

University of Oklahoma College of Law

## University of Oklahoma College of Law Digital Commons

---

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

---

2-28-1850

### Memorial of the Directors of the Pacific Railroad Company, Missouri, praying the right of way and a donation of land, &c.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

---

#### Recommended Citation

S. Misc. Doc. No. 59, 31st Cong., 1st Sess. (1850)

This Senate Miscellaneous Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact [Law-LibraryDigitalCommons@ou.edu](mailto:Law-LibraryDigitalCommons@ou.edu).

## MEMORIAL

OF

THE DIRECTORS OF THE PACIFIC RAILROAD COMPANY,  
MISSOURI,

PRAYING

*The right of way and a donation of land, &c.*

FEBRUARY 27, 1850.

Ordered to lie on the table.

FEBRUARY 28, 1850.

Ordered to be printed.

*To the honorable Senate and House of Representatives of the United States in Congress assembled:*

The memorial of the subscribers, directors of the Pacific Railroad Company, organized at St. Louis, in the State of Missouri,

RESPECTFULLY SHOWS:

That the legislature of the State of Missouri, by an act entitled "An act to incorporate the Pacific Railroad," approved March 12, 1849, authorized the formation of a company with "full power to survey, mark, locate, and construct a railroad from the city of St. Louis to the city of Jefferson, and thence to some point in the western line of Van Buren (now Cass) county, in this State," and to "hold a strip of land not exceeding one hundred feet wide" for that purpose, and also "sufficient land for the construction of depots, warehouses, and water stations;" to "select such route as may be deemed most advantageous," and to "extend branch railroads to any point in any of the counties in which said road may be located." And the said company were also authorized to "take, hold, use, possess, and enjoy the fee simple or other title in and to any real estate, and may sell and dispose of the same." All of which matters will more fully appear by reference to the act itself, a copy of which is hereto annexed.

Your memorialists further show, that the said company were duly organized under said act, on the 31st day of January last past, at a meeting of a majority of the directors named in the act, by electing Colonel John O'Fallon president, Daniel D. Page treasurer, and Thomas Allen secretary of said company.

That on the 4th day of February instant, books were opened by order of the said board of directors at the city of St. Louis for subscriptions to the capital stock of said company, and that in the six days during which

said books have been open, the sum of three hundred and five thousand and five hundred dollars has been subscribed to the said capital stock.

Your memorialists further show, that they feel strong assurance that the city and county of St. Louis, and the several counties along the contemplated route of said road, will subscribe a further sum, which, when added to the subscriptions of individuals, will, in the aggregate, constitute a fund sufficient to construct said road more than half the distance contemplated by the charter, and justify the immediate commencement of the work.

Your memorialists further show, that the United States own about twenty-nine million and two hundred and sixteen thousand acres of land yet unsold in this State, very large portions of which are likely to be rendered available and of increased value by the proposed work of this company. That said lands yet belonging to the United States which lie in the counties bordering the Missouri river, especially on the south, will, by said work being constructed through said counties, be enhanced in value from fifty to one thousand per cent., according to the qualities and situations of said lands.

Your memorialists further show, that in consequence of private entries and claims upon lands in the counties through which the road of this company will be constructed, it will not be possible to find vacant lands along the entire route, so as to admit of an available grant of alternate sections of public land in anything like a consecutive series upon the line of the road.

Your memorialists knowing the United States to be greatly interested in the construction of this road, not only as a land proprietor in this State and in the territories west of the State, but also in the increased facilities which will be afforded to the government in the transportation of the mail and of public stores, munitions and troops, and officers and annuities connected with the Indian policy of the government, therefore respectfully represent that it would be but justice and propriety, as well with reference to their own interests as to the railroad company, that the United States should grant, in aid of said work, such an amount of their vacant lands lying anywhere within the counties through which the road may run, as would be equivalent to alternate sections in a space of two miles width upon both sides of said road and along its entire length, allowing the locations to be made as nearly as possible pro rata among said counties; that is to say, to locate in each county according to the distance the road may run in the said counties respectively.

Your memorialists further represent, that the distance in a direct line from St. Louis to the western line of the State is about equal to forty townships, according to the United States surveys, or two hundred and forty miles, and that the variation from a direct line, in order to make the most advantageous location of the road, might increase that distance from twenty to fifty miles. That supposing said road to be two hundred and sixty miles in length, the cost to the company of its complete construction and equipment, estimating such cost at twenty thousand dollars per mile, would be about five million two hundred thousand dollars. That the grant of the equivalent of alternate sections on both sides of said road along the entire route would call, in the aggregate, for about three hundred and thirty-two thousand and eight hundred (332,800) acres of land, which could not be sold at the present time, probably, for fifty cents an

acre. Nevertheless, your memorialists believe such a grant would be of great service to this company in the construction of their railroad, and that it may become absolutely necessary in order to secure the early completion of the road to the western line of the State.

Your memorialists further show, that although five hundred thousand acres of the public lands have been granted by the United States to the State of Missouri for purposes of internal improvement, yet none have ever been granted to any company or companies in this State having such objects in view, nor for any purpose whatever, within the knowledge of your memorialists. In our sister States of Ohio, Indiana, Illinois, Alabama, Michigan, Iowa, Wisconsin, Mississippi, Louisiana, Arkansas, and Florida, large grants of public lands have heretofore been made by the United States to individuals and companies, as will be seen by reference to the reports from the General Land Office; and furnish ample precedents for a liberal exercise of a similar policy in reference to the State of Missouri, and especially towards the Pacific Railroad Company, in whose behalf the present application is made.

Your memorialists respectfully pray for a grant of the right of way through the public lands in the State of Missouri for the purpose of constructing said railroad, with the right also to take and use the necessary materials of earth, rock, timber, and water for the construction and operation thereof, and also a donation to said railroad company equivalent to alternate sections of the public lands in a space of two miles width on both sides of the said railroad for the entire length thereof, and for such other and further aid in the premises as to your honorable bodies may seem meet and expedient. And your memorialists will ever pray, &c.

J. O'FALLON, *President.*

DANL. D. PAGE, *Treasurer.*

THOS. ALLEN, *Secretary.*

ADOLPHUS MEIER,

JAMES E. YEATMAN,

JOHN B. SARPY,

J. B. BRANT,

WAYMAN CROW,

JAMES H. LUCAS,

A. L. MILLS.

—

AN ACT to incorporate the Pacific Railroad.

*Be it enacted by the General Assembly of the State of Missouri, as follows:* A company is hereby incorporated, called the Pacific Railroad, the capital stock of which shall be ten millions of dollars, to be divided into shares of one hundred dollars each; the holders of which, their successors and assigns, shall constitute a body corporate and politic, and by the name aforesaid shall have continued succession, may sue and be sued, plead and be impleaded, defend and be defended against, and may make and use a common seal, and shall be able, in law and equity, to make contracts; may take, hold, use, possess, and enjoy the fee simple or other title in and to any real estate, and may sell and dispose of the same; may make by-laws, rules, and regulations proper for carrying into effect the provisions of this act, not repugnant to the constitution or laws of the

United States or of this State, and shall have the usual and necessary powers of companies for such purposes.

SEC. 2. John O'Fallon, Louis V. Bogy, James H. Lucas, Edward Walsh, George Collier, Thomas B. Hudson, Daniel D. Page, Henry M. Shreve, James E. Yeatman, John B. Sarpy, Wayman Crow, Joshua B. Brant, Thomas Allen, Robert Campbell, Pierre Chouteau, jr., Henry Shaw, Bernard Pratte, Ernst Angelrodt, Adolphus Meier, Lewis A. Benoit, and Adam L. Mills, or any nine of them, shall constitute the first board of directors under this act, and shall hold their offices until their successors shall be qualified. They shall meet at such time and place as shall be designated by any three of them, and organize as a board of directors, and when organized they shall cause books to be opened for the subscription of the capital stock of said company, at such times and places as they may designate, under the supervision of such persons as they may appoint, and may continue them open so long as they may deem proper, and may re-open such books when necessary until the whole stock shall be subscribed.

SEC. 3. So soon as two thousand shares shall be subscribed, the directors shall cause an election to be held for nine directors, at such time and place as they may appoint, and give notice of in two or more public newspapers.

SEC. 4. An election for nine directors shall be held on the last Monday in March in each year, and if not held on that day an election may be held at any other time that the directors shall designate. The election shall be held under the supervision of one or more stockholders, and the persons receiving the highest number of votes shall be elected, and shall continue in office till their successors be qualified. Every stockholder shall be entitled to one vote for each share held by him, and he may vote by proxy. Soon after their election, the directors shall meet and elect one of their number President, who shall hold his office for the term for which he was elected director, and until his successor shall be qualified.

SEC. 5. The directors shall appoint agents, clerks, engineers, superintendents, and other officers and servants for said company; shall keep a journal of their proceedings; shall cause correct books and accounts to be kept; they may determine by by-laws what number of directors shall constitute a quorum, and may appoint committees and fill all vacancies in any office under said company; they shall fix the salaries of the president, and the officers and agents; but no director shall receive any compensation for his services as such. They may take security from their officers and agents, and may adopt such measures and do such acts as will be best calculated to promote the prosperity and usefulness of said company.

SEC. 6. The directors shall make and advertise calls for the payment of the capital stock, at such times and in such manner as they may deem proper; and if any stockholder shall fail to pay any such requisition within ten days after the time appointed, the said company may recover the same with interest, and if not collected may declare the stock forfeited, and sell the same; and no delinquent stockholders shall vote in said company.

SEC. 7. Said company shall have full power to survey, mark, locate, and construct a railroad from the city of St. Louis to the city of Jefferson, and thence to some point on the western line of Van Buren county, in this State, with a view that the same may be hereafter continued westwardly to the Pacific ocean; and for that purpose may hold a strip of land

not exceeding one hundred feet wide, and may also hold sufficient land for the construction of depots, warehouses, and water-stations; and may select such route as may be deemed most advantageous, and may extend branch railroads to any point in any of the counties in which said road may be located.

SEC. 8. Said company may take voluntary relinquishments of the right of way for said road, and the necessary depots and water-stations; and if the land through which such road shall pass shall belong to minors, in whole or in part, the guardian or curator of such minor shall have power to convey to said company so much of the land as may be necessary for the purpose aforesaid, on fair and equitable terms; but every such conveyance by a guardian shall be subject to the approval or rejection of the probate or county court in which such guardianship is pending.

SEC. 9. If any owner of any tract of land through which said railroad shall pass, shall refuse to relinquish the right of way for said road to said company, or if the owners be infants or persons of unsound mind or non-residents of the State, the facts of the case shall be specifically stated to the judge of the circuit court of the county in which such lands are situated; and said judge shall appoint three disinterested citizens of the county to view said lands, who shall take into consideration the value of the land and the advantages and disadvantages of the road to the same, and shall report under oath what damages will be done to said land or any improvement thereon, stating the amount of the damages assessed, and shall return a plat of the land thus condemned. Notice of such application to a judge shall be given to the owner of such land five days before the making of the application, if such owner reside in this State, or to his guardian; and if such owner be a non-resident of this State he may be served with actual notice, or by an advertisement for four weeks in some public newspaper.

SEC. 10. The persons appointed to view and value such land shall file this report and plat in the office of the clerk of the circuit court of the county in which the land or a part thereof is situated; and if no valid objections be made to said report, the court shall enter judgment in favor of such owner against such company for the amount of damages assessed, and shall make an order vesting in said company the fee simple title of the land in such plat and report described. Objections to such report must be filed within ten days after the same shall be filed; which objections shall be examined by said judge, in term time or vacation, and he may hear testimony, and by judgment confirm said report, or may set the same aside and appoint three other viewers, who shall proceed in the same manner, and make their report, until a report shall be confirmed. In all such cases the court shall adjudge the costs of the proceedings according to equity, and the said court shall have power to make such orders and take such other steps as will promote the ends of justice between the owners of such lands and said company.

SEC. 11. Said company may build said road along or across any State or county road, or the streets or wharves of any town or city, and over any stream or highway; but whenever said railroad shall cross any State or county road, said company shall keep good and sufficient causeways or other adequate facilities for crossing the same; and said railroad shall not be so constructed as to prevent the public from using any road, street, or highway along or across which it may pass; and when said railroad

shall be built across any navigable stream, said company shall erect a bridge sufficiently high on which to cross, or shall construct a draw-bridge, so that in no case shall the free navigation of such stream be obstructed. When any persons shall own lands on both sides of said road, said company shall, when required so to do, make and keep in good repair one causeway or other adequate means of crossing the same.

SEC. 12. Said company shall commence the construction of said road within seven years, and shall complete the same within ten years thereafter; and said company shall have general power to use, manage, control, and enjoy said railroad; shall determine what kind of carriage shall be used thereon, and by whom and in what manner, and shall determine the terms, conditions, and manner in which merchandise, property, and passengers shall be transported thereon; and shall have power to construct and keep such turnouts, gates, and bridges, culverts, toll-houses, depots, warehouses, causeways, and other buildings, machinery, and fixtures as may be necessary. Said company may receive such tolls and freights as may be determined on by the directors, and shall keep posted up statements of the rates of toll and freight to be charged.

SEC. 13. Dividends of the profits of said company shall be made annually, or oftener if necessary; but the directors may reserve or set apart a portion of the profits as a contingent fund to meet expenditures and losses.

SEC. 14. It shall be lawful for the county court of any county in which any part of the route of said railroad may be, to subscribe to the stock of said company; and it may invest its funds in the stock of said company, and issue the bonds of such county to raise funds to pay the stock thus subscribed, and to take proper steps to protect the interests and credit of the county. Such county court may appoint an agent to represent the county, vote for it, and receive its dividends. Any incorporated city, town, or incorporated company, may subscribe to the stock to said railroad company, and appoint an agent to represent its interests, give its vote, and receive its dividends, and may take proper steps to guard and protect the interests of such city, town, or corporation.

SEC. 15. At every annual meeting of said company, the directors shall make to the stockholders an exhibit of the affairs and condition of the company. One-seventh part in interest of all the stockholders may call a meeting, by giving four weeks' notice in two public newspapers.

SEC. 16. When said road shall be completed, the company shall file a plat thereof in the office of the secretary of state, and the legislature may at any time require a statement from the company as to the progress of the work, the amount of business, and the receipts of the company; and the books and accounts of said company may at any time be investigated by a committee appointed by the General Assembly.

SEC. 17. Said company shall keep a fair record of the whole expense of constructing said road; and at the end of fifty years the State shall be at liberty to purchase said road by paying to said company the amount at which it shall be valued, by persons to be mutually chosen by the State and by said company; but two years' notice shall be given to said company of the intention of the State to purchase the railroad.

SEC. 18. When any person shall cease to be a stockholder he shall cease to be a member of said company.

SEC. 19. If any person shall wilfully injure, obstruct, or destroy said railroad, or shall break, destroy, or deface any work, edifice, or other fix-

ture or improvement belonging to said company, he shall be considered guilty of a criminal offence, and shall be punished in such manner as shall be prescribed by law, and shall also be liable to said company for all damages by it sustained.

SEC. 20. The operations of said company shall be confined to the general business of locating, constructing, managing, and using said railroad, and the acts necessary or proper to carry the same into complete and successful operation.

This act shall take effect from its passage.

Approved March 12, 1849.