

circumstances the fence-viewers hereinafter named shall otherwise direct, which they are hereby empowered to do upon application of any party interested, in the same form and manner as is hereinafter prescribed in respect of the original opening, deepening or widening, provided that in case the fence-viewers find no reason for such application, all costs caused thereby shall be borne by the applicant.

4. In case of dispute between owners respecting such proportion, the following proceedings shall be adopted:—

Either owner may notify the other owner or occupant of the land of the owner so to be notified, that he will, not less than one week from the service of such notice, cause three fence-viewers of the locality to arbitrate in the premises: Such owner so notifying shall also notify the fence-viewers not less than one week before their services are required: The notices in both cases shall be in writing, signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and may be served by leaving the same at the place of abode of such owner or occupant, with some grown-up person residing thereat, or in case of a non-resident, by leaving such notice with any agent of such owner: The owner notified may, within the week, object to any or all of the fence-viewers notified; and in case of disagreement the judge hereinafter mentioned shall name the fence-viewers who are to arbitrate.

5. The fence-viewers shall examine the premises, and if required by either party, they shall hear evidence, and are authorized to examine the parties and their witnesses on oath, and any one of them may administer the oath or an affirmation as in courts of law.

6. The fence-viewers shall make an award in writing, signed by any two of them, respecting the matters so in dispute: The award shall specify the locality, quality and description and cost of the ditch or drain it orders to be made, and the time within which the work shall be done; and the award shall state by which of the said parties the costs of the proceedings shall be paid, or whether either party shall pay some proportion of such costs; and in making such award the fence-viewers shall regard the nature of the ditches or drains in use in the locality, and generally the suitability of the ditch or drain ordered to the wants of the parties; and the fence-viewers may, if they think necessary, employ a Provincial land-surveyor for the purpose of taking levels, or of making a plan for the parties to follow in making the ditch or drain, or for other purposes; Provided that if the cost of the ditch or drain exceed the cost as estimated by the fence-viewers, the same fence-viewers may be again notified in the same manner herein provided, and shall attend, and if they see fit, make a supplementary award respecting such costs, which award shall have the same effect, and may be dealt with in all respects as if it were part of the first award.

7. The award and any plan made as above provided for, shall be deposited in the office of the clerk of the municipality in which the lands are situate, and the award and plan are declared to be official documents, and may be given in evidence in any legal proceedings by certified copies, as are other official documents, and notice of their being made shall also be given to all parties interested.

8. The award may be enforced as follows: the person desiring to enforce it, provided the work is not done within the time specified by the award, may do the work which the award directs, and immediately recover its value and the costs from the owner by action in any division court having jurisdiction in the locality: Provided always that the judge