

8. Three Fence-viewers of the Municipality, or a majority of them, may decide all disputes between the owners or occupants of adjoining lands, or lands so divided or alleged to be divided as aforesaid, in regard to their respective rights and liabilities under this Act, and, also, all disputes respecting the opening, making or paying for Ditches and Water courses, under this Act.

9. Every determination or award of Fence-viewers shall be in writing, signed by such of them as concur therein; and they shall transmit the same (or a certified copy thereof) to the Clerk of the Municipality, and shall also deliver a copy to every party requiring the same, and such determination or award shall be binding on the parties thereto.

10. When the dispute is as to the commencement or extent of the part of the fence to be made or repaired by either party, or as to the opening of a Ditch or Water Course, or as to the part, width, depth, or extent that any person should open or make, either party may, by writing, notify the Fence-viewers of the dispute, and name in the notice for the investigation thereof, the time and place of meeting, and shall also notify the other party to appear at the same time and place.

11. On receiving such notice, the Fence-viewers shall attend at the time and place named, and after being satisfied that the other party has been also duly notified they shall examine the premises and hear the parties and their witnesses, if demanded; and according to the subject matter of the reference shall decide the commencement or extent of the part of the fence which either party claims to have made or repaired, or refuses to make or repair; or shall divide or apportion the Ditch or Water Course among the several parties, having due regard to the interests of each in the opening thereof; and shall fully determine the matters in dispute.

12. On any reference regarding the opening or making of a Ditch or Water Course, the Fence-viewers shall decide what length of time each of the parties shall have to open the share of the Ditch or Water Course, which the Fence-viewers decide each such party shall open, and if it appears to the Fence-viewers that the owner or occupier of any tract of land is not sufficiently interested in the opening of the Ditch or Water Course to make him liable to perform any part thereof, and at the same time that it is necessary for the other party that such Ditch should be continued across such tract, they may award the same to be done at the expense of such other party; and after such award, the last mentioned party may open the Ditch or Water Course across the tract, at his own expense, without being a trespasser.

13. When by reason of any material change of circumstances in respect to the improvement and occupation of adjacent lots or parcels of land, an award previously made under this Act ceases, in the opinion of either of the parties to be equitable between them, such party may obtain another award of Fence-viewers by a like mode of proceeding; and if the Fence-viewers called upon to make a subsequent award, find no reason for making an alteration, the whole cost of the reference shall be borne by the party at whose instance it has been made.

14. If any party neglects or refuses, upon demand made in writing as aforesaid, to open, or make and keep open, his share or proportion of the Ditch or Water Course allotted or awarded to him by the Fence-viewers, within the time allowed by them, any of the other parties may, after first completing his own share or proportion, open the share or proportion allotted to the party in default, and shall be entitled to recover not exceeding forty cents per rod for the same from the party so in default.

15. If after an award of the Fence-viewers, or after being required by a demand in writing, by the party occupying the adjoining tract, or a tract separated therefrom by a River, Pond, or Creek, a party in the occupation of any tract of land neglects or refuses, for a period of thirty days, to make or repair (as the case may be) his portion of the Division or Line Fence between his tract and such adjoining or separated tract or if the party making the demand neglects or refuses, for the like period, to make or repair his own proportion of the fence, either party, after first completing his own proportion, may make or repair, in a substantial manner, and of good sound materials the whole or any part of the fence, which ought to have been made or repaired by the other party, and may recover from him the value thereof.

16. To ascertain the amount payable by any person who, under the authority of this Act, makes or repairs a fence; or makes, opens, or keeps open, any ditch or water course, which another person should have done, and to enforce the payment of such amount, the following proceedings shall be taken:—

1. Any of the persons interested, may apply to a Justice of the Peace residing within the Municipality or Township, in which any such fence is situated, and, if