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# A REVIEW,

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JUN 1 1899

## Washington City and Point Lookout

RAILROAD COMPANY.

AS PROPOSED BY

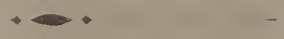
JUN 21

HOUSE BILL 274, 1896

NOW PENDING BEFORE

The House Committee on the District of Columbia,

SHOULD NOT BE GRANTED.



WASHINGTON, D. C.  
GIBSON BROTHERS, PRINTERS.

1874.

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OFFICE OF THE SOUTHERN MARYLAND,  
No. 211 FOUR-AND-A-HALF STEEET,  
WASHINGTON CITY, Jan. 27, 1874.

HON. ROBT. S. HALE,  
*Chairman Committee on the District of Columbia,  
House of Representatives:*

DEAR SIR: We desire, especially, to call the attention of your Honorable Committee to the leading and important fact which, in our judgment, is conclusive of the whole subject-matter before it. It is, that the Washington City and Point Lookout Railroad Company has not built a foot of railroad anywhere under its own management, and that it is not, therefore, in a condition to ask of Congress a franchise to come into the city of Washington, or to justify Congress in granting it.

Last year that company asked Congress to grant them a franchise to come into this District with their main stem, and a branch thereof, under the pretence that the latter was an auxiliary to the franchise they had obtained under the general incorporation act of the State of Maryland. But, instead of using it for that purpose, they have disposed of it to the Baltimore and Ohio Railroad Company, for the purpose of furnishing that company an outlet south by the way of Alexandria.

Accordingly, a railroad has been built, not by the Washington City and Point Lookout Railroad Company, but by trustees appointed under an instrument of writing between that company and the Orange, Alexandria and Manassas Railroad Co., from a point on the Baltimore and Ohio railroad near Bladensburg, *running around this city on the other side of the Eastern Branch* to a point opposite Alexandria. See contract herewith submitted.

The bonds issued to build this road, to the amount of about \$540,000, were guaranteed by the Baltimore and Ohio R. R.

14 Jan, 1874

Co., and the consideration for the use of this franchise is \$36,000 per annum *in gold* on a perpetual lease. This franchise of course can be of no possible use to the railroad which was contemplated by the charter obtained from Maryland by the Washington City and Point Lookout Railroad Company.

The outlet thus obtained by the Baltimore and Ohio Railroad Company not proving entirely satisfactory, the attempt is now made, by the bill before your committee, to procure for a similar speculation, a franchise to run through this city to the northwestern extremity of Georgetown, and there to cross the Potomac river.

To a *bona fide* application by the Baltimore and Ohio R.R. Co. for a franchise to pass through this city, the Southern Maryland Railroad Co. has, and can have, no objection; but until the Washington City and Point Lookout Railroad Co. shall have constructed their road under the charter obtained from Maryland, we submit that they are not in a condition to ask of Congress any such grant as is contemplated by the bill before you.

It seems to us that if this charter be granted, the door will be opened to the application by irresponsible organizations for charters within this District for mere speculative purposes, and if the precedent be now adopted, we do not see why others could reasonably be refused.

The well-known desire of your committee to promote the prosperity of this District will be a sufficient justification for the earnest expression of the hope that a precedent may not be established which will bring forth a host of irresponsible speculators seeking their own private interest, which will undoubtedly result in excluding corporations that are active and energetically prosecuting important works of great public benefit.

Being certain that such is the view of the committee, I confidently state this proposition. If the committee shall be satisfied that the Washington City and Point Lookout Rail-

road Company has not built a foot of road from Brandywine to this District, they will of course report adversely on this bill. That such is undoubtedly the fact, I state the two following propositions :

First. The road around this city from Bladensburg to Alexandria, claimed to have been built by the Washington City and Point Lookout Railroad Company, was in fact built by the Baltimore and Ohio Railroad Company, and that it belongs to them by perpetual lease.

Second. That the Washington City and Point Lookout Railroad Company has not built a foot of road under its Maryland charter from Brandywine to the District line.

Now, the proof of the first fact is to be found in the written instrument now laid before your committee conveying that road in trust for the use of the Baltimore and Ohio Railroad Company ; and the proof of the second fact will be made apparent by ocular demonstration if one or more members of the committee will ride to Brandywine, only fourteen miles from here.

We beg leave to submit herewith an argument of Hon. Benj. Harris, counsel of the company, against the granting of this franchise, on the ground that the Washington City and Point Lookout Company have not complied with their contract with our company.

Respectfully submitted.

SAMUEL S. SMOOT,  
*President S. M. R.R. Co.*

WASHINGTON, *Jan.* 27, 1874.

HON. ROBT. S. HALE,

*Chairman Committee on District of Columbia,*

*House of Representatives:*

DEAR SIR: You were kind enough to express a willingness to receive from me a statement, in writing, of my views in regard to House Bill No. 274, inasmuch as the necessity for my leaving Washington would render it impossible that I should attend upon your committee at its next meeting.

I observe from the newspapers that the scheme contemplated by the bill is subject to some strictures and objections on account of its bearing upon the public welfare; but to these I shall not direct my attention, being fully satisfied that the committee will take good care of the public interests in every respect by making a full inquiry into the subject, matter.

In what I shall say, therefore, I wish to be considered as speaking in behalf of the Southern Maryland Railroad Company, in which I am a director and counsel, and the interests of which is somewhat involved in the matter under consideration.

The Southern Maryland Railroad Company was chartered by an act of the General Assembly of Maryland in 1868, with the privilege to construct their road from some point in Prince George county (the county adjoining the District of Columbia) to Point Lookout, the southern terminus of St. Mary's county, and at the confluence of the Chesapeake bay with the Potomac river.

Of course the object of the corporation was to obtain permission from Congress, when sufficient work had been done to justify the application, in addition to the grant from Maryland, to make some point within the District of Columbia its western terminus, so as to secure the trade and travel between the city of Washington and Point Lookout.

At or about the time this company was entering upon act-

ive operations for the construction of their road, the Washington City and Point Lookout Railroad Company (named in said bill No. 274) obtained a charter from a judge of our circuit court (that being allowed by the laws of Maryland) to construct their railroad through the same narrow peninsula, and also to terminate at the wedge of land called Point Lookout. This road also commenced operations in grading from near Point Lookout upwards for a few miles. After some warm contests in regard to some benefits which St. Mary's county could confer, both companies were induced to give up their contests and rivalry by which the public might be deprived of any railroad through this peninsula to Washington, and to make a compromise by which this much-desired object might be attained. This compromise was made as shown by the contract, a copy of which accompanies this, the original being on file in the office of the Southern Maryland Railroad, in this city.

The object and intention of the contract and the contracting parties was, that these companies should unite in a certain way as specified therein, in order, by their joint efforts, to secure a continuous line of railroad from Washington city to Point Lookout—the Southern Maryland Railroad Company to construct from Brandywine, in Prince George county, southward, to Point Lookout, a distance of about sixty miles, and the Washington City and Point Lookout Railroad Company to construct from Brandywine westward to the city of Washington, or at its option to a point designated in the contract on the Baltimore and Potomac railroad.

Mutual benefits were expected to (and doubtless would) result to these companies from this arrangement, as evidenced by the conditions of the clauses of the contract Nos. 3 and 4, in which it is stipulated that each company shall finish the work it has agreed to do, *within three years next ensuing the date of said contract* of January 21, 1873, leaving now but two years in which to comply with their arrangements with each other.

The Southern Maryland Railroad has been, and is, working with energy in order to comply with their part of the contract, and expect to have their work completed within the present year to St. Mary's river, the point fixed upon in the 3d clause of said contract.

To finish from Brandywine to this important sheet of water would be of great advantage to the company and to the public. But your Honorable Committee will readily see how much greater benefit will result to both the company and the public if the Washington City and Point Lookout Railroad Company shall comply in the time specified, or as much earlier as practicable, with their agreement to construct their railroad from Brandywine to Washington city.

Their failure to do so will subject the Southern Maryland Railroad Company, for several years at least, to the necessity of depending upon the Baltimore and Potomac Railroad Company, at considerable expense and loss of time, for access to Washington over that road a distance of about forty miles, whereas the length of the road contemplated by this contract from Brandywine to Washington city will be only about *fourteen* miles.

I cannot exactly say that the Washington City and Point Lookout Railroad Company has as yet failed to comply with any important provisions of their contract, as that cannot be positively charged until the limitation in point of time shall have expired; but I have strong reasons for believing that they *intend* to fail to comply.

One reason is, that notwithstanding the heavy work in the grading on the line of the road between Washington city and Brandywine, and the fact that under the contract they are limited only to two years to complete it, they have as yet done nothing toward said work.

The bad faith of this company is also evinced by the advertisement made by them through their chief engineer for contractors to be employed in the work of the construction of a road south of Brandywine, which line they abandoned by



the said contract. This is a direct violation of the spirit, if not the letter, of the second clause of said contract.

Further, if their application to Congress for the franchise specified in bill 274 were with a view of carrying out their contract with the Southern Maryland Railroad Company to construct their railroad from Brandywine to Washington city, which is the alternative in the fourth article of the said contract, then, at least, (whether granted or not by Congress,) it would display good faith; but we have the strongest reason to believe that the object is an entirely different one, and one, too, calculated, if granted, to embarrass the future operations of the Southern Maryland Railroad Company, should they, in consequence of the failure of the other company to comply with their contract, be compelled to go before Congress for a franchise to make their road available to Washington city.

In the meantime the Southern Maryland Railroad Company, having complied with every condition of said contract on its part, is prevented by article first from undertaking to construct the line of railroad from Brandywine to Washington city until the limitation in said contract shall expire, and upon the failure of the other company to do so; and that limit is three years.

This, your committee will readily perceive, will be a great detriment and loss to the railroad which I represent—subjecting their trade and travel to this District to the long, tedious, and expensive route by the Baltimore and Potomac railroad, as before referred to.

The Southern Maryland Railroad Company, in order to avoid these difficulties and to induce the Washington City and Point Lookout Railroad Company to comply with their obligations under the said contract, have paid them five thousand dollars in cash, and have secured to be paid to them another amount of five thousand dollars—in all, ten thousand dollars—although by the contract, in article 8, they were not en-

titled to receive any amount whatever until seven continuous miles of the road from Brandywine were completed.

This ten thousand dollars thus advanced does not appear to be a sufficient inducement to that company to fulfil its contract, but is more likely to be a dead loss to the Southern Maryland Railroad Company.

The Washington City and Point Lookout Railroad Company, thus rendered liable to such strong belief in its bad faith to the company which I represent—which is *really* engaged in a work which will increase the trade and travel to this District, the prosperity of which is so deeply involved, and which is especially entrusted to your committee—comes before you for a most important franchise, which, if granted, is designed to be—as believed by many—a mere speculative operation, such as was the one heretofore granted to them, and to which the franchise now asked for is supplemental.

This, as I have said before, your Honorable Committee will inquire into, and if you shall conclude to grant the franchise, I ask you, with a view of securing the good faith of the Washington City and Point Lookout Railroad Company, and for the protection of the interest of the people of this District, that you will amend the bill to the following effect :

“ That the franchise and privileges hereby conferred shall  
 “ not be available to the said company, and shall be of no  
 “ effect whatever, until the said Washington City and Point  
 “ Lookout Railroad Company shall have completed the con-  
 “ struction of the railroad from Brandywine station on the  
 “ Baltimore and Potomac railroad, in Prince George county,  
 “ Maryland, to Washington city, or to some point on the  
 “ Washington Branch of the Baltimore and Potomac railroad,  
 “ at or within two miles and a half of its crossing of the East-  
 “ ern Branch of the Potomac river. And the Southern Mary-  
 “ land Railroad Company shall have the privilege of the use  
 “ of the said franchise hereby granted on the same terms and  
 “ conditions as are provided in the contract between said  
 “ companies in reference to the main stem; and if the said  
 “ Washington City and Point Lookout Railroad Company

“ shall fail to construct the road from Brandywine to Washington city, then this franchise shall inure to the Southern Maryland Railroad Company.”

Until the Washington City and Point Lookout Railroad Company shall have completed the road from Brandywine to Washington city, which they have bound themselves to do by a solemn contract, I respectfully submit they are not entitled to the consideration of your Honorable Committee or of Congress.

In regard to the last clause in said contract providing for the confirmation thereof by the stockholders and directors of each of said companies, I have to say that the stockholders and directors of the Southern Maryland Railroad Company have confirmed and ratified said contract, as will appear by exhibits herewith filed marked B and C, and it should be presumed, from the character of the paper marked A, that the same has been done by the stockholders of the Washington City and Point Lookout Railroad Company. On this point, however, I have no information.

Respectfully requesting that this statement may be submitted to your committee, I have the honor to be, very respectfully, your obedient servant,

BENJ. G. HARRIS,

*Counsel for S. M. R.R. Co.*



Contract between the Southern Maryland Railroad  
Company and the Washington City and Point  
Lookout Railroad Company.

This agreement, made and entered into this twenty-first day of January, eighteen hundred and seventy-three, by and between the Southern Maryland Railroad Company of the first part, and the Washington City and Point Lookout Railroad Company of the second part, witnesseth :

That whereas there is a conflict of interest between the parties to this contract, in order to adjust the same it is agreed as follows :

1st. In consideration of the covenants hereinafter stated, to be well and truly kept and performed, the said party to the first part agrees and binds itself not to construct, nor to aid in the construction of any railroad west of Brandywine Junction, on and at the Pope's Creek line of the Baltimore and Potomac Railroad, being the first point of intersection of the railroad of the party of the first part with the Baltimore and Potomac Railroad.

2d. The party of the second part agrees and binds itself not to construct, nor aid in the construction of any railroad south of said Brandywine Junction, through the counties of Prince George, Charles, and St. Mary's, in the State of Maryland.

3d. The party of the first part agrees to construct its railroad from said Brandywine Junction to the St. Mary's river within three years next ensuing.

4th. The party of the second part agrees to construct its rail-

road from the said Brandywine Junction to the city of Washington, District of Columbia, or, at its option, to some convenient point on the Washington branch of said Baltimore and Potomac Railroad within three years next ensuing.

5th. In the event of a failure to comply with the terms of the third and fourth sections of this agreement, the party not in default reserves the right to declare this contract at an end.

6th. The party of the second part agrees and binds itself to change its corporate name as soon as the same can reasonably be effected, and shall be thereafter known and designated as the Washington and Chesapeake Railroad Company.

7th. The party of the second part hereby releases and assigns to the party of the first part all the right, title, and interest in law and equity of the said party of the second part in and to the fund of (\$163,000) one hundred and sixty-three thousand dollars, appropriated by the act of the General Assembly of Maryland, March 30, 1868, to St. Mary's county, State of Maryland, for internal improvements.

8th. In consideration of the premises, and the covenants hereinafter made, the party of the first part agrees and binds itself to give to the party of the second part (200) two hundred first mortgage bonds of the party of the first part for (\$1,000) one thousand dollars each, or the proceeds thereof in money, at the rate of eighty (80) cents on the dollar thereof, said proceeds amounting in the aggregate to (\$160,000) one hundred and sixty thousand dollars, at the option of the party of the second part, it being understood and agreed that if the party of the second part elect to receive the money, the same shall not be payable in money until said bonds are sold by the party of the first part and converted into money, and said bonds or money shall become due and payable as follows :

One-half thereof whenever seven continuous miles of said railroad of the party of the second part, from said Brandywine Junction, shall be graded, and the remaining half thereof as soon as the party of the second part shall change its corporate name, and become known and designated as the Washington and Chesapeake Railroad Company: provided that the whole of the railroad of said party of the second part from Brandywine Junction to some point on the Washington Branch of the Baltimore and Potomac railroad, at or within two-and-a-half miles of its crossing of the Eastern Branch of the Potomac river.

9th. The party of the first part agrees to give to the party of the second part the benefit of the agreement between the Baltimore and Potomac Railroad Company and the party of the first part, so far as the same relates to the use of the track and depot of the Baltimore and Potomac railroad, needful for the entrance and use of the railroad of the party of the second part in the city of Washington.

10th. It is mutually covenanted and agreed by the parties hereto, that equitable running arrangements between them shall be made on or before the completion of the railroad of the said parties, on the basis of the cost of construction per mile of each road, and their respective terminal expenses.

11th. The party of the first part shall have the right to fix the schedule of time on the road of the party of the second part on all through trains between Washington city and Point Lookout over the road of the party of the second part, and to arrange with the Baltimore and Ohio railroad for a schedule of time over the said Baltimore and Ohio road and its branches, so long as the party of the first part shall exercise the powers conferred by this clause in good faith, and not for vexatious and obstructive purposes.

12th. The parties hereto further agree, that the party of

the first part may have the option at any time, within one year after the completion of the railroad of the party of the second part, under the provisions of this agreement, to purchase or lease the said railroad belonging to the parties of the second part, provided said party of the first part shall not be in default under the provisions of this agreement, the price to be paid for such purchase or rental to be determined by arbitration, each of the parties hereto to appoint one arbitrator. Said arbitrators not agreeing, said arbitrators to appoint an umpire, and any one of said arbitrators, together with said umpire, shall have full power to fix the amount and terms of payment of such purchase or lease.

The term of said lease shall be at the option of the party of the first part; and in case the said party of the first part determines to purchase or lease said railroad of the party of the second part, and the said party of the second part should fail or decline to appoint an arbitrator within thirty days after notice to do so, then the party of the first part shall have power to appoint both of said arbitrators, with the same powers as if they were appointed by both the parties to this agreement; provided that if the party of the second part shall fail or decline to appoint one of said arbitrators after further notice by publication for two weeks daily in some newspaper published in Washington city, District of Columbia, of the intention of the party of the first part to appoint both of said arbitrators, it being understood and agreed that said option of purchase or lease applies only to the main stem of the railroad of the party of the second part, and not to any branches that may be constructed by said party of the second part, and not to any branch that may be constructed for the benefit of the Baltimore and Ohio Railroad Company and the Orange, Alexandria and Manassas Railroad Company, and sold or leased to them, or either of them, prior to the exercise of said option of purchase or lease by the said parties of the first part.



13th. And it is agreed that in case the said party of the first part pay said money (\$160,000) or any part thereof to the party of the second part, or deliver said two hundred bonds, or any part thereof, to the party of the second part, and the said party of the second part fails to construct the railroad hereinbefore agreed to be constructed by the party of the second part within the time specified for the construction thereof, then all the rights, privileges, franchises, and property of the party of the second part, in law and in equity, shall be vested in, and become the property of, the party of the first part, at the option of the party of the first part; provided that the said party of the first part shall have well and truly kept and observed this contract, and shall not then be in default thereunder.

14th. It is further agreed that if the said party of the first part purchase the railroad of the party of the second part, under and in accordance with the terms of this contract, the said money, (\$160,000) one hundred and sixty thousand dollars, or the said two hundred (200) bonds, or so much of said money, or of said bonds, as shall have been paid or delivered by the party of the first part to the party of the second part, shall be considered a payment *pro tanto* on said purchase; provided said money so paid, or the value of the bonds so delivered, shall not have been previous to such purchase refunded to said party of the first part by the party of the second part.

15th. All matters which may hereafter be in dispute between the parties hereto, and not embraced herein, shall be submitted to arbitration as provided for in the twelfth clause of this agreement.

16th. In case either party to this agreement shall be in default of any of the provisions of this contract, and shall so remain after thirty days' notice thereof from the party not in default, then the party not in default reserves the right to declare this contract forfeited and at an end.

17th. This contract to take effect when ratified by two-thirds of the stockholders and by the directors of both said companies respectively.

In witness whereof the parties hereunto have caused these presents to be signed by their respective presidents and secretaries, and have caused their respective corporate seals to be affixed hereto, the day and year first hereinbefore written. Executed in duplicate.

SAM'L S. SMOOT,

*President of the Southern Maryland Railroad Company.*

[L. s.]

CH. H. WINDER,

*Secretary of the Southern Maryland Railroad Company.*

S. T. SUIT,

*President of the Washington City and Point Lookout R. R. Co*

[L. s.]

DUNCAN S. WALKER,

*Secretary of the Washington City and Point Lookout R. R. Co.*

Signed, sealed, and delivered in the presence of—

GEO T. MAY,

J. S. SUIT.

The following endorsements are on the back of the original agreement :

Received for record the 28th day of February, 1873, at 2 o'clock P. M., and same day recorded in Liber J. A. C., No. 6 folio, one of the land records of Saint Mary's county, and examined by me.

JNO. A. CAMALIER,  
*Clerk.*

Received for record this 22d day of April, 1873, and same day recorded in Liber G. A. H., No. 3, folio 648, 649, &c., one of the land records of Charles county, and examined by

GEO. A. HUNTT,  
*Clerk.*

Received for record this 18th day of November, 1873, at 12 o'clock M., and same day recorded in Liber H. B., No. 8, folio 122, &c., one of the land record books of Prince George county, and examined by

HENRY BROOKE,  
*Clerk for Prince George County, Maryland.*

[A.]

The following is a copy of an agreement signed by the presidents and secretaries of the respective companies :

WASHINGTON CITY, *January 21, 1873.*

We agree to call meetings of the stockholders and directors of our companies respectively at once, and we guarantee the ratification by them of the contracts made by and between our companies, all bearing date this day.

S. T. SUIT,

*President of the Washington City and Point Lookout Railroad Company.*

[L. S.]

DUNCAN S. WALKER,

*Secretary Washington City and Point Lookout Railroad Company.*

SAMUEL S. SMOOT,

*President Southern Maryland Railroad Company.*

[L. S.]

CHAS. H. WINDER,

*Secretary Southern Maryland Railroad Company.*

[B.]

*Proceedings of the Stockholders.*

OFFICES OF THE SOUTHERN MARYLAND R.R. CO.,  
WASHINGTON CITY, MONDAY, *Sept. 8, 1873.*

Pursuant to adjournment, on Wednesday, 4th day of June, 1873, a meeting of the stockholders of the Southern Maryland Railroad Company was held at the offices of the company, on Monday, the 8th day of September, 1873, at which 9,353 shares of the capital stock of the company was represented. S. S. Smoot offered the following resolutions, which were unanimously adopted:

*Resolved,* That the contract entered into between the Southern Maryland Railroad Company and the Washington City and Point Lookout Railroad Company, bearing date the 21st day of January, 1873, be, and the same is hereby, ratified and approved, and that the board of directors are hereby recommended to confirm the same, and that two hundred bonds of the Southern Maryland Railroad Company be deposited in one of the national banks of the city of Washington, D. C., subject to the terms and conditions of the said contract.

*Resolved,* That a copy of these proceedings be transmitted to the president of the Washington City and Point Lookout Railroad Company, duly attested by the secretary of the Southern Maryland Railroad Company.

Thereupon, on motion of H. G. Fant, the meeting adjourned to convene on Wednesday, the 15th day of October, 1873.

CH. H. WINDER,

*Secretary Meeting of Stockholders of the S. M. R. R. Co.*



[C.]

*Proceedings of Board of Directors, Jan. 27, 1874.*

*Resolved*, That the contract entered into between the Southern Maryland Railroad Company and the Washington City and Point Lookout Railroad Company, bearing date the 21st day of January, 1873, and which was duly ratified and approved by the stockholders of the Southern Maryland Railroad Company at their meeting on the 8th day of September, 1873, be, and the same is hereby, ratified and confirmed.

*Resolved*, That the secretary of this company be and he is hereby directed to transmit to the president of the Washington City and Point Lookout Railroad Company a copy of these resolutions, duly attested.

CH. H. WINDER,  
*Secretary S. M. R.R. Co*