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EQUAL AND EXACT JUSTICE TO ALL MEN, OF WHATEVER STATE OR PERSUASION, RELIGIOUS OR POLITICAL.—Thos. Jefferson.

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NO. 43.

LAWS OF OHIO:

PUBLISHED BY AUTHORITY.

[No. 159.] AN ACT

To provide for the renewal, and to regulate the final payment, of the Funded Debt of the State.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the commissioners of the sinking fund for the time being are hereby authorized, fully empowered and required, at periods previous to, and near the time that any portion of the funded debt of this State shall become payable according to the terms expressed upon the face of the certificates thereof, to make out in due form and manner, and with all the sanctions required by law for the making of certificates of the funded debt of this State, and issue such an amount and number of such certificates of the funded debt of this State as shall be sufficient in amount to redeem so much of said debt then about coming payable, as shall not have been paid or fully provided for by the application of the sinking fund as established and fixed by the constitution. And such an amount of all such certificates of the funded debt so to be issued to redeem any part of the said debt coming payable, shall be made redeemable and payable in such manner and consecutive year after year being issued, as the sinking fund established and fixed by the constitution, applicable in each year, and described in and by the schedule herein, will pay; which schedule is hereby made part of this act, as explanatory thereof, so that a certain amount of such certificates of such debt so issued shall be made payable and redeemable absolutely every year in each consecutive year, until the whole of the same shall be paid. And on making and issuing said certificates, the time and place of redemption and payment of the principal, and the rate of interest, shall be clearly expressed upon the face of the certificate. And each certificate shall also have conspicuously and plainly inscribed upon its face the words, "renewal of the funded debt of the State of Ohio." And the said commissioners of the sinking fund shall keep separate accounts and registries of the issue, transfers, payment of interest, and the final redemption and payment of the principal of the same.

Sec. 2. The following schedule of the sinking fund as established and fixed by the constitution of the State of Ohio, and applicable yearly, commencing in the year eighteen hundred and fifty-two, (1852,) to the payment of the debt of the State, and referred to, and made a part of this act, as explanatory thereof, by the preceding section hereof, to-wit:

Year	Amount
For the year 1852	\$100,000 00
For the year 1853	100,000 00
For the year 1854	112,300 00
For the year 1855	119,100 00
For the year 1856	129,248 00
For the year 1857	137,277 00
For the year 1858	141,832 00
For the year 1859	150,333 00
For the year 1860	159,335 00
For the year 1861	168,948 00
For the year 1862	179,982 00
For the year 1863	189,530 00
For the year 1864	201,220 00
For the year 1865	213,293 00
For the year 1866	226,010 00
For the year 1867	239,636 00
For the year 1868	254,035 00
For the year 1869	269,277 00
For the year 1870	285,344 00
For the year 1871	302,500 00
For the year 1872	320,714 00
For the year 1873	339,957 00
For the year 1874	360,304 00
For the year 1875	381,875 00
For the year 1876	404,584 00
For the year 1877	429,438 00
For the year 1878	454,939 00
For the year 1879	482,235 00
For the year 1880	511,169 00
For the year 1881	541,839 00
For the year 1882	573,340 00
For the year 1883	605,810 00
For the year 1884	640,399 00
For the year 1885	677,169 00
For the year 1886	716,103 00
For the year 1887	757,290 00
For the year 1888	800,699 00
For the year 1889	846,390 00
For the year 1890	894,427 00
For the year 1891	944,870 00

To pay balance of funded foreign and domestic debt of State, \$14,789,027 20
Deduct Sinking Fund for years 1852 to 1891, inclusive, already applied, 839,356 00
\$13,949,671 20

Sec. 3. All or any portion of such certificates of the funded debt of the State so to be renewed, as herein described, may be made and issued with the principal and interest payable at the treasury of the State, at the seat of government, or at the office of the agency of the State in the city of New York, and at no other place whatever. And all certificates of the funded debt so issued as a domestic debt, the principal and interest of which is made payable at the treasury of the State, shall be issued payable to the party or parties taking the same, his, her, or their order, as the case may be.

Sec. 4. The interest on all the certificates of the funded debt of the State, so to be issued as a domestic debt to renew any portion of the funded debt of the State coming payable as aforesaid, shall be made payable semi-annually, (every six months,) on the first day of February and on the first day of August in each year, from the time of their being issued. And the interest on all the certificates of the funded debt of the State so to be issued as a foreign debt, to renew any portion of the funded debt of the State coming payable as aforesaid, shall be made payable semi-annually, (every six months,) on the first day of January and on the first day of July in each year, from the time of their being issued. And no certificate of said funded debt so issued as a foreign debt, the principal and interest of which shall be

made payable in the city of New York, shall be issued of less denomination or amount than one thousand dollars, nor for any fractional part of one thousand dollars above that sum; but certificates of the funded debt so renewed, the principal and interest of which is made payable at the treasury of the State, at the seat of government of the State, as a domestic debt, may be issued in amounts of one hundred dollars, or of five hundred dollars, or one thousand dollars, as may be preferred by the party or parties taking the same, and also for any fractional part of the sinking fund of any year. And there may be attached to all such certificates so issued as a domestic debt, interest, coupons or debentures, for every six months interest coming due and payable, from the time of the issuing of such certificate to the period of the final redemption and payment of the same; which interest, coupons, or debentures may be taken by the county treasurers in lieu of money in payment of taxes due the State, that is to say the interest, coupons, or debentures coming due on the first day of February in any year, may be taken for taxes due in the preceding 20th of December, and interest, coupons or debentures coming due on first day of August in any year may be taken for taxes due the preceding 20th of June, and may be received from them by the treasurer of State in lieu of money, and paid over on the warrant of the auditor of State, drawn on the requisition of the commissioners of the sinking fund, according to the requirements of law for the payment of the interest on the funded debt of the State; but no such coupon or debenture shall be taken by any county treasurer, or be received of any county treasurer, by the treasurer of State, or by the commissioners of the sinking fund, for a greater sum or amount than the simple interest expressed therein; and all such coupons or debentures so paid by the State shall be canceled, classified, arranged, and carefully recorded, and preserved in a book or books, to be kept for that purpose by the said commissioners of the sinking fund, in their office, at the seat of government; in lieu of the duplicate pay rolls, as required in regard to the payment of the semi-annual interest on the foreign funded debt of the State.

And it shall also be a part of the official duties of the said commissioners to make such requisition as aforesaid; and it shall be a part of the official duties of the auditor of State to draw such warrant on the treasurer of State for the paying over, as aforesaid, of all such coupons or debentures as often as once in each week (and oftener if deemed essential to the interests of the State) to either the auditor of State or the said commissioners in which any of the said coupons or debentures shall have been received into the state treasury aforesaid. And the treasurer of State shall make out, and register in his office, complete schedules of all such coupons or debentures so received by him from county treasurers, and paid over to the commissioners of the sinking fund on the warrant of the auditor of State, drawn as aforesaid; and also shall furnish copies of all such schedules to the comptroller of the treasury at the close of business on each day, in which any such coupons or debentures shall be so paid over by him.

Sec. 5. It is hereby made the special duty of the commissioners of the sinking fund to advertise for proposals or bids for the taking of all or any portion of the funded debt of the State so to be renewed, as herein provided, as a domestic debt as herein described, for the term of at least six months next preceding the time set for the closing of such bids or proposals for the taking of such domestic debt, in at least one newspaper of general circulation published in each county in this State. And whatever portion of the said debt so to be renewed, at such time as shall remain without being taken as such domestic debt on the terms herein specified, after the expiration of the said term of six months in which the same may be taken, as such domestic debt as aforesaid, shall be offered by the said board of commissioners of the sinking fund for the sale in the city of New York as a foreign debt; and for that purpose, the said commissioners shall advertise for proposals or bids for the same in at least two newspapers of the general circulation, published in the city of New York for a term of at least sixty days next preceding the day set for the closing of the bids or proposals for the taking of the same. And all certificates of such renewed funded debt that may be issued as a domestic debt as herein described, shall be issued by the said commissioners of the sinking fund to the party or parties who shall take the same as such domestic debt as aforesaid; at the lowest rate of interest not exceeding six per centum per annum, and at par, that being the full amount as expressed upon the face of the certificates thereof. And for all such part or portion of the funded debt of the State so to be renewed, that shall not be taken as a domestic debt as aforesaid, within the term of six months as aforesaid, the said commissioners of the sinking fund shall issue the certificates thereof to such party or parties who shall agree to take the same with the principal and interest thereon payable in the city of New York, as a foreign debt, as herein specified, at the highest rate of premium for such as shall bear interest at the rate of six per centum per annum, or at the lowest rate of interest, under six per centum per annum at par, as the said commissioners may judge to be most for the interest of the State; provided, that no bids or offers to take either as a domestic or a foreign debt containing fractional parts of one per centum other than one quarter over half or three quarters shall be received, and in no case shall there be any certificate of the funded debt of this State issued so to redeem any portion of the funded debt of this State coming payable, that shall bear a higher rate of interest than six per cent. per annum; nor shall any such certificates bearing interest at the rate of six per cent. per annum be issued, sold, exchanged, or disposed of, in any way, whatever, by the said commissioners at a price less than par. Nor shall there be any commissions, expenses or charges allowed on the sale and conversion thereof into money that shall reduce the net amount brought into the State treasury below the amount expressed upon the face of the certificate so issued.

Sec. 6. That in all cases where there shall be more than one bid or proposal, to take any portion of the funded debt of the State so to be renewed, either as a domestic debt, or as a foreign debt, as herein described, at a rate equal to each other, and most to the

interest of the State, the commissioners of the sinking fund shall apportion the amount equally and fairly between the parties making such bids or proposals; provided, that bids for the smallest amount of the domestic debt shall be preferred to bids for larger amounts at the same rate.

Sec. 7. Any holder of a certificate of the foreign debt of the State may at any time surrender the same to the commissioners of the sinking fund and receive in lieu thereof a certificate of equal amount of the domestic debt as herein specified; and the said commissioners shall make the necessary entries and entries on their books and cancellations and transfers thereof.

Sec. 8. The following schedule of the amount of the funded debt of the State existing on the 31st day of December, and the times when the various portions thereof come payable by the State, to-wit:

1st. Six millions, four hundred thirteen thousand, three hundred twenty five dollars, twenty seven cents bearing interest at the rate of six per cent. annum, coming payable, at the pleasure of the State, after the 31st day of December, 1850.	\$6,413,325 27
2d. One million and twenty five thousand dollars, bearing interest at the rate of five per cent. per annum coming payable, at the pleasure of the State, after the 31st day of December, 1855.	\$1,025,000 00
3d. Two millions, one hundred eighty-three thousand five hundred thirty-three dollars and ninety-three cents, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the State, after the 31st day of December, 1870.	2,183,531 93
4th. One million, six hundred thousand dollars, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the State, after the 31st day of December, 1875.	1,600,000 00
5th. Two millions, four hundred thousand dollars bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the State, after the 31st day of December, 1878.	2,400,000 00
Amount of the foreign debt	\$13,621,857 20
6th. Two hundred seventy five thousand, three hundred and eighty five dollars, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the State, after the 31st day of December, 1878.	270,385 00
Total amount of the foreign and domestic funded debt of the State on the 1st day of January, 1859, thirteen millions, eight hundred thirty-eight thousand, two hundred and twenty cents	\$13,892,242 20

is hereby made a guide and a direction obligatory upon the commissioners of the sinking fund, for the time being, in the discharge of their official duties, and is also hereby made a part of this act, as explanatory thereof. And the commissioners of the sinking fund, in carrying into effect the provisions and requirements of this act, are hereby required to issue the certificates of a new or the said funded debt, and annually apply the same to the payment of the same. First, to the renewal and payment in full of the first debt coming payable, which will be on the first day of January, eight hundred and sixty-two, (1862,) and then to the portion of the said debt next coming payable, and so on in order and in succession, so that the portion of the said debt first coming payable shall be first fully redeemed and paid; and the certificate first issued shall be for the earliest period of redemption and payment, and so on in such succession and order that the certificates that issued shall be for the redemption and payment of the portion of the funded debt last coming payable, until the entire amount, and every portion thereof, shall be fully redeemed and paid. It is however, hereby expressly declared, that the temporary debt of the State, created to reimburse the treasury by the act of April 12, 1858, amounting to seven hundred thousand dollars, the payment of which being provided for by a special tax, is not included in, but is expressly excepted, from the operation of this act.

Sec. 9. The commissioners of the sinking fund are hereby required to report to the Governor at the time of making their semi-annual reports, and at such other times as the Governor may require; and also to the General Assembly, or to either branch thereof, if so required by joint resolution of the General Assembly, or by the resolution of either branch thereof, an account of their actual proceedings, done under and by authority of this act, or by an order or authority of any of its provisions and requirements. And if the General Assembly should not be in session at the time that any such report is made to the Governor, or if such report or reports should be made more than two months previous to the time when the General Assembly is to meet, at either a regular session, or an adjourned or special session, then, and in that case, it shall be a part of the official duties of the Governor to cause any such report or reports to be published in at least two newspapers of general circulation, published at the seat of government, and in at least two such papers published in each of the cities of Cincinnati and Cleveland.

Sec. 10. This act shall take effect and be in force on and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.
April 2, 1859.

[No. 153.] AN ACT
To amend section two of an act passed March 11th, 1853, to provide for the publication of the general laws in newspapers, and to repeal an act entitled "An act to provide for an early publication of the laws, and for other purposes," passed March 23d, 1850.

Section 1. Be it enacted by the General Assembly of the State of Ohio That section two of an act passed March 11th, 1853, to provide for the publication of the general laws in newspapers, and to repeal an act entitled "An act to provide for an early publication of the laws, and for other purposes," passed March 23d, 1850, be so amended, as to read as follows: Sec. 2. That the auditor of State, secretary of state and attorney general, as soon as possible after the passage of laws by the General Assembly at each session, shall select from the general laws as passed, such as they shall deem of general interest to the people of the state, and the same shall be forwarded by the auditor of State at the earliest practicable moment to the auditors of the several counties, and it shall be the duty of auditor, probate judge and prosecuting attorney of each county, to contract for the publication of the same, in two weekly or daily newspapers printed therein, (if any there be, having the greatest circulation in the county, provided that in no case shall the same be published in two papers of one party, if two of opposite parties are published therein, and also in one German newspaper, if there be one in such county, at a price not exceeding sixty cents per thousand ems, to be paid out of their respective county treasuries, as hereinafter provided.

Sec. 3. That the second section of the act above referred to be and the same is hereby repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.
March 31, 1859.

[No. 152.] AN ACT
Conferring certain powers on, and prescribing certain duties of, the Board of Public Works.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the board of public works shall have charge of the public works of the state, and shall have power to perfect, render useful, maintain, keep in repair and protect the same; and that said board shall have power to remove obstructions therein or hereto, and to make such alterations or amendments thereof, (whether now or hereafter constructed) and to make such levees, dykes, reservoirs, locks, dams, and other works, streets and improvements as they may think proper for the respective purposes aforesaid. That each member of said board shall have the like powers, in respect to the division of the public works under his special charge, subject, however, to the control of the board; but he shall not undertake the construction of any new work whose cost would exceed two thousand dollars, without the previous direction of the board. That to enable them to exercise the powers aforesaid, it shall be lawful for the board, and each member thereof, within his proper division, to purchase in the name and on behalf of the state such real or personal property, rights or privileges, as may be necessary for the respective purposes aforesaid; and also, to agree with any owner whose property may be appropriated as hereinafter mentioned, upon the sum of money to be paid by the state as compensation therefor, and to pay the same in the manner designated by law. And it shall also be lawful for the board, and each member thereof, and every superintendent, agent or engineer employed by them or him, to enter upon, take possession of and use, upon the conditions prescribed, any lands, waters, streams or materials necessary for the respective purposes aforesaid, doing, nevertheless, no unnecessary damage. And they may also enter upon any lands, for the purpose of making any surveys or taking any levels, that it may be necessary or expedient to make or take, in the discharge of their respective duties.

Sec. 2. Private property may be appropriated for the respective uses specified in the first section of this act, as follows: when the public use to be made of the property would render it substantially useless to the owner, all estates therein, or rights thereto, may be appropriated, and upon the proper proceedings being had as hereinafter provided, shall vest in the state. When the public use of the property will be temporary, or at intervals only, or when for any other reason it may be unnecessary or inexpedient to appropriate the same, the simple title, or absolute right thereto, an easement, or right, common or private, shall be made to be made thereof, may be appropriated, a good and sufficient title to which easement, or right, upon the proper proceedings being had as hereinafter provided, shall vest in the state. When a breach, other injury or obstruction, destructive of or materially impairing the immediate uses of any of the public works, (by which term is meant not only the main works, but also all other works, structures or devices connected with or appurtenant thereto,) shall happen, or exist, or be in imminent danger of happening, or when such breach, injury or obstruction, or danger thereof, shall occur in connection with or in the course of the construction, and repair of such works, or to be used permanently or temporarily, as pieces of deposit of materials for those purposes, or of matter removed in making such repairs or protection. In all other cases provided for by this act, a compensation for the property so appropriated shall first be made in money, or first secured by a deposit of money, as hereinafter provided.

Sec. 3. The mode of making appropriations under this act shall be as follows: In a case of public exigency, as defined in the preceding section, the private property necessary to repair or protect the public work may be seized, either absolutely or for a temporary use, by the board aforesaid, or either of their members, or any one of their superintendents, agents or engineers, and the

rights thereto, or to such temporary use, shall immediately vest in the state. In all other cases the appropriation shall be made by the board, or one of the members thereof. In such case of public exigency, if the property be immediately seized without first paying for the same, it shall be the duty of the board, or some one of their members, (if the compensation to be paid therefor be not agreed upon with the owner,) without delay to make and officially subscribe as many certificates, in all respects alike, as may be necessary, containing: First, A description of the property so taken, with the time or times when taken, and whether taken absolutely or for temporary use, and if the latter, the extent of the use, and the name of the owner thereof. Secondly, An offer on behalf of the state to pay therefor a specific sum of money, being such sum as the board, or their member, shall deem reasonable; one of which certificates shall be delivered to each of the owners of the property so taken, if resident within this state, or left at his or her usual place of abode therein, provided, that if any owner be a minor, idiot, or insane person, having a guardian resident within this state, service of said certificate, in manner aforesaid, shall be made on such guardian, which shall be deemed good service upon the ward. But if any owner or guardian reside without this state, or his place of residence be unknown to the board, then notice to him or them may be given either by personal service of such certificate, or by publishing the same for four consecutive weeks in some newspaper of general circulation in the county wherein the property was taken. One of said certificates, with proof of its having been served or published as aforesaid, and the date of such service or publication, shall be filed in the office of the board. If any owner, or his or her guardian as aforesaid, shall at any time after the seizure of his or her property as aforesaid, and within one year after the service of the certificates as aforesaid, or its last publication as aforesaid, in such case may be, elect to take the sum of money so offered, or, in case of joint ownership or tenancy in common, his or her proper proportion thereof, the board or the proper member thereof shall pay, or the state shall be bound to pay to him or her, and shall account the same as paid; and such payment shall discharge all claims of such owner against the state by reason of the premises. But if he or she shall be unwilling to accept said offer of compensation, he or she may, within the year aforesaid, notify the board, or the proper member thereof, (namely, the member having special charge of the division where the property was taken,) of such unwillingness, and if the board, or said member, and the owner cannot agree upon the compensation to be paid, the owner may at any time afterwards, within said year, file in the probate court of the county wherein the property taken was situated when taken, or, if it was a tract of land situated partly in one and partly in another county or counties, then in the probate court of either of said counties, one of said certificates, or a copy thereof, (which copy shall be furnished to him or her by the board, or proper member thereof, if demanded,) and require the judge of said probate court to empanel a jury and to issue a venire for them in the manner hereinafter provided in section four; which venire shall be served and returned as provided in said last named section. Before such venire shall be issued, the owner shall notify the board, or proper member thereof, when it will be issued. Upon such venire being issued, the same proceedings shall be had, so far as the same may be applicable and practicable, in respect to the filling of vacancies, the qualifying of the jurors, the power to administer oaths or affirmations, the making and return of a verdict, the conduct of trials, return of verdicts, exceptions or petitions in error, and all other matters, as are hereinafter provided in respect to cases not of public exigency. In cases other than those of public exigency as aforesaid, the proceedings shall be as follows: the board, or some member thereof, shall make and officially subscribe as many certificates, in all respects alike, as may be necessary, stating: First, The intention of the state to appropriate the property, use, or easement, describing it as fully and accurately as would be necessary in a conveyance, and also stating the name of the owner or owners thereof. Secondly, The specific sum of money that the state is willing to pay therefor, which shall be such a sum as the board, or the member having special charge of the work for which the appropriation is to be made, shall deem reasonable. Thirdly, That if the owner or owners do not, within a time to be specified in the certificate, (which time such board or member may fix, allowing a reasonable period after service or publication of the certificate, as hereinafter provided,) accept such sum as full compensation for such property, use or easement, then, after a specified day the state will cause the property intended to be appropriated, or in, to or over which an use or easement is intended to be appropriated, or in, to or over which an use, or easement is intended to be appropriated, his or her guardian, or publication thereof made, in the same manner and under the same circumstances hereinafter provided in respect to the certificate first herein mentioned. Another of said certificates shall be filed and preserved in the office of the board, with proof of the service or publication thereof, showing the date or dates of such service or publication; or of the appropriation of the real property, or of an easement in or upon such property, and be finally made, it shall be the duty of some member of the board to endorse upon another of said certificates the words "appropriation made," with the date when the appropriation was perfected, and to officially subscribe such endorsement and cause such certificate and endorsement to be recorded in the recorder's office of the county in which the property is situated. If any owner, his or her guardian, as aforesaid, shall, at any time before the appropriation mentioned in said certificate shall be made, elect to take the compensation specified in said certificate, or, in case of joint ownership or tenancy in common, his or her proper proportion thereof, the board, or proper member thereof, shall

cause the same to be paid to him or her or his or her guardian, and shall take the receipt of such owner or guardian therefor, and upon such payment all the title or right of such owner in or to the property, use, or easement appropriated, shall vest in the state; provided, however, that, in case of joint ownership or tenancy in common, when some of the owners or tenants elect, and others do not elect, to take the compensation offered as aforesaid, payment to those electing to take may, in the discretion of the board or the proper member thereof, be withheld until the proceedings against those so refusing or failing to be terminated, and if, upon the termination of such proceedings, the board or proper member thereof, shall be of the opinion that the amount of compensation offered, together with those payable to the joint owner or tenant electing to take the offer of the state as aforesaid, would be too great to justify the intended appropriation; it shall be lawful for the board, or such member, to pay the costs of said proceedings and refuse to make the appropriation; in which event said costs shall be so paid, and nothing more. And provided, further, that if any owner, his or her guardian, electing to take the compensation offered by the state as aforesaid, shall fail to make that election until after proceedings for an assessment shall be commenced as hereinafter provided, he or she shall, before receiving such compensation, if required by the board or proper member thereof, pay the costs of such proceedings, or if the proceedings be against others as well as himself or herself, his or her proper proportion of said costs, or he or she may elect to let the state pay the same and deduct it from said compensation.

Sec. 4. If any owner or owners, notified as provided in the next preceding section, shall not, within the time specified for that purpose in the certificate mentioned in said section, signify to the board, or some member thereof, his, her, or their acceptance of the compensation offered by said certificate to him, her, or them, it shall be lawful for the board, or any member thereof, at any time after the expiration of the time named in said certificate for such owner or owners to accept the offer of the board, to file one of said certificates, with proof of the service or publication thereof, in the probate court of the county wherein the property intended to be appropriated is situated, or, if the property be a tract of real estate, situated partly in one and partly in another county or counties, then in the probate court of either of said counties; and thereupon, it shall be the duty of the probate judge forthwith to notify the clerk of the court of common pleas and sheriff of the county of the filing of such certificate; and the said clerk and sheriff shall, within one day after receiving such notice, proceed to draw out of the box containing the names of persons returned to serve as jurors in the same manner that juries are drawn for the trial of causes in the court of common pleas, for the purpose of estimating or assessing the damages such owner or owners shall receive by reason of such appropriation, and the said clerk shall immediately return the names of jurors so drawn, to the probate judge, who shall thereupon issue his venire to the sheriff, or in case of his being a party to the proceedings, to the coroner of the county, to summon the jurors so drawn as aforesaid, to attend on some day specified, at the office of said judge, then and there to be empaneled and sworn to render a just verdict, in the manner prescribed by law. And the probate judge shall, at the time of issuing such venire, issue a notice to the several owners of the property described in such certificate, of the time when such jury will meet at the office of said judge for the purpose aforesaid; which notice such sheriff or coroners shall serve upon the party or parties therein named, at the time of serving such venire; provided, that if such owner or owners are non-residents of this state, or are unknown, then publication of the objects and purposes of the proceedings shall be made in some newspaper, published in the county, for thirty days next preceding the time named in such venire; which notices shall contain a particular description of the property sought to be appropriated, and the name or names of the owner or owners, if the same be known, and the time and place of the proceedings. The probate judge shall have power to issue all subpoenas, and all other necessary process, and to administer all necessary oaths in the execution of this act.

Sec. 5. It shall be the duty of the sheriff or coroner, on receiving such venire, to summon the persons therein named in the same manner as jurors are summoned to attend the court of common pleas; and juries may be challenged and vacancies in the juries filled as in other cases. The jury shall be sworn to well and truly assess the compensation to which the owner may be entitled by reason of the premises, without deduction for benefits to any of his or her property. For good cause shown, or by consent of the parties, they may be sworn to such custody as the court shall direct, to view the property, the court appointing the person or persons whose duty it shall be to show it to them; but all testimony shall be given in open court. The state shall be entitled to open and close, in giving testimony, and in the argument. The verdict shall be in writing, signed by the jurors, or their foreman, but the court, by the assent of the jurors, may put it in proper form. A new trial shall not be granted, except for misconduct of the jury, or for an erroneous ruling by the court. Exceptions may be taken, as in other cases, to any ruling of the court in matter of law, and a petition in error may be prosecuted in the district or supreme court, if filed within thirty days after the rendition of the verdict, but not otherwise. Such petition shall not be filed without an allowance by the district court or by the supreme court, or a judge thereof. And the proceedings shall not be reversed for any error of form, or other error, not affecting the substantial justice of the case. Upon a reversal of the proceedings, a precedendo may, in a proper case, be awarded, and a new trial had, if thereby commended. The probate judge shall record the proceedings in that court, including the certificate of intention to appropriate, and the proof of its service or publication, filed in his office as aforesaid.

Sec. 6. After such appropriation is made, it shall be the duty of the probate judge immediately to make up the cost bill of such proceedings, when the board, or proper member thereof, shall, without any unnecessary delay, pay the same, and shall also