

artificially made, or only become such by acts in *pais*. It is otherwise with navigable rivers and water courses. They are natural highways, pre-existing and coeval with the first occupancy of the soil and formed practically the first or original highways in point of actual use. It is well known tradition in relation to portions of the Province long settled, and the common occurrence in other parts more recently occupied, that the only, or at any rate the most convenient access was by water." It is true he is referring here to streams capable of being navigated; but do not his remarks apply with equal force to non-navigable streams which are constituted municipal boundaries if, as we assume, they are thereby constituted highways? We must remember that just as the land prior to the granting of it was in the Crown so were the rivers and the river beds. If it was competent for the Crown to dedicate a highway or land by "laying out" on a map adopted as the plan of survey of a township two parallel lines, it was of course equally competent for the Crown to lay out or establish the irregular course of a river in like manner as a highway. A road allowance is *ipso facto* a highway, why should not a river established as a boundary line in like manner be *ipso facto* a highway?

If this is a correct view of the matter, then public rivers in Ontario would include not only those which are navigable, but also those which are expressly or impliedly made public even though not navigable.

The Municipal Act, (R.S.O. c.192,) s. 432, defines what shall constitute public highways as follows: "432. Except in so far as they have been stopped up according to law, all allowances for roads made by the Crown surveyors, *all highways* laid out or established under the authority of any statute, all roads on which public money has been expended . . . shall be common and public highways." It will be noticed that this section first refers to road allowances and then to "all highways" and the question may be asked does not a river designated by the Crown surveyors when laying out a township as a municipal boundary constitute that river a highway laid out, or at all events "established," under the authority of a statute? We may not be able to point to any spe-