

CHAP. 114. to the best advantage, and after deducting the necessary expenses of cutting and removing such timber, to pay the balance of the proceeds to the proprietor or proprietors of such timber, or to apply the same to the payment of the proportion of the expenses of cutting and opening said ditch or drain, of such proprietor or proprietors, as the case may be.

Ditch to be used only by those who have paid their proportion of costs

8. *And be it enacted*, That it shall not be lawful for any person or persons, other than those who may have paid their equal proportion of the expenses, costs and charges, of cutting and opening said ditch or drain, to use or occupy said ditch or drain in any manner, either by intersecting the same with lateral ditches or drains, without the permission of the said managers or directors, nor shall it be lawful for any person or persons to fill up or obstruct the water course of said ditch or drain, with dirt, wood, logs, bridges or fences, or in any other manner, under a penalty of five dollars for every such offence, and a further sum of five dollars for every week's continuance of such obstruction, which said fines shall be levied and collected as other small debts out of court are, before some justice of the peace; and the said fines, thus imposed and collected, shall be paid over to the managers or directors for the time being as aforesaid, as a fund for the purpose of opening and keeping said ditch or drain in good repair.

Managers to produce account of money received, &c

9. *And be it enacted*, That the managers or directors to be chosen in virtue of this act, and each of them, shall at the expiration of the year for which they may have been elected or appointed, to produce to the proprietor or proprietors, or to the board of managers or directors who may succeed them, a full, fair and correct account of the money received by them, and each of them, and from whom received, and how expended, and shall pay the balance, if any remaining in his or their hands, to the managers or directors, who may be elected, chosen or appointed to succeed them for the next year; and in case any of the said managers or directors shall misapply, or refuse to pay over as aforesaid, any sum or sums of money to be received in virtue of this act, it shall and may be lawful for the proprietor or proprietors of the said branch, or a majority of them, to nominate and appoint one of the said owners or proprietors for the purpose of asking, demanding, receiving, and in case of refusal or neglecting, suing for and recovering, from the said manager or managers, director or directors, such sum or sums of money misapplied, refused, and neglected to be paid over as aforesaid, in which said suit or suits to be brought in virtue of this act, it shall and may be lawful for the person appointed as aforesaid, his executor or administrator, to declare generally for money had and received for his or their use, and give this act and the special matter in evidence, in which said suit or suits the defendants shall be allowed but one imparlance, and the money recovered and received shall be paid to the managers or directors to be chosen, elected or appointed, in virtue of this act, for the time being, who shall apply the same to the opening, cutting, cleansing and repairing, the said ditch or drain, in the manner herein before directed.