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RIVERS AS MUNICIPAL BOUNDARIES.

In not a few instances in the Province of Ontario rivers have been constituted the boundaries between townships, and also between counties, and we are inclined to think it has been very generally assumed that the publicity of such rivers depends on the ordinary common law affecting rivers, and that if, and so far only as, they are navigable, they are public rivers, but if, and so far as, they are not navigable, they are private rivers and as such subject to the law governing private water courses.

But it seems open to doubt whether this is the true status of such rivers; and it may be useful to inquire whether they are not in all cases to be regarded as public rivers quite independently of the question of navigability.

So long ago as 1853, the late Chief Justice Macaulay said, in giving judgment in *The Queen* v. *Meyers*, 5 C.P. at p. 354: "This investigation has convinced me of the importance of legislative declaration as to what streams and to what extent streams shall be deemed public and navigable waters." But instead of a comprehensive statute being framed on the lines suggested, we have had nothing in the meantime in the way of legislation except the usual tinkering variety, and in the meantime the Courts of law have been endeavouring to apply the English Common Law to a state of circumstances often materially differing from that of England, and on which that law was based. In Ontario we have no tidal rivers, therefore, according to English Common Law, no "navigable" rivers in the sense in which that term is understood by the Common Law, but we have rivers that are in fact navigable, and rivers that have been constituted municipal boundaries, and we have private unnavigable rivers and streams.