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[CONFIDENTIAL.]
(Rough Draft for Consideration Only.)

No. , 1930.

A BILL

To make better provision for the regulation of the fencing of adjoining lands; to repeal the Dividing Fences Act, 1902; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Dividing Fences Short title. Act, 1930."

Dividing Fences.

2. This Act is divided into Parts as follows :—

Division into
Parts.

PART I.—PRELIMINARY—*ss.* 1-6.

PART II.—CONSTRUCTION OF DIVIDING FENCES
—*ss.* 7-18.

PART III.—MAINTENANCE AND REPAIR OF
DIVIDING FENCES—*ss.* 19-20.

PART IV.—GENERAL—*ss.* 21-32.

SCHEDULE.

3. The Dividing Fences Act, 1902, is hereby repealed. Repeal of Act
No. 63, 1902.

4. Nothing in this Act shall affect any of the provisions of the Crown Lands Consolidation Act, 1913, the Pastures Protection Act, 1912, the Western Lands Act of 1901, or any Act consolidating or amending the same, or repealing and replacing the same with or without amendment, or take away any powers vested in or conferred on any person or body by any of the said Acts or regulations thereunder. Saving as to
Crown Lands
Consolidation
Act, 1913,
Pastures Pro-
tection Act,
1912, and
Western
Lands Act,
1901.

5. In this Act, unless inconsistent with the context or subject-matter,— Interpreta-
tion.

“Commission” means the Commission appointed under the Western Lands Act of 1901.

“Court” means court of petty sessions.

“Fence” means a structure of posts and boards, palings, rails, galvanised iron, metal, or wire, enclosing or bounding land, and includes a hedge, wall, ditch, or embankment, and any foundation, foundation wall, or support reasonably necessary for the support and maintenance of the fence, but does not include a wall which is part of a house or other building.

“Dividing fence” means a fence between lands owned or occupied by different persons.

“Give-and-take fence” means a fence erected partly on the land of one owner or occupier and partly on the land of another owner or occupier to serve as a convenient dividing fence.

“Lease”

“Lease” means an original or derivative lease or an under-lease or (where possession has been given) an agreement for a lease.

“Lessee” has a meaning corresponding with that of lease.

“Local land board” means the local land board constituted under the Crown Lands Consolidation Act, 1913, for the district in which the fence in relation to which the term is used is situated or proposed to be erected, or where such fence is situated or to be erected on the boundary of two districts, the local land board of either district.

“Owner” includes every person who, jointly or severally, whether at law or in equity—

(a) is entitled to land for any estate of freehold in possession; or

(b) is entitled to receive or is in receipt of or if the land were let to a tenant would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise.

“Registered surveyor” means a surveyor registered under the Surveyors Act, 1929.

6. (1) In shires and municipalities constituted under the Local Government Act, 1919, a fence of any of the kinds prescribed by or under an ordinance made under that Act shall be a sufficient fence for the purposes of this Act.

Sufficient fences.
cf. Vic. No. 2651, 1915, s. 4.
S.A. No. 1839, s. 5.

(2) Where fences have not been prescribed as aforesaid, and in respect of land not included in a shire or municipality any fence of any of the kinds mentioned and described in the Schedule to this Act shall be a sufficient fence within the meaning of this Act.

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PART II.

CONSTRUCTION OF DIVIDING FENCES.

7. (1) The owners of adjoining lands shall be liable to join in or contribute to the construction of a sufficient dividing fence between such lands in equal proportions.

Liability of owners or lessees of adjoining lands to fence.
cf. Vic. No. 2651, 1915, s. 6.
S.A. No. 1639, s. 6.
N.S.W. No. 68, 1902, s. 3 (1).

Subject to this section any lessee of land shall likewise in respect of his land be liable to join in or contribute to the construction of a sufficient dividing fence between his land and any adjoining lands in equal proportions with the owner or lessee of such adjoining lands.

(2) A lessee shall not be entitled under this Act to give notice under section eight and to obtain contribution for and in respect of a dividing fence unless at the time the notice is given his term has at least five years to run.

Application of Act to lessees.

No lessee whose term has not at least five years to run shall be liable under this Act to join in or contribute to the construction of any dividing fence.

8. Any owner or lessee desiring to compel an owner or lessee to contribute to the construction of a dividing fence under this Act may serve him with a notice to fence which shall specify the boundary to be fenced, and shall contain a proposal for fencing the same and specify the kind of fence proposed to be erected.

Service of notices.
cf. S.A. No. 1639, 1924, s. 7.

9. (1) Where the person who has served the notice and the person who has been served with the notice do not agree as to the construction of the fence, either of such persons may apply for an order with respect to the matter either to—

Proceedings in default.
cf. *Ibid.* s. 9.

- (a) the nearest court of petty sessions; or
- (b) where the fence is a give-and-take fence, or a fence between lands situated outside a city, town, or village, or outside any area where lands are used or principally adapted for residential or business purposes, or for either or both such purposes, or where the land of the applicant is situated within the boundary of the city, town, village, or any such area, and the

the adjoining land is outside such boundary—the local land board of the land district in which the lands are situated, or if the land of the applicant or that of the person served is situated in the Western Division, to the Commission.

(2) Such application may be made at any time after the expiration of one month from the date of service of the notice where application is made to a court of petty sessions, and at any time after the expiration of three months from the date of service of the notice in other cases.

(3) The court or the local land board or the Commission, after hearing evidence in connection with any such application, may make an order determining the kind of fence to be constructed and what portion thereof shall be constructed by each person, and if necessary the position of the fence.

(4) In making any order the court or local land board or the Commission, as the case may be, shall be guided as to which kinds of fence it orders to be constructed by the kind of fence usual in the locality where it is proposed to erect the fence.

S.A. No. 1639, 1924, s. 8 (3).

10. If either of the parties to an agreement for the erection of a dividing fence does not perform his part of the agreement within the time agreed, or if either of the persons affected by an order made under section nine does not carry out the work directed by such order to be performed by him within the time named therein, or if no time is agreed upon or named within a reasonable time after the date of the agreement or the order, as the case may be, the other may construct the whole fence as agreed or determined by the order, and may recover from the person in default half the cost of such construction, together with the costs of recovery:

Proceedings on failure to carry out agreement or order. cf. *Ibid.* s. 9.

If no time is named in an agreement respecting a fence which may form under this Act the subject of an application to a local land board or the Commission, or in an order of a local land board or the said Commission, neither of the persons concerned shall be entitled to proceed on the agreement or order without the

the concurrence of the other party until the expiration of three months from the date of the agreement or order.

11. (1) Where the owner or lessee of any land is absent from New South Wales, or cannot be found, or any land is unoccupied, the owner or lessee of any adjoining land may insert in a newspaper published in Sydney, and in a newspaper published in or near the locality where the land is situated, notices addressed to the owner or lessee of the land, describing him as the owner or lessee of the land, as the case may be, and requiring him to contribute to the construction of a fence, and may then proceed ex parte to obtain from a court or local land board or the Commission an order authorising the construction of the fence and specifying the kind of fence to be constructed, and the position thereof, and may construct a fence in compliance with the order.

Cases where occupier cannot be found.
S.A. No. 1639, 1924, s. 10.
See s. 32.

(2) If afterwards during the continuance of the fence any person goes into possession of the first-mentioned land the owner or lessee of the adjoining land may serve any person who, if the fence had not been in existence, would be liable to contribute to the construction of a fence in the place thereof with a copy of the order, and shall, after the expiration of one month from the date of service thereof, be entitled to recover one-half the value of the fence at the said date of service, or a due proportion, having regard to the length of fence in the order and the length of common boundary.

(3) If the person so served deems the order so made inequitable, the court or local land board or Commission which made the same, on his complaint, made within one month after service of the order, may relieve the complainant from the whole or any portion of the sum claimed as the value of the fence, and may order that the line of the fence be altered on such terms as are just.

(4) The value of the fence shall be ascertained as soon as practicable after the service of the order; and in default of agreement between the parties, the value may,

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may, on the complaint of either of them, be determined by the court, the local land board, or the Commission, as the case may be.

12. (1) Where any person has constructed a sufficient fence on the boundary of his land and the land adjoining is land belonging to the Crown, in respect of which there is no owner or lessee within the meaning of this Act, the owner or lessee of the first-mentioned land shall be entitled to claim and recover from the person who first afterwards becomes the owner or lessee of the adjoining land one-half of the actual value of the sufficient fence forming the dividing line or fence between the said lands at the time when the adjoining land is so first occupied.

Rights of persons fencing along unoccupied Crown land. Vic. No. 2651, 1915, s. 13. S.A. No. 1639, 1924, s. 11.

(2) The value of the fence shall be ascertained as soon as practicable after the adjoining land has become so occupied; and, in default of agreement between the parties, the value may, on the complaint of either of them, be determined by the nearest court, the local land board, or the Commission.

13. (1) If the owner or lessee of any land bounded by a road erects a sufficient fence on the boundary of his land and the said road, and any other owner or lessee of any land afterwards adopts any means whereby his land is in any way enclosed by the said fence, or afterwards avails himself of the said fence or renders the same of beneficial use to himself, the lastmentioned owner or lessee shall be liable to contribute to the owner or lessee of the land whereon the fence is erected interest on one-half the value of the said fence at the rate of six pounds per centum per annum for so long as he continues to avail himself of the said fence or renders the same of beneficial use to himself, and shall also for so long be further liable for half the cost of repairs to the said fence.

Liability of person using fence on further side of road. cf. S.A. No. 559, 1892, s. 11.

(2) The value of the said fence for the purposes of this section shall be its value at the time when the person liable first adopted such means as aforesaid, or first availed himself of the said fence, or rendered the same of beneficial use to himself, and the said value shall,

shall, in default of agreement of the parties, on the complaint of either party be determined by the nearest court or the local land board or the Commission as hereinbefore provided in the case of persons not agreeing as to the construction or kind of fence.

(3) Any interest payable under this section shall be payable annually, and may be recovered as a debt in any court of competent jurisdiction.

14. When adjoining owners or lessees have not agreed as to the accurate position of the boundary line between their respective holdings on which either of them desires that a fence shall be erected, either one may give notice to the other of his intention to have the boundary line defined by a registered surveyor.

Proceedings for defining of boundary line by surveyor. S.A. No. 825, 1903, s. 3. S.A. No. 1639, 1924, s. 13.

15. The owner or lessee to whom notice is given shall, within seven days after the service of the notice,—

Person receiving notice to peg out boundary line or employ a surveyor.

- (i) if satisfied of the accurate position of the boundary line, define the same by pegs; or
(ii) employ a registered surveyor to define the boundary line, and in either case shall notify the other adjoining owner or lessee in writing of what he has done.

Ibid. s. 4. Ibid. s. 14.

16. If within one month from the service of the notice provided for in section fourteen the owner or lessee to whom the notice was given—

Right of person giving notice.

- (i) has defined the boundary line by pegs; or
(ii) has failed to have the boundary line defined by a registered surveyor,

Ibid. s. 5. Ibid. s. 15.

then the owner or lessee who gave such notice may have the boundary line defined by a registered surveyor.

17. If the boundary line when defined by a registered surveyor is ascertained to be in the same position as defined by any pegs placed there by the owner or lessee receiving the notice given in pursuance of section fourteen, the said owner or lessee shall be entitled to recover any costs of the survey incurred by him from the owner or lessee giving such notice, but in all other cases where a registered surveyor has been employed all reasonable expenses incurred shall be paid in equal shares by the adjoining owners or lessees.

How costs of survey to be paid. Ibid. s. 6. Ibid. s. 16.

18.

18. (1) Where a river, creek, or watercourse forms the common boundary of contiguous lands or part of such boundary, but is not capable of resisting the trespass of cattle or sheep, or where on account of the physical features of the country it is impracticable to erect a fence exactly on the common boundary of contiguous lands, and a fence is needed to prevent trespass of cattle or sheep, it shall be competent for the owners or lessees of such contiguous lands to agree upon a give-and-take fence to be constructed partly on the land of one of such owners or lessees and partly on the land of the other, or a fence wholly upon the land of one of them.

Give-and-take fences.
Vic. No. 2851,
1915, s. 6.

In any such case, the fence shall be erected in a position to suit the convenience of both parties, so as to afford an effective barrier against the trespass of cattle or sheep.

In erecting a give-and-take fence or any fence under this section between lands separated by a river, creek, or watercourse regard shall be had in determining the site of the fence, to the securing of the fence from the action of floods, and to access to the river, creek, or watercourse by both parties.

(2) In the event of such owners or lessees not agreeing upon such a fence, it shall be competent for either of them to apply to the local land board, or if the land be in the Western Division, to the Commission, to determine the line of fence to be erected, and decide whether any or what compensation in the shape of an annual payment shall be paid to either of the parties occupying such contiguous land in consideration of loss of occupation of the land.

(3) The occupation of lands on either side of such fence, in pursuance or as a result of any such agreement or order shall not be deemed adverse possession as against the owner nor effect title or the right to possession of the land save for the purposes of this Act.

(4) Where any such application is made, the local land board or the Commission as the case may be shall make such order as to it may seem fit in the circumstances of the case.

(5)

(5) The provisions of section ten shall, *mutatis mutandis*, apply with respect to the erection of a give-and-take fence.

PART III.

MAINTENANCE AND REPAIR OF DIVIDING FENCES.

19. Whenever any dividing fence is out of repair or ceases to be a sufficient fence within the meaning of this Act, the owners or lessees of land on either side thereof shall be liable to pay the cost of repairing the fence in equal proportions.

Adjoining occupiers to keep dividing fences in repair.
S.A. No. 559, 1892, s. 11.
S.A. No. 1689, 1924, s. 17.

20. The owner or lessee of any land separated from any adjoining land by a dividing fence may serve a notice upon the owner or lessee of the adjoining land requiring him to assist in repairing or renewing the said fence; and if the last-mentioned owner or lessee neglects, for the space of fourteen days after the service of the notice, to assist in repairing or renewing the fence, it shall be lawful for the first-mentioned owner or lessee to repair or renew the fence and demand and recover from the other owner or lessee half the cost of repairing or renewing the same:

Procedure to compel contribution to the repair of dividing fence.
Ibid. s. 13.
Ibid. s. 18.

Provided that—

- (i) if any dividing fence has been erected partly by one owner or lessee and partly by another, each shall pay the cost of repairing the part so erected by him;
- (ii) if any dividing fence, or any portion thereof, is destroyed by accident, the owner or lessee of the land on either side may immediately repair or renew the same without any notice to the other owner or lessee, and shall be entitled to recover half the expenses of so doing from the owner or lessee of the adjoining land;

(iii)

(iii) in case the dividing fence has been destroyed in whole or in part by fire or by the falling of any tree or trees, the owner or lessee through whose neglect (if any) or through the neglect (if any) of whose tenant the fire originated or caused injury to the fence, or the tree or trees fell, shall be the party bound to repair or renew the entire portion of the fence so damaged as aforesaid; and in default, the other owner or lessee may repair or renew the same and demand and recover from the owner or lessee so liable and in default the entire cost of the repair or renewal.

PART IV.

GENERAL.

21. In any proceedings under this Act the court or local land board, or if the land be situated in the Western Division, the Commission may award costs against either party. Costs. Vic. No. 265F, 1915, s. 30.

22. Any money which any person is in pursuance of this Act required or made liable to pay may be sued for and recovered in any court of competent jurisdiction. Recovery of money payable.

23. (1) Where, under the provisions of this Act, any fence is constructed or repaired which divides any lands held by any person under lease, from any adjoining lands, the cost thereof as between the owner and the lessee shall be payable in the proportions following:— Apportionment of the cost of fencing as between owner and lessee.

(i) in case the interest of the lessee is for a term of five years or more and less than seven years, three-fourths of the cost shall be payable by the owner and one-fourth of the cost by the lessee; cf. Ibid. s. 11.

(ii)

- (ii) in case the interest of the lessee is for a term of seven years or more and less than twelve years, one-half of the cost shall be payable by the owner and one-half by the lessee ;
- (iii) in case the interest of the lessee is for twelve years or upwards, the whole of the cost shall be payable by the lessee.

(2) In any case where the owner or lessee as the case may be, pays such cost he may recover from the other as a debt a proportionate part of such cost according to the provisions of this section.

24. Any tenant having a right to purchase at a fixed rate any land occupied by him shall, on the completion of the purchase, pay to his landlord in augmentation and as part of the purchase money any sum paid during the tenant's occupancy by the landlord under section twenty-three, together with interest on the same at the rate of six pounds per centum per annum.

Position of tenant having a right to purchase.
Vic. No. 2651, 1915, s. 12.

25. Nothing in this Act contained shall be deemed or taken to effect any covenant, contract, or agreement made or hereafter to be made relative to fencing between any owner and/or lessee or between the owners or lessees of adjoining lands.

Act not to interfere with agreements.
S.A. No. 559, 1892, s. 52.
S.A. No. 1639, 1924, s. 23.

26. Every person engaged in constructing or repairing a fence under this Act and his agents and servants may, with or without horses, cattle, carts, motor vehicles, or carriages, at all reasonable times during the construction or repairing, enter upon the lands adjoining the fence and do thereon such acts, matters, and things, except the cutting and felling of timber, as are necessary or reasonably required to carry into effect the construction or repairing of the fence.

Powers of persons constructing fences to enter upon contiguous land.
Ibid. s. 16.
Ibid. s. 24.

27. Any person may come in and defend any proceeding under this Act against any person holding land under lease from him or who is his tenant in consequence of which he may ultimately incur any liability, and any defence which the person originally proceeded against might set up shall be available to the person so coming in to defend.

Power of landlord to come in and defend proceedings against lessee or tenant.
Ibid. s. 17.

28. Any owner or lessee who suffers the layers, roots, branches, or seedlings of any briar, furse, or prickly-pear hedge or other live fence upon his land to grow upon or over the land of any adjoining owner or lessee so as to injure such adjoining land shall, within three months after being thereunto required in writing by the adjoining owner or lessee, remove the layers, roots, branches, or seedlings, and in default thereof shall be liable to a penalty not exceeding *two* pounds; and upon default the adjoining owner or lessee may remove the growth, and may recover from the owner or lessee making the default the expenses reasonably incurred in the removal.

Responsibility of owner of hedge.
S. A. No. 559, 1892, s. 20.
S. A. No. 1633, 1924, s. 26.

29. A court or any local land board or the Commission may make an order upon the claim of any person for contribution notwithstanding that any demand or notice provided for by this Act may not have been made or given if the court, board, or Commission, as the case may be, is satisfied that the person entitled thereto waived the demand or notice.

Effect of waiver of demand or notice.
Ibid. s. 23.
Ibid. s. 27.

30. A judgment or order duly given or made under this Act may be pleaded in bar of any suit, action, or complaint which shall be commenced, instituted, or prosecuted for the same cause or offence in any other court.

Effect of judgment or order under this Act.
Ibid. s. 24.
Ibid. s. 28.

31. In erecting a dividing fence all scrub for a width not exceeding six feet on each side along the length of the fence may be cleared, and the cost of clearing shall be deemed to be part of the cost of the fence.

Undergrowth in line of fence may be cleared.
cf. Ibid. s. 10.
Ibid. s. 29.

32. (1) Any notice or demand to be given or made under this Act may be in writing or in print, or partly in writing and partly in print, and signed by the person giving or making the same or by his attorney or agent.

Service and form of notice.

(2) Any notice or demand shall be deemed to be sufficiently given or served—

cf. Prickly-pear Act, 1924, s. 33 (2), (3).

- (a) if left with the person to whom it is addressed, or left with some person apparently above the age of fourteen years at his usual or last known place of residence; or

(b)

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- (b) if sent to him by a registered letter through the post ; or
- (c) in cases where notice by advertisement is provided for in this Act, or where the adjoining owner or lessee cannot be found by the person issuing the notice, by the insertion twice a week for two consecutive weeks in some newspaper published in Sydney and once a week for two consecutive weeks in some newspaper published in or near to the locality in which the land to which it relates is situated.

In case of service under paragraphs (a) or (b) a statutory declaration of such service shall be sufficient proof thereof.

In case of service under paragraph (c) the production of the newspapers containing such insertions shall be proof of the due service of such notice.

(3) The description in a notice under this Act of any private land need not particularly define the land, but shall be sufficient if it allows no reasonable doubt as to what land is referred to.

SCHEDULE.

CLAUSES OF FENCING.

A. (1) A substantial paling or picket fence at least 5 feet in height, with no greater distance between the palings or pickets than 3 inches.

(2) A substantial galvanized-iron or metal fence at least 5 feet in height.

B. (1) A post and three-rail fence, the top rail of which shall not be less than 3 feet 8 inches from the ground, of substantial material, firmly erected, with no greater space between the rails and the lowest rail and the ground than 1 foot. The posts to be not more than 9 feet apart.

(2) A post and two-rail fence, the top rail of which shall not be less than 3 feet 8 inches from the ground, of substantial material, firmly erected, with no greater space between the rails and between the bottom rail and the ground than 16 inches. The posts to be not more than 9 feet apart.

(3) A post and two-rail fence, similar to the preceding, with a wire between the rails and between the lower rail and the ground. The posts to be not more than 9 feet apart.

(4)

(4) A "drop" or "stub" fence not less than 3 feet 8 inches in height, composed of sapling or split rails not more than 10 feet in length nor less than 4 inches in diameter at the smaller end, held between two posts or uprights of split or barked round timber, the posts or uprights to be not more than 9 feet apart and sunk not less than 18 inches in the ground and tied firmly at the tops with wire of not less than No. 8 gauge: Provided that growing trees or saplings may be used in lieu of posts where conveniently situated in the line of fence; the rails to overlap for a length of not less than 12 inches, the space between the rails and the lowest rail and the ground to be not more than 8 inches.

(5) A substantial six-wire fence, the top wire of which shall be not less than 3 feet 8 inches from the ground, having the wires tightly stretched, the spaces between the several three lowest wires and the lowest wire and the ground to be not more than 6 inches. The posts to be not more than 11 feet apart, and straining posts not more than 100 yards apart, sunk 3 feet in the ground, or the posts may be not more than 16 feet apart: Provided that there be two battens between the posts, leaving about 5 feet between the battens, and between each post and each batten. A top rail may be substituted for the top wire.

(6) A wire-netting or wire-netting and wire fence, the top of which shall not be less than 3 feet 8 inches from the ground, with no greater space than 12 inches between the top of the netting and wire or wires over the same. The posts or standards to be not more than 11 feet apart, with straining posts at intervals of not more than 100 yards, sunk 3 feet in the ground.

(7) A bank or wall, of substantial materials, at least 4 feet in height, and not less than 2 feet wide at the bottom, and 9 inches at the top.

(8) A fence at least 3 feet 8 inches in height, composed of logs and chocks, the chocks to be of no greater thickness than will leave an opening of 9 inches between the logs, and the same distance between the lower log and the ground, or composed of logs and chocks, the top log to rest between two crossed stakes (dog legs) not less than 6 inches in diameter, and inserted 6 inches in the ground, with the same distance between the logs as above mentioned, no one log in either case to exceed 16 feet in length.

(9) A post and top rail, and two-wire fence, the top rail of which shall not be less than 3 feet 8 inches from the ground, of substantial materials, firmly erected. The posts to be not more than 9 feet apart. The space between the top rails and the ground to be divided as far as possible, so that the spaces between each wire, the top rail and the first wire, and the bottom wire and the ground shall be equal.

(10) A substantial four-wire fence, the top wire of which shall not be less than 3 feet 8 inches from the ground, having the wires tightly stretched, the spaces between the several wires and the bottom wire and the ground to be as nearly equal as possible. The posts to be not more than 11 feet apart and straining posts not more than 100 yards apart, sunk 3 feet in the ground, or the posts may not be more than

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16 feet apart, provided that there be two battens between the posts, leaving about 5 feet between the battens and between each post and each batten.

(11) In mountainous country, or where a very substantial fence is not necessary, a post and top rail and three-wire fence, not less than 3 feet 8 inches in height. The posts to be about 11 feet apart, and the wires to be placed at convenient distances. The top rail may be secured on top of the posts.

(12) A substantial six-wire fence, the top wire of which shall be not less than 3 feet 8 inches from the ground, with posts 27 feet 6 inches apart, and four standards or droppers to each panel (5½ feet apart), the straining posts to be 10 chains apart, and supported by stays; the wires to be as prescribed in Class No. 5, the strainers to be placed 2 feet 6 inches, and other posts 20 inches, in the ground.

(12A) A substantial six-wire fence, the top wire of which will be not less than 3 feet 8 inches from the ground, with posts every 16 feet apart; posts to be split, and not less than 6 inches by 4 inches in ironbark, 7 inches by 4 inches in box, and 8 inches by 5 inches in pine; all posts to be 5 feet 10 inches in length and placed 22 inches in the ground. Straining posts not less than 10 inches in diameter by 7 feet 4 inches in length, placed 36 inches in the ground, to be erected every 7½ chains; two droppers of 1½ inch by ¾ inch hardwood to be equally spaced between each post. Stays to be used at each corner and gate post; such stays to be 13 feet in length and not less than 4 inches in diameter at the small end; all stays to be firmly butted against straining post, 22 inches from the top of same.

(13) A combination of any of the above-mentioned fences.