

CHAPTER 478.

[Published May 7, 1864.]

AN ACT to accept the grant of lands made to the state of Wisconsin, by the United States, to aid in the construction of a military road from Fort Howard, Green Bay, to the Michigan state line.

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

Grant accepted.

SECTION 1. The grant of lands accruing to the state of Wisconsin, under and by virtue of an act of congress granting lands to the states of Michigan and Wisconsin, to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the state of Michigan, to Fort Howard, Green Bay, in the state of Wisconsin, (*be and the same*) is hereby accepted, in accordance with the conditions and provisions contained in said act.

Commissioners
to lay out road.

SECTION 2. Fred. S. Ellis, Joseph F. Lay, H. Naber, D. M. Whitney and Charles Fuller are hereby appointed commissioners, whose duty it shall be to lay out and establish, on the most eligible and direct route, a wagon road from Fort Howard, Green Bay, in the county of Brown, in the state of Wisconsin, and thence to such a point on the Michigan state line as they may agree upon, in connection with the commissioners appointed by the state of Michigan, in an act approved February 4th, 1864, for the purpose of laying out said road in the said state of Michigan.

Survey of road,
&c.

SECTION 3. The said commissioners shall cause the proposed line of said road to be surveyed and proper grades therefor to be established, and plans and specifications for the necessary bridges and for the contract for construction to be made. The said road shall be laid out not less than four rods wide, and the road-bed constructed not less than twenty-two feet wide between the ditches, in the best practicable manner, the road to be well grubbed and cleared from stumps and stones.

Report, &c. to
be sent to sec-
retary of the
interior.

SECTION 4. The said commissioners shall make a report signed by them, or a majority of them, of such survey, plans and specifications, and send it, with a map of the line or route of said road, to the governor of the state, who shall cause a certified copy thereof to be sent to the secretary of the interior of the United

States, with the request that the unsold lands within three miles of the said surveyed line, on either side thereof, be reserved from sale, and that the necessary amount of said lands in lieu of those sold, or on which pre-emptions have attached, be set apart as contemplated by said act of congress.

SECTION 5. When the survey, plans and specifications shall be complete, and the report thereof properly made, it shall be the duty of the said commissioners to advertise for the letting of a contract or contracts for the construction of such road or any section thereof, as they may deem expedient, according to the surveys and specifications adopted, and to let such contracts to the lowest responsible bidder, and to take charge of the construction of said road, and see that such contracts are properly performed. Such contracts shall be signed by said commissioners, but shall not be valid until a duplicate thereof shall be filed with the commissioners of the land office: *provided*, that no commissioner under this act, or any relation of any commissioner within three degrees of consanguinity, shall be interested, directly or indirectly, in any contract herein provided for.

Letting of contracts for construction of road.

Commissioners or relatives not to be interested in contracts.

SECTION 6. All contracts made by virtue of this act shall be payable only in lands granted to the state by the act of congress hereinbefore mentioned, and no land shall be conveyed to any contractor until he has completed at least two consecutive miles of road according to his contract, to the satisfaction of the commissioners, and to be certified by them to the governor, upon which certificate the proper patents, in the usual form, shall be issued to such contractor or his assignee, for the amount of land awarded under his contract, in proportion to the length of road completed.

Contracts payable only in lands, &c.

SECTION 7. Notice of the letting of such contracts shall be published by such commissioners, fixing a time and place for each letting, and stating how payment will be made, and a convenient place where maps, surveys and specifications, or copies thereof, may be seen by parties intending to bid, in one public newspaper printed in the city of Green Bay, in one newspaper printed at Shawano, and in one newspaper printed in the city of Milwaukee, for at least sixty days prior to the letting of such contracts.

Notice of the letting of contracts to be published.

SECTION 8. Each of the commissioners appointed by

Commissioners to take oaths.

virtue of this act shall, before entering upon his duties, take and subscribe to the oath of office prescribed by the constitution of this state, before any officer authorized to administer oaths, and transmit the same to the secretary of state, to be filed in his office. The said commissioners shall hold their office for four years, unless sooner removed by the governor, or by death or resignation. The governor shall have power to remove either of said commissioners for misconduct or neglect of duty, and to fill vacancies.

Their terms of office.

May be removed.

For diem of commissioners.

May appoint assistants.

Sale of school and university lands to pay expenses of survey, &c.

Contractors to give bonds.

Powers of commissioners in laying out road.

SECTION 9. Each of said commissioners shall be entitled to receive for his services and personal expenses, three dollars for each day actually employed in the business of said road. They shall have power to appoint such number of assistants and procure such aid as shall be necessary, and to fix the pay and compensation therefor.

SECTION 10. When the line of said proposed road shall be surveyed and established, and the maps thereof shall be filed with the secretary of the interior, and the lands granted to this state for the said road shall be set apart, as contemplated in said act of congress, the governor may authorize and direct the commissioners of school and university lands to sell such part of the first thirty sections of land authorized by said act to be sold, as may be sufficient to raise the amount necessary to reimburse the state for expense of such survey, and compensation of the commissioners authorized by this act, and to pay the damages hereinafter mentioned, to be offered and sold in such manner as they shall deem for the public interest, except that they shall be sold for cash, and at not less than one dollar and twenty-five cents per acre.

SECTION 11. Before any contract entered into by virtue of this act shall be valid, the contractor shall execute a bond with sufficient sureties, to the people of this state, in such penalty as the commissioners shall direct, with a condition for the faithful performance of his contract, according to the plans and specifications thereof, which bond shall be approved by the governor and filed with the secretary of state.

SECTION 12. The said commissioners and their employees and assistants, in the locating, laying out and constructing of said road, shall have power to lay out and establish said road over any lands belonging to

this state, as also over any state, county or town roads or highways lawfully established by the county or town authority, and any bridge on such highways not a toll-bridge; but when it shall be necessary in opening and constructing said road, to take the land of any private person or owner, the said commissioners shall proceed to view the land so to be taken, and shall give the owners or their agents, if they are to be found on such land, such notice as they may deem reasonable, to be present at such view, and make such showing as they may desire touching the amount of damages to be sustained by such taking; and upon taking such view and hearing the showing of such owner or occupant, if he shall be present in person or by an agent, the commissioners shall estimate the amount of such damage, if any, and make and sign a certificate of their finding, describing the lands claimed to be damaged, and file the same in the office of the secretary of state; and if the same shall be approved by the governor, such damages shall be paid by the state treasurer on the warrant of the secretary of state, out of the military road fund created by this act, if there be any money belonging to the same.

Damages.

SECTION 13. The commissioners shall cause a map or plan of said road as surveyed and established through any county, to be recorded in the office of the register of deeds of such county.

Maps of road to be recorded.

SECTION 14. Such road when laid out and opened, and to such extent as work upon the same has been accepted as completed, is declared to be a public highway, and shall be, with the bridges thereof, kept in repair by the counties through which the same shall pass.

To be a public highway.

SECTION 15. No part of the fees, per diem or expenses of said commissioners shall be paid by the state, but the accounts of said commissioners shall be audited by the governor, upon the certificate of said commissioners, and the first proceeds of the sale of said lands shall be applied to the payment of said commissioners' accounts and expenses.

Expenses to be audited by the governor.

SECTION 16. The secretary of state shall, on this act being filed in his office, cause a certified copy thereof to be transmitted to the secretary of the interior.

Copy of this act to be transmitted to sec'y of interior.

SECTION 17. This act shall take effect and be in full force from and after its passage.

Approved April 4, 1864.