

if either of said persons shall fail or neglect to make his proportion of said fence, or to keep or put the same in good repair within sixty days after he shall have been notified and requested to do so in writing, then the party making said request may make or repair said fence at the expense of the party so neglecting or refusing, to be recovered from him in an action of debt, with cost of suit.

103. Should any person wish to fence in any land which has hitherto been unenclosed, after having built his proportion of said fence, he shall give the party whose land adjoins his, notice in writing that he must erect his proportion of said fence within sixty days, and if the party so notified shall fail to erect his proportion of said fence, the same remedy as given in the preceding section shall apply.

Erection of  
joint fence:  
how compelled.

104. Before proceeding, however, to make or repair the fences mentioned in the two preceding sections, the person who has given the notification in writing shall apply to a justice of the peace of the county, who, upon affidavit of the party that he has given such notice, and that said fence has not been erected or repaired within the time specified, shall summon three disinterested landholders, who shall view the said fence and shall determine the proper amount of money to be expended in erecting or repairing the said fence in a good and substantial manner, and said inquisition shall be put in writing, and the party erecting or repairing such fence shall not expend more than said sum.

Proceedings  
before building  
fence.

Fence viewers.

107. The fences to be made or kept in repair shall be at least four feet high, and shall be sufficiently close to prevent hogs from pressing through the same; *provided*, said fence be not within five miles from the city of Baltimore.

Fences, how to  
be built.

Proviso.

108. The land and freeholders summoned under any section of this act, shall be allowed the same *per diem* as witnesses before a justice of the peace per each day they may be engaged in the performance of the duties hereby imposed upon them.

Pay of fence  
viewers.