

back than any date at which contribution is relied upon. While it seems reasonably clear that proprietors have been paying by virtue of assessments made by commissioners of sewers under acts of parliament, or purporting to be so made, I think I am not at liberty to speculate as to lost agreements or assume prescription as a basis of liability.

This leaves the question of liability to turn upon the validity of the assessment made by the plaintiff as against defendant under the Cumberland Sewers Act.

It seems that the aboiteau at the mouth of Forrest Creek has heretofore always been kept up by the four bodies mentioned. How they proceeded with former ratings as to the different bodies is not very clear. It is clear, however, that they were organised as separate bodies from time to time and were all rated for the upkeep of the aboiteau. They were the bodies having an immediate and vital interest in the aboiteau. Such aboiteau being in a dangerous state in the spring of 1907 a majority in interest of the proprietors in said four bodies, viz., A. B. C. and the Forrest and New Marsh, selected the plaintiff as the commissioner to carry on the work of building a new aboiteau. The signers of the requisition constitute a majority in interest of the whole four bodies but not a majority in interest of each of the four bodies. In short, these four bodies organised as a body for the purpose of the construction of said aboiteau and selected a commissioner (the plaintiff) to carry on the work. This is done or purports to be done under section 3 of the Act which in terms authorises a majority in interest of the proprietors of any marsh, swamp or meadow lands within the jurisdiction of a commissioner to select one or more commissioners to carry on any work for reclaiming such lands. It is under this section that all bodies are organised and it is, I think, only reasonable to hold that the words in the section "for reclaiming such lands" must be read not only to include the original reclamation of dyke lands but the necessary works to keep them from the sea. So read, why should not the owners of a large tract, the four old bodies for instance, organise for the carrying on of a particular work an absolutely necessary work such as this aboiteau in question. I think they can, and that the proceedings under the requisition of April 22nd, 1907, under which plaintiff acted were regular