

1939.
NEW ZEALAND.

ADJUSTMENT OF MORTGAGES AND LEASES

(REPORT COVERING THE).

Presented to both Houses of the General Assembly by Command of His Excellency.

Office of the Under-Secretary of Justice,
Wellington, C.1, 22nd September, 1939.

MORTGAGE RELIEF LEGISLATION IN NEW ZEALAND.

INTRODUCTORY.

SUBJECT to the exercise of certain residual jurisdiction (such as authorizing sales of property in respect of which there has been an adjustment) and a few odd cases awaiting finalization, the administration of the Mortgagors and Lessees Rehabilitation Act, 1936, is now completed. The object of this report is to examine the results, as far as is possible at this stage, and to make any recommendations which that examination suggests. In order to obtain the necessary data, each Adjustment Commission was asked to forward a report in the form of replies to a questionnaire submitted by the Department. Before proceeding to consider the administration of the Act it is as well to recapitulate as briefly as possible the sequence of events which led to its enactment.

PRICE MOVEMENTS, 1914 TO 1931.

At the commencement of 1914 the currencies of the principal countries of the world were linked to gold. In most, if not all, countries the gold standard was suspended soon after the outbreak of war, and during the immediate post-war period the colossal burden of national debts kept currencies off gold and the subject of the most extraordinary and extreme fluctuations.

The end of the war saw most of the principal Governments of the world, including Great Britain, France, Germany, and the United States of America, loaded with enormous debt burdens. One would have expected as a result a lessening of the value of money and a high price-level and, indeed, such a position ruled for many years. This must inevitably be the position in respect of internal prices in debtor countries, since the alternative would make the debt burden unbearable and render it impossible for such countries to compete with debt-free countries. It is, of course, a process of partial repudiation; and, as is well-known, Germany carried the process to its ultimate end, the complete devaluation of her currency and the consequent entire remission of her load of private and national debts.

Although Great Britain carried one of the heaviest debt burdens of any country in the world, the tremendous holdings in Great Britain of loans to foreign countries and to dominions payable in English currency in Great Britain held the balance as against inflation. For a period this induced that country to return to gold.

In considering the position of New Zealand it has always to be remembered that this country is a debtor country—that is, it is a country which has to meet each year interest payments abroad. At a high price-level a smaller proportion of exportable goods is required to meet the interest burden than is the case where there is a low price-level. A high price-level in England reduces, and a low price-level increases, the burden of our overseas debt. An increase in overseas prices of our exports of, say, 10 per cent. causes more than a 10-per-cent. increase in our overseas income—that is, in the fund available after payment of interest for the purchase of imports; similarly, a drop of 10 per cent. reduces the fund available for imports by more than 10 per cent.

Taking a broad view, prices in New Zealand moved steadily upwards from 1900 to 1914; they then shot up rapidly, and remained high until 1930. Taking as an illustration the figures in respect of wholesale prices (1909–15 = 1000), the index for 1900 was 899 and for 1914 was 1053. By 1918 it was 1705, and in 1920, 2092. For 1930 the index figure was 1449.

Export prices (which, as already stated, profoundly influence prosperity in New Zealand) rose gradually from 1900 to 1914. From then they ascended steeply to 1920, dropped heavily in 1922, and recovered between 1923 and 1929. In 1930 a tremendous drop commenced. The following table, which takes the year 1909–13 (1000) as a base, illustrates this movement:—

—			Calendar Years.	June Years.	—			Calendar Years.	June Years.
1909–13	..	..	1000	..	1925	..	..	1893	..
1914	..	..	1089	..	1926	..	..	1540	..
1920	..	..	1806	..	1927	..	..	1525	1514
1921	..	..	1713	..	1928	..	..	1683	..
1922	..	..	1363	..	1929	..	..	1623	1668
1923	..	..	1610	..	1930	..	..	1283	1397
1924	..	..	1788	..	1931	..	..	984	1052

The sharp drop in 1922 immediately revealed the unduly high values then ruling for land. However, the price-level recovered in 1923, and although there were severe fluctuations it remained on a high level until 1929. In addition, the improvement in farm management and the increased use of artificial fertilizers increased productivity to a marked extent. Taking the volume of exports in 1926 as 100, by 1929 the figure was 116 (an increase of 16 per cent.) and for 1930 it was 119.

The drop in total export income was not, therefore, as heavy as that of prices. Figures (in New Zealand currency) for years ending June are as follows:—

Year				£	Year				£
1921	..	..	..	49,000,000	1927	..	..	..	45,000,000
1922	..	..	..	43,000,000	1928	..	..	..	54,000,000
1923	..	..	..	46,000,000	1929	..	..	..	55,000,000
1924	..	..	..	47,000,000	1930	..	..	..	46,000,000
1925	..	..	..	56,000,000	1931	..	..	..	36,000,000
1926	..	..	..	45,000,000					

It will be seen that for 1928–29 exports reached the high value of £55,000,000, and that for the year 1929–30 they dropped by £9,000,000. There was a further and cumulative drop of £10,000,000 for the year 1930–31; and in the year 1931–32, in place of an export income which in 1928–29 was over £55,000,000, there was £34,000,000 only.

The drop in prices was spread over all classes of exports, and the following are particulars of the main items:—

—			Greasy Wool, per Pound.	Mutton, per Hundredweight.	Lamb, per Hundredweight.	Butter, per Hundredweight.	Cheese, per Hundredweight.
1929.			d.	s. d.	s. d.	s. d.	s. d.
January	..	..	17	44 0	76 0	162 0	86 0
1930.							
January	..	..	11 $\frac{1}{4}$	42 0	69 0	145 0	75 0
July	..	..	8 $\frac{3}{4}$	38 6	64 6	120 0	73 0
1931.							
January	..	..	5 $\frac{1}{2}$	32 0	60 0	104 0	56 0
July	..	..	6 $\frac{3}{4}$	25 0	52 0	100 0	43 0

This position was reflected in the aggregate national income of the country, which for 1928–29 was estimated at £150,000,000. The estimate for 1931–32 was £97,800,000 and for 1932–33 £90,000,000.

This great fall in export income was not completely reflected in the internal price-level. The following table gives an interesting picture as between export and other prices :—

Year.				Wholesale.	Retail.	Imports.	Farm Expenditure.	Exports.
1914	..	..	..	1000	1000	1000	1000	1000
1919	..	..	..	1103	1567	1941	1511	1671
1924	..	..	..	1584	1604	1555	1586	1597
1928	..	..	..	1417	1618	1360	1642	1520
1929	..	..	..	1413	1607	1355	1636	1456
1930	..	..	..	1376	1562	1345	1628	1144
1931	..	..	..	1270	1447	1322	1490	874

The general picture is one of steadily rising prices to 1914, a sharp and continued increase to 1921 a temporary drop in 1922, a fluctuating but high price-level till 1930, and then a catastrophic drop. Before taking the question of prices further, this is a suitable place to consider the effect of prices and other factors on land vlaues.

THE UPWARD MOVE IN LAND-VALUES TO 1930.

Farm costs move behind market values. The high prices of the immediate post-war years consequently increased the farmers' net profits at a higher rate than the rate of increase of market prices.

The great increase in the farmers' income was but one factor of the internal prosperity. As already pointed out, the rise in overseas prices meant that a smaller proportion of exports had to be set aside for interest payments abroad ; in addition, there was a great flow of funds made available by heavy Government borrowing in London. The result was a wave of almost unbroken prosperity, with the peak occurring in 1921.

The high profits of the farmers were capitalized in land prices, which quickly reached absurd levels. Two other factors tended to increase these values. The first was the purchase by the Government of land for the settlement of returned soldiers. The second was the reduction in direct taxation. In 1920 land-tax receipts were £1,557,903 and income-tax £6,369,765, but in 1926 land-tax was down to £1,266,659 and income-tax to £3,368,516. During these years the farmers paid no income-tax, and not all the land-tax paid was in respect of farm lands. If, for the sake of example, we assume that £9,000,000 was a proper sum for direct taxation and that one-half of this sum was fairly payable by the farming community, the difference between that sum, £4,500,000, and the £1,000,000 (or less) paid by farmers in land-taxes is a fair indication of the value of this tax concession. The capitalized value of this sum at 5 per cent. is £70,000,000, and it is not unreasonable to suggest that this was reflected in increased land-values.

The result of the wave of prosperity referred to was an extraordinary land boom. In 1918 and 1919 the position in connection with transfers of land was—

—				Number of Transfers.	Area.	Consideration Money.
					Acres.	£
1918	..	..	..	19,949	2,014,526	18,083,634
1919	..	..	..	22,496	2,013,468	25,197,354

but for the years of the first "boom," 1920 and 1921, the figures were—

—				Number of Transfers.	Area.	Consideration Money.
					Acres.	£
1920	..	..	..	45,128	3,882,683	62,446,574
1921	..	..	..	55,746	4,573,482	81,790,063

Transfers dropped between 1923 and 1924, but between 1925 and 1930 they continued at a high level.

In the twelve immediate post-war years (1919 to 1930) 418,914 transfers of land were registered. The total area comprised in these transfers was 28,653,739 acres and the total consideration-money shown was £462,027,881.

The movement in land-values is shown by the following table of the capital value of land and improvements (both rural and urban) :—

Year.	Capital Value.	Unimproved Value.	Year.	Capital Value.	Unimproved Value.
	£	£		£	£
1913 ..	340,000,000	212,000,000	1924 ..	568,000,000	333,000,000
1918 ..	421,000,000	260,000,000	1926 ..	603,000,000	341,000,000
1920 ..	470,000,000	290,000,000	1928 ..	631,000,000	335,000,000
1922 ..	544,000,000	329,000,000	1930 ..	664,000,000	338,000,000

These figures are the aggregate of valuations in the Valuation Department and are far short of the prices at which land was changing hands in the boom years.

MORTGAGE POSITION PRIOR TO 1931.

The great increase in land-values and land dealings was reflected in the figures relating to mortgages. The following table shows the estimated mortgage position :—

Year.	On Suburban Land.	On Country Land.	Total.
	£	£	£
1913	37,000,000	48,000,000	85,000,000
1920	55,000,000	88,000,000	143,000,000
1925	80,000,000	115,000,000	195,000,000
1930	115,000,000	130,000,000	245,000,000

It will thus be seen that during the years between 1913 and 1930 the unimproved value of land increased from £212,000,000 to £338,000,000, an increase of approximately 59 per cent. Mortgages increased from £85,000,000 to £245,000,000, a rate of increase of approximately 188 per cent.

POSITION OF MORTGAGORS AND LESSEES IN 1931.

In brief summary the position was that the export farm income of the country, which in 1920 was £48,000,000 and in 1925 and 1929 was £55,000,000, had dropped in 1931 to £36,000,000, while the mortgages on farm lands had increased from £88,000,000 in 1920 to £130,000,000 in 1931. The total mortgages (suburban and rural) were in 1931 £241,000,000, and interest had to be met on this sum out of greatly reduced income.

VIEWS OF THE ADJUSTMENT COMMISSIONS ON THE CAUSES OF THE SLUMP OF 1930.

In the first question of the questionnaire the Adjustment Commissions were asked to state the principal causes of the difficulties of mortgagors and lessees. Factors mentioned in the answers were the breakdown of commodity prices, excessive purchase prices of land, low prices for farm products, high rents, faulty subdivision of land, lack of provision in good times for repairs and maintenance and failure to provide reserve funds, high rates of interest, lack of capital, short flat-term mortgages, increase in farming-costs.

In the second question the Commissions were asked to what extent certain stated factors were causes of the difficulties in their districts, the first factor being that of excessively high purchase prices. The general tenor of the replies was that the purchase prices were too high, even in relation to the pre-slump price-level. One Commission was of opinion that buyers had arrived at values of farm lands by guess-work, instead of basing it on a careful analysis of working-costs in relation to the value of production. Another Commission stated that its experience was that the price paid for all lands purchased in the years 1918 to 1920 and 1928 to 1929 was in excess of the true value, and that the majority of the applications in its district were in respect to lands purchased during those years. On the other hand, one Commission thought that, viewing land-values in relation to the pre-slump level, there was no evidence of excessively high purchase prices, except in isolated cases. I think a fair summary of the replies on this head is that in perhaps 50 per cent. of cases the price was above productive value even if the price-level before 1930 had been maintained.

APPROACH TO THE MORTGAGE PROBLEMS BETWEEN 1930 AND 1936.

Amongst other courses open to the country in these difficult years were the following :—

- (1) To increase the internal price-level by manipulating the rate of exchange on London :
- (2) To reduce costs, including wages :
- (3) To alter mortgage contracts by reducing principal sums and rates of interest, &c. :
- (4) To temporize by suspending the exercise by mortgagees of their remedies when the mortgagor was in default, hoping that the position would adjust itself in time :
- (4) To let matters take their course—in other words, to do nothing.

The final alternative meant either private adjustment or, where that failed, seizure and sale by the mortgagee and bankruptcy of the mortgagor.

If there was general agreement on any one point, it was that something had to be done. The incidence of a state of insolvency was too widespread and financial chaos was inevitable.

The remedies adopted (not all at once) were an increase in the exchange-rate, the reduction of costs as far as was possible, and the imposition of a moratorium, in the hope that a later recovery of world prices would solve the difficulties.

The exchange rate on London rose from parity in 1929 to £(N.Z.)110 = £(sterling)100 in January, 1930, at which rate it remained during 1931 and 1932. In January, 1933, the Government, as part of its programme to rehabilitate the farming industry, increased the rate to £(N.Z.)125 = £(sterling)100.

The reduction of costs was partly a natural fall resulting from and forming part of the general price drop. Wages of such industries as remained under the Arbitration Court were reduced by 10 per cent. but the true wages drop was much greater as the Arbitration Court to a large extent ceased to function and the general unemployment quickly brought wages down. In addition, Government subsidized farm labour to a considerable extent.

Then land-tax was reduced, dropping from £1,506,911 in 1929-30 to £542,128 in 1931-32. Subsidies to farmers already paid to allow the free carriage of lime, were increased by subsidizing superphosphate deliveries and the carriage of farm products, and granting concessions for the railway carriage of fertilizers. The value of these concessions in 1932-33 was £336,644, and in 1933-34 £441,694.

Further, county rates were subsidized in the financial years 1931-32 and 1934-35, the subsidy amounting in the first year to £250,814 and in the second to £178,246. A similar subsidy was provided for 1935-36.

The imposition of a moratorium was first attempted in a measure known as "the Mortgagors Relief Act, 1931"; this Act largely followed the moratorium provisions in the legislation introduced to meet war conditions and the results of the earlier depression 1921-22. Its main object was to grant temporary relief to mortgagors. It made it unlawful for a mortgagee to (a) exercise his powers of sale, or (b) issue any process of execution against his mortgagor, or (c) file a bankruptcy petition against his mortgagor, except with the leave of the Court.

If a mortgagee wished to do any of the above acts he was required to give notice to his mortgagor, who then became entitled to apply to the Court for relief. The Court was authorized to order that the mortgagee should not, before a date specified in the order (being not later than twelve months after the mortgagor's application for relief), do any of the acts mentioned above.

This measure was soon found quite inadequate to deal with the problem, which was then rapidly assuming grave proportions. It was therefore amended the same year, and the Court was given power in dealing with mortgages of farm lands—

- (a) To postpone the due date for the payment of principal or interest for a period not exceeding two years:
- (b) To reduce the rate of interest payable under the mortgage:
- (c) To remit the whole or any part of interest in arrear.

This Act gave authority for the setting-up of Adjustment Commissions to which applications could be referred by the Court for investigation and report.

The widening range of the influence of the financial crisis and the growing intensity of the economic depression soon made it necessary again to enlarge the scope of the legislation, and in 1932 the special relief already granted in the case of farmer mortgagors was made applicable to all mortgagors. Provision was made that the mortgagor could apply for relief notwithstanding that his mortgagee had not given notice of his intention to exercise his powers, and authority was given to the Courts to grant relief to lessees by way of remission or reduction of rent payable under the lease.

Provision was also made that year empowering the Court to join stock mortgagees as parties to relief proceedings. This legislation did not give sufficient power to enable the Courts to make an order effectively binding stock mortgagees, who, in many cases, by virtue of the nature of their securities, were in a position to dominate the situation. To meet the position a still further amendment was passed the following year.

This legislation was consolidated in the Mortgagors and Tenants Relief Act, 1933. The legislation to this date applied both to farm and other properties, to leases and to mortgages over either land or stock. The Court was authorized to give the following relief:—

- (a) To order that the mortgagee should not, before a date specified (not being later than two years after the date of the order), exercise any of the powers given in the mortgage or file a bankruptcy petition against the mortgagor:
- (b) To postpone for a period not exceeding two years the due date for the payment of interest or of principal:
- (c) To reduce to such rate as it thought fit the rate of interest payable under the mortgage:
- (d) To remit the whole or any part of arrears of interest:
- (e) Where the application for relief was made under a table mortgage, to extend the term of the mortgage by any period not exceeding two years.

A special section was included whereby stock firms which were unwilling to enter into pooling schemes could be compelled to do so. These schemes provided for opening separate No. 2 accounts for farm mortgagors, paying therefrom current expenses, and dividing the balance in agreed proportions between the stock mortgagee and the land mortgagee, the original account remaining in abeyance as a capital debt.

Some 17,000 applications were filed under the legislation passed to the end of 1933, and 7,000 applications for relief were granted by the Courts. The total principal sum affected by the applications amounted to £36,000,000, and the interest in arrear at the date of application was shown as £2,400,000, of which sum £509,000 was remitted. The rate of interest was reduced in 3,378 cases; 2,500 leases were the subject of applications; and in 1,260 cases relief was granted. Arrears of rent amounting to £83,000 were remitted, and rentals were reduced in 716 cases. The above figures relate only to relief granted by the Courts.

Every effort was made to encourage voluntary adjustments, and many such adjustments were either effected privately by the parties or arranged in conjunction with the Adjustment Commissions. No figures are available as to the extent of the concessions arranged privately between the parties.

Up to this stage no attempt had been made to deal with the question of capital adjustment, and the Rural Mortgagors Final Adjustment Act, 1935, was the first attempt to deal with the problem. Prior to the passing of this Act the relief legislation had been administered in the ordinary Courts assisted by reports from the Adjustment Commissions, but the Rural Mortgagors Final Adjustment Act set up a special Court to deal with all mortgage-relief matters. This Court was known as the Court of Review.

The Act applied only to farmer mortgagors, and its object was set out as being “to retain efficient farmers in the use and occupation of their farms and to make provision for the adjustment of their liabilities.” When an application was filed, the Adjustment Commission was to call a meeting of creditors with a view to arranging a voluntary adjustment of liabilities. Failing a voluntary adjustment, the Commission was to decide whether the mortgagor should be excluded from further protection under the relief legislation. If it thought that it was in the public interest to keep the mortgagor on his farm, the Commission was to issue what was known as a “stay order.” Under this order proceedings against the applicant were stayed and all his assets were vested in a trustee. Subject to directions from the Adjustment Commission, the trustee controlled the farming operations of the applicant for a period of five years. The object was to ascertain the average annual value of production, and this was to be capitalized at a basic rate of interest at the end of the five years’ stay period, and such amount was the value for the purpose of adjusting the mortgagor’s liabilities.

Some 1,734 applications were filed under this Act, but no final adjustments were ever made as the Act was repealed and replaced by the Mortgagors and Lessees Rehabilitation Act, 1936, and these 1,734 applications were dealt with under the new legislation.

PRICES BETWEEN 1931 AND 1936.

While the effects of the depression were being mitigated in the manner referred to above, there was a definite recovery in the price-level. This can best be shown by completing the figures already given for the period up to 1931.

The export-price level, which, taking the years 1909–13 as a base at 1000, had, as already shown, moved between 1806 in 1920 and 1623 in 1929, and had dropped to 1283 in 1930 and to 984 in 1931, continued as follows (June year also given):—

—			Calendar Year.	June Years.	—			Calendar Year.	June Years.
1929	..	..	1623	1668	1934	..	..	1109	1089
1931	..	..	984	1052	1935	..	..	1102	1046
1932	..	..	892	934	1936	..	..	..	1205
1933	..	..	896	861					

The movement in total export income was as follows (year ending June):—

£				£					
1931	36,000,000	1934	..	..	..	48,500,000
1932	34,000,000	1935	..	..	..	42,400,000
1933	36,800,000	1936	..	..	..	53,000,000

All the above figures are in New Zealand currency (by 1936 depreciated 25 per cent. in terms of sterling), but it is to be remembered that the mortgage liabilities of the people were also payable in the same currency.

Such, broadly, was the position when the new Government assumed office at the end of 1935. It found that the burden of farm indebtedness was one of the major problems of agriculture in New Zealand.

The budget speech delivered on the 4th August, 1936, by the Minister of Finance (the Hon. W. Nash) included the following statement of policy:—

“The procedure for the rehabilitation of the farmer by removing the burden of over-mortgaged land has been drafted and will be introduced shortly after the debate on this Statement. Its main provisions will conserve to the mortgagee the values which are now sustained by his security, whilst allowing the working farmer to devote his time to production freed from the menace of possible foreclosure or eviction.

“Competent farmers will in future be assured of a reasonable income for the work they do on their farms and, so far as the dairy industry is concerned, the guaranteed price is inextricably linked up with the adjustment of the dairyfarmers’ debts. The mortgage legislation will provide that his liabilities will be adjusted so that he may receive a decent standard of living for himself and his wife and family. With stability of farm income will come an assessment of charges against that income, and the mortgage legislation will ensure to every reasonably efficient farmer that the charges will be so adjusted as to give sufficient return to maintain the standard of living referred to.

“A procedure has also been worked out for the adjustment of urban mortgages.”

The following quotation from the preamble of the Primary Products Marketing Act, 1936, illustrates the objects of that Act:—

“Whereas it is considered essential in the public interest that producers of primary products should, as far as possible, be protected from the effect of fluctuations in the market-prices thereof: And whereas it is thought that the most effective and appropriate way of affording such protection, so far as relates to primary products intended for export, is to provide that the Government, on behalf of the Crown, shall acquire the ownership of such products at prices to be fixed and promulgated from time to time, and, so far as relates to primary products intended for consumption in New Zealand, is to empower the Government in its discretion either to acquire the ownership thereof at fixed prices or to control the sale and distribution thereof: And whereas it is not feasible to put into operation forthwith any plan or plans to deal effectively with all classes of primary products, and it is considered desirable that in the meantime a plan should be inaugurated in respect of dairy-produce (including certain other products usually associated with dairy-farming).”

To achieve these objects a new Department was set up (called the Primary Products Marketing Department) to make all necessary arrangements for the acquisition by the Crown and the marketing in New Zealand or overseas of any primary products in accordance with the Act. The Act contained definite provision for the marketing of dairy-produce, and this industry came within its scope on the 1st August, 1936.

Having provided the machinery for stabilizing farm incomes (it was contemplated that the Act would be extended beyond the dairy industry), Government had to face the question of farm finance. This fell under two heads: (1) the provision of finance, and (2) the adjustment of liabilities. To achieve the first object the State Advances Corporation Act, 1936, restored to the State the machinery for making advances to provide homes and farms. To secure the second object the Mortgagors and Lessees Rehabilitation Act, 1936, was passed.

THE MORTGAGORS AND LESSEES REHABILITATION ACT, 1936.

The Act provided for an immediate and final adjustment of mortgage liabilities, both as to capital and as to interest, and also the adjustment of outstanding rents and rental rates payable under leases. It applied to both rural and urban properties and to all contracts entered into up to the date of its enactment.

PURPOSE OF ACT.

The general purpose of the Act in respect of the three classes of applicant to which it applied was set out as follows:—

A. *Farmer Applicants.*

- (a) To retain them in the use and occupation of their farms as efficient producers.
- (b) To make such adjustments of their liabilities as would ensure—
 - (i) That the liabilities secured on any property did not exceed its value;
 - (ii) That the rent of any leasehold property did not exceed the rental value of that property; and
 - (iii) That the total amount and terms of payment of all their liabilities (whether secured or unsecured) were such that, after allowing for all normal current expenditure and providing for the maintenance of themselves and their families in a reasonable standard of comfort, the applicants might reasonably be expected to meet their liabilities as they fell due either out of their own moneys or by borrowing on reasonable terms.

B. *Home Applicants.*

- (a) To retain them in the occupation of their homes.
- (b) To make such adjustment of their liabilities as would ensure—
 - (i) That the liabilities secured on any property did not exceed its value;
 - (ii) That the rent of any leasehold property did not exceed the rental value of that property; and
 - (iii) That the total amount and terms of payment of their liabilities that were secured by adjustable securities (that is, secured on other property to which the Act applied) or were adjustable debts (debts incurred in the acquisition, extension, improvement, or maintenance of his home) were such that the applicant might reasonably be expected to meet them as they became due, either out of his own moneys or by borrowing on reasonable terms.

C. Other Applicants.

- (a) To enable them to retain possession of their mortgaged or leasehold property.
- (b) To make such adjustment of their liabilities as would ensure—
 - (i) That the liabilities secured on any property did not exceed its value ;
 - (ii) That the rent of any leasehold property did not exceed the rental value of that property ; and
 - (iii) That the total amount and terms of payment of their liabilities that were secured by adjustable securities (that is, secured on other property to which the Act applied) or were adjustable debts (debts incurred in the acquisition, extension, improvement, or maintenance of his home) were such that the applicants might reasonably be expected to meet them as they became due, either out of their own moneys or by borrowing on reasonable terms.

APPLICATION OF ACT.

Administration.

The administration of the Act was entrusted to the Court of Review and to the Adjustment Commissions. The Court of Review consisted of one Judge and two other members, and the personnel which had acted under the previous Act remained in office. The Adjustment Commissions consisted of either two or three members.

The Adjustment Commissions heard all applications and made orders thereon. Their orders were filed in, and became orders of, the Court of Review. There was a general right of appeal by any party to the Court of Review, which Court determined such appeals and exercised a general power to issue administrative directions to the Commissions.

All applications had to be filed by the 31st January, 1937, but the Court of Review had power to extend the date in particular cases to the 28th February, 1937.

Every application was referred in the first instance to an Adjustment Commission, and the Commission appointed a day for hearing.

The Commission had first to determine—

- (a) To what class the applicant belonged—that is, whether he was a farmer applicant, a home applicant, or neither a farm applicant nor a home applicant ;
- (b) The value of any property of an applicant other than his interest in farm lands ;
- (c) The basic value of the applicant's interest in any farm lands ;
- (d) The basic rent of any property held by any applicant as lessee under a lease ;
- (e) Whether the applicant was entitled to retain any property subject to an adjustable security or comprised in an adjustable lease, or any part of such property ;
- (f) The amount of the principal and other moneys secured on any property of the applicant after allowing for remission.

Before fixing the amount of principal and interest secured on a property the Commission was authorized to remit the whole or any part of any interest (whether capitalized or not) accruing due before the date of the order and the whole or any part of any penalty added to rates, and amounts claimed against mortgagors for costs.

Basis of Value of Property.

(a) *Property other than Farm Lands.*—The value of all property other than farm lands was taken at the value as at the passing of the Act (1st October, 1936) : this included town properties, chattels, and also farm stock and plant.

(b) *Farm Lands.*—The basic value of farm lands was the productive value increased or reduced by such sum as the Commission thought fit.

The productive value was an amount equal to the net annual income *that would be derived from the lands by an average efficient farmer* capitalized at the rate of 5 per cent. per annum. The net annual increase was assessed by deducting from the gross income all the expenses of production, including rates and taxes, reasonable remuneration for the work performed by the applicant and any other person in the production of the income, and interest on the value of the stock and chattels computed at 5 per cent.

The gross income was calculated on the basis that the products were sold at a rate fixed by the Court, this rate being fixed after taking into consideration the prices received for products of the same kind, grade, and quality produced in New Zealand during a period of from eight to ten years immediately prior to the 31st July, 1935.

The Court fixed these prices by order dated the 19th day of January, 1937. In respect of most items the average of ten years was taken, but in other cases either a nine-year or a eight-year period was used. It is important to note that the period was for the eight, nine, or ten years ending 31st July, 1935. This kept the average price lower than it would have been had it been for the period ending 31st July, 1936, as the year 1935–36 was one of comparatively high prices. It is important to note that, although income was calculated at the basis of the average of the eight to ten years prior to July, 1935, expenditure was the actual expenditure—that is, the expenditure necessary to produce the income—but calculated at the costs ruling at the date of hearing.

The Court order and the schedule of prices, together with an explanatory memorandum by the Under-Secretary for Justice, which, by direction of the Court of Review, was to be referred to by the Commissions in applying the prices to each particular district, was published by the Government Printer in booklet form.

(c) *Leases*.—The basic rent of property was such rent as, in the opinion of the Commission, was a fair rent to serve as a basis for the adjustment of the liabilities of the applicant. In determining that value, regard was had to the value of property—that is, except in the case of farm lands, the value on the date of the passing of the Act—the value of the lessee's interest in improvements, and in the case of farm lands the productive value of the property assessed in the manner hereinbefore described.

Method of determining whether Applicant was entitled to retain Property.

The Commissions had regard, in the case of farmer applicants, to—

- (a) The conduct of the applicant in relation to the care and management of the lands and the disbursement of the income :
- (b) The extent to which the area of the farm lands exceeded or was less than the area required to enable the applicant to obtain a reasonable standard of comfort :
- (c) Whether any relief would enable the applicant to meet his future liabilities :
- (d) Any other matters it deemed relevant.

If the Commission determined that the applicant was entitled to retain the possession of his property, it then proceeded to make an order.

The Adjustment.

Besides exercising many ancillary powers, the main lines on which the Commissions worked were as follows :—

Mortgages.—If the basic value (in the case of farm lands) or the value (in the case of other property) of the property was less than the amount secured thereon, then the amount so secured was reduced to the basic value or the value. Where there was more than one security, the adjustment was made in strict order of priority—that is, the first security was satisfied in full before any amount was appropriated to the second security, and so on.

This rule did not operate to exclude the provision already noted which gave the Commissions power to remit any interest before determining the amount due under any adjustable security. Interest due on a first mortgage could therefore be remitted although the principal and even the interest on subsequent mortgages was left intact. But as to capital, the rule as to priorities was absolute. It followed, therefore, that, except in the case of Crown leases, rates always had priority over amounts owing on mortgages. As to Crown lands, the position depended largely on the nature of the rate charge.

Leases.—If the basic rent was less than the rent payable under the lease, the rent payable under the lease was reduced accordingly. The Commission could not extend the term of a lease. Any outstanding rent became an adjustable debt, and was dealt with as in the case of a mortgage.

Adjustable Debts.—Any balance by which amounts under mortgages exceeded the value of the property and any arrears of rental owing became adjustable debts—that is, they became unsecured claims. The Commission had no discretion as to this, although, as will be mentioned later, it had a discretion whether it ordered payment of these sums as unsecured debts.

Further, in the case of farmer applicants all unsecured debts owing at the time of the application were adjustable debts and came within the purview of the Commission. The unsecured debts of applicants other than farmer applicants were not affected by an application for adjustment, except for such unsecured debts or liabilities of a home applicant as arose directly out of the acquisition, extension, improvement, or maintenance of the premises occupied by the applicant as a dwelling.

It was entirely within the discretion of each Commission whether it remitted or ordered payment of adjustable debts, but except where an order was made for these payments adjustable debts were deemed to be discharged. Where the applicant had no assets available for the payment of adjustable debts, no order was to be made unless the Commission, after taking into consideration the income of the applicant and any hardship that the failure to make an order might inflict on the creditor thought it just and equitable to make an order.

Variation of Terms of Mortgages or Leases.

Whether or not the amount secured had been reduced, the Adjustment Commissions were empowered to vary the terms and conditions of any adjustable security, or to order the substitution of a new security therefor. Power was given to order repayments of principal and interest as under a table mortgage.

Where the amount secured on land was reduced and no order was made for repayment on a table-mortgage basis, then such portion of the amount payable as the mortgagor would be able to borrow on first mortgage on reasonable terms was to be made payable at the end of five years, and the balance (if any) on such date as was fixed by the Commission.

Interest payable under adjusted mortgages was not to exceed the rate fixed by Order in Council, namely—

As to first mortgages on land	..	..	..	..	4 $\frac{3}{4}$ per cent. per annum.
Other mortgages on land	..	..	..	..	} 6 per cent. per annum.
Mortgages on property other than land	..	..	..	..

The Commissions had power to order the sale of the whole or any portion of the property of the applicant, to empower a vendor mortgagee to repurchase the property, and, where necessary, to make a vesting order.

In the case of farmer applicants there was power to authorize the borrowing of moneys secured on the property of the applicant in priority to existing securities where, in the opinion of the Commission, provision should be made for a purpose that would increase the productive capacity of the farm lands or the income that would be derived from these farm lands.

Administration of the Act.

Applications.—The last day for making applications was the 31st January, 1937, but the Court of Review was authorized to grant leave to file an application up to the 28th February, 1937. There were 34,596 applications filed—15,621 by farmer applicants and 18,975 by other applicants.

Adjustment Commissions.—The Dominion was divided into districts, one or more Commissions being appointed for each district. Some thirty-four Commissions were originally appointed, but in order to expedite the work these were afterwards increased, the final organization being fifteen urban and twenty-five rural Commissions.

The appointment of still further Commissions was considered, but it was found that the existing Commissions were adequate, and to have increased the number would have caused inconvenience.

Hearing of Applications.—The Commissions commenced their work after Easter, 1937, and by December, 1938, practically the whole of the 34,000 applications had been disposed of. By Easter, 1939 (just two years after the hearings really commenced), with the exception of one or two isolated cases which had been deferred for special reasons, all applications had been finally disposed of, and the Court of Review had dealt with practically all the appeals.

Relief Granted.—Of the applications filed, 2,569 were the subject of voluntary adjustments and 8,020 were withdrawn. The remaining applications were heard by the Adjustment Commissions.

Of the 9,992 farm orders made after a hearing, the principal sum due under mortgage was reduced in 5,406 cases. In relation to other applications the figures were 11,151 applications and 4,081 cases in which there was a reduction in the principal sum.

Two of the principal forms of relief granted by the Commissions were the extension of the due date for payment of the principal sum payable under a mortgage, and the reduction of the rate of interest. The terms of mortgages were extended in the following cases:—

		Farm.	Other.	Total.
First mortgages .. .. .	.. .. .	7,622	8,807	16,429
Other mortgages .. .. .	.. .. .	3,018	2,757	5,775
		10,640	11,564	22,204

The amounts written off mortgages were—

		Farm.	Other.	Total.
		£	£	£
Principal .. .. .	.. .. .	5,589,148	1,047,666	6,636,814
Interest .. .. .	.. .. .	1,368,768	224,865	1,593,633
		6,957,916	1,272,531	8,230,447

The rate of rental payable under leases was reduced in respect of 2,477 farms and 175 other applications, and arrears of rent were remitted or reduced in 2,327 farm and 165 other cases.

The total remissions were—Farm, £432,043; other, £12,999: total, £445,042.

Unsecured debts were remitted in respect of 3,446 farm and 478 other applications, and the amounts remitted totalled—Farm applications, £1,143,478; other applications, £66,367: total, £1,209,845.

A summary of the amounts remitted is set out hereunder:—

		Farm.	Other.	Total.
		£	£	£
Mortgages—				
Principal .. .. .	.. .. .	5,589,148	1,047,666	6,636,814
Interest .. .. .	.. .. .	1,368,768	224,865	1,593,633
Rents remitted .. .. .	.. .. .	432,043	12,999	445,042
Unsecured debts .. .. .	.. .. .	1,143,478	66,367	1,209,845
		8,533,437	1,351,897	9,885,334

Allowing for the capitalized value of reductions in rentals, the remissions could be stated at not less than £10,000,000, of which over £8,500,000 was in respect of farm properties. In addition, there would be remissions in respect of applications withdrawn. Probably, however, in most of these cases the settlement was merely by way of extension of the term of the mortgage and, perhaps, reduction in the rate of interest. It is believed that the number of cases settled outside the Commissions was comparatively few, and it is a very probable estimate that the total of all remissions under the Act was between £10,000,000 and £10,500,000.

CONCLUSION.

As already indicated, the Adjustment Commissions were asked to answer certain questions relating to their work, and to append any general observations. It is not intended to traverse these answers in detail, but the following general observations are offered on the administration of the Act and on the mortgage system.

PROPERTY OTHER THAN FARM LAND OR STOCK ("HOME APPLICANTS").

These adjustments were based on the values subsisting on 1st October, 1936. Fundamentally, the future maintenance of these values depends on the continuation of a state of general employment at a wage-level and on the maintenance of a price-level not less than ruling in October, 1936, and so long as these conditions exist or do not materially change there should be no call for any further adjustment.

Briefly, the causes of the difficulties of urban property owners were—

- (a) Excessively high purchase price ;
- (b) Lack of capital ; and
- (c) Loss of employment.

The third factor precipitated the crisis in many cases. The first two factors were directly related to a shortage of the supply of houses for sale or available for renting. Excessively high purchase price was a direct source of trouble. Lack of capital involved a low deposit and the holding of the property under an agreement for sale and purchase. When property held under agreement was subject to short-term mortgages and a mortgage fell due, the purchaser was immediately in grave difficulties. Many purchasers of this type should never have bought properties at all, and should have remained tenants, but they were forced into purchasing because of their inability to rent.

Whatever the ultimate position of these particular applicants, it is clear that unless an adequate supply of rental houses is made available at a rate proportionate to the income level of the people the difficulties due to the purchase of houses on low deposits must inevitably occur. Where people in the lower-income groups cannot rent houses, they are forced to purchase them, and their means, or lack of means, necessitates low deposit. A vendor who sells on a low deposit will do so only if he is getting more than the property is worth.

It is, of course, beyond the scope of this report to go into this problem in detail. Special attention has been directed to this problem by the Auckland City (No. 1) Adjustment Commission.

Generally speaking, the Commissions reported that, except as to isolated cases, the adjustments would enable the applicants to retain the possession of their properties. Some of the Commissions in their reports advert to the possibility of a financial crisis in about three to four years' time, when some thousands of mortgages will fall due together. The matter of refinancing will constitute a problem that will require careful consideration.

In the majority of cases advances on first mortgage arranged on a trustee basis proved sound, and, while there were remissions of interest in some cases, the property generally sustained the amount of the principal sum due under the mortgage. Second mortgages advanced on the usual basis of 50 per cent. of the equity over and above the "trustee" first mortgage were not so well secured, and it was found that arrears of interest had to be remitted, and, as was estimated by one Commission, about one-half of the principal sum had also to be written off. Advances on a more liberal basis on second mortgage or on third mortgage, and sums due under agreements for sale and purchase, suffered fairly severely. These amounts, however, usually represented unrealized and unrealizable vendor profits.

One Commission was impressed with the number of private investors of small means in short-term mortgages. It thought that many mortgagees of that type were attracted by the higher interest-rate and by the nominally limited term of the advance—that is, they placed considerable reliance and importance on the covenant to repay the principal sum at the expiration of the term. The Commission thought that reliance on repayment of the principal sum at the expiration of the term of the mortgage was unwarranted, as the mortgagor could not make arrangements for repayment or refinancing. The short-term mortgage is undoubtedly an expensive form of financing.

All the Commissions were of the opinion that mortgagors had in general honestly tried to meet their commitments.

I make one final observation on this subject. If in the future extensive price fluctuations occur—that is, if there is a period of high prices and high wages, followed by a period of lower prices and lower wages—a problem identical with that at present under discussion will recur in connection with mortgages on properties purchased during the period of the high price-level. The prices of farm commodities are reflected in all spheres of economic life, and if these are fixed at the rates ruling during the last war the prices of town properties will inevitably soar, and immediately those farm prices drop the mortgage structure will once again become an acute problem.

FARM LANDS (GENERAL OBSERVATIONS).

One preliminary observation is that the only true basis on which to value farm lands is that of production value. It is to be noted here that valuations under the Valuation of Land Act are made on the saleable value, and, although the productive value and the saleable value must tend to coincide, a system of valuing farm lands on any basis other than that of productive value is a potential cause of embarrassment and difficulty. It must be remembered, however, that the practicability of assessing productive values is dependent upon the holding being an economic one.

In practice it has been found that an uneconomic holding will in some cases sustain practically no value at all, or at the most will support a value less than the value of the same land if farmed and valued as a portion of an economic area. Many of the Commissions commented on the unduly small areas on which farmers were attempting to obtain a living (this is unrelated to what is known as the "small farm" scheme) and on the fact that many of these areas were Crown settlements. The solution to this problem is amalgamation, and where possible the Commissions attempted to arrange this. Commissions, however, could only effect amalgamation in respect of Crown lands.

The Commissions comment on the grave problem threatened by the tendency of marginal lands to go back to second growth because of the impossibility of top-dressing at the present wages-level.

They also make the point that many farmers are gravely handicapped by lack of capital, and have insufficiency of machinery, and poor housing and other facilities.

FARM LANDS (THE BASIS OF THE ADJUSTMENT).

The basis of the adjustment was actual costs ruling at the time of the adjustment and a hypothetical income assessed at the average of prices ruling for the eight-ten years ending 30th June, 1935.

It is pertinent here to observe that figures relating to the relative levels of export income and of the farm-expenditure-price level can, in respect of adjusted farm lands, be fairly used only if a comparison is made between the relative movement of both since the adjustment. In making any comparison in future it must be remembered that the gap between export prices and internal costs which existed at the time of the adjustment has been closed by that adjustment.

The export-price level in respect of (1914 = 1000) pastoral and dairy produce only was as under:—

1926	..	..	..	1407	1931	..	..	..	881
1927	..	..	..	1396	1932	..	..	..	795
1928	..	..	..	1553	1933	..	..	..	792
1929	..	..	..	1492	1934	..	..	..	995
1930	..	..	..	1168	1935	..	..	..	979

The average export-price level for the ten years was 1145.

As already mentioned, farm costs were those ruling at the time of the adjustment. The adjustments were made during the second half of 1937 and during 1938. The farm-expenditure index figure for 1937 was 1450 and for 1938 1500, and the expenditure level on which the adjustments were made was between 1450 and 1500, say, 1475.

In working any future comparison between farm income and farm expenditure, at least so far as adjusted farms are concerned, the assumption must be that there is equality at the point where the export-price level in comparison with 1914 at 1000 is 1145·8, and the expenditure level on the same basis is 1475.

FARM LANDS (THE SUCCESS OF THE ADJUSTMENT).

The continued success of the adjustment made is dependent on maintaining the same balance between income and outgo as that on which the adjustments were made. If over a period of years income stays still and costs rise, or if the rise in costs is greater in proportion than the rise in income, the adjusted farmers must fail.

The adjustments reduced mortgages to the value of the land, but they did not create an equity in favour of the farmer.

It must be remembered, therefore, that, even if over a period of good years and bad years a proper proportion between prices and income is maintained, the farmer will still be in grave difficulties if the bad years come first, for the reason that he has no equity on which to finance himself over the early bad years. The position in the first years of the adjustment might therefore easily prove critical or even fatal to the bulk of the adjusted applicants.

FARM LANDS (THE PRESENT).

It was intended in this report to make some observations on the question whether any further relief was required on account of the conditions ruling since the adjustment.

The outbreak of war has rendered it unnecessary to go deeply into this question. The general observation is, however, offered that all the evidence available to this Department leads to the belief that up to the present adjusted dairy-farmers are, or ought to be, on a sound basis. The position of sheep-farmers in the North Island producing coarser wools, while less favourable than that of the dairy-farmers, should still be reasonably sound, but the farmer producing merino or half-breds has undoubtedly passed through considerable difficulties since the adjustment.

Some very general comparison of export prices since the adjustment is given by the following figures for June years :—

Year.	Export-price Level.	
	Meat.	Wool.
1926	2003	1477
1927	1779	1566
1928	1763	1873
1929	1833	1779
1930	1768	1120
1931	1419	736
1932	1183	641
1933	1093	621
1934	1415	1218
1935	1577	814
Average for ten years ending June, 1935	1583	1184
<i>Since Adjustment.</i>		
1938	1725	1254
1939	1677	1104
Average for two years since adjustment	1651	1179

But note must be had of a drop in exports due to bad seasons, facial eczema, &c., and to the restrictions in the export of meat. And it must also be kept in mind that, while the figures for meat are true export prices the effect of the restrictions on export has to some extent depressed local values in certain classes of stock.

As an illustration the following figures relate to the prices for sheep in the Wellington District (Palmerston North sales) :—

	Adjusted Price.	1937-38.	1938-39.
Breeding-ewes—	s. d.	s. d.	s. d.
Two-tooth	26 3	32 0	27 6
Four-tooth	23 5	29 0	24 6
Six-tooth	21 5	28 0	23 0
Four years	19 5	28 0	22 0
Five years	17 1	24 0	18 0
Six years	14 5	17 9	11 9
Culls	10 7	9 6	6 0
Wethers—			
Two-tooth	16 10	19 6	15 0
Four-tooth	17 8	21 0	17 6
Hoggets—			
Ewe	21 4	27 0	23 6
Wether	16 10	19 6	17 6
Lambs—			
Ewe woolly	15 5	20 6	16 0
Wether woolly	13 0	15 9	11 9
Fat lambs	20 6	..	19 3
Fat wethers	23 3	..	17 11
Fat ewes	15 6	..	8 6
Station cattle—	£ s. d.	£ s. d.	£ s. d.
Cows	5 1 0	6 15 0	5 7 6
Three-year heifers	5 4 9	6 12 0	5 2 6
Two-year heifers	4 12 0	6 1 6	4 14 6
Yearling heifers	3 13 9	4 11 6	2 10 6
Weaner heifers	2 17 6	3 12 6	1 15 6
Cull cows	2 16 3	3 17 0	2 5 0
Four-year steers	7 9 6	11 2 0	9 2 6
Three-year steers	6 8 0	9 10 0	8 11 0
Two-year steers	5 14 6	7 17 6	6 8 0
Yearling steers	4 9 0	6 5 0	4 2 6
Weaner steers	3 8 0	4 2 6	2 12 6
Dairy cattle—			
Herd cows	8 13 0	9 7 6	10 0 0
Three-year heifers	7 11 9	8 5 0	8 12 6
Two-year heifers	6 17 0	7 12 6	8 2 6
Yearling heifers	4 7 3	4 16 0	5 5 0
Weaner heifers	2 19 6	3 7 6	3 15 0

Some details in relation to the prices of wool are given as under :—						£	s.	d.
Weighted average price per bale for ten years ending 30th June, 1935						..	14	6 8
Price per bale, 1937–38						..	14	6 2
Price per bale, 1938–39						..	13	0 11

Turning to the question of the present level of farm expenses it is not proposed to go into detail, but such statistics as are available do not disclose any substantial increase in costs since the adjustments.

FARM LANDS (THE FUTURE).

Under the war commandeering of exports it is presumed that prices will be determined by agreement with the British Government.

If the commandeering prices are not sufficient to pay the average prices on which the adjustments were made, plus an adjustment to equal any rise in costs, then the adjusted farmers must be in difficulty and production impaired. If, however, the prices show a greater margin over costs than that on which the adjustments were based, *land-values will rise*. A small advance would afford the benefit of enabling farmer mortgagors to establish an equity, but any substantial advance would result in a desire to capitalize it, and the inevitable subsequent fall will precipitate another crisis in farm mortgages. A sound basis would be to pay a price equal to the adjusted price, plus a sum to represent any increase in costs since 1938, and to build up a fund to stabilize that price after the war.

But it must not be overlooked that the adjustments did not provide farmers with any substantial margin of equity, and if they are denied a price increase on which to create an equity they must be assured of a continued future price not less than the adjusted price, plus or less a sum to compensate for any rise or drop in outgo.

An equity could be created for adjusted farmers either—

(a) By paying a greater price than that demanded to satisfy the requirements stated above ;
or

(b) By the State assisting these farmers to increase production.

This latter course would be preferable in every way. If something of this kind is contemplated, the services of the Adjustment Commissions might be of value in advising on questions arising out of any operations necessary to the increase of production.

APPRECIATIONS.

This report would be incomplete without my paying a respectful and appreciative tribute to the courtesy of the Court of Review, whose exceedingly helpful and co-operative attitude throughout greatly contributed to the successful and smooth administration of this complex and uncharted field of legislation ; also without my acknowledging the valuable services rendered by the various Adjustment Commissions, the members of which, without exception, approached their task with a high sense of public duty and a readiness to help the country in a time of acute difficulty.

I should also like to place on record the Department's appreciation of the capable and courteous manner in which Registrars of the Courts, Secretaries of Adjustment Commissions, and others associated with them, undertook the heavy extra burden of work that arose out of the mortgage-relief legislation. Without wishing to make invidious distinctions, I feel I should make special mention of the zealous and able assistance rendered to me by Messrs. P. H. Wyld and N. C. O. Butcher, of Head Office.

B. L. DALLARD, Under-Secretary.

Memorandum for the Hon. the Minister.

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