

No. 8.

AN ACT TO provide for the collection of demands growing out of contracts for sales of improvements on public lands.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all contracts, promises, assumpsits, or undertakings, either written or verbal, which shall hereafter be made in good faith and without fraud, collusion, or circumvention, for sale, purchase or payment of improvements made on the lands owned by the government of the United States, be deemed valid in law or equity and may be sued for and recovered as in other contracts.

Contracts, &c. written or verbal for sale, &c. of improvement of government lands, when valid.

SECTION 2. That all deeds of quit claim or other conveyances in writing, bona fide made for the transfer or conveyance of all improvements upon such public lands, shall be as binding and effectual in law, for conveying the title of the grantor in and to the same, as in other cases.

Quit-claims, &c. binding in law.

SECTION 3. This act to be in full force from and after its passage.

P. H. ENGLE,

Speaker of the house of representatives.

HENRY S. BAIRD,

President of the council.

H. DODGE.

Approved, Dec. 3, 1836.

No. 9.

AN ACT concerning the supreme and district courts, and defining their jurisdiction and powers.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the supreme court of the territory shall have and exercise an appellate jurisdiction only, which shall extend to all matters of appeal, error, or complaint, from the judgments or decrees of any of the district courts, in all matters of law and equity, wherein the rules of law

Jurisdiction of supreme court.

When held.

or principles of equity appear from the records or exhibits of any such court to have been erroneously adjudged or determined; and shall also extend to all questions of law which may arise in the said district courts upon motion for a new trial, in arrest of judgment, or in cases reversed by the said courts; and the said supreme court shall be held at the city of Belmont, in the county of Iowa, on the second Thursday in December, and thereafter on the first Monday of July in every year at the place where the seat of government for the territory is established.

To issue writs of habeas corpus, &c.

SECTION 2. *Be it further enacted*, That the supreme court shall have power to issue writs of habeas corpus, mandamus, quo warranto, prohibition, error, superseas, procedendo, certiorari, and scire facias, and all other writs and process not specially provided for by statute, which may be necessary to enforce the due administration of right and justice throughout the territory; but no writ of error shall operate as a superseas unless granted by order of the court upon motion, or by a judge in vacation, upon inspection of the record.

Judges in vacation to issue writs of habeas corpus, error, &c.

SECTION 3. *Be it further enacted*, That the said supreme court is hereby empowered, authorized and enabled, to take cognizance of all such causes as shall be brought before it in the manner aforesaid, and shall be vested with all power and authority necessary for carrying into complete execution all its judgments, decrees and determinations in the matters aforesaid, and for the exercise of its jurisdiction as the supreme judicial tribunal of the territory, agreeably to the usages and principles of law. And any judge of said court in vacation, shall, on good cause shown, have power to allow writs of error, superseas and certiorari, and also to grant writs of injunction and habeas corpus ad subjiciendum.

Judges failing to attend, what done.

SECTION 4. *Be it further enacted*, That if two of the judges of the said court shall not attend on the first day of the term, the clerk shall enter such fact on record, and the court shall be adjourned until the succeeding day, and so from day to day for six days; and if the court shall not be opened within six days, all matters pending in said court shall stand continued of course until the next term, and no action or matter shall abate or be discontinued.

SECTION 5. *Be it further enacted,* That all writs and process from the supreme court shall run in the style of the United States of America, and shall bear teste in the name of the presiding judge, if not interested; but if interested, then in the name of one of the other judges not interested; shall be sealed with the seal of the court and signed by the clerk, and shall be dated the day on which the same may issue; and all original writs from the supreme court shall be returnable on the first day of the term, unless the court in special cases shall otherwise direct, and all other writs and process shall be returnable according to the direction of the court.

Name and style of writs, and how issued.

SECTION 6. *Be it further enacted,* That no question of appeal or of writ of error shall be ordered without the concurrence of two of the judges; and the said court shall in all cases state the case and give their opinion on all cases which may be before them in writing, which shall be filed with the other papers of the case; and the said court shall appoint some attorney of said court to minute down and make report of all the principal matters drawn out at length, with the opinion of the court, which written opinion the said reporter shall have a right to use after it shall have been recorded by the clerk.

Two judges to concur in appeal and error cases.

Court's opinion in writing and reported.

SECTION 7. *Be it further enacted,* That the district courts established by an act of the legislative assembly of the territory of Wisconsin, entitled "an act to establish the judicial districts of the territory of Wisconsin, and for other purposes," approved the fifteenth of November, one thousand eight hundred and thirty-six, shall have original jurisdiction within their respective districts in all civil actions at law or in equity, when the balance due or the thing demanded shall exceed fifty dollars, and shall have appellate jurisdiction in all cases in their several districts from the probate courts, and the decisions of justices of the peace; and the judges of said courts shall be conservators of the peace, and the said courts in term time, and the judges thereof in vacation, shall have power to award throughout the territory and returnable in the proper county, writs of injunction, ne exeat, habeas corpus, and all other writs and process that may be necessary to the due execution of the powers with which they are vested; and the said courts shall respectively have power

Jurisdiction of district courts.

Of law and equity.

Civil and criminal law.

and authority to hear and determine all cases of treason and felony, crimes and misdemeanors of whatever kind that may be committed within any county or place within their respective districts, and that may be brought before them by any rules or regulations provided by law.

Style and name of process, and how issued.

SECTION 8. *Be it further enacted,* That all writs and process returnable in any district court, shall have the same style, and be tested, sealed and signed by the clerk thereof, and be dated and made returnable in the same manner as is above directed in the supreme court, except that writs and process from the district court shall bear teste in the name of the judge of the district.

How clerks appointed.

SECTION 9. *Be it further enacted,* That the supreme court shall, at its first session, appoint some proper and suitable person as clerk of said court, who shall hold his appointment at the pleasure of said court, and who previous to entering upon the duties of his office, shall take and subscribe an oath that he will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court, and faithfully and impartially discharge and perform all the duties of his said office according to the best of his abilities and understanding; and he shall also give bond with sufficient surety to be approved of by the court to the secretary of the territory in the sum of two thousand dollars, conditioned that he will truly and faithfully enter and record all orders, decrees, judgments and proceedings of the said court, and faithfully and impartially discharge and perform all the duties of his office, and he shall hold his office at the place provided for the holding the supreme court; the bond to be given by said clerk shall be lodged with the treasurer of the territory. And each of the district courts shall in like manner appoint its clerk, who shall take the same oath, and give the same bond to be approved of by the judges of the district courts respectively as the clerk of the supreme court, and they shall hold their respective offices at the place provided for holding the district courts; the bond of clerks of the district courts shall be filed with the treasurer of the county in which said clerks may be appointed.

How qualified.

SECTION 10. *Be it farther enacted,* That the judges of the supreme court and the judges of the several

Judges to make rules of practice, &c.

district courts may make and record all such rules and regulations respecting the trial and conducting of business, both in term and vacation, as the discretion of the said court and judges shall dictate, not contravening the laws of the United States or of this territory, and in order that the rules of practice and proceedings of the district courts may be uniform and as near as may be conformable to the rules of the supreme court, the clerk of said court shall from time to time transmit copies of the rules to the clerks of the district courts, and the judges of said courts shall from time to time make rules agreeably thereto, as near as may be for the practice of their courts respectively.

SECTION 11. *Be it further enacted,* That the clerks of the several district courts shall issue process in all cases originating in their respective counties; they shall make, keep and preserve complete records of all the proceedings and determinations of the courts, of which they are clerks, and do and perform in the county all the duty enjoined on them by law, and they shall have power to issue the subpoena for witnesses to any county in this territory, and they shall be entitled to such fees and compensation for their services as now are or hereafter may be allowed them by law; and if any clerk of a district court or the clerk of the supreme court shall neglect or refuse to perform any of said duties, or shall in any manner be guilty of malfeasance in office, he shall, upon proper complaint being made, and upon conviction, be removed from office.

SECTION 12. *Be it further enacted,* That the clerk of the supreme court and the clerks of several district courts may appoint, by writing, under their hands and seals, and entered upon record, some competent persons to be approved of by the several courts respectively, their deputy, who shall reside at the place where such clerk's office may be held, and who in case of sickness, death, or absence of the clerk, shall be authorized and empowered to execute and perform all the duties of the clerk until he shall return to the duties of his office, or another shall be appointed; and any thing done or performed by such deputy, shall be considered as valid and effectual as though the same had been done or performed by the clerk; and every clerk shall be liable for the acts and doings of his deputy.

Duties of clerks.

Clerks may appoint deputies, and how.

Special term in criminal cases at prisoner's instance.

SECTION 13. *Be it further enacted,* That whenever any person shall be in the custody of the sheriff of any county charged with any capital offense, or any other offense not bailable by law, it shall be the duty of such sheriff, provided such person shall desire a trial, to give information in writing to the judge of the district court of said county, or in case of his absence or disability, to the judge of the adjoining district, whose duty it shall be to issue a precept under his hand and seal to the sheriff of said county, to summon twenty-three grand jurors and thirty-six petit jurors, to attend at the place provided for holding the district court for said county on a day therein mentioned, which shall not be less than twelve nor more than thirty days from the date of such precept.

How special term had.

SECTION 14. *Be it further enacted,* It shall be the duty of the sheriff, on receiving the precept aforesaid, to give notice by advertisement, to be posted at the door of the place provided for the holding said court, at least five days before the return of the precept, of the time of holding a special term of the district court: *provided,* that there shall be no such special term of the district court, when the time for holding the usual term of the said court shall be within fifty days from the time the judge receiving the notice from the sheriff.

Proceedings at special term.

Power of adjournment, &c.

SECTION 15. *Be it further enacted,* That the said district courts when met pursuant to this act, shall have authority to adjourn to any day which may be adjudged reasonable and expedient, for the fair and impartial trial of the person who may be brought before it, and in case the requisite number of grand and petit jurors shall not attend at the time specified in such precept, or the number of petit jurors be reduced by challenge below the number of twelve, the court may order the sheriff to complete the panel of the grand or petit jurors from the by-standers, or award a venire de novo for a grand or petit jury, as the case may require.

General powers of supreme and district courts.

SECTION 16. *Be it further enacted,* That the said supreme and district courts shall respectively have power to administer all necessary oaths for promoting justice between parties, or necessary to the correction and punishment of offenders, and shall have power and authority to punish by fine and imprisonment, or both,

at the reasonable discretion of the court, all contempts offered by any person or persons to them while sitting as such, or for disobeying any of its orders, rules or process, issued or made.

SECTION 17. *Be it further enacted*, That all acts and parts of acts now in force in this territory, under the existing laws of the territory of Michigan, so far as the same may be applicable to, and consistent with the objects and provisions of this act, be and the same are hereby applied to the said supreme and district courts, and all officers thereof, and shall be obligatory thereon.

Former acts
how far repeal-
ed.

P. H. ENGLE,
Speaker of the house of representatives.

HENRY S. BAIRD,
President of the council.

H. DODGE.

Approved Dec. 8, 1836.

No. 10.

AN ACT to incorporate the stockholders of the bank of Mineral Point.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin*, That a bank shall be established in the township of Pecatolica, in the village of Mineral Point, the capital stock whereof shall be two hundred thousand dollars, to be divided into shares of one hundred dollars each, and the subscriptions towards said stock, shall, on the first Tuesday of May next, be opened at Mineral Point, under the superintendence of Wm. S. Hamilton, John F. O'Neill, Moses M. Strong, James Morrison, John Atchison, Richard McKim and Garnt V. Dennison, who are hereby appointed commissioners to receive the subscriptions to the said capital stock, who shall bethe first directors, and are authorized to elect their president from their own number, and to conduct every operation of the institution, until the first election for directors and president shall take place; and they shall give at least thirty days' notice of the time and

Bank of Mineral Point.

Capital stock,
\$200,000.

Shares, \$100.

Who commissioners to receive subscriptions.

Commissioners the first directors.