

**CHAP. 212.** it shall be and is hereby declared to be the duty of said persons and obligatory upon them to make said fences in pursuance of such agreement, and it shall be the duty of each of said persons to keep his or her respective portion of said fences or fence so made in pursuance of said agreement, or already made as aforesaid as the case may be, in good repair, and if either or any of said persons shall fail or neglect to make such fences in pursuance of said agreement, or to keep or put said fences so made or already made as aforesaid as the case may be, in good repair within twenty days after he or she shall have been notified and requested so to do in writing, by either of the parties to such agreement or by either of the parties who may have joined in making any division fence now in existence in pursuance of an agreement between the parties as aforesaid, it shall and may be lawful for the person having made such request as aforesaid, to apply to a justice of the peace of the county, who upon proof being made to his satisfaction, that the notice and request has been given and made as aforesaid, and that any or either of said parties has refused to comply with the foregoing provisions of this act, to order and direct in writing that the person so applying to him may and shall make said fences or put said fences in repair as the case may be, and the cost thereof shall be chargeable to the party or parties to such agreement as aforesaid or to the person or persons who shall have neglected or failed to make or repair as the case may be, the fence or fences aforesaid, and the person making or repairing said fence or fences as aforesaid, shall recover the cost thereof, of and from the party or parties, person or persons having failed to make or put in repair as the case may be, said fence or fences, in an action of debt before a single justice of the peace, if the said cost shall be less than one hundred dollars, or in action on the case for money paid, laid out and expended, in Baltimore county court if the said cost shall exceed one hundred dollars.

Five feet  
high, &c.

Proviso.

**SEC. 2.** *And be it enacted,* That the fences so to be made or kept in repair in pursuance of this act, shall be, if a worm fence of ordinary good height to be ascertained by three freeholders as damages are hereinafter directed to be proven and assessed and to be made sufficiently close to prevent hogs or pigs from pressing through the same, and if a post and rail fence, then it shall be five feet in height with not less than five rails in each pannel; *provided,* said fence be not within five miles of the city of Baltimore.