

Niagara river at or near Niagara Falls. The bridge was, according to the grant, constructed, and has been and is managed and used for the passage of foot passengers, carriages, teams and railroad trains. No question has ever been raised, or at least maintained, that the construction, management, or use of said bridge, was or is in conflict with the Constitution or Laws of the United States, or with any treaty between Great Britain and the United States, or any stipulation in any such treaty.

The only difference between the Niagara Falls bridge and the proposed bridge is, that the river at the site of the former is not navigable on account of its rapid current, while at the proposed site of the latter it is navigable.

If the proposed bridge would be, *per se*, in conflict with the treaty making power, or with any treaty between Great Britain and the United States, or with any stipulation in any such treaty, or with any provision of the U. S. Constitution, then the Niagara Falls International bridge company must be in such conflict, and therefore unconstitutional; no consent of Congress having been obtained thereto, to the knowledge or belief of the committee. In that view the navigability of the river would be immaterial. It cannot well be that any one will attempt to maintain that position; it would be to maintain the absurd doctrine that commercial facilities, of common advantage to both governments, can be inconsistent and incompatible with, and repugnant and hostile to a treaty which had and has for its object, in the establishment of peace, the regulation of commerce in such a manner as to render it reciprocally beneficial.

Therefore, the conflict, if any, must arise from an obstruction to or interruption of navigation. The obstruction or interruption must be something more than fanciful, imaginary, or slight; more than some inconvenience to those navigating the river; it must be real, substantial and irreparable. It would not be enough that the bridge would subject them to slight additional delays, or impose on them the necessity of increased vigilance, or greater care, or even require them to abandon an accustomed track or place of business; for the same commercial rules and principles, hereinbefore laid down and sustained by authority,