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## ADMIRALTY JURISDICTION OVER MARITIME TREATY RIGHTS.

A recent judgment of the Supreme Court in the case of *The Ship D. C. Whitney v. St. Clair Navigation Co.*, 43 C.L.J. 252, 38 S.C.R. 303, promulgates what seems to be a new doctrine in maritime law that a foreign vessel, passing through a river dividing Canada from the United States, under a treaty conceding that the passage of the ships, vessels and boats, of both nations, shall be equally free and open to both nations is not—even when on the Canadian side of the river—within Canadian control, so as to subject such foreign vessel to arrest on a warrant from the Court of Admiralty. The warrant to arrest a foreign vessel cannot be issued until she is within the jurisdiction of the Court.

The trial was for a collision between two American ships in American waters; the offending ship having been arrested on the Canadian side of the river Detroit; while, as found by the Supreme Court, on a voyage "passing through" such river from one American port to another—a fact apparently not proved before the trial Court, as there is no record of it in the printed appeal book. Mr. Justice Idington says "the vessel was assumed, but not proven, to have been in motion." The judgment of the trial Court is reported in 10 Ex. C.R. 1.

The Supreme Court holds that the following article in the Ashburton Treaty of 1842 renders an American ship immune from arrest by a Canadian Court while "passing through" the Canadian side of the boundary rivers named.

"VII. It is further agreed that the channels in the rivers St. Lawrence on both sides of the Long Sault Islands, and of Barnhart Islands; the channel in the river Detroit on both sides of the Island Bois Blanc, and between that island and both the American and Canadian shores; and all the several channels and pas-