

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 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 contained in this Act 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 whatever, 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 to be appointed by a Justice of the Peace in said county, said persons to view the same under oath, and make return before the Justice of the Peace by whom they were appointed, and 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 *subpœna* for such witnesses as either plaintiff or defendant may require.

Duty to keep in repair. SEC. 2. *And be it enacted*, That wherever joint fences have been or may be established in said Atkinson's Election District, in Worcester county, for the mutual benefit and advantage of different owners or possessors of adjoining lands, it shall be the duty of each party to keep up in good repairs 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 feet high, and all worm and 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.

Shall not comply. 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