

On 12th August, 1895, the council passed a resolution stating that the township "is prepared to remove any gravel which may obstruct the free flow of the water within the road allowance and under the east span of the bridge as soon as Mr. Pinkerton removes the gravel obstructing the free flow of water on his property to the roadway and bridge in said plan."

Plaintiff had forgotten all about his complaint to the council in 1895, although he said the water that year was flooding him more than formerly. A number of witnesses speak of there being an unusually heavy fall of snow during the winter of 1894-5, and that in the spring of the latter year the freshet was very high.

Mr. Warren, who prepared the plans and specifications for the new bridge, is an engineer of large experience, having designed between 20 and 30 bridges for various municipalities in the county of Bruce, and is spoken of as being a thoroughly competent engineer. He said that he knew the locality and made calculations as to the amount of water coming over the dam during the spring freshets, and concluded that the length of the new bridge was ample to allow that water to pass. He is corroborated as to that by Robert R. McDowall, a civil engineer also of large experience, having drawn plans and superintended the construction of a large number of bridges, and who was associated with Warren in the designing and preparation of the plans for the new bridge. The bridge cost \$2,300.

The township council considered the plans and specifications submitted and adopted them.

In building the new bridge, the engineer placed the western abutment 5 feet further west than the old one, and also placed the eastern abutment 25 feet further west. He (Warren) says the eastern abutment of the old bridge, though not in deep water, caused an obstruction to the flow of the water of 18 feet.

Mr. Fielding, an engineer called by plaintiff, took the levels along the banks of the Teeswater and through plaintiff's property, and these coincide almost exactly with the levels taken by Mr. McDowall, but there is a wide divergence between the calculations made by Mr. Fielding as to the quantity of water passing under the old bridge and flowing over the dam and the calculations made by Mr. McDowall and Mr. Warren.