

Ibid s 5.
One party may
recover against
him who fails
to make or re-
pair his portion

42. And if the party thus required to make or repair his part of said fence, shall fail to do so within the time specified, it shall be lawful for the other party interested to make or repair the same at an expense not exceeding that specified in the award; and as soon as he shall have made or repaired said fence, and have obtained certificates of the freeholders aforesaid, or a majority of them, that he is entitled to the amount specified in the award or any part thereof, he shall be entitled to recover the amount so expended from the owner of said fence as other debts are now recovered; and if the owner of such fence is a non-resident of said county, the party so making or repairing shall be entitled to judgment against him in the circuit court, or before a justice of the peace of said county, as the case may be, and the serving of the summons in such suit upon the tenant, owner or representative, shall be a sufficient service of such writ upon the owner.

Ibid. s. 6.
When fence is
of no use

43. But if the said freeholders shall find that the said fence, or any part thereof, the making or repairing of which is sought to be enforced, would be of no use or benefit to the party refusing, by reason of its lying contiguous to uninclosed or waste lands, or for any other reason, they shall so report in their award; and no one shall be required to make or repair more than one-half of such fence, as shall be to him necessary.

Ibid s 7.
Injury to stock

44. If any person having an interest in any joint division fence, shall fail to make or keep in repair his part thereof, he shall not be entitled to damages on account of any trespass through said part, by stock belonging to the other joint owner of the fence; and if he shall kill, maim, or otherwise injure such stock, he shall, upon conviction, pay to the owner thereof, the full value of such stock with costs of suit.

Ibid s 8
When party
entitled to re-
cover for
trespass by
stock.

45. In all other cases of trespass by stock, the party trespassed upon shall be entitled to recover from the owner of the stock trespassing, the amount of damages done by such trespass as other debts are