main highway passing through the village of Caledonia is more than one hundred feet in width, within the meaning of sec. 616 of The Consolidated Municipal Act, 1903, 3 Edw. VII., ch. 19, and that such bridge should be built, kept and maintained in repair by the Municipal Council of the County of Haldimand.

The appeal to Divisional Court was heard by Hon. Sir Wm. Meredith, C.J.C.P., Hon. Mr. Justice Teetzel, and Hon. Mr. Justice Kelly.

T. A. Snider, K.C., for the County of Haldimand, appellants.

H. Arrell, for the Village of Caledonia, respondents.

Hon. Mr. Justice Kelly:—Black creek is a stream emptying into the Grand river within 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 *New Hamburg* v. *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 that which has arisen in the present case under the sections of the Act under consideration."