

additional width, and that the road should be raised from the easterly end of the bridge to a point at the easterly side of the plaintiff's land where the land commences to rise to a hill. The plan provided that the road should be raised to a uniform height, except just opposite the cove, where it should be made 15 inches higher to allow for possible settlement there.

Talbot recommended this plan to the council in the year 1909, which considered and accepted it and the work was thereupon done in that year. He testified that it was well done, and when completed was as good a job as he ever saw.

I think it is apparent that the council sought Talbot's advice as an expert on a matter of technical knowledge and accepted and acted on it in good faith throughout. Indeed, their good faith is not, as I understand it, called in question.

It is said that the river Thames is a stream that was known to be turbulent in the spring and liable to freshets, some of which had been severe. As completed in the year 1909, the bridge and road stood during the seasons of 1910 and 1911, and though the waters were high the additional width provided in the new bridge apparently afforded a sufficient outlet under it for the waters which came down during these seasons without affecting the new road at the point opposite the cove where it had been previously washed away, or elsewhere.

In the spring of 1912 a very severe freshet occurred with the result that the water rose very rapidly and very high. It washed out and broke through the road at several points, two of them east of the cove. The plaintiff's land had previously at times when freshets occurred been covered for short periods with water coming through the cove, but these waters soon ran off the land and had apparently carried with them no sediment or deposit of an injurious character. At all events he did not suffer or complain of injury. The freshet of 1912, it is alleged, was of a different character or at all events produced different results. The plaintiff says that by it portions of the best part of his land were torn up and washed out and quantities of sand and gravel deposited on other parts, with the result that from five to ten acres were injured or destroyed for purposes of cultivation.

He alleges that in raising the road to the height they did the defendants filled up and closed the said cove or water course and prevented the waters of the river Thames, during