

the said arbitrators are to judge of such buildings erections and improvements abstractedly and without reference to site or renewal value but are only to consider the cost of erection and deducting for age decay wear and tear and damages sustained."

By a provision in the lease, the tenant might refuse to renew, and in that case the lessor should pay two-thirds of the value of the buildings and improvements upon the demised premises, to be determined in the same way.

The expression used in the covenants to pay in the alternative events was the same—to pay the value (or two-thirds of the value) of "such buildings and improvements" as might be upon the premises at the expiry of the term.

There was a covenant to keep and maintain on the demised premises one or more stores or houses, to be composed of good brick, stone, or iron, and other substantial material, of the value of not less than \$4,000; and, in the same clause, a covenant to insure the store and houses now erected and "all future erections."

There was then the covenant to pay (already quoted), and a proviso for arbitration whenever there was any question touching the value "of any buildings fixtures or things now or hereafter to be erected or being on the demised premises."

And then the proviso (quoted) as to the way in which the value of "any buildings erections or improvements" is to be determined.

The use of these varying expressions was not to be regarded as modifying or controlling the words of the main covenants—the words actually used in these covenants were not to be read as modified or controlled by the expressions in the other parts of the lease. The covenant was to pay for "buildings and improvements"—these were the words to be interpreted, and not "buildings fixtures and things" or "buildings erections and improvements." Nor should the words used in the covenants to pay be cut down from their natural meaning so as to exclude all that might be more aptly described as "fixtures and things" or as "erections," because these words are found in other parts of the lease, and not in the covenants to pay. The texture of the whole document is too lax for that.

The first question submitted by the arbitrators related to the proviso as to the mode of valuation.

The main covenant afforded the key. The landlord was to pay "the just and proper value at that time," i.e., at the expiry of the lease; and this value was to be determined in accordance with the proviso. This required the worth or value of the buildings to be determined (a) "abstractedly," (b) without reference to site or renewal value, (c) on the basis of "cost of erection,"