

soil and freehold of all roads laid out by the Crown in the Province of Ontario would seem at common law to have remained vested in the Crown unless expressly granted to the adjoining proprietors or some other person. But apparently some doubts seem to have been entertained on that point in the early days and in the Highways Act, 50 Geo. III. c. 1, s. 35, it was provided that the soil and freehold of all roads which should be altered, amended or laid out under that Act should be vested in the Crown.

Having regard to what is said above, 50 Geo. III. c. 1 would appear, as far as roads laid out by the Crown are concerned, to have been merely declaratory of the common law. This provision was subsequently amplified and extended to all roads laid out by the Crown or under the authority of any statute and in this extended form was incorporated in the Municipal Act in 1858 and in all subsequent consolidations thereof down to 1913; the rights of individuals in the soil and freehold of highways laid out or dedicated by them being preserved. In the latest consolidation of the Municipal Act, however, all distinction as to the ownership in the soil and freehold of highways is swept away, and now, by R.S.O. c. 192, s. 433, "unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this Act."

This provision, it may be observed, is wide enough to cover not only all highways on land but also all highways covered by water. It includes not only all highways laid out by the Crown but all highways dedicated or laid out by private individuals.

We have referred to these provisions because if rivers, which are constituted municipal boundaries are thereby made highways, then the soil and freehold of all such highways are now vested in the municipality or municipalities having jurisdiction over such highways.

If, however, as has been assumed very generally, such rivers are not public except so far as they may be actually navigable, then the somewhat anomalous condition may arise that one part of a river forming the boundary of a township may be a highway