

No. 10.

AN ACT to prevent trespass and other injuries being done to the possession of settlers, on the public lands, and to define the right of possession on said lands.

What deemed the possessions of a settler.

How he may defend them.

A 'claim' how acquired.

How abandoned.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin*, That, hereafter, in actions of trespass *quare clausum fregit* trespass, ejectment, forcible entry and detainer, as well as forcible detainer, only, when any person may be settled upon any of the public lands, in this Territory, where the same have not been sold by the General Government, his, her, or their possession shall be considered, on the trial, as extending to the boundaries, embraced by the "claim" of such person or persons, except mineral lots, so as to enable him, her, or them, to have and maintain either of the aforesaid actions, without being compelled to prove an actual enclosure: *Provided*, that such claim shall not exceed, in any case, three hundred and twenty acres, and provided, that such claim may be located, in two different parcels, as will suit the convenience of the holder. And every such claim shall be marked out, so that the boundaries thereof may be readily traced, and the extent of such claim easily known: *Provided*, that no person shall be entitled to sustain either of said actions for possession of, or injury done to, any claim unless he occupy the same, or shall have made improvements thereon, to the value of fifty dollars.

SEC. 2. A neglect to occupy or cultivate said claim, for the period of six months, shall be considered such an abandonment as to preclude said owners from sustaining either of the aforesaid actions.

Approved, January 4th, 1840.

No. 11.

AN ACT to incorporate the Michigan and Rock River Rail Road Company.

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin as follows:

SECTION 1. That all such persons, as shall become stock-^{Name, duration, and power of the corporation.}holders agreeably to the provisions of this act, in the corporation hereby created, shall be, and for the term of sixty years from and after the passage of this act, shall continue to be, a body corporate and politic, by the name of "Michigan and Rock River Rail Road Company," and, by that name, shall have succession for the term of years above specified; may sue and be sued, complain and defend in any court of law or equity, may make and use a common seal, and alter the same at pleasure, may make bye-laws rules and regulations for the management of its property, the regulation of its affairs, and for the transfer of its stock and real estate, not inconsistent with the existing laws and the Constitution of the United States; and, moreover, may appoint such subordinate agents, officers, and servants, as the business of the said corporation may require, and allow to them a suitable compensation, prescribe their duties, and require bond for the faithful performance thereof in such penal sums, and with such sureties, as they may choose, who shall hold their offices during the pleasure of a majority of the directors of the said corporation.

SEC. 2. The said corporation shall have the right to construct, and during its continuance, to maintain and continue a Rail^{Road where to commence and terminate.}Road with a single or double track, and with such appendages as may be deemed necessary for the convenient use of the same, from the Rock River at a point at or near where the line of the State of Illinois crosses the same, to such point near Lake Michigan in the township of Southport, as shall be determined on by a majority of the directors, after a survey shall have been made of the route.

SEC. 3. The capital stock of the said corporation shall be^{Capital Stock,} one hundred thousand dollars, which shall be deemed personal property, and shall be divided into shares of one hundred dollars each. The capital stock of said corporation may at any time, hereafter, be increased to any sum, not exceeding one million of dollars, if the same shall be judged necessary by the President and Directors, or a majority of them, and the same shall be subscribed for, and taken, under the direction of the directors of the directors of the said corporation, whenever they shall direct one or more books to be opened for such purpose, and shall be subscribed and taken in such manner, as the directors of the said corporation, for that purpose, shall order and appoint.

SEC. 4. That Charles Butler, Campbell Bushnell, William

How subscribed. B. Ogden, Daniel Hugunin, Samuel Hale, jr., James Seymour, and William Bulleu, shall be commissioners for securing subscriptions to the capital stock of said corporation, who shall give notice, within twelve months, after the passage of this act, of the time and place where books will be opened in Rock county and Racine county, and such other places, as they may deem necessary, in some public newspapers printed nearest to said places, at least thirty days previous to the opening [of] such books, for the receiving [of] subscriptions to the capital stock of said Corporation.

How much paid at the time of subscribing.

The majority of the Commissioners shall attend, at the time and place appointed by such notice, for the opening of said books, and shall continue to receive subscriptions to the capital stock of said corporation from all persons who will subscribe thereto, until the whole amount thereof shall have been subscribed, when the said books shall be closed. Each subscriber, at the time of subscribing, shall pay to the commissioners one dollar on each share of the stock subscribed for by him, and the said Commissioners shall, as soon as the directors are elected, deliver to them the whole amount so received.

Directors how many and how chosen.

SEC. 5. The affairs of said corporation shall be managed by a board of seven directors, to be annually chosen by the stockholders from among themselves, as soon as may be, after the stock has been subscribed. The commissioners shall give notice of the time and place, at which a meeting of the stockholders will be held for the choice of Directors. And, at such time and place appointed for that purpose, the Commissioners, or a majority of them, shall attend and act as inspectors of said election, and the stockholders present shall proceed to elect their Directors by ballot, and the Commissioners present shall certify the result of such election, under their hands, which certificate shall be recorded in the books of the Corporation and shall be sufficient evidence of the election of the Directors therein named.

Election to be annual.

All future elections shall be held at the time and in the manner prescribed by the bye-laws and regulations of said corporation. Each stockholder shall be allowed as many votes as he owns shares at the commencement of such election, and a plurality of votes shall determine the choice, but no stockholder shall be allowed to vote, at any election, after the first, for any stock which shall be assigned to him within thirty days previous to holding such election.

The said Directors shall hold their offices for one year after their election, and until others are elected in their stead, and shall elect one of their number as President of the said board. One of their number to be president.

SEC. 6. The said corporation is authorized to make and use a single or double (or part single and part double) rail road or way of suitable width and dimensions, to be determined by the said corporation, on the line, course or way which may be designated and selected by the Directors as the line, course or way, whereon to construct and make the same; and shall have power to regulate the time and manner in which goods, effects, and passengers shall be transported, taken and carried on the same, and to prescribe the manner in which the said rail road shall be used; by what force the carriages, to be used thereon, may be propelled; and the rate of toll for the transportation of persons or property thereon; and shall have power to erect and maintain houses, toll-gates and other buildings; for the accommodation and management of the said road, and transport thereon, as may be deemed suitable to their interest. And it shall be lawful also for the said corporation to unite with any other rail road company, already incorporated, or which may hereafter be incorporated, upon any part of the route of said road, upon such terms as may be agreed upon by the Directors of said companies, and also to construct such other and lateral routes as may be necessary to connect them with any other route or routes, which may be deemed expedient. General powers of the Corporation.

SEC. 7. It shall be lawful for the said corporation to commence the construction of the said rail road or way, at such points on any part of the aforesaid route or routes, herein before described, as, in its judgment, may appear expedient and proper. Same subject.

SEC. 8. The said corporation is hereby authorized to purchase such lands along the route of said road as may be necessary for the convenience of the said road, or for depots thereon, and to sell and convey the same at pleasure. And in case the corporation shall not be able to acquire the title to the lands through which the said road shall be laid, by purchase, at what they shall deem a fair price, or voluntary cession, it shall be lawful for the said corporation to appropriate so much of said lands as may be necessary for its own use, for the purposes contemplated by this act, on complying with the provisions of the six following sections. Same subject.

SEC. 9. The directors may present a petition to the board of

Manner of acquiring title to lands along the route necessary for the purposes of the road.

County Commissioners of the County, in which the said lands may be situate, setting forth, by some proper description, the lands which are wanted for the construction of said rail road, or the appendages thereto, and the names of the owners thereof, if known, distinguishing with convenient certainty, if it can be done, the parcels claimed in severalty by the respective owners, and praying for the appointment of appraisers to assess the damages, which the owners of said land will severally sustain, by reason of the appropriation thereof by the said corporation to its own use.

Same subject.

SEC. 10. On the presentment of such petition, said board of county commissioners shall appoint a day for a hearing of the parties in interest, and shall direct such notice, as they shall deem reasonable, to be given, of the time and place of hearing, and in case it shall appear that any of the owners of the said lands is a *feme covert*, an infant or insane, or otherwise incompetent to take proper care of his or her interest, it shall be the duty of the said board of county commissioners to appoint some discreet and reputable person to act in the premises in his or her behalf.

Same subject.

SEC. 11. At the time appointed for such hearing the said board of county commissioners shall appoint three disinterested persons, freeholders, residents of the county in which said lands may lie, for the purpose of assessing such damages, and in the order, in which they were appointed, shall direct and specify what lands are proposed to be appropriated and occupied by the said corporation for the purposes aforesaid.

Same subject.

SEC. 12. Said appraisers, after being duly sworn before some officer being duly authorized to administer oaths, honestly and impartially to assess such damages, shall proceed, by viewing said lands, and by such other evidence as the parties may produce before them, to ascertain and assess the damages which each individual owner will sustain over and above the advantages derived from the construction of such rail road, by the appropriation of his or her lands for the use or accommodation of such rail road or its appendages.

Same subject.

SEC. 13. The said appraisers shall make a report to the said board of county commissioners in writing, under their hands, reciting the order for their appointment, and specifying the several parcels described therein, with all necessary certainty, the names of the owners of the respective parcels, if known, and if

not known, stating that fact, and specifying also the damages, which the owners of the said respective parcels will sustain, by reason of the appropriation of the same for the purposes aforesaid, and, in case either of the parties is dissatisfied with the assessment, the said board may, on the hearing of the parties in interest, modify the assessment as to them shall appear just.

SEC. 14. On the payment of the damages, thus assessed, together with the expenses of assessment, as the same shall be settled by said board of county commissioners, or on depositing the amount thereof for the use of such owners, in such bank or monied incorporation, as the said board shall direct, the said corporation shall immediately become entitled to the use of said lands, for the purposes aforesaid, and the report of the said appraisers, with the order of the said board modifying the same if the same shall have been modified, shall be recorded in the office of the register of deeds of the county, in which the said lands shall be situate, in the same manner, and the like effect as deeds are recorded without any other proof than the certificate of the said board, that the report is genuine. Same subject.

SEC. 15. And when the said order shall have been recorded, as aforesaid, the said corporation shall be seized and possessed of such land or real estate, and may enter upon and take possession and use the same, for the purposes herein before recited. Same subject.

SEC. 16. Said corporation shall be bound to repair all public highways, bridges and water courses, which may be injured, in constructing said rail road, or its appendages, and shall restore them, as far as practicable, to as good a condition, as they were before they were injured. Corporation liable for injuries to highways, bridges, &c.

SEC. 17. The said corporation shall be allowed three years, from the passage of this act, for the commencement of the construction of the said rail road, and in case the same shall not be completed within ten years thereafter, the privileges herein granted shall be forfeited. Time allowed to commence and complete the road.

SEC. 18. This act shall be deemed and taken as a public act and shall be construed beneficially for all purposes herein specified, or intended, and all copies thereof, printed by or under the direction of the authority of this territory, shall be received in all courts and places whatsoever in said territory, as sufficient evidence thereof without further proof. This act how construed and proved.

SEC. 19. The persons hereby incorporated and their succes-

These corpora-
tors subject to
the general law
concerning cor-
porations.

sors shall be subject to all the provisions contained in an act, now in force, entitled "An act concerning corporations."

Approved, January 8th, 1840.

No. 12.

AN ACT to organize the county of Calumet, and to lay off the county of Winnebago.

Organizing sec-
tion.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin,* That from and after the first Monday of March next, the county of Calumet shall be organized for all purposes of county government, and the people therein shall be entitled to all the benefits and privileges heretofore possessed and exercised by the citizens of other counties in this Territory, organized for county purposes.

Part of Calumet
set off to Fon-du-
Lac.

SEC. 2. So much of said county of Calumet, as is comprised in fractional townships seventeen of ranges eighteen and nineteen east, south of the Indian Reservation line, shall be and the same is hereby attached to, and made a part of, the county of Fon du Lac, any law to the contrary notwithstanding.

SEC. 3. The western boundary of the county of Calumet shall be a line through Lake Winnebago, being the division line between ranges seventeen and eighteen, extended through said Lake.

First election of
officers for Calu-
met.

SEC. 4. The first election of county and township officers shall be held on the first Monday of March next, at which time the polls shall be opened at the dwelling house of Alkanah Dick and at the Mission House in the Stockbridge settlement. The returns of the first election shall be made to the Clerk of the Board of Commissioners of Brown county, who shall proceed to canvass the votes and issue certificates of election, in the manner provided by law.

Location of coun-
ty seat.

SEC. 5. The county seat of said county shall be fixed and established at such place as the people of said county shall, by a majority of votes, determine. The time and places of holding an election, for that purpose, and the result of such election, shall be fixed and declared by the County Commissioners of said county.