

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

Discontinue
fence.

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 enclosed lands in the part of the district aforesaid, 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 damage shall be alleged to have been done or committed, and if the said enclosure shall not be good and sufficient, according to the true intent and meaning of this act, he or they shall not make out any award or assess any damages whatever.

Inspect and
examine.

SEC. 6. *And be it enacted*, That in all cases of action of trespass, *quare clausam fregit*, or legal powers of any kind hereafter to be sued out or commenced, to recover damages for trespass upon land in said portion of said district by any kind or description of live stock, the defendant or defendants may plead the general issue and give the special matter in evidence under this act, and the plaintiff or plaintiffs in each and every suit shall be non-suited and mulcted in costs whenever it shall be clearly proven, by legal and competent testimony, that the lands, wherever the said trespass shall be alleged to have been done or committed, was not enclosed according to the provisions of this act.

Damages for
trespass.

SEC. 7. *And be it enacted* That this act shall take effect on the first day of May, eighteen hundred and eighty-two.

When effec-
tive.

Approved May 3, 1882.