

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 alluded to, to discontinue the said fence, by giving three months' notice in manner aforesaid; and in all other cases, unless by mutual consent, twelve months 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 laws of this state, be summoned or called upon to value and assess the damages done upon any enclosure in the aforementioned district, by trespassing live stock of any kind or description whatever, 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 have been alleged to have been done or committed; and if said enclosure shall not be such as hereinbefore described, he or they shall not make out any award or assess any damage whatever.

Value and assess
damages.

SEC. 6. *And be it enacted*, That in all cases of action for trespass, quare clausum freget, or legal proceedings of any kind hereafter to be sued out or commenced in the district herein provided for to recover damages for trespass upon land 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 cost, whenever it shall be clearly proven, by legal and competent testimony, that the land, wherever the said trespass was committed, was not enclosed according to the provisions of this act.

Damages—how
recovered.

SEC. 7. *And be it enacted*, That the judgment, assessment and report of the two persons hereinbefore provided for, to be appointed by the justice of the peace, shall in no case be taken and held to be conclusive and final; but either party on trial shall be at liberty and have the right to produce witnesses to maintain or controvert all matters at issue in the case, and the court, before which the case is to be determined, shall give such judgment, upon all the evidence, as may seem right and proper, and nothing in this

Right to pro-
duce witnesses