

ing," and any existing bodies or divisions must admit that they could not select a commissioner if this construction was not adopted. How the smaller areas came into existence is not shewn in the evidence, but it was clearly for convenience. There may have been subdivisions by convention, because for the ordinary repairs of the season to the sea-wall, or for local work not affecting the holdings of remote proprietors, it would be inconvenient to summon all the proprietors, and from long distances. But more frequently, no doubt, the separate divisions arose from subsequent enclosures by walls beyond the existing walls, and they were not taken into the former enclosures for the local purposes. The new wall might be around a peninsula and very long, and the old one very short across the neck. Perhaps each repaired its own walls and so on by convention. I am speaking generally of the working of these Acts. I do not think it could be contended that before the day of representative Government applied to marshes the commissioners appointed by the Government then unattached could not, although they had constructed a wall on one of the shores of a creek improving the area within it, afterwards further improved that area by constructing an aboiteau that would shut out the sea altogether from a much larger area benefiting the land of both areas and assessing the proprietors of both—or there might be a weir or a long drain, which must reach an outlet with different areas of benefit, but benefiting proprietors within both areas concurrently and overlapping each other in part.

The commissioners, I think, could clearly do that. Then when, under later legislation, they first had to obtain consent of the proprietors of one half of the land, that would mean within the area of the proposed benefit. Thenceforth the consent of the proprietors of the old area as well as the new area proposed to be benefited had to be obtained. I think it was owing to a non-compliance with that provision that in another locality suits nearly failed, but did not do so because the doctrine of estoppel was applied to a separate area which was not taken into the calculation in obtaining consent when two areas were improved. Refer to *Baker v. McFarlane*, 8 N. S. R. 94. Then in 1846, when the proprietors were to select a commissioner or commissioners from amongst the Government appointees for the township to take charge of a "Work or works," a change in procedure was adopted. The selected commissioners were placed on the