

## MORTGAGES FINAL EXTENSION ACT, 1924.

44. An important matter of legislation which is of widespread interest was the passing of the Mortgages Final Extension Act during last session of Parliament. On the outbreak of hostilities in 1914 there arose abnormal conditions on account of which it was found necessary in New Zealand, as well as in other combatant countries, to provide protection for mortgagors and others in respect to their financial obligations. As the war proceeded the exigencies of the situation required extension of the moratorium from time to time. On the conclusion of the war, owing to difficulties of reconstruction and all the problems which characterize the aftermath of a great war, it was still necessary to maintain the protection set up by the Mortgages Extension Act. By 1924, however, the desirability of bringing the moratorium to an end, and by the removal of the restrictions the permitting of a freer operation of the economic laws of supply and demand, were generally recognized. Furthermore, it was desirable to terminate the uncertainty arising out of the repeated extensions of the past few years, which were admittedly prejudicing financial operations.

Although necessary in the war crisis, nevertheless it is a well-established rule that interference with the general economic laws by artificial regulation or otherwise tends to increase optimism in periods of buoyant trade and commerce, and to accentuate the depression in times of crisis. To some extent can this be exemplified by the assistance contributed by the moratorium to the speculation in land and the inflation of land-values prior to the recent slump.

The Mortgages Final Extension Act, 1924, which came into force on the 24th October, 1924, repeals all prior statutes dealing with the extension of mortgages. By it a mortgagor was entitled prior to the 31st January last to make application for an extension of the due date of the mortgage, and the Court, after due consideration of the effect of the continuance of the mortgage upon the security, the inability of the mortgagor to redeem the mortgage, the conduct of the mortgagor in respect to any breaches by him of the covenants of the mortgage, and any hardship that would be inflicted on the mortgagee by the continuance of the mortgage or on the mortgagor by the enforcement thereof, was empowered to make such order as it deemed reasonable, provided that no extension should be granted beyond the 31st March, 1927. Even if no such application were made by mortgagors the powers of mortgagees were somewhat limited by the statute. Until the 31st March, 1925, the mortgagee was not entitled to call up a mortgage or exercise a power of sale or enter into possession. If a notice of motion for an extension order had been filed, then after the 31st March, 1925, the mortgagee could not call up the mortgage until the mortgagor's application for extension had been disposed of. Where no notice of motion was filed, then it was laid down in the Act to be a condition precedent to the right of a mortgagee to exercise any power of sale or entry into possession that after the 31st March, 1925, he had served a notice demanding repayment in a period not less than three calendar months from the date of service. It will thus be seen that a mortgagee could not serve a notice calling up a mortgage before the 1st April, 1925, and could not take action until three months after that date.

The Public Trust Office, as a large lending institution, was bound to be affected by the passing into law of such a statute. The statute affects the Public Trustee in three main capacities: (a) As representative of the mortgagee; (b) or as the mortgagee in investments made on behalf of the Office itself; (c) or as executor, administrator, or other representative of the mortgagor.

Items (a) and (b) may be treated together, for there are two main divisions or classes into which investments of the funds of the Department fall—namely, investments from the Common Fund and investments belonging to estates.

In the former case a considerable number of applications were made by mortgagors for an extension order, but all these applications have not yet been heard. In this case the Public Trustee could not, of course, urge that there would be any hardship inflicted upon him by the granting of an extension order, seeing that the moneys were permanent investments of the Public Trust Office, and his only concern was the sufficiency of the security and the probability of the mortgagors being in a better position to pay off at the end of the extension order. In some instances