

for holding the first election for county and other officers, vote for the location of the county seat, and the county commissioners are authorized and required to prepare a court house for holding the district court in said county, and all other necessary public buildings, at such place as shall receive the greatest number of votes, which shall be the permanent seat of justice of said county.

Location of county seat.

SEC. 7. The county commissioners shall not locate the county seat on any land occupied, without consent of the occupant, nor unless said occupant shall pay into the county treasury, not less than eight hundred dollars for the right of said county to the land.

Not on land occupied unless, &c.

SEC. 8. It shall and may be lawful for the county commissioners of the county of St. Croix to lay a tax upon all personal property within the county, except such as may be exempt from execution, for the purpose of defraying the necessary expenses of said county.

County expenses how defrayed.

Approved, January 9, 1840.

No. 21.

AN ACT to amend an act of the Statutes of 1839, entitled "An act concerning the Supreme and District Courts."

[Be it enacted by the Council and House of Representatives of the Territory of Wisconsin.]

SECTION 1. *[That]* writs of error, in civil and criminal cases, may issue, of course, out of the Supreme Court of the Territory, in vacation, as well as in term time, and shall be returnable to the same court.

Writs of error when to issue.

SEC. 2. No writ of error shall operate to stay or to supersede the execution, in any civil actions, unless the plaintiff in error, or some person in his behalf, shall give bond to the defendant, with one or more sufficient sureties, with condition that the plaintiff shall prosecute his suit to effect, and shall pay and satisfy such judgment as shall be rendered thereon.

Bond required for stay of execution.

SEC. 3. The sufficiency of the sureties, and the sum for which the bond shall be given, shall be determined, in each case, by any judge of the Supreme Court, or by the Clerk from whose office the writ of error is issued, according to such general rules as the court may, from time to time establish.

Sum and sureties how determined.

Proceedings stayed when bond is filed.

SEC. 4. The bond, if any is given, shall be filed in the office of the Clerk of the Supreme Court, for the use of the defendant, and no execution shall be issued thereafter, upon the judgment complained of, during the pending of the writ of error; and if execution shall have been already issued, the clerk shall make and sign a certificate of the issuing of the writ of error, and the filing of the bond, and after notice of such certificate to the officer holding the execution, all further proceedings thereon shall be stayed.

What costs for the party prevailing.

SEC. 5. The party prevailing on a writ of error, in any civil action, shall, in all cases, be entitled to his costs against the adverse party, and if the judgment is affirmed, the court shall adjudge to the defendant, in error, damages for his delay, not less than at the rate of seven per cent and not exceeding twelve per cent a year, on the amount recovered by the former judgment, and in such case they may also, in their discretion, award to the defendant double costs.

Damages.

Proceedings upon writs of error.

SEC. 6. The proceedings upon writs of error, as to the assignment of errors, and the scire facias to the defendant, and the pleadings, judgment, and all other matters not herein provided for, shall be according to the course of the common law, and such general rules as shall be made by the Supreme Court.

Writs of error in capital cases.

SEC. 7. No writ of error, upon a judgment for any capital offence, shall issue, unless allowed by one of the judges of the Supreme Court, after notice given to the Attorney General of the Territory.

And in other criminal cases.

SEC. 8. Writs of error upon judgment, in all other criminal cases, shall issue, of course, but they shall not stay or delay the execution of the judgment or sentence, unless they shall be allowed by one of the judges of the Supreme Court, with an express order, thereon, for a stay of proceedings on the judgment or sentence.

Same subject.

SEC. 9. When a stay of proceedings shall be ordered, as provided in the preceding section, the judge may, at the same time, make such order, as the case may require, for the custody of the plaintiff in error, or for letting him to bail, or the party may, upon a writ of *habeas corpus*, procure his enlargement, upon giving bail, if entitled thereto.

Change of venue in civil actions.

SEC. 10. If either party in any civil cause, in law or equity, which may be pending in any District Court in this Territory, shall fear that he will not receive a fair trial in the county, in

which such cause is pending, on account that the judge is interested or prejudiced, or is related to, or shall have been of counsel for, either party, or that the adverse party has an undue influence over the minds of the inhabitants of the county, where the action is pending, or that the inhabitants of such county are prejudiced against the applicant, or that a large number of the inhabitants of such county have an interest in the question involved in said suit adverse to the applicant, so that he cannot expect a fair trial, such party may apply to the court, in term time, or to any judge in vacation, by petition, setting forth the cause of the application, and praying a change of venue, accompanied by an affidavit verifying the facts in the petition stated, and such court or judge, reasonable notice of the application having been given to the opposite party, or his attorney, shall, if satisfied of the truth of the allegations, award a change of venue, to some county where the causes complained of do not exist, and in all cases, where the judge is interested or is related to or has been of counsel for either party, the court, in term time, may award a change of venue, as aforesaid, in their discretion, without any application from either party.

Application for
how to be made.

Court may in
their discretion
award one with-
out application.

SEC. 11. Whenever the court shall change the venue in any cause or matter, as aforesaid, it shall be the duty of the clerk of the court, forthwith, to transmit all papers on file, in his office, relating to the said cause or matter to the office of the clerk of the court for the county in which such cause may be ordered to be tried, and the District Court of the county, to which said cause or matter shall be sent for trial, shall proceed to trial, in the same manner, and to give judgment and award executions, as though the said cause had not been removed.

Proceedings in
the court to
which the trial is
sent.

SEC. 12. The expenses attending the change of venue, and the costs, which shall have accrued, shall be taxed by the proper officers, according to the rates established by law for like services, and shall abide the event of the suit.

Costs how taxed
and paid.

SEC. 13. The Supreme Court shall, hereafter, be held at the seat of government of the Territory, on the third Monday of July and the first Monday in January, in every year.

Terms of Su-
preme Court
when and where
to be holden.

SEC. 14. All matters now pending in the said court shall stand continued, of course, until the third Monday of July next.

SEC. 15. If the judge of any of the District Courts, in this Territory, shall not attend on the first day of any term of their respective courts, the clerk shall enter such fact on record, and

Proceedings
when the judge
fails to attend a
District Court.

the court shall stand adjourned until the succeeding day, and so from day to day, for three days, and, if the court shall not be opened within three days, all matters pending therein shall stand continued, of course, until the next term.

Repealing section.

SEC. 16. The eighth section of the act hereby amended, and all laws contravening any of the provisions of this act, are hereby repealed.

Approved, January 9th, 1840.

No. 22.

AN ACT to incorporate the "Wisconsin Lead Mining, Smelting, and Manufacturing Company."

Name, duration and powers of the corporation.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin,* That James B. Campbell, and such other persons as he may associate with him, be, and they are hereby declared to be a body corporate and politic, for the term of fifty years, by the name and style of the "Wisconsin Lead Mining, Smelting, and Manufacturing Company," and by this title shall be capable of suing and being sued, of pleading and being impleaded, of defending and being defended, in all courts and pleas whatsoever, and may have a common seal and may change the same at pleasure.

Capital stock to consist of, &c.

SEC. 2. The capital stock of said company shall consist of not more than two thousand shares of five hundred dollars each; and the mineral lands, which the said James B. Campbell, and those who may be associated with him, shall hereafter convey to the said company, not to exceed, in the whole, twelve hundred and eighty acres, shall form a part of the capital stock, and the said company shall be authorized to purchase, hold and convey any other lands within the Territory for the purpose of conducting their smelting and manufacturing operations; provid that the aid company shall not hold or possess at any time more than the number of acres of mineral land above given, nor shall they be allowed to hold, for any purpose, at any time, more than four thousand acres of land, and that the operations of said company in mining and smelting shall be confined to the limits of the counties of Iowa and Grant, as at present described, and all deeds executed by the President in the name of said company, or

Where situated.