

being of the height and sufficiency aforesaid, then the owner or owners of such live stock shall be liable to make good all such damages to the owners of such enclosure, as shall be found and awarded by two or more judicious persons who may view the same, under oath or affirmation made before some justice of the peace in said county, the said damages to be recovered in the same manner that is or shall be prescribed by law for the recovery of small debts; *Provided nevertheless*, upon the trial before any justice of the peace for damages, at the instance of either party, it shall be the duty of said justice of the peace to issue a subpoena for such witnesses as either plaintiff or defendant may require.

Liability for trespass.
Damage ascertained.
Recoverable.

SEC. 2. *And be it enacted*, That whenever joint fences have or may be established in Washington county, for the mutual benefit and advantage of different owners or possessors of adjoining land it shall be the duty of each party to keep up in good repair, his, her or their just and respective proportion thereof, in manner following, that is to say, all post and rail or plank fences, shall be at least four and a half feet high, and all stone fences shall be at least four feet high, and all worm or other fences shall be at least six feet high, the height in every case to be computed from the ground or base of any embankment upon which said fence is or may be placed.

Joint fences.
Dimension prescribed.

SEC. 3. *And be it enacted*, That if either of the parties so making or keeping a joint fence, shall not comply with the foregoing provisions, and shall refuse or delay to make or repair the said fence within twenty days after notice in writing shall be given to the said party, his agent, overseer or tenant, then upon proof thereof before a justice of the peace, it shall be lawful for the said justice under his hand and seal, to authorize the party aggrieved and suffering by such refusal or delay, to make or repair the said fence as above required, and for so doing, he, she or they shall be re-imbursed all costs and reasonable expenses, necessarily incurred, to be recovered from the party so refusing or delaying, in the same manner as debts of a like amount are now recoverable.

Case of neglect to keep up.
Remedy.

SEC. 4. *And be it enacted*, That in case joint fences are not made and kept in repair according to the provisions of this act, it shall also be lawful for the party aggrieved or likely to be injured, instead of pursuing the remedy above allowed, to discontinue the said fence by giving three months notice, in manner aforesaid, and in all other cases, (unless by mutual consent) twelve months notice shall be required to discontinue any joint fence.

Or discontinue.
Notice required.

SEC. 5. *And be it enacted*, That whenever any person or persons shall, under and by virtue of this act or any law of this state, be summoned or called upon to value and assess the

Duty of persons assessing damage.