

the Secretary of War to the survey of the most eligible route for a railroad from the town of Milwaukee, on lake Michigan, to such point on the Mississippi river as may be deemed most expedient.

APPROVED, March 3, 1839.

to be applied to the survey for a railroad from Milwaukee to the Mississippi.

STATUTE III.  
March 3, 1839.

CHAP. LXXIII.—*An Act to repeal the second section of "An act to extend the time for locating Virginia military land warrants and returning surveys thereon to the General Land Office," approved July seventh, eighteen hundred and thirty-eight. (a)*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the second section of "An act to extend the time for locating Virginia military land warrants and returning surveys thereon to the General Land Office," approved July seventh, eighteen hundred and thirty-eight, be, and the same is hereby repealed.

APPROVED, March 3, 1839.

Second section act 7th July, 1838, ch. 166, repealed.

STATUTE III.  
March 3, 1839.

CHAP. LXXIV.—*An Act for the relief of umbrella-makers.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be refunded, out of the Treasury, to such umbrella-makers as have imported umbrella-stretchers since the passage of the act entitled "An act to alter and amend the several acts imposing duties on imports," approved the fourteenth day of July, A. D. eighteen hundred and thirty-two, all excess of duty, beyond what such importers would have been required to pay, if the provisoes contained in the tenth and twelfth clauses of the second section of said act had at all times since its passage been suspended in their operation in the same manner as they were suspended by the act of the second of March, A. D. eighteen hundred and thirty-three, entitled "An act to explain and amend the several acts imposing duties on imports, passed the fourteenth of July, one thousand eight hundred and thirty-two, so far as relates to hardware and certain manufactures of copper and brass and other articles," and by other subsequent acts of like character.

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[Obsolete.]  
All excess of duty beyond what would have been required if the provisoes of 10th and 12th clauses of 2d sec. act 14th July, 1832, ch. 227, had at all times been suspended in their operation, as they were by act 2d March, 1833, ch. 62, refunded, &c.

STATUTE III.  
March 3, 1839.

CHAP. LXXV. — *An Act to authorize the Secretary of the Navy to purchase a tract of land belonging to the heirs of John Harris, deceased, being within the limits of the navy yard in Charlestown, Massachusetts. (b)*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be and he hereby is authorized and required to purchase certain lands situated within the limits of the navy yard in Charlestown, in the

[Obsolete.]  
Sec. Navy to purchase certain lands in Charlestown.

(a) See notes of the acts which have been passed relating to Virginia military land warrants, vol. 1, 461, vol. 3, 612.

(b) Certain streets were laid out by the town of Charlestown, Massachusetts; and the proceedings relative to the same were afterwards confirmed by an act of the Legislature. The streets passed over the land of John Harris; and he afterwards received a compensation from the town for taking the land occupied by the streets. In 1800, the United States, under the authority of an act of the Legislature of Massachusetts, purchased of Mr. Harris several parcels of land, now occupied as a navy yard. And in 1801, by an arrangement between the town of Charlestown and the United States, the streets, so far as they were within the limits of the navy yard, were closed up, and have ever since been discontinued, and have been used as a part of the navy yard. The agent of the United States and Mr. Harris, not agreeing as to the value of the land taken for the navy yard, the value was ascertained and determined by a jury proceeding under a law authorizing the same, and the amount of the valuation paid to Mr. Harris by the United States. The jury did not appraise the land on which the streets were laid out. One lot of ground was appraised "with the appurtenances." This action was instituted by the heirs of Mr. Harris claiming to be paid the value of the land on which the streets had been laid out, but which had been discontinued. The defendant was the commandant of the navy yard.

By the Court. The term "appurtenances," in common parlance, and in legal acceptation, is used to signify something appertaining to another thing as principal, and which passes as incident to the principal

State of Massachusetts, said land being the property of the heirs of John Harris, late of said Charlestown, deceased.

Appraisers to be selected.

SEC. 2. *And be it further enacted*, That the price and value of said land may be fairly and justly estimated, the Secretary of the Navy is hereby authorized to agree with said heirs in selecting and choosing three disinterested, discreet, suitable men, who, after being sworn, and having fully examined said land, shall estimate and appraise the same: *Provided*, It can be purchased for a reasonable sum.

Proviso.

Good and sufficient deed to be given to the United States.

SEC. 3. *And be it further enacted*, That, when the appraisal shall be made known to the Secretary aforesaid, and a good and sufficient deed of the same land shall be tendered or given to the United States by the said heirs, then the Secretary of the Navy shall pay said heirs the amount of said appraisal, being the consideration for the premises, out of any money in the Treasury not otherwise appropriated.

APPROVED, March 3, 1839.

STATUTE III.

March 3, 1839.

CHAP. LXXVI.—*An Act making appropriations for building a pier at the northern extremity of Winnebago lake, and for other purposes.*

[Obsolete.]

Appropriations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for the security of the navigation of the commerce of the United States, the following sums be, and the same hereby are, appropriated to be paid out of any money in the Treasury not otherwise appropriated, and to be applied to the following objects:

Pier at northern extremity of Winnebago lake.

For building a pier at the northern extremity of Winnebago lake, in the Territory of Wisconsin, the sum of five hundred dollars;

Buoys at the mouth of Neenah river.

For placing buoys at the mouth of Neenah river, at the head of Green bay, in said Territory, to mark the channel thereof, the sum of five hundred dollars.

APPROVED, March 3, 1839.

STATUTE III.

March 3, 1839.

CHAP. LXXVII.—*An Act making a donation of land to the Territory of Iowa, for the purpose of erecting public buildings thereon.*

Grant of land to Iowa for the erection of public buildings.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and hereby is, appropriated and granted to the Territory of Iowa, one entire section of land, of any of the surveyed public lands in said Territory, for the purpose of erecting thereon the public buildings for the use of the Executive and Legislative departments of the Government of the said Territory: *Provided*, That the said section of land shall be selected under the authority of the Territorial Legislature, the seat of Government located thereon, and notice of said selection officially returned to the register of the land office in the district in which the land is situated within one year from the passing of this act: *And provided, further*, That nothing herein contained shall authorize the selection of the sixteenth section in any township reserved for the use of schools, nor of any lot reserved for public purposes; and that in the selection to be made as aforesaid, no pre-existing improvement or right to pre-emption recognized by law, shall be prejudiced thereby.

Proviso.

Further proviso.

Lands reserved, &c.

SEC. 2. *And be it further enacted*, That if, at the time of the selection of the section of land to be made as aforesaid, the contiguous sec-

thing. Land cannot be appurtenant to land. The soil and freehold of the streets did not pass to the United States, under and by virtue of the term "appurtenances."

The right of the plaintiffs to the freehold of the streets is not barred by the first section of the act of the Legislature of Massachusetts of 30th October, 1781.

The law in Massachusetts is well settled, that where a mere easement is taken for a public highway, the soil and freehold remain in the owner of the land, encumbered only with the easement; and that upon the discontinuance of the highway, the soil and freehold revert to the owner of the land. *Harris and others v. Elliott*, 10 Peters, 25.