

THE *J. Rogers*  
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND  
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,  
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE  
ACT AUTHORIZING A STATE GOVERNMENT, AND THE  
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

---

Edited and Published under the authority of Chapters 15 and 16 of  
the Laws of 1866.

---

ST. PAUL.  
PUBLISHED BY DAVIDSON & HALL,  
STATE PRINTERS, 170 THIRD STREET.  
1872.

Commissioners may prosecute such action, when.

SEC. 12. When said mother commences any such action, and fails to prosecute the same, the commissioners of the proper county, or any person interested in the support of such bastard, may prosecute the same to final judgment.

They may make complaint to justice, when.

SEC. 13. If any female is delivered of a bastard child, which is a public charge, or likely to become a public charge, or is pregnant of a child, likely to be born a bastard and to become a public charge, the board of commissioners of the county where such female resides, or any of them, may, upon application for aid in supporting such child by the mother thereof, or if they deem proper without such application, apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case.

Proceedings in such case.

SEC. 14. The justice shall examine such female on oath respecting the father of such child, the time when, and the place where said child was begotten, and such other circumstances as the justice deems necessary for the discovery of the truth; and shall thereupon issue his warrant to apprehend the reputed father; and the same proceedings shall be thereupon had, as if complaint had been made by such female, as prescribed in the foregoing provisions of this chapter, and with the like effect; any warrant issued under the provisions of this chapter, may be executed in any part of this state, and in all cases said commissioners and the accused may require the attendance of such female to testify, the same as witnesses in other cases.

Commissioners may make compromise.

SEC. 15. The county commissioners before judgment in any case under this chapter, may make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as they deem equitable and just; and thereupon may discharge such putative father from all liability for the support of such bastard.

CHAPTER XVIII.

PARTITION FENCES.

1873-221

SECTION.

1. What is a legal fence.
2. Occupants of lands to maintain partition fences.
3. Neglect to keep up partition fence, penalty.
4. Party building or repairing fence, may recover value thereof, how.
5. Controversy concerning fences, how settled.
6. Party refusing to perform duty, liable; how.
7. Town supervisors or owners may agree upon division of fences.
8. Party voluntarily erecting whole fence may recover.
9. Partition fences to be maintained throughout the year.
10. Proceedings when lands are bounded by rivers.
11. Supervisors to give notice—and render decision.

SECTION

12. Lands occupied in common, how fenced.
13. Supervisors to assign time for making fence.
14. Partition fence not removable, until—
15. Uninclosed lands afterward fenced, owner to pay.
16. Supervisors how selected in certain cases.
17. Partition fence running into the water, rule for.
18. Record of division, effect of.
19. Effect of determination not to improve lands.
20. Supervisor neglecting to perform duty, penalty.
21. Fees of supervisors.
22. County commissioners of counties not divided into towns to be fence viewers.

SECTION 1. All fences four and a half feet high and in good repair, consisting of rails, timber, boards or stone walls, or any combination thereof, and all brooks, rivers, ponds, creeks, ditches and hedges, or other things which shall be equivalent thereto, in the judgment of the fence viewers, within whose jurisdiction the same may be, or any such fences as the parties interested may agree upon, shall be deemed legal and sufficient fences.

Legal fence defined.

SEC. 2. The respective occupants of lands, inclosed with fences, shall keep up and maintain partition fences between their own and the next adjoining inclosures, in equal shares, so long as both parties continue to improve the same.

Occupants of land to maintain partition fences.

SEC. 3. In case any party neglects to repair or rebuild any partition fence which of right he ought to maintain, the aggrieved party may complain to the town supervisors or a majority of them, who after due notice to each party, shall proceed to examine the same; and if they determine that the fence is insufficient, they shall signify the same in writing to the delinquent occupant of the land, and direct him to repair or rebuild the same within such time as they judge reasonable; and if such fence is not repaired or rebuilt accordingly, it shall be lawful for the complainant to repair or rebuild the same.

Penalty for neglect.

SEC. 4. When any deficient fence, built up or repaired by any complainant as provided in the preceding section, is adjudged sufficient by two or more of said supervisors, and the value of such repairing or building up, together with their fees, is ascertained by a certificate under their hands, the complainant shall have a right to demand either of the occupant or owner of the land, where the fence was deficient, double the sum so ascertained; and in case of neglect or refusal to pay the sum so due for one month after demand thereof is made, the complainant may recover the same, with interest at one per cent. a month, in a civil action.

Value of building or repairing partition fence recoverable, when.

SEC. 5. When any controversy arises about the rights of respective occupants in partition fences, or their obligation to maintain the same, either party may apply to a majority of the supervisors of the town where the lands lie, who after due notice to each party, may, in writing, assign to each his share thereof, and direct the time within which each party shall erect or repair his share of the fence, in the manner before provided; which assignment being recorded in the registry of deeds, shall be binding upon the parties, and upon all the succeeding occupants of the lands; and they shall be obliged always thereafter to maintain their respective portions of said fence.

Controversy, how settled.

SEC. 6. In case any party refuses or neglects to erect or maintain the part of any fence assigned to him as aforesaid, the same may be erected and maintained by the aggrieved party, in the manner before provided; and he shall be entitled to double the value thereof ascertained in the manner aforesaid, and to be recovered in like manner.

Party neglecting to maintain fence how liable.

SEC. 7. All divisions of fences made by town supervisors according to the provisions of this chapter, or which shall be made by owners of adjoining lands, in writing, witnessed by two witnesses, signed, sealed and acknowledged by the parties making the same, being recorded in the registry of deeds, shall be good and valid against the parties thereto, and their heirs and assigns.

Division of fence may be agreed upon.

SEC. 8. When in any controversy that may arise between occupants of adjoining lands, as to their respective rights in any partition fence, it shall appear to the supervisors that either of the occupants had, before any complaint made to them, voluntarily erected the whole fence, or more than his just share of the same, or otherwise become proprietor thereof, the other occupant shall pay for so much as may be assigned to him, to

Party voluntarily erecting whole fence may recover, when.

repair and maintain, the value of which shall be ascertained and recorded in the manner provided in this chapter.

Fences to be kept in repair throughout the year.

SEC. 9. All partition fences shall be kept in good repair throughout the year, unless the occupants of the lands on both sides otherwise mutually agree.

Proceedings when land is bounded by rivers.

SEC. 10. When lands of different persons which are required to be fenced, are bounded upon or divided by any river, brook, pond or creek, which of itself, in the judgment of the supervisors, is not a sufficient fence, and it is in their opinion impracticable without unreasonable expense, for the partition fence to be made in such waters, in the place where the true boundary line is; if in such case the occupant of the land on one side refuses or neglects to join with the occupant of the land on the other side, in making a partition fence on the one side or the other, or if such persons disagree respecting the same, then two or more supervisors of the town in which such lands lie, on application to them made, shall forthwith proceed to view such river, brook, pond or creek.

Supervisors to give notice and render decision.

SEC. 11. If such supervisors determine that such river, brook, pond or creek will not answer the purpose of a sufficient fence, and that it is impracticable, without unreasonable expense, to build a fence on the true boundary line, they shall, after giving notice to the parties, determine how, or on which side thereof, the fence shall be set up and maintained, or whether partly on one side and partly on the other side, and shall reduce such determination to writing and sign the same; and if either party refuses or neglects to make or maintain his part of the fence, according to the determination of said supervisors, the same may be made and maintained by the other party as before provided in this chapter, and the delinquent party shall be subject to the same charges and costs, to be recovered in like manner.

Lands occupied in common, how fenced.

SEC. 12. When any lands belonging to different persons in severalty have been occupied in common without a partition fence between them, and one of the occupants is desirous to occupy his part in severalty, and the other occupant refuses or neglects, on demand to divide with him the line where the fence ought to be built, or to build a sufficient fence on his part of the lines when divided, the party desiring it may have the same divided and assigned by a majority of the supervisors of the same town, in the manner provided in this chapter.

Supervisors to assign time for making fence.

SEC. 13. Upon the division and assignment as provided in the preceding section, the supervisors may, in writing under their hands, assign a reasonable time for making the fence, having regard to the season of the year; and if either party shall not make his part of the fence within the time so assigned, the other party may, after having completed his own part of the fence, make the part of the other, and recover therefor, double the ascertained expense thereof, together with the fees of the supervisors, in the manner provided in this chapter.

Partition, fence, when removable.

SEC. 14. When one party ceases to improve his land, or opens his inclosure, he shall not take away any part of the partition fence belonging to him, and adjoining the next inclosure, if the owner or occupant of such adjoining inclosure will, within two months after the same is ascertained, pay therefor such sum as a majority of the supervisors shall, in writing under their hands, determine to be the value of such partition fence belonging to such parties.

Rule in case of uninclosed lands afterward fenced.

SEC. 15. When any uninclosed grounds are afterwards inclosed, the owner or occupant thereof shall pay one-half of each partition fence, standing upon the line between his land and the inclosure of any other owner or occupant, and the value thereof shall be ascertained by a majority of the supervisors of the town in writing under their hands, in case

the parties do not agree; and if such owner or occupant neglects or refuses for sixty days after the value has been so ascertained, and demand made, to pay for one-half of such partition fence, the proprietor of each fence may maintain a civil action for such value and the cost of ascertaining the same.

SEC. 16. In all cases where the line upon which a partition fence is to be made, or to be divided, is the boundary line between towns, or partly in one town and partly in another, a supervisor shall be taken from each town.

Supervisors, how selected in certain cases.

SEC. 17. When a partition fence running into the water is necessary to be made, the same shall be done in equal shares, unless otherwise agreed by the parties; and in case either party refuses or neglects to make or maintain the share belonging to him, similar proceedings shall be had as in case of other fences, and with like effect.

Rule when partition fence runs into the water.

SEC. 18. In all cases where the line upon which a partition fence to be built between unimproved lands, has been divided by the supervisors, or by agreement in writing between the owners of such lands, recorded in the office of the register of deeds of the county where such lands lie, the several owners thereof, and their heirs and assigns forever, shall erect and support said fences agreeably to such divisions.

Effect of record of division.

SEC. 19. If any person determines not to improve any of his lands adjoining any partition fence that may have been divided according to the provisions of this chapter, and gives six months' notice of such determination to all the adjoining occupants of lands, he shall not be required to keep up or support any part of such fence during the time his lands are open and unimproved; and he may thereafter remove his portion thereof, if the owner or occupant of the adjoining inclosure will not pay therefor, as provided in the fourteenth section of this chapter.

Effect of notice of determination not to improve lands.

SEC. 20. Any supervisor who shall, when requested, unreasonably neglect to view any fence, or to perform any other duty required of him in this chapter, shall forfeit the sum of five dollars, and shall be liable to the party injured for all damages consequent upon such neglect.

Supervisor neglecting to perform duty, penalty.

SEC. 21. Each supervisor shall be paid by the person employing him, at the rate of one dollar a day for the time he is so employed; and if such person neglects to pay the same within thirty days after the service is performed, each supervisor having performed any such service may recover in a civil action double the amount of such fees.

Fees of supervisors.

SEC. 22. In all counties not divided into towns, the county commissioners shall act as fence viewers, and be governed by the provisions of this chapter.

County commissioners to be fence viewers, when.