

## ACT CREATING THE COUNTY OF ILLINOIS<sup>1</sup>.

AN ACT for establishing the County of Illinois, and for the more effectual protection and defense thereof.

WHEREAS by a successful expedition carried on by the Virginia militia, on the western side of the Ohio river, several of the British posts within the territory of this commonwealth, in the country adjacent to the river Mississippi, have been reduced, and the inhabitants have acknowledged themselves citizens thereof, and taken the oath of fidelity to the same, and the good faith and safety of the commonwealth require that the said citizens should be supported and protected by speedy and effectual reinforcements, which will be the best means of preventing the inroads and depredations of the Indians upon the inhabitants to the westward of the Allegheny mountains; and whereas, from their remote situation, it may at this time be difficult, if not impracticable, to govern them by the present laws of this commonwealth, until proper information, by intercourse with their fellow citizens, on the east side of the Ohio, shall have familiarised them to the same, and it is therefore expedient that some temporary form of government, adapted to their circumstances, should in the meantime be established:

Be it enacted by the General Assembly, That all the citizens of this commonwealth who are already settled, or shall hereafter settle, on the western side of the Ohio aforesaid, shall be included

<sup>1</sup> Hening, *Statutes at Large* (Virginia), ix., 552. A committee was instructed by the Virginia assembly on November 19, 1778, to prepare a bill for the formation of the county. This was presented to the assembly November 30, 1778, and passed in its final amended form on December 9th. It was signed by the speaker of the senate on the 17th and subsequently, if at all, by the speaker of the house of delegates. On the 12th of December Governor Patrick Henry issued the instructions in accordance with the provisions of the act.—*Jour. H. of Del. (Va.)*, Oct. Sess., 1778, p. 106; *Jour. of Senate (Va.)*, Oct. Sess., 1778, p. 52; Rowland, *George Mason*, i., 307; Buggess, *Immigration into Illinois, 1778-1830* (a thesis in manuscript). Dr. Buggess was the first to work out the history of the act, and I am greatly indebted to him for the loan of the thesis, from which this note is taken. No writer had previously determined the exact date of the passage of the act and all but one (Rowland, *George Mason*) have been indefinite or incorrect in giving it.—Winsor, *Westward Movement*, 122; Poole, in Winsor, *Nar. and Crit. Hist.*, vi., 720; Thwaites, *How George Rogers Clark Won the Northwest*, 64; Boyd, in *Amer. Hist. Rev.* iv., 623; Roosevelt, *Winning of the West*, ii., 168; and many others.

in a distinct county, which shall be called Illinois county; and that the governour of this commonwealth, with the advice of the council, may appoint a county lieutenant or commandant in chief in that county, during pleasure, who shall appoint and commission so many deputy commandants, militia officers, and commissaries, as he shall think proper in the different districts, during pleasure, all of whom, before they enter into office, shall take the oath of fidelity to this commonwealth and the oath of office, according to their own religion, which the inhabitants shall fully, and to all intents and purposes enjoy, together with all their civil rights and property. And all civil officers to which the said inhabitants have been accustomed, necessary for the preservation of peace and the administration of justice, shall be chosen by a majority of the citizens in their respective districts, to be convened for that purpose by the county lieutenant or commandant, or his deputy, and shall be commissioned by the said county lieutenant or commandant in chief, and be paid for their services in the same manner as such expenses have been heretofore borne, levied, and paid in that county; which said civil officers, after taking the oaths as before prescribed, shall exercise their several jurisdictions, and conduct themselves agreeable to the laws which the present settlers are now accustomed to. And on any criminal prosecution, where the offender shall be adjudged guilty, it shall and may be lawful for the county lieutenant or commandant in chief to pardon his or her offense, except in cases of murder and treason; and in such cases, he may respite execution from time to time, until the sense of the governour in the first instance, and of the general assembly in the case of treason, is obtained. But where any officers, directed to be appointed by this act, are such as the inhabitants have been unused to, it shall and may be lawful for the governour, with the advice of the council, to draw a warrant or warrants on the treasury of this commonwealth for the payment of the salaries of such officers, so as the sum or sums drawn for do not exceed the sum of five hundred pounds, anything herein to the contrary notwithstanding.

And for the protection and defence of the said county and its

inhabitants, *Be it enacted*. That it shall and may be lawful for the governour, with the advice of the council, forthwith to order, raise, and levy, either by voluntary enlistments, or detachments from the militia, five hundred men, with proper officers, to march immediately into the said county of Illinois, to garrison such forts or stations already taken, or which it may be proper to take there or elsewhere, for protecting the said county, and for keeping up our communication with them, and also with the Spauish settlements, as he, with the advice aforesaid, shall direct. And the said governour, with the advice of the council, shall from time to time, until further provision shall be made for the same by the general assembly, continue to relieve the said volunteers, or militia, by other enlistments or detachments, as herein before directed, and to issue warrants on the treasurer of this commonwealth for all charges and expenses accruing thereon, which the said treasurer is hereby required to pay accordingly.

*And be it farther enacted*, That it shall and may be lawful for the governour, with the advice of the council, to take such measures as they shall judge most expedient or the necessity of the case requires, for supplying the said inhabitants as well as our friendly Indians in those parts, with goods and other necessaries, either by opening a communication and trade with New Orleans, or otherwise, and to appoint proper persons for managing and conducting the same on behalf of this commonwealth.

*Provided*, That any of the said inhabitants may likewise carry on such trade, on their own accounts, notwithstanding.

This act shall continue and be in force, from and after the passing of the same, for and during the term of twelve months, and from thence to the end of the next session of assembly, and no longer.