

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 State Engineer of the middle 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 thus 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 \$1,081,970 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 monies 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 monies 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 Commissioners, to consist of three members, to be appointed and commissioned under the requisitions of this act, by the Governor of this State, by and with the advice and consent of the Senate, and to be denominated the Commissioners of the Canal Fund, and the said Board shall continue until the loans procured under its operations 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 shewn, 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 things 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 to contract with any individual, corporation or company, for a loan to the amount of two hundred thousand dollars, which, with the monies immediately arising by cash payments 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 sum 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 monies 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 release 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 purposes aforesaid, as above allowed and provided for, the state of Indiana doth hereby irrevocably guarantee.

Sec. 7. The commissioners last named shall have full power by appointing one or more agents, 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 monies, 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 fund hereby constituted, and make the most profitable investment or deposit thereof, as above directed, until it may be otherwise required; and therefore, the canal commissioners shall under the same limitations as heretofore provided in the act to which this is a supplement, pay over all monies 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 and devoted to future entries thereof, 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 monies by them received from said fund, as above, in addition to the reports and returns otherwise of said canal commissioners heretofore required; which settlement made, together with a full and minute account of the state of said fund, its receipts 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 from the commissioners of the canal fund, such monies 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 division as finally located and approved. *Provided*, That no contracts shall be made in extent to exceed in all, the amount received and accruing from the canal lands sold at the time; 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 as it progresses, 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, stones 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 con-

veyances as may be proper and competent to vest a good title therefore 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 be, the said justice shall issue his warrant to the sheriff of the county to summon a jury of twelve inhabitants of the county, not 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 such owner, in said premises or materials; and the inquisition thereupon taken, being signed by said jury, and certified by such sheriff, shall by him be returned to the clerk of the county in which said trial may be had; and unless good cause be shewn against said inquisition, it shall be affirmed and recorded by the circuit court of said county, at the first term thereof, 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 shewn 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 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 capias or warrant in any civil suit arising out of their official duties, but they shall be subject to 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, paddle, or culvert gate of said canal, such person shall for every such offence forfeit and pay to the state or 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 for constructing the portion of the Wabash and Erie canal within the state of Indiana," approved January 28th 1830, as comes within the purview of this act, & also "a joint resolution concerning the canal commissioners," approved February 10th 1831, be and the same are hereby re-pealed.

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.

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An Act for the formation of the County of La Porte, and for other purposes.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That from and after the first day of April next, all that tract of country, included in the following boundaries, shall form and constitute a new county, to be known and designated by the name and style of La Porte county, to-wit: Beginning at the state line, which divides the state of Indiana and Michigan territory, and at the north-west corner of township No 38, north of range No. 4, west of the second principle meridian, thence running east with said state line, to the centre of range No. 1, west of said meridian; then south, twenty-two miles, thence west parallel with the said state line, twenty-one miles, thence north to the place of beginning.

Sec. 2. That the new county of La Porte, shall, from and after the said first day of April next, enjoy all the privileges, benefits and jurisdictions, which to separate and independent counties do, or may properly belong or appertain.

Sec. 3. That Samuel Lewis, of the county of Allen, Isaac Coleman, of the county of Fountain, Andrew Ingram, of the county of Clinton, Levi Thornton, of the county of Tippecanoe, and Merit S. Craig, of the county of Ripley, be, and they appointed commissioners, agreeably to the act, entitled, "an act fixing the seats of justice in all new counties hereafter to be laid off." The commissioners aforesaid, shall meet on the second Monday in May next, at the house of David Pagan, in said county of La Porte, and shall immediately proceed to discharge the duties assigned them by law. And it shall be the duty of the sheriff of Carroll county, to notify said commissioners, either in person or by writing, of their appointment, on or before the first day of April next. And for such services, he shall receive such compensation as the board doing county business in said county of La Porte, may, when organized, deem just and reasonable; to be allowed and paid as other county claims.

Sec. 4. The circuit court and board doing county business, when elected under the writ of election from the executive department, shall hold their session as near the centre of the county, as a convenient place can be had, until the public buildings shall have been erected.

Sec. 5. The agent who shall be appointed to superintend the sale of lots at the county seat of the county of La Porte, shall reserve ten per centum out of the proceeds thereof, and pay the same over to such person or persons as may be appointed by law to receive the same, for the use of a county library.

Sec. 6. The county of La Porte shall be attached to the county of St. Joseph, for representative purposes.

Sec. 7. The board doing county business may, so soon as elected and qualified, hold special sessions, not exceeding three during the first year after the organization of said county, and shall appoint a lister, make all necessary appointments, and do and perform all other business which might have been necessary to be performed at any other regular session, and take all necessary steps, to collect the state and county revenue, any law or usage to the contrary notwithstanding.

This act to take effect and be in force from and after its passage.

H. H. MOORE,
Sp'r of the House of Reps.
DAVID WALLACE,
Pres'l of the Senate.
Approved, Jan. 9th, 1832.

N. NOBLE.

AN ACT to provide for changing a part of the state road leading from Indianapolis by way of Danville and Rockville to Montezuma.

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That Isaac J. Silliman of Parke county, be and he is hereby appointed a commissioner to re-locate a part of the state road leading from Indianapolis by way of Danville and Rockville to Montezuma, to wit: beginning at the line dividing the counties of Parke and Putnam, running thence with said line and on the west side thereof, to the half mile stake at the termination of the old county road at the south east corner of Nathaniel Bristow's land, thence on the most suitable ground to the Rocky Ford on big Raccoon creek, thence on the most suitable ground to the present location where the line dividing the lands of George Bristow and Samuel Harlan crosses the same.

Sec. 2. The said commissioner shall have power to employ chain-carriers, markers, and surveyors, sufficient to lay out said road as proposed by this act.

Sec. 3. The said commissioner after taking an oath faithfully and impartially to discharge his duties, shall proceed as soon as convenient after the passage of this act, to view, mark, and relocate the said road as heretofore directed, and it shall be his duty within ten days thereafter to return a true record of the same to the clerk of the Parke circuit court.

Sec. 4. It shall be the duty of the board doing business for the county of Parke, to cause the said road to be opened any width not exceeding forty feet, and made agreeably to and under the provisions of the several acts for opening public roads and highways.

Sec. 5. It shall be the duty of the board doing county business for the county of Parke, to make such allowance to the commissioner and those employed by him as shall be just and reasonable, to be paid out of the county treasury, and in case of sickness, death or resignation of the commissioner, it shall be the duty of the said board to fill such vacancy.

Sec. 6. That the commissioner shall as soon as possible after he has completed the location and survey required in the first section of this act, proceed with his surveyor, chain-bearers, and markers, to re-locate that part of said road commencing at the south west corner of the north half of section thirty-six in township number sixteen, north of range number nine west, thence east with the half section line to the range line, thence east six and a half degrees north, until it intersects the state road as now located. And it shall be his duty within ten days thereafter to return a true record of the same to the clerk of Parke circuit court; which road when surveyed and marked, from thenceforth shall be the true location of said state road. And that part of the present location where the present direct line intersects the present location to the town of Montezuma, shall be and is hereby vacated.

Sec. 7. It shall be the duty of the board doing county business to cause the same to be opened in the same manner and form as is provided for opening the first mentioned re-location in section four of this act, and to allow the same *per diem* allowances to the commissioner, surveyor, chain-carriers and markers as is provided for in section five of this act.

Sec. 8. This act to take effect and be in force from and after its passage and publication in the Indiana Journal.

Approved, Jan. 13, 1832.

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JONAS RANDAL,
Rockville, January 18th, 1832.