

Penalty on fence viewers for refusing to act;

Recoverable before one Justice.

*X. And be it further enacted by the authority aforesaid, That any Fence Viewers, legally holding the office of Fence Viewers, who shall neglect or refuse to perform the duties of his office, shall forfeit for every neglect, to any person who may sue for the same, a sum not exceeding forty shillings, with costs of suit, to be recovered upon information and complaint before any one of the Justices of the Peace for the District in which such Fence Viewer was chosen, and to be levied by distress under a warrant issued by such Justice.*

Party ceasing to improve land not entitled to take away any part of partition fence;

Provided the other party pay the value, as determined by fence viewers;

Occupier of unimproved lands afterwards enclosed to pay for proportion of existing division fence;

To be ascertained by fence viewers.

*XI. And be it further enacted by the authority aforesaid, That when any party shall cease to improve his land, or shall lay his enclosure, before under improvement, in common, he shall not have a right to take away any part of the partition fence that to him belongs adjoining to the next enclosure that is improved or occupied: Provided the party occupying the lands adjoining the same will allow and pay therefor so much as the Fence Viewers, or a majority of them, shall in writing determine to be the reasonable value thereof; and whenever any lands which have laid unimproved and in common shall be afterwards enclosed or improved, the occupier or occupiers thereof shall pay for their fair or just proportion of the division or line fence standing upon the divisional line between the same land and the land of the enclosure of any other occupant or proprietor, the value thereof to be ascertained and set forth in writing by three Fence Viewers, in case the parties shall not agree among themselves, and the amount of said value to be recovered according to the proportions so estimated, in the same manner and form as hereinbefore provided respecting the making and keeping in repair division or line fences.*

No part of division fence to be removed unless the other party refuse to pay for the same;

Nor without twelve months notice.

*XII. And be it further enacted by the authority aforesaid, That in no case shall any person be authorised to take away any part of the partition fence that to him belongs, adjoining to the next enclosure that is improved or occupied, unless the party occupying the lands adjoining the same refuse to pay for the same, as aforesaid; nor without first giving due notice to such party for at least twelve months previously to the removal of the same.*

Proceedings in case of water fences to be had in similar manner.

*XIII. And be it further enacted by the authority aforesaid, That when a water fence, or a fence running into the water, is necessary to be made, the same shall be done in equal parts, unless by the parties otherwise agreed; and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall or may be had as in other cases of the like kind respecting fences out of the water in this Act mentioned.*

Brook, creek, &c. not in itself a sufficient fence, may be submitted to fence viewers;

*XIV. And be it further enacted by the authority aforesaid, That when lands belonging to or occupied by different persons, and subject to be fenced and bounded upon or divided from each other by any brook, pond or creek, which of itself is not a sufficient fence, in such case, if the par-*