

PETITION

OF

THE MISSISSIPPI CITY COMPANY,

PRAYING

A grant of land to aid in the construction of a railroad.

JANUARY 10, 1839.

Referred to the Committee on Public Lands, and ordered to be printed.

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

The undersigned, your petitioners, citizens of the State of Mississippi,

MOST RESPECTFULLY REPRESENT:

That by an act of the Legislature of this State, passed in the year 1837, they were made an incorporated company, styled the Mississippi City Company, incorporated for the purpose of building up or locating a city on the southern shores of this State; as also for the purpose of constructing and putting in operation such railroads, to and from that point, as the necessities of the country and object in view might require; all of which is more fully expressed in the act of incorporation herewith sent, officially authenticated.

Your petitioners having associated themselves according to the requisitions of their charter, beg leave to represent that the city site has been located as directed, on the sea shore of this State, in townships seven and eight south, of range eleven west, immediately north of Cat island, on a high and commanding portion of the coast, with a fine healthy country surrounding, over which an easy access can be established, by rail or common roads, with the most fertile and powerful portion of this State, and, by extension northward, with the State of Tennessee.

And your petitioners, in behalf of themselves and countrymen, respectfully ask your assistance in building the railroad contemplated from this place to Paulding, by granting to the company the refuse lands that lie in the route of the contemplated railroad, on such terms as in your liberality you may deem fit. We would ask for the unappropriated lands not yet sold that are in ranges ten and eleven west, which would include the grounds generally that the road, in its meanderings, would pass over. This portion of the country is poor pine lands, untenanted generally, and which, but for improvements, such as are herein contemplated, would forever remain

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desert, nearly up to Paulding; from whence north, through the State, there is a rich and fertile country, now cut off almost from market, which would be greatly benefitted by the improvement and depot contemplated. With but very moderate efforts, Mississippi City will present as fine a harbor for shipping as any on the southern sea shore, there being sufficient depth of water inside the islands, and fine inlets between, as has been well known and proven by the British in 1814. By the grant prayed for, and completion of roads contemplated, you will give life and trade to a long neglected portion of our country, and assist to market the valuable product of our State, so valuable to the commerce of our nation; which, at this time, is partially neglected, or at not at all attended to in this region, owing to the remoteness it is from market.

Your petitioners would further represent, that there was, in this month, the first sale of lots of this promising shipping point, which were numerously attended, and sales made to a considerable extent, and that improvements are in progress; that the railroad route is under survey, and that the people look with great anxiety for help in the matter, in manner prayed for by your petitioners, who would also suggest the great necessity of a thorough examination of this valuable and neglected coast, and that a port of entry be made of Mississippi City; that suitable light-houses, if deemed necessary, be erected, which are deemed by the citizens to be needed now on the west end of Ship or east end of Cat island.

As there is much trade passing now along this part of the coast, in and out side and between those islands, and as there is every abundance of the finest ship timber on this coast, (live oak and pine,) it might be profitable for the Government to establish here or on Cat island, a navy yard, for the purpose of building and protection to the immense commerce of the Mississippi valley. We would also ask your consideration of the propriety of opening the Manshac pass, which was once the channel of commerce to nations, and rendered useless by your own general in defence of New Orleans; and which, by a very moderate effort, can again be cleared of the obstructions that now are working so much mischief to the interest of an extensive portion of your citizens who once enjoyed that commercial privilege. These, as well as any other improvements of a national character due to your citizens of this growing portion of your country, we humbly ask, in such manner and form as will be more fully made known by our honorable Senators and Representatives, whose acquaintance with the country, and the great necessity of the grants prayed for, can enable them to place the subject in proper form before your honorable body, and who are authorized, in our behalf, to do in the premises as they may deem proper.

The accomplishment of which, to the extent prayed for by your petitioners, would confer lasting favors; for which they will, as it is duty bound for your honorable body, ever pray.

HORNSON ALSBURY, *President.*

JAMES McLARAN,

JOHN J. McCAUGHAN,

C. J. McRAE,

I. M. PUCKETT,

Directors.

MISSISSIPPI CITY, October 10, 1838.

AN ACT to incorporate the Mississippi City Company.

SECTION 1. *Be it enacted by the Legislature of the State of Mississippi,* That John J. McCaughan, James McLaran, and Colin J. McRae, and such other persons as may hereafter associate themselves with said persons, be, and they are hereby, constituted a body corporate and politic, under the name and style of "the Mississippi City Company;" and by that name and style they and their successors in office shall have perpetual succession; may sue and be sued; plead and be impleaded; contract and be contracted with; have and use a common seal, and alter the same at pleasure; purchase and hold real and personal estate, for the purpose of conducting the business of said company; and to do all other acts incident to bodies corporate.

SEC. 2. *Be it further enacted,* That the said John J. McCaughan, James McLaran, and Colin J. McRae, or a majority of them, shall have power, and they are hereby authorized, to lay off and establish a city upon the southern coast of this State, within ranges ten or eleven west, to be styled the City of Mississippi, and to divide the same into such and as many lots as they may deem most conducive to the public good; which said city shall comprise an area of not less than one nor more than two square miles, and in which said real estate shall consist the capital stock of said company. The capital stock of said company shall be divided into shares, corresponding with the number of lots which may be laid off in said town, and the price of each share shall be fixed by said company, at their first meeting, not to exceed one hundred dollars for each lot embraced in the survey of said city.

SEC. 3. *Be it further enacted,* That the said John J. McCaughan, James McLaran, and Colin J. McRae, or a majority of them, shall have power to open books for subscription to the stock of said company, at such places, and on such times, as they may deem proper, and appoint suitable agents for that purpose.

SEC. 4. *Be it further enacted,* That, so soon as five hundred shares of said capital stock shall be sold, the commissioners shall advertise the same, and call a meeting of the subscribers, at the site of said city, at a time specified in said advertisement, who, when convened, shall proceed to elect five directors; who, when elected, shall proceed to choose, out of their own body, a president; which said directors shall continue in office for the term of two years, and until their successors are duly elected and qualified.

SEC. 5. *Be it further enacted,* That the said company are hereby vested with all the rights, powers, and privileges necessary for constructing, and keeping in repair, a railroad or roads, commencing at said city, or at any other point on or near the Gulf of Mexico, and running in such direction as said company may deem most conducive to the interests of said corporation.

SEC. 6. *Be it further enacted,* That all the powers and privileges granted by the eleventh and twelfth sections of the charter of the Mississippi and Alabama Railroad Company, in the opening and constructing, repairing and using, the railroad of said company, shall be, and the same are hereby, granted to the company incorporated by this charter.

SEC. 7. *Be it further enacted,* That said company are hereby authorized to adopt such rates of tolls and charges for transportation on said road

as, in their judgment, shall comport with the interest of the company and the public in general, not to exceed twenty per centum upon the capital stock subscribed.

SEC. 8. *Be it further enacted*, That the president and directors of said company may appoint such clerks, agents, and servants as they may think proper, who may be required to enter into bonds, respectively, with good security, payable to the president and directors of said company, and in such penalty as the said president and directors shall appoint, conditioned for the faithful discharge of their duties, respectively.

SEC. 9. *Be it further enacted*, That the stock of said company shall be assignable and transferable according to such rules and regulations as the president and directors of said company shall prescribe.

SEC. 10. *Be it further enacted*, That all vacancies in said board may be supplied by the directors until the next biennial election of directors.

SEC. 11. *Be it further enacted*, That, in all elections by stockholders, such stockholders shall be entitled to as many votes as they may have shares of stock; and any stockholder may vote by proxy in all elections when the stockholders vote.

SEC. 12. *Be it further enacted*, That the said company shall have power to erect, and extend into the gulf, such wharf or wharves as they may think proper, and establish such rates of wharfage for landing of vessels at, or transportation of goods upon, such wharves, as they may think proper, not to exceed five dollars per day for each ship, barque, and brig, and three dollars per day for vessels of minor classes.

SEC. 13. *Be it further enacted*, That the said company shall have power to receive, by purchase or donation, all the real and personal estate necessary to the location of said city and to carry the objects of this company into operation.

SEC. 14. *Be it further enacted*, That the company hereby incorporated shall have power to transfer the whole or part of their stock, by sale or donation, to any other railroad company, or companies, incorporated in this State or the State of Alabama; which railroad company, purchasing the same, are hereby authorized to change and extend therein the route contemplated in its or their charter or charters to the site of said Mississippi city.

SEC. 15. *Be it further enacted*, That a general meeting of the stockholders shall be held biennially, on the first Monday in June, at the time and place of holding elections for directors of said company; and that they may be called together at any time, by the president and directors, during the interval of general elections, by giving thirty days' notice thereof in some newspaper printed in this State.

SEC. 16. *Be it further enacted*, That if any railroad company, already incorporated, shall become the proprietors of this charter, nothing in this act shall be so construed as to exonerate said company from commencing and completing their railroad within the time limited by their charters.

Approved May 11, 1837.

I do hereby certify that the foregoing is a true copy of the original act as on file in my office.

Given under my hand and the great seal of the State, at Jackson, the 2d [L. s.] day of December, 1838.

B. W. BENSON, *Secretary of State.*

The eleventh and twelfth sections of the charter of the Mississippi and Alabama Railroad Company.

SEC. 11. *Be it further enacted,* That the president and directors of said company shall be, and they are hereby, invested with all rights and powers necessary for the construction, repair, and maintenance of a railroad, with as many sets of tracks as said company may think proper to erect, the width of the road not to exceed one hundred and fifty feet, from the town of Jackson, in the State of Mississippi, to any suitable point on the boundary line between the States of Mississippi and Alabama, to the end that the same may be continued in the direction of the city of Mobile, Alabama, whenever the assent of the State of Alabama shall have been obtained; and the said president and directors may cause to be made, or contract with others for making, said railroad, or any part thereof; and their agents, or those with whom they may contract for making part of the same, or their agents, may enter upon and use and excavate any lands which may be wanted for the purpose of said road, as well as in the erection of warehouses or other works necessary for said road, or for any purposes necessary and useful in the construction, repair, or maintenance of said road or its works; and that they may build bridges, viaducts, and may lay rails, take and use any earth, timber, or other materials, then being in their natural state or condition, that may be wanted for the construction, repair, and maintenance of any part of said road, or any of its works, and may make and construct all works whatsoever, which may be necessary and expedient for the proper completion of said road, and its successful operations; and they may make, or cause to be made, lateral railroads or branches in any direction whatsoever, in connexion with the same route: *Provided, however,* If the said road, its laterals, or branches, should cross any navigable stream, the said road shall be so constructed as not to obstruct the free navigation thereof.

SEC. 12. *Be it further enacted,* That the president and directors of said company, or any person or persons authorized, may agree with the owner or owners of any land, earth, timber, gravel, stones, shells, or other materials or improvements that may be wanted for the construction, repair, or maintenance of such road, or any of its works, for the purchase and occupation of the same; and if they cannot agree, or if the owner or owners of any such land, timber, or other materials be under any legal disability to contract, or be absent or unknown, when such land or other materials shall be wanted, application may be made to any justice of the peace for said county, who shall thereupon issue a warrant, under his hand and seal, directed to the sheriff of said county, requiring him to summon a jury of twenty inhabitants of said county, not related to the owner of said property or material, nor being stockholders in said company, or in any way interested, to meet on the land or near the property or materials to be valued, on a day named in said warrant, not less than ten, nor more than twenty days after issuing the same; and if, at said time and place, any of the said jurors summoned do not attend, the said sheriff shall summon immediately as many jurors as may be necessary, with the jurors in attendance, to furnish a pannel of twenty jurors in attendance, and from them each party, or its, his, her, or their, agents, or if either be not present in person or by agent, the sheriff, for it, him, her, or them, may strike off four jurors, and the remaining twelve

shall act as a jury of inquest of damages ; and before they act as such, the said sheriff shall administer to each of them an oath or affirmation, as the case may be, that he will justly value the damages which the owner or owners may or will sustain by the use or occupation of said land or materials, by the said company ; and the jury, in determining such damages, shall take into estimate the benefits resulting to said owner or owners, but only in the extinguishment of the claim for damages ; and the said jury shall reduce their inquisition to writing, and shall sign the same, and it shall be returned by said sheriff to the clerk of the circuit court of said county, in which said land or materials lie, and shall be confirmed by the court, at its next session, if no sufficient cause to the contrary be shown, and if confirmed, shall be recorded by the clerk at the expense of said company, but if set aside, the said court may direct another inquisition to be taken, in the same manner as above prescribed, and such inquisition shall describe the property taken, or the bounds of lands condemned, and of the interest in the same, valued for the company, and such valuation, when paid or tendered to the owner or owners of said land or materials, or his, her, or their legal representative, shall entitle said company to the estate, and interest in the same thus valued, as fully as if it had been conveyed by the owner or owners of the same ; and the valuation, if not received when tendered, may at any time thereafter be received from the company, without cost, by the said owner or owners, his, her, or their legal representative or representatives ; and for the services rendered as above provided, the sheriff shall be entitled to five dollars, and each juror summoned and in attendance according to the requirements of the warrant, shall be entitled to the sum of two dollars for each and every day he may serve on said inquisition, such service to be proved by the oath of the party, and attested by the certificate of the clerk ; all which said costs and charges are to be paid by the said company : *Provided, however,* That nothing in this section shall be so construed as to impede the company in the construction or repair of their road or roads ; but whenever it shall be necessary for said company to have, use, or occupy any lands, materials, or other property, in order to the construction or repair of any portion of said road or roads, or their works or buildings, the president and directors of said company, or their agents, or those contracting with them for making or repairing the same, may immediately take and use said lands or materials, they having first caused the property to be viewed by a jury formed as hereinbefore provided ; and it shall not be necessary, after such view, in order to use and occupation of the same, to wait the issue of the proceeding upon said view, but said company or their agents may go to make or repair their said road, as if no disagreement had occurred, and the verdict of the jury, after confirmation, and after payment or tender of the valuation, shall be a bar to all actions for taking or using such lands or materials, whether commenced before or after such confirmation, or the payment or tender of such valuation.

I do hereby certify that the foregoing is a true copy of the eleventh and twelfth sections of the charter of the Mississippi and Alabama Railroad Company, as on file in my office.

Given under my hand, and the great seal of the State, at Jackson, this third day of December, one thousand eight hundred and thirty-eight.

[L. S.]

B. W. BENSON, *Secretary of State.*