

the avenues should not become liable to assessment for local improvements. I think this clause is an attempt to provide for the case of future leaseholders, but it goes no further. There is no express exemption of others. They are simply left to the operation of the general law, which in the case of such an improvement as that in question here, viz., a plank sidewalk, appears to be found in sec. 677 of the Municipal Act. But in the case of other local improvements, the power to make which depends upon the consent, expressed or implied, given, or not withheld, of the owners of the property to be benefited, the question whether a person in the situation of the appellant, i.e., a lessee of the Crown under whose covenant "to pay taxes" no liability to pay taxes for local improvements to his lessor can arise or exist, can be regarded as an owner within the meaning of sec. 668 (2), and other clauses of the local improvement code of sections, is one of great importance, and, to my mind, does not admit of an easy solution in favour of the respondents. This, however, is not before us nor involved in the determination of the appeal.

The questions submitted will, therefore, be answered: that the interest of the appellant in the property leased by him from the Crown, on College street, is liable to be assessed for local rates for the plank sidewalk in question, under sec. 676 of the Municipal Act; and that the corporation is not liable under its former covenants and agreements with the Crown, or otherwise than under the Municipal Act, to maintain the same.

MACLENNAN, J.A., gave a written opinion to the same effect.

GARROW, J.A., also concurred.

OCTOBER 9TH, 1902.

C. A.

TOWNSHIP OF LOCHIEL v. TOWNSHIP OF EAST HAWKESBURY.

*Way—Public Highway between Townships—Existence and Location
of—Boundary Line—Records of Crown Lands Department—
Surveys—Field Notes.*

Appeal by plaintiffs from judgment of FERGUSON, J., in so far as it was against plaintiffs, in an action brought for a declaration that a government allowance for a public road exists between the plaintiff township, in the county of Glengarry, and the defendant township, in the county of Prescott,