

point others to supply the vacancy, who shall be qualified and give bond as aforesaid.

In case of joint tenants and trustees.

SECTION 22. If any person interested in said property should hold their interest therein as joint tenants or trustees, for the use of any other person or persons, it shall and may be lawful for the said court, to enter judgment or decree in favor of such trustee, for the amount of interest to which they may be jointly entitled, in that character, and to appropriate the proceeds of the sales of the lands to said trustees in accordance with said judgment or decree—first paying, however, the debts which may be owing to any person or persons, contracted by the said trustees, or either of them, or by the *cestui que trust*, or either of them, in the purchase of the interest or any part thereof, adjudged or decreed to the said trustees, out of the share of the money which said trustees would be entitled to receive from the proceeds of sale.

Publication of this act.

SECTION 23. It shall be the duty of the secretary of the territory, to have an attested copy of this act published in two months after the passage thereof, in a newspaper published in each of the following places, to-wit: Burlington, Wisconsin territory, St. Louis and Liberty, Missouri, Vandalia and Alton, Illinois, once a week for three months, successively, affidavits of which fact shall be filed among the proceedings of said court; and the expense of said printing shall be paid out of the proceeds of the sales of said land, as other expenses are paid.

SECTION 24. Nothing in this act shall be so construed as to give any power or authority to any of the commissioners appointed under this act to exercise any authority over any lands excepting those included within the line now known and designated as the half breed lands, and which terminates on the Mississippi river near the town of Fort Madison.

Approved January 16, 1838.

No. 55.

AN ACT to establish and regulate ferries in the county of Milwaukee and the counties thereto attached for judicial purposes.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all fer-

ries in the county of Milwaukee, and the counties thereto attached for judicial purposes, are hereby placed under the general supervision of the county commissioner of the aforesaid county.

Ferries placed under the control of the county commissioners.

SECTION 2. That in all cases where an application is made for the keeping of a ferry across any creek, river, lake or other water where any public road or highway is established, the person or persons so applying, shall give public notice, at least thirty days previous to making such application, of his, her, or their intention to apply for such ferry, in some newspaper printed in the county, or by setting up at least five written or printed notices in the most public places in said county.

Thirty days' notice of application necessary.

SECTION 3. The county commissioners at any regular session, after being satisfied that notice has been given as before required, shall make out a list of rates for such ferry and offer the said ferry for rent, and lease the same to the highest and best bidder for the term of two years, by crying the same at the court house door, at least two days in succession, at the hour of eleven o'clock, A. M. on each day. And in all cases where the owner or owners of the land adjoining any such ferry, shall appear at the time the same is offered, and apply for the said ferry, he, she, or they shall have the right of preference to the lease thereof, at the highest and best price offered for the same, on complying with the provisions of this act.

Privilege given to the best bidder.

Owner of the land to have preference.

SECTION 4. That each ferry keeper shall be furnished and provided with a good tight boat or boats, if more than one be necessary, and other small craft, of sufficient number, size and dimensions, strength and steadiness, for the safe and speedy transportation of all passengers, their horses, cattle, and other animals, as well as their goods, chattels and effects. And the said boat or boats, and other small crafts, shall at all times be well furnished with suitable oars, setting poles, rigging and other implements necessary for the service thereof, and also with a sufficient number of men, with strength, discretion and skill, to manage the same. And such ferry keeper shall at all times keep the place of embarking and landing in good repair, by cutting away the banks and erecting wharves, and causeways when necessary, so that passengers, their teams, horses, and other cattle and property,

Duties of ferry-men.

may be embarked and landed without danger or unnecessary delay.

SECTION 5. Every keeper of a ferry as aforesaid, shall be required to keep the same at all times in good repair, and shall give constant and diligent attention to the same from day-light in the morning, until dark in the evening of each day, and shall give passage to all public messengers and expresses, to all grand and petit jurors when going to and returning from court, without any fee or reward whatever: *provided*, no messenger or express shall be considered as being sent on public service within the meaning of this act, unless he shall have been despatched by a commander-in-chief, major or brigadier general, colonel or lieutenant colonel, major or commandant of a military post, or establishment, to the governor or commander-in-chief of the militia of this territory, or *vice versa*. And the despatch carried by such messenger or express, shall be endorsed "on public service" and signed by the officer sending the same.

Penalty for non-performance of duty.

SECTION 6. And all such keepers of ferries, if required, except in cases of evident danger, shall give passage during the night to all public messengers and expresses as aforesaid; and also to all other persons requiring the same, on their paying or tendering double the rate of ferriage, or toll, allowed to be taken during the day time. And if any such keeper of a ferry as aforesaid, shall at any time refuse or neglect to give passage to such person or persons, or their property as aforesaid, he or she so offending, shall forfeit and pay ten dollars for every such offence, to the party aggrieved, to be recovered before any justice of the peace of the county wherein the offence is committed, and shall also be liable to an action on the case, for any special damages which any such person may sustain, in consequence of such neglect or refusal; but no ferryman shall be required to put off from shore, or to attempt to pass any such water course when it manifestly appears to be hazardous so to do, by reason of any flood, storm, tempest, or ice; nor shall any keeper of a ferry as aforesaid be compelled, except as hereinafter excepted, to give passage to any person or persons, or to his, her or their property as aforesaid, until the fare or toll properly chargeable by such keeper shall have been fully paid or tendered;

and every jurymen to entitle him to the benefits of this act, shall produce to the ferry keeper the certificate of the sheriff of his county, that he has been duly summoned to serve on the grand or petit jury, at the term of the court to or from which he is going.

SECTION 7. And every such keeper of a ferry as aforesaid, who shall at any time, demand and take more than the fare so stated and allowed, by the board of county commissioners, at the time of purchasing of such ferry as aforesaid, shall forfeit and pay to the party aggrieved, for every such offence, the sum of ten dollars over and above the amount which shall be thus illegally demanded and taken, to be recovered before any justice of the peace of the county aforesaid.

Penalty for taking too much toll.

SECTION 8. Each keeper of a ferry in the county aforesaid, shall be required to cause to be set or posted up, in some conspicuous place, immediately adjoining his or her ferry landing, a painted list of the several rates of fares, which shall be chargeable at such ferry, they being the same prices fixed by the board of commissioners at the time such ferry was sold as before named. Said list of fares or rates as aforesaid shall at all times be painted in a plain, legible manner, and posted up so near the place or places, where persons shall pass across such ferry as aforesaid, that the same shall be open to all such passengers. And if at any time any such keeper as aforesaid shall refuse or neglect to put up such list of rates or fares as aforesaid, it shall not be lawful to charge any ferrriage or toll, or to take any compensation whatever, at any such ferry during such delinquency.

Rates of toll to be posted up.

Penalty for neglect thereof.

SECTION 9. All persons shall be received into such ferry boats, or other vessels as aforesaid, and conveyed across the watercourse over which the same shall be established, according to their arrival or first coming to the said ferry; and if any ferry keeper shall act contrary to this regulation, he shall forfeit and pay the sum of five dollars for every such offence, to the party aggrieved, recoverable before any justice of the peace of the county wherein such offence shall have been committed: *provided*, that all public officers, or such as go on public or urgent occasions, as post riders, couriers, physicians, surgeons and mid-wives, shall in all cases be the first carried over where all cannot go at the same time.

Persons to be ferried across in the order of their arrival.

Penalty for neglect.

Ferryman exempt from militia and jury duty.

SECTION 10. For the encouragement of ferry keepers, and in consideration of their giving a free passage to public messengers, and others exempt by this act, all men necessarily attending on ferries, in the aforesaid counties, shall be free from military duty, and from serving as jurors.

Penalty for not complying with the 4th section of this act.

SECTION 11. If any ferry or ferries which hereafter may be established as aforesaid, shall not be furnished with sufficient boat or boats, or other craft, with the necessary oars, setting poles, rigging, and other implements, for the service thereof, and also with a sufficient number of able bodied and skillful ferrymen, as is provided in the fourth section of this act, within the time to be specified by the board of county commissioners, at the time of granting such ferry, such licenses so granted shall be null and void.

Duty of commissioners, when granting licenses.

SECTION 12. And it is hereby made the duty of the board of county commissioners, at all times when selling the right of ferrying to any person or persons, to fix upon a time when such ferry shall be ready for the conveyance of passengers, and property, across any such stream or water course, and insert the same in the license granted to any person or persons purchasing such ferry.

Penalty for keeping a ferry without a license.

SECTION 13. No person shall establish, keep, or use any ferry for the conveyance or passage, of persons and their property as aforesaid, for profit or hire, unless he, she or they shall be licensed as directed by this act, under the penalty of five dollars for each offence recoverable before any justice of the peace of the county or counties before named, wherein such offence shall be committed, for the use of said county or counties; and if any person or persons, not licensed as aforesaid, shall at any time pass any person or persons or their property as aforesaid, except in case where there is no ferry established in the neighborhood, for profit or hire, or for the purpose of injuring any ferry or ferries, legally established under the provisions of this act, such person or persons so offending, shall forfeit and pay the sum of five dollars for every such offence, recoverable as aforesaid for the use of the counties aforesaid.

License money to be paid into the county treasury.

SECTION 14. All moneys arising from the sale of any such ferry, shall be paid into the county treasury, by the person or persons purchasing such ferry, who

shall, upon payment of the same, take a receipt therefor from the treasurer, and forthwith file the same with the clerk of the board of county commissioners; and said clerk shall charge the amount thereof in account against such treasurer, as in other cases provided.

SECTION 15. From and after the passage of this act, the judge of the district court in the aforesaid counties, shall not have authority, to alter or amend in any respect, the rates of ferriage in any licenses heretofore granted by said court, which may not have expired at the time of the passage of this act.

All power taken from the judge of the district court.

SECTION 16. Nothing in this act, shall be so construed, as to prohibit the board of county commissioners from giving time for the payment of moneys arising from the sale of ferries to the purchaser thereof: *provided*, the purchaser shall always pay at the regular session of said board of commissioners, three months in advance, and a failure so to do, shall be considered by the board aforesaid, as a forfeiture of the license before named; and on such failure, the board of county commissioners may sell such ferry, in the same manner, and under the rules and regulations, as herein before provided; but in no case the person or persons forfeiting such ferry, shall be allowed to bid on any ferry thereafter for one year.

SECTION 17. The authority heretofore vested in the district court, to alter from time to time the rates of ferriage in licenses granted by said court, is hereby transferred to the board of county commissioners of said county. That so much of the act entitled, "an act for assessing and collecting county revenue" as relates to the assessing a tax upon ferries shall not apply to the counties before named in this act.

Authority of the district court transferred to the county commissioners.

SECTION 18. That from and after the first organization of the board of county commissioners, in the counties aforesaid, all acts and parts of acts, contravening the provisions of this act, are hereby repealed.

Repealing clause.

Approved January 16, 1888.