

J. D. Doty

DOCUMENTARY HISTORY

OF THE

MILWAUKEE AND ROCK RIVER CANAL.

COMPILED AND PUBLISHED BY ORDER OF THE BOARD OF DIRECTORS OF THE
MILWAUKEE AND ROCK RIVER CANAL COMPANY.

Edited by L. A. LAPHAM, Engineer and Secretary.

MILWAUKEE, WIS.

PRINTED AT THE OFFICE OF THE ADVERTISER.

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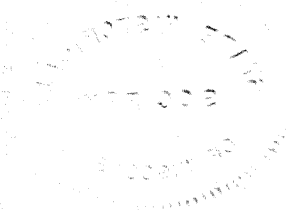
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ADVERTISEMENT.

The following work has been compiled and published in pursuance of a resolution of the Board of Directors of the Milwaukee and Rock River Canal Company adopted July 6th, 1839, which is in the following words, to wit ;

Resolved, That the Secretary be authorized and required to compile and publish in regular series, two hundred copies of all the laws, reports, memorials, and other documents that have been published relating to the Milwaukee and Rock River Canal, and to add such unpublished documents, and such explanatory remarks as may be necessary to form a complete history of the Canal.

DOCUMENTARY HISTORY

OF THE

MILWAUKEE AND ROCK RIVER CANAL.

1836.

Reconnois-
sance.

During the summer of the year 1836, being the first year after the settlement of Milwaukee, public attention was directed to the importance of uniting the waters of Lake Michigan with those of Rock River by means of a Canal; and although the country was then but little known, some general examinations were made by Byron Kilbourn, Esq. (now President of the Milwaukee and Rock River Canal Company) and other experienced persons, which resulted in the conviction that such a canal could be made, and at a moderate expense.

At the first session of the Legislative Assembly of Wisconsin, held at Belmont, a petition was presented, signed by numerous citizens, as follows:—

To the Honorable the Legislative Assembly of Wisconsin:

Your Memorialists respectfully represent that from a reconnoissance of the country between the mouth of Milwaukee River and Rock River, at the mouth of Bark River, by judicious and competent persons it is obvious that the communication between Rock River and the Lake can be opened by means of a Canal not exceeding forty miles in length, over a route presenting peculiar facilities, and through a fertile region of country; thus affording facilities for the transit of the heavy commodities of the country along the route, and affording a cheap and easy communication by water from the Lead Mine District on Picatolica, via. Rock River to the Lake. Such an improvement in connection with a Rail Road would be of incalculable benefit to the whole central portions of Wisconsin, the beneficial influence of which would be felt to the utmost extremes of the Territory, and to considerable portions of Illinois and the territory beyond the Mississippi.

Petition for a
Canal.

Your memorialists trust they will not be considered too sanguine when they indulge the belief that the means necessary to execute both these desirable improvements can be obtained, provided your honorable body shall see fit to grant Acts incorporating Companies

1836.

for them; and they would therefore respectfully, but strongly urge and petition your honorable body to pass an Act incorporating a Company for the purpose of constructing a NAVIGABLE CANAL from "*Navigable Water in the Milwaukee River, to Navigable Water in the Rock River,*" containing such provisions, restrictions and conditions as your honorable body may deem proper, consulting the public interest; affording such privileges as may be properly granted to said company, and which would afford due encouragement to stockholders to engage in the enterprise.

Of the feasibility of this connection we entertain no doubt, and we beg to be excused from urging it *again* and *again* upon the attention and full consideration of your honorable body.

And as in duty bound your memorialists will ever pray.

By reference to the Journal of the House of Representatives during that session, it appears that on the 29th day of November, 1836, Mr. Wm. B. Sheldon from the committee on banks and incorporations, reported "a bill to incorporate the Milwaukee and Rock River Canal Company" which was laid on the table.

It does not appear that any further action was had on the subject during that session of the Legislative Assembly.

Preliminary
survey.

In the year 1837, a preliminary survey was made by Mr. Kilbourn and the Editor, by which the entire feasibility of the work was ascertained, and an approximate estimate made of its cost. During this year public attention was further directed to the subject, by a series of articles published in the "*Milwaukee Advertiser,*" which are here inserted as containing the most complete view of the bearing which the construction of this work would have upon other portions of the Territory, as well as that through which the canal would pass. These articles also contain a concise descriptive view of the country, along the route of the proposed work.

From the Milwaukee Advertiser of May 20, 1837.

MILWAUKEE AND ROCK RIVER CANAL.--[NUMBER I.]

A Canal to connect Lake Michigan with Rock River commencing at this point, is a project which early attracted the attention of intelligent and enterprising men in taking a survey of the resources of the country, and of the points to which business would most naturally tend for the purpose of effecting the exchange incident to the commercial and agricultural transactions of our industrious community. Much interest is evinced by our citizens generally on this subject, from the apparent feasibility of the work itself, and from the benefits which it would confer on the Territory at large, as well as on the immediate country through which it would pass.

We look upon this work when completed, as the great artery of internal communication, which, through its appendant branches and lateral connections with rivers, will extend its vivifying influence directly to the most valuable portions of Wisconsin. We will at present advert to some of those leading and prominent connections with the main trunk of the canal, and in future fill up the outlines here given, as more exact data in detail shall be obtained by surveys, examinations, the growing developements of the country and the various means of information which lie within our reach through channels of undoubted authenticity.

1837.

A gentleman who has recently taken levels of the country between Milwaukee and Rock River, has kindly furnished us with the following facts:—

It is ascertained by actual examination that the summit level of highest elevation between Lake Michigan and Rock River, and which is situated north of the Pewaukee Lake, between the Pishtaka and Bark Rivers, presents an unusually easy passage between these valleys; the extreme depth of excavation at the summit being only fifteen feet, and its extent about twenty rods in length. This ridge is a mere bar, and but for the intervention of which, Bark River would have passed through this channel into the Pishtaka River instead of winding its long sinuous way to Rock River. It is proposed to raise the water on this summit through the natural valleys or canals which extend transversely to the ridge, about a mile in length, to the depth of ten feet. This will be supplied from Bark River, a durable stream through the summer, of handsome volume for a canal feeder and for hydraulic power. Descending westward towards Rock River, the line will pursue the valley of Bark River, which is generally favorable for that purpose, and intersect Rock River near Fort Atkinson. A general feature in all the streams watering this portion of the Territory, is their uniformity in quantity of water discharged throughout the year, they being effected only in a small degree by the vicissitudes of the wet and dry seasons. This arises from their sources being either in springs with which the country abounds, or in lakes, which are numerous in the central region of the Territory, and which serve as reservoirs for the equalization of streams supplied by them, and let us add, which furnish some of the most picturesque situations for residences that fancy could paint, and a soil as rich and productive as "heart could wish."

Pewaukee
summit.

Commencing at Milwaukee and pursuing the course of the main trunk, westwardly we ascend the valley of the Menomonee, alike celebrated for its rich land and good water power, to a point seven or eight miles above its mouth; here diverging from the course of its valley, and bearing nearly west, we reach the Pishtaka River,

Menomonee-
valley.

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Pishtaka river.

at the distance of about fourteen miles from Milwaukee. From a point east of this intersection with the Pishtaka river, a lateral branch of small extent will unite the Canal with the Pishtaka River below the Prairie Village Rapids, from whence this stream is navigable for steamboats of light draft a distance of about eighty miles, or until it reaches the Big Woods Rapids in Illinois, which it is understood will be speedily improved by that State. By this connection the whole valley of the Pishtaka River will have an easy and direct communication by water to Lake Michigan without performing the circuitous route by way of Ottawa and the Illinois Canal. The agricultural value of the country bordering on this stream and its tributaries is too well known to require from us on this occasion any comments. Its wealth and population will be immense, and the necessity of some convenient avenue for intercourse and business, imperative.

Bark river valley.

Returning now to the main trunk of the canal, we proceed westerly across the Pishtaka River, and up its western branch, passing the outlet of Pewaukee lake, to the main summit before described. Passing this we enter into the valley of Bark river, descending which between two and three miles, we enter the Nagawicka lake, a beautiful sheet of water, about two miles long by a half a mile in width, through which the Bark River runs, and approaching at its northern end to within less than half a mile of the south end of Pine lake, the southernmost of the upper chain of lakes in the valley of the Oconomeewoc. These lakes are separated by a dry plain, elevated above these lakes from five to twenty feet, which being cut through, would connect the main canal with these lakes and the whole upper valley of Oconomeewoc, one of the finest portions of the Territory.

Lakes.

From Nagawicka lake descending Bark river about two miles, we arrive at Namabin Lake, somewhat larger than Nagawicka, and through which the Bark river also has its course. To the north this lake connects with two lakes called the "Twin Lakes." The lineal direction of all three of these lakes is nearly north and south, forming in the whole an extended line in that direction of several miles, the northern Twin lake emptying into the southern, and this last into the Namabin. From the western side of the North Twin Lake, is a low wet prairie of about four feet elevation, and less than half a mile in length, by about six to forty rods variable width, separating it from the Oconomeewoc lake, on the lower chain of Oconomeewoc lakes. A canal can easily be excavated through this prairie, thus connecting the main canal with the lower section of Oconomeewoc, and through it with the Upper section of Rock River, connecting with that stream near the mouth of Oconomeewoc, about eight miles above Johnson's Rapids

a most important site for hydraulic power. This branch of the Canal would not require more than three miles of artificial improvement to connect Namabin Lake with Rock River, and would open a connected navigation including the Oconomeewoc lakes and Upper Rock river, of about sixty miles, embracing the finest portion of the Rock River valley.

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From Lake Namabin, the main canal will pursue its course down the valley of Bark River, and intersect Rock river near Fort Atkinson. Thence a communication will be opened by steamboats northwardly on the East Branch as far up as Johnson's Rapids, and on the West Branch as far as Aztalan, (the ruins of an ancient city,) above which is a rapid requiring improvement, which however, when made will extend this line some thirty miles further. A communication will also be established from the termination of the canal to the lower sections of Rock River, and up the Pickatonica to the forks which are situated in the centre of the mining district. The course of the Pickatonica from its mouth to the Forks is such as to present an almost right line with that part of Rock river which lies between it and the Canal, and with the general course of the canal itself, until it reaches the Summit ridge. Thus we have a direct and continuous line of water communication from the heart of the Lead mine district to the lake shore.

The project of a connection between Rock river, and the Four Lakes by way of the Catfish valley, is deemed feasible, as is also that of connecting the Four Lakes with the Wisconsin river at Helena, by a canal, thus opening a direct communication between these rivers, passing through the town of Madison, the present and probably the permanent seat of government. A part of Sugar river, a tributary of Pickatonica, is also navigable for light steamboats a considerable way up, and penetrates the eastern section of the Lead mine district, and moreover waters a rich agricultural country.

When we contemplate the facilities which are presented for the construction of this improvement, the small extent, not exceeding fifty miles of artificial works necessary to bring together the numerous natural avenues of trade which are prepared to our hand, the aggregate length of which is probably four hundred and sixty miles, expanding into every section of the interior,—omitting in this estimate the lower Rock river, the connection of Rock and Wisconsin rivers and the Wisconsin itself, all of which included would swell the aggregate of the various connections to more than eight hundred and eighty miles; and yet no point in this whole connection would be more than one hundred and sixty miles distant from Milwaukee, and the greater part of it (say seven eighths) would fall within one hundred miles of this place—when

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we contemplate the extent of country, rich in soil and mineral wealth, which would by this improvement be brought to the very door of commerce, the rapidity with which that country is settling with enterprising and intelligent citizens—the power of united efforts and the spirit of the age—we do not hesitate to record the prediction that within five years and perhaps at a much earlier day, this splendid monument will be erected to the honor of Wisconsin enterprise, and the admiration of the old States of our happy Union, who fancy Wisconsin a wilderness, and only a fit resort for BADGERS.

We have thus hastily taken a bird's eye view of this important subject, and though we have omitted several important items, which we had designed to mention here, we find this article already so much extended that we defer them to a future day.

From the Milwaukee Advertiser of May 27, 1837.

MILWAUKEE AND ROCK RIVER CANAL.—[NUMBER 2.]

Connections
with other
parts of the
Territory.

In our last number we sketched hastily the general outlines of this great work, which at no distant day will, in point of utility, compare favorably with the most important works of the age.—We now proceed more in detail to examine the various connections of the proposed work, and its effect on the different sections of the Territory, deferring to a future time the inquiry relative to its effect upon the commercial interest of the lakes, and of the whole family of States connected with them. Our present inquiry is local, and we ask the intelligent reader to lay the map of the Territory before him, and trace with us the proposed line of communication.

Stone quarries:

Begin we then at Milwaukee, and ascend the valley of the Menomonee to a point at which this stream receives a small creek from the westward, near the corners of townships seven and eight, in ranges twenty and twenty-one, and pause here a moment to survey the country. We find here a delightfully rolling surface, a rich limestone soil, productive in all the variety of agricultural productions, perennial springs of pure limpid water abundant, and at the distance of five miles the valuable stone quarries of Menomonee Falls, which will at once be brought into use and become a valuable article of transport as soon as this section of the canal shall be completed. The stone at this place are a compact granular limestone, and bear a fine polish, much resembling marble. They lie in strata of from four inches to two feet in thickness, and will afford a fine material for columns, sills, caps, pavements, and all the various uses to which the mason and architect may find occasion to apply them: and the vicinity to this place, with an easy means

of transport, will give them value, and their transportation employment to the canal. Like the railway in the valley of the Patapsco, which has given life and animation to the primeval rocks of the Blue Ridge, and transferred their substantial grandeur to the more ornamental columns of the City of Monuments, itself the most noble monument of that City's enterprise.

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Leaving the valley of the Menomonee, we ascend the valley of the small creek above mentioned, until it expands into a wide flat, some parts of which are marshy, extending across to the Pishtaka river, a distance of about five miles. Here again the canal arrives at a region of limestone quarries, similar to those at the Menomonee Falls, and at an easy distance for transportation to the lake. The country here resembles that on the Menomonee, with the exception that the forest timber gives way to what is termed "openings," interspersed with prairies of small extent, affording the greatest facility for an early and easy commencement in the opening of a farm. This section of the canal will pass through and extend its advantages to an area of country equal to about 252 square miles.

At a little distance east of the point where the canal would cross the Pishtaka river, a side cut of about four or five miles will reach the foot of the rapids on that stream at Prairie Village, whence a steam boat connection would communicate with the lower section of that stream, passing through the south-western section of Milwaukee county, the western part of Racine county, embracing the business, and extending its accommodations to the eastern part of Walworth county, as far as Geneva lake, and connecting at the upper forks with a contemplated line of improvements which is said to present natural facilities of the first order, through the north part of Walworth and central part of Rock counties, and which by the enterprise of our citizens, will doubtless ere long be accomplished. Thus we see a way open for a direct and free intercourse between the lake and the flourishing settlements in the west half of Racine county and the whole of Walworth and Rock counties. Not stopping here, however, we descend the Pishtaka river, some fifty to eighty miles into the state of Illinois, passing through a country abounding in all the products of agriculture, which must in a few years become an exporting country to a large amount, and which will find a more easy outlet in this direction, than by the southern route; and through the channel of its exports, will the country most naturally receive its imports. This lateral branch, of so small extent, thus extends the advantages and conveniences of the canal to an area of country equal to about 1372 square miles, or fifty-two townships, bordering on and adjacent to the Pishtaka river; and this without extending

Side cut to
Prairie village.

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our estimate so as to embrace improbable ground, or coming in any manner in conflict with the business of the Illinois canal. It is possible, however, that the *import* business may be done through this channel for the whole of the Pishtaka river country, as low down as Ottawa; but lest we be charged with a sanguine temperament, we confine our estimate only to the line of probable certainty.

Mines of lead
and Copper.

One word more in relation to the valley of the Pishtaka, and we will pursue our course westward. The country lying west of this river, in its topographical and geological formation, resembles that of the mining district west of Rock river; and from the numerous specimens of detached ore and other evidences which have been discovered, we entertain but little doubt that when duly examined, this region will be found productive in both lead and copper ores. In addition to specimens found, there are several old Indian smelting pits in the vicinity of Prairie Village and Mequanago. Should the result prove that these minerals exist here, it will not only add greatly to the internal wealth of the country, but swell its commercial importance.

Bark river and
Oconomeewoc
valleys.

Pursuing the course of the canal westward across the Pishtaka river, and up its western branch to the Summit, passing which we arrive in the valley of Bark river, and perhaps we might say in the united valleys of Bark and Oconomeewoc rivers; for they are separated in their upper sections by such slight elevations that at two points, at least, and perhaps at some others, they are so easily united on one common level that the most careless observer cannot fail to notice it; and the marvel appears to be, that they were not united in one stream below, it appears almost a providential arrangement, that these streams having their sources in the most elevated parts of the Territory, copiously supplied by springs, studded in their course by numerous lakes, serving as reservoirs for any desirable amount of water, should pursue their course nearly parallel to each other until they arrive precisely at the lowest depression in the ridge between their valleys and that of the Pishtaka river, immediately on passing which the ridge between them breaks down to nearly their own level, and then that they should suddenly turn off in opposite directions, and enter Rock river almost as far asunder as is their united lengths from this point of separation to their respective mouths; thus distinctly pointing out the appropriate routes of connection with the upper and lower sections of this magnificent stream, and, like the sides of a tunnel, tending to a common centre in the main trunk at the shortest and most convenient distance, at which such extreme points could be united by the hand of art. Whoever will take the trouble to look at the family of lakes promiscuously thrown together on the

heads of the Bark and Oconomeewoc rivers, situated as they are at the summit level between Lake Michigan and Rock River, affording an unbounded supply of water for the passage over that summit, and shall observe the fantastic course of those streams, ridges, and valleys, as they descend, will require but little persuasion to agree with us, that nature has not only pointed out to us a great line of communication, but has almost prepared the work ready for our use. It should be further remarked that nearly equidistant from the two points of intersection with Rock river is the celebrated fall known as Johnson's rapids; in all probability one of the most important inland positions in the Territory.

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Johnson's rapids.

This point with its water power, where the whole volume of the river may be used on about fourteen or fifteen feet head, surrounded by a fine tract of country, and having in its vicinity an abundant supply of iron ore, must become the Birmingham of Wisconsin. Its central position in reference to these proposed lines of communication is fortunate in the extreme for a great manufacturing town.

From the point where the canal reaches Bark River, it will fall immediately into the chain of lakes, through which a connection of steamboat navigation may be extended continuously about twenty miles up and down the Oconomeewoc and down the Bark river valleys. Around these lakes there will be several villages of some importance, which by means of steam boats and pleasure boats of all classes, together with the life and animation inspired by the business and enterprise incident to commercial pursuits, will be interesting for the man of business, and pleasant to the man of leisure, for summer residences. The use of a small class of steam boats on the lakes will avoid the necessity and save the expense of constructing towing paths along their shores.

Lakes.

This section of the canal, from the crossing of Pishtaka river to the divergence of the two branches, passes through and extends its facilities to an area of about 226 square miles.

From the Milwaukee Advertiser of June 3, 1837.

MILWAUKEE AND ROCK RIVER CANAL.—[NUMBER 3.]

The two western branches will diverge from a common point in Lake Namabin, the one descending the valley of Bark river, and the other passing into and down the valley of Oconomeewoc to Rock River.

Western division.

Pursuing the latter branch about one and a half mile, through Namabin lake, brings us to the outlet of the south Twin lake, at which point a sand ridge or beach about twenty-five feet wide separates those lakes, which being removed will unite them into

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one; thence through the south Twin lake about one mile and a quarter reaches the outlet of the north Twin lake, where a low beach about three rods wide separates these lakes, and which being removed a sufficient width for the purpose, perfects their union; thence through the north Twin lake about three quarters of a mile to a point from whence a low marshy prairie, of a few rods in width, extends across to the Oconomeewoc chain, reaching the eastern extreme of Oconomeewoc lake. A cut through this marsh of three to five feet deep, or an average depth of four feet, half a mile in length, unites the two valleys on the same level; thence through Oconomeewoc lake about two miles we arrive at its outlet, the Oconomeewoc river.

Lakes to be
raised.

The excavations between the lakes, so to be connected, will not require to be made below the surface of the water, and can therefore be very cheaply done. When the excavations shall be completed to form these connections, a dam will be required where Bark river leaves the Namabin lake and another where the Oconomeewoc leaves Oconomeewoc lake, by which means the surfaces of these lakes, and the others in the same connection, can be raised to any desirable height, giving the proper depth in those sections which shall have been excavated to form the connecting links, and the whole lying on the same level will form one reservoir for both lines, to be used more or less for the supply of either, as the business of each may require.

La Belle lake.

From the outlet of Oconomeewoc lake, descending the Oconomeewoc about two miles, reaches the La Belle Lake, from which there are two feasible routes presented; one by continuing down the Oconomeewoc, and the other passing through La Belle lake about two and a half miles to its north western extreme from whence a valley running nearly west, reaches Rock River at its most easterly bend, and only a mile and a half from La Belle lake. The latter route will probably be preferred as being shorter and cheaper, and possessing the advantage of the natural lake navigation for more than half the distance.

The distance from the point of divergence, in Namabin lake to Rock River, is therefore about twelve miles—eight of which are embraced in the lakes already mentioned, and the remainder, only four miles to be made artificially. The point where this branch intersects Rock River, is about thirty-five miles, *only*, from Milwaukee; *one-fourth part of the whole distance being through lakes already navigable.*

Having now arrived at the 'great river,' the Ganges of Wisconsin, we will take a brief survey of the country. From the crossing of the Pishtaka river until we arrived at the Oconomeewoc, we were passing through a rolling country, interspersed with 'openings,' and

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'prairie' in the most enchanting variety, presenting in the distance, appearances of farms in a high state of cultivation—which appearances we doubt not, in the lapse of a brief period will be far from delusive. North and west of the Oconomeewoc, and on the branches of Rock river a well timbered country again occurs, which extends to, and in some cases beyond, the western branches of that river. The country is generally fertile, and an enterprising class of citizens are fast taking possession of, and subduing it, to the valuable purposes of agriculture. This section of the Territory is well watered by streams of ample volume for hydraulic purposes, which, passing over the limestone beds that form the substratum of the country, afford eligible sites for that kind of improvements. This circumstance connected with the supply of timber which the same tract of country affords, will give it value as a lumbering district, from which that article can be supplied to the prairie country along the lower sections of Rock river in the State of Illinois. But these hydraulic advantages possess a more abiding and substantial value, for the various manufacturing uses to which they will ultimately be applied in a country, abounding, as is believed, in iron ore, and perhaps other ores, and with certainty in the means of producing other primary materials for manufacturing purposes. Timber.

From the point where the canal reaches Rock River, descending that stream about fifteen miles is Johnson's rapids, already mentioned as an important point, and ascending the river little more than the same distance, or about twenty miles from the termination of the canal, is the upper rapids of Rock river or Hustis' rapids, also an important point—uniting a fine hydraulic power with a good tract of country, and being so nearly central to the county of Dodge that it will probably become the seat of Justice for that county. Beyond and ascending the river, it is still navigable, without any other interruption of rapids, a distance of about thirty miles; arriving at its nearest approximation, to within about eighteen miles of Lake Winnebago, to which an easy transit can be made by means of a McAdam road, or perhaps at a future day, by a canal through the valleys of the northern branch of Rock river and the southern branch of Fond du Lac river. Hustis' rapids

The navigable length of Rock river above Johnson's rapids, which will be tributary to the northern branch of the canal, is equal to about sixty five miles, and together with that branch of the canal, extends the facilities of trade to an area of country equal to about eight hundred and sixty-four square miles; computing only the territory lying in its immediate vicinity and extending back from it ten to fifteen miles. But it may be reasonably anticipated that a line of intercommunication between Rock river and lake Winnebago will be established for the mutual benefit of the

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two great sections of the territory which have for their common boundary Sheboygan river, lake Winnebago, and the Fox and Wisconsin rivers: and that by this means the advantages of this line will be extended to a much greater area of country.

Natural points
of business.

It may be assumed that Milwaukee is the most natural point of concentration for the business of the southern division, and Green Bay of the northern; and that such a connection between the northern and southern navigable waters, in nearly a direct line between these leading commercial points, would be productive of important benefits to the two great divisions of the Territory, and consequently to the Territory at large. The more such lines of intercourse can be extended—the more minutely they are made to penetrate the lesser as well as the greater sections of the country, the nearer together will the whole country be brought, practically in its business transactions; and the more compact and concentrated the business of the country can be rendered, the greater will be the developement of its native resources. This proposition is now so well understood that it requires no argument to enforce it; and we believe in relation to the work now under consideration, in Wisconsin, (after the demonstrations in New York and elsewhere,) we may assert it as an axiom indisputable, that its execution for the use and benefit of the country, would, by an increased developement of its resources, produce in return such beneficial effects on the canal, in its revenues, as to equal its whole cost within the period of a few years. The present age has witnessed such things, and, we doubt not, will see it repeated ere long within the limits of our own favored Territory.

Importance of
Canal.

We shall resume, next week, or as soon as convenience permits, a description of the southern line from lake Namabin, which may be considered the principal branch; as in all probability its commerce will be greater in amount than that of the northern branch; and by uniting with the business of the lead mines, add a new and important item to the business of the lakes.

WATER COMMUNICATION WITH MILWAUKEE—*Improvement of the Navigation of Fox river.*—In the Republican of the 1st inst. we briefly alluded to the practicability, as well as importance, of opening an easy, permanent, and cheap water communication with Milwaukee, an important and flourishing town on Lake Michigan.

Connection
with the Fish-
taka.

It appears that we were correct in saying that the subject had been agitated and cursory examinations made which resulted favorably. We are assured that this work, so important to Milwaukee, to the rich valley of the Pishtaka, and to this place, "WILL SOON BE CARRIED INTO EFFECT."

It is stated to be the intention of citizens of Milwaukee to have

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the route examined. The question arises, whether any steps are necessary to be taken by citizens of this place, and of the district bordering upon the Pishtaka. A portion of the route is in this State, consequently it will be necessary that the subject should be laid before the Legislature of this State for its action; this of right will devolve upon those in the state immediately interested. It also is necessary that we should co-operate with the citizens of Milwaukee in making the examinations and collecting the facts proper to act understandingly in the premises; with this view we apprehend the proper course to be, to call meetings and appoint the necessary committees to operate in the furtherance of this important work.—*Ottawa Republican*.

We would beg to inform our friends at Ottawa, that a competent Engineer will go out during the ensuing week to take levels from this point to the Pishtaka, and that we shall take the earliest opportunity to apprise them of the result. We hope the people bordering upon that river within the State of Illinois will adopt the suggestion of the Republican in relation to this important matter. It is a subject of much interest both to that portion of the country and this.—ED. ADVERTISER.

Levels taken.

From the Milwaukee Advertiser of June 10, 1837.

MILWAUKEE AND ROCK RIVER CANAL.—[NUMBER 4.]

Having traced the northern branch by way of Oconomeewoc to Rock River, and examined its facilities and advantages, we will now return to lake Namabin and take a view of the southern branch down the valley of Bark River. Leaving this lake the line will descend either the immediate valley of Bark River, the whole distance, or leaving that valley near the line between ranges sixteen and seventeen in township six, pass into and down the Scupernong, or still by another route, leaving Bark river valley in township six, range fifteen, and pass into and down the valley of a small stream which empties into Rock river a little above the mouth of Bark River.

Three western routes.

By either of these routes the length of canal will not vary greatly from twenty-six to twenty-eight miles from Namabin lake to Rock river; or its whole length from Milwaukee to the latter point, being about fifty-one miles. This branch of the canal passes through a fine agricultural district, and the extent of territory bordering and adjacent to it, is equal to about 252 square miles. Here terminates the work which it is proposed to construct for the purpose of connecting Rock river with the lake, and it only remains to examine this river and its tributaries in reference to their value for navigation, and also the country which is watered by them in reference to its resources and capabilities.

Length of the Canal.

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Upper Rock
river.

From the intersection of the canal the upper section of Rock river is navigable by the eastern branch as far up as Johnson's rapids, about sixteen miles; and by the western branch as far as the mouth of Crawfish and the Beaver lake, about twenty-five miles, with the exception of a rapid at Aztalan, at which place the flourishing town of Jefferson is now presenting its claims and attracting a due share of public attention. These rapids will be improved without much delay for hydraulic power, and when so done a lock to overcome them will extend the navigation to the point indicated. The water power at the Jefferson rapids, though not equal in extent to that of Johnson's rapids, will nevertheless be of great value. Surrounded by a beautiful country, peculiarly adapted to wheat growing, and as well adapted to the growth of other agricultural products as any part of the Territory, this point with water power must ultimately possess great value. The country on both branches of Rock river is well calculated to sustain a dense population, and from the character of those already settled here, we have good reason to believe that that population will possess a spirit of enterprise which shall make our wilderness blossom as if touched by the hand of magic. The area of country embraced by these branches within the limits of navigation is equal to about 550 square miles.

Catfish creek.

Descending Rock River from the intersection of the canal about twenty miles, (passing in this distance through lake Koshkonong,) we arrive at the mouth of Catfish creek, the outlet of the Four Lakes. In our first article on this subject we adverted to the facility with which a navigable communication could be opened by way of this valley and the Four Lakes, passing through the seat of Government situated between the Third and Fourth lake, and thence to the Wisconsin river intersecting it at the town of Arena; we will only add that owing to the central position of this route in reference to that part of the Territory lying south of the Wisconsin river and the important interests which would be promoted by it, we entertain little doubt that the unanimous sentiment of our citizens will urge its early completion. When done, this connection will add an important link to our internal communication, but it is no part of our present plan to investigate it as belonging to the canal improvements under consideration; we design only to show the *natural* lines of navigation, which by the construction of the canal described, we shall necessarily reach and bring into valuable use. Some of these have already been adverted to, and the principal remaining ones are the lower sections of Rock river and the Pickatonia river a large stream heading in the lead mine district, and emptying into Rock River about four miles below the Territorial line in the state of Illinois.

The Rock river in all its lower section is navigable for steam boats of a respectable class, except, in extreme low water, there are at long intervals a few rapids which require some improvements to afford an easy navigation. These will be removed or overcome as the country settles and business increases. The Pickatonica branch is a deep running stream, with generally a sluggish current and very easy of navigation as far up as its main forks in the south east corner of Iowa county. Above the forks the branches become more rapid and of course less navigable in their character, but still affording a good descending navigation far up in the mining district. The main forks may be considered the head of steam boat navigation, at which point the export business of the lead mines will naturally concentrate and render it a point of first rate importance.— Sugar river, also, a large northern branch of Pickatonica, penetrates the eastern part of the lead mines, passing through the western part of Rock and eastern part of Green counties, and is navigable about thirty miles up: affording a means of transport for the lead and other productions of that region. The aggregate length of connected navigation for steam boats [on Rock, Pickatonica, and Sugar rivers below the termination of the canal is equal to about one hundred and twenty miles, without including any part of Rock river, below the mouth of Pickatonica; and the area of country embraced in this section, and which is directly interested in the proposed work, is equal to about 3750 square miles.

The question has been suggested and debated by some persons, whether the trade of the lead mines would be more conveniently transacted through the proposed channel than in the course it now takes by way of the Mississippi river. We are of the opinion, that to a certain extent the business of the lead mines can be carried on by way of the lakes and a navigable intercommunication, with less expense and with greater facility than by the present mode. But it is not contended or expected that this thoroughfare will embrace the business of the whole of that tract of country known as the "lead mines." If we divide the lead mines into an eastern and western district, assuming range two, east, as a dividing line, we shall have east of that line full an equal moiety of the present productive mines. The western of these districts, we grant will most naturally look to the Mississippi river for market and supply: but the eastern district will not go in that direction from necessity, and would accept of an easy route to the lake with satisfaction. It is penetrated in several directions by the branches of the Pickatonica, which can be reached with ease, and at no great distance from all the "diggings," within this district; by means of light boats the heavy exports will descend the navigable

1837.

Lower Rock River.

Sugar River.

Lead trade.

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parts of the river, and return with lighter cargoes of import freight, merchandize, &c.

Cost of transportation.

It will be conceded we doubt not, that this operation can be more cheaply performed than to haul over land, as at present, a distance of from twenty to fifty miles. Having reached the Pickatonica, the mineral is placed on board a canal boat, which being attached to a steam boat is towed a distance of fifty to a hundred miles, (the latter being the distance from the forks of Pickatonica,) enters the canal and continues on without reshipment fifty miles more to the lake. The transportation through this whole distance will not cost to exceed twenty-five cents per one hundred pounds weight, if we take for a basis of calculation, the rates charged on the New York and Ohio canals for exports; but it is believed that owing to so much of the distance being on the river, not subject to canal tolls, it could be done at a still cheaper rate. This cost however would be less, as we believe, than is the expense by the present method of arriving on the Mississippi. It will also be borne in mind that owing to the expense of land carriage and the difficulty of reaching a market, the active operations in the mines have been confined to a narrower district of country than they will be when greater facilities are rendered. The Sugar River mines and all those in the eastern part of the district will receive greater attention, and by inducing further exploration the mineral district will doubtless be much extended in the direction of Rock River, and perhaps beyond it, whereby the business of the country in all branches, will be increased as well as its wealth.

Sugar River mines.

From the Milwaukee Advertiser of June 17, 1837.

MILWAUKEE AND ROCK RIVER CANAL.—[NUMBER 5.]

Home manufactures.

If we have shown that mineral from the forks of Pickatonica can be delivered on the lakes as cheaply as it can on the Mississippi river, we think there will be no difficulty in showing that it can be sent to its ultimate market cheaper in that direction than by the other. Vessels sailing hence will carry it for return freight or ballast to Buffalo or other ports on the lakes for a mere nominal sum. And on the lakes it will find a very considerable market.—White and red lead manufactories, shot works, rolling mills, &c. may as readily be erected here as in New York and other Atlantic cities, and the manufactured article can as well be sent from our shores as the raw material for which we receive in return, perhaps in the same vessel the manufactured article for home use. By this process of manufacture at home a large proportion of the products of our mines would find a home market, and a very considerable proportion of the United States would receive from us those products in a manufactured state more cheaply than if loaded with

freight charges to the Atlantic and back. But suppose that the New York and other eastern markets must be arrived at *nolens volens*, as we admit must be the case for much the greater portion of these products, still the proposed method of transport will be cheaper for that part of our mines contained within the eastern district, than the Mississippi route. Freight from Milwaukee to Buffalo will be less than from Galena to New Orleans—and from Buffalo to New York about the same as from New Orleans to New York. This we think cannot be denied; but however it may be disposed of in the minds of individuals, one fact is incontrovertible, viz. that the domestic supply of the States and the Canadas bordering on the lakes, will be received more readily through the proposed channel than by any other means—and that this of itself will require an amount of no small magnitude.

1837.

Comparison of routes.

Another fact which we understand has been suggested by an intelligent portion of miners is doubtless worthy of attention, viz. that owing to the scarcity of fuel in the mines, and the difficulty of obtaining it for smelting purposes, they will be induced to embrace the earliest opportunity of reaching the timbered lands on Rock river, and in the vicinity of the lake on the Pishtaka, Menomonee and Milwaukee rivers. The mineral in its native state, it is believed can be transported to this section of the country, by means of a canal, and smelted at a less expense than the smelting alone would cost in that section of country where the mineral is found. Should this prove by experience to be the fact, it would afford a double inducement for those engaged in the trade to seek this channel; and we have little doubt but it would so prove, from the decided opinion on that point, of gentlemen with whom we have conversed, and whose opinions are entitled to much weight. Indeed, the reasonableness of the proposition and the apparent necessity for a future supply of fuel, appear to our mind a sufficient and conclusive argument.

Fuel for smelting.

The same channel which affords the best means of export will necessarily be the channel through which the imports of the same country will be received, and thus the trade of the country is fully established.

The extent of country which legitimately falls within the business range of the proposed improvement, as has been shown in detail, is equal to about 7,000 square miles, without embracing the lower Pishtaka or Rock Rivers, or Wisconsin river, the business of all which may in some measure be attracted to it; and without doubt the imports of the country bordering those streams will, in a considerable degree pass through this channel. In fine, the whole of the counties of Milwaukee, Dodge, Jefferson, Walworth, Rock, Dane, Green and about one half of the counties of Washington,

Extent of country benefited.

1837.

Racine, Fond du Lac, Portage and Iowa, together with a considerable tract in the north part of Illinois, have a direct interest in the speedy completion of this work; and when we consider these extended interests all concentrated in one project and that project so easily accomplished as the one under consideration, we cannot doubt but it will be sustained by the public councils of the country, and be early placed in a condition to secure to our Territory its important advantages.

Not a Visionary scheme.

If there be skeptics in this, as there generally are in all new enterprises, or if there be any whose sectional or personal hostility to it lead them to descant upon it as a visionary scheme, let them be answered by presenting to their mind the geography of the country, its noble rivers, its numerous waterfalls, its lead and copper mines, and above all its productive soil—let them examine these and then show them that all these can be concentrated on the shore of our inland seas by a canal of fifty miles in length!—and then if they are conversant with the history of passing events, ask them where is the unreal fabric of a vision which they depict? Is it not to be found in their own spiritless dreamings?

Legislative proceedings.

Petitions were again forwarded to the Legislature at their next annual session held at Burlington in November, 1837, praying for the passage of an act to incorporate a company to construct said work, and Mr. Kilbourn attended for the purpose of securing the passage of the same.

On the 28th day of November 1837, a bill was introduced into the house of Representatives by Mr. Thomas McKnight from the committee on corporations to incorporate the Milwaukee and Rock River Canal Company, which after being amended by the House was passed on the 18th day of December following.

On the 29th day of December the bill passed the Council with several amendments which were concurred in by the House, and

On the 5th day of January, 1838, the "bill" became a law by receiving the approval of the Governor, as follows:—

AN ACT TO INCORPORATE THE MILWAUKEE AND ROCK RIVER CANAL COMPANY.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin, That all such persons as shall become stockholders agreeably to the provisions of this act in the corporation hereby created, shall be a body politic and corporate by the name and style of the Milwaukee and Rock River Canal Company, and by that name may have succession, may sue and be sued, complain and defend in any court of law or equity,*

Name and style of Company.

may purchase, hold, and convey real, personal or mixed estate, may make and use a common seal, and alter the same at pleasure, may make by-laws, rules and regulations for the management of its property, the regulation of its affairs, and for the transfer of its stock, not inconsistent with the laws of this Territory, and of the United States, and may moreover appoint such subordinate agents, officers and servants as the business of said corporation may require, and allow to them a suitable compensation, prescribe their duties, and require bonds for the faithful performance thereof, in such penal sum, and with such sureties as they may choose, who shall hold their offices during the pleasure of a majority of the Directors of said corporation.

1838.

Powers.

SEC. 2. That the capital stock of said corporation shall be one hundred thousand dollars, which shall be deemed personal property, and shall be divided into shares of one hundred dollars each.

Capital stock.

SEC. 3. That JOHN S. ROCKWELL, ALVIN FOSTER, AUGUSTUS A. BIRD, MADISON W. CORNWALL, SOLOMON JUNEAU, JAMES SANDERSON, and BYRON KILBOURN, shall be Commissioners for receiving 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 at Milwaukee, and such other places as they may deem necessary, in some public newspaper at least ten days previous to the opening of such books of subscription. A majority of said commissioners shall appoint one or more of their number who shall attend at the time and place appointed by such notice for the opening of said books, and shall continue such subscriptions to the capital stock of the corporation from all persons who shall subscribe thereto, until at least fifty thousand dollars shall have been subscribed, whereupon said books may be closed by the said commissioners, and transferred to the Board of directors as hereinafter provided. Each subscriber at the time of subscribing shall pay to the Commissioners one dollar on each share of the stock by him subscribed, and the said commissioners shall as soon the Directors are elected, deliver to them the whole amount of money received on the subscription of stock.

Mode of obtaining subscriptions thereto.

SEC. 4. That 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 fifty thousand dollars of the capital stock shall have 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

Directors how elected.

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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: all elections thereafter shall be held at the time and in the manner prescribed by the by-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. The said Directors shall hold their offices for one year, and until their successors are elected, and they shall elect one of their number as President of said board.

Capital stock
may be in-
creased.

SEC. 5. That the capital stock of said corporation may at any time hereafter be increased to a sum not exceeding one million of dollars, if the same shall be judged necessary to the completion of the work and the same as well as any portion of the capital stock which shall not have been subscribed for and taken as herein before provided, shall be subscribed for and taken under the direction of the Directors of 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 said Directors, for the purpose shall order and appoint. The said Directors shall have power to collect, under such regulations as they may deem proper, the amount subscribed by each stockholder, in instalments not exceeding ten dollars on each share, after giving thirty days notice in some public newspaper, published at Milwaukee, of the time at which such instalment will be required; and, in case any stockholder shall neglect, or refuse to pay the amount of his subscription, when so required, the said Directors shall have power to sue for and collect the same in an action of assumpsit in any court having cognizance thereof.

Location of
Canal.

SEC. 6. That said corporation shall have the right to construct maintain and continue a navigable Canal or Slackwater Navigation from the town of Milwaukee to Rock river, on such routes and of such dimensions and to terminate at such point as shall be determined on by said corporation; and to construct such navigable feeders for said Canal as shall be found actually necessary; and also a branch Canal to connect with the Fox or Pishtaka river, at or near Prairie Village in Milwaukee county; under the same rights and privileges as by this act is provided for constructing the main canal.

Feeders and
branch canal.

Company may
take private
property.

SEC. 7. That it shall be lawful for said corporation, by themselves and by any and every superintendent, agent, and engineer employed by them to enter upon and take possession of, and use all and singular, any lands, waters, streams and materials necessary

for the prosecution of the improvements authorized by this act; and to make all such feeders, dykes, locks, dams and other works and devices, as they may think proper for making said improvements, doing nevertheless no unnecessary damage; and that in case any lands, waters, streams, or materials, taken or appropriated for any of the purposes aforesaid, shall not be given or granted to said corporation, and in case said corporation shall not be able to acquire the title to the same by agreement with the parties concerned, a board of appraisers shall be appointed, consisting of three persons, one of whom shall be appointed by the Directors of the company hereby incorporated, one by the claimants applying for damage, and one by the commissioners or supervisors of the county, in which said lands, waters, streams or materials shall be, who shall before they enter upon the duties of their office, severally take an oath or affirmation, before some person authorised to administer oaths, faithfully and impartially to perform the duties required of them by this act. And it shall be the duty of said appraisers or a majority of them, to make a just and equitable estimate and appraisal of the loss or damage, if any, over and above the benefit and advantage accruing by said works to the respective owners and proprietors, or parties interested in the lands, waters, streams, or materials, so taken for the purpose aforesaid. And the said appraisers, or a majority of them, shall make regular entries of their determination and appraisal, with an apt and sufficient description of the several premises taken and appropriated, for the purposes aforesaid, in a book or books, to be provided and kept by the directors of said corporation, and certify and sign their names to such entries and appraisal, and in like manner, certify their determination as to those several premises which will suffer no damage, or will be benefitted more than injured, by or in consequence of the works aforesaid. And the said corporation shall pay the damages so assessed and appraised; and the fee simple of the premises so taken and appropriated, shall thereupon vest in the said corporation, *Provided however*, That if the owner or owners of the lands, waters, streams and materials, so taken and appropriated, shall not make application to said corporation for the payment of damages by them sustained, within two years after such lands, waters, streams, or materials, shall have been taken possession of by the corporation, he she or they shall thenceforth be barred from the collection of any damages from said corporation, for the lands, waters, streams, or materials, so used, *Provided however*, That if either party shall feel aggrieved by any decisions of said board of appraisers, he she or they shall have the right of appeal to the District court, within the county where the damages in question may have been sustained.

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In case of disagreement as to value.

Application for compensation must be made within two years.

Appeals allowed.

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SEC. 8. That it shall be lawful for the said corporation, to commence the construction of said canal at such points on any part of the aforesaid route, as in their judgment may appear expedient and proper; and so soon as any portion of said canal shall be completed, it shall be lawful for said corporation, to erect toll houses thereon, and collect such tolls as shall from time to time be prescribed by the Legislature of this Territory, or any State that may be formed out of the same, on the east side of the Mississippi river. And said corporation is hereby authorized to borrow any sum of money which may in their discretion be deemed necessary for the proper and efficient prosecution, of the works authorized by this act.

Company may
borrow money

May make
regulations.

SEC. 9. That it shall be lawful for the directors of said corporation, to make from time to time, such rules and regulations, not inconsistent with the laws of this Territory, and of the United States, in respect to the size and structure of boats, rafts, and other floats, on the waters of said canal, and the weighing and inspecting of boats and their loading, and in respect to all matters in relation to the navigation of the canals, and the collection of tolls and water rents; and impose such forfeitures of money, for the breach of such regulations as they may judge reasonable; and to provide for the detention and sale of any such boats, rafts, and other floats, as shall or may contravene such rules and regulations, in cases where the owner or owners of such boats, rafts, or other floats, shall neglect or refuse to pay such forfeiture; *Provided* that no forfeiture so imposed, shall for a single offence exceed the amount of actual damages more than fifty dollars, and that nothing in this section shall be so construed, as to prevent said forfeitures being recovered by action of debt as hereinafter provided.

Penalty for
travelling, &c.
on the banks
of the canal.

SEC. 10. That any person who shall lead, drive or ride any horse, ox, ass, mule or other animal upon the towing path, or bank opposite the towing path of the canal hereby authorized to be constructed, except for the purpose of towing boats, or other floating things upon the waters thereof, or for the purpose of conveying articles to and from said canal, in order to their transportation on the waters of the same, or their delivery at their place of destination, shall forfeit for every such offence the sum of five dollars, and shall pay all damages consequent upon such offence over and above the said forfeiture.

Or for ob-
structing the
same.

SEC. 11. That if any boat or other floating thing, shall be so moored in any of the canals, as to obstruct the navigation thereof; or if any person or persons shall obstruct the navigation of said canal, or cause the same to be done, by means of loading, unloading, misplacing or otherwise misconducting any boat or other floating thing, and shall not, immediately upon being requested thereto, by

1838.

any engineer, superintendent or agent of said corporation, employed on said canal, or by any person incommoded by such obstruction, remove the same, the boatman or person who caused the obstruction shall forfeit for every such offence the sum of twenty-five dollars, over and above the expense of removing said obstruction.

SEC. 12. That if any person or persons shall wilfully obstruct the navigation of said Canal or its branches by sinking any vessel, timber, stone, earth or other things, in the same, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path, such person or persons shall forfeit for every such offence the sum of twenty-five dollars, over and above the expense of removing said obstruction.

SEC. 13. That if any person shall wantonly or unnecessarily open, or cause to be opened, or shut, any lock-gate, or paddle-gate, or any waste-gate, or drive any nails, spikes, pins or wedges into either of said gates, or take any other mode of preventing the free use of either of said gates; or shall wantonly or maliciously break, throw down, or destroy any bridge on said canals, such person or persons shall, for every such offence, forfeit the sum of fifty dollars, and pay all damages consequent upon such offence, over and above such forfeiture. Or for wanton injury.

SEC. 14. That if any person shall, wilfully and maliciously, break, throw down, or destroy, any lock gate, bank, waste-wier aqueduct or culvert, belonging to the canals authorized by this act, such person or persons shall, for every such offence be deemed guilty of a misdemeanor, and on conviction thereof, before the proper court, shall be sentenced to imprisonment in the penitentiary at hard labor for any time, not less than three nor more than five years, at the discretion of the court; and shall moreover be liable to pay all damages sustained in consequence of such offence.

SEC. 15. That every person who shall knowingly sign or deliver to any collector, a false bill of lading, with the design of avoiding the payment of tolls, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, shall be fined not less than three times the value of the property omitted, or falsely stated in such bill. Or defraud the collector.

SEC. 16. That every collector of tolls on the canals herein authorized, may require the master of any boat, upon exhibiting his bill of lading, to verify it by his oath, which such collector is hereby authorized to administer; and any person who shall testify falsely, before any collector shall be deemed guilty of perjury. Collector may require oath.

SEC. 17. That for all damages done to the said canals, the offenders shall be proceeded against by indictment, in the proper courts, and on complaint being made to any judge or justice of the Offenders to be proceeded against by indictment.

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peace, of the proper county, against any person or persons, doing any such damage as is mentioned in the preceding sections of this act, it shall be the duty of such judge or justice, forthwith to issue a warrant to the proper officers, to arrest and bring before him such offender or offenders. And if upon the return of such warrant, it shall appear to the satisfaction of such judge or justice, that such complaint is true, he shall commit such offender or offenders, if he or they shall refuse to give security for their appearance, to the proper court to answer to said complaint; *Provided however*, That if the offender or offenders, shall pay to such judge or justice of the peace, the penalties forfeitures, and expenses which he or they may have incurred, together with the costs of prosecution, such offender or offenders shall be discharged.

Who and what
liable for pen-
alty.

SEC. 18. That the captain or master and the owner of any boat or other float, on the canals herein authorized, and likewise the boat or float itself, shall severally be liable for the payment of any penalty or forfeiture, and likewise of all damages which may accrue in consequence of the violation of any of the provisions of this act, or of any order of the board of directors, duly made and published, relating to the canals or the navigation thereof, or the collection of tolls thereon, by any person navigating such boat, or assisting in the navigation or management thereof, at the time of such violation; and any such boat or other float, may at the discretion of the agents of the corporation hereby created, be prevented from navigating said canal, until such penalty, forfeiture and damages, and costs accrued in prosecuting therefor, shall be fully paid.

Lien of the
corporation.

SEC. 19. That all materials that shall have been procured, by any contractor, for the construction of any part of said canal or any work therewith connected, shall from the time they are prepared for transportation to the place where they are to be used, be subject to the lien of the corporation, for all moneys that may have been or shall be advanced by the said corporation, during the performance of said contract; and for all damages that may be sustained in consequence of the non performance thereof; and no sale made by said contractor or under any execution issued upon any judgment or decree shall in any wise affect said lien.

Laborers on
the canals ex-
empt from mi-
litia duty.

SEC. 20. That every person actually engaged in laboring on the canals herein authorized, shall be exempt from doing militia duty in this Territory, except in cases of insurrection or invasion, during the time he is actually engaged; and the certificate of one of the officers of the corporation, or of the contractors who shall employ such men so liable to perform militia duty, in performance of their contracts, shall be prima facie evidence of every such engagement.

SEC. 21. That said corporation shall be bound to erect bridges over said canal, at all places where it shall cross any public highway, which shall have been regularly laid out, and recorded at the time of the construction of said canal; and where the location of the canal shall interfere with any road, which shall be in use; and said corporation is hereby authorized to change the location of said road; *Provided*, That before so doing the said corporation shall cause the new road to be opened and put in good repair, for the convenience of travel, as the road vacated was at the time of such vacation.

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Company
must build
bridges.

SEC. 22. That said corporation shall commence the construction of the works authorized by this act, within three years from the passage thereof; and in default of said commencement being made within said three years, all the privileges, herein and hereby granted, shall be forfeited by said corporation, and this act shall be null and of no effect. And the right to construct so much of said works, which are by this act authorized, as shall not be completed within ten years from the passage of this act, shall be forfeited by said corporation; and the Legislature shall have the right to dispose of such part or parts in such manner, as to them may seem best calculated to promote the public interest.

Work to be
commenced
within three
years.

and finished
within ten.

SEC. 23. That the future State of Wisconsin, at any time after its admission into the Union, shall have the right to purchase and hold for the use of the State, the canal, herein authorized to be constructed, together with all its branches and other improvements by paying to the said corporation, the amount actually expended, in the construction and repairs of the same, together with such reasonable interest, not more than seven per centum per annum, as may be agreed upon by and between said State and the corporation; *Provided however*, That in case the Congress of the United States shall make any appropriation or donation, either in land or money, in aid of the construction of the work by this act authorized, the right to the same shall vest in said State, whenever the said transfer of the canal shall be made; and the nett proceeds of all sales of land and the amount of all money so appropriated or donated, shall be deducted from the amount to be paid to the said corporation, for the transfer, of said works to the State. And the said corporation are hereby authorized to apply to Congress for such an appropriation, in money or lands, to aid in the construction of the works authorized by this act, as Congress in its wisdom shall see proper to grant.

State of Wis-
consin may
purchase the
canals.

SEC. 24. That the said canal shall not be less than forty feet wide at the top water line, and four feet deep. The locks and other structures, to be constructed of cut stone, and in a neat, permanent and workmanlike manner, at least eighty-five feet long in the

Dimensions of
canals, locks,
&c.

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chamber, between the upper and lower gates, and fifteen feet wide in the clear, between the walls: and all culverts, aqueducts, dams, and other fixtures, to be constructed in like permanent manner, of such materials and dimensions, as the circumstances of the case may require.

No more water
to be taken
than necessary

SEC. 25. That said company shall not have a right to take the water away, from any mill, which shall have been erected by any person on any stream, except for the purpose of feeding said canal, for the purposes of navigation. *And be it further provided*, That nothing herein contained, shall authorize said company to take or use more water from any stream or fountain, than shall be actually necessary for the economical navigation of said canal, unless they shall have obtained the right to use an excess of water, over and above the quantity required for navigation, from every person or persons, corporation or corporations, lawfully claiming the same.

Lands how
sold to settlers.

SEC. 26. That in case the Congress of the United States, should make a donation of lands to the aforesaid corporation, for the purpose of aiding in the construction of the before named canal, and the lands so donated, or any part thereof shall be actually improved, and settled upon, by any person or persons, at the time such lands were donated to said corporation, the said corporation shall sell to such settler or settlers, the lands so settled upon—one quarter of a section, or one hundred and sixty acres each, (comprehending the improvements of such settlers) at one dollar and twenty-five cents per acre; *Provided* that the settler as before named, shall pay the said corporation for the same, within ninety days from the time the said corporation shall make a demand for said payment; and a failure to comply with the foregoing provisions of this section, on the part of said corporation shall be considered a forfeiture of their charter, and the same shall be null and void.

ISAAC LEFFLER,

Speaker of the House of Representatives.

ARTHUR INGRAM,

President of Council.

Approved January, 5, 1838.

HERNY DODGE.

Company or-
ganized.

Pursuant to the provisions of this act, books of subscription were opened at Milwaukee under the direction of the commissioners on the 2d day of February, 1838; and a sufficient amount of stock having been subscribed, the books were closed, and a meeting of the stockholders notified to be held on the 3d day of said month, for the purpose of organizing the company.

At the first meeting of the stockholders held on the 3d day of February, 1838 in pursuance of notice given by the commissioners the following persons were elected directors, viz:—

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Officers elected

BYRON KILBOURN,
SOLOMON JUNEAU,
JOHN S. ROCKWELL,
JAMES H. ROGERS,
SAMUEL BROWN,
SYLVESTER D. COWLES,
WM. R. LONGSTREET.

At the first meeting of the Board of Directors held February, 7th, 1838, BYRON KILBOURN was elected President.

F. A. WINGFIELD, Secretary.

C. H. PEAK, Treasurer.

I. A. LAPHAM, Engineer.

And by-laws for the government of the Company considered and adopted by the board.

At a meeting of the directors held February 12th, 1838, the following memorial to Congress, was submitted by the President and adopted by the board.

Memorial to
Congress.

*To the honorable the Senate and House of Representatives of the
United States:*

The memorial of the undersigned President and Directors of the Milwaukee and Rock River Canal Company in the Territory of Wisconsin,

RESPECTFULLY REPRESENTS:

That an act has been passed by the Legislative Assembly of this Territory, incorporating a company to construct and carry into effect a canal and slack water navigation to connect Lake Michigan, at Milwaukee, with the navigable waters of Rock River, and authorizing said company, on behalf of the Territory or future State of Wisconsin, to apply to Congress for aid in the construction of said work.

This canal will be a work of considerable magnitude and of inestimable importance to the Territory, and of as much importance to the General Government, perhaps as any other improvement of a similar kind, in proportion to its extent. It will pass through lands now entirely belonging to the Government, with the exception of one fractional township alone, of about three miles in width, which has been brought into market. It will pass nearly central through the Milwaukee land district; and also nearly central to that part of the Territory lying south of Sheboygan