

CHAP. 140.

shall be reimbursed all costs and reasonable expenses, necessarily incurred, to be recovered from the party so refusing or delaying in the same manner as debts of a like amount are now recoverable.

Or discontinue

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 also be 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 required

Duty of persons assessing damage

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 damage 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 damage, 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.

This act may be 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, commenced or prosecuted in the county aforesaid, 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 all and every such suit, shall be non-suited and mulct in costs, whenever it shall be clearly proven by legal and competent testimony, that the lands whereon the said trespass shall be alleged to have been done or committed, was not enclosed according to the provisions of this act.