

in receiving and being enriched by alluvial soil brought down from the higher lands and deposited upon them by floods, with all the advantages of the uplands from which the enriched soil has been by nature robbed. If swamp lands are to be thoroughly drained at some one else's expense, they would not be purchasable for a song, but would be of greater value than high and dry lands. It is easy for a purchaser of low-lying lands to complain, and one's sympathies naturally go to him when his crops are destroyed by flood, but he has no right of action except for a wrong done to him by the party sued.

The result, upon my findings, is that plaintiffs' action fails upon all grounds, assuming that they have at law or under any statute a right of action; the more so if and in so far as the right of action may be of an equitable nature for breach of trust; they have not sustained in evidence the facts upon which their claims are based. It is not necessary to consider whether in any respect plaintiffs have no right of action in the absence of the other persons having equal rights with them in the drainage proceedings in question.

Appeal allowed and action dismissed with costs.

JUNE 16TH, 1906.

C.A.

RE PORT ARTHUR AND RAINY RIVER PROVINCIAL ELECTION.

PRESTON v. KENNEDY.

Parliamentary Elections—Corrupt Practices—Proof of Agency—Appointment as Scrutineer—Burden of Proof—Common Law of Parliament—Corrupt Acts and Irregularities apart from Agency—Scrutiny of Votes—Disqualification of Voter—Crown Lands Agent—Person Voting in Wrong Subdivision—Agent or Scrutineer at Polls—Persons Voting on Transfer Certificates—Names not on Voters' Lists—Proof of Voters' Lists—Persons Voting in Wrong Subdivision without Transfer Certificates—Persons Voting on Certificates Signed in Blank—Constables—Certificates by Telegraph—Tendered Vote—Costs.

Appeal by W. A. Preston, the petitioner, from the judgment of MACLENNAN, J.A., and TEETZEL, J., the rota