

VINCENNES GAZETTE.

VOL. II.]

VINCENNES, INDIANA, SATURDAY, JANUARY 28, 1832.

NO. 18.

The Vincennes Gazette.

BY S. HILL & R. Y. CADDINGTON, WILL be published every SATURDAY, on a weekly basis, and on a subscription basis. The price of the paper is \$2.00 per annum, in advance, or \$2.50 per annum, if paid for in advance. The paper is published at the office of the Vincennes Gazette, in the city of Vincennes, Indiana. The paper is published at the office of the Vincennes Gazette, in the city of Vincennes, Indiana.

ADVERTISERS will be inserted at the rate of \$1.00 per square for the first week, and \$0.50 per square for each subsequent week. The paper is published at the office of the Vincennes Gazette, in the city of Vincennes, Indiana.

Country produce delivered in Vincennes, at the Mills of Messrs. H. D. Wheeler, Maroon & Hunter, or J. L. Colman, will be received at the Market price, in payment of subscriptions.

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SAMUEL HILL,
R. Y. CADDINGTON.

Law of Indiana.

AN ACT supplemental to an act providing means for the construction of the Wabash and Erie Canal.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the final location and reported estimates of Joseph Ridgeway, Jr the late Engineer of the said section of the Canal, contemplated to connect the waters of the Wabash river and Lake Erie, embracing the St. Joseph feeder, and the canal line from thence to Little River, be and the same are hereby approved and adopted. And for the purpose of commencing, carrying on and completing the construction of the part finally located, and of the residue of said canal from the Ohio state line to the Tippecanoe river, as established by an act of the general assembly of this state, entitled "an act concerning the Wabash and Miami Canal," approved Jan. 23d, 1829, and the estimate of the entire cost, whereof, as made by the United States' Engineer, is \$1,001,970.00. The duties of the Board of Canal Commissioners now organized, shall be, and the same are, hereby, changed, transferred and extended in manner hereinafter stated.

Sec. 2. That for the purpose of carrying into effect the object hereby contemplated, there shall be constituted a fund, to be denominated the "Canal fund," which shall consist of such moneys as arise from the sale of the lands donated by the United States to this state, for the construction of said canal, and such as may be procured under the authority of the legislature of this state, by loans predicated on the amount arising from the sale of said canal lands; all moneys which may from time to time proceed from the tolls of the canal, and the use of all privileges whatsoever created by its construction, and also any moneys which by donation, grant, or otherwise, may at any time be set apart to advance the construction of said canal.

Sec. 3. That there shall be established a Board of Canal Commissioners, to consist of three members, to be appointed and commissioned under the requirements of this act, by the governor of this state, by and with the advice and consent of the Senate, and to be designated the Commissioners of the Canal fund, and the said Board shall continue until the loans procured under its operation be wholly paid; and any vacancies occurring in said Board by death, resignation or otherwise, shall be filled under like restrictions and in like manner every such Commissioner being subject to removal for good cause shown, by a joint resolution of the general assembly. A majority of said Commissioners shall be a quorum for transacting business; they shall superintend and manage the canal fund, and shall receive, arrange and manage to the best advantage, all moneys thereto belonging; and before entering upon any of their duties the said Commissioners shall severally take an oath and give bond for the faithful discharge of their duties, as required by law of the Canal Commissioners.

Sec. 4. That the said Commissioners of the Canal fund, be and they are hereby authorized and directed in contract with any individual, corporation or company, for a loan to the amount of two hundred thousand dollars, which with the moneys immediately arising by cash payment of the sale of canal lands is estimated to be sufficient to construct the middle section

and feeder of said canal, on a credit of thirty years, but redeemable in whole or in part after the period of twenty years, at the option of the state, and said loan to be at a rate of interest not exceeding six per centum per annum, and to be so negotiated that the same may be drawn in portions from time to time, and be subject to interest only as it may be required in completing the contracts entered into from time to time, and for other expenses relative to said canal; Provided, That at no period shall there be an amount so drawn of said loan to exceed the amount due on the sales of the Canal lands; and the said Commissioners shall issue transferable certificates in the name of the state, upon drawing such loan, which shall be countersigned by the Treasurer of state.

Sec. 5. That for the payment of the interest, and the redemption of the principal of the sums of money which may be borrowed under the authority of the general assembly for the construction of said canal, to the extent of the estimated cost thereof, in the first section of this act stated, there shall be, and are hereby irrevocably pledged, and appropriated, all the moneys in any manner arising from the lands donated by the United States to this state for the construction of said section of canal, the canal itself with the said portion of land thereto appertaining or as much thereof as will realize by sale the sum borrowed, and all privileges thereby created, and the rents and profits thereof belonging to the state, and the net proceeds of tolls collected on said canal or any part thereof as finished, the sufficiency of which for the purpose aforesaid, as above allowed and provided for, the state of Indiana doth hereby irrevocably guarantee.

Sec. 6. The commissioners last named shall have full power by appointing one or more agents or otherwise, to make all such arrangements for obtaining loans according to law, and for the payment of interest thereon, and the transfer, transmission and deposit of moneys, as they may deem conducive to the public interest, and in making such deposits, to select such bank or other safe depository that may yield the best interest on the fund during such deposit, regard being always had to the entire safety to the investment or deposit. And upon the organization of said Board, they are authorized to close the account of the canal fund received at the state treasury, and to draw the same therefrom as a part of the said canal and to be constituted, and make the most profitable investment or deposit thereof, as above directed, until it may be otherwise required; and therefor the canal commissioners shall under the same limitations as heretofore provided in the act to which this is a supplement, pay over all moneys in any manner arising from the canal lands, directly to the Commissioners of the canal fund, who shall in every respect discharge the duties heretofore devolving in this behalf on the treasurer of state; whose duties and emoluments relative to said canal proceeds, from the time of the organization of said Board, shall cease except as herein provided, and his books relating thereto, shall be transferred to and kept by said Commissioners.

Sec. 7. That the said fund Commissioners shall pay the sums arising in any manner to said fund to the canal commissioners, or their orders from time to time, for the purpose of constructing the canal herein contemplated, under such regulations as may secure a faithful and correct accounting therefor; and the said canal commissioners shall, on or before the first Monday of December, annually, settle and account with the commissioners of the canal fund, for all such moneys by them received from said fund, as above, in addition to the reports and returns otherwise required; which settlement so made, together with a full and minute account of the state of said fund, its receipt and disposal, their proceedings under this act, and any important recommendations relative to said fund, the fund commissioners shall annually report to the general assembly during the first week of its session.

Sec. 8. That the canal commissioners shall be, and they are hereby authorized to receive from time to time of the commissioners of the canal fund, such moneys as may be necessary for, and applicable to, the objects hereby contemplated; and they shall proceed as soon as practicable after giving two months public notice in such newspapers of this state and elsewhere as they deem necessary, of the time, and manner thereof, to enter into contracts for the expenditure of such sums in the most judicious manner for the construction of the portion of the said canal consisting of the St. Joseph feeder line, and the middle divisions herein finally located and approved; Provided, That no contracts shall be made in excess of all the amount received and accruing from the canal lands sold at the times, and said commissioners shall take duplicate receipts for all sums of money they may expend in the work aforesaid, and duplicate copies of all contracts as above made in writing shall be executed, one of which receipts and copies of contracts shall be filed with the said commissioners of the canal fund; and no relief or extra allowance of any kind or in any case, shall be

allowed in any contract beyond the sum stipulated therein. And no advance of payment be made on any contract, nor any payment be made exceeding one-half of the work actually completed, to be paid in progress, by the canal commissioners, at their discretion on inspecting the work.

Sec. 9. That it shall and may be lawful for said canal commissioners, or each of them, or any of their agents, superintendents, engineers or workmen acting under them, to enter upon and take possession of and use all and singular any lands, waters, streams and timber, stone or materials of any kind, necessary for the prosecution of the improvements contemplated by this act; and to make all such canals, feeders, dykes, locks, dams, and other works as they may think proper in said prosecution, doing, however, no unnecessary damage; and the said canal commissioners are hereby authorized to receive on behalf of the state, from the owners of any such lands, such grants and conveyances as may be proper and competent to vest a good title thereof in the state, and also to receive grants of such materials as they may need; and in case any lands, waters, streams or materials taken and appropriated for any of the purposes aforesaid, shall not be given or granted to this state, or in case the owner or owners thereof shall be feme covert, under age, non compos or out of the state or county, on application of said canal commissioners or either of them, to any justice of the peace of the county in which such lands lie, the said justice shall issue his warrant to the sheriff of the county to summon a jury of twelve inhabitants of the county, but related to the parties, nor in any manner interested, to meet on the land or where the materials are to be valued, at a day stated in said warrant, not less than ten nor more than thirty days thereafter, and by public notice to be inserted in the nearest public newspaper to the place of trial, call upon the owner or owners of the materials by name if known, if not, the unknown owner or owners to attend at said time and place, if he, she or they may think proper; which warrant the sheriff shall execute, and when met, the said jury shall be sworn by said sheriff, faithfully, justly and impartially to estimate the loss or damage if any, over and above the benefit accruing from the canal to each owner, in said premises or materials; and the inquisition thereupon taken, being signed by said jury, and certified by said sheriff, shall be filed by him be returned to the clerk of the county in which said land may be located, and unless good cause be shown against said inquisition, it shall be affirmed and recorded by the circuit court of said county, at the first term thereof; but if said inquisition be set aside, or the same be not returned to the court at the first term, the court may, as often as necessary, direct another inquisition, to be taken in manner as above prescribed; and upon the payment of the said canal commissioners of the damage so assessed by said inquisition (which valuation shall be conclusive on all persons) which said commissioners are hereby directed to make the fee simple of the premises, or the right of such water, stream or materials shall be vested in the state; Provided, That no cause shall be permitted to be shown against any inquisition, after the same shall have been affirmed and recorded as above; And provided, also, That where said lands or materials may not be situated in any organized county, the same proceedings in every respect relating thereto, shall be had in the nearest county thereto situated.

Sec. 10. That every person actually engaged in laboring on any part of the said canal, shall be exempt from doing militia or road duty during the time he is so engaged, except in the case of invasion or insurrection; and the certificate of the contractors employing such men shall be prima facie evidence of such engagement; and no acting commissioner, or engineer employed on said canal shall be liable to be taken by process or warrant in any civil suit arising out of their official duties, but they shall be subject to a summons.

Sec. 11. That no person shall construct any bridge across said canal, or build any wharf, basin or watering place, or shall make or apply any device whatever, for the purpose of diverting or turning away water from said canal, or the feeders connected therewith, without first obtaining permission therefor from the canal commissioners; and if any person shall so offend, he shall forfeit and pay to the said canal commissioners in the name of the state and for the use of the said canal fund, a sum not exceeding one thousand dollars, to be recovered in any court having jurisdiction to the amount of damages claimed by such commissioners.

Sec. 12. That if any person or persons shall obstruct the navigation of said canal, by placing or sinking any substance therein, not destined and proper to be transported on said canal; or shall lay or place any obstruction on the towing path thereof, or shall wilfully injure the said canal, locks, gates, towing path, or works connected therewith; or not being authorized, shall open or shut any lock, gate, public or private gate of said canal, such person shall for every such offence forfeit and pay to the state for said canal fund, any sum not exceeding one hundred dollars; and also treble damages to be recovered as above provided.

Sec. 13. That to benefit the canal fund by rent or sale, the water privileges and hydraulic powers created by the said middle section of the canal, and other sections thereof, when authorized hereafter, are hereby committed to the control of said commissioners.

Sec. 14. That each commissioner of the Canal fund shall receive for his services as such, two dollars for each day necessarily employed in discharging his official duties, payable out of the canal fund, on vouchers signed by their board.

Sec. 15. That in all future sales of canal lands, notice shall be given by the canal commissioners by four weeks publication in such newspapers as they may deem proper of this state only, so much of the act entitled "an act providing means to construct the portion of the Wabash and Erie canal within the state of Indiana," approved January the 28th, 1830, as comes within the purview of this act, and also a joint resolution, entitled "a joint resolution concerning the canal commissioners," approved February 10th, 1831, be and the same are hereby repealed.

Sec. 16. That if any person or persons, shall cut down, destroy, or remove any timber or trees, standing or growing upon the unsold lands appropriated to construct the canal, he or they shall forfeit and pay to the state, for the use of the canal fund, five times the value of the timber or trees so cut, destroyed or removed, to be recovered by action of trespass before any competent tribunal, upon the relation of any competent witness; and the canal commissioners, and all officers of this state within their respective jurisdictions, are charged with the strict execution of this enactment.

The following *ju d'esprit* is going the rounds in handball and a friend having sent us one, we give it for the amusement of our readers.—*Some old Mess.*

RACE FOR \$100,000.

The National Race to be run at Washington the Spring of 1833, for One Hundred Thousand Dollars, in four heats—the winning horse of each heat to be entitled to \$25,000. The following named horses are all that have yet been entered.

- No. 1.—OLD HICKORY.
- No. 2.—SIR HAL.
- No. 3.—NULLIFIER.
- No. 4.—POST BOY.
- No. 5.—ANTI MASON.
- No. 6.—MAGICIAN.
- No. 7.—GOLIATH.

No. 1. *Old Hickory*.—It is unnecessary to say any thing of the pedigree of this old horse. It is known to everyone, and his extraordinary performances at Orleans have given him a decided preference in the field. It is, however, undeniable, that he sustained much injury during the last winter at Washington, from the bad treatment of the New York groom Martin—he was so much teased and fretted early in the spring, by being placed by the side of the beautiful creature, Lady Peggy, that he has not yet recovered his flesh. He was certainly very badly managed, but notwithstanding all the tales that are in circulation as to his condition, the bets are two to one in his favor against the field.

No. 2. *Sir Hal*.—He is a Kentucky horse of distinguished character, and was bred in the Old Dominion, so famous for great racers; he has heels to contend against any thing, and is decidedly faster than *Hickory*; but unfortunately for his reputation, he made a bolt in a great race at Washington, some years since, and no one will place confidence in him.

No. 3. *Nullifier*.—This splendid horse possessed uncommon powers, and excited very high expectations—his dam was of the Independence blood, and his sire was the renowned horse Jefferson, but such was his unquenchable and impetuous disposition, that he broke down in training—he also received a severe kick from *Old Hickory*, last winter at Washington. It is said by many that he must die, and all admit that he will be withdrawn.

No. 4. *Post boy*.—This horse is a favorite with all parties. He is an Ohio bred horse, and although he is from a state that never produced a racer, he has given several fine promises in training, that he will be backed by many persons. He is undoubtedly more feared than any other horse that can be brought to contend against *Hickory*.

No. 5. *Anti Mason*.—This horse is but little known. We had his entry upon the racing calendar in the name of Attorney General—his name has been changed by his present owners, and he is called the *Anti Mason*, and so entered a few weeks since. He has the advantage of having been trained in Virginia; he is a fine looking horse. It being a matter of dispute whether he is of the Masonic or Anti Masonic breed of horses, and as his name has been changed, we cannot decide to which class he belongs, bets are offered that he will be dismissed the first heat.

No. 6. *Magician*.—This is a well known New York horse, and his name has also been changed within a few years—he was originally from Albany, and was twice called Fox—was a famous scrub racer, having never been beaten—he was entered three or four years since on the Washington turf as *Magician*, and has been a very fortunate horse. It is, however, not supposed that he has bottom enough for the

four mile heats; he was, in the commencement of the training, quite a prominent horse for the race; but he proved so extremely tricky, that a rider could not be procured who could manage him—the entrance money not being paid in this case, and that it is understood he has been bought by the Government, and sent as a present to King William, as a matter of course, he is withdrawn.

No. 7. *Goliath*.—The name of this horse has been merely placed upon the list; but it is not thought that the Yankees will venture to run him; he is a great horse, and is of the purest blood that our country has ever produced. His sire was the Old Hamiltonian Federalist.

The injury which *Nullifier* received from the kick, is generally attributed to the groom Martin, and it is believed that he placed *Lady Peggy* in the National Stud, for the purpose of injuring the studs belonging to that establishment. The moment her Ladyship was there placed, the studs began to let slip at each other; and a general battle soon ensued, in which all were more or less maimed. The only horse but slightly injured, was a young horse from Georgia, called *Judge*. An old horse from *Pennsylvania*, called *Connorsgo*, was very severely mangled, and the instant he broke loose from the stable, he made his way homeward without stopping to take food or water; and has since had several fits, and continues to bray like an ass. One in fortunate horse, called *Warrior*, from *Pennsylvania*, appeared to be very unfairly dealt with in the fight, and would have been killed but for *Old Hickory*.—Three studs were pelting away at him, at the same moment, and *Old Hickory* backed his stern upon them, and such were his powers, that he soon cleared the stable of them all—leaving himself, *Warrior* and *Lady Peggy* in possession of the field; the old horse has a new groom from New Orleans, in the place of Martin, who is said to be an experienced hand; but such is the savage temper of the old fellow, since the kicking match, that the new groom appears to be afraid to touch him.

INDIANA DEMOCRAT.

From this paper of the 30th ult. we observed that it has been selected by the powers, "at Washington for the purpose publishing Orders, Resolutions and Laws of Congress, and all public treaties, except Indian treaties."—So General Jackson has made room for Editor Morrison to come up and—p his breath. Calculating from the bare estimates upon all good accounts from the wilful misrepresentations of every thing honest and patriotic, which have, for several months, been pouring through the columns of that infamous conduit-pipe of abuse and falsehood—benefactions from Jackson, and benisons from his minions, were to have been anticipated—"The ox knows his master, and the ass his master's crib." In this encouragement of the Democrat, we have a beautiful exemplification of Jackson: What the People loathe and cast down; Jackson loves and exalts—what they reject as obnoxious and hurtful; he patronizes as praise-worthy and beneficial—what they ask as justice; he votes as injustice—what they consider barbarity; he advances as politic and humane—What they dishonor; he honors—what they discard as disgraceful and impure; he cordially embraces as lovely and chaste as Mrs. Donnellson's baby. On the 21st ult. Mr. Ewing presented to the Senate of Indiana, the following preamble and resolution, which after some alterations were adopted, as is 13 votes 11—Let the public observe the contrast as to the manner in which the Democrat and its Editor are regarded by a body of men elected by the people of Indiana, and by the "Hero of forty trays."

Political Clarion.

"WHEREAS, senator Ewing has long entertained a firm conviction that the newspaper called the "Indiana Democrat," is, like its editor, A. F. Morrison, utterly wanting in correct principles—unobserving the public credence, and inasmuch as three of said papers were authorized to be furnished to each senator, with a view to make known our proceedings during the session—and said paper is now found to publish reports of said proceedings wilfully partial and untrue therefore.

Resolved, That senators Ewing and Worth, and such other senators as agree with them in opinion, be exempted from the stipulation, requiring three of each number of said papers, called the "Indiana Democrat," to be delivered to each senator at the public expense; and that our clerk order the aforesaid A. F. Morrison to cease sending his said newspaper to the senators herein mentioned."

Our Washington papers have arrived very irregularly of late, but we learn from the Advertiser of yesterday, that the nominations of Gov. Cass as Secretary of war, Mr. Buchanan as Minister to Russia, Mr. Daviess of Louisiana, as Engineer of Mines to the Netherlands, Francis Bayless, of Massachusetts, as Charge d'Affaires at Buenos Ayres, and John Nelson, of Maryland, as Charge d'Affaires to Naples, have been confirmed by the United States Senate.—*Louisville Journal.*

If you want more copies of the Gazette, you can get them at the office of the Vincennes Gazette, in the city of Vincennes, Indiana.