

cific statutory authority for the laying out, or establishing, any particular river as a municipal boundary or highway, but the ultimate authority for all acts done or lawfully authorized by the Government in preparing and laying out Upper Canada for settlement rests on the constitutional Act and therefore all lawful Ministerial acts may be said to rest on statutory authority, and therefore all township roads and boundaries laid out or established under the authority of the Government may, even where no express statutory authority therefor can be cited, be said to be laid out or established by statutory authority. In the early days of the Province this authority appears to have been exercised through the medium of a Land Board appointed by the Executive Government, and the surveying and laying out of the country for settlement appears to have been done under its authority and that of the Surveyor-General, and road allowances so laid out or established have always been regarded within the section. By the Common Law of England the soil and freehold of all public highways is *primâ facie* vested in the proprietors of the land abutting on such highways *ad medium filium*, and the ownership of land adjoining either side of a public highway is *primâ facie* evidence of a right to the soil of the highway *ad medium filium*: *Cooke v. Green*, 11 Price 736; *Salisbury v. G.N. Ry.*, 5 C.B. (N.S.) 174; and this presumption also applies to a private way: *Holmes v. Bellingham*, 7 C.B. (N.S.) 329. This right is said to result from a presumption of law, which, however, may be rebutted by evidence of ownership in some other person: *Beckett v. Leeds*, L.R. 7 Chy. 421; 26 L.T. 375, and see *Leigh v. Jack*, 42 L.T. 463; 49 L.J. Ex. 220; 2 Ex.D. 246. Subject to the rights of the public over the highway the owner of the soil according to English law retains the same estate therein as he or his predecessors in title had therein prior to the acquisition of the public rights, and may maintain trespass for any improper use of such highway, *e.g.*, where a person upon a highway purposely frightened game birds on an adjoining proprietor's land which he was engaged in shooting, the proprietor was held entitled to resist by reasonable force such a proceeding: *Harrison v. Rutland* (1893), 1 Q.B. 142; and where the owner of a newspaper, for the purpose of obtaining