is that the State Legislature had no jurisdiction to so repeal that clause in the treaty.

I therefore think that the provision in the plaintiff company's charter purporting to entitle them to impose tolls or other charges is ultra vires the State Legislature and null and void. The permit granted by the War Department does not assist the plaintiff company; it merely sanctions an extension of its works subject to the condition that " the company shall not exact tolls or charges for the passage of logs or rafts or other forms of navigation."

Mr. Shepley sought to shew that this condition was void. It is not, however, necessary to determine that point; but it is sufficient to say that nothing in the permit authorizes the imposition of tolls or other charges.

I therefore think that the plaintiff company has no legislative authority to exact tolls or other charges.

Notwithstanding the existence of the plaintiffs' works the navigation of the river for all purposes remains free to each citizen of the two countries, unless he shall by contract, express or implied, deprive himself of such right.

The defendant company has not so deprived itself, and, therefore, the plaintiff company is not entitled to maintain this action, which is dismissed with costs.

DIVISIONAL COURT.

AUGUST 20TH, 1912.

RE CALEDONIA & COUNTY OF HALDIMAND.

3 O. W. N. 1654.

Way—Bridges—Duty of County Council to Build, Maintain, and Repair — Municipal Act, 1903, s. 616 — Width of Stream — Measurement at High Water.

DIVISIONAL COURT, *held,* that a stream which is over 100 feet in width at certain times of the year, is more than 100 feet in width within the meaning of s. 616 of the Municipal Act, 1903, and should be built, kept, and maintained in repair by the county.
New Hamburg v. *Waterloo,* 22 S. C. R. 296, followed.

An appeal by the Corporation of the County of Haldimand from the decision of the Judge of the County Court of the County of Haldimand, dated May 14, 1912, declaring that Black creek where it is crossed by a bridge on the