

be built, and the width between the rails or planks comprising the fence shall be such as is usual in the construction of good post and rail plank or worm fences; and all brush fences made upon the ground to be at least four feet high, and all brush fences made upon an embankment to be at least three feet high, provided the embankment be eighteen inches high; and provided that nothing contained in this act shall be so construed as to extend to other than outside fence or fences between proprietors; and if any live stock, of any kind or description whatever, shall break into any person's enclosure, the same being of the height and sufficiency aforesaid, then the owner or owners of such live stock shall be liable to make good all such damages to the owner or owners of such enclosure as shall be found and awarded by two or more judicious persons, to be appointed by a justice of the peace in said county, said persons to view the same, under oath, and make return before the justice of the peace by whom they were appointed, and the said damages to be recovered in the same manner that is or shall be provided by law for the recovery of small debts; provided, nevertheless, upon trial before a justice of the peace for damages, at the instance of either party, it shall be the duty of said justice of the peace to issue a subpoena for such witness as either plaintiff or defendant may require; provided that the provisions of this act shall not apply to or be applicable to any fence now or hereafter to be enacted of post and wire, or post and part wire, and post, plank or rail, as required by law to be erected in certain places in said county.

Who liable for damages.

Damages—how recovered.

SEC. 2. *And be it enacted*, That this act shall take effect from the date of its passage. Effective.

Approved April 8, 1884.