COURIER---Supplement.

AN ACT

To Aid the Construction of a Railroad to Montana.

Be it enacted by the Legislature of the Territory of Montana:

Section 1. That for the purpose of securing railroad communication with the several States, the Territory of Montana, in the form and manner and upon the conditions and contingencies hereinafter in this act provided, hereby accepts the propositions of Oliver Ames, E. Atkins, Sidney Dillion, Jay Gould, F. Gordon Dexter, S. Richardson, and Royal M. Bassett, to build a railroad into said Territory, made on the 23d day of Dec., 1876, at New York city, which said offer and proposition is as follows, to wit:

To the Hon. Legislative Assembly of the Territory of Montana:

We submit to you the following proposition, to-wit:

1st. That we will undertake, in consideration that such a subsidy as hereinafter named is voted, to build a narrow gauge road of the width of the Utah Northern Railroad, starting at Franklin. After obtaining a survey of the contemplated route to run the road to Montana, and to terminate at a point in Montana as far north as the mouth of the Big Hole river, and said railroad to be completed at the rate of one hundred miles per year from and after the commencement of the same.

2d. That the said road shall be supplied with all the necessary rolling stock to do the business of the said road as it progresses.

3d. That the said road, will be called the Utah Northern Extension Railroad, and be constructed as above named, in consideration of your Territory granting to the individuals or incorporation building said road, bonds to the amount of $1,500,000, basing the entire length of the road at 300 miles, which would be built under and pursuant to proposition.

4th. That the amount of bonds to which the said subscribers or corporation shall be entitled, when the whole road is constructed, shall be issued and placed in escrow in the city of New York; but only to be delivered in accordance with the provisions hereinafter contained.

5th. That said bonds shall draw interest at the rate of 8 per cent. per annum payable in New York city semi-annually; provided, that interest shall only be computed from the time of each delivery thereof, to the parties engaged in the construction of said road.

6th. That the construction of said road shall commence at the said point mentioned—Franklin—and continue towards the said designated terminus; and that from the said place of commencement to the said terminus line in Montana, there shall be delivered and paid over, upon the construction and opening for freight and passengers, of every twenty miles of said railroad from said starting point, the pro rata proportion of bonds, that is to say, $5,000 per mile.

7th. The depository of the said bonds shall be in the city of New York, to be fixed and agreed upon by mutual consent of parties in interest, and the work of constructing said road shall be commenced within sixty days after the bonds be deposited as above stated. The foregoing proposition is made in good faith and with the intention of building the said road if the aid asked for is granted by your Territory. We are satisfied of our ability to construct the road within the time and in the manner above named.

All of which is most respectfully submitted to your Honorable Body to act upon.

Dated at New York, this 22d day of December, 1876.

OLIVER AMES,
E. ATKINS,
SIDNEY DILLON,
JAY GOULD,
F. GORDON DEXTER,
S. RICHARDSON,
ROYAL M. BASSET
President U. N. R. R. C.

But subject to the variations in this act provided:

Sec. 2. That for the purpose of aiding in the construction of said railroad, to run from Franklin, in the Territory of Idaho, to and into the Territory of Montana, to a point within five miles of the mouth of Pipestone creek in Jefferson county, and upon the West bank of the Jefferson river, and to the town of Helena, in the county of Lewis and Clarke, the sum of $1,700,000 is hereby contributed by the Territory of Montana, to be paid when the coupon bonds of said Territory shall become due, which are hereby authorized to be issued in the manner and on the same terms provided in this act:

PROVIDED, That none of said bonds shall be delivered to any corporation, person, or persons for any purpose whatever, except upon the terms and in the manner provided in this act; but this section is subject to the variations contained in section 21 of this act.

Sec. 3. That such railroad shall be built from the said town of Franklin, along and over the nearest and most practicable route to a point within five miles of Pipestone creek, in the county of Jefferson, on the west side of Jefferson river, within three years from the 1st day of July, 1877, to the point named in section 2 of this act, and shall be built of good and substantial material, and of a gauge not less than three feet in width. Such railroad shall be finished from said town of Franklin to the terminus aforesaid within three years from the first day of January, A. D. 1878.

Sec. 4. The bonds that may be issued under the provisions of this act, shall be coupon bonds of the Territory of Montana, payable at the city of New York, in the State of New York, twenty years from the date of their issue, and at any time within ten years after the date of their issue at the pleasure of said Territory. Said bonds shall bear interest at the rate of 7 3-10 per cent. per annum, shall be dated as hereinafter provided, and shall draw interest from the date thereof. There shall be attached to each bond a coupon for each installment of interest thereon, and the interest shall be due and payable on the 1st day of January of each year at said city of New York, each coupon which is due at the time of delivery of said bond, shall, before the delivery of the bond be detached therefrom, returned to the Treasurer of the Territory and by him be cancelled and destroyed in the presence of the Governor, and all interest which shall have accrued upon any coupon, but which coupon is not wholly due, shall be endorsed upon such coupon before delivery; or if the parties named in section 1 of this act prefer, they may pay to the Treasurer of the Territory the accrued interest on such coupon, and the same shall be delivered in that case without endorsement thereon.

Sec. 5. Said bonds shall be signed by the Treasurer and Auditor of said Montana Territory, and shall be sealed and countersigned by the Secretary of said Territory, and when thus issued shall be deposited by the Treasurer of said Territory with the Farmers' Loan and Trust Company in New York city, or such person or persons, company, corporation or association as the Governor and Treasurer of Montana, and the persons named in section 1 of this act, who may accept of the terms thereof shall agree upon.

Sec. 6. The bonds herein provided to be issued by the Territory of Montana shall be procured by the Auditor of said Territory, and he shall have the same lithographed or engraved at the lowest possible cost, which shall be paid out of the general fund of said Territory by warrant drawn by said Auditor upon the Territorial Treasurer. Said bonds shall be of the denomination of $1,000 each, and 500 of said bonds shall be dated July 1, 1877; 500 of said bonds shall be dated January 1, 1878; 200 of said bonds shall be dated January 1, 1879.

Sec. 7. The railroad herein provided for shall be constructed by the corporation or association of individuals undertaking the same by sections as follows: The first section to commence at the said town of Franklin, and terminate at or near Fort Hall, in the Territory of Idaho, and shall be 50 miles in length, and thereafter each section northerly on said road shall be 25 miles in length.

Sec. 8. The corporation or association of individuals who shall accept the terms of this act and undertake the construction of said railroad under the provisions hereof shall not be entitled to recieve any of the bonds of said Territory herein provided for until they shall have constructed and placed in good running order, with the full equipment of engines and rolling stock, section No. 1 of said road, and when the said corporation or association of individuals undertaking the construction of said line of road shall have completed said section No. 1, and equipped the same with sufficient engines and rolling stock, and shall desire to receive a portion of the aid hereby guaranteed, they shall make application for the same to the Governor of the Territory in writing, who, upon receiving such written application, shall at once designate three commissioners, who shall be citizens of the Territory of Montana, disinterested, impartial men, whose duty it shall be to go, at the expense of said railroad corporation or association of individuals, and examine and measure that portion of said line of railroad which may be completed and make report in writing to the Governor under oath, of the result of their examinations, and if they shall find on such examination that said road as constructed complies with the requirements of this act, they shall so state in their report to the Governor. Upon receiving the report of said commissioners made to the Governor under oath, that the said corporation or association of individuals has complied with the provisions of this act and has completed section No. 1 of said road and equipped the same as required by this act, the Governor shall immediately thereafter make his order on the Territorial Auditor, directing him to order the person or persons, association, company or corporation with whom said bonds are deposited for delivery, to deliver to the persons named in section 1 of this act, or the five or more who may accept the same, or their assigns, the amount of said bonds to which they may be entitled, less any coupons for interest which may be due, and any interest which may be due at the date of such order, and less 25 per cent. of the amount of said bonds reserved as security, and thereupon the Auditor shall deliver to the Governor such order, who shall deliver the same to the agent or representative of said railroad corporation or association of individuals or their assigns. The amount shall be ascertained by dividing the said sum of $1,700,000 by 380 and then multiply the quotient by the number of miles in said first section, the remaining 25 per centum of said amount to be retained on deposit as hereinafter provided, by said Territory, as an assurance of future good faith upon the part of said corporation or association of individuals and their compliance herewith upon presentation to the said Farmers' Loan and Trust Company, or other depository chosen under section 5 of this act, of the order of the Auditor of the Territory aforesaid, endorsed by the Governor with his approval. The said Farmers' Loan and Trust Company, or other depository, shall detach from said bonds all coupons which were due at the date of said order and shall endorse upon any coupon not due but upon which interest had partially accrued at the date of said order, the amount of interest which at the date of said order had accrued and the amount so endorsed shall be considered as having been paid, or if the individuals or company building said road shall prefer to pay and shall pay to such depository for the benefit of the treasury of Montana the amount of interest due upon said coupons at the date of said order, the same shall not be endorsed thereon as aforesaid, and thereupon such bonds as are specified in said order shall, less the detached coupons, be delivered to the party entitled thereto. That thereafter when the said corporation or association of individuals shall have completed the second section of said road they may apply to the Governor for the aid they are entitled to under this act, and such application shall be made in the manner provided for in this section, and commissioners shall be appointed and first make a report as is above provided. Their duties shall be the same and their report made in the same manner and as provided for in this section, and thereupon there shall be delivered to the said corporation or persons, or their assigns, in the same manner as heretofore provided, bonds equal to eighty five per cent. of the amount due for the construction of section number two so completed, to be estimated in the same manner provided in this section, the said Territory reserving the remaining fifteen per cent. until the completion in the same manner of the said road, and after the completion of the third section of said road, bonds shall be delivered in like manner for the eighty-five per cent. of the amount due upon the third section of said road, at the same rate as heretofore provided, and so on until the road shall be finally completed, when the balance of the amount of bonds due thereon, being the 25 and 15 per cent. reserve, as above provided, shall be fully paid over to said company in the same manner as hereinbefore provided. The said past due coupons to be detached, and those partially due to be paid or endorsed as above provided, and if more bonds shall have been deposited with the said Farmers' Loan and Trust Company, or selected depository, than are necessary to pay the aid herein granted, the same shall be returned to the Auditor, and shall by him, in the presence of the Treasurer and Governor, be registered, cancelled and destroyed by being burned, and report thereof shall be made to the succeeding Legislative Assembly.

Sec. 9. It shall be the duty of the parties named in section 1 of this act, or five or more of them, to signify to the Governor in writing their acceptance of the proposition herein contained and of the terms and conditions hereof, and of their acceptance of this agreement on or before the 25th day of March, 1877, and unless they shall do so, or unless they or some one of them before said date shall, by telegraph or mail, notify the Governor that five or more of the persons named in section one of this act have accepted the aid herein specified, on the terms and conditions herein imposed, it shall be his duty on the first day of April, 1877, to issue his proclamation to the officers of the various counties and the electors of the Territory, notifying them of such failure, and if no such notice shall have been sent to the Governor as in this section provided, no election for the approval or disapproval hereof shall take place, anything in section 15 of this act to the contrary notwithstanding.

Sec. 10. The County Commissioners of the several counties shall, from time to time, levy a special tax as may be apportioned by the Auditor in the same manner as other taxes are now levied, sufficient in amount to pay the annual interest that may from time to time accrue upon the bonds so issued, as also to provide for the final payment of said bonds, less any sum which may be in the Territorial treasury, applicable to such purpose, and the Auditor shall signify in writing to the Boards of County Commissioners of each of the various organized counties of the Territory, the sum of money which said county shall raise therefore, determining the same by reference to the assessed valuation of property therein for the preceding year, and it shall be the duty of such Board to levy a sufficient tax to pay the same, which shall be levied and collected as other taxes are levied and collected, and they shall be paid into the Territorial treasury.

Sec. 11. That the bonds reserved by the Territory upon the first section of said road, and the other amounts of said bonds reserved from time to time upon the other sections, as security for the ultimate completion of said road, according to the terms hereof, shall be deposited with the Farmers' Loan and Trust Company of New York, or other depository, as the depository and trustee of this Territory, to be delivered by said bank, person or company, when under the provisions hereof said person or railroad corporation shall be entitled thereto and at that time and not before, it shall be the duty of the Auditor of this Territory to give said corporation an order therefore as herein provided. But if said corporation shall in any particular fail to do or perform the things herein required, within the terms herein limited, it shall not be entitled to have or receive the bonds so deposited, nor any bonds not delivered at the time such failure shall take place. The said bonds shall be registered by the Treasurer in a book to be kept by him for that purpose.

Sec. 15. That nothing herein contained shall prevent the said corporation from building, if they elect, an independent line of railroad from the town of Ogden, in the Territory of Utah, immediately or ultimately. But the provisions of this act shall only apply to such portions of said road as shall be constructed from a point North of an East and West line running through the town of Franklin, but if said persons association or corporation shall not construct said railroad from Ogden to Franklin, they shall obtain possession of and attach to the road herein provided for, and as a part thereof the Utah Northern Railroad; and the same shall be operated from said northern terminus in Montana to Ogden as a single road, and with only one rate of freight for each class of freight transported on the entire line of said railroad. The parties named in section 1 of this act, or any five of them, may for the purpose of constructing said road, organize themselves into a body corporate under any laws of the United States thereto authorizing them, or they may sign and acknowledge the certificate required by section one of an act of the Legislative Assembly of the Territory of Montana, entitled "An Act to provide for the formation of railroad corporations in the Territory of Montana," passed in 1873, before any officer in said act mentioned, or before any person in any other State or Territory of the United States commissioned by the laws of this Territory as commissioner of deeds in such State or Territory, and upon filing the same as is in said act provided, said corporation shall be a body corporate thereunder, and may proceed to construct and operate said road.

Sec. 13 The commissioners named in this act shall make their report, and take and subscribe their oath thereto within the limits of this Territory, and if the same is false they shall be deemed guilty of wilful and corrupt perjury, and shall be punished as is provided by law therefor.

Sec. 14. That nothing herein contained shall be construed to inhibit the Territory from causing ad valorem taxes to be levied upon the property of said railroad company within said Territory as taxes are levied upon other property in this Tertory. But all taxes so levied shall be paid by said railroad corporation into the Territorial Treasury and no portion thereof shall belong to any county in said Territory, anything in the laws now in force to the contrary notwithstanding, and the said taxes shall be set aside and constitute a fund for the payment of the interest and principal upon the bonds authorized to be issued under the provisions of this act, as the same shall become due and payable. The taxes upon said road shall be ad valorem taxes, and they shall be assessed and levied by the same officers as other taxes are by law levied and assessed; but they shall be kept separate and distinct from the other taxes, and shall be reported by the county Treasurers of the several counties, in which such property of said road may be situated, to the Treasurer of the Territory, and shall be paid into the Territorial Treasury. That the persons, company or corporation receiving the aid herein granted, shall make monthly reports of all ores and bullion transported on said road, and the names of the consignors thereof, and of the number of passengers transported thereon, and the gross receipts arising from such ores, bullion and passenger traffic, and shall in the succeeding month pay into the Territorial Treasury one-twelith of the gross receipts arising from the transportation of said ores and bullion, and one twenty-fifth of the gross proceeds from such passenger traffic and the same shall be set aside to pay the interest on the bonds herein authorized to be issued, and to constitute a sinking fund for the ultimate payment of said bonds.

Sec. 15. The County Commissioners of the several counties shall give notice of the election herein provided for, by publication in one or more newspapers published within such county, at least ten days before such election or if no newspaper be published therein, the same shall be published in one or more newspapers published in the Territory, most likely to give general notice, and and they shall, at their March session, 1877, or if not then, they shall convene forthwith thereafter, and they or a majority of them shall cause proper poll books to be distributed, and provide for the holding of such election, but the failure of the County Commissioners in any county or counties to give said notice shall not be held to invalidate the said election, but the same is hereby appointed to be held on the 10th day of April, 1877, between the hours of 8 o'clock a. m., and 6 o'clock p. m., and all general and special laws applicable to the conduct of general elections, not inconsistent herewith, shall be applicable thereto.

Sec. 16. The votes that are cast upon the proposition herein contained, after abstracts of the same shall have been made by the County Commissioners of the several counties, and such abstracts shall have been forwarded to the Auditor as afore said, shall be canvassed in the same manner that the vote for Delegate to Congress is canvassed under the existing laws. Those votes cast which read, "North and South Railroad Aid—Yes," shall be held and interpreted to be an approval of this act; and those votes which read, "North and South Railroad Aid—No," shall be held and deemed to be a disapproval of this act, and the said votes cast thereon shall be counted and canvassed accordingly.

Sec. 17. At the election herein provided for the ballots or votes shall contain the words, "North and South Railroad Aid—Yes;" or "North and South Railroad Aid—No.", and the same rules, regulations, liabilities and penalties prescribed for the conduct of other elections, and liability of officers thereof, and electors within this Territory, shall be observed and enforced at the election herein provided for; and the judges at such election shall truly certify and forward the result of such election, together with the poll books and ballots so cast, to the Board of County Commissioners to the county seat of said county, within two days after the same shall have been counted and certified; and the County Commissioners shall, within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such electon to the Auditor of the Territory, and upon the failure upon the part of any officer or officers herein named to perform the duties prescribed by this act he or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine of not less than $5,000, nor exceeding $10,000, and be imprisoned in the county jail not less than six nor more than ten months.

Sec. 18. If a majority of the votes cast upon the question hereby submitted shall be in approval of this act, in the manner and form provided in sections 16 and 17, it shall be the duty of the Governor of the Territory to announce such fact by proclamation, to be published in one or more newspapers published in the Territory, and thenceforward this act shall be a contract of binding force upon the Territory of Montana, and also upon the corporation or association of individuals accepting the same, as herein provided, for the fulfillment of which contract, in every particular on its part the good faith and credit of the people of Montana Territory is pledged.

Sec. 19. That in case this act shall be ratified and confirmed by the electors of this Territory in the manner herein provided, and the said persons or corporations shall signify its or their acceptance of the terms of this act as herein provided, the said corporation or persons shall construct and fully equip, with all necessary rolling stock, at least one hundred miles of the said road, before the first day of January, A. D. 1878; and in case of failure to do so all rights of such corporation under the provisions of this act shall be deemed and held forfeited, and it shall have no further claim upon this Territory for any bonds herein provided for, and if any one year shall thereafter elapse without one hundred additional miles thereof shall be completed and equipped, or if the said road shall not be wholly completed to its northern terminus before January 1st, 1881, then and in that case the Territory shall be absolved from all liability to deliver said bonds not delivered at the time such failure shall take place, and said times limited shall be deemed of the essence of this contract.

Sec. 20. Any county or incorporated city desiring to bridge, grade or furnish ties for a branch or extention of said road may, by the duly qualified electors thereof, contribute thereto upon the proposition and conditional contract entered into therefor, not exceeding $2,000 per mile of the distance, which contract shall be made by the city council, if of any incorporated city, and by the board of County Commissioners if of a county, which contracts shall be of no validity unless ratified in the manner provided by such council or Board of County Commissioners by the electors of said city or county, and the method of such submission shall, as near as may be practicable, be the same as is provided in this act for the submission hereof, and the duty of county and election officers, as is herein provided; and all the laws applicable to general elections shall be as applicable to election officers of an incorporated city or to a county on such elections as they are to a general election aforesaid, and all the penalties and restrictions thereby imposed shall be applicable to such elections.

Sec. 21. That the proposition made in the foregoing provision in this act contained and made upon the hypothesis and presumption that the distance between the said town of Franklin to a point within 5 miles of the mouth of the Pipestone creek aforesaid and to the said town of Helena by the most direct and practicable route exceed the said distance, then the parties named in section 1 of this act shall not be required to build the said road beyond a point which shall be three hundred and eighty miles from Franklin towards the town of Helena aforesaid, by the most direct and practicable route, and if the distance between the points aforesaid shall be less than three hundred and eighty miles, then the sum mentioned in section 2 shall be decreased proportionally, and all the provisions of this act shall be interpreted in accordance herewith. But in no case shall any Territorial aid be granted to exceed the sum of one million and seven hundred thousand dollars.

Sec. 22. This act shall take effect and be in force from and after its passage.

Approved, February 16 1877.