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New Mexican Railway Company. (To accompany bill H.R. no. 761.) Memorial of the New Mexican Railway Company, in relation to the Pacific Railroad

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NEW MEXICAN RAILWAY COMPANY.

[To accompany Bill H. R. No. 761.]

MEMORIAL

OF THE

NEW MEXICAN RAILWAY COMPANY,

In relation to the Pacific Railroad.

MAY 21, 1860.—Ordered to be printed.

*To the honorable Senate and House of Representatives of the United States
of America:*

The memorial of the undersigned respectfully represents that at their late session the legislature of the Territory of New Mexico passed an act, (a copy whereof is hereto annexed,) incorporating them under the name and style of "The New Mexican Railway Company," with authority and privilege "to locate, construct, own, and maintain a railway, commencing at such point on the eastern boundary of said Territory as after exploration they may select, and running thence across the entire Territory in the direction of California, upon such route as after survey they may designate, with such branches as they may from time to time construct for the purpose of connecting their said road with any other railroad made or to be made in Mexico or in Texas, or in any adjoining State or Territory." And the said legislature have also "granted and transferred to the said New Mexican Railway Company all the right, title, and interest which the Territory of New Mexico has now or may have hereafter in any grant of land made by the United States in aid of the construction of a railroad or of a branch railroad in the Territory of New Mexico, which road or branch road may be made by the said company."

The undersigned, therefore, submit that whatever grants of land or public credit may be given by the government of the United States in aid of the construction of a railroad through New Mexico should be given to them, the said New Mexican Railway Company; and they respectfully protest against the proposition now pending before your honorable body to give to an association of individuals, without authority from the Territory of New Mexico, grants of land and of

credit to enable them to construct what is termed a Pacific railway. The report of the Hon. Mr. Curtis, (H. R. No. 428,) and the accompanying bill (No. 646) propose to give to a number of individuals therein named, and to such persons as a majority of those individuals shall admit as their associates, sixty millions of dollars, (\$60,000,000,) equal to \$33,860 per mile, in aid of the construction of a railway upon the route recommended by the committee.

We respectfully submit that Congress has no power to create an act of incorporation for such purposes in a State or Territory, and much less to annul, override, and set aside rights vested under an act of incorporation granted by a State or Territory; that if this bill is intended to operate as an act of incorporation by Congress of the individuals named, it is in derogation of the rights of the local legislatures of the States and Territories through which the proposed road will be constructed; and if it does not so operate, then the proposed grants of land and of credit will be to these parties as individuals, and the statutory first mortgage lien contemplated by the bill, as security for the proposed advances, will be nugatory for want of competent parties to create it. The undersigned deem it sufficient to state, and unnecessary to argue these propositions; for it is clear that those individuals would have no right to locate, construct, own, or maintain a railway in New Mexico without authority from the local legislature, and therefore could not create a lien upon the road or its earnings.

The Constitution provides that Congress shall have power "to lay and collect taxes, duties, imposts, and excises;" "to pay the debts and provide for the common defence and general welfare of the United States;" "to regulate commerce with foreign nations, and among the several States and with the Indian tribes," and "to establish post offices and post roads;" and therefore Congress, without question, appropriates money for the maintenance of the army and navy, and for light-houses and other objects, connected with the promotion and protection of our foreign commerce, and for carrying the mails. The power to appropriate money for these objects is unquestioned.

The report of the select committee, to which we have referred, urges, in support of the large appropriation in aid of what they term "the central route," that it will not only give increased facilities for carrying the mails, but will also aid in the transportation of troops and munitions of war, and in support of their preference for that route tables of distances, marked A and B, are given in the appendix, by which it appears that the distance from New York to San Francisco, by way of St. Paul, is 3,754 miles; from New York to San Francisco, by way of Council Bluff, 3,284 miles; from New York to San Francisco, by way of Fort Smith, 3,643 miles; from New York to San Francisco, by way of Fulton and Texas, 3,393 miles.

The route recommended by the committee, though too far north to be considered a "central route," is so remote from both the northern and southern border, that a railroad built on that line would soon become of but little value for military purposes as compared with the southern line, while the estimates given by the committee show that

the distance from New York to San Francisco by the selected route is but 109 miles less than the distance from New York to San Francisco by Fulton and the Texas route, and it is apparent that, when the grades are considered, the preference, even as to distance, should be given to the southern route.

But the distance from New York, by Council Bluffs, to Benicia, (not San Francisco,) as given, is.....	3,284 miles.
Whereas the distance as given from Fulton to San Francisco is but.....	2,058
And from New Orleans to Fulton, but.....	402
	2,460
	824
Making a difference in favor of New Orleans.....	824

If we take into account the fact that the route from New Orleans through Austin and El Paso will be more than 200 miles less than the route by Fulton, it will be seen that the distance from New Orleans to San Francisco is nearly or quite 100 miles less than the distance from New York to San Francisco. If the question of distance from an important Atlantic seaport is to be considered in the selection of the route of the Pacific railroad, then the southern route is greatly to be preferred.

But it is urged by the committee that the distance from Council Bluffs to Benicia is but 2,032 miles, and that a railroad is now made to that point. In reply to this, it may be urged that the State of Texas has granted 10,240 acres of land per mile in aid of the construction of a railroad to El Paso, and that the capitalization of a proper compensation for mail service will enable the companies having this grant to complete their road to that point; and all that is required to insure the completion of a railroad from El Paso to San Francisco is for Congress to make such grants of land in New Mexico and California, and such advances of bonds on contracts for mail service, as may be a just and proper compensation for such services. That the services to be rendered by a railroad on the southern route will be of much greater value to the United States than the services rendered by a road on the route selected by the committee is apparent in this:

1st. The mail service on each may be assumed to be the same.

2d. The northern route will be so far from the southern frontier that few, if any, of the troops, and no munitions of war used on that frontier, would be carried over that route in preference to the present modes of transportation. So far as relates to the military defences of the southern frontier, the selected route would be valueless; and so far, therefore, as either may be required in aid of our military operations, the southern road is greatly to be preferred.

Again: the sum asked for the so-called central route is sixty millions of dollars, with a declaration that the road is to cost one hundred and twenty millions; whereas the Southern Pacific Railroad Company ask but thirty-five millions, and the official estimates show that this difference in the sums asked for is not greater than the difference

in the cost of these roads will be. It is therefore apparent, that by making an appropriation in aid of the southern route the government will receive much greater services for a much less sum.

Again: the distance from New Orleans to El Paso is about 100 miles; thence to San Francisco about 1,000 miles. As that part which passes through Texas has been provided for by that State, the selection of the southern route will leave but one-half the distance to be provided for by the United States; being only about one-half the distance of the northern line, and at a cost of very little more than one-half the sum per mile; thus showing that the charge upon the treasury on the southern route will, in fact, taking into account a proper compensation for carrying the mails, be scarcely one-fourth the sum asked for by the so-called central route.

In addition to the bonds, it is proposed that the United States government shall make liberal grants of land. But the official reports show that scarce one-third of these are arable, and the price at which such lands, heretofore granted to individuals, can be purchased in that remote region, shows that the actual value to the government of the lands proposed to be granted is comparatively nothing. It is, however, a well established fact that the construction of the railway will add greatly to the value of these lands, and make the reserved sections worth much more to the government than the whole otherwise would be. It follows, therefore, that instead of losing, the government will gain by granting the lands as proposed.

The committee do not ask a large grant of lands, but it is understood that they favor the House bill granting the lands to settlers without charge, the effect of which will be to give the owners of the railroad large profits in the shape of passage money, local freights, and business created by the migration which the proposed system will create.

There are other considerations recommending the southern route. It is known that the mineral resources of Mexico, and especially of Chihuahua, Sonora, and Sinaloa, are such as to offer great inducements for their development. The distance from Guaymas to this route is less than 400 miles, and the construction of the southern road will insure, at a very early day, a branch to that port, with a connexion to St. Louis by the Southwestern Pacific Railroad of Missouri.

Again: there is now a communication by railroad and steamboat from New Orleans to Columbus, on the Colorado. From that point to Mazatlan, on the Pacific, is only about 800 miles. The State of Texas has given to the Sabine and Rio Grande Railroad Company a grant of 10,240 acres of land per mile, in aid of the construction of so much of this road as lies within that State, and arrangements have been made with parties having a charter from the government of Mexico for its extension to the Pacific. These several roads constitute parts of a single system which, when completed, will concentrate upon the city of New Orleans a commerce the extent and value of which cannot be estimated; and whether this system of railways be considered in reference to the defence of our own frontier, to our relations with the Indian tribes and with Mexico, or to the commerce between the Atlantic and Pacific States, and with foreign nations, especially

China and Japan, its claims to the favorable consideration of your honorable body are much greater than those of the route recommended by the select committee.

There is another aspect of this question, connected with the intercourse and commerce between the States, which gives to this system of railways a vital interest. It is now well understood that the great contest between the more civilized nations, who use machinery, is for the markets of the less civilized portions of the world, and that this has brought up for adjustment the question of what is the proper relation between the several races of mankind. It is known that the commerce of India has from time to time been monopolized, and that it has in turn enriched the nations having that monopoly from the days of Solomon until now. It has been the source whence Great Britain obtained her wealth and power, and how to preserve it has therefore been the controlling principle of British policy. For more than 200 years it was held by the East India Company, which became a power controlling the government itself, until, in 1834, the increasing wealth and resources of the manufacturing and commercial interests of that great country and the competition of other European nations, led to a change of system. The West India planters had a monopoly of the supply of the home markets with tropical products. The East India Company had a close monopoly of the trade of the East Indies; so much so that a British subject found in India without their consent was liable to be seized, sent home and imprisoned. According to the Edinburgh Review, India was compelled to pay a tribute of \$20,000,000 per annum; that is, India paid to England \$20,000,000 per annum, for which she received nothing in return. It was found that this tribute had exhausted the accumulated wealth of ages, and that such was the effect of the improved machinery of England that the British manufacturer could produce textile fabrics so much cheaper than they could be made in India, that India was no longer able to pay this tribute unless it could be paid in her agricultural products. Therefore, the British Parliament, in 1834, repealed the monopoly of the supply of tropical products held by the West India planters, and the monopoly of the East India trade held by the East India Company, and opened the trade of India to British subjects. At the same time extraordinary efforts were made to penetrate Central Africa, and even Wilberforce placed his opposition to the slave trade on the ground that "England would be greatly benefitted by the opening of a great continent to British industry, an object which," he said, "would be entirely defeated if the slave trade was to be carried on by the Spanish nation." The press and the pulpit were brought in aid of the commercial policy of England, and a powerful sympathy enlisted in behalf of the persecuted African, until the sentiment thus created enters so much into the morals, religion, and politics of this and most other civilized nations, that the most important question connected with the progress of the present age seems to be what is the proper relation between the white and other races of mankind? Is it an equality of condition, and of social, personal, and political rights? This, it is now ascertained, is impossible otherwise than by the degradation of the whites; for it is now admitted that the African cannot be made their equal. The fact that the condition of the African race, social,

moral, and religious, has been greatly improved in the slaveholding States, while the free blacks in the northern States have become more and more degraded, and the lot of the poor Indian has been to perish before the merciless progress of northern philanthropy, demonstrates that there is no alternative between subjection and protection, or war and extermination. The contrast between these alternatives is exhibited in the fact that 600,000 African slaves in the southern States have in less than half a century increased more than 500 per centum, whilst the natural increase of the free blacks of the north has scarcely equalled the deaths, and the Indians, the aborigines of that section, may be said to be extinct. As a forcible illustration of the difference between the practical working of the northern and southern social systems on the condition of the inferior races, your honorable body are requested to contrast the southern treatment of southern slaves with the northern treatment of northern Indians.—(See Ex. Doc. No. 69, 36th Cong. 1st sess. H. R.)

Colonel Fauntleroy, in a letter to General Scott, says: "The greatest embarrassment arises from the facts that many of the claims set up against the Indians for plundering, stealing stock, &c., are either fabricated, or to a considerable degree exaggerated, and if war is to be commenced upon the simple presentation of these claims, the cause for war becomes interminable or *the Indians must be extirpated*," (page 11.) And yet of these Indians Mr. Collins, the superintendent, says, (page 52,) "they are much further advanced in habits of industry and the arts of husbandry than any of the wild tribes under our charge. Indeed, they are at this time entirely capable of being a self-sustaining people." If the free labor system of the north extirpates such a people on such pretences, what would that system do with our slaves?

If any one doubts what would be the result of emancipation, to accomplish which is the avowed purpose of a powerful northern political organization, let such read the account of the massacre of defenceless Indian women and children at Humboldt bay, in California. Let no one suppose that these extracts are given, or that this contrast between the treatment of the southern slaves and the northern Indians is made for the idle purpose of an invidious comparison between the people of the south and of the north. No; we know that human nature is the same in the south and in the north, and that the opinions and actions of men are formed and regulated by the circumstances in which they are placed. Hence we argue that, inasmuch as the commercial, financial, and political relations between Great Britain and the other nations of Europe have, within the last few years, been greatly modified, these modifications must of necessity affect the public opinion and greatly change the measures and policy of the great nations of the earth.

The explorations of Livingston, Barthe, and Bowen, demonstrate that instead of being, as many supposed, a desert waste, central Africa is an extensive tract of fertile lands, drained by large lakes and navigable rivers, with numerous valuable natural products, and nearly or quite 100,000,000 of population, accustomed to coercive labor, inviting European commerce and dominion. Accordingly, we

find that France is marching upon Timbuctoo and the upper Niger, from the north and from the west, from Algiers and from the Senegal. Who can believe that her purpose is war and extermination? Who does not know that it is *subjection*, that she may profit by the commerce of Africa and the labor of African slaves? With our knowledge of the results of emancipation in the West Indies, and of her measures and policy in the East, who can believe that England is sending her enterprise and commerce from Sierra Leone and Logos to Abeokutu and the lower Niger, whilst she proposes to occupy that immense interior tract, drained by the Zambesi and the great lakes, now being further explored by Livingston and his party, for any other purpose than the promotion of her wealth and power, by an exchange of the products of her labor for the products of the soil, and of the labor of the millions who inhabit that country? Who can believe that, with her experience in the East and West Indies, England will attempt to revolutionize the social and political condition of Africa by the emancipation of the slaves of Africa? Who can fail to see that England and France, being competitors for the trade of Africa, will both seek to conciliate those who now govern Africa, and that to do this their measures and policy must, in great measure, conform to the existing social and political organization? If so, then these great powers may continue their efforts to suppress the African slave trade, not because they are opposed to the principle of African slavery, but because they prefer that the African slave shall remain there because his labor will better promote their commerce, wealth, and power, if he remains as a slave in Africa than if he were carried as a slave to Cuba or Brazil.

If these views be correct, then there will be a corresponding change in the public sentiment of England and France in relation to the institution of African slavery itself, and that change will of necessity embrace and give prominence to the relation which should exist between the white and inferior races of men, wherever they may be brought in contact. Who that has studied the laws which regulate our being, as manifested in divine revelation, can fail to realize a regular gradation from the Creator himself to the smallest of created things, and that God in His wisdom and forethought has allotted to each its peculiar sphere and duty in the order of creation? And who will deny that all the ills to which we are subject are the legitimate consequence of our rebellion against the law of subordination imposed by the Almighty?

Does any one ask what pertinence these truths have to the selection of the route of the Pacific railroad? We reply that that route should be selected in reference to—

- 1st. Our relations with Mexico.
- 2d. The defence of our southwestern frontier and of the Pacific States, including the transportation of troops and munitions of war.
- 3d. Our commerce with the Pacific.
- 4th. The cost of construction.
- 5th. The transportation of the mails.

Of our relations with Mexico.

The great truth which we have enunciated is forcibly exemplified by contrasting the condition of the Indians, once the owners of the territory of the United States, with the condition of the Indians of Mexico. Our system was war and extermination. The Spanish system was subjection and protection. Our system has left scarce a vestige of the millions who once roamed through the forests and rejoiced in the possession of our immense prairies. The Spanish system has left at least seven millions within the comparatively small space which we have left them. Who that has witnessed our progress does not realize that the time has come when we, as a people, must determine whether we will carry our system into Mexico, or regulate our measures and policy so as to modify and improve the existing system of Mexico? Shall we annex and absorb Mexico, and by enforcing our system extirpate seven millions of people, or shall we, by a system of railways, give them profitable employment, and by the development of her resources harmonize the conflicts of interests which now characterize Mexican politics? If Mexico is annexed otherwise than by war, we must assume her debts. For our part we would not accept the responsibility of governing Mexico if it were gratuitously tendered to us. A large majority of the people are not sufficiently enlightened, and are therefore unfit to be American citizens. They are by nature and usage a subject race, and therefore, if admitted to the rights of citizens, would become a disturbing if not a controlling influence in our politics. That no such people are competent members of a free government is exemplified by the history of the Jews. For although they were the descendants of Abraham, and a peculiar race, chosen of the Almighty, all those who had been degraded by their bondage in Egypt were condemned to die in the wilderness, and the possession of the promised land was reserved for a new generation, born free and trained in a proper knowledge of government. We therefore would not accept of Mexico upon the condition that we shall govern them, much less would we pay their debts upon the condition that they are to govern us, as in case of annexation they would do. What then is to become of Mexico?

This is not a question, as some seem to think, between the north and the south. It is not properly a question of sectional power and influence. Nor is it a question between the United States and Mexico alone, for it embraces the common interests of the north and south, as parts of this republic, the future of Mexico as an independent republic, and her relations to other governments as well as to the United States. We should therefore not only consider the peculiar characteristics and condition of the people of Mexico, but also take into account her geographical position, and the effects of a proper development of her commerce and resources.

Geographically she is in the route from Europe to Australia, Japan, and China. Her mines, her climate, and her soil, offer such reward to energy and enterprise that it is impossible now to anticipate the number of Asiatics who will migrate to Mexico, and the certainty that

such migration will bring into immediate contact with us so large a body of this inferior race imposes on Congress the necessity of wisely adapting our measures and policy so as best to protect our own interests. This can best be done by maintaining peace and kind feelings with Mexico, and this can best be done by extending into Mexico our system of railways, which, whilst it will leave that people and government to act for themselves, will unite them to us by a community of interests, much better suited and much more advantageous to both than the absorption by annexation would be. For it is to the system of Mexican peonage, to the seven millions of Mexican people, and to immigrants from Asia, and not to the African slave trade, that we must look for the labor requisite to develop the resources, mineral and agricultural, of Mexico. In this view it is proper to consider, in this connexion, the change of circumstances which is to render England and France the beneficiaries of African slavery in Africa; and which will, of necessity, modify the public opinion of the world in relation to the question of human labor, and therefore it has a most important bearing on the selection of the route of the Pacific railroad.

As to the second, the third, and fourth propositions, embracing the defence of the southwestern frontier and the Pacific States, the transportation of troops and munitions of war, and our commerce with the Pacific, and the cost of construction, surely no argument can be required. The selection of the southern route will secure connections with St. Louis and Chicago by the southwest branch of the Pacific railroad of Missouri; with Cairo, Memphis, Vicksburg, New Orleans, Galveston, and Austin, by the southern Pacific, the New Orleans, and Opelousas and the Sabine and Rio Grande railways. It will not only furnish transportation for troops and munitions of war for the defence of the southern and southwestern frontier, which the route selected by the committee would not, but as this and that route have the same Pacific terminus, the southern would give the same protection to our Pacific States; and as the cost to the United States will not be one-half as much as on the so-called central route, and the connections can be completed in much less time and upon terms so much more favorable, the undersigned believe that a proper examination of the facts must satisfy your honorable body that it is the duty of Congress to grant the aid asked for to secure the speedy completion of the railway connection on the southern route.

As to the transportation of the mails, the shorter distance by the southern route; its more favorable connection with all parts of the United States east of the Mississippi, by roads already or soon to be completed; its lessser grades; the cheaper rate of compensation, justified by the lesser cost of construction, and its exemption from obstructions by frosts and snows, which on the route recommended by the committee may be expected to cause frequent and protracted delays, should be conclusive in its favor.

The undersigned respectfully submit herewith the draft of a bill, and pray its passage, providing for an advance of coupon bonds, as a compensation for carrying the mails, troops, and stores, naval and military, and giving a pre-emption right to purchase a certain

quantity of lands on the line of their railroad at a rate which is believed to be much greater than these lands could now be sold for, and which right of pre-emption will derive its chief value from the disbursements to be made by the

NEW MEXICAN RAILWAY COMPANY.

A BILL to incorporate the New Mexican Railway Company.

SEC. 1. *Be it enacted by the legislative assembly of the Territory of New Mexico*, That Henry Connelly, Antonio J. Otero, Ambrosio Armijo, José Felipe Chavez, Francisco Chavez, Spruce M. Baird, Francisco Perea, José Leandro Perea, Charles B. Clark, José Guadalupe Gallegos, Stephen Boice, William H. Moore, Ceran St. Vrain, Tomas C. de Baca, Merrill Ashurst, D. Green, John Titus, David R. Porter, Oliver W. Barrey, and Philip L. Fon, and the persons who may become the owners of the shares herein authorized to be issued, be, and they are hereby, made a body incorporate, under the name and style of "The New Mexican Railway Company," and in which name may have perpetual succession, and may purchase, hold, and acquire, by any lawful means, estate, real and personal, and the same may use, sell, lease, let, mortgage, transfer and convey, and otherwise dispose of, and may sue and be sued, plead and be impleaded, contract and be contracted with, and have and use a common seal, and the same may change at pleasure, and may make by-laws and regulations for the government of their affairs, and may have and use all the rights, powers, and privileges which are or may be necessary for them to have as a company incorporated for the purposes herein stated.

SEC. 2. That the purpose of this act is to organize an incorporated company and to authorize them as such to locate, construct, own, and maintain a railway commencing at such point on the eastern boundary of said Territory as, after exploration, they may select, and running thence across the entire Territory in the direction of California, upon such route as, after survey, they may designate, with such branches as they may, from time to time, construct for the purpose of connecting their said road with any other railroad made or to be made in Mexico or in Texas, or in any adjoining State or Territory.

SEC. 3. The capital stock of the said company shall consist of shares of ten dollars each, and shall be deemed personal property, and may be transferred in such manner and in such places as the by-laws shall direct; and the persons named in the first section of this act, or a majority of them, may, in person or by proxy, at such times and places as they may deem expedient, open books of subscription; and when fifty thousand shares shall have been subscribed the shareholders may elect five or more directors, and the directors, when chosen, may, and they are hereby authorized and empowered, in the name and behalf of the company, to have and exercise all the rights, powers, and privileges which are intended to be herein

given, and may, from time to time, increase their resources by borrowing money on a pledge of their property, or without such pledge, or by new subscriptions; and any citizen or subject, company or corporation, of any State, government or country, may subscribe for, purchase, and hold shares in the said company with all the rights and privileges of shareholders, and subject to no other or greater liability than other shareholders are subject to, which liability is for the payment to the company of the sums due or to become due for the shares subscribed for and held by them, and none others.

SEC. 4. The by-laws shall prescribe the manner in which the officers and agents of the company shall be chosen, and designate their powers and duties and their terms of service and compensation, and may provide for the forfeiture of shares in case of default in payment therefor.

SEC. 5. That it shall be lawful for the said company to charge and receive such tolls and freights for the transportation of persons, commodities and things, on said road and branches as shall be fixed by them, provided such shall not exceed fifty cents for one hundred pounds for one hundred miles, nor more than five cents per mile for each passenger.

SEC. 6. That all the right, title, and interest, which the Territory of New Mexico has now or may have hereafter in any grant of land made by the United States in aid of the construction of a railroad, or of a branch railroad in the Territory of New Mexico, which road or branch road may be made by the said company, shall be and is hereby granted and transferred to the said company, including as well the grants made in fee simple as the rights of way and of pre-emption, should such grants be hereafter made by the government of the United States in aid of the construction of such road within the Territory of New Mexico.

SEC. 7. That the said company may at any time after the passage of this act locate their said road and branches, and in case they cannot agree with the owner of any land, stone, earth, or materials, wanted for the location or construction of the said road or branches, the said company may apply to the judge of the proper county, and the said judge upon such application shall direct the _____ to summon a jury of five disinterested persons, who shall, under oath, estimate the value of the earth, stone, land, or materials, wanted as aforesaid, and upon the payment of the sum estimated as aforesaid, the proper legal title to the land, earth, stone, or materials, thus estimated, shall vest in said company. But in case either party is dissatisfied with the estimate made, as aforesaid, then they may appeal to the said judge, who shall thereupon order a second estimate to be made by five other persons to be chosen by a person by him selected, and the estimates made by the persons thus chosen shall be final and conclusive on the parties.

SEC. 8. That books of subscription shall be opened in the town of Santa Fe, and such other places in the Territory of New Mexico as may be designated by the governor of the Territory, under the direction of such persons as he may name for that purpose, and the same shall be kept open for at least thirty days, and any person residing in

the Territory, and any town or county therein, may at any time during the term the books are thus open, subscribe for any number of shares of the said company, subject to such payments as the directors may require to be made.

SEC. 9. *Be it further enacted*, That it is hereby made incumbent upon the said company hereby incorporated to commence actual operations in laying out, locating and grading said road within the limits of the Territory of New Mexico, within five years from and after the passage of this act, and upon their failure to do so, all the rights, privileges, and immunities hereby granted to said company, are hereby revoked, and this charter to said company is hereby forfeited.

SEC. 10. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and this act shall be in force from and after its passage.

Approved February 2, 1860.