

Shall report.

§ 6. It shall be the duty of the several officers charged with the execution of the provisions of this act, at the opening of the next session of the Legislature, separately, to make full reports of their doings under this act.

APPROVED, February 15, 1842.

## AN ACT to amend the act of the Revised Statutes concerning the supreme and district courts

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

Juries, how called.

§ 1. Whenever it shall be necessary to call a jury for the trial of any issue in the supreme court, in cases of bankruptcy, said court in term time, or any judge thereof, in vacation, may order a venire to issue to the marshal of the Territory, returnable at such time as may be specified in such order, commanding said marshal to summon twenty-four good and lawful men, being citizens of the Territory, to serve as a jury in said court.

Talesmen to be summoned.

§ 2. If for any cause a sufficient number of jurors shall fail to be in attendance at any term or sitting of said court, said court may order the marshal forthwith to summon a sufficient number of talesmen to make up the jury in any cause.

§ 3. The supreme court shall be held at the seat of government of the Territory, on the third Monday of July, and third Monday of January in each year.

APPROVED, February 16, 1842.

## AN ACT to incorporate the Fox River Improvement Company.

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

Stock of \$50,000, in shares of \$50 each.

§ 1. There shall be a stock of fifty thousand dollars, created in a manner hereinafter mentioned, divided into shares of fifty dollars each, which shall be expended in improving the navigation of the Neenah or Fox river, and in the construction of rail or Mc-

Admiral roads, on the carrying places or portages on the said river, from and to such points thereon, as may be deemed practicable.

§ 2. It is hereby made the duty of the clerks of the several boards of commissioners, of the counties of Brown, Fond du Lac, and Portage, to open books of subscription to said stock at their respective offices, and to receive subscriptions thereon from the first Monday of April next, until the second Monday of May thereafter, upon payment to him of the amount subscribed in the manner hereinafter mentioned.

Duty of clerks of county commissioners to open books and receive subscriptions.

§ 3. The books of subscription, aforesaid, shall remain on record in the offices in which they are severally to be kept open, and each of said clerks, respectively, shall within ten days after the said second Monday of May, make out and transmit to the treasurer of Brown county, a correct copy of all subscriptions entered in the books by him kept as aforesaid, under his official seal, and he shall also deposit with the treasurer, all moneys received by him on account of such subscriptions.

Books to remain on record.

§ 4. Every person becoming a subscriber to said stock, shall pay the amount subscribed by him to the clerk at the time of subscribing, or in lieu of such payment, may convey in the manner mentioned herein, a quantity of lands, which at the minimum price of one dollar and twenty-five cents per acre, will equal the amount of his subscription; he shall also deliver to said clerk a certificate from the register of deeds, and one from the clerk of the court from the county in which such lands are situated, setting forth that the same are free from encumbrance by mortgage, judgment, or otherwise, and shall also produce satisfactory evidence that he is owner of the land; and without such evidence and certificates, no such payment in lands shall be allowed.

To pay in stock or convey land in lieu thereof.

Shall procure evidence that he is owner.

§ 5. Whenever any person shall be desirous of subscribing for any portion of stock and to pay the same in lands, he shall execute and deliver to the clerk receiving such subscriptions, an instrument in writing, attested by two witnesses, in form following, to wit: I do hereby apply for shares of the stock of the Fox river improvement company, amounting to the sum of dollars, and to convey in payment of said stock, acres of land, situated in the county of in the Territory of Wisconsin, and described as of section

To execute instrument in writing.

Form of.

in township of range being acres, according to the public survey, at one dollar and twenty-five cents per acre.

Acknowledgment to be taken and recorded.

§ 6. The person making such conveyance, shall acknowledge the same before the said clerk, who shall certify said acknowledgment thereon, and deliver said conveyance to the register of deeds of the proper county, to be recorded in the book of deeds in his office, and such conveyance shall vest the title to the premises mentioned therein, in the treasurer of Brown county, as fully and effectually as the same might be by any form of conveyance known in law, executed by the person so subscribing, and every other person or persons claiming, or to claim, by, from, or under him.

Excess of stock to be deducted, and by whom

§ 7. If upon the receipt of the returns to be made to the said treasurer, by the third section of this act, it shall appear that an amount of stock shall have been subscribed more than ten thousand dollars, the excess of subscription shall by the treasurer and clerks of commissioners or a majority of them, be taken from all the subscribers who have subscribed more than one share of stock in proportion to the amount subscribed by each.

When less number of shares, money or land to be returned.

§ 8. Should any person in the allotment of stock as prescribed in the preceding section, have a less number of shares allotted than were subscribed by him, the money paid by such excess of stock shall be immediately refunded by the said treasurer, and in like manner lands conveyed in payment of such excess, shall be reconveyed and released to the person or persons subscribing the same.

When shall become a corporation.

§ 9. If the subscribers to said stock shall have taken five thousand dollars of said stock, then, and in that case, they shall be and become a corporation under the name and style of the Fox river improvement company, and by that name shall be known in law, and capable of suing and being sued, pleading and being impleaded, defending and being defended, in all courts and places whatsoever, and may have a common seal and alter it at pleasure, and the said treasurer shall transfer all moneys received by him, and release and quit claim all lands deeded to him on account of subscriptions to said stocks, to said company or such officer thereof as may be appointed for that purpose. But if the sum of five thousand dol-

Treasurer shall transfer all lands.

lars shall not have been subscribed, the moneys paid for subscription shall be refunded, and the lands transferred in payment shall be released and quit claimed to the person or persons subscribing the same.

§ 10. The company shall have power and authority to make a slack water navigation in the Fox river, from Depere to La Fontaine; to construct canals, rail or McAdamized roads around the rapids, and in the carrying places, from and to such points on said river as may be deemed expedient, and for those purposes only, to use and appropriate the capital stock authorized to be raised by this act: *Provided*, that nothing herein shall authorize said company in any manner to obstruct the free navigation of said stream: *And provided further*, that every dam erected under provision of this act, shall contain a lock of the same dimensions of that now in the dam at Depere; and the said company shall attend said lock, and pass all boats and other water craft free of toll.

Slackwater navigation—roads

Proviso. not to obstruct navigation.

To make locks.

§ 11. The affairs of said company shall be managed by seven directors, five of whom shall form a board, or quorum, for the transaction of business, and who shall be stockholders. The first election of said directors shall be at such time and place as may be appointed by the treasurer of the county of Brown; but thereafter the election shall be held annually, on the first Monday of January, at such place as the directors for the time being may appoint. In the election of directors, and on all other questions to be determined by vote of the stockholders, every holder of stock may vote in person, or by proxy, and a majority of all the votes shall be necessary for a choice. The said directors shall elect one of their number to be president, and one other to be secretary, who shall keep proper books, in which all the proceedings of the board shall be entered, and an account of all moneys received and expended in the construction of the improvements contemplated by this act: *Provided*, that if an election shall fail to be held at the time and place appointed for the purpose, the corporation shall not for that cause be dissolved; but the directors may appoint another day for holding such election, not more than ninety days from the time herein mentioned for that purpose.

Directors to be stockholders.

Elections—when and how held.

Vote by proxy.

§ 12. The directors may from time to time make bye-laws, Bye-laws.

rules and regulations for the government of the company, not inconsistent with the laws of the United States or of this Territory, and affix suitable penalties for the breach thereof, and relative to the time and manner in which goods, effects and passengers, shall be transported over and along any of the roads, canals, and other improvements to be constructed by said company; and the rate of toll for the transportation of property or passengers, and for the passage of boats through any of the locks and canals belonging to said company, and to such other matters connected with the business of said company, as may be necessary in the convenient construction and management of said improvements.

Rate of toll—  
how establish-  
ed.

May use mate-  
rials and land.

§ 13. The company shall have power to take and use any materials found in the bed of said river, and may appropriate to their use for said improvement, sufficient land from the foot of the rapids on Fox river, to Winnebago lake, to construct thereon a canal, or rail, or McAdamized road: *Provided*, that the strip of land so taken and appropriated, shall not exceed one hundred feet in width; and as soon as the location of said roads or canal shall be determined on, and the work commenced, the said lands shall become a public highway, liable, however, to revert to the rightful owners in case the improvement contemplated shall fail to be constructed: *Provided, also*, that the first improvements made by said company by virtue of this act, shall be a railroad, canal or McAdamized road, from the foot of the Grand Cacalin rapids to Winnebago lake. And the said corporation is hereby prohibited from expending any moneys, or doing work on any dam or other improvement, or road, or from receiving payment of subscriptions in any work upon any dam until they shall have completed for transportation the said railroad, canal or McAdamized road, from the foot of the Cacalin rapids to Winnebago lake aforesaid.

What improve-  
ment shall be  
made first.

Justice to is-  
sue venire for  
jury to assess  
damages.

§ 14. If any person, through whose land said road may pass, shall feel aggrieved thereby, he may apply to any justice of the peace of the county of Brown, whose duty it shall be to issue a venire for twelve good and lawful men, being freeholders, to assess the damages sustained by the applicant by reason of said road or canal crossing the lands of said applicant; and the said jury,

upon testimony produced, or upon view of the premises, shall fix the amount of such damages, taking into consideration, also, the benefits to be derived from such improvement; and if the said company shall neglect to pay the said damages so assessed, within thirty days after the jury shall have agreed upon the amount thereof, together with the costs, the said lands so taken shall immediately revert to the original owner, and the justice shall enter up judgment against said company for costs, and issue execution therefor as in other cases.

§ 15. The money paid in subscriptions to stock, the proceeds of the sale of lands subscribed, and on account of tolls received from said improvements, shall remain a fund subject to be applied and used only in pursuance of the provisions of this act, and shall be drawn by order of the president of said company, countersigned by the secretary, for the payment of contractors and other expenses incident to the construction of said improvements, in such sums as the said board of directors may prescribe.

Funds to be used only as directed by law. Contractors, how paid.

§ 16. The directors of the board shall appoint some competent person as treasurer, in whose name all conveyances to and from said company shall be made, and a superintendant to superintend the construction of all improvements to be made in pursuance of this act, who shall receive such reasonable compensation as the said directors may determine; but no director, unless appointed such superintendant, shall receive any compensation for his services.

Treasurer how appointed--his duty and compensation.

§ 17. The directors of said company shall have authority to contract for the sale of all or any part of the lands subscribed in stock, at a price not less than one dollar and twenty-five cents per acre; payable in cash or in work upon, or in materials to be furnished and labor to be performed for said improvements: *Provided*, that before the treasurer of the company shall execute any conveyance of land, in pursuance of such contract, he shall receive the amount in cash for the lands so contracted to be sold, or the value of such lands shall have been paid by the purchaser in work and labor, or materials upon and for the improvement as aforesaid: *Provided*, that if any of the lands so sold shall bring more than

Directors may sell land. Purchaser how to pay for land.

the minimum price per acre, the excess over and above one dollar and twenty-five cents per acre, and the necessary expenses of sale, shall accrue to the benefit of the subscriber of stock for which said lands was received in payment, or his legal representatives, and shall entitle him to an additional number of shares of stock, equal to the amount of such excess.

Dividends—  
how made.

§ 18. The surplus profits to be derived from tolls, or to accrue in the business of said company, over and above the necessary repairs and expenses, may be annually divided by the directors among the stockholders in proportion to the amount held by each; and whenever at any time hereafter, the Territory, or future State of Wisconsin, shall pay to the present shareholders the amount of the shares owned by them, and interest from the time the same was paid, at the rate of six per centum; then and in that case the Territory, or State, making such payment, shall become the sole owner and proprietor of all the said stock, and of all improvements constructed by the said company.

Territory or  
State may pur-  
chase stock and  
improvements.

Stock to be  
personal prop-  
erty and trans-  
ferable.

§ 19. The stock owned by any individual in said company shall be deemed personal property, and shall be assignable and transferrable in such manner as the bye-laws of said company may direct, and shall be liable to be taken on execution in such manner as shall be prescribed by law.

May be re-  
pealed.

§ 20. This act is hereby declared a public act, liable to repeal or amendment by the Legislature: *Provided*, that no contract or agreement made or entered into by said company, shall be affected thereby, and all property belonging to or received for the use of said company, shall be and become upon such repeal, the property of the owners of said stock in proportion to the amount then owned by each.

Directors to  
take oath.

§ 21. Every director appointed in pursuance of the provisions of this act, shall take an oath faithfully to discharge the duties of his office; and whenever any vacancy shall occur in the board of directors, by death, resignation, or removal from the Territory, the same shall be supplied by the remaining directors in office at the time such vacancy occurred.

How to fill va-  
cancies.

Penalty, &c.

§ 22. If any director, or other person in the employ of said

company, shall misapply, use, or otherwise dispose of, any funds coming to his hands or possession, by virtue of his office, contrary to the true intent and meaning of this act, every such person shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be sentenced to pay three times the amount of money thus misapplied, or disposed of, together with all costs, and shall moreover be sentenced to confinement in the county prison, for a term not less than three, nor more than twelve months, in the discretion of the court.

§ 23. If the whole amount of stock authorized by this act shall not have been subscribed previous to said second Monday of May, the directors for the time being shall be authorized to receive subscriptions thereto, until the whole amount shall be subscribed, in such manner and at such times as may best conduce to the interests of the company. Directors may receive subscriptions.

§ 24. It shall and may be lawful for said company to construct a railroad or canal, from Fond du Lac, on Lake Winnebago, to some point on Rock river, in town thirteen, north in range fifteen east, and the said road or canal shall, when constructed, be under the same control and management of said company in all respects, as the works contemplated in the preceding sections of this act. May construct a rail road or canal.

§ 25. If any appropriation should at any time be made by Congress to construct any of the improvements contemplated by this act, the act making such appropriation shall be deemed and taken as a repeal of so much of this act as authorizes the company to construct any such improvements. Act of Congress may repeal this act.

APPROVED, February 17, 1842.

## **AN ACT to authorize the Adjutant General to draw on the Treasurer for money to meet certain expenses.**

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

§ 1. That the treasurer of the Territory hereby is authorized to pay on the draft of the adjutant general, such sum or sums of Treasurer to pay out certain moneys.