

We agree with those counsel who stated that they did not propose to contest seriously the valuation of Messrs. James and McCarthy as the replacement valuation.

In our opinion the replacement value was not the correct value to apply in estimating the financial position of the company in the latter part of 1923. As we say in another part of our report, it must not be overlooked that the whole of the circumstances surrounding this sale must be regarded from a 1923 point of view, and not from the point of view of the more prosperous times of 1925. In our opinion a fair and reasonable value to place upon the works for balance-sheet purposes, or for estimating the financial position of the company, was the figure at which the works stood in the company's balance-sheet for that year.

Mr. Mountfort, in writing up the value to £400,000, admitted that he did not know anything about any other freezing-works in New Zealand, or as to the financial position of any of them. In fact, his answer to that question was "No. Why should I?" He did not know that the Waingawa works, said to cost about a quarter of a million, were for sale by the mortgagee, and that the mortgagee could not get any one to take a lease of them on an optional purchasing clause at a price much less than Vestey's gave for Mr. Lysnar's works.

If any further proof is needed as to Mr. Lysnar's contention as to standard of valuation, we think that a simple illustration will show the incorrectness of his reasoning on this point, and also the weakness of his argument that his company was at this period financially strong.

It is well known to any persons of mature age and experience that in this Dominion, as well as elsewhere, townships, and in fact large towns, have sprung up adjacent to a profitable mining adventure. In the golden and prosperous days of these centres of population there was, of course, a demand for, and need for, accommodation-houses. Buildings suitable for accommodating the public were built to meet that demand; but when the mines ceased to be profitable and the population drifted away, there was not then the need for these buildings as accommodation or licensed houses, and they fell in value seriously, and in some cases rapidly, and lost a great part of their value.

It is difficult to understand that any prudent bank-manager, or even a retired bank-manager like Mr. Mountfort, in making an honest and proper examination of the financial position of a concern whose state of solvency or insolvency he was considering, would take the replacement or cost value of those buildings as a proper basis. Such a proposition only needs to be stated for its absurdity to be apparent.

What are the facts in the present case? The facts are clearly shown that if there ever was justification for the presence of three works in Poverty Bay, there had in 1923 ceased to be economic justification for the existence of three such works. How then can it be said that the cost of replacement value of these buildings and works, suitable only for use as freezing-works, was the standard to apply?

The fallacy of Mr. Mountfort's basis of valuation being apparent—and it is quite clear that his basis of valuation is wrong—then it must follow that his deductions from these unsound and erroneous premises must be rejected.

There is another test—we think a simple test—which can be applied as to whether or not cost of replacement value is the proper standard to apply. The illustration may possibly be thought somewhat extreme, but let us assume for the sake of argument that some misguided people had been available and had erected two other large freezing-works in the Poverty Bay district. Could any one seriously ask a commercial or business man to take, as a proper or balance-sheet value, the cost of building or replacing one of these demonstratively superfluous freezing-works?

It is therefore easy to see that the surrounding circumstances and facts must be taken into consideration before it is possible to postulate the proper standard of value to apply to the case of a class of building or works designed and erected for a special purpose, such as these freezing-works.

In our opinion Mr. Jolly's estimate of the financial position of the company was fairly accurate. It owed £25,000 on a first mortgage over its works; it owed £7,000 on a second mortgage over its works; it owed the bank some £300,000; and it owed some other creditors comparatively small amounts. And it is to be noted in passing that it had owed Messrs. James and McCarthy part of their fees, in connection with the erection of the works, for some considerable time.