

down towards the cove for it to be drawn along the ditch on the north side of the road. I think this is just what occurred.

I am of opinion that it was this ditch which led the water to the east and caused the two breaks made in the road between the cove and the hill through which the water came which caused the damage to the plaintiff.

Experts were called on both sides. Those who testified for the defendants stated that the scheme provided by the defendants was a reasonable and proper one. It is quite apparent, I think, from the evidence, and I find that no such severe freshet as occurred that spring had happened for fifty or sixty years before 1912, if any such ever occurred before.

I think it plain also that the engineer and the members of the defendants' council could not reasonably have anticipated, in the light of what had previously occurred, such a severe freshet.

In addition to calling Talbot the defendants called three other engineers, the last one being Alexander Baird. When he was called objection was taken, on the part of the plaintiff, to the admission of his evidence on the ground that the defendants had already called three engineers. It was argued for the defendants that Talbot had been called by them merely to give evidence as to the facts and not to give opinion evidence as to the merits of the scheme.

I was disposed to think that his examination in chief had only gone as far as contended for by the defendants, but a more careful perusal and consideration of his evidence leads me to a different conclusion. I have, therefore, in the consideration of the case, eliminated the evidence of Baird, which I admitted at the trial, subject to the objection of the plaintiff. This is perhaps of no real consequence if I am right in the view I am taking.

The surveyor Ure also testified that he would have provided a relief bridge, so that at times of freshet it might assist the main bridge. It is true that elsewhere he said it was simply a matter of opinion whether it was better to add to the width of the bridge or build a relief bridge at the cove. He also said it was difficult to know how best to control the water in a stream like the Thames. His opinion on the whole was "that taking the general locus a sufficient waterway had not been provided by the defendants." With due respect to the opinions of the other engineers who testified I have come to the same conclusion.