

is mutually beneficial, within twenty days after notice in writing shall have been given to said party, or his agent, his overseer or tenant, then, upon proof thereof before a justice of the peace of one of the said districts, it shall be the duty of the justice of the peace, under his hand and seal, to authorize the party so aggrieved and suffering by such refusal or delay, to make or repair such fence as above required, and for so doing 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.

Rights of aggrieved party

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 be also 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 the manner aforesaid; and in other cases, unless by mutual consent, twelve months' notice shall be required to discontinue any joint fence.

How to discontinue

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 damages done upon any enclosed land in any of the districts aforementioned, by trespassing live stock of any kind or description whatsoever, the said person or persons so valuing or assessing the said damages shall inspect and examine into the state and condition of the enclosure of the land upon which the said trespass or damages shall have been alleged to have been done or committed, and if the said enclosure shall not be such as is hereinbefore described, he or they shall not make out any award or assess any damages whatever, but either party may controvert the evidence and opinion of said person or persons by other witnesses, and such judgment shall be given upon the whole evidence, as to the justice or the court, as the case may be, seems right and proper.

Evidence may be controverted.

SEC. 6. *And be it enacted*, That in all cases of action for trespass *quare clausum fregit*, or legal process of any kind hereafter to be sued out or com-