

would have done. It does not. The evidence shews this. But the fact that each of the separate bodies or divisions collected the sum apportioned to it from its proprietors was a recognition of the power to construct and repair this aboiteau, and of the dominant and concurrent power over the whole benefited area, and of the charge resting thereon regardless of the internal division lines for other purposes.

3. Then it is contended that when this Act 1893, ch. 80, was repealed by Act 1908, c. 51, although the selection of the commissioner had been made, and the work started no more work could be done under it but that the aboiteau, if it could be continued at all, must be continued under the Marsh Act, R. S., 1900, ch. 66, first passed 1900, ch. 12, a different Act. This is doubly insured against. When ch. 80 Acts of 1893, was repealed, and the Marsh Act introduced into Cumberland county by Acts of 1908, ch. 51, the third section of that Act contained the most ample provision to prevent that Act from defeating, or prejudicially affecting the selection of a commissioner or his carrying on any contemplated works or improvements, and so on, or any other matter or thing whatsoever done, completed, existing or pending; and in respect to "any pending matter or thing proceedings may be continued and completed either under the Marsh Act, or under the Act hereby repealed." The word "proceedings" there means, I think the same as the word "proceedings" in the Interpretation Act, R. S., 1900, ch. 1, sec. 15, not the mere procedure of making or collecting an assessment. Therefore I am not considering the provisions of the Marsh Act which, as I said, is a later and a different Act, and I am not drawing any inference therefrom.

4. In the commissioner's accounts is a charge for wages of a man named Carter, and it is contended, although there is no proof of it, that he was an overseer. And it was contended that this man was not a proprietor, and that sec. 5 provides for the appointment of an overseer from among the proprietors. The learned trial Judge held that it was an enabling provision; that he might be employed notwithstanding he was not a proprietor. I see no reason for overruling that. It is not a mandatory provision. But section 40 enables the proprietors to choose an overseer whether a proprietor or not, and the requisition shews that this was done.

5. Then the defendant contends about an item in the plaintiff's account for interest, that it is only a "commissioner in charge" under the legislation, who may have such