To appreciate the effect of legislation and judicial decisions in this connection, it is necessary to understand clearly that at common law, the existence of a highway gives no ownership in the soil. The public have a mere right to travel, and the right cannot be exercised for any other purpose. Ownership presupposes the right to use the object of possession in any way pleasing to the owner, whereas in the case of a highway, the ownership in the soil of which remains in the owner of adjoining lands, a traveller cannot shoot game, flying or straying over the highway from the adjoining lands, without being guilty of a trespass. *Harrison* v. *Rutland*, [1893] 1 Q.B. 142. There being no ownership in the users of the highway, therefore it follows that they have a mere right which they may or may not exercise, as they see fit; something which has no physical existence, but is purely an abstract thing in its nature. The existence of this abstract right is not inconsistent with the ownership of the soil or freehold. It may also be subject to or co-existent with other rights acquired by private persons. In the case of highways, the title to which remained in the Crown, such rights could not have arisen except by grant. In the case of land dedicated by a private owner, many rights might have been acquired prior to dedication and might co-exist with the public right of travel. A private individual for instance may have his own right of way over the same land as that subject to the public right, and he need not justify his user of the land as one of the public, but may assert his private right. *Allen* v. *Ormond* (1806), 8 East 4, 103 E.R. 245. There may also be private rights co-existent with the public right of travel, both over and under the surface of the highway, as for instance, the right to maintain an arch and passageway over a highway, or a mining lease of lands under the highway. If these private rights are acquired prior to the acquisitions of the public right of travel, it is clear that under the English law, the dedication is subject to the antecedent rights. In the case of dedication, the owner cannot dedicate more than he has, and can only grant a right to use the land as a highway subject to any pre-existing rights. *R.* v. *Chorley* (1848), 12 Q.B. 515, 116 E.R. 960; *Duncan* v. *Louch* (1845), 6 Q.B. 904 at p. 915, 115 E.R. 341. That was supposed to be the law in this province until the recent case of *Abell* v. *Village of Woodbridge and County of York* (1917), 37 D.L.R. 352, 39 O.L.R. 382, reversed in the principal case, construing s. 433 of the Municipal Act of 1913 (3 & 4 Geo. V. c. 43). The law of this province governing ownership in the soil of highways before the passing of that Act was contained in 3 Edw. VII., c. 19, s. 601, which provided that "every public road, street, bridge or other highway in a city, township, town or village, except . . . shall be vested in the municipality, subject to any rights in the soil reserved by the person who laid out such road, street, bridge or highway." The effect of this enactment was stated in *Abell* v. *Village of Woodbridge*, 37 D.L.R. 352, and on appeal *ante* p. 513, to be that "not merely the surface but the freehold as well, subject to any rights reserved by the person who laid out the highway" was vested in the municipality. These words are not very clear, as the surface is part of the freehold, and it is presumed that what was meant was that the soil of the land over which the public right to travel existed, was vested, as well as the right to use the surface. The word "reserved" used in the Act is unsatisfactory, as a reservation can only be made of something