

the Village of Caledonia. Just above this point it is crossed by a bridge connecting a main highway leading through the county. The land, both to the east and the west ends of the bridge, is low-lying.

The evidence shews that in the springtime of every year, and at other times as well, the water in the creek at the bridge rises to such an extent as to be more than 100 feet in width; at such times the water overflows the road for a considerable distance at either end of the bridge.

The conditions are such as, in my opinion, justify the finding of the learned Judge of the County Court, and bring the case within the authority of *Village of New Hamburg v. County of Waterloo*, 22 S.C.R. 296, in which it was laid down by Gwynne, J. (at p. 299), that, "after heavy rains and during freshets, which are ordinary occurrences in this country, the waters of the streams and rivers are accustomed to be much swollen and raised to a great height; and a bridge, therefore, which is designed to be the means of connecting the parts of a main highway leading through a county which are separated by a river, must necessarily be so constructed as to be above the waters of the rivers at such periods; and the width of the rivers at such periods must, therefore, in my opinion, be taken into consideration in every case in which a question arises like this which has arisen in the present case under the sections of the Act under consideration."

The appeal will, therefore, be dismissed; there will be no order as to costs.

BRITTON, J.

AUGUST 23RD, 1912.

GALBRAITH v. McDOUGALL.

McDOUGALL v. GALBRAITH.

*Partnership—Dealings in Land—Agreement—Construction—
Division of Profits—Expenses—Advances.*

The first action was for a declaration that the plaintiff Galbraith was entitled to one-quarter of the profits arising from the sale of any part of lot No. 12 in the 2nd concession of the township of Whitney, in the district of Sudbury, and to an undivided one-quarter of the part of that lot not sold; and for