

information as to the performances of certain race horses, entered upon a highway and walked up and down for a considerable time within a short space to watch and take note of the horses on the land adjoining the highway, it was held by the Court of Appeal in an action by the owner of the land against the newspaper proprietor that such use of the land was a trespass for which the defendant was liable in damages: *Hickman v. Maisey* (1900), 1 Q.B. 752; 73 L.T. 321. These cases, it must be remembered, rest solely on the ground that the soil and freehold of the highways in question were in the adjoining proprietor: if they had been vested in any other person the plaintiff would have had no right to complain. This right of ownership in the soil carries with it the right to compensation in case the soil and freehold should be expropriated by public authority for other uses of the public: see *Pe Trent Valley Canal*, 11 Ont. 687. In that case it was held that the soil and freehold were, as the statute law then stood, vested in the Crown not only of roads laid out by the Crown but also of roads laid out under the authority of any statute, even though such road were laid out on the land of a private individual to whom no compensation was paid, and the effect of that decision was that it was only in the case of highways voluntarily dedicated to the public by private owners that they retained any rights in the soil and freehold. But even in such cases that right has now been taken away, and the soil and freehold of all highways is now vested in the municipalities having authority over the same, R.S.O. c. 192 s. 433; and this, it would seem, applies not only to land but to water highways, as no exception is made.

The presumption of law that adjoining owners own the soil and freehold of a road highway *ad medium filum*, according to Bailey, J., in *Doe & Pring v. Pearsey*, 7 B. & C., at p. 306, is founded on a supposition, that the proprietor of the adjoining land at some former period gave up to the public for passage all the land between his enclosure and the middle of the road. If this is the foundation of the rule then it seems obvious that the presumption does not arise in regard to highways laid out by the Crown over its own domain and therefore quite apart from any statute the