

Crown from dealing with the city without regard to the appellant. It might have maintained the forfeiture of the lease, or might have reinstated it, with such variations in its terms as might be agreed upon; and of these, so long as the appellant's access was not interfered with, he would have no right to complain. The latter course was taken, the forfeiture was waived, the lease was set up again, the rental being increased from \$1 to \$6,000 per annum; and the Crown dedicated to the public, without restriction, the two principal avenues to the park, from Queen street and Yonge street, which the city had by the lease of 1859 agreed to keep in repair. I say without restriction, because the right reserved by the Crown to require the owners of property adjacent to the avenues who had not theretofore acquired rights of access thereto, to pay for the same, does not affect the appellant or the character of the highways so dedicated. The avenues became public highways which, by sec. 601 of the Municipal Act, are vested in the city, and the city is bound by sec. 606 of the Act to keep them as such in repair. The obligation of the city now, therefore, rests upon the statute, not upon its covenant, which ceases to have any application under the new state of things.

It was pressed upon us that the Crown could not, by dedication or otherwise consequent upon a private agreement between itself and the city, alter the character of the right of way which the appellant had over the avenues. The way was simply converted into a public highway, and I am not aware of any legal right of the appellant which was infringed thereby. His right of user of the road was not derogated from or made more onerous, and if new liabilities are or may be cast upon him as an adjoining property owner in consequence thereof, he is in no worse situation than a freeholder adjoining whose property a new street has been opened, or whose private right of way such as the appellant had over the property of another has been enlarged by expropriation or dedication of the land over which it exists as a public highway. The city's covenant with the Crown to permit persons in the situation of the appellant to have "free access through the park and avenues" necessarily came to an end with the forfeiture of the lease. We may suppose that as tenant of the Crown he would still have a right of access through the avenue. But this could not control the right of the Crown to dedicate the avenues as public highways, a right which it exercised in reinstating the lease.

It was also argued by Mr. Paterson that the third clause of the agreement shewed that the intention of the parties was that the estate or interest of existing leaseholders fronting on