

constitute a separate town and shall be known by the name of Farmersville and the first election shall be held at the house of George W. Wilson, on the second Monday of August one thousand eight hundred and forty eight at twelve o'clock M. notice of said election to be given by the clerk of the board of supervisors of the county of Dane. It shall be the duty of the assessors elected in said town at the election aforesaid to make out assessment rolls of the taxable property in said town and return the same to the proper officer on or before the second Monday of September next.

SEC. 2. Section one of an act entitled "an act to organize the several towns therein named and to authorize the same to hold special elections for town officers" is hereby repealed.

N. E. WHITESIDE,
Speaker of the Assembly.
JOHN E. HOLMES,

Lieutenant Governor and President of the Senate.

Approved August 4, 1848.

NELSON DEWEY.

AN ACT to provide for the improvement of the Fox and Wisconsin rivers and connecting the same by a canal.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

SEC. 1. The construction of the improvements contemplated by the act of Congress entitled "An act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers and to connect the same by a canal in the territory of Wisconsin" approved August 8th 1846 and the superintendence and repair thereof after the completion shall be under the direction and control of a "Board of Public Works."

SEC. 2. Said board shall consist of five persons who shall be elected by

joint vote of the legislature, and who shall severally take and subscribe an oath of office to be filed in the office of the Secretary of State and shall continue in office for the term of one year, and until others are duly qualified they shall each receive as a compensation for their services, the sum of three dollars per day for each days attendance to the duties required by this act and for each day necessarily spent in travelling to and from the places of meeting to be paid out of the fund appropriated for said work four of said board shall constitute a quorum for the transaction of business.

SEC. 3. The register provided for in the thirtieth section of this act shall act as secretary of the board of public works whose duty it shall be to keep a faithful record of the transactions of said board: he shall have the custody of all books and papers belonging to the board and certify their orders and proceedings when required and shall perform such other duties as may be imposed upon him by said board.

SEC. 4. The said board may appoint a superintendent and engineer and authorize the employment of such subordinate officers as may be necessary and determine the compensation of each but no superintendent or other person except the engineers shall receive more than two dollars per day for each day actually employed in the service of the state.

SEC. 5. The said commissioners shall first commence the construction of the canal and after said canal is finished the improvements of the Wisconsin and Fox rivers shall be commenced beginning from both ends of the canal down each stream so as to make said streams navigable as the improvements progress, with the exception of the improvements of the several rapids on Fox river below Lake Winnebago which may be commenced at any time said commissioners may think proper: after the construction of the canal the nett proceeds of one-sixth of the sale of the grant of land is hereby set apart for the improvement of the Wisconsin river, and five-sixths of said proceeds to the improvement of the Fox river: Provided that no more than ten thousand dollars shall be expended in improving the navigation of the Fox river from the said canal to Lake Winnebago until further action of the legislature of this state or until the said river shall be made navigable to Green Bay.

SEC. 6. The said works shall be divided into convenient sections unconnected with each other each of which shall be let separately by contract to the lowest bidder but where the bids of any one contractor shall embrace more than one section and shall be in the aggregate less than other propo-

sals for the same work his bids may be accepted and all contracts shall be made in the triplicate one copy to be retained by the secretary of the board and one copy to be deposited in the office of the secretary of state.

SEC. 7. Each section shall be advertised separately and the notice of the time and place at which proposals will be received by said board for letting the same to contracts shall contain a concise but full specifications of the work to be done, the time limited for the completion thereof and the terms of payment and shall be published six weeks successively in such papers published in the state as the board may direct the last publication to be at least ten days before the expiration of the time limited therein to receive proposals.

SEC. 8. All proposals shall be sealed and shall distinctly specify the section or part of the work to be constructed, the price to be paid without any alternative condition or limitation and no more than one proposition shall be received from any one person for the same contract each proposal shall also be accompanied by a guarantee to be signed by two or more sureties whose sufficiency shall be certified by a judge of the circuit court or one of the board conditioned that the holder shall enter into contract within such time after receiving notice of the acceptance of his bid as the board may direct and will give security to the satisfaction of such board for the completion of the work according to the specifications contained in the advertisement of the board otherwise such proposals shall be rejected.

SEC. 9. At the expiration of the time limited for receiving proposals the board shall meet and shall then open and compare the different proposals and shall accept the lowest offer made in compliance with the provisions of this act and forthwith notify the bidder of such acceptance and if any person whose proposal shall have been accepted does not within fifteen days thereafter enter into written contract for the performance of the work according to his bid and give security as herein provided: the board shall proceed to let by giving further notice such contract to some other person or persons upon the best terms they can obtain, and may sue for and recover on the guarantee before mentioned any excess by the board agreed to be paid upon such second letting over the price demanded in the proposal of the person or persons thus failing to enter into contract as aforesaid.

SEC. 10. No advance or extra compensation shall in any event be made to any contractor except that the board may whenever a contract shall be partially fulfilled advance the sum not exceeding seventy-five per

cent. on the appraisal of the superintendent of the work done under such contract as hereinafter provided.

SEC. 11. It shall be the duty of the superintendent personally to superintend the work of each contractor and to see that the same be done according to contract reporting any and all deficiencies to the board and he shall once a month measure and estimate the work done under each contract and report the same to the secretary of the board who shall thereupon draw his warrant on the treasury for the sum equal to seventy-five per cent. of the amount estimated to be due on such contract which warrant shall be countersigned by the superintendent and paid by the treasurer on presentation; provided that if in any case a contractor shall be dissatisfied with such admeasurement and estimate he may appeal to the board whose decision shall be conclusive.

SEC. 12. No member of the board of works nor any officer constituted under the provisions of this act shall have any share or interest directly or indirectly in any contract to be given out under the provisions of this act.

SEC. 13. The aggregate amount of contracts at any time let by the board shall not exceed the available means devisable from the sale of the lands granted in aid of said improvements, applications for the purchase of which shall have been filed prior to the time of letting such contracts and immediately after such contracts shall have been let said board shall cause the said lands so applied for to be brought in market in quantities not exceeding sixteen thousand acres at any one sale and in time to meet the payment to become due upon the contracts let as aforesaid.

SEC. 14. The board any four of whom shall be a quorum shall meet once in every three months and oftener if they shall deem necessary and shall examine all reports books and accounts submitted to them or in the hands of the secretary and at such meeting may allow such accounts for contingent expenses as may have been incurred under their direction and may give such directions and adopt such regulations not inconsistent with this act for the prosecution of the works and relative to the duties of the several officers herein provided for as they may deem expedient. It shall also be the duty of the governor to transmit monthly to the president of the United States a statement of the amount expended in the construction of said improvements during the preceding month.

SEC. 15. In the construction of such improvements the said board shall have power to enter on, to take possession of and use all lands wa-

ters and materials, the appropriation of which for the use of such works of improvement shall in their judgment be necessary.

SEC. 16. When any land waters or materials appropriated by the board to the use of said improvements shall belong to the state such lands waters or materials and so much of the adjoining land as may be valuable for hydraulic or commercial purposes shall be absolutely reserved to the state, and whenever a water power shall be created by reason of any dam erected or other improvements made on any of said rivers such water power shall belong to the state subject to future action of the legislature.

SEC. 17. When any lands waters or material appropriated by the board to the use of the public in the construction of said improvements shall not be freely given or granted to the state or the said board cannot agree with the owner as to the terms on which the same shall be granted the superintendent under the directions of the board shall select an appraiser and the owner shall select another appraiser who together if they are unable to agree shall select a third, neither of whom shall have any interest directly or indirectly in the subject matter nor be of kin to such owner and said appraisers or a majority of them shall proceed to hear testimony and to assess the benefits or damages as the case may be to the said owner from the appropriation of such land water or materials, and their award shall be conclusive unless modified as herein provided. If the owner shall neglect or refuse to appoint an appraiser as herein directed after ten days notice of such appointment by the superintendent then such superintendent shall make such appointment for him.

SEC. 18. Either party may appeal from such award to the circuit court of the county in which the premises may be situated within thirty days after such award may be made and filed with the secretary of the board and such appeal shall be tried by a jury as other cases commenced in said circuit court, and upon the finding of such jury judgment may be rendered in favor of either party but no execution shall issue thereon against the state.

SEC. 19. An entry of such award signed by the appraisers or a majority of them or certified by the clerk of the court in case the same shall have been appealed and containing a proper description of the premises appropriated, the names of the persons interested and the sum estimated for benefits or damages shall be made in a book to be kept by the secretary of the board.

SEC. 20. A transcript of such entry signed in like manner acknowledged or proved as a conveyance of land shall be recorded in the office of the register of deeds of the county in which the premises are situated and the fee simple of said premises shall thereupon vest in the state.

SEC. 21. If the damages exceed the benefits it shall be the duty of the board to direct the same to be paid out of the fund appropriated to said improvements proof of such payment or the offer thereof in case the party entitled shall decline to receive the same shall discharge the state and every person under its employ from any claim for such lands waters and materials appropriated as aforesaid.

SEC. 22. As soon as any portion of said improvements shall be completed so as to admit of use the said board shall make rules and regulations from time to time in respect to the passage of boats rafts and other floats through the canal and locks and all matters connected with the navigation thereof, and impose such forfeitures for the breach of any such regulations as may be deemed reasonable by them.

SEC. 23. Said board shall annually and oftener if required submit to the governor a full statement of the condition of said improvements and minute details of the receipts and expenditures of money and the purposes to which it has been applied and generally of all their proceedings during the preceding year.

SEC. 24. For the safe keeping and the disbursement of the moneys appropriated to said improvements the legislature shall appoint by joint vote some competent and responsible person to be treasurer of the board of public works who shall hold his office for the term of one year or until his successor shall be appointed and qualified.

SEC. 25. The treasurer before he shall be qualified to act as such shall take the oath required by the constitution and shall give bond in the sum of fifty thousand dollars with sureties who shall swear that they are worth over and above all liabilities and property exempt from forced sale on final process an amount which in the aggregate shall be equal to the penalty of said bond.

SEC. 26. The register and treasurer shall each receive an annual salary of two hundred dollars and such fees in pre-emption cases and in entries of lands as may be allowed by the board: Provided that the whole amount which either of said officers shall receive during any one year shall not exceed six hundred dollars and the surplus of fees over and above the amount

allowed to the register and treasurer as aforesaid shall be paid to the treasurer and become a part of the improvement fund: the board of works shall prescribe such rules and regulations relating to the duties of said officers as may be necessary and may establish the fees in the cases above referred to.

Sec. 27. No member of said board nor any person who may be interested directly or indirectly in any contract for the construction of any portion of said improvements or surety for any contractor shall hold the office of treasurer or be received as one of his sureties

Sec. 28. All payments to said treasurer shall be made in gold and silver coin and all payments to contractors shall be in like currency and the board shall prescribe the manner in which the accounts of the treasurer shall be kept and the moneys disbursed by him.

Sec. 29. Any treasurer or other person in the employ of the state under and by virtue of the provisions of this act who may be charged with the receipts or disbursements of any of the funds belonging to said improvement arising either from the sale of lands or from any other source who shall use loan or exchange or otherwise misapply any portion of said funds shall be deemed guilty of embezzling so much of said funds as may be thus used loaned or exchanged or otherwise misapplied which is hereby declared to be a felony: and no money shall be paid out by the said treasurer except upon the warrant of the said board which shall be signed by a majority of them and countersigned by the secretary and the said warrants shall be paid in the order in which they are presented giving a preference to no person.

Sec. 30. For the disposal of the lands of the state granted in aid of said improvements there shall be a land office established at Oshkosh in the county of Winnebago which office shall be under the direction of an officer to be called the "Register of the state land office" who shall be appointed by joint vote of the legislature and shall give bond to the state with security to be approved by the Governor in the sum of ten thousand dollars for the faithful discharge of the duties of his office and shall reside at the place where the office is directed to be kept. He shall hold his office for one year and until his successor shall be appointed and qualified: For a violation of any of the duties conferred on the register by this act or of any instructions of the governor relating to his duties the governor of this state is authorized to remove the said register from office and appoint some person

to fill such vacancy and the person so appointed shall continue in office until his successor is duly qualified.

Sec. 31. The governor shall cause to be prepared and transmitted to the register of the land office general plats of the land directed to be sold at said office together with copies of the field notes of said lands.

Sec. 32. The board of works shall select from said lands a quantity not exceeding sixteen thousand acres embracing in such sections lands to which the right of pre-emption may have attached and giving such lands priority in the order of sale corresponding with the dates of settlement established by the claimants respectively and shall proclaim the said lands so selected for sale at public auction at a time to be fixed by them not less than three months from the date of such proclamation, copy of which shall be published in all the newspapers printed in the county or counties in which the lands mentioned therein are situated.

Sec. 33. Such sale shall open on the day mentioned in such proclamation and shall continue open from day to day until all the lands shall have been offered and all the lands remaining unsold at the close of any such public sale may be disposed of at private sale by the register in the manner herein prescribed.

Sec. 34. No lands shall be sold by virtue of this act at either public or private sale for less than one dollar and twenty-five cents per acre and all payments therefor shall be made to the treasurer in gold and silver coin.

Sec. 35. The register shall enter in his books to be kept for the purpose the application of persons who may apply for the purchase of any of said lands subject to sale, and who shall produce to him a receipt from the treasurer of the board of works for the purchase money of the tract applied for stating in each entry the date of the application, the date of the receipt, the amount of money specified therein and the number of the section township and range applied for. If two or more persons apply at the same time for the same tract, the register shall immediately offer such tract in the presence of the parties to the highest bidder, and the applicant who shall name to pay the highest price shall be entitled to a preference.

Sec. 36. The register shall file the receipt from the treasurer produced to him by any applicant and shall give to such applicant a certified copy of his entry.

Sec. 37. The register shall also enter upon the plats the number of the

certificate granted by him to any purchaser, and such plats shall be open to inspection in the presence of the register at all times.

SEC. 38. From and after the passage of this act every person being the head of a family or widow or a single man over the age of twenty-one years and being a resident of the state of Wisconsin who has made or who shall hereafter make a settlement in person on any of the lands granted by the United States to said state to aid in the improvement of the Fox and Wisconsin rivers and who shall inhabit and improve the same and who has erected or shall erect a habitable dwelling thereon shall be and is hereby authorized to enter with the register appointed to sell said lands by legal subdivisions any number of acres not exceeding one hundred and sixty acres to include the residence of such claimant upon the payment to the treasurer of the sum of one dollar and twenty-five cents per acre for such lands subject to the following limitations.

SEC. 39. No person shall be entitled to more than one pre-emption right under this act: no person who quits or abandons his residence or his own land in this state to reside on the said lands: no lands required for the use of the state in constructing the said improvement of the said rivers or returned by the board of works as a site for hydraulic or commercial purposes: no parcel or lot of land occupied for purposes of trade and not agriculture shall be liable to entry under the provisions of the last section.

SEC. 40. When two or more persons shall have settled on the same quarter section of land the rights of pre-emption shall be in him or her who made the first settlement provided such person shall have conformed to the provisions of this act.

SEC. 41. Whenever a person has settled or shall settle and improve any of said lands and shall intend to purchase the same under the provisions of this act such person shall in the first case within three months after the passage of this act and in the last within thirty days of the date of such settlement file with the register of the state land office a written statement under oath describing the land settled upon and declaring the intention of such person to claim the same under the provisions of this act, and shall make proof and payment before the day appointed by the board of works for the sale of lands.

SEC. 42. Any tract of land not exceeding one hundred and sixty acres having improvements by cultivation on the same to the amount of five

acres or on which a house or other improvements have been erected worth fifty dollars previous to the passage of this act shall be registered as improved or occupied lands and the claimant of said land shall have the right to purchase the same at one dollar and twenty five cents per acre: provided however, if any of said land registered shall be wanted for carrying on said work on account of material or by reason of including the termination of a canal or any lock dam waste water or basin or on account of flooding the same, said land shall be reserved and an equivalent amount of land may be selected by said claimant from some other of the appropriated lands not reserved as aforesaid, and on his application the lands so selected shall be registered in the same manner as if the same had been occupied or improved by such claimant and said claimant shall be entitled to receive a just compensation for his improvement to be agreed upon by the person claiming the same and the commissioners or three disinterested persons to be chosen by the said parties.

Sec. 43. Whenever sales of any of said lands shall be made either at public or private sale in conformity with the provisions of this act it shall be the duty of the governor of the state to grant to the purchaser upon the certificate of the register a patent for the lands so sold which patent shall be under the seal of the state and countersigned by the secretary of state and shall vest in the purchaser his heirs and assigns an absolute estate in fee simple.

Sec. 44. All suits brought by the board for a violation of any rules or regulations made by them or for any infraction of the provisions of this act shall be brought in the name of the state and all sums received and collected shall become a part of the fund set apart for said improvement.

Sec. 45. The governor of this state is hereby invested with the general control and supervision of the whole work provided for in this act, and if in his opinion the said board of works or either of them or the said treasurer are violating any of the provisions of this act or are misapplying any portion of the funds committed to their charge or are abusing any of the powers conferred on them or either of them he is hereby authorized to remove them or either of them from office and appoint others in their places and the persons so appointed shall continue in office until the end of the session of the legislature next to be holden and until others are elected and qualified: and if in his opinion the moneys in the hands of the treasurer are

not safe he may order the same to be transferred to the treasury of the state.

Sec. 46. The compensation of all the officers provided for by this act shall be paid quarter yearly out of the said fund.

Sec. 47. As soon as the selection of the lands appropriated by congress in aid of the improvements contemplated by this act shall be completed and a sale of any portion thereof shall be required the governor of the state shall appoint a register and treasurer who shall hold their offices until the end of the session of the legislature then next to be holden and thereafter the register and treasurer shall be appointed and hold their offices in the manner and for the term provided in this act.

N. E. WHITESIDE,
Speaker of the Assembly.

JOHN E. HOLMES,

Lieut. Governor and President of the Senate.

Approved August 8, 1848.
NELSON DEWEY.

AN ACT to establish a Municipal Court of the city of Milwaukee.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :

SECTION 1. There is hereby established in the city of Milwaukee a court of record to be known by the name of the municipal court of Milwaukee to consist of one judge who shall reside in the city of Milwaukee and who shall hold his office for the term of three years, and until his successor is elected and qualified and shall take a similar oath and be subject to removal for like causes and in the manner as judges of circuit courts of the state : said judge shall be elected by the qualified electors of the city of Milwaukee and the first election therefor shall be held on the first Monday of September eighteen hundred and forty eight and thereafter at such time