

in case such action shall be pending in the district court, double the costs allowed by law, together with disbursements, shall be recovered in such action against such company; and in case such action be maintained before a justice of the peace, the sum of ten dollars costs shall be recovered against such company. *Provided*, that the said company, within the time above mentioned, or before the commencement of an action, may tender to the person or persons injured, such amount as they are willing to pay; and if such amount is refused, and the person or persons so injured fail to recover a greater amount than the sum so tendered, he or they cannot recover costs and disbursements.

Negligence or refusal.

Damages.

SEC. 4. Any company or corporation owning and operating a line of railroad within this state, and which company or corporation has failed and neglected to fence said road, and to erect crossings and maintain cattle guards, as required by the terms of its charter, and the amendments thereof, shall hereafter be liable in case of litigation, for treble the amount of damages suffered by any person, in consequence of such neglect, to be recovered in a civil action; or actual damages if paid within ten days after notice of such damages.

SEC. 5. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved March 6, 1876.

CHAPTER XXV.

AN ACT TO AMEND SECTION TWO OF CHAPTER FIFTY-FIVE OF "GENERAL LAWS" OF 1874, THE SAME BEING AN ACT ENTITLED AN ACT TO AMEND SECTION SIXTY-FIVE OF CHAPTER FIVE OF THE GENERAL LAWS OF THE STATE OF MINNESOTA FOR THE YEAR 1873, RELATING TO HIGHWAYS.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That section two (2) of chapter fifty-five (55) of the general laws of the state of Minnesota for the year eighteen hundred and seventy-four, the same being an act entitled an act to amend section sixty-five of chapter five of the general laws of the state of Minnesota for the year eighteen hundred and seventy-three, relating to highways, be and the same is hereby amended by adding to the end of section two (2) of said act the following: "And it is hereby made the duty of the board of supervisors of the several towns of this state to make complaint

Duty of board of supervisors.

and prosecute in their official capacity all violations of the provisions of this act."

When act to take effect.

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

Approved February 29, 1876.

CHAPTER XXVI.

AN ACT TO AMEND CHAPTER FIVE OF THE GENERAL LAWS OF 1873, RELATING TO ROADS, CARTWAYS AND BRIDGES.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That section twenty-six of chapter five of the general laws of eighteen hundred and seventy three, be and the same is hereby amended to read as follows:

Overseer of highways.

Sec. 26. Every overseer of highways shall deliver to the town clerk of his town, on or before the first day of October in each year, the list furnished by the supervisors containing the land road tax, with his certificate thereon, that on all tracts of land in said list opposite which the word "paid" is not written, such tax is due and remains unpaid, according to the best of his knowledge and belief.

SEC. 2. That section twenty-eight of said chapter five be and the same is hereby amended to read as follows:

Duty of town clerk.

Sec. 28. The town clerk of each of the several towns shall receive the lists returned by the overseers of highways pursuant to section twenty-six, and keep the same on file in his office, and shall make out and deliver to the auditor of the county, on or before the first day of November in each year, a list containing a description of each tract or parcel of land on which the tax is delinquent, together with the name of the owner if known, and if unknown, so stated, and the amount of tax due and remaining unpaid on each, and shall attach his certificate thereto to the effect that the same is a correct list of delinquent road taxes for the year therein stated, as appears from the several lists returned by the overseers of highways and on file in his office; and it is hereby made the duty of the county auditor to levy the amount of such arrearages of road tax upon the lands so returned, which arrearages shall be collected in the same manner as contingent charges of the county are levied and collected. Such road tax, when collected, shall be paid to the town treasurer of the proper town upon the certificate of the auditor of the county, and shall be applied by the supervisors of the town in the construction or

Duty of county auditor.

Tax—application of.