

counties, shall be fenced with posts and rails, or plank, or worm fence well staked and ridered, made of good and substantial rails, at least four feet and a half high from the ground to the top of the upper rail; and all worm fences not staked and ridered, shall be at least five feet high from the ground to the top of the upper rail, and the first or under rail, in post and rail or plank or worm fences, shall not exceed five inches from the ground or embankment, on which the same is or may be built, and the width between the rails composing the fence shall be such as is usual in the construction of good post and rail, plank or worm fences; and all brush fences made upon the surface of the ground, to be at least four feet six inches high, and all brush fences made upon an embankment to be at least three feet high; *Provided*, the embankment be eighteen inches high, *and provided*, that nothing in this act contained shall be so construed as to extend to other than outside fence, or fences between proprietors; and if any live stock of any kind or description whatsoever, shall break into any person's enclosure, the same 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 owner or owners of such enclosure, as shall be found and awarded by two or more judicious persons who may view the same under their oath or affirmation, made before some justice of the peace in said counties, 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.

Of brush fences.

Out side fences only.

Case of trespass.

Proceedings.

Proviso.

SEC. 2. *And be it enacted*, That whenever joint fences have or may be established in Dorchester and Caroline counties, 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 worm or other fences shall be at least five 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,

Neglect to keep up.