

CHAPTER 268.

[Published April 19, 1860.]

AN ACT providing for the enclosing of railroads by fences.

*The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :*Fences, cattle
guards, &c., to
be erected.Company be
liable for
damages until
fences, &c.,
erected.Co. not liable
when fences
constructed.Liabilities of
persons.

SECTION 1. Every railroad company, or other party, having the control or management of a railroad, the whole or part of which shall be located in this State, shall, and is hereby required, to erect, within twelve months from and after the passage of this act, and maintain good and sufficient fences on both sides of such road, (depot grounds excepted,) of the height of four and a half feet, with openings, or gates, or bars therein, and farm crossings of the road for the use of the proprietors of the lands adjoining such railroad; and also construct and maintain cattle-guards at all highway crossings, to prevent cattle and other animals from getting on to such railroad. Until such fences and cattle guards shall be duly made, the railroad company, its agent or agents, the trustees, lessee, or other parties having control and management of any such road, shall be liable for all damages which shall be done by the agents or engines, to cattle, horses, or other domestic animals therein, occasioned by the failure to erect such fences or cattle-guards as herein required.

SEC. 2. When such fences shall be duly made and maintained, the railroad company, or party having control of the road, shall not be liable for any such damages, unless wilfully or negligently done. And if any person shall ride, lead or drive any horse or other animal, upon such road, and within such fences and guards, other than at the farm-crossings, without the consent of the corporation or party having control of such road, he shall, for every such offence, forfeit a sum not exceeding ten dollars, to be recovered by such company or party in an action before any justice of the peace of the county wherein such offence is committed; and shall also pay all damages which shall be sustained thereby to the company or party aggrieved. It shall not be lawful for any person other than those connected with, or employed upon the railroad, to walk along the track or tracks of any railroad, except when the same shall be laid along public roads or streets.

SEC. 3. When such fences, cattle-guards, or crossings, shall be constructed, as contemplated by this act, any person who shall wilfully take down, open, or remove the same, or any portion thereof, or allow the same to be taken down, opened, or removed, shall, upon conviction, be subject to a fine of not less than ten dollars, nor more than fifty dollars, and shall, in addition thereto, be liable to the party injured for all damages resulting from the taking down, opening or removing of such fence, cattle-guard, or crossings. This section shall not be construed as to prevent the taking down of bars, or the opening of gates, for the purpose of passing through the same; but any person who shall take down bars or open gates, and not immediately replace or close the same, shall be liable to all the penalties provided for in this section.

Penalties for opening, removing fences cattle-guards &c.

Proviso.

SEC. 4. The provisions of this act shall not be held to affect, in any manner, any contract or agreement heretofore entered into between any railroad company, or other party, having the control and management of a railroad, and the proprietors and occupants of lands adjoining, for the construction and maintenance of any such gates, bars, cattle-guards, and railroad crossings.

Not to affect contract or agreement.

SEC. 5. All acts, and parts of acts, contravening the provisions of this act, are hereby repealed.

Repeal.

SEC. 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1860.

CHAPTER 269.

[Published April 19, 1860.]

AN ACT to establish a highway therein described.

(See Supplement to Local Laws.)