

The leases in question are of areas situated in the business quarter of the city, and confer a right of renewal every fourteen years in perpetuity under a revaluation of the rent. The leases provide that the revaluation shall be made by three independent persons, one of whom is to be appointed by the city, one by the lessee, and the third by the two persons thus appointed.

In 1915, when a Bill amending the Municipal Corporations Act, 1908, was before Parliament, the Wellington City Corporation had a clause inserted the purport of which was to repeal section 137 of that Act, and to substitute for it a provision that the third person should be jointly appointed by the Corporation and the lessee, and that if they failed to agree the senior Magistrate of the district should, *ipso facto*, be the third valuer.

In the more recent valuations difficulty had been experienced in the selection of the third person. The parties evidently laid great stress upon this appointment because, owing to the divergence of views which had taken place between the valuers directly appointed by the parties, it was justly thought that the third valuer would largely control the result. In the later cases a deadlock ensued over the appointment owing to the inability of persons appointed by the parties to agree, and the result was that the Supreme Court had to be invoked to make the appointment. But the Council's real reason for seeking the amended legislation was not so much the difficulty experienced about the appointment of the third valuer as its dissatisfaction with the results obtained under the recent valuations. In the course of the inquiry it was alleged for the Corporation that the third valuers with whom the decisions ultimately rested proceeded on wrong bases or principles. It was also suggested that with business men appointed to fill that office there is always an unconscious bias in favour of the tenant. If the amendment proposed was to be of any value to the Corporation it must have been because it was thought that if the Council had a direct voice in the appointment of the third man it might be able to secure the appointment of persons likely to adopt a more favourable view for the Corporation, and who at the same time would be free from the bias alleged to exist in favour of tenants.

The leaseholders are opposed to the legislation. At an early stage they had become dissatisfied with the valuations because they considered the reassessed rentals were too high, and as a result the basis on which the rents should be assessed came to be canvassed.

Difference of Views as to Basis of Valuation.

It was as to what this basis ought to be and not as to the nature of the valuation tribunal that the differences between the Corporation and its tenants primarily arose. The contention of the Corporation had been that the rent should be a certain percentage of the capital value of the fee-simple, which was to be established mainly by reference to sales of land in the vicinity; whereas the lessees contended that this basis of assessment was wrong, and that the sale prices were not a true and much less the main criterion of value for the purpose in hand. In order to protect themselves and secure united action the city lessees, in conjunction with the Harbour Board lessees, whose leases are similarly framed as regards the mode of valuation, formed an association called "The Wellington Leaseholders' Association," and in the early part of 1912 the rival contentions as to the basis on which the rents were to be assessed came before the Court of Appeal.

Decision of the Court of Appeal in the D.I.C. Case.

The Court of Appeal held that the contention of the Corporation was wrong, and that the true basis on which the valuation should proceed was that the valuers must ascertain what a prudent lessee would give for the ground-rent of the land for the term and on the conditions as to renewal and otherwise contained in the lease, and must put out of consideration the fact, if it be a fact, that there are buildings or improvements on the land. (See *The D.I.C. (Limited) v. Mayor, &c., of Wellington*—31 N.Z. L.R. 598.) The valuations by the lay tribunals which followed after this decision are those which the Council hold to be too low.

Subsequent Proceedings re Aitken, Wilson, and Co.'s and Others Awards.

Certain of these awards were brought before the Supreme Court in 1914 (see *The Mayor, &c., of Wellington v. Aitken, Wilson, and Co. and Others*—33 N.Z. L.R. 897) in the shape of proceedings by the city to set the awards aside on the alleged