5. In the year 1885, the bridge known as the Point Ellice Bridge, connecting the City of Victoria with Esquimalt, was constructed by the Government of the Province of British Columbia, over a public harbour, an inlet of the sea, known as the Victoria Arm. The water at this point is tidal, and is navigable for large vessels. When Point Ellice Bridge was constructed it was outside the limits of the City of Victoria. When the limits of the City of Victoria were subsequently extended so as to take in the area which contains Point Ellice Bridge the extension of the limits of the City of Victoria did not impose upon the Appellants the duty of maintaining Point Ellice Bridge, and the control of the said bridge was not vested in the Appellants. The Appellants did not take over or assume possession of the said bridge, and they did not control or manage it. The said bridge always remained under the management and control of the Province of British Columbia, or of the Dominion of Canada.

6 Point Ellice Bridge was constructed of wood and iron, and consisted of four spans. The two centre spans were 150 feet in length, and they rested upon piers of iron filled with concrete. The two centre spans were erected according to a design known as a "Whipple Truss." By this design the upper chord of the bridge, or arc of the truss, was held in compression, and the lower chord by tension. The upper chord was not continuous, but consisted of a series of wooden members butted together at the points of contact. The lower chord consisted of a series of links resembling a chain, and depended for its continuity and weight-sustaining power upon its being in a state of complete tension. This tension was maintained by the continued compression of the upper chord, or arc, of the truss. If the compression in the upper chord was released, or if it was put out of line, the strain on the lower chord would be released, which would cause the whole structure to collapse.

The floor system of the bridge was attached to the lower chord of the truss by a series of pins. The truss sustained and carried the floor system by means of a series of pins; over these pins pieces of iron, called "yoke hangers," were suspended. The yoke hangers penetrated each end of the floor beams through auger holes, which were 2 inches in diameter, two of such auger holes being in each end of each floor beam. The yoke hangers were square pieces of iron, and were placed through the auger holes and fastened at the bottom of each end of the floor beam by means of a plate of iron (acting as a sort of washer) called a "jib-plate," which was secured by nuts at the bottom.

The floor beams were prevented from swaying by means of a series of diagonal cross rods between each and underneath the floor. The ends of these diagonal rods were fastened to the floor beams by means of auger holes in the ends of the floor beams through which the diagonal rods passed, and were secured by jib-plates with nuts at the outer sides. A considerable portion of the sectional area of the ends of the floor beams was removed by reason of the boring of the hanger and diagonal cross rods holes. Joists, 2 inches by 12 inches, rested upon the floor beams, and the flooring of the bridge was laid upon these joists. This flooring consisted of 3-inch by 12-inch floor-boards laid diagonally.