

any road or portion thereof shall have been used and kept in repair, and worked for six years continuously as a public highway, the same shall be deemed as having been dedicated to the public, and be and remain until lawfully vacated, a public highway, whether the same has ever been laid out as a public highway or not. That the Supervisors of the several towns, have power to lay out public cartways two rods wide when petitioned for by five residents, freeholders of said town, desiring the same.

The costs of surveying and locating such cartways shall be paid by the town, as provided by law in the laying out of public roads, and the damages to lands through or upon which cartways may be laid out shall be paid by the town. And the damages in this section mentioned shall be assessed and an appeal had in the same manner as in the case of other public roads, and the Town Clerk shall record any cartway so laid out in the same manner and with like effect as other roads are required to be recorded by him, provided, however, that when the petitioners, or any of them, propose in the petition their willingness to dedicate any land to which such petitioner has title, for the purposes of such cartway such lands shall be deemed as so dedicated, and no damages shall be assessed therefore; that such cartway, when laid out and established, shall be deemed a public cartway for public use.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 10, 1879.

## CHAPTER 52.

AN ACT TO AMEND SECTIONS SIXTY-EIGHT (68) AND SIXTY-NINE (69) OF CHAPTER SEVENTY-THREE (73) OF THE GENERAL STATUTES, RELATING TO WITNESSES AND EVIDENCE.

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

SECTION 1. That sections sixty-eight (68) and sixty-nine (69) of chapter seventy-three (73) of the General Statutes be and are hereby amended so as to read as follows:

Sec. 68. In any action founded upon any negotiable promissory note, bill of exchange, bond or other instrument for the payment of money, or in which such note, bill, bond or other instrument might be allowed as a set-off in the defence of any action, if it appears on the trial that such note, bill, bond or other instrument was lost while it belonged to the party claiming the amount due thereon, parol or other evidence of the contents thereof may be given on such trial, and notwithstanding such note, bill, bond or other instrument was nego-

Damages to be paid by the town.

Parol evidence may be given.

liable, such party shall be entitled to receive the amount due thereon, as if such note, bill, bond or other instrument had been produced.

Sec. 69. But to entitle a party to a recovery on a negotiable promissory note, bill of exchange, bond or other instrument for the payment of money, which has been lost, he shall, before judgment is entered, execute a bond to the adverse party, in a penalty at least double the amount of such note, bill, bond or other instrument, with at least two sureties to be approved by the court in which the recovery is had, or the clerk thereof in case no trial is had, conditioned to indemnify the adverse party, his heirs and personal representatives, against all claims by any other persons on account of such note, bill, or other instrument and against all costs and expenses by reason of such claims; *provided*, that in case the statute of limitations shall have run against such note, bill, bond or other instrument while the action is pending and before a recovery is had thereon, the court in which the action is pending may, in its discretion, reduce the amount of the penalty of such indemnity bond or permit judgment to be entered without such bond.

Court may reduce the amount of the penalty.

SEC. 2. The provisions of this act shall apply to all actions now pending in any of the courts of this State, as well as to actions which may be hereafter commenced.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 28, 1879.

## CHAPTER 53.

AN ACT TO AMEND SECTION SIX (6) CHAPTER NINE (9) GENERAL STATUTES ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX (1866,) RELATING TO VACANCIES IN OFFICE.

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

SECTION 1. That section six (6) of chapter nine (9), General Statutes one thousand eight hundred and sixty-six (1866) relating to vacancies in office, be amended so as to read as follows:

Chapter 9 of the general statutes amended.

Section 6. In all offices not otherwise provided for, when a vacancy is authorized to be filled by appointment, such appointment shall continue until the next general election occurring after there is sufficient time to give the notice prescribed by law, and until a successor is elected and qualified. All county officers now holding by virtue of an election, shall hold their office for the full term thereof, as now prescribed by law for such county officers.

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

Approved March 7, 1879.