

person's enclosure, the enclosure of which shall be fences of the above description and proportions, then the owner or owners of such live stock shall be liable to make good all such damages to the owner of such enclosure as shall be found and awarded by two or more judicious persons, to be appointed by a justice of the peace of one of the said districts where the enclosure so trespassed upon shall be located, which said persons shall view the place, after having been sworn to value and assess the damages truly as they shall to them appear, and after having so viewed the damages and assessed the same under oath, they shall make a return thereof before the justice of the peace by whom they were appointed, and these said damages to be recovered in the same manner that is prescribed by law for the collection of other judgments upon the docket of a justice of the peace; provided, nevertheless, that upon the trial thereof before a justice of the peace for damages, at the instance of either the plaintiff or defendant, it shall be the duty of the said justice of the peace to issue a subpoena for such witnesses as either plaintiff or defendant may require; provided, nevertheless, that such assessment of damages by said two persons so appointed by said justice shall not be deemed and taken as conclusive, but either party shall be at liberty to controvert the same, and such judgment shall be given as upon the whole evidence shall seem to be right and proper.

Liability of
owners of
stock

Damages—
how recover-
able.

SEC. 2. *And be it enacted*, That where joint fences have been, now are, or may hereafter be established in any of the three named districts in said county, for the mutual benefit of different owners or possessors of adjoining lands, it shall be the duty of each party to keep in good repair his, her or their just proportion respectively thereof, in the manner now prescribed, to wit: All fences of whatever kind shall be four feet high at least, the height in every case to be computed from the ground to the top of the upper rail, whether the fence be placed upon the level earth or upon an embankment.

Keep fences
in good repair

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 said fence, where it