

Repealed by Act. 6. 1865.



1846.

No. 10.

ORDINANCE Enacted by the Governor of South Australia with the advice and consent of the Legislative Council thereof.

To encourage the fencing of Land.

[25th August, 1846.]

WHEREAS it is found that persons are discouraged from incurring the expense of fencing on their lands, by reason of there being no means by which persons settling upon adjoining fenced land and deriving advantage from the fences thereof can be made to contribute a due proportion of the expense of erecting such fence: Preamble.

Be it therefore Enacted, by the Governor of South Australia, with the advice and consent of the Legislative Council thereof, That if any person shall heretofore have erected, or shall hereafter erect a sufficient fence dividing his land from the land adjoining thereto, and the occupier of the adjoining land shall after the passing of this Ordinance, in enclosing the same, avail himself of the dividing fence so erected, or any part thereof, he shall be liable to pay to the owner of the adjoining land by whom the dividing fence was erected, or to the then owner thereof, the half of the then value of so much of the dividing fence as shall be made available as a fence to such adjoining land; and if the person so liable to pay such half value shall not, on demand thereof by the person to whom it shall be payable, forthwith pay the same, the same shall be recoverable in due course of law as for so much money laid out and expended by the plaintiff for the use of the defendant, or otherwise, as the case may be.

Persons availing themselves of a dividing fence before erected by the owner of adjoining land to pay half the value of such dividing fence.

II. And

Expense of repair
may be recovered.

II. And be it Enacted, That whensoever any mutual fence shall fall into disrepair and become insufficient, any occupier of adjoining land, having given notice to the other occupiers of the land divided by such fence, may, on their refusal or neglect for a week to contribute to the maintenance thereof, cause the same to be repaired and made a sufficient fence, and shall thereupon be entitled to recover from such adjoining occupiers rateably their proportions of the expense of such repairs in like manner in due course of law.

Maximum rates
recoverable.

III. Provided always, and be it Enacted, That no greater sum shall be recovered from any person under this Ordinance, in respect of the making of any fence, than the proportionate share of such portion of the actual cost that would be incurred according to the price in the district at the time for erecting an ordinary three-railed fence of split posts and rails.

Construction clause.

IV. And be it Enacted, That under the term "Owner" shall be included tenants in fee simple, tenants in tail, tenants for life, or tenants for any term of years not being less than seven years, and that the term "Sufficient Fence," as used in this Ordinance, shall be construed to mean any fence, capable of resisting the trespass of great cattle.

FREDK. H. ROBE,
Lieutenant-Governor.

*Passed the Legislative Council this
twenty-fifth day of August, one
thousand eight hundred and forty-
six.*

W. L. O'HALLORAN,
Clerk of Council.