

it may be overdone, and its lustre obscured when shrouded in some seven hundred folios of undigested evidence, as in this case.

This thought is not at all new. The neglect of County Court Judges to assign reasons has frequently been referred to in appeals, and in a very recent case Mr. Justice Riddell is reported as saying: "The Divisional Courts have more than once said that County Court Judges should give reasons for the conclusions they arrive at; it seems necessary to repeat this once more."

I have read the evidence. It is established beyond question, almost beyond controversy, that before the construction of the sewer and drains complained of, the plaintiff was always able to grow good hay, and at times grain crops, upon the flooded land. It is also clear upon the evidence that immediately upon the construction of the drain, and ever since—except when the ditch has been temporarily kept clean—the plaintiff's land has been flooded and for the most part rendered unfit for crop of any kind. Independently, therefore, of the direct evidence of many witnesses, shewing the actual flow for the last nine years, the conclusion is practically irresistible that the drain complained of had the effect of flooding the land in question; and, whether by direct overflow or by percolation does not to my mind matter at all.

The plaintiff and his witnesses, all who appear to have impressed the learned County Judge by their knowledge of the situation and their honesty, swore specifically to seeing the water upon the plaintiff's lands from year to year since the drain was constructed, that the water came from this drain, and that the land in question, now useless, was fairly good agricultural land before the construction of the drain.

Several witnesses were called by the defence, but they left practically undisturbed the evidence put in by the plaintiff.

As to the evidence of the experts—an engineer called by each party—I think it may be left out without any sensible loss to anybody. The learned trial Judge said, concerning the expert witness called for the defence:

"When you bank everything upon an engineer's evidence you are putting theory against fact, and it is wonderful how they conflict at times. You can work out things most beautifully theoretically, but when it comes to facts things arise which conflict with theory.