

THE
REVISED STATUTES

OF THE
STATE OF INDIANA,

PASSED AT THE
THIRTY-SIXTH SESSION OF THE GENERAL ASSEMBLY;
ALSO, SUNDRY ACTS, ORDINANCES, AND PUBLIC DOCUMENTS
DIRECTED TO BE PRINTED ALONG WITH THE
SAID STATUTES:

TO WHICH ARE PREFIXED THE
CONSTITUTION OF THE UNITED STATES
AND OF THE STATE OF INDIANA.

VOLUME I.

PRINTED AND PUBLISHED ACCORDING TO LAW.

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Dispatches to
be delivered.

SEC. 3. Such companies shall deliver all dispatches, by a messenger, to the persons to whom the same are addressed, or to their agents, on payment of any charges due for the same: *Provided*, Such persons or agents reside within one mile of the telegraphic station, or within the city or town in which such station is.

Railroad Co.
may become
stockholder, or
may construct,
&c.

SEC. 4. A railroad company may become a stockholder in a telegraph company, or may construct a telegraph to connect two or more points on their railroad. And if such railroad company entirely own such telegraph line, they shall not be bound to telegraph for the public, unless they undertake to do so.

Contracts by
telegraph to be
valid.

SEC. 5. Contracts made by telegraph, between two or more persons, shall be considered as contracts in writing.

CHAPTER 108.

AN ACT for the incorporation of Towns, defining their powers, providing for the election of the officers thereof, and declaring their duties.

[APPROVED JUNE 11, 1852.]

Survey.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That persons intending to make application for the incorporation of a town, as hereinafter provided, shall cause an accurate survey and map to be made of the territory intended to be embraced within the limits of such town; such survey shall be made by a practical surveyor, and show the courses and distances of the boundaries thereof, and the quantity of land contained therein, the accuracy of which survey and map shall be verified by the affidavit of such surveyor, written thereon or annexed thereto.

Census.

SEC. 2. Such persons shall cause an accurate census to be taken of the resident population of such territory, as it may be, on some day not more than thirty days previous to the time of presenting such application to the board of county commissioners, as hereinafter provided; which census shall exhibit the name of every head of a family residing within such territory, on such day, and the number of persons then belonging to every such family; and it shall be verified by the affidavit of the person taking the same.

Survey and
census open to
examination.

SEC. 3. Such survey, map and census, when completed and verified as aforesaid, shall be left at some convenient place within said territory for examination by those having interest in such application, for a period of not less than four weeks.

SEC. 4. Such application shall be by petition, subscribed by the applicants, and also by not less than one-third of the whole number of qualified voters residing within such territory; and said petition shall set forth the boundaries thereof; the quantity of land embraced according to the survey, and the resident population therein contained, according to said census taken; and the said petition shall have attached thereto, or written thereupon, affidavits verifying the facts alleged therein; and it shall be presented at the time indicated in the notice of such application, or as soon thereafter as the board can receive and consider the same.

Application,
how made.

SEC. 5. The board of county commissioners, in hearing such application, shall first require proof, either by affidavit or by oral examination of witnesses before them, that the said survey, map and census were subject to examination in the manner and for the period required by section three of this act; and if said board be satisfied that the requirements of this act have been fully complied with, they shall then make an order, declaring that such territory shall, with the assent of the qualified voters thereof, as hereinafter provided, be an incorporated town, by the name specified in the application aforesaid, which name shall differ from that of every other town in this State; and they shall also include in such order a notice for a meeting of the qualified voters resident in said territory, at a convenient place therein, to be by them named, on some day within one month therefrom, to determine whether such territory shall be an incorporated town.

Duty of com-
missioners.

SEC. 6. The board shall cause ten days' notice of such meeting, by publication in a newspaper, if one be printed in such territory, and by posting up copies of said notice, not less than ten in number, at the most public places in said proposed incorporated town.

Notice of meet-
ing.

SEC. 7. At the meeting of the qualified voters, as herein provided, polls shall be opened at nine o'clock in the forenoon of such day, and shall be kept open until four o'clock in the afternoon, when they shall be closed.

Polls.

SEC. 8. The voters at such meeting shall first proceed to the election of three inspectors, who, after being duly chosen and qualified, and elected one of their number clerk, shall without delay proclaim to the meeting that the poll is now opened, and that they are ready to receive the ballots of the voters.

Inspectors.

SEC. 9. The qualified voters of said territory shall vote by ballot, having thereon the word "yes," or the word "no;" and if a majority of the ballots given at such meeting shall have thereon the word "no," the voters of such territory shall be deemed not to have assented to the incorporation thereof as a town, and no further proceedings shall be had in relation thereto; but if a majority of such ballots shall have thereon the word "yes," such territory shall from that time be deemed an incorporated town, to have continuance there-

Election.

after by the name and style specified in the order made by the board of county commissioners, as hereinbefore provided; and the inspectors of such meeting shall make a statement showing the whole number of ballots given at such meeting, the number having the word "yes" thereon, and the number having the word "no" thereon, which statement shall be verified by the affidavit of such inspectors, and shall be returned to such board of commissioners, at their next session, who, if satisfied of the legality of such election, shall make an order declaring that said town has been incorporated by the name adopted, which order shall be conclusive of such incorporation, in all suits by or against such corporation; and the existence of said corporation, by the name and style aforesaid, shall thereafter be judicially taken notice of in all courts and places in this State, without specially pleading or alleging the same.

Districting.

SEC. 10. Such inspectors when they shall have returned the statement as aforesaid, shall next proceed to divide said town into not less than five nor more than seven districts, having due regard to the equitable apportionment of a population among the same, and the convenience and contiguity of such district.

Notice of election of officers.

SEC. 11. They shall also give ten days' notice by publication in a newspaper if one be printed within such town, or if there be no newspaper, then by posting such notices in five public places therein, of an election to be held in such town, for the purpose of electing officers thereof; naming the place therein, and the day upon which the same shall be had; but such day named shall be within twenty days from the posting of such notices. Every subsequent notice of a corporation election shall be given in like manner by the clerk of said town.

Annual election.

SEC. 12. An election for officers of said town, after the first election, shall be held annually on the first Monday in May of each year, and at every such election the preceding board of trustees, or any three of them, shall act as the inspectors thereof.

Polls, when opened and closed.

SEC. 13. At all elections in said town, the polls shall be open at nine o'clock in the forenoon, and shall not be finally closed until four o'clock in the afternoon of said day.

Duty of inspectors.

SEC. 14. Such inspectors shall preside at such first election, and be the inspectors thereof, and, in the receiving and canvassing of votes, shall be governed by the laws then existing, so far as they are applicable, for the election of township officers.

Election of trustees, clerk, &c.

SEC. 15. There shall be elected at the first, and at every subsequent election, one trustee from each district in said town, and also a clerk, assessor, treasurer, and marshal, who shall respectively hold their offices until the first Monday in May next following, or [until] their successors are elected and qualified: *Provided*, that nothing herein contained shall

prevent the respective offices of clerk, treasurer, assessor and marshal from being held by one and the same person.

SEC. 16. The persons having the greatest number of votes Same. shall be declared elected as such trustees, and the persons who received the greatest number of votes respectively for clerk, marshal, assessor, and treasurer, as designated by the ballot for such office, shall be declared so elected; and if two or more shall have an equal and highest number of votes, and there be no choice, the inspectors of such election shall forthwith determine by lot which shall be deemed elected, and it shall be the further duty of such inspectors to make a certified statement over their own signatures, of the persons elected to fill the several offices in said town, and file the same with the clerk of the circuit court, in the county thereof within ten days from the day of such election, and no act or ordinance of any board of trustees chosen at such election shall be valid until the provisions of this section are substantially complied with.

SEC. 17. It shall be the duty of the clerk of the proper Duty of county clerk. county to make a record of such certified statement, for which service there shall be paid the same fee as is allowed clerks for similar services in other cases.

SEC. 18. A vacancy occurring in the board of trustees, or Vacancies, how filled. in any corporation office, shall be filled by appointment, at a special meeting of the trustees called for that purpose, but such appointment shall be made from the district, if a trustee [be appointed] in which the vacancy has occurred, and shall in no case extend beyond the annual election provided for in this act.

SEC. 19. The board of trustees chosen as aforesaid, shall Election of president; oath of office. elect a president from their own body, and such president, trustees, and all other officers elect, shall, within five days after such election, take and subscribe, before some person authorized to administer the same, the usual oath or affirmation for the faithful performance of the duties of their respective offices.

SEC. 20. The president and trustees of such town, and their successors in office, shall constitute a body politic and Corporate powers. corporate, by the name of the town of ———, and shall be capable in law to prosecute and defend suits to which they are a party.

SEC. 21. Special meetings of the qualified voters may be Special meetings of voters, how called. called by the clerk, by order of the trustees of said town, by giving ten days' notice thereof, in a newspaper, if any be printed in such town; otherwise, by posting up such notices in five public places therein, and such notice shall state the objects for which such meeting is called.

SEC. 22. The board of trustees shall have the following Powers of trustees. powers, viz:

First. To have a common seal, and alter the same.

Second. To purchase, hold or convey any estate, real or personal, for the use of the corporation, so far as such pur-

chase may be necessary to carry out the [objects] contemplated by this act.

Third. To organize fire companies, hook and ladder companies; to regulate their government, and the times and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires; to make owners of buildings provide ladders and fire-buckets, which are hereby declared to be appurtenances to the real estate, and exempt from execution, seizure or sale; and if the owner shall refuse to procure suitable ladders or fire-buckets after reasonable notice, the trustees may procure and deliver the same to him, and in default of payment therefor, may recover of said owner the value of such ladder or fire-buckets, by suit before any justice of the peace in the proper township, and costs accrued thereby; to regulate the storage of gun-powder, and other dangerous materials; to direct the construction of a place for the safe deposit of ashes; and may under an order by them entered upon the proper book of the board, visit, or appoint one or more fire-wardens to visit and examine at all reasonable hours, dwelling houses, lots, yards, enclosures and buildings of every description, discover if any of them are in a dangerous condition, and provide proper remedies for such danger; to regulate the manner of putting up stoves and stove pipes; to prevent out-fires and the use of fire-works, and the discharge of fire-arms within the limits of said corporation, or such parts thereof as they may think proper; to compel the inhabitants of such town to aid in the extinguishment of fire, and prevent its communication to other buildings, under such penalties as are in this act provided; to construct and preserve reservoirs, wells, pumps, and other water works, and to regulate the use thereof, and generally to establish other measures of prudence for the prevention or extinguishment of fires, as they shall deem proper.

Fourth. To declare what shall constitute a nuisance and to prevent, abate and remove the same, and take such other measures for the preservation of the public health, as they shall deem necessary,

Fifth. To restrain from running at large cattle, sheep, swine, or other animals.

Sixth. To restrain and prohibit gambling and other disorderly conduct; to suppress and prohibit the keeping of houses of ill-fame; and to authorize the seizure and destruction of gambling apparatus.

Seventh. To license, regulate or restrain auction establishments, travelling peddlers and public exhibitions within the corporation.

Eighth. To establish and regulate markets, and build market houses, and direct the location of slaughter houses.

Ninth. To lay out, open, grade and otherwise improve