

and sufficiency aforesaid, then the owner or owners of such livestock 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 subpoena for such witnesses as either plaintiff or defendant may require.

Damages

Proviso.

Joint fences

SEC. 2. *And be it enacted,* That wherever joint fences have been or may be established in said 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: that all post and rail or plank fences, shall be four feet high, and all worm or other fences, shall be at least four and one-half 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 twenty days after notice in writing shall be given to said party, his agent, overseer or tenant, then upon proof thereof before a justice of the peace in said county, it shall be lawful for the said justice of the peace, under his hand and seal, to authorize the party aggrieved and suffering by such refusal or delay, to make or repair the said fence as above required, and for doing so he, she or they 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.