

at the commencement of the action, the plaintiff does not know the name of the owner or keeper of such offending animals, he may bring suit against a defendant unknown, in which case service shall be made by posting copies of the summons in three of the most public places within the county not less than ten days previous to the day of trial, which posting may be done by the proper officer, or by any voter of the county.

When owner unknown.

Service in such case.

Sec. 10. This act shall govern in all actions and proceedings instituted and transacted under the provisions thereof, any law to the reverse notwithstanding.

This act to govern in all cases.

Sec. 11. The provisions of this act shall apply only to the counties of Union, Clay, Yankton, and Bon Homme.

What counties, act apply to,

Sec. 12. This act shall take effect from and after its passage and approval.

When to take effect.

Approved, January 11th, 1866.

FERRIES.

CHAPTER 16.

An Act to regulate Ferries in the Organized Counties of the Territory of Dakota.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

Section 1. That it shall not be lawful for any person or persons to keep a ferry across any stream of water running through the organized counties of this territory, without first having obtained a lease from the board of county commissioners of the proper county, for that purpose, as hereinafter provided.

Persons to obtain ferry lease from county commissioners.

Sec. 2. That the board of county commissioners of the county to whom application shall be made for a ferry, in the manner hereinafter provided, are hereby authorized and it shall be their duty to grant a lease of such ferry for a term

Lease not to exceed five years, &c.

not exceeding five years, to such person or persons who shall bid, and secure the payment of the highest amount of rent for the same; such lease to be executed by the said board of county commissioners as lessors and such highest bidder or bidders as lessees.

Proceedings to
obtain lease.

Sec. 3. That when not less than eight citizens of said county shall present to the board of county commissioners of said county a petition, setting forth that a ferry is needed in said county, and designating in said petition the name of the stream and the particular place thereon, on which said ferry is intended to be located, the said board of county commissioners shall give twenty (20) days notice by advertising in at least three (3) public places in said county, of such application, and stating in said notice that on the day therein fixed at the office of said board of county commissioners, they will offer to the highest bidder all the rights, franchises and exclusive privileges of said ferry upon lease for the term of years agreed upon by said county commissioners.

Rates of fer-
riage on Mis-
souri river.

Sec. 4. That the rates for crossing the Missouri river on ferries, shall not exceed the following, to wit:

For two horses, mules or oxen and wagon, with or without load, one dollar.

For each additional pair of horses, mules or oxen, thirty cents.

For each two horses or mules and buggy, seventy-five cents.

For each one horse or mule with buggy and driver, fifty cents.

For each lead horse or mule, twenty-five cents.

For loose cattle per head, fifteen cents.

For sheep and swine per head, ten cents.

For each one hundred pounds of freight or merchandise unloaded, ten cents.

For each thousand feet of lumber unloaded, one dollar.

Rates on Big
Sioux, Vermil-
lion and Dakota
rivers.

The rates for crossing the Big Sioux river, Vermillion river and Dakota river, shall be as follows: The rates charged at said ferries shall not exceed the following rates:

For foot passengers, each, ten cents.

For each horse or mule, with or without a rider, ten cents.

For each head of loose cattle, five cents.

For two horses or mules, or cattle team, loaded or without load, with driver, twenty-five cents.

For each horse or mule, or ox over two attached to a team, five cents.

For a single horse or mule to a buggy, fifteen cents.

For each head of sheep or swine, five cents.

All freight not attached to teams, five cents per one hundred thousand.

All lumber in pile, fifty cents per thousand feet.

Said ferryman is requested to keep a bill of his legal rates posted up in a convenient place, at or near said ferry in view of the passing public.

Rates to be posted up.

Sec. 5. That every person obtaining a lease to keep a ferry as aforesaid, shall provide and keep in good repair, a good and sufficient boat for the safe conveyance of persons and property; and when the river and creek over which the ferry is kept is passable, shall, with a sufficient number of hands to work and manage the boat, from sun rise till sun set, and with reasonable care and promptness, convey across said ferry all persons and property presented for transportation across the same. And if any lessee, as aforesaid, shall fail or neglect to perform all or any of the duties enjoined upon him by this act, or shall demand or receive a higher rate of ferriage than shall be allowed by section 4 of this act, the lessee so offending, shall for each offense forfeit and pay the sum of ten (10) dollars to be recovered in the name of the territory of Dakota before any justice of the peace of the proper county.

To keep good boat. Running time. Penalty for neglect, &c.

Sec. 6. That if any person shall keep a ferry in any of the organized counties of this territory, without a lease first obtained from the board of county commissioners as aforesaid, the owner or person so offending shall forfeit and pay a sum of not less than fifty (50) dollars, and not exceeding five hundred (500) dollars for each year, or fractional part of a year such person shall keep such ferry, to be recovered by indictment in the proper county.

Penalty for keeping ferry without lease.

Sec. 7. That all moneys which may be received by the county commissioners upon leases granted for ferries aforesaid, and all forfeitures, collected for violation of the provisions of this act, shall, within thirty (30) days after the receipt thereof, be paid

Moneys arising under this act, for benefit of schools.

to the county treasurer, for the use of the common schools of said county, and the same shall be apportioned among the several school districts of said county, in like manner as other school funds of the county are now apportioned by law.

When act not
to apply.

Sec. 8. That nothing in this act shall prevent any person from ferrying persons across a small stream in time of high water, when in the opinion of the board of county commissioners such stream is too small to justify a regular ferry.

Persons hereto-
fore running
ferries to com-
ply with this
law.

Sec. 9. *And be it further enacted*, That any and all persons, who have heretofore received either permit, lease, grant or charter for the keeping of ferries, who shall neglect or fail during the period of one (1) month at any one time after the passage of this act or any prior act, to keep his or their respective ferries in operation for the safe transportation of persons and property over the same, shall forfeit all the ferry rights, franchises and privileges granted by this act or any former act as aforesaid; and upon due proof before the board of county commissioners of the proper county, of such failure or neglect as aforesaid, the said board of county commissioners are hereby empowered and authorized to declare such forfeiture absolute and thereupon, and thereafter, all the rights, franchises and privileges granted by this act, shall cease and be of no force or effect in law or equity: *Provided*, That no part of this act shall be so construed as to affect the right of Barney McGraw, under a charter granted at this session of the legislature, till at the expiration of six months from the date hereof.

Penalty for not
doing so.

Barney McGraw

Acts repealed.

Sec. 10. All acts and parts of acts in conflict with this act, are hereby repealed.

When to take
effect.

Sec. 11. This act shall take effect and be in force from and after its passage and approval.

Approved, January 12th, 1866.