

PREFACE, ACTS OF ARKANSAS OF 1871, ACT XLIV

An act for the location, organization and maintenance of the Arkansas Industrial University, with a normal department therein.

Be it enacted by the General Assembly of the State of Arkansas:

Section 1. That the treasurer of said state be a financial agent and trustee of said state, immediately after the passage of this act, to apply for and receive of the United States government all the land scrip to which this state may be entitled by reason of her acceptance of the provisions of the act of Congress, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and acts amendatory thereof.

Section 2. Be it further enacted, That the treasurer of the state is hereby fully empowered to offer and sell said land scrip in whatever market he can dispose of the same, or any part thereof, to the best advantage for said state, and with the proceeds of such sale to purchase interest bearing bonds of the United States, such scrip to be sold at the highest market rates, and such bonds to be purchased at the lowest price for which they can be had in any market; or, if more advantageous to this state, said agent may, upon the best practicable terms, exchange such scrip for such government bonds, and all necessary power is hereby conferred upon said agent to execute all obligations, transfer acquittances and receipts necessary to carry out the provisions of this act: Provided, Such financial agent shall be subject to the direction and control of the board of trustees hereinafter mentioned; and he shall not sell said scrip at a less amount per acre, or pay for such bonds a greater sum per dollar, than may be sanctioned by resolution of said board; and in case of exchange of such scrip for government bonds, it shall be upon terms sanctioned by said board.

Section 3. Be it further enacted, That this legislature shall elect one trustee for each judicial circuit, who shall constitute a board of trustees, with all authority and necessary powers to carry out the provisions of this act, in locating, organizing and maintaining such industrial university, and a normal school therein; and the state superintendent of public instruction shall, ex officio, be president of said board, and, in all cases of a tie vote, he shall decide the same by his vote. A majority of said board shall constitute a quorum to do business, but a less number may adjourn from time to time, and send for absent members; Provided, That if no board of trustees should be elected by the legislature, the Governor be and he is hereby authorized to appoint such board of trustees, one member to be selected from each judicial circuit.

Section 4. Be it further enacted, That any county, city or incorporated town, through the lawfully constituted authorities thereof, and any and all individuals, may bid or subscribe such sums in money, or bonds, or real or personal property as they deem proper for the purpose of securing the location of such university within such limits as may be by them designated, and may provide for and raise such sums of money as may be bid or subscribed by any county, city or town, by taxation or by the issue and sale of bonds, payable at not more than thirty years, with interest thereon at not over eight per cent per annum, payable semi-annually in the city of New York, or at the treasury of the county in

which the bid is made: Provided, The liability of no county, city or town shall be fixed until the proper authorities thereof shall, by order, specify the amount of the bid or subscription of such county, city or town, and submit the same to a vote of the electors thereof, first giving at least ten days' public notice of the time and place, or places, of such election, at which the electors shall vote for the industrial university bid, or against the industrial university bid; and if, at such election, which shall be held and conducted as other general elections of this state, a majority shall vote for the industrial university bid, it shall be binding upon the inhabitants and taxable property of such county, city or town; and if such bid or subscription shall be accepted by the board of trustees herein named, and such university located as specified in the orders making such bids or donations, then the liability of such county, city or town shall be irrevocable, and forever fixed and binding. The interest on said bonds to commence running at such time after their date as may be directed by said trustees. The board of trustees, in locating the university, shall take into consideration the health, accessibility and other vital interests upon which the success of the institution may depend.

Section 5. Be it further enacted, That the orders herein provided for may be made by any county court, or council, at any regular or adjourned meeting, and only upon the petition of fifty or more voters of any county or corporation; the court or council, as the case may be, shall convene on the first Monday of July, 1871, and make such orders as may be deemed proper; and the election herein provided for shall be held on the first Monday in August, 1871, and the returns of all such elections shall be made to the county clerk, and he shall certify the result of such election to the state superintendent of public instruction. All amounts bid by any county shall be made to appear of record in the clerk's office of such county, and all amounts bid by any corporation shall be certified and recorded in such clerk's office, and individual subscriptions shall likewise be recorded therein, and a certified copy of such record shall always be evidence of the nature, amount and obligation of such bid.

Section 6. Be it further enacted, That it is made the official duty of each member of said board to meet at the office of the state superintendent of public instruction, in Little Rock, on the third Monday in September, 1871, to examine bids and make the location of said university. They shall take such time and adopt such means as they deem proper to ascertain the solvency of bidders, their indebtedness, and other matters affecting the availability of the sums offered. In the discharge of any duty the board are empowered to adjourn and meet again at such time and place as they may designate. They shall consider the adaptability of the location to the leading sciences to be taught, the climate and healthfulness of the place, the cost of building and supplies necessary for the institution, and the interest of such beneficiaries as it is intended to aid, and thus considering, shall locate according to the highest and best bid: Provided, Said trustees shall not accept bids in favor of any locality, unless in the aggregate they amount to over thirty thousand (\$30,000) dollars, in cash, real estate at cash value, or bonds bearing at least seven per cent interest, and deemed collectable; and when a location is made by such trustees if made upon and in accordance with such bid, such location, in consideration of the sum so bid, shall thereafter be irrevocable by the state, and all the moneys, emoluments, benefits and advantages derived, or to be derived from the donations, grants, endowments, bids, subscriptions or gifts, of or from the Congress of the United States, under the act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July 2, 1862, or otherwise; or from this state, or any county, city or town corporation, or

individuals, for an agricultural and mechanical, or normal college, in this state, shall pass to and vest in said state, for the use of said institution so located, and without diminution or division, shall be kept, used and expended for the sole benefit of said university, at the place of such location, and not elsewhere; and while the donations, bids and subscriptions of individuals, counties, cities or towns shall be irrevocable and forever binding upon them, the faith and credit of the state is pledged to carry out this agreement and act on her part.

If no such bid as is provided for in this act be received by said board of trustees by said third Monday in September, said trustees shall proceed to locate said university at such place as they deem for the best interests of the whole people of the state.

The president of said board shall call meetings of said board whenever, in his judgment, business in this act specified requires it, or whenever three members of the board may petition him to do so.

Section 7. Be it further enacted, That upon the location of said university, as herein provided for, said board may employ such architects and mechanics as may be thought best, and the general plan and specifications of such buildings as are to be erected before the regular meeting of the next General Assembly, shall be agreed upon; and they shall give public notice and receive bids, for the furnishing of material and the erection of such buildings, as a whole, or in parts, as to them shall seem best; and they are empowered to appoint a committee, or committees, of their own number, or of other discreet citizens, to receive bids and enter into contracts for such materials and work, with power to reject bids deemed too high, or of parties not solvent or sufficiently secured, and such further discretionary powers as may be deemed advisable; and also to appoint such commissioners, architect, or other superintendent of the buildings, as may be necessary, from time to time, to inspect the same, and see that payments are not made upon the work unless the same comes fully up to the plan and specifications agreed upon by said board; payments to be made upon material and work according to contract, upon the certificate of the architect or inspector, and the building committee, approved by the president of the board, and out of the funds hereinafter provided for.

Section 8. Be it further enacted, That upon the assent of said board to accept lands or other property upon the terms and for the purposes herein specified, the same shall be deeded by the subscribers or donors to the State of Arkansas, for the use and benefit of said industrial university; and, if in the location of said University, and the selection of a proper and suitable site therefor, and for the improvements and grounds to be connected therewith, said board of trustees cannot procure title to be made as above state, by paying the owner of all such ground as may be by them selected and deemed necessary and proper for the erection of such buildings, and for promenades, shades and other useful and ornamental purposes connected therewith, what is by them deemed the full value of such ground in cash, such board of trustees may then proceed, as prescribed in section twenty-three of an act entitled "An act to provide for a general system of railroad incorporation", approved July 23, 1868, for the condemnation of lands for railroad purposes, and have such lands condemned and adjudged to the state, for the use of said university, in the manner prescribed in said railroad incorporation act: Provided, Said trustees shall have no power to have condemned any real estate, including its owner's homestead, or within seventy-five yards thereof, nor shall they have condemned more than four acres belonging to any one individual, nor any lot now on the record plat of any town or city.

Section 9. Be it further enacted, That all property or bonds, donated or bid as herein provided for, and accepted by said board of trustees, as aforesaid, shall constitute a part of the funds of said industrial university, and such bonds shall be held by said financial agent, to be by him sold or deposited under the direction of said board: Provided, That if said bonds are offered for sale they shall be first advertised in the county where issued, and there offered for sale, at such price as may be fixed by said board, and they shall not thereafter be sold in any other market for a less sum than that at which they were offered in said county, until they are again offered in the county at such reduced rates as agreed upon, said bonds to be issued in equal numbers of \$500 and \$1,000 each, with coupons for the amount of the accruing interest thereto attached, which bonds and coupons shall be procured by the said financial agent, and each bond shall be presented to and signed by the presiding judge of such county court, or the presiding officer of such town or city council, and said bonds and the coupons thereto attached shall be signed by the clerk of such county or the recording officer of such town or city, and the overdue coupons of such bonds shall always be receivable for all taxes of the county or corporation by which they were issued.

Section 10. Be it further enacted, That it shall be the duty of said board to cause to be erected upon such location as they may select, with all practicable speed suitable buildings of a value full equal to the donations, bids and subscriptions made by the county, corporation and individuals where such subscription is made; and said county or corporation shall not be required to pay interest on the bonds that may be issued by it more than one year until said buildings are erected, and a school organized therein; and should such county or corporation be required to pay more than one year's interest on such bonds before such school is organized, the amount so paid shall be refunded to it by the state.

And it is hereby made the absolute duty of the county court or corporation council issuing such bonds, to annually levy a tax and collect in currency or overdue coupons of such bonds, a sum fully sufficient to pay all accruing interest on such bonds and incidental expenses connected therewith, and upon failure to do so, it shall be the duty of any court of competent jurisdiction, upon the application of

any one or more holders of such bonds, to compel such county court or council forthwith to levy and collect such sums as will fully pay all such interest, etc., as herein provided for.

Section 11. Be it further enacted, That it shall be the duty of said board of trustees to have provided suitable furniture for said university, and to employ all necessary supervisors, professors and teachers, agents or servants required to organize and carry on such university according to the true spirit and interest (intent) of the acts of Congress in reference thereto, with a normal department therein as in this act provided; but they shall observe strict economy, and incur no incidental expenses, and fill no professorships not absolutely required in the earlier sessions of said university; but they may, from time to time, as the finances will allow, and the advancement and necessities of the institution require, fill other chairs, and add to the buildings, furniture, libraries, apparatus, and other things proper to the full operation and well-being of a first class university.

Section 12. Be it further enacted, That the president of the board and the financial agent herein named, shall attend at such times and places herein named and required, and shall perform all such duties as are herein required or may be directed by said board, without salary or fees, or any compensation whatsoever, except such as they now receive for other services for the state; but their own and the trustees' necessary traveling expenses and board bills, and other necessary incidental expenses in carrying this act into effect, shall be paid by the state, upon the official certificate of the person incurring such expense being approved by the president of the board, which shall be a voucher in the office of the auditor of state. Said trustees shall each receive two dollars and fifty cents for each day necessarily consumed on duty as such trustees, payable as above provided for.

Section 13. Be it further enacted, That the State of Arkansas, for the use of said university, shall have a right of action against any and all persons who may commit trespass against or upon any of the property or effects of said university, or upon the breach of any covenant, contract or promise made with said school board, or any sub-committee or agent appointed by such board, (proceedings to be prosecuted by the prosecuting attorney of the district, or such counsel as may be employed under the direction of said board,) and if suit (sued), all the law officers of the state shall, free of charge, defend said board, their committees or agents, in all matters growing out of acts done in the connection with the business of said university.

Section 14. Be it further enacted, That whereas, the munificent gift of 150,000 acres of land scrip donated by the United States to endow this university for the benefit of the poorer and the education of the industrial classes, cannot be used for the purchase of a site or erection of buildings, and any bonds that may be donated to secure the location cannot be made available to erect the buildings and organize such institution within the time prescribed by the acts of Congress, and our state has accepted the provisions of said acts and pledged her faith to carry them into effect; therefore the sum of fifty thousand (\$50,000) dollars is appropriated to purchase a site, erect buildings and organize said institution, as we are required to do to keep the faith of the state, and save from forfeiture this large gift made us by the general government.

Section 15. Be it further enacted, That all things necessary to be had or done to carry this act

into full force and effect and to completely organize and put in full operation the university herein provided for, and not specifically named herein, shall be done by or under the direction of said board of trustees, and they and their committees and agents shall keep full accounts of all expenditures; and the president of said board, in his biennial report to the Governor, shall fully set forth the advancement and condition of the university, the extent of the real estate, improvements, and other property owned by it, and a detailed account of all expenditures made by such board, or under its direction, in reference to any and all business connected with said university, and recommend such further legislation as the interests of the institution may require.

Section 16. Be it further enacted, That said board of trustees shall fix, and from time to time regulate the fees, allowances, salaries and wages to be paid architects, inspectors, professors, teachers, agents, committees, servants or other necessary employees; and they shall observe rigid economy in such expenditures, and each of said trustees shall take an oath before entering upon duty, to faithfully and diligently discharge their duties according to law.

Section 17. Be it further enacted, That said board of trustees, at its first and each biennial meeting thereafter, shall elect one of their number secretary, and another treasurer; such treasurer shall give bond to the State of Arkansas, with approved security, in such sum as the board shall adjudge amply sufficient to secure the funds of the institution from loss, which bond shall be filed with the secretary of the state. The board shall have power to remove such officers, and they may allow them a reasonable compensation for their services, not to exceed the sum allowed herein to trustees for the time actually employed. Said treasurer, under the direction of the board, may draw from the treasurer of the state such sums as may be deemed necessary for the ready payment for building and other accruing expenses: Provided, He shall at no time draw or have on hand more than ten thousand dollars, and the same shall be paid out as the board shall direct.

Section 18. Be it further enacted, That said board of trustees shall have power to prescribe all necessary rules and regulations for the government and discipline of said university, and prescribe the grade and number of honorary scholarships, and prescribe the rules by which scholars who are to be admitted free shall be elected equally from the various parts of the state, subject to such changes as the legislature may hereafter make.

Section 19. Be it further enacted, That said board of trustees are authorized and empowered to form themselves into a body corporate and politic, under the general laws of this state now existing, or hereafter to be put in force; and upon the complete formation and organization of such corporation, they shall have and exercise all the powers and privileges allowed by the constitution and laws of the state to any like corporation, in all matters and things pertaining to the location, organization, maintenance and regulation or support of said university.

Section 20. Be it further enacted, That if there is not one hundred acres of land donated for the use of said university, at such place as said board of trustees may agree to locate the same, they shall purchase such an amount as they may deem necessary, not less than one hundred and sixty, nor over six hundred and forty acres; and to pay therefor, may use not over ten per cent of the net amount of the

sales of said government lands or land scrip.

Section 21. Be it further enacted, That all laws and parts of laws in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved March 27, 1871