considerations. It is shewn that, by the invariable practice of the city, all leases of its lands for long or renewal terms, contain a covenant on the part of the lessee to pay taxes. The greater portion of the lands forming what is termed the original site, were lands belonging to the city, held under leases for long renewable terms. The company had acquired or were endeavouring to acquire, the lessees' interests, when the agreement was made by which the alternative site was substituted. These leases were produced, and they shew that under them the lessees paid rent and taxes. The company, in acquiring the terms, became liable to the same extent. It cannot be assumed that in the exchange effected, whereby other city lands were substituted, the latter were to be freed in the lessees' hands from a burden which the former were subject to in their hands. There is nothing in the evidence to lead to the conclusion that any such agreement was come to. . . .

I think, therefore, that a covenant to pay taxes was properly inserted in the lease, and that it should stand as indicated in the judgment of the learned Chancellor.

The proviso for re-entry on non-payment of rent is so common and usual in leases, that it ought not to be excluded in this instance upon the mere suggestion that difficulty may arise in enforcing it. At present I am not convinced that sec. 143 of the Railway Act applies to the circumstances of this case; and it is not unimportant to note that, up to a late stage of the proceedings, counsel for the company entertained the view that the covenant for re-entry was proper, so far as non-payment of rent is concerned.

Upon the argument, much was made of the fact that the agreement had been confirmed by statutes. But the rules of construction were not thereby affected. No doubt, after the legislation the Court would not interfere to set aside or rectify the instruments on grounds of fraud, surprise, or mistake, but they remain to be construed according to their language, and the rules applicable thereto, as if there was no legislation.

As to the date from which rent should be payable, I see no reason for disturbing the conclusion arrived at by the learned Chancellor. In 1893 the company went into possession, and from a period anterior to January, 1895, have been continuously in possession of the alternative site, with tracks and freight sheds, and have been using it for all purposes without let or hindrance from the city. And it has not been shewn for the company that the occupation was not as beneficial as that for which they were to pay rent. The