

the contract in exact accordance with its specifications. Divesting the question of all side issues, this simple problem now confronts us: Is it necessary or desirable to have additional legislation in order to enforce the completion of the Sturgeon Bay Company's contract with the State? As the law now stands, the State officers have it in their discretion to issue patents for the remaining lands, either according to value or amount, and the legislation asked would deprive them of this option and direct a specific manner of granting the lands.

Should bill 97, A, become a law it would render imperatively necessary an expensive and tedious reappraisal of the *entire grant*, in order to get at an equitable and proportionate valuation of the ungranted lands. The difficulty of this work, so far as that the most of them have been changed from their original condition by their present owners. The cost of an appraisal would be not less than 15 cents an acre, or \$30,000 in all. Should bill 303, A, and joint resolution No. 15, A, receive the approval of the legislature, they would provide for an investigation, which would involve a large and uncertain expense. In both cases the expense would necessarily be borne by the State, and neither measure should be adopted unless there is grave reason to believe in its necessity.

It has been claimed that there is danger that the canal company, after having completed the third quarter of the work and received the lands therefor, will find that the last quarter of the grant is not sufficiently valuable to defray the expenses of constructing the last quarter of the canal, and so will abandon the work at that stage of operation.

In order to realize the improbable character of this charge, it is necessary to consider just what the company will forfeit in case it should abandon the work when three-fourths done. It would of course lose all title to the canal, as its rights, under the law, to the canal property only become perfect when the work is finally completed and accepted by the governor. The company would therefore lose the \$60,000 advanced to complete the first quarter; it would also lose the fourth quarter of the land grant, which, if composed of the poorest lands, is claimed by the company to be worth fifty cents an acre; to be safe, we will call it half that, making \$12,500; also the retained percentage due the contractor, for which the company is liable, at the present time amounting to \$10,000; in addition to this, the State officers would immediately sue the company upon its forfeiture of the contract, and enjoin the sale of its lands, and recover back all that remain unsold. These amount at the present time to over 50,000 acres, and are worth about \$50,000. There would also be added to this amount the unsold portions of the third quarter, so that at the lowest estimate not less than \$50,000 worth of lands would be lost to the company. These sums amount in all to \$132,500, which would be absolutely forfeited by the company should it fail to complete its contract. If the company goes on and finishes the canal, it will cost \$64,447 to complete the fourth quarter, according to the estimates of Captain Nader. This includes the probable revetment of 2,000 feet, which he estimates may be necessary.

It will therefore be seen that the company in refusing to do work costing \$64,447, would lose property and money to the value of \$132,500. The company would also be liable to the contractor for such damages as he might be able to recover on his contract. There is also another consideration which your committee deem to be of great importance as bearing upon this question, and that is, that all the members of the canal company are engaged in lumbering on Green Bay, and are individually interested in securing the cheaper rates of transportation which the canal would afford. The mills owned by members of this company produce yearly 100,000,000 feet of lumber, which is shipped out of the bay, and which would pass through the canal if completed. The lowest estimate put upon the reduction caused by the cut-off in cost of transportation is 10 cents per thousand feet, and William B. Ogden estimated it as high as 37½ cents per thousand. It will therefore be seen that the members of the company would save from \$10,000 to \$37,500 annually in their private business from the reduced rates of transportation were the canal completed.

The books of the canal company seem to have been kept accurately, and show that only about \$1,400 is due on all accounts, besides the retained percentage due the contractor. The able and explicit report of Captain Nader indicates clearly that the work is in such a state of progress as will easily render it possible to complete the canal, in accordance with the terms of the contract, on the 1st day of December, 1879. Your committee fully believe that the interests of the State in this matter are perfectly safe in the hands of the State officers, who have already shown the utmost solicitude and caution in the administration of their trust. They believe that justice to the company requires that it shall not be harassed or embarrassed by unnecessary legislation.

If the operations of the company and their contractor are not interfered with, the work will, in all probability, be entirely finished the present year. In view of the above considerations, and in the absence of all sufficient reasons, as we believe, for

the expensive legislation proposed, we hereby recommend that bills No. 97 and 303, A, and joint resolution No. 15, A, be indefinitely postponed.

E. D. COE.  
J. W. OSTRANDER.  
CHAS. G. LEWIS.  
HENRY P. FISCHER.

Your committee append hereto the following statement and petition, which had been referred to them:

Hon. D. M. KELLY,

*Speaker of the Assembly, Madison, Wisconsin:*

The undersigned citizens of Door County, in which county the Sturgeon Bay Ship Canal is being constructed, respectfully represent:

That in the opinion of the undersigned, the company constructing the canal has, since resuming work in the spring of 1877, pushed it intelligently and vigorously.

That it has conducted the enterprise in good faith, and that they see no doubt that it is the intention of the company to prosecute the work to completion during the current year.

The undersigned, therefore, would respectfully request the honorable body over which you preside to enter upon no legislation that shall in any way tend to hamper or embarrass the company in securing lands to which it may be entitled to under the laws now on the statute book.

And further, they would urge that no legislation seems to them to be needed in connection with this work, but rather that the company should be unmolested in its aim to secure an early completion of an enterprise of so great importance to the State at large, and Door County in particular.

The undersigned further represent that, in the opinions above expressed, they believe they represent the views of a large majority of the citizens of this county.

L. M. WASHBURN.	S. N. MCLOCHLIN.
J. T. WRIGHT.	JOSEPH HARRIS, SR.
D. A. REED.	O. E. DREUTZER.
THOMAS SCOTT, <i>Sheriff Door County.</i>	JACOB CROSS.
ELI A. THOMPSON.	PHILIP JACOBS.
CHRIS. LEONHARD, <i>County Treasurer.</i>	NOBLE & JOHNSON.
R. M. WRIGHT.	FELDMAN & GOODNOW.
CHRIS. DANIELS.	JACOB DEHOS.
G. W. ALLEN.	C. M. SMITH.
JOHN LEATHAM.	SHERWOOD & Co.
MICHAEL DOHEARTY.	C. NOYES.
GEO. O. SPEAR.	WM. B. LAWRENCE.
H. J. THOMPSON.	A. MCEACHAM.
SCOFIELD & Co.	C. M. CHASE.
THOMAS H. PRATT.	L. A. LARSON & Co.
S. N. BACON.	A. W. LAWRENCE & Co.

The committee on State affairs have had under consideration Nos. 97 and 303, A, and joint resolution No. 15, A, and in reporting the same back, the members of said committee signing this report submit the following reasons for the recommendation hereby made:

The annual report of the secretary of state for 1876, on page 46, gives the history in brief of the Sturgeon Bay Canal Company, and the legislation in reference thereto up to the date of that report. For the better understanding of the matters in question, it has been deemed proper to quote a portion of that report:

"The importance of connecting the upper waters of Green Bay with those of Lake Michigan by means of a ship-canal across the long and narrow peninsula which separates them, was foreseen at an early day in the history of the State, but no legislative action was had in the matter until 1856. Chapter 129 of the private and local laws of that year named Robert F. Winslow, Abraham B. Bowen, Edward Smith, James D. Doty, John Day, Samuel Hale, Jackson Hadley, J. F. Loy, and Anson Ballard, as incorporators of a company by the name of the 'Sturgeon Bay and Lake Michigan Canal Company.'

This company was authorized to locate, construct, and build a canal, of such width, depth, and dimensions as they should deem expedient, between the head of Sturgeon Bay and Lake Michigan, so as to connect the headwater of said bay with said lake, and to construct a harbor at the mouth of said canal, and to dredge and improve the said bay so as to make a sufficient channel and convenient and safe harbor in said bay. For this purpose, the company was authorized to purchase, hold, and convey

real and personal property and to issue capital stock and necessary bonds. For some reason, probably the commercial embarrassment of 1857, the project languished and did not evince much vitality at that time.

The legislature of 1858, finding that little or no progress had been made towards constructing this canal by the company especially incorporated for that purpose two years before, amended the law of 1856 by the enactment of chapter 237 private and local laws of 1858, requiring the company to commence the construction of the canal in accordance with the plan contemplated by the act of incorporation within one year, and to complete it so as to admit the passage of boats and vessels through the same within three years thereafter. It was provided that, in case of failure to comply with the requirements of this last named act, the original act of incorporation should be thenceforth void. The capital stock of the company was, by the act of 1858, limited to five hundred thousand dollars. Under the operation of chapter 237, private and local laws of 1858, the company passed out of existence, and the project was for the time abandoned.

Chapter 365, private and local laws of 1864, incorporated the Sturgeon Bay and Lake Michigan Ship-Canal and Harbor Company, with substantially the same rights and obligations as its predecessor, and named William B. Ogden, Freeland B. Gardner, Thomas H. Beebe, Joseph Harris, George Bennett, Alexander Mitchell, Charles D. Robinson, H. S. Baird, W. M. Whitecomb, Anson Eldred, and Andrew Reid as the first directors of the new organization. By this act, the capital stock of the company was limited to two hundred and fifty thousand dollars, but no time was fixed for completing the work.

The directors and incorporators of the new company seem to have been from the outset impressed with the impracticability of constructing a semi-public work of such magnitude as this with exclusively private capital. They accordingly bent their energies to procure a grant of public lands from the Federal Government, and finally succeeded in the first session of the Thirty-ninth Congress. By an act approved April 10, 1866, Congress granted to the State of Wisconsin, for the purpose of aiding the State in constructing and completing a breakwater and harbor and ship-canal to connect the waters of Green Bay with the waters of Lake Michigan, two hundred thousand acres of public lands, to be selected in subdivisions, agreeably to the United States survey, by an agent or agents appointed by the governor of Wisconsin, subject to the approval of the Secretary of the Interior, from lands subject to private entry; provided, that said selection should be made from alternate and odd-numbered sections of land nearest the location of said harbor and canal not otherwise appropriated, and not from lands designated by the United States as "mineral" before the passage of that act, nor from lands to which the rights of pre-emption or homestead had attached.

The act also prescribed that the canal should be at least one hundred feet in width, with a depth of water not less than thirteen feet. Having obtained this important aid from the general government, the company duly elected its officers, in the city of Milwaukee, on the 4th day of October, 1866, under and by virtue of chapter 365, private and local laws of Wisconsin for 1864. By chapter 105 of the general laws of 1863, the State accepted the grant of land conveyed by the act of Congress approved April 18, 1866, subject to all the conditions, restrictions, and obligations therein mentioned, and conferred it in like manner on the Sturgeon Bay and Lake Michigan Ship-Canal and Harbor Company. The route of the canal was surveyed, laid out, and established pursuant to law, and work continued thereon for several years. In 1873 the company, having completed one-fourth of the canal, made a formal demand on the State for one-fourth of the lands granted, pursuant to section 4, chapter 105, of the general laws of 1863.

Pending some discussion as to the precise interpretation to be given this section, the whole matter remained open for the legislature of 1874, which, by joint resolution No. 6, provided for the appointment of commissioners to appraise the lands, authorized the company to select any lands not to exceed in value one-fourth of the amount at which the whole were appraised, and directed the commissioners of school and university lands to thereupon convey the lands thus selected to the company. This was done as provided, and thirty-two thousand three hundred and forty-two and twenty-nine one-hundredths acres patented to the company September 7, 1874.

It is apparent from the act of Congress approved April 10, 1866, entitled "An act granting to the State of Wisconsin a donation of public lands to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon Bay, in the county of Door, in said State, to connect the waters of Green Bay with Lake Michigan, in said State," by the terms of which two hundred thousand acres of government land were granted to the State of Wisconsin for the purpose of aiding said State in constructing and completing a breakwater, harbor, and ship-canal to connect Green Bay with Lake Michigan, and from chapter 105 of the general laws of Wisconsin for 1863, by which the State accepted the grant above described, "with the restrictions and upon the terms and conditions contained in said act of Congress," that the State occupies the relation of a trustee to see that the lands thus appropriated by Congress are faithfully and honestly used to accomplish the purposes for which the lands were granted.

In speaking of another grant of similar nature, the Supreme Court of the United States has defined the duties and obligations resting upon the State in clear and unmistakable terms: "The State accepted the grant subject to all the conditions prescribed. She thereupon became the agent and trustee of the United States. The powers and duties with which she was clothed might have all been discharged by private individuals. The characters of sovereign and trustee were united in the same party. The State did not in any wise abdicate her sovereignty by accepting the trust, but the former might be exercised to render more effectual the discharge of the latter. She was in nowise fettered, except as she had agreed to fulfill all the terms and conditions which accompanied the grant. To that extent she was clearly bound, and anything in conflict with those conditions would be *ultra vires* and cannot be supported. What were the terms to which she submitted herself? She was to devote the lands to the accomplishment of the object which Congress had in view, and there was an implied agreement on her part to take all the measures reasonably within her power to make their application effectual to that end. The mode was left entirely to herself." (Tucker v. Ferguson, 22 Wallace, 572.)

If the State should be negligent in the execution of such a trust, and through such negligence the fund appropriated for a particular purpose should prove insufficient for that purpose, considerations of honor and good conscience would induce the State to make good that deficiency out of its own funds, whether there was any legal way of compelling it to do so or not. Especially is this true since the general government has expended, and will hereafter be obliged to expend, large sums of money in making a harbor of refuge on the Lake Michigan end of the Sturgeon Bay Canal, on account of the building of which the Sturgeon Bay Ship-Canal Company has been relieved from the construction of a portion of the works provided by the grant, upon the faith and belief that the State will see that the canal is finished and completed in a substantial and workmanlike manner, creditable alike to the State which is responsible for the execution of the trust, and to the general government which created the trust-fund.

In the consideration of the bills and resolution above described, the committee has been attended by several of the officers of the Sturgeon Bay and Lake Michigan Ship-Canal and Harbor Company, including the president, Jesse Spaulding; the secretary, W. E. Strong; the land commissioner, D. W. Maxon, and the chief engineer, W. T. Casgrain, and also by the State inspector, John Nader, and by these gentlemen has been put in possession of certain facts which have had an important bearing upon the deliberations of this committee in regard to the bills and resolution referred to it, some of which facts it may be proper briefly to present:

First. The general offices of the Sturgeon Bay and Lake Michigan Ship-Canal and Harbor Company are not kept within the State of Wisconsin, but are located in the city of Chicago. In the case of the State *ex rel.* Attorney-General against the Milwaukee, Lake Shore and Western Railroad Company, decided by the supreme court and reported in Northwestern Reporter, October 26, 1878, it was held that this was such a violation of the law as would authorize the forfeiture of the charter of a corporation created by the State, upon proper proceedings taken by the attorney-general.

Second. The original estimates for the construction of the canal contemplated the revetting or docking of the entire length of the canal. This appears from the estimates of J. E. Thompson, civil engineer, made in 1867, and the estimate of W. T. Casgrain, the present engineer of the company, made in 1871, while he was connected with the Corps of Engineers of the United States Army as assistant United States engineer. The estimates of both these gentlemen are contained in the report of the latter to Maj. D. C. Houston, Corps of Engineers, United States Army, dated November 21, 1871; one of the estimated items of the cost of the canal in such estimate is "18,000 linear feet pile revetment, at \$8 per linear foot, \$144,000."

In speaking of these estimates, Major Houston, in his report dated November 29, 1871, to Gen. A. A. Humphreys, Chief of Engineers, United States Army, says: "The sum of \$144,000 is estimated for revetting the banks of the canal, which, owing to the character of the material, is necessary to complete the work." It is probable that this revetment could now be constructed at a cost considerably below the estimate given above, owing to the reduced price of labor and materials, and good judges estimate that its present cost would not exceed \$90,000.

Third. No portion of the canal has been docked or revetted in accordance with the plan and specifications adopted by the company in September, 1871, hereinafter referred to, nor has the company made any attempt to construct a revetment in accordance with that plan.

Fourth. In the fall of 1871, the company, by resolution, adopted the plan and specifications of W. T. Casgrain, then connected with the United States Engineer Corps. That plan, map, and specifications were very carefully prepared, and provided for a revetment upon both sides of the canal throughout its entire length. Owing to the destruction of that plan, map, and specifications in the Chicago fire of 1871, Captain Casgrain prepared, under the direction of Maj. D. C. Houston, United States Corps

Engineers, a new map and specifications from such field-notes and data as he had preserved, which map and specifications are filed in the office of Maj. H. M. Robert, United States Engineer Corps, who is the successor to Major Houston, and provide for a reversion as above stated.

In May, 1872, a contract was let for the first quarter of the work, to be constructed according to this plan and specifications. The first quarter's work was accepted by the State inspector, and a patent issued to the company for thirty-two thousand three hundred and forty-two and twenty-nine one-hundredths acres of the land granted by Congress to the State, but that portion of the work was not reverted.

Fifth. Chapter 105 of the general laws of 1868, by which the lands granted by Congress to aid in the construction of this canal were conferred upon the company, provided that when the governor of the State is satisfied that the company has done one-fourth, one-half, or three-fourths of the work required in constructing such canal, he shall certify the same, and in such certificate "shall determine the portion of said lands the said company has become entitled to in consideration of said work so done," and that thereupon the commissioners of the school and university lands shall convey by patent to the company "said proportion of said lands respectively, as selected by said company."

A controversy having arisen between the company and the commissioners of the school and university lands in regard to the meaning of this statute, the company claiming that they were entitled to one-fourth in quantity of the lands granted, that is, in acres, to be selected by the company, and the commissioners claiming that the company was only entitled to one-fourth in value of the lands, the company applied for a mandamus to compel the commissioners to issue to the company a patent of one-fourth in quantity of the lands. The case is reported in thirty-fourth Wisconsin, page 162.

State ex rel. Sturgeon Bay and Canal v. Commissioners of School and University Lands, and the opinion of the supreme court upon that subject will be found at length at the place indicated above. A brief extract from that opinion will perhaps be sufficient for the purposes of this report. "The court experiences no difficulty, therefore, in saying that it is one-fourth part in value of the lands to which the relator is entitled, provided, upon consideration of the whole and every part of the statute, and of the act of Congress donating the lands, such seems to have been the legislative intent.

"It is not to be questioned, we think, that the intention clearly manifested by Congress in making the grant and by the legislature of the State in accepting it (which, though it may have the power to defeat the object of Congress by disposing of the lands without the making or completion of the improvement, has shown no such purpose or disposition) favors the construction put upon the statute by the respondents and contended for by the Attorney-General, who represents them. The legislature has indicated its purpose to give effect to the will and expectation of Congress, and faithfully to execute the trust reposed in the State by the very words of the statute under consideration, which require the governor to satisfy himself that the 'work has been done in accordance with the requirements of this act and of the act of Congress aforesaid.'

"The spirit and policy of the acts both of Congress and of the legislature seem to demand, therefore, the construction given by the commissioners unless such construction is repugnant to particular words of the statute establishing a contrary intent. They demand such construction, because otherwise, upon the facts returned by the commissioners, the object of Congress and of the State in donating any part of the lands may be ultimately defeated. Other circumstances being equal, or not preventing, that construction is always best which will best subserve the great primary object of the law giver."

Sixth. After the delivery of this opinion, joint resolution No. 6, A, was passed and approved March 7, 1874, found in the general laws of 1874, page 770, which provided for the appointment of three commissioners to divide the lands granted by Congress into four classes, first, second, third and fourth, and to put a valuation upon the lands in each class, and providing that after such classification and valuation had been made, the company should have the right to select from any and all the classes an amount of land equal to one-fourth of the whole amount thus valued.

Joint Res. 6, A, in relation to the Sturgeon Bay and Lake Michigan Canal and Harbor of Refuge.

Resolved by the assembly, the senate concurring, That the school land commissioners are hereby authorized and directed, whenever application is made to them by said Sturgeon Bay and Lake Michigan Ship-Canal and Harbor Company, so to adjust all differences now existing respective of a division of the land grant and the delivery of a deed of one-quarter in value of the same to said company, as will substantially do justice both to the State and the canal company, and to that end to name a commissioner to appraise said land, in connection with a commissioner to be named by the canal company; which commissioner thus named shall fix a value to all of said lands by sections and fractional sections, from the best evidence to be obtained without a personal examination of the land; and from such evidence the commissioners so ap-

pointed shall classify the lands into four classes as to the value, and after such classification shall have been made, the canal company shall have the right to select from any or all of the four classes an amount of land equal to one-quarter of the value of the whole amount as thus valued, and in case the two commissioners so appointed shall fail to agree upon the value of any of the land, the school land commissioners shall decide the disputed question. And when the commissioners shall have so appraised the lands, and so classified the same, and the canal company have made such selection and certified the same to said school land commissioners, then the school land commissioners shall deed to said canal company the said land so selected by it. The compensation of the examining commissioners shall be determined and paid by said canal company.

Approved March 7, 1874.

In this connection, your committee refer to the report of a committee of investigation, appointed in accordance with chapter 236 of the laws of 1876, found on page 50 of the secretary of state's report for 1876, from which the following is an extract: "Your commission believe that the first and second class lands were appraised too low, and the third and fourth class too high. Inasmuch as the company selected almost entirely from first-class lands, we believe they have obtained a patent for more than one-fourth in value of the entire grant. We arrive at this conclusion from the testimony taken, which proves that a large amount of the land classified as third and fourth class is worthless, containing no pine and being unfit for agricultural purposes, and that a considerable portion of the first and second class land is worth more than the average price fixed by the appraisers." In accordance with this resolution, the lands were divided into four classes. They valued the lands in the different classes as follows:

First class .....	\$4 50 per acre.
Second class .....	3 50 per acre.
Third class .....	2 50 per acre.
Fourth class .....	1 50 per acre.

Under the patent of lands granted the company at the completion of the first quarter's work as stated above, 32,342<sup>22</sup>/<sub>100</sub> acres of land were conveyed to the company, which were estimated by the commissioners to be one-quarter in value of the total grant.

After the decision of the supreme court in the thirty-fourth Wisconsin, referred to above, and after Joint Res. No. 6, of 1874, and after the land had been classified and valued as provided by such resolution, chapter 88 of the laws of 1878 was enacted, by the terms of which the company was entitled to demand and receive, under the certificate that a second quarter of the work had been completed, a patent for a sufficient number of acres to make the total amount patented to the company, under the patents issued for the first and second quarters of the work, equal to one-half of the total grant, or, in the aggregate, one hundred thousand acres.

A reference to this law will show that if it was not designed to evade the decision of the supreme court in the thirty-fourth Wisconsin, quoted above, and to do precisely what the supreme court said that up to the time of the decision of that case the legislature had manifested no purpose or indisposition to do, viz, "defeat the object of Congress, by disposing of the lands without the making or completion of the improvement," it certainly may and perhaps will have that effect. For of the 100,000 acres hitherto patented to the company for the first two quarters' work—

39,962.79 acres were of the 1st class, valued at .....	\$179,832 46
27,300.13 acres were of the 2d class, valued at .....	95,550 40
19,801.07 acres were of the 3d class, valued at .....	49,502 67
10,346.62 acres were of the 4th class, valued at .....	17,019 93

Of the lands left—	
2,018.41 acres are of the 1st class, valued at .....	9,082 84
11,949.90 acres are of the 2d class, valued at .....	38,674 65
55,183.90 acres are of the 3d class, valued at .....	137,959 75
33,307.10 acres are of the 4th class, valued at .....	49,960 74

It should be remarked that the valuations referred to are those made by the commissioners about the year 1874, pursuant to Joint Res. No. 6, of 1874. It is also worthy of remark that the lands selected by the company hitherto have been taken chiefly from the upper class lands. It is more than doubtful whether the company has not already received far more than one-half of the value of the grant. It was stated to the committee by the land commissioner of the company and by the secretary of the company that the lands not yet patented are not worth to exceed in value one-half of the appraisement.

It was also stated that if they were allowed to take a patent for the third quarter's work, under the law of 1878, of course the company would choose the best lands now unpatented, i. e., fifty thousand acres. This would leave fifty thousand acres with

which to complete the fourth and last quarter's work. It was further stated that of the one hundred thousand acres now unpatented, about thirty thousand acres are practically worthless. If from the one hundred thousand acres now unpatented the company is permitted to choose fifty thousand acres of the best lands, in payment for the third quarter's work, there will be left with which to complete the fourth and last quarter's work about thirty thousand acres admitted to be worthless, and twenty thousand acres inferior to all that has been previously patented.

It seems to the undersigned too plain for argument, that under the law of last winter, chapter 88, laws of 1878, the trust-fund held for the purpose of securing the completion of the work has already been seriously impaired, and will be rendered practically of very little value if the company can select under it, at will, fifty thousand acres of the choicest lands now unpatented; especially is this true in view of the further statement made by the land commissioner of the company, that the estimate of the secretary of state as to the total value of the lands now unpatented, viz, \$235,678, is double its real value. If that is correct, the real value of the lands yet unpatented does not exceed \$117,500.

If the one hundred thousand acres yet unpatented for do not exceed in value \$117,500 (other information makes the value far less), and if a patent of fifty thousand acres of the best lands left is granted the company for the third quarter's work, how much will the balance, consisting of thirty thousand acres of no value at all, and twenty thousand acres inferior to all lands hitherto patented, be worth?

Seventh. In May, 1877, the contract for the last three-fourths of the work was let to the present contractor, O. B. Green. No advertisement that bids for doing the work would be received was published. The opportunity to bid was given privately to a few individuals, and the contract was awarded to O. B. Green, the present contractor. After the contract had thus been submitted to bids, and awarded to O. B. Green, the specifications were changed to provide for the payment of the contractor for dredging by scow measurement instead of by prism measurement, which the committee is informed made a difference in favor of the contractor of about 25 per cent. Prism measurement is measurement of the earth as it lies in its natural bed; scow measurement is measurement after it has been removed from its natural bed, and experience has shown that earth increases in measurement, after removal from its natural bed, to the amount above stated. The same quantity of earth occupies less space before it is disturbed than it does after removal.

Eighth. In the two years since the contract was let, payment in cash to the contractor, O. B. Green, has been made to the amount of ninety thousand dollars and upwards, and there is yet due the contractor a drawback of about ten thousand dollars.

Ninth. By an act of Congress, subsequent to the one conveying the original grant, the general government assumed the duty and responsibility of constructing at its own expense the harbor of refuge and breakwater at the Lake Michigan end of the canal, whereby the State and all parties connected with the improvement were relieved from the construction of certain pier-work, the construction of which was one of the original conditions of the grant and would have involved an expenditure of a large sum of money.

Tenth. Of the 100,000 acres already patented to the company, there are still unsold and belonging to the company over 50,000 acres, and there have been sold by the company 48,000 acres for about \$161,000. The company has received from the State about \$40,000, collected by the State for trespasses committed upon lands included in the grant. In view of the facts above stated, the laws referred to, and the decisions of the Supreme Court of the United States and of the supreme court of this State herebefore quoted, it is the opinion of the members of the committee who sign this report that it is the duty of the State of Wisconsin to see that the lands granted by act of Congress are faithfully applied to the construction and completion of the improvement for which they were granted, in a good and workmanlike manner in accordance with the map, plan, and specifications made by a United States engineer (who is now the engineer of the company), and reported by him to the United States Engineer Corps. This would of course include the revetting or docking of the entire length of the canal as contemplated by the original plan, and without which, in our opinion, the canal will never be safely, thoroughly, and permanently completed. Nothing should be omitted which will secure the purpose for which the grant was made by the general government. Nothing should be exacted of the company which is unnecessary or oppressive to the company.

The legislature of the State of Wisconsin is in duty bound to see that justice is done to both the company and the general government. It is the guardian of good faith and honor of the State. It is the protector of the rights of the humblest citizen of the State, whether that citizen is an individual or a corporation. It is also the duty of every citizen to obey the laws of the State. One of the duties resting upon the company is to keep its general officers within the State, and it has been so decided, judicially, as will be seen by the following quotation:

"It is the duty of a private corporation to keep its principal place of business, its

records, and the residence of its officers so located as to render it accessible to the process and to the exercise of the visitatorial power of the State by which it is created; and a forfeiture may be adjudged for violation of this common-law obligation." (State ex rel. Attorney General v. Milwaukee, Lake Shore and Western Railroad Company, Northwestern Reporter, October 26, 1878.)

Another is to complete the work in a good and workmanlike manner, according to the purpose of the grant made, and when that work is so completed, or completed proportionally, the company is entitled to receive a ratable proportion of the value of the lands granted, and not before.

To accomplish these purposes, bills No. 97 A, and No. 303, A, and joint resolution No. 15 A, should be passed, and we therefore recommend their passage.

All of which is respectfully submitted.

EDWARD C. WALL.  
JOHN RINGLE.  
H. FLINN.

CHAPTER 199.—AN ACT to secure the proper completion of the Sturgeon Bay and Lake Michigan Ship Canal.

*The people of the State of Wisconsin represented in senate and assembly, do enact as follows:*

SECTION 1. That upon the acceptance by the governor, as completed, of the third quarter of the Sturgeon Bay and Lake Michigan Ship Canal, the commissioners of public lands are hereby authorized and directed to convey to the Sturgeon Bay and Lake Michigan Ship Canal and Harbor Company from the grant of land conferred upon said company by chapter 105, general laws of 1858, such quantity of lands which, together with all lands heretofore received by the said company from the said grant, shall amount to three-fourths in value of the whole grant of lands aforesaid. The value of the whole grant to be ascertained by the governor and commissioners of public lands according to the best information concerning the same attainable by them, without a reappraisal of such lands. And only so much of the lands not yet received by the company shall be conveyed to said company as shall, added to what has already been received by it, amount to three-fourths of the whole grant in value, leaving in the hands and under the control of the State one full fourth in value of the lands included in said grant, according to the best judgment and information of the governor and said commissioners.

SECTION 2. All acts and resolutions conflicting with this act are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1879.

[Published March 20, 1879.]

Z 7.

IMPROVEMENT OF AHNEPEE HARBOR, WISCONSIN.

Original estimate (1870) .....	\$370,000
Appropriated to 1875 .....	75,000
Revised estimate for completing the harbor (Report of Chief of Engineers, 1876, vol. II, p. 359) .....	95,000
Appropriated since .....	23,000
Leaving to be appropriated .....	72,000
Amount that can be profitably expended in the fiscal year 1880-'81 .....	40,000

The operations of drilling and blasting, in accordance with the project approved by Board of Engineers (Report of Chief of Engineers, 1876, vol. II, p. 356), were recommenced in June, 1878, and prosecuted to the close of the season in November. An area of about 26,000 square feet was worked over, or about 260 linear feet of the proposed channel. The operations were in immediate charge of Assistant L. Y. Schermerhorn, to whose report I would refer for details.

The operations contemplated during the present season are the removal, by the United States dredge and hired labor, of the rock now