

any law of this State, be summoned or called upon to value and assess the damages done upon any enclosure in either of the two districts aforementioned by trespassing live stock of any kind or description whatever, the said person or persons so valuing or assessing the said damages shall inspect and examine into the state and condition of the enclosure of the land upon which the said trespass or damages shall have been alleged to have been done or committed; and if said enclosure shall not be such as is hereinbefore described he or they shall not make out any award or assess any damages whatever.

Duty of person summoned to assess damages.

SEC. 6. *Be it enacted*, That in all cases of action for trespass, *quare clausum fregit* or legal proceedings of any kind, hereafter to be sued out or commenced in either of the two districts herein provided for, to recover damages for trespass upon land by any kind or description of live stock, the defendant or defendants may plead the general issue and give the special matter in evidence under this act; and the plaintiff or plaintiffs in each and every suit shall be non-suited and mulcted in cost whenever it shall be clearly proven by legal and competent testimony that the land wherever the said trespass was committed was not enclosed according to the provisions of this act.

In all cases of action for trespass.

Non-suited and mulcted.

SEC. 7. *Be it enacted*, That the judgment, assessment and report of the two persons hereinbefore provided for, to be appointed by the justice of the peace, shall in no case be taken and held to be conclusive and final, but either party on trial shall be at liberty and have the right to produce witnesses to maintain or controvert all matters at issue in the case, and the court before which the case is to be determined shall give such judgment upon all the evidence as may seem right and proper, and nothing in this act contained shall be taken or considered as giving jurisdiction to any justice of the peace to hear and determine any cause wherein the title of land is concerned.

Judgment shall not be final.

Nothing in this act.

SEC. 8. *And be it enacted*, That this act shall take effect from the date of its passage.

In force.

Approved April 5, 1878.