

tion that this bridge comes within the definition contained in the 327th section, does not appear.

It is upon this question only that I feel any doubt of the correctness of the judgment appealed from. Is this bridge one that lies wholly or partly *between* these two counties? Does the word "between" mean that the road or bridge separates the two counties, so that a traveller might go along, it being neither in one county or the other, but between both, or might pass across it from the limits of one county over the limits of another? Such was the interpretation given to the 12th Vic. cap. 81, sec. 39, in *Wood v. The County of Wentworth and The City of Hamilton*, 6 U. C. C. P. 101, an enactment very closely resembling that now under consideration. To illustrate the difference, take an ordinary township having roads between every concession, and side roads running between lots—say at every fourth and fifth lot. It could not be accurately said that the concession roads ran between lots, or that the side roads ran between the concessions. Or take Yonge-street, which, running north and south, divides or passes between several townships in its extent. It could not be said that the roads crossing this from east to west, and continuing onward through townships divided by Yonge-street, were roads *between* such townships. Or suppose two townships, the east side of one separated from the west side of the other by nothing more than a surveyor's line, but with a road running east and west through both; could that road be called a road *between* the townships, which only continued across the line marked by the surveyor as the limit of each?

In the present case, if the Narrows are not part of either county, but are a water channel separating them, then a bridge across the Narrows is undeniably between the two counties; but if each county, or the townships (Orillia and Mara) of the counties where the Narrows are, reach *ad medium filum aquæ*, is it a substantial distinction that the thread that divides them is an imaginary line in water, instead of a surveyor's line on land, in either case length without breadth? It was my first impression, that on this view of the question the judgment could not be supported. It does not appear by the case that the township of Mara, in the county of Ontario, and the township of Adjala, in the county of Simcoe, are conterminous. Looking at the maps and at the formation of the shores of lakes Simcoe and Couchiching, I feel little doubt that the actual surveys of those townships extended only to the water's edge. Indeed, lake Couchiching seems only to be the lower part of lake Simcoe, gradually widening from the Narrows and contracting again into the river Severn. The description of the county of Simcoe contained in the Territorial Division Act, Con Stat U. C. cap. 3, declaring the islands in lake Simcoe lying wholly or for the most part opposite to the county of Simcoe to be part of that county, would, if considered by itself, exclude the idea that any of the townships of which the county consists extend into those waters; and the description of the county of Ontario, in the same statute, contains nothing from which it can be inferred that its boundaries extend beyond the water's edge. Looking no further, and bearing in mind that the Narrows are a navigable channel across which it has been found necessary to erect

a draw-bridge, in order to afford passage to steam-boats and other vessels, there would seem every reason to hold that this bridge, or part thereof, was, strictly speaking, between the two counties.

But there are other sections in the Territorial Act which must not be overlooked.

I apprehend that when the statute was passed lake Simcoe was held to extend to the river Severn, and that that part which is popularly called lake Couchiching was not, nor, that I am aware of, has been recognised as a distinct body of water by any enactment. Then, in order to understand section 8, we must first read section 5, which declares that the "limits of all townships lying" on certain rivers and lakes which are named and are all waters separating the Province from the United States, "shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each township respectively, and, unless herein otherwise provided, such townships shall also include all the islands, the whole or the greater part of which are comprised within the outlines so prolonged." Then, by section 8, "the limits of townships on" certain waters, among which are lake Simcoe and the river Severn, "and any other rivers, lakes or bays not hereinbefore mentioned, shall in like manner extend to the middle of the said lakes and bays, and to the middle of the main channels of the said rivers respectively, and, unless herein otherwise provided, shall also include all the islands, the whole or greater part of which are comprised within the outlines so prolonged."

It appears to me that by making all the islands in lake Simcoe, which are wholly or for the most part opposite to the county of Simcoe, part of that county, without regard to which side the middle line of the lake those islands lie, is to make a different provision with regard to them from that which would obtain under the general terms of the eighth section; and as the first section of the statute especially declares that the several counties shall consist not only of the townships enumerated, but that certain of such counties shall also include other lands as thereafter mentioned, that the enactment placing these islands in the county of Simcoe, excludes, as to the islands in lake Simcoe, any operation of the eighth section, and possibly might be held to prevent the extension of the side-lines of the townships as mentioned in that section.

But on the whole, while freely admitting the difficulties of reconciling all parts of the act, and of meeting every objection which a literal adherence to the language used might give rise to, I think that, looking at the question before us, we may properly give to the word "between" the popular rather than the more limited, though possibly more rigidly correct sense; and that we should hold that when a bridge is constructed over navigable waters, and connects two opposite shores lying in different counties, we should hold such a bridge to be between such two counties, and that they are jointly answerable for its maintenance, even though the counties, as respectively containing the townships between the shores of which the current flows, reach to the middle of the water and are divided only by the invisible, untraceable line called *medium filum aquæ*.