from this, while held as property of the city, this place was not subject to taxation, yet when occupied by a tenant or lessee the exemption is removed and the property so circumstanced becomes taxable: R. S. O. ch. 224, sec. 7, sub-sec. 7.

The incidence of such taxation plainly falls upon the tenant or lessee, and not upon the city. It is strictly a tenant's tax, or tax payable by the tenant, and not in any event payable by the landlord as between him and the tenant. Whether the leasehold property held by the city in fee and occupied by the company as tenants is to be considered as land exempt from taxation, and only the interest of the tenant assessable in respect of his beneficial occupation, or whether it be that the tax is imposed on the land in respect of the occupation by the tenant of the municipality, either way the person to pay the taxes is the tenant, and not the landlord. There is no liability on this landlord to pay in respect of the occupation of this tenant, and if this position be correct, sec. 26 has no application, for that applies to taxes which can legally be recovered from the owner and no other. These are payable by the tenant, and cannot be deducted from the rent or recovered from any other source by the tenant, who is alone liable. As to the special agreement validated by statute, by its very terms it is not self-contained (so to speak). It contemplates and provides for the execution of a lease to carry out the contract. In itself it is silent on the matter of taxes, and to insert a proviso or covenant for the payment of taxes by the occupant or tenant of the city property is not repugnant to anything contained or expresed or even implied in that validated agreement.

Appeal dismissed upon the ground relating to covenant to pay taxes inserted in lease in question, but covenant should be inserted as to all works agreed to be performed and provided by the city in the validated agreement; in respect of this no local improvement rate should be levied upon the property. Appeal allowed as to the insertion of a covenant to repair in the lease in question, and it should be struck out. The covenant as to re-entry should be limited to non-payment of rent, and report varied accordingly. Appeal as to interest on gales of rent in arrear allowed, and report varied accordingly. In other respects appeal dismissed. Costs of appeal to be taxed and paid to the city corporation, less one-fifth to be deducted as representing the points on which the company succeeded.

MacMurchy, Denison, & Henderson, Toronto, solicitors for the company.

T. Caswell, Toronto, solicitor for the corporation.