

the same himself in case said adjoining proprietor during said time neglects or refuses to assist therein to the extent of bearing one-half the cost and expense thereof; and if said adjoining owner shall fail or neglect within the said thirty days to assist him as aforesaid therein, he may proceed to construct, make, dig out or repair the said partition, drain or line ditch constructing or repairing the same to a sufficient width and depth on the said boundary line with the boundary line in the centre of said ditch, at his own costs and expense and in the ordinary way by paying the current prices for labor, and he shall keep an itemized account of such costs of construction or repairs, and the said adjoining proprietor shall be responsible and liable for one-half thereof, to be recovered by him from said adjoining proprietor as in action of debt before a Justice of the Peace if the same be under one hundred dollars, and before the Circuit Court if a half thereof amounts to more than one hundred dollars. Provided, the said adjoining proprietor, after receiving said notice, if he thinks the making or repairing of such partition drain or line ditch unnecessary, shall have the right to an arbitration thereon in the following manner: He shall at once appoint a neighboring freeholder to represent him in the arbitration, and at once give notice to the adjoining proprietor who had originated the idea of making and repairing the drain of his intention to resist the expenditure of making or repairing the drain by arbitrating the same, giving him the name of the person he has selected, requesting him to select one also to represent him in the arbitration and these two arbitrators shall select a third, all of whom shall be neighboring freeholders; and the said arbitrators so elected shall meet not later than five days after the expiration of the said thirty days' notice on the boundary line of the proposed partition drain or line ditch, and determine the necessity therefor, and their decision therein shall be final and binding on the parties.

And further provided, that the two preceding sections (131 and 132) are to apply only to private ditches which are partition or line ditches between adjoining proprietors and not to apply to public, assessed or tax ditches.

1920, ch. 507, sec. 81AX.

133. Whenever the drainage of roads may be deemed advisable, even though it does not materially benefit any swamp or low lands, the State Roads Commission may petition the County Commissioners to appoint, or the County Commissioners of any county, where it is proposed to improve a county road, may appoint without petition, a Board of Drain Commissioners in the same manner as a landowner's petition under Section 111 of this Article. The said Drain Commissioners will view the land, without employing a surveyor or engineer, unless one is required to determine the extent of damages resulting from the construction of the ditch or drain, and will award damages to be paid by the party instituting the action. The laying out of the ditch, ditches, or drains shall be done by the party instituting the action at their own expense. The Drain Commissioners shall not pass on any of the details of engineering or costs of construction of the proposed ditch or drains, their sole functions being to