of negotiations extending over some years, the Tati Company and the Railway Company have agreed to enter into this present agreement;

Now this agreement witnesseth and it is hereby agreed as follows:

1. The Tati Company will convey to the Railway Company within twelve months from the date of this agreement, subject to any existing rights of way and water, the strip of land of a varying width which with its dimensions is shown on the plan marked "A" hereto annexed and is thereon distinguished by the colour blue and extends along the line of the railway for a mile each way from a point opposite the centre of the Main Avenue at Francistown in the Tati Concessions, and also extends to and includes the site of the engine-shed which is shown on the Plan "A" but has now been removed.

2. Beyond the northern extremity of the said strip of land and beyond the southern extremity of the said strip of land in each case to the boundary of the Tati Concessions, the Tati Company will convey to the Railway Company within twelve months from the date of this agreement, subject to all existing rights of way, a strip of land along the line of the railway of the uniform width of one hundred yards, the centre line of which shall be the centre line between the present single line of rails. The Railway Company shall give notice to the Tati Company of its intention to fence any portion of the railway and shall from time to time provide a reasonable number of gates and crossing places over both the enclosed and unenclosed parts of the railway.

3. The Tati Company will convey to the Railway Company within twelve months from the date of this agreement for railway purposes only, the piece or pieces of land at Francistown containing together forty-six acres and shown with the dimensions thereof on the Plan "A" and thereon distinguished by the colour red, subject to the public cart or wagon road generally known as the Monarch Road, and to all other existing rights of way and water.

4. The Railway Company shall be entitled (within five years from the date of this agreement) to make such deviations in the line of railway as it may desire (in order to improve the same), except within one mile each way from the central point mentioned in Clause 1 hereof, and may take land which shall not have been improved, let or sold, required for such deviation free of compensation; provided, however, that after the completion of such deviation, the strip of land referred to in Clause 2 hereof, shall be a strip of a uniform width of one hundred yards, the centre line of which shall be the centre line between the improved single line of rails; provided always that the site of that portion of the railway for which any deviation shall be substituted with the land adjoining thereto shall revert to and be vested in the Tati Company, and the cost of re-transfer of any such land rendered necessary by such deviations shall be borne by the Railway Company. On any such improved strip the Tati Company may reserve timber equal in quantity to the timber that may have already been cut on the relinquished strip.

5. The Railway Company has for some years past pumped water from the River Tati at or near a pumping station marked "A" on the plan "A", and conducted such water to its railway and works through the line of pipe in the direction shown on the said plan by the words "Rhodesia Railway Water Pipe". The Tati Company hereby confirm and will grant to the Railway Company the right to pump water, but for railway purposes only, from the said river at or near the said pumping station, and to conduct water therefrom to its railway and works through the said line of pipes, and will convey to the

Railway Company within twelve months from the date of this agreement for railway purposes only a piece of land one hundred feet by one hundred feet for the purposes of the pumping station and shown on the plan hereto by the letter "A", and also will grant to the Railway Company the right to maintain, repair, and renew the said line of pipes, and a right of way for the purposes of this clause along the said line of pipes from the said river to the strip of land mentioned in Clause 1 hereof, but nevertheless in the exercise of their respective rights conferred by this and the following or previous clauses, neither of the parties hereto shall in any way damage or interfere with any line of pipes which belongs or may belong to the other party. The Railway Company shall not tunnel or drive upstream from the said pumping station in the direction of the pumping-house marked "B" on the Plan "A".

6. The Tati Company will grant to the Railway Company the right at any time hereafter to search for and take water but for railway purposes only anywhere in the area between the said pumping station "A" and the railway bridge on the Tati River below that station, and to erect pumping stations in such area and to conduct water by a line of pipes from such station to its railway and works and to maintain, repair and renew any such line of pipes and also a right of way along any such line of pipes for the purposes of this clause. The right however shall be granted subject to any other water-rights that may be in existence at the time of the exercise thereof. Provided that nothing herein contained shall be prejudicial to the right of the Railway Company to search for water between these points on such land as may have been duly transferred to the Railway Company and if found to erect pumping stations and conduct water by a line of pipes to its line of railway.

7. The Tati Company will not at any time hereafter grant to any person, persons or company, any water or other right which shall permit of the sinking of a well within one hundred yards of any well previously sunk by the Railway Company under the right to be granted under the last preceding clause hereof.

8. The Tati Company confirm the arrangement made with the Railway Company in the year one thousand nine hundred and two, under which a dam was built by the Railway Company across the River Ntshé near the 1,267 mile peg and an area of sixty-six acres was enclosed which area is shown on the Plan "B" hereto annexed, and a line of pipe was laid from the dam to the railway in the direction marked "pipe line" on the Plan "B", and the water was conducted for railway purposes only along the said pipe line from the dam to the railway and will grant for railway purposes only the said sixty-six acres of land and also the right to maintain, repair and renew the said last-mentioned line of pipes and a right of way along such line of pipes for the purposes of this clause.

9. All minerals in and under the land hereinbefore mentioned shall be reserved to the Tati Company with the right to work the same and the right to run under or over the railway all reasonable means of communication, such as pipe lines and electric wires, but these rights shall not be exercised until the Tati Company shall have given notice to the Railway Company of its intention to do so or so as to imperil in the opinion of the engineer for the time being of the Railway Company the safety and safe working of the railway or any of its buildings or works or any line of pipe, and such engineer shall at all times have and be given by the Tati Company such facilities as he may reasonably require for inspecting any works in progress.

10. The Railway Company may sell, let, or otherwise deal with the land referred to in Clause 2 hereof as it shall think fit, but all other land hereby agreed to be granted shall be used for railway purposes only.

11. The Railway Company shall not sell any refreshments at Francistown except in ordinary course to passengers in its trains.

12. The Railway Company desiring in its own interest to develop the district of the Tati Concessions and thereby to increase its own traffic will consider and so far as possible meet the Tati Company in any suggestions or arrangements which it may desire to make in the future.

13. Until such time as there is on the railway a service of more than one passenger train a day in each direction all passenger trains shall stop at Francistown, and when there is such a service one passenger train each way and not less than half of all additional passenger trains each way shall stop at Francistown.

14. Any notice required to be given hereunder or under any deed or instrument executed pursuant hereto shall be a four weeks' notice in writing to be served on the Railway Company at its principal office at Bulawayo and upon the Tati Company at its principal office at Francistown.

15. Each party hereto will at the request and cost of the other party execute and do all deeds, instruments and things as shall be reasonably requisite or necessary to carry this agreement into effect.

In witness whereof the parties hereto have caused their common seals to be hereunto affixed the day and year first above written.

The Common Seal of the Tati Concessions, Limited, was hereunto affixed pursuant to a

resolution of the Board of Directors in the presence of

Seal.

ERNEST C. COCHRANE,
T. M. THACKTHWAITE,
Directors.

W. HOWARTH, Secretary.

The Common Seal of the Rhodesia Railways, Limited, was hereunto affixed pursuant to a resolution of the Board of Directors in the presence of

Seal.

R. MAGUIRE,
HENRY BIRCHENOUGH,
Directors.
R. J. HACKSHAW, Secretary.