

more judicious persons, to be appointed by a justice of the peace of the said district 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 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 the 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.

Make return.

SEC. 2. *And be it enacted*, That when joint fences have been now or may hereafter be established in the district hereinbefore mentioned 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 joint properties respectively thereof, to wit: All fences of whatever kind shall be four feet high at least, the highest in every case to be computed from the ground upon which the fence rests to the top of the upper rail, whether the fence be placed upon the level earth or upon an embankment.

Each party
to keep joint
fence in order.

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 is mutually beneficial, within twenty days after notice in writing shall have been given to said party or his agent, overseer or tenant, thereupon proof thereof before a justice of the peace of the said district, 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.

Time allowed
for repairing
joint fences.