

near the bottom; the Mississippi river in the rear of the whole, with the steamer Iowa under way; an eagle near the upper edge, holding in his beak a scroll, with the following inscription upon it: Our liberties we prize, and our rights we will maintain.

**SEC. 2. Appropriation.** The sum of forty dollars shall be, and is hereby appropriated for the purchase of the seal aforesaid, out of any money in the treasury not otherwise appropriated.

**SEC. 3. To take effect.** This act shall take effect and be in force from and after its publication in the weekly newspapers in Iowa City.

Approved, February 25th, 1847.

Published in the Reporter and Standard March 3d, 1847.

[165] CHAPTER 113.

PUBLIC WORKS.

AN ACT creating a board of public works, and providing for the improvement of the Des Moines river.

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1. Board of public works—when elected—oath.** That, for the improvement of the Des Moines river, there shall be established a board, to be called the "board of public works," which shall consist of a president, secretary and treasurer, who shall be elected by the qualified electors of this state on the first Monday of August next, and every two years thereafter, and shall remain in office until their successors are elected and qualified; and before entering upon the discharge of their duties, they shall take and subscribe (before some person qualified to administer the same) an oath or affirmation for the faithful and impartial performance of the duties required of them by law, which shall be deposited with the secretary of state.

**SEC. 2. Vacancy.** In case of a vacancy, occasioned otherwise than by expiration of the term of service, the governor shall have power to appoint a successor, who shall serve until the place is regularly filled by election, in the manner prescribed in the first section of this act.

**SEC. 3. Salaries.** The president shall receive one thousand dollars, and the secretary and treasurer each eight hundred dollars, per annum, payable quarterly. The president shall be the active agent of said board; shall superintend said work, and make report of the progress of contractors every month or oftener, as the board may direct; and said board shall hold its regular sessions monthly—but the president may call them together whenever he may deem it expedient.

**SEC. 4. Expenses, how paid.** Such payments, as well as all the other expenses attending the prosecution of the work, shall be paid from the fund resulting from the sale of the donated lands.

**SEC. 5.** In case of inability of the president to discharge the duties of his office, he may appoint either of the other members of the board to act in his stead.

**SEC. 6. Chief engineer.** The board shall have power to procure a chief engineer and such assistants as may be necessary, and to take all other steps for the effectual prosecution of the work, and for the preservation and care thereof, as fast as it shall be completed.

**SEC. 7. Quorum.** They shall have the general supervision and control of said work, and any two of said board shall constitute a quorum: provided,

they shall all have been notified to attend, or if for any reason the attendance of the third member shall be impracticable.

[166] **SEC. 8. Treasurer to give bond—president and secretaries' bonds.** The treasurer shall give bond in the penalty of fifty thousand dollars, with securities to be approved by the governor, conditioned that he will faithfully perform the duties of his office—account for and pay over all moneys that shall come into his hands in his official capacity. The president and secretary shall each give bond, with security to be approved in like manner, in the sum of ten thousand dollars, conditioned that they will faithfully perform the duties required of them by law, which bonds shall be filed in the office of [the] secretary of state.

**SEC. 9. Report.** The board shall make report to the governor, on or before the first day of every regular session of the legislature, giving a full statement of all their doings, and recommending such legislative action as they may deem expedient.

**SEC. 10. Extra allowance.** No extra allowance shall be made to any contractor or other person, except under circumstances wherein the law would have compelled such allowance by a private individual. In all such cases full statements thereof, and the reasons therefor, shall be made out and filed in the office of the board.

**SEC. 11.** The board may sue and be sued in their legal name—service of process upon any member of the board shall be sufficient.

**SEC. 12. Office.** The board shall establish an office at some suitable place, which they may remove from time to time, so as to be as convenient as practicable to the land to be sold and the improvements to be made.

**SEC. 13. Nature of improvement.** The general nature of the said improvement shall be [a] system of slack water navigation, by means of dams and locks; but if, at any particular part of said river, such mode of improvement shall be found improper, such other mode may be adopted as the board may deem best.

**SEC. 14. Where to commence—mill dams.** As far as compatible with the advantageous prosecution of the work, the improvement of the river shall commence at either the mouth of the Dead Slough, or the mouth of the Massau Slough, on the Mississippi river—thence up the slough to the Des Moines river—unless the board find the improvement of either of said sloughs not best calculated to advance the interest of the state. They shall then be authorized to select such other point for the commencement of the work as they shall deem expedient; and said improvement shall progress regularly up said Des Moines river; and said board may require the proprietors of any mill dam in said river to place a sufficient lock therein within a reasonable time, or otherwise, they may proceed to cause such dam to be removed, or to take such other steps as they may deem proper to render the river navigable.

**SEC. 15. Locks.** The board shall fix upon [such] dimensions for the locks as, after full inquiry and investigation, they shall deem best adapted to the purpose for which they are intended.

[167] **SEC. 16. Dams and mills—power of board.** The dams shall be located, as far as practicable, so as to accommodate the mills and machinery now begun or erected on said river; and the board shall have power to make such arrangements with the proprietors thereof in relation to the water power as may be just and proper. If no satisfactory arrangement can be made, the board shall have power to proceed with the work, and the fact shall be reported as early as practicable to the governor, to be laid before the legislature.

**SEC. 17. Adjacent land.** The board shall also have power to make arrangements with the proprietors of the land adjacent to the dams, on either side of

said river, where no mill or machinery shall have been begun or erected, for the purpose of procuring for the state a tract of land sufficient to make the water power thereby created fully available; if no such satisfactory arrangement can be made, the sheriff of the county shall summon eighteen disinterested and qualified jurors, of whom each party shall strike off six, and the remaining six shall proceed to mark off such tract of land not exceeding ten acres, and to fix the fair value of the same; and upon the payment of that amount the board shall have power, by a bill in chancery, to compel the proprietors to execute a deed therefor to the state: provided, in the opinion of the court such conveyance is necessary to render the water power available.

**SEC. 18. Water power—contracts for.** The board shall have power to lease out any water power that may be created by said improvement, for a period of not more than fifty years. They may also make contracts of like duration with individuals, granting them the water power created by any dam: provided, they will erect the same, and the necessary appendages, and keep them in repair, upon such conditions, and with such securities for the faithful performance of such contracts, as they shall deem proper.

**SEC. 19. Removal of rocks, etc.—dams.** The board may, also, as soon as they shall deem it expedient, cause the removal of rocks and other obstructions to the navigation of any part of said river, below the Racoon Forks; and may, after the survey of the river and the location of the dams, cause such dams to be built at certain points out of their regular order, whenever they think the public interest requires it.

**SEC. 20. To prevent waste.** The board shall have power to take all the necessary steps to prevent waste upon the public lands granted for the improvement of the river, and may bring suit to recover damages therefor.

**SEC. 21. May purchase lands.** They shall have power to purchase any tract of land which may be found necessary to promote the prosperity of the work, or to accomplish the object contemplated by this act, which tract shall be held and used for the public benefit.

**SEC. 22. Dam charters vacated—dams to be altered, etc.—may pay proprietors.** All charters granted by the legislature of the territory [168] of Iowa for building dams across said river, are hereby declared to be vacated, unless the proprietors thereof will construct dams and locks in accordance with the direction of the board. The board shall require the proprietors, or any person who may have obtained a charter to build one, to build or alter the same so as to correspond with the general character of the improvement of the river—and unless they will comply with such requirement, their charters shall be deemed to be vacated—and the board are authorized to proceed to construct the dams or locks themselves; and nothing herein contained shall prevent the board from paying the proprietors of such dams whatever they may deem reasonable, in addition to the privileges authorized by this act.

**SEC. 23. Work to be done by contract—lowest bid.** As far as practicable, the work shall be done and the materials furnished by contracts, which shall be given to the lowest responsible bidders, after full public notice shall have been given. When the lowest bid shall not be accepted, the reasons therefor shall be stated and filed in the office of the board, and be subject to public inspection.

**SEC. 24. Contracts.** All contracts shall be made in writing, signed by the president of the board and the contractor, and a duplicate thereof filed in the office of the board previous to the commencement of the work; and no contract shall be entered into between the board and either of its members.

**SEC. 25. Record.** The board shall keep a record of all the proceedings, which, together with all papers filed in their office, shall at all times be subject to the inspection of such persons as the legislature may appoint for that purpose.

**SEC. 26. To sell lands—receiver and register—how governed.** The board shall proceed to sell the lands donated for said improvement as fast as the funds shall be required, and as shall be permitted by the terms of said grant; and for the sale of said land, the treasurer shall be receiver, and the secretary shall be register, and the treasurer and secretary in the discharge of their duties as receiver and register shall be governed by the laws and rules prescribed by congress for the sale of lands in this state, so far as applicable under the restrictions of said grant and provisions of this law, subject to such restrictions as may be authorized by this act.

**SEC. 27. Claim upon lands.** Any person who, on the first day of January, 1847, was by the then existing laws of this state, entitled to a claim upon the lands in this act mentioned, or who shall at the time of entering the same be the owner of such claim, shall have the right to enter the same in legal subdivisions of not less than forty acres, unless it be a fractional quarter, at the price of one dollar and twenty-five cents per acre; and the provisions of the several preemption laws of congress, passed since [169] the first of June, 1838, and all the privileges and benefits thereby granted are extended to the settlers on said land, as far as the same are applicable, and the same rules and regulations shall be observed in the entry and sale of said lands by the board.

**SEC. 28. Dams on unsold lands.** In all cases when the dams in said river shall abut on lands not then sold, or on which there shall not be a legal pre-emption right, under the laws of the United States, the board shall select a tract of land not exceeding ten acres in extent and retain the same, in order to render the water power more valuable, or to be otherwise used for the benefit of the state.

**SEC. 29. Rules of pre-emption—perjury.** The treasurer and secretary shall establish rules for proof of pre-emptions under this act, as well as for fixing the time when such pre-emptions shall be proved up; and any person who, in making oaths or affirmations in accordance with such rules, shall swear falsely, shall be deemed guilty of perjury and punished accordingly. The said treasurer or secretary, or either of them, are hereby authorized to administer said oaths.

**SEC. 30. Certificates of purchase—patents.** At the time of the sale, the treasurer and secretary shall issue their certificates of the same to the respective purchasers, retaining duplicates thereof; patents shall thereupon issue, signed by the governor, subject to such regulations as may be prescribed by law.

**SEC. 31. Board to keep books—fraud.** The board shall keep books which shall show the amount of sales, and to whom; the amount and items of money received, and also of all payments made; and any intentional fraud or deception used in the keeping such books, or any other of the accounts or papers of the office, either by themselves or persons in their employment, shall subject the offenders to imprisonment in the penitentiary for a period not exceeding three years.

**SEC. 32. Laws repealed.** All laws giving power to the county commissioners of any county to authorize the building of dams across the Des Moines river, be, and the same are, hereby repealed, so far as the same applies to said river below the mouth of the Racoon river and no farther.

**SEC. 33. Labor and materials.** When it shall be compatible with the public interest and the vigorous prosecution of the work, the board may, in payment of pre-emption rights, receive labor or materials, or other things deemed necessary; and for this purpose, may postpone the day of payment for pre-emptions for such a length of time as to the board may seem reasonable and proper under all the circumstances: provided, that nothing in this section contained shall in any manner change the mode of receiving proposals for said work or materials.

**SEC. 34. Monthly estimates—payments.** The board shall make an estimate monthly of the work as it progresses, and shall make payment for the same, which in no case [170] shall exceed eighty-five per cent. of the amount due for work done, until said work is completed.

**SEC. 35.** Should it be found impracticable, upon examination and survey, to improve the river in the manner herein contemplated, or if for any other reason the work cannot progress successfully, the board shall report that fact to the governor, and from that time their salaries and all further proceedings shall cease.

**SEC. 36. Reserves—proviso.** The board may, in all sales of land under the provisions of this act, reserve to the state the right of using any stone which they may need during the progress of the work, for the construction of any part of the same, and also may reserve from sale such timber lots as they may deem necessary to furnish timber for locks and dams, or any purpose connected with the work: provided, that the authority in this section granted shall not extend to the reservation of lands upon which, at the time of the taking effect of this act, there shall be a valid pre-emption right under this act.

**SEC. 37. To take effect.** This act to take effect and be in force from and after its publication in the weekly newspapers of Iowa City.

Approved, February 24th, 1847.

Published in the Reporter March 3d, and in the Standard March 18th, 1847.

## CHAPTER 114.

### PRESIDENTIAL ELECTORS.

AN ACT to provide for the election of electors of president and vice president of the United States.

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1. Election—who not eligible.** That the qualified electors of this state shall, on Tuesday [next] after the first Monday in the month of November, Anno Domini, 1848, assemble in their respective townships, at the usual places designated for holding elections, and proceed to elect a number of electors of president and vice president of the United States, equal to the number of senators and representatives this state may be entitled to in the congress of the United States; which election shall commence and close at the same hours, and be conducted in the same manner, and of which the sheriffs of the respective counties shall give the same notice, as is or may be directed by law for electing members of the general assembly of the state; but no senator or representative in congress, or person holding an office of trust or profit under the United States, shall be eli-[171]-gible as an elector of president and vice president of the United States.

**SEC. 2. Duty of judges—fine.** That it shall be the duty of the judges of elections in each township, forthwith after the close of the elections, to seal up one of the poll books of the election, which shall be carried, within three days after the day of election, to the sheriff of the proper county, who shall attend the three days next succeeding the election at the seat of justice of his county, for the purpose of receiving poll books as aforesaid; and if the judges of election, or any one of them, shall fail to carry the poll books as aforesaid, they shall forfeit and pay to the state the sum of five hundred dollars, to be recovered by an action of debt before any court having cognizance thereof.