

29-310. Proceedings when one common owner desires to occupy land in severalty. When lands owned in severalty have been enclosed in common without a partition fence, and one of the owners is desirous to occupy his land in severalty and the other refuses or neglects, on demand, to divide the line where the fence should be built, or to build a sufficient fence on his part of the line when divided, the party desiring it may notify the fence viewers who shall give written notice to both owners that unless said owners agree on the erection of said fence, the viewers will, in not less than twenty nor more than 40 days, divide and assign said line and, in writing, assign a reasonable time (having regard to the season of the year) for making the fence; and if either party neglect to comply with the decision of the viewers within the time assigned, the other party, after making his own part, may make the other part, and recover the ascertained value thereof, with interest at the rate of one percent per month, together with the fees of the fence viewers as above provided and a reasonable attorney's fee to be fixed and allowed by the court.

History: G.S. 1868, ch. 40, § 17; R.S. 1923, 29-310; L. 1949, ch. 270, § 5; July 1.