

nevertheless, that such assessment of damages by said two persons so appointed by said Justice, shall not be deemed and taken as conclusive, but either party shall be at liberty to controvert the same, and such judgment shall be given as upon the whole evidence shall seem to be right and proper.

Keep in repair.

SEC. 2. *And be it enacted*, That where joint fences have been, now are, or may hereafter be established in said Dames' Quarter District, for the mutual benefit of different owners or possessors of joining lands, it shall be the duty of each party to keep in good repair his, her or their just proportion respectively thereof in the manner now prescribed, to wit: All fences of whatever kind shall be four feet high at least, the height in every case to be computed from the ground to the top of the upper rail, whether the fence be placed upon the level earth or upon an embankment.

How Fence, repaired in case of refusal.

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 have been given to said party or his agent, his overseer or tenant, then, upon proof thereof before a Justice of the Peace of 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 such refusal or delay, to make or repair such fence as above required, and for so doing he, she or they shall be re-imbursed 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.

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