

1·36 per centum of the aggregate rental, divided between them in the proportion of 0·76 per centum to the Corporation and 0·60 per centum to the lessee; or, in other words, the cost to the Corporation was practically 15s. per annum and to the lessee 12s. per annum in respect of each £100 of yearly rental.

Four typical cases may be given:—Renewal rental, £363; cost of renewal to the Corporation, £29 19s.; cost to the lessee, £20 2s. 6d.; or, spread over a term of twenty-one years, a little less than £1 per annum. Another instance: Renewal rental, £123; cost to the Corporation, £14 13s.; cost to the lessee, £10 16s. A third case: Renewed rental, £207 19s. 2d.; cost to the Corporation, £33 14s.; to the lessee, £28 10s. A fourth case: Renewed rental, £240; cost to the Corporation, £24 3s. 6d.; to the lessee, £17 9s. 6d.

Costs a Grievance.

We consider the burden of the costs incurred in Wellington constitute a well-founded grievance, but this is mainly due to the fact that the parties themselves, believing or assuming that the law was so altered, turned the simple valuation which the leases provided for into the elaborate proceedings which arbitration demands.

The second and third questions, which we deal with together, are as follow:—

- (2.) If the said system of valuation is not satisfactory, what alteration should be made therein?
- (3.) Should the said alterations (if any) be made applicable—(a) Generally with respect to leases that have heretofore or that may be hereafter granted by Borough Councils; or (b) with respect only to leases that may hereafter be granted by Borough Councils; or (c) with respect only to leases that have been heretofore or that may be hereafter granted by the Wellington City Council?

PRELIMINARY OBSERVATIONS.

Meaning of Contract.

In approaching these questions two or three preliminary observations seem requisite. In the first place, both sides are entitled to have the rent arrived at in accordance with the meaning and intent of the contract they have entered into. The contract as well as the legislation is silent as to the basis of valuation, and so it is left to the law to determine what is and what is not a proper basis. The Court of Appeal has said that in the case of the Wellington leases the basis is what a prudent lessee would give under a lease for the term and with the conditions offered, and negatives the suggestion that it must be a given percentage of the capital value. This principle would no doubt be held to govern all leases containing provisions on the subject similar to those found in the Wellington leases.

Contracts not to be interfered with.

In the next place, your Commissioners believe it to be accepted by Parliament as a sound principle that private contracts should not be interfered with by legislation in order to settle controversies between the parties capable of being dealt with by the Courts, unless, of course, both parties consent, or unless the controversies are of such a nature that the interests of the public are prejudicially affected thereby. Hence we point out that any alteration in the system of valuation would be altering not merely the statutory provisions on the subject of valuation, but the terms contained in the leases themselves, for the leases themselves embody and amplify the statutory provisions.

Further, to make any alterations applicable only to “leases that may hereafter be granted” will not be free from the vice of altering existing contracts where the future leases are consequent on the provisions for renewal contained in the existing leases, for the existing leases stipulate that the new lease is to contain the same provisions as those in the lease renewed. If interference with existing contracts is to be avoided the alterations must be restricted to those cases where the municipality leases land not previously offered, or land which has reverted by reason of non-renewal, forfeiture, or otherwise.