

Failure to  
keep in repair

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 be also 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.

Notice to dis-  
continue.

Value and  
assess dama-  
ges.

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 damages done upon any enclosed land in the county aforesaid, by trespassing live stock of any kind or description whatsoever, 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 be alleged to have been done or committed; and if the said enclosures shall not be good and sufficient, according to the true intent and meaning of this Act, he or they shall not make out any award or assess any damages whatever.

Trespassing.

Damages not  
awarded.

Defendants  
may plead.

SEC. 6. *And be it enacted*, That in all cases of action of trespass "*quare clausum fregit*," or legal process of any kind, hereafter to be sued out or commenced, to recover damages for trespass upon lands in said county 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 nonsuited and mulcted in costs wherever it shall be clearly proven, by legal and competent testimony, that the lands, wherever the said trespass shall be alleged to have been done or committed, were not enclosed according to the provisions of this Act.

Plaintiffs  
nonsuited.

In force.

SEC. 7. *And be it further enacted*, That this Act shall take effect from the first day of June, in the year eighteen hundred and seventy-two.

Approved February 12, 1872.