

made upon the surface of the ground to be at least five feet high, and all brush fences made upon an embankment to be at least three feet six inches high; *provided*, the embankment be eighteen inches high; and all stone fences made upon the ground to be at least four feet high from the surface of the ground; *and provided*, that nothing in this act contained shall be so construed as to extend to other than outside fences, or fences between proprietors, and if any live stock of any kind or description whatsoever shall break into any persons 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 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.

Stone fences

Only applied to outside fences

Liability for trespass

Damage ascertained

Recoverable

Joint fences

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.

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 authorise 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

Case of neglect to keep up

Remedy