

[42] CHAPTER 12.

FERRY CHARTER REPEALED.

AN ACT to repeal an act entitled "an act to authorize Thomas S. Parks to keep a ferry across the Mississippi river.

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

SECTION 1. Repeal. That an act authorizing Thomas S. Parks to keep a ferry across the Mississippi river approved January the 26th, A. D. 1842, be and the same is hereby repealed.

SEC. 2. Take effect. This act to take effect and be in force from and after its passage.

Approved January 15th, 1851.

CHAPTER 13.

RIGHT OF WAY.

AN ACT granting the Muscatine, Washington and Oskaloosa road and bridge company, the right of way.

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

SECTION 1. Right of way. That the Muscatine, Washington and Oskaloosa road and bridge company, is hereby authorized to lay out and construct a graded or plank road, from Muscatine in Muscatine county, to Oskaloosa in Mahaska county, via Washington in Washington county, on such ground as may be deemed suitable for that purpose, including any portion of the public highway; provided, the traveling on such highway is not thereby interrupted.

SEC. 2. Width—private property. The quantity of ground to be thus taken shall be merely a road way, not exceeding sixty feet in breadth, and when private property is thus taken a fair equivalent must be paid therefor, before the property can be appropriated by the company.

[43] **SEC. 3. Proprietor must apply to sheriff for jury to assess damages—deed.** When the proprietor of any land thus taken, is legally competent to act for himself, and has received personal notice of the laying out of the road through his land, he must within ten days after receiving such notice, apply to the sheriff of the county in which the land lies, for a jury to assess the amount of damages he may sustain, or he shall be held to have accepted of the highest amount of damages offered him by the company, and on the payment or tender of which sum, the company is entitled to a deed for the right of way.

SEC. 4. Minors, etc. If the proprietor of the land is a minor, or otherwise incompetent to act for himself, or if he has not been personally served with notice of the laying out of the road as aforesaid, the jury aforesaid must be called for by the company.

SEC. 5. Jurors—time and place and notice. When called upon in either of the above methods, the sheriff must as soon as practicable summon nine persons qualified to act as ordinary jurors, as between the parties, and who are not interested in a similar question, a time and place must be appointed for the meeting, and reasonable notice thereof given to the parties or their agent or guardians, unless they are already acquainted with these facts.

SEC. 6. Talismen—Strike off. At the time appointed if the requisite number of qualified jurors do not appear, the sheriff must complete that number, the parties then (commencing with the agents of the company), shall in turn proceed to strike off one juror each, until only three remain.

SEC. 7. Party failing, sheriff to do so—Agreed case. If either party fails to strike off jurors in the manner aforesaid, the sheriff shall do the same in his place, but nothing herein contained is intended to prevent the parties from agreeing upon any modification of the proceedings herein prescribed.

SEC. 8. Damages—deed—appeal—tender—costs. The three jurors so selected must then proceed to examine the ground, and determine upon the amount of damages that should be paid by the company, for the right of way as aforesaid, upon the payment of which amount the company is entitled to a deed for the right of way; provided, that either party dissatisfied with the decision of the jury, shall have the right of appeal to the district court of the county wherein said lands are situated, at any time within thirty days from the making of said decision; but such appeal [44] shall not delay the prosecution of work upon said road; provided, the company shall first have paid or tendered the amount adjudged by said jury, and in no case shall the company be liable for costs on appeal unless the appellant recover a greater amount of damages than first awarded.

SEC. 9. Right of way retained. The right of way acquired by virtue of this act, may be retained for any of the purposes contemplated in the articles of incorporation of the company, but no other.

SEC. 10. Agent. Any of the notices aforesaid, if served on an agent of the proprietor of the land, shall have the same effect as if served upon the principal.

SEC. 11. Fees—company pay expenses. The sheriff, and jurors, are entitled to the same compensation, as is provided for in other cases for similar services, and all the expenses caused by the proceedings above authorized must be borne by the company.

Approved January 18th, 1851.