

INJURIES.

CHAPTER LIV.

PENALTIES FOR INJURING PERSON OR PROPERTY.

AN ACT relating to injuries to person or property.

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

SECTION 1. That if the life of any person not in the employment of a railroad company shall be lost in this territory by the reason of the negligence or carelessness of the proprietor or proprietors of any railroad, or by the unfitness or negligence or carelessness of their employees or agents, the personal representatives of the person whose life is so lost may institute suit and recover damages in the same manner that the person might have done for any injury where death did not ensue.

Railroads
liable for dam-
ages in cases of
fatal accidents.

SEC. 2. That if the life of any person or persons is lost or destroyed by the neglect, carelessness or unskillfulness of another person or persons, company or companies, corporation or corporations, their or his agent, servants or employees, then the widow, heir, or personal representatives of the deceased, shall have the right to sue such person or persons, company or companies, corporation or corporations, and recover punitive damages for the loss or destruction of the life aforesaid.

Who shall
have the right
to recover
damages.

SEC. 3. That all railroad companies in this territory shall pay full damages to the owner or owners of horses and other stock and cattle that they may negligently or carelessly kill or damage, by their cars, locomotive, agents or employes, along said railroads or its branches, within the territory of Dakota.

Railroads
liable for dam-
ages in case of
injuring stock.

SEC. 4. That the killing or damaging of any horses, cattle, or other stock, by the cars or locomotive along said railroad or branches, shall be *prima facie* evidence of carelessness and negligence of said company.

What shall
be evidence.

SEC. 5. That whenever any horses, cattle or stock may be killed or crippled by any train of cars or locomotive, upon

Procedure to
recover dam-
ages.

any railway within this territory, it shall be lawful for the owner of the horses, stock or cattle so killed or crippled, after first giving a station agent of the company to which said railway shall belong, written notice of his intention, to apply to a justice of the peace within the county in which said stock may have been killed or crippled, to appoint appraisers to affix a value upon the horse or horses, cattle or stock so killed or crippled, and said justice of the peace shall appoint three discreet and disinterested citizens of the county a board of appraisers, who, after having been duly sworn, shall examine the horses, cattle or stock so killed or crippled, and affix a value upon the same if killed, or assess the damages to the same if crippled, and return to said justice of the peace a written report, describing the horses, cattle or stock, stating whether they were killed or crippled, and also setting out the valuation or assessment of damage made by them; which report said justice shall preserve as a part of the records of his office.

Same, where
company falls
to pay damages

SEC. 6. That in case the company shall fail, for the space of sixty days, to pay to the owner of the horses, cattle or stock so killed or crippled, the full amount assessed by said board of appraisers, and one-half the costs attending the assessment, the owner shall have the right to institute an action, in any court in the county of competent jurisdiction, on the original cause of action; and if upon the trial of this action the owner recovers a verdict, it shall be the duty of the court to render judgment in the owner's favor for the amount of said verdict, and all costs incurred subsequent to the killing or crippling; but if the owner fails to recover a verdict, the costs of the action shall be taxed against him.

When costs
to be taxed to
plaintiff.

Compensation
of justice and
appraisers.

SEC. 7. That the justice of the peace and the three appraisers shall receive for their services under this act, each, the sum of one dollar, to be paid equally by the railroad company, owner or owners of the horses, cattle or stock killed or crippled.

Conflicting
acts repealed.

SEC. 8. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

When to take
effect.

SEC. 9. That this act shall take effect and be in force from and after its passage and approval.

Approved, January 6, 1875.