



Chalfield Brook

LOCAL LAW CASES

Hargreaves v Fuller

The appeal of the plaintiff in this action from the judgment of Mr. Justice Kekewich, dated the 4th July 1889, was disposed yesterday, before Lords Justices Lindley, Bowen, and Fry. The case was partly heard in December 1889, when it was ordered to stand over pending a report from a special referee, and it has now, upon a special application for the purpose, been returned to the paper.

The Solicitor-General (Sir Edward Clarke, Q.C.) - with him Mr. Benjamin Eyre and Mr. Watson - appeared for the appellants, and stated that the action was brought to refrain the defendants from diminishing the flow of water in the Chalfield brook, in Wiltshire, so as to deprive the plaintiffs of the supply necessary for their dyeworks, and it had been dismissed by Mr. Justice Kekewich, with costs. The main sources of supply of the Chalfield brook were certain springs on its northern side, and a moat had been formed to collect the water, a channel being cut through the embankment to allow the water to run into the moat when the brook was full. The defendants had constructed works for the purpose of supplying the villages of Great Chalfield, Broughton Gifford and Holt with water, and it was alleged that those works deprived the plaintiffs of the supply necessary for their business. The defendants admitted that they had caused the moat to be emptied and a quantity of mud removed from it, and they had constructed tanks and a hydraulic crane for raising the water, but they denied that they had diverted water from the brook. They represented that in consequence of objections raised by the plaintiffs, before the works originally contemplated were completed, they caused a well to be sunk and reached an abundant and constant supply at a depth of seven feet from the surface, the whole of the water being deprived from underground channels by percolation and some of it came from the springs that fed the brook. Mr. Rogers Field had by the direction of the court visited the spot and made a series of experiments, and upon that gentleman's report the plaintiffs asked for judgment in their favour.

Mr. Warrington, Q.C., and Mr. Terrell, for the defendants in the action, gave an undertaking not to take the water between certain specified points, and thereupon Their Lordships being satisfied from the referee's report that the defendants were right in the view they took, dismissed the appeal with costs.

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