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Legislative Intervention

The 1849 decision of the State Board of Public Works to integrate Curtis Reed's north channel into the Fox-Wisconsin Improvement did not end the dispute between the forces of Reed and those of Harvey Jones, et al, backers of the south channel. By early 1851, work on the north channel had bogged down. Apparently, Reed decided to renge on his promises to construct the north channel at his own expense and, in addition, pay a $5,000 bonus to the state. He turned on his erst-while benefactors on the Board. He demanded that Jones be ordered to clear the south channel of all pending improvements, including the lock and dam. He also demanded that the Board release him from the completion deadline of November, 1851. Upon the Board's refusal, Reed, in early 1852, filed a claim for damages with the Wisconsin Legislature alleging the Board had breached its contract with him relating to the acceptance and completion of the north channel.

Reed's ploy backfired. The Legislature was so unimpressed by his contentions that it reversed the Board's selection and mandated, instead, the acceptance of the south channel as the connection between Lake Winnebago and the lower Fox. By Joint Resolution approved April 14, 1852, the Board was:

... authorized and instructed to adopt the south channel of the outlet of Lake Winnebago and the works thereon ... provided the same shall be done free of cost or charge to the state ... and that the owners ... shall give good and satisfactory security that they will erect a guard lock of the same width of the main lock, and dredge out the channel below said lock by aid of the steam dredge which shall be furnished by said commissioners free of charge ...

What appeared to be a victory for the south channel proved to be otherwise thanks to a change of heart by the Board which simply blocked carrying out of the legislative directive. Its reasons for so doing were set forth in the Board report to Governor Farwell, dated January 1, 1853, stating:
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... We are fully satisfied that it is for the interest of the state not to surrender the Menasha channel as a part of the improvement as there is no probability that the opposite channel could be made equally valuable for the purpose of navigation ... (or) will ever be made navigable without great expense to the state.

Declaring its own reasons for failing to act on the Joint Resolution to be "entirely satisfactory", the Board contended that the steam dredge thereby ordered to be provided to clear the south channel was not available because of being engaged in the Portage area and was not suited for the required work. Regarding the south channel, the Board was particularly critical:

... the lock was too small to be suitable and opens into a channel too shallow for the purposes of navigation for some 2,300 feet below and where the current of the river runs rapidly over the falls at an angle of about 45 degrees.

... the south channel is indirect and by it the distance is much greater than by the opposite channel which is ... direct and deeper.

... the Neenah channel being above the other and most natural one for the passage of water from Lake Winnebago ... and to build a dam on it sufficiently high for all purposes of navigation would raise the water above so as to occasion much damage to the lands at many points upon the lake.

As a clincher, the Board declared that the security bond of $2,000 offered by Loyal Jones (who had succeeded his recently deceased brother Harvey) in accordance with the legislative directive was "entirely too inadequate to the purpose for which security is required ...", concluding,

... We consider that to make good navigation by this channel, and to indemnify the improvement against all damages that might arise from its adoption as a part of the improvement, good and sufficient bond should be filed to the amount of at least $100,000.

Loyal Jones, frustrated by the tactics of the commissioners, promptly responded to the report in a communication addressed to the Wisconsin Senate and Assembly, recorded March 9, 1853, beginning:

... The undersigned would respectfully represent that injustice has been done by the report of the late Board of Public Works ... in regard to the Lock and Improvement which has been commenced and nearly completed at Neenah ...
A Tale of Twin Cities

Concerning the Board's summary rejection of the $2,000 bond, Jones explained that he had,

... applied to said commissioners repeatedly to know what sum should be inserted in said bond, and that said commissioners replied that the amount was immaterial and declined naming any sum... in regard to the bond, it was filled with an amount which men of good judgment as well as myself thought amply sufficient, as the guard lock was nearly completed of the size required by said resolution, and said bond was delivered... with the understanding that (if the commissioners)... should think the amount not large enough would notify me and give an opportunity to increase it.

Jones went on to advise the Legislature that the guard lock had been constructed and canal enlarged, requiring only the steam dredge, which the Board neglected to summon, to complete the channel in the manner prescribed by the Joint Resolution of 1852.

His petition concluded:

... And the undersigned would further represent that said commissioners have fallen into several erroneous mistakes in regard to the south channel which must have occurred from the representative of those whose interests are adverse to the south channel.

The "representative" referred to by Jones may have been either Curtis Reed himself, who had been a former member of the Board or perhaps Charles Doty who was assistant to the Board's chief engineer.

In a final effort to sort out many conflicts besetting the project along the Wisconsin and Fox Rivers, including, if only incidentally, the north-south channel dispute, a Joint Select Committee composed of members of both houses was appointed to visit the site during the spring recess of the 1853 session. Under date of June 15, 1853, said Committee submitted its report, saying in regard to the competing channels:

Your Committee visited the works to improve the navigation around the Winnebago Rapids. At Neenah a canal has been opened with guard and lift locks to connect Lake Winnebago with Lake Butte des Morts. The insufficient depth of water in the latter at this place, as stated in the report of the Engineer in Chief, renders navigation impracticable without excavating the channel from one to two feet for several hundred feet, which in the opinion of the Board and Engineer,
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cannot be effected by the working of the steam dredge owing to the hardness of, and the presence of boulders upon the bottom. The same officials concede it also requisite, if this channel is adopted, that a protection work of a substantial character be built. In the opinion of your committee, a different location of the present canal and locks might have remedied many serious difficulties in the way of navigation now existing. The work at Menasha has been prosecuted to a considerable extent, much of the excavation made and the timber delivered for the lock, and the Engineer in Chief informed your Committee that, as now located, upon completion of locks and canal, boats would pass with facility into navigable water. The estimated cost of completion and enlargement, about $17,000.

The tenor of the report suggests that the Select Committee's preference for the North Channel was based on the previous findings of the Board and its chief engineer which it echoed without hint of independent investigation. In any event, the Legislative mandate of 1852 directing development of the South Channel was officially undercut. However, in short order, the channel dispute became a moot political issue when the Legislature abandoned state sponsorship of the Project by act of July 6, 1853, transferring ownership and control of the Fox-Wisconsin Improvement to a private concern chartered by the state, "The Fox and Wisconsin Improvement Company". The fate of the competing channels was returned to private interests. In the end, the advocates of the North Channel prevailed, but, by then, the stakes had been markedly reduced from the flow of commercial shipping envisioned by the Improvement Project to a relative trickle of traffic, mainly recreational, originating from and just below Lake Winnebago through the lower Fox Locks maintained, until recently, by the Army Corps of Engineers.

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Edmund P. Arpin