The New Zealand Valuer

Vol. 25, No. 11 SEPTEMBER, 1984

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Valuer

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Articles, Research Papers and letters are welcomed. They should be typewritten, and addressed to the Editor. Biographical notes of the anthorts) should be sent with the manuscript. Opinions expressed by the Editor and contributors are not necessarily endorsed by the New Zealand Institute of Valuers. The Editor reserves the right to accept, reject or abbreviate material at his discretion. Businessletters, subscriptions and advice of changed address, should be sent to the General Secretary. Deadline 2 months prior.

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Editorial Comment

COMPULSORY CONTINUING EDUCATION:

For too long now, the responsibility for members participating in "continuing education" programmes has been left in their own hands.

Your Institute runs excellent seminars both at national level in conjunction with the Annual General Meeting, at branch level, and in conjunction with one or other of the three Universities conducting approved valuation courses.

Those attending seminars on a regular basis cannot fail to note that it is the same valuers attending year in and year out. It might well be said that those attending are the true valuation professionals, concerned to improve their standards, learn new techniques, brush up on old techniques, and keep abreast of changing legislation. They are probably also the members who need rather less the extra education that these seminars provide.

What of the others - the faces never seen? Many of the members who do not attend seminars are those most in need of further education. Look at the date on your Degree, Diploma or Professional Qualification. If that date was recorded 10 or more years ago and you have not actively attended seminars, courses or workshops, then you are probably no longer adequately qualified to practise in today's property market.

The property market has changed dramatically in recent years. There have been numerous changes to legislation, new techniques of valuing have been introduced, and the wonder technology of the age, the computer, is now with us. Forward thinking valuers have been attending seminars in order to keep abreast of changes in the industry, and particularly computers within the past few years. They have already invested in their future, and a number of valuing practices have purchased and are actively using computers in their day-to-day work.

A valuing qualification and a registration certificate should no longer be considered a meal ticket for life. The achieving of these qualifications is the first step, and it must be followed up by experience and continuing education.

Over the next five years those valuers who sit back and do not further their education are in serious danger of losing touch with the valuation market, particularly the investment scene. The New Zealand property market is achieving a degree of sophistication which threatens to leave many valuers foundering. Even in the residential sector new techniques will be developed in conjunction with computers. Your clients will soon expect a more sophisticated approach to valuing and will expect you to prove your values, using more sophisticated interpretations of the available evidence.

The New Zealand institute of valuers is accepted as the institute that provides authoritative valuations in New Zealand. To maintain that position it must look at its continuing education programme and if necessary an alteration to its rules. Members of the Institute must continue to meet a certain level of knowledge and expertise during the whole of their practising careers. There are always those in any organisation who must be forced to raise their sights, and valuers are no exception. How often at seminars has stinging criticism been levelled at valuers' work, only for the speaker then to acknowledge that he is preaching to the converted. A trite phrase, but there appears to be a ready acceptance that the members of our Institute who attend seminars on a regular basis are least in need of further guidance and knowledge.

To illustrate how far some of our members have to go, you should now consider the paper presented by Mr M. J. G. McIntosh at the Rotorua Conference in April. Mr McIntosh is the General Manager of Allied Mortgage Guarantee Company Limited and sees many valuation reports. He makes a number of criticisms of valuers' work but none so telling as his comments on Section 10 of the Trustee Act. Valuers at that seminar watched in varying degrees of disbelief as he projected onto the screen example after example of valuations where a Trustee Certificate was provided in a report addressed to:

The owner,
The vendor,
The purchasers' or
The vendor's agent.

It is difficult to know what possible excuse could be given for such a basic lack of knowledge

Your Institute would not be breaking new ground if it insisted that its members undergo a continuing education programme and meet certain standards year by year. A guideline recommendation of the Society of Accountants requires that public practising accountants receive approximately 30 hours of tuition a year. Members of our Institute may well say that this is not compulsory education. However, the accountants are expected to attend and they do attend.
Our expectations should be as high.

A positive attitude must be taken by your institute, and by those members to whom compulsory continuing education is anathema.

To those members of the Institute who would in any event seek to maintain and improve their professional standing . . . let them assume that the word "compulsory" is not included.

To the members who criticise, . . , the word "compulsory" has been suggested specifically to meet their needs.

And to those valuers who don't agree that there is a need for continuing education . . .

"Say not thou, What is the cause that the former days were better than these? For thou dost not enquire wisely concerning this."

New Zealand Institute of Valuers Annual Seminar

April 1984

Speakers and s

G. W. F. THOMPSON:

Mr Geoff Thompson, L.L.B. was Parliamentary Under-secretary to the Minister of Internal Affairs. is the Member of Parliament for the Horowhenua Electorate, and was elected to Parliament in 1978. Prior to commencing his career in politics he practised as a Barrister and Solicitor in Levin and was formerly a Crown Counsel in Hongkong.

Mr Thompson presented his paper on "The Government and the Professions" in a manner which was both informative and illuminating. He devoted considerable time to Government attitudes on such matters as compulsory unionism and compulsory membership of professional organisations, as well as professional practices which restrict competition.

Mr R. E. HALLIMAN:

Mr Roger Hallinan, Dip.U.V. is Junior Vice-President of the Institute and was elevated to Fellowship status at the April 1984 Council Meeting. Roger is a senior partner in the Christchurch f i rm of Telfer Hallinan Johnston & Co. and holds a Diploma in Urban Valuation which he completed in 1966.

Roger Hallinan provided a written commentary on Mr Thompson's address and this commentary is reproduced immediately following that paper.

Mr M. J. G. McINTOSH:

Mr Graeme McIntosh is the General Manager of the Allied Mortgage Guarantee Company Limited and has held this position for 12 years of the 14 years it has been in operation. Prior to that Mr McIntosh was involved in all facets of f i re and general insurance. As the head of an organisation which is a major lender throughout the country, he is in a particularly good position to give valuers an insight into what is expected of them when preparing valuation reports for mortgage purposes.

Mr McIntosh produced a number of examples illustrating his criticism of some valuers' work with particular reference to non-compliance with the Trustee Act 1956, and reports where one figure only was given and no allocation of the valuation between land and improvements.

Mr R. M. McGOUG :

Mr Bob McGough, Dip.U.V., F.N.Z.I.V. is the Past President of the Institute, Councillor for the Auckland Branch for a number of years, part time Lecturer in valuation at Auckland University and the senior valuer in C. F. Bennett (Valuations), Limited. Bob has had a special interest over a number of years with students at Auckland University and in his written commentary expressed his concern and that of the Institute at the criticisms raised by Mr McIntosh.

Mr JUSTICE SINCLAIR-.

Mr Justice Sinclair is a Judge of the High Court, based in Auckland. He has been on the bench for six years and was previously in private practice.

Mr Justice Sinclair outlined in his paper the Court's expectations of a Registered Valuer, explaining the privileged positions that a valuer enjoys by being classified as an expert witness.

He concluded his paper by listing eight points valuers should consider when giving evidence before a Court or Tribunal.

Mr D. G. CLEMENS:

Mr Doug Clemens, L.L.B. is a partner in O'Sullivan, Clemens, Briscoe and Hughes, Rotorua. He qualified as a Barrister and Solicitor at Canterbury University and joined O'Sullivans in 1967. For the past 10 years he has specialised in. conveyancing and commercial law.

Doug Clemens is a Past-President of the Rotorua Law Association and a Council member of the Hamilton District Law Society.

His paper deals with the professional responsibility of a valuer, standards expected, and negligence by valuers, illustrating his points by reference to case law where appropriate.

Mr M. M. MAN EIS:

Mr Murray Mander is currently Valuer General of the Government Valuation Department, and as a result of this appointment is automatically the Chairman of the Valuers' Registration Board.

Since obtaining his qualifications as a valuer through Lincoln College Murray Mander has been employed continuously with the Government Valuation Department, enjoying rapid promotion in keeping with his dedication and proven ability.

His topic, "The Professional Standards of Valuers" is particularly apposite at a time when the Registration Board has been dealing with an increasing volume of complaints lodged by the public and valuers alike. He stressed that the role of the Board is not to decide the "correct" value as would be the case for a tribunal, but rather to determine the competency of the valuer.

Professor B. D. HENSHALL:

Professor Brian Henshall was born in England and trained as an aeronautical engineer. In 1960 he went to the U.S.A. and worked in the aeronautical industry before coming to N.Z. in 1973 as Head of the Department of Management Studies at Auckland University. He was commissioned to look into tourism and do a study for the N.Z. Travel Association, and it is with this background that he has prepared his paper entitled "Tourism - its impact on the community" dealing with tourism as a social and economic force.

Mr P. L MAHONEY:

Mr Peter Mahoney, Dip.U.V., F.N.Z.I.V. was registered as a valuer in August 1967 and commenced practice first on his own account in 1970, being later joined by Mr R. P. Young before two Auckland practices merged to form the existing professional practice of Mahoney Young and Gamby, Registered Valuers, Property Consultants and Property Managers.

Mr Mahoney did not present a written commentary. He commented on the meaning of Tourism - the social force being the first important issue. People are the social force, and it is the people who create value through their work habits and leisure aspirations.

Mr K. E. F. GRENNEY:

Mr Ken Grenney is a member of the Securities Commission, Deputy Chairman of the Development Finance Corporation, Chairman of the Sheraton in Auckland and the Sheraton in Rotorua, and a member of many boards of public companies.

Mr Grenney was born and educated in the United Kingdom, and is an economist by training. He presented a paper on the growth of tourism in New Zealand, stressing the potential of that industry and how as New Zealanders we tend to underrate our country and its attractions.

Mr J. P. COYLE:

Mr Jim Coyle, A.N.Z.I.V., Registered Valuer, has been the Corporate Property Manager for Lion Brewery in Wellington for the past eight years.

Jim Coyle was formerly a valuer in the Valuation Department and was employed for 20 years with the Wellington City Council, 10 years of these as Wellington City Valuer and Property Manager.

Jim Coyle's written commentary is not available for printing.

Dr. A. D. MEISTER:

Dr Anton Meister is Reader in Natural Resource Economics at Massey University, Palmerston North. He was born in Holland and graduated Master of Agricultural Economics at Lincoln College. He obtained a Doctorate of Agricultural Economics from Iowa State University, U.S.A. He joined the lecturing staff at Massey in 1976.

Dr Anton Meister is principally concerned with the way in which changing land uses affect our economy.

He believes that the market system should work as fully as possible with the least amount of Government interference. The time of gradual land changes is past. We live in a world of fastchanging community values and rapid changes in land use patterns.

Mr P. E. TIERNEY:

Mr Peter Tierney, Dip. Valuation and Farm Management, F.N.Z.I.V. is a partner in the valuation practice of S. Morris Jones, Tierney and Green of Tauranga. He is a Past-President of the Institute and a former employee of the Government Valuation Department. Peter Tierney has recently been appointed to the Valuers' Registration Board as an Institute nominee on the Board for a term of three years from 1st May, 1984.

Peter Tierney did not present a written commentary but drew attention to the changes occurring in the N.Z. farming scene, with diversification into horticulture, deer, goat, fitch and rabbit farming based on economic grounds.

He commented that the suggestions of Dr Meister however were more radical and mav_ not be as readily acceptable to the N.Z. farmer.

Mrs E. KENNEDY:

Mrs Elspeth Kennedy is an Associate of Renouf Partners, Sharebrokers, Wellington. She is an acknowledged expert in the field of Local Government Finance, with over 30 years' experience.

In 1982 Mrs Kennedy became the first woman metropolitan member of the N.Z. Stock Exchange. She is an alternate Director of the Kingsgate International Corporation N.Z., adviser to the international company of L. M. Ericcson, the Swedish Communication Conglomerate, and a member of the Nelson Regional Development Council.

Mrs Kennedy presented a paper on the financing of a major hotel development. During the course of her delivery she emphasised that the tourist industry should become a major earner of overseas funds within the next 5-10 years.

Mr N. K. DARROCH:

Mr Neil Darroch is an Associate of the N.Z. Institute of Valuers, a past Auckland Branch Chairman and the Auckland principal partner in the national practice of Darroch Simpson and Company.

Neil Darroch did not present a written commentary. He provided a valuer's viewpoint on the valuation of hotel properties, and stressed the requirements of a large capital outlay and the management expertise required to run a successful large hotel business. Hotels depreciate rapidly and become unfashionable. They are not necessarily profitable, particularly in the early years. Mr Darroch then went on to say that the valuer's biggest single problem is obtaining accurate information on hotels for valuation purposes.

Membership

ADMITTED TO INTERMEDIATE:

Ashby, M. J.	Canterbury/Westland.
Bentley, N. R.	Central Districts.
Brady, G. J.	Waikato.
Collins, K. R.	Nelson/Marlborough.
Dickson (Ms) C. E.	Waikato.
Eggnik, A. H.	Central Districts.
Funnell, P. H.	Central Districts.
Hargreaves, N. R.	Otago.
Kerr, A. J.	Wellington.
Malwoski, W. A.	Wellington.
McClennan, G. L.	Auckland.
Paterson, W. S. T.	Central Districts.
Power, M. P.	Rotorua.
Puketapu, H. J.	Canterbury/Westland.
Redden, S. J.	Auckland.
Saunders, D. J.	Waikato.
Scown, P. G.	Central Districts.

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Allison, A. B.	Wellington.
Bennett, A. M.	South Canterbury.
Clark, M. A.	Auckland.
Cleverley, C.	Wellington.
Holdgate, T. R. M.	Central Districts.
Jackson, P. N. L.	Otago.
Johns, D. A.	Central Districts.
Lambert, M. G.	Auckland.
Mann, G. L.	South Canterbury.
Moriarty, P. M.	South Canterbury.
O'Connell, M. J.	Waikato.
Southwick, P. B.	Central Districts.
Sutherland, L. A.	Auckland.
Van Kempen, A. P.	Southland.

RETIRED:

Monson, L. C.	Nelson/Marlborough	(Rule 14(1)).

RESIGNED:

Skelcher, M.	(Student) Overseas.

PRELIMINARY NOTICE

1985 Annual General Meeting and Seminar

Venue: Palmerston North Centennial Convention Centre.
Dates: Monday 22nd-Tuesday 23rd, April, 1985.
Full programme to be advertised in the December 1984 issue of `The Valuer'.
Accommodation: Fitzherbert Motor Inn.

Enquiries to: SECRETARY, CENTRAL DISTRICTS BRANCH,
P.O. BOX 952,
PALMERSTON NORTH.

Examining the Role of Compulsory Professional Associations

Address by Mr G. W. F. Thompson, M.P. Horowhenua, Parliamentary Under Secretary to the Minister of Internal Affairs, to Valuers' Institute AGM, Rotorua, 16 April, 1984

Thank you for the invitation to attend your conference and to be given this privileged position of leading off your day's discussion on the profession, on ethics, and standards that should be applied. However, I'm a little disconcerted to see a reference in your brief programme to my speech topic being "The future of the Profession."

I think it's rather presumptuous for a Member of the Government to tell you what that should be but I am happy to deal with issues of professionalism which could well lead you to consider the wider topic of your future – in an organisational sense.

I see this as an opportunity to put a general background position, pose a few questions and hopefully stimulate a wide-ranging discussion and continuing self-examination.

Last year's land-mark change to union law in removing the unqualified preference clause is now being absorbed in practice. The catchcry of the debate was freedom - the freedom to associate in a working relationship, providing for an independence of choice on the part of the worker.

But freedom is a much maligned expression - it's justified abuses and excesses down the ages. In New Zealand it's been kidnapped by a new political party trying to prove it has something new to offer.

However, the debate was really about compulsion - about being forced against one's will to join a union as a condition of having a job. We believed the mood was right to challenge that compulsion and the new law, making union membership voluntary, is now in place.

There is considerable historical irony in the union arguments about the move. Unions as we know them developed in the 1870's because laws were passed removing liability for prosecution for conspiracy on the grounds that the union's purpose was in restraint of trade. They were given freedom to associate - but 110 years later they argue for compulsion to associate. The Opposition tortured the proposition further bly asserting that unionists should not be forced to be free - the Government was denying them the right to be compelled! - how far we've travelled in a century!

Freedom -of association, for any purpose so long as the object of the association is a legal one, will continue as a corner-stone of our society.

The continuing debate is about compulsion and the voluntary unionism issue has given rise to considerable soul searching about how far the principles exposed should be taken. The most obvious areas are in respect of compulsory professional associations and compulsory levies.

Many professional associations are, quite correctly in my view, examining their constitutions and practices. The Government as a logical consequence of the steps already taken is examining the issues also. We hope to have a full report for consideration soon. My address will cover much of the ground, but I am not able to give a definitive Government position - rather some personal opinions based on the evidence gathered to date.

On simplest terms, many professional associations have reacted as if threatened - that some protected constitutional position will be removed by Government decree. On the one hand I think this incorrectly interprets Government's role and on the other undervalues the role of professional bodies.

The Government exists basically to protect people. How far it goes is a matter of political debate, but this Government's objective is to reduce wherever possible intrusion into people's lives by acknowledging that the individual is in the best position to know and do what is required to protect his interests. The Socialists believe the State should tell the individual what's best for him.

Our position has been one of support for the integrity and independence of professional associations - their self-regulation and development of professional interests. In my view, we are unlikely to act in any way to undermine the professional associations' capacity to undertake their appropriate role - the examination will be more tightly focussed on activities that have developed within the compulsory association but which could be seen to be beyond the appropriate role.

The second preliminary point about the professional associations' reaction to the Government study relates to their purpose and their essential differences from trade unions - unions being the focus of the Government attention in the compulsion debate.

Trade Unions developed to protect workers from exploitation, particularly sweated labour, and banded together to improve working conditions and generally secure, through collective bargaining, a fair deal from the employer. But they now exercise substantial political muscle on issues far removed from employment conditions. They have set themselves up as a major opposition to the Government outside the Parliamentary arena and based this on a protected position provided by the unqualified preference clause. This could not be sustained.

Let there be no doubt though that the trade union movement has a very important function, to look after members' rights in respect of their

working conditions. Since the new legislation we've put in place they must now prove their values in this role to attract and retain members. That's a fair challenge.

Compulsory professional associations on the other hand argue that the principal justification for their existence is to provide protection for the public to ensure the standard of service provided by someone professing expert knowledge in a particular sphere, is satisfactory.

Actually a profession is rather hard to define and one generally deals with the issue by specifying attributes which characterise professions.

Membership of a profession generally confers a higher status in society but with that is a requirement that certain standards of expertise and behaviour will be exercised. So, for those occupations which aspire to professionalism the broad descriptive attributes should be noted:

Service to the public by someone in possession of expert knowledge is at the core of the very idea of professionalism. The professional possesses knowledge in specialised areas beyond that available to the public at large.

They are generally autonomous in the exercise of their specialist knowledge - not subject to the control or direction of other people, apart from their own self-regulation in the form of an association with their professional colleagues. These establish codes of ethics and standards of acceptable practice and behaviour.

Medicine and law are recognised as two professions which have probably developed these attributes to the highest degree and have thus exercised a powerful influence on other occupational groups which aspire to professional status. There is a different approach by each to their organisation as professionals but the basic criteria are similar.

What the Government is now doing, in undertaking the study on the consequences of offering freedom of association to unions is analysing the activities of the compulsory professional associations. It is also looking at other compulsory associations and other related matters, such as compulsory levying which is common in the agriculture and horticulture fields.

However, there is another justification for the spotlight going onto this area. The Government has *been* very actively pursuing policies to improve competition in the economy. Industry studies and the restructuring of major industries have been undertaken to improve both exporting and internal competitiveness. The wage/price freeze was needed amongst other things to re-establish the international competitiveness of our export production. It is entirely appropriate therefore to look at practices in professions and trade which inhibit competition - and some compulsory professional bodies have operated with mechanisms to restrict competition.

The study examines the constitutions and practices of the main professional and is analysing the characteristics exhibited.

In this way the functions stand out and the relationship of these to the compulsion exercised over practitioners in the individual associations is highlighted.

The functions group readily into regulatory practices, the structure of their officialdom, the funding base and the trade practices exercised. The five major professional associations being so examined are Accountants, Lawyers, Surveyors, Pharmacists and yourselves - the Valuers.

Position papers on the organisation of each have been discussed and agreed with each association and the important features tabulated. It is proving a quite lengthy but fascinating exercise as there are important differences emerging which will have to be taken into account, in any recommendations.

Your cry might initially be well, why bother, or what business is it of the Government anyhow?

It's not an issue that we can sidestep. The logical consequences of the philosophy we acted on last year have to be run to earth. It may well have been a Pandora's Box that was opened but there's every indication that the scrutiny now being applied will have significant benefits to the public - and that's in essence what professionals should be seeking ultimately.

As in so many situations a structure tends to be built, addition by addition, each individually justified and grafted on but often without a review of the total picture or an acknowledgement of the original objective or limitations.

It is becoming quite clear already that the self-examination being undertaken by many associations is leading to the questioning of dubious trade practices. A good example is the proposal of the lawyers to drop their time honoured prescribed Scale of Minimum fees. This will occur from the 31st October next when market forces will operate.

You Valuers will be dropping yours too. I understand, from 31st July next you favour a recommended guideline which will be subject to the Commerce Act. There are other examples in the trade practice area which could be questioned too. I'll come back to these.

I do not think the Government should avoid scrutiny of the principles, now the issues are out in the open. It always has a general responsibility to act in the public interest and it is specifically involved in this issue because of the authority it gives to professional associations through the public Acts of Parliament providing the relevant conditions for the organisations. In other words, protection has been given but not without a right of review exercised in consultation with the associations.

There have been some expressions of outrage that a review should be done at all but I think this reflects little more than the usual desire to cling to the comfort of the status quo.

Questions have been raised, from within professional associations about the compulsion, for instance, by some younger members of the legal profession who express resentment at being forced to join the Law Society as a condition of their

being allowed to practice. What needs to be examined are the reasons for compulsion and how these should be distinguished from trade union association.

As I outlined earlier the provision of service to the public in respect of some specialist knowledge is the core element. The associations primarily exist to ensure that standards are maintained and the public are protected. A privileged position is provided and requires the exercise of a particular degree of skill and the application of certain ethics - to ensure that the confidence of the public is maintained in the members of the profession.

For instance, the medical profession's code of ethics starts with the words:

"The medical profession occupies a position of privilege in society because of the understanding that a doctor's cause is to serve humanity" - and then goes on to spell out the Hippocratic Oath.

The Accountants introduce their Guideline on Professional Ethics by reference to their service to the public - which would have general professional application - using these words:

"Persons who pursue a vocation in which they offer their knowledge and skills in the service of the affairs of others have responsibilities and obligations to those who rely on their work. An essential prerequisite for any group of such persons is the acceptance and observance of professional ethical standards . .. "

The Valuers' code of ethics also picks up the broad principles behind those words. You will know the precise details. The other main professional bodies work from the same base so it's not too difficult to conclude that the protection of the public in the provision of service is the recognised key feature - and that trade practices which could be seen as restrictive and inhibiting competition are secondary.

Having justified, I hope, the current scrutiny by Government and hinting that different attitudes could apply to different functions, I will return to the analysis that is being applied.

The regulatory role of the professional bodies referred to can cover the following items:

Registration;

The application of discipline to members;

Maintaining professional standards.

The trade practices area generally covers fee setting and advertising restrictions.

Examination of the need for compulsion to enable regulatory functions to be exercised can be dealt with by illustrations from amongst the main professional groups referred to.

The objective of protection of the public is obvious in the case of pharmacists. For over 100 years legislation has underwritten a controlling authority undertaking regulatory functions. Now the Pharmaceutical Society of New Zealand has 3,200 members who are compelled to register and pay an annual practising fee. Dispensing pills and potions has to be done expertly or there could be medical chaos.

There seems to be little argument amongst pharmacists that compulsory membership of the society is an essential prerequisite to maintaining professional standards and thus safeguarding the interests of the public in relation to pharmaceutical services.

The society undertakes a continuing education role and provides discipline within the profession.

However, there is another body, namely the Chemists' Guild, which is voluntary and which looks after the business end of pharmacy practice.

Thus the Pharmaceutical Society primarily exists to register pharmacists who satisfy certain standards and to exercise discipline in the maintenance of professional standards. Those functions fall squarely within the primary professional association objective of public protection and compulsory membership of that body to ensure control over all who seek to exercise the specialist expertise is unsurprising. The Chemists have an option to join the grouping which is business orientated, and this dual approach seems to have given rise to little complaint.

I earlier referred to the lawyers as one of the foundation professions - maybe not the earliest in common parlance - but one that has developed through an association of common interests from hundreds of years ago. The Law Society reacted very sharply to the Minister of Justice's comments about the possibility of voluntary membership and a separate Statutory council to exercise the control functions.

However, they also acknowledge that the winds of change are blowing through their august Chambers, promoted I'm sure by the general philosophical examination which is now going on. Acceptance of the need for change is now evidenced in what I characterised as the trade practices area - the Law Society has announced that the minimum scale is being abolished from 31st October, without guidelines being suggested and consideration is being given to permitting card type advertising to illustrate the range of skills available. These changes will require quite a time to be absorbed but I'm sure they will benefit the consumer, in the long run.

These follow on other changes, accepted within the legal profession now in respect of disciplinary procedures. For some time now lay observers and lay members of District Law Society Committees have been operating to increase public scrutiny of the profession.

The Law Society now argues strongly for retention of its basic structure and compulsory membership. It says that its functions are fundamental to the concept of professionalism - undertaking a certification of qualified lawyers for the purpose of practising professional skills, exercising discipline over members with a code of professional ethics, and operating a fidelity fund. It also has some other functions such as promotion of continuing education and sponsoring libraries.

The question was really raised whether there could be an independent registration council to undertake these professional functions or whether

the Law Society as constituted should continue to do so. The current study will address that.

Those two examples of compulsory professional associations bring me, in a very roundabout way, to the Valuers, but I'm sure many of the points made about the pharmacists and lawyers will be familiar to you, as you've been undertaking your own self-examination.

There's been a working party to review the Valuers Act since October 1982, and it is hoped that the formal revision of the legislation will be pursued next year.

For this reason your principal Conference issue is timely and I hope you can face and answer some of the difficult questions and be able to present an up to date and firm view in the months ahead.

Your President responded to the voluntary unionism questions when they were racing around last year by acknowledging the interests of the public as the primary concern.

As already indicated, I think this is correct.

The Valuer's profession is controlled by a split arrangement - a statutory board to undertake registration, issue annual practising certificates and exercise disciplinary powers in respect of registered valuers. This Board has a close relationship with the Institute of Valuers, membership of which is compulsory for registered valuers. The Institute provides essential assistance to the Board, especially in the matters of discipline and I understand it is instrumental in handling the majority of cases which involve the code of ethics, and the hearing of complaints.

Membership of the Institute follows from registration by the Board although there is provision for admission of non-registered persons who satisfy certain criteria. The Institute undertakes a wide range of functions although probably only two, education and professional practice, seem to fulfil regulatory roles which tie into the traditional professional functions for which compulsion can be justified.

Your leaders justify compulsory membership of the Institute in respect of all its functions on the basis of cost spreading and greater efficiency, the ability to effect changes amongst the whole profession speedily and the importance of maintaining control through members elected from the profession. However, the result is not a two tier structure identifying one compulsory and one voluntary body like the medical profession. There is a mixture and a questioning of this arrangement seems appropriate to me.

I think this conference is an ideal opportunity to discuss the roles of the Board and the Institute and to deal with a question mark occurring to me over whether there is justification in having two separate but interdependent bodies. It's not my place to suggest any conclusion to you on this issue and the Government certainly isn't advancing any position. Notwithstanding that the format is of recent origin there's no doubt about the change in philosophical conditions and within this environment the questions should be dealt with.

There is a related point you would probably consider - the intrusion of Government. Your Board has a majority of persons who are appointed by the Minister. While a close relationship with Government agencies is important for the exchange of information, some may see the control functions undermining the independence of the profession. The question is whether the professional integrity/protection of the public role could be achieved through entirely internal control.

So the process of self-examination of structure could well suggest different approaches to your constitution. We would be very happy to hear the results of such an investigation from you - together with any other relevant ideas on this general subject.

You can see I am not, in this speech, offering you my particular blueprint for your future, or proposing any Government imposed changes to the fundamental professional parameters. I think you'll have an interesting time exploring, as we have, some of the pathways down which the voluntary unionism issue takes us. So long as the essential elements distinguishing professional associations from trade unions are kept in mind I do not think there should be too much confusion about end results.

However, before finishing it is appropriate to cover briefly in a speech like this another related case of compulsion which is now under challenge.

Payment of compulsory levies to bodies which include political activities within their functions is much closer in character to the voluntary unionism issue than the constitutions of professional associations. I'm told there are over 40 compulsory levies collected by bodies in the agriculture/horticulture field alone. The most notable is the deduction of a compulsory lc on every lamb killed here for funding of Federated Farmers. It covers a substantial part of their operating requirements, but only about 70% of farmers are members. This raises the question whether distinctions can be made in their activities between those having a clear public interest, and arguably justifiable as paralleling the basic role of professional associations for which compulsion is acceptable, and other work, such as political lobbying, improving farmers' personal interests and the like. In this latter respect the comparison with union work is more obvious and the farming group will have to deal with the philosophical consequences.

I gather work is being done now on separating out the various functions to measure against the newly identified compulsion paramaters.

It's an interesting consequence of the debate last year. However, it does illustrate how difficult and long dormant issues have been raised and philosophical challenges extended, so I congratulate you on being prepared to launch this process of self-examination. It is not an easy exercise, the logic may be unpalatable, but I hope my few remarks will help clarify some of the issues.

EXAMINING THE ROLE OF COMPULSORY PROFESSIONAL ASSOCIATIONS

Commentary Paper by Roger E. Hallinan, Registered Valuer, A.N.Z.I.V.

Having now established the necessary legislation to permit freedom of association or voluntary membership within trade unions the Government is now considering whether it should extend the concepts of freedom of association. It is undertaking a study of compulsory professional associations, including our own, as one of the logical consequences of their philosophy.

The need for this study would tend to imply that presently there exists an unreasonable element of compulsion, and that there exists considerable resistance to that compulsory membership, either from the public at large or from members within existing compulsory associations. I doubt that either is the case. I doubt that there is any significant public pressure for change. I also doubt that the examination of compulsory professional associations is indeed a natural follow-on from the trade union situation.

I am reassured to note however that the Government has an open mind and is essentially only "investigating" and "examining" the subject at this stage. As Mr Thompson suggests, the Government isn't yet advancing any position on the subject. Note that it is merely considering the matter.

Institute Membership Composition

The N.Z. Institute of Valuers has a total membership of just over 1600 if we exclude life members, retired members and students. Of the 1,600 members about 1,050 or 65% are registered valuers. Of these 1,050 registered valuers there are about 600 holding Annual Practicing Certificates issued by the Valuers' Registration Board. In terms of the Valuers Act 1948 these 600 members are compulsorily required to retain membership of the Institute. Essentially therefore only 600 or 37.5% of total membership are compelled to maintain membership in terms of the Act. The remaining 450 registered valuers either (i) maintain registration and/or membership as a condition of employment or (ii) voluntarily choose to maintain membership for the advantages membership of the Institute confers.

Within the total membership of 1,600 there is the further group of non-registered members who are classified as "intermediate" members. These members voluntarily apply for membership and are admitted by the Institute provided they have the necessary academic qualifications. There are presently 550 odd voluntary intermediate members. Many of these intermediate members are striving to achieve registration but I suggest the majority have no such ambition but choose to retain membership, again for the benefits membership offers.

Although not strictly "members" there is a further group which the Institute currently classifies as "students". With the winding down of the Institute's examination system there are now few real "students". About 90-100 "students" are not actively seeking advancement within the profession. Once again these students voluntarily choose to be part of our Institute.

The final group loosely associated with the Institute are the several hundred university students studying at universities around the country, as a consequence of the university system now being the exclusive means of admittance to the Institute.

In summary therefore only 37.5% of membership is compulsorily required to retain Institute membership in terms of the Valuers Act 1948. The balance of the membership is either voluntary or required to retain membership as a condition of their employment

Valuers Act Review Committee

As you will know, Mr Thompson, the Valuers Act Review Committee, convened by the Minister in Charge of the Valuation Department, has been working over the last year or so. This Committee comprised representatives of the Valuation Department, Valuers Registration Board and the Institute of Valuers. In reviewing all aspects of the Act the Review Committee concluded that there were compelling reasons for retaining compulsory Institute membership for registered valuers, particularly in order to make their Code of Ethics enforceable.

Function of Valuers Registration Board and the Institute

The Valuers' Registration Board and the Institute presently have entirely distinct functions. As a statutory body the Board conducts its business and affairs independently of the Institute. One of its principal functions is to register valuers having regard to qualifications, experience, integrity and character. A second principal function is in respect of discipline and in this area the Board have very wide powers. Clearly the Board exists to protect the public, but in so doing it also protects the registered valuer against unwarranted claims or allegations from members of the public. There may well be a case however, if one follows through the Government's philosophy, for lay members or lay representatives on the Board. Few of us would have any objection to that.

Amongst other functions the Institute also has a significant role to play in the area of discipline. The Code of Ethics, which has evolved over the last 45 years, primarily relates to professional standards, in quality of reporting and protection of the public. The Institute has the right to investigate complaints and report to the Registration Board and in particular is instrumental in handling the majority of cases which involve the

Code of Ethics. Generally however public complaints are passed directly to the Board whereas complaints from within the profession are dealt with initially by a standing committee of the Institute. Subsequently the Institute provides considerable assistance to the Board in matters of discipline. If the Institute did not share the disciplinary burden the task of the Board would be multiplied enormously.

Few members of our Institute would question the wisdom and integrity of the Valuers' Registration Board, or the Government appointment nature of those members. I would not regard that as being undesirable Government "intrusion".

Protection of Public Interest

A further point of Mr Thompson's address I do want to briefly touch on is the Government's intention of "reducing intrusion into people's lives by acknowledging that the individual is in the best position to know and do what is required to protect his interests". I suggest that people are often very poorly equipped to protect their interests when it comes to property matters. Particularly over the last 15 years the public have demonstrated their need for professional assistance by employing a registered valuer. As a result the profession continues to grow to serve the needs of the public. The registered valuer nevertheless is not in a strong privileged position except where his services are required in relatively few pieces of legislation. The registered valuer seldom has a monopoly in valuation matters and there exists a wide range of "experts" on the subject including solicitors, accountants, real estate salesmen, bank managers, etc. This situation should be contrasted with some of the other professions who do have a virtual monopoly. For instance, one cannot obtain pills or medication from anyone other than a pharmacist, or obtain a heart transplant from anyone other than a surgeon.

General Comment

I believe regulatory functions of the Institute and Board should continue to be subjected to a compulsion element, as at present, and as with the pharmacists. As an Institute we are already tackling the objections expressed in relation to the "scale of charges" and fees setting generally. There are obviously other matters in the trade practices area related to the concepts of restrictive practices and inhibited competition.

Challenge to the Institute

Mr Thompson has invited us, indeed challenged us, to react to the Government's voluntary unionism philosophy and the allied competition phiosophy. He asks that the Institute examine the present constitution and practices and be able to present an up to date and firm view in the months ahead and furthermore he would be happy to hear the results of our self-examination. On behalf of members of this Institute I accept the challenge. Members should consider the proposals and forward comments to Executive so that they may present the Institute's views to the Government. All we ask of the Government in return is that they consider the various submissions on the subject and, for other than political reasons, act appropriately.

VALUERS' REGISTRATION BOARD APPOINTMENT

The Minister in charge of the Valuation Department has appointed Mr P. E. Tierney to the Valuers' Registration Board, in accordance with the N.Z. Institute of Valuers' recommendation, for a period of three years commencing 1st May, 1984.

Peter Tierney is currently a senior partner with S. Morris Jones Tierney & Green, Public Valuers in Tauranga. He graduated with a Diploma in Valuation and Farm Management from Lincoln College in 1952 and later completed the N.Z.I.V. Professional Urban Examinations. He was registered as a valuer in 1959 and worked continuously in the Government Valuation Department from 1952 to 1976, his last position being as Supervising Valuer in the Hamilton Inspectorate from 1971 to 1976.

Peter Tierney has held the position of Branch Councillor firstly for Waikato from 1973 to 1976 and later for the Rotorua/Bay of Plenty Branch from 1978 to 1983. He was elected to Vice-Presidency of the Institute in 1977 and held the position of President from 1979 to 1981.

Expectations of a Registered Valuer

by Mr M. J. G. McIntosh, General Manager, Allied Mortgage Guarantee Co. Ltd.

I am most grateful for the opportunity to address your Conference on the subject of our expectations on the role of the Registered Valuer and to discuss with you some of the areas of difficulty we experience when looking at the work of your members.

I am very conscious of the fact that I am speaking to a professional body of people who are much experienced in the work they are doing. I, of course, do not have any professional qualifcations in this area and you might therefore consider it a little impertinent that I should dare to offer any criticism of the standard of professionalism and the quality of the work we see in conjunction with mortgage and guarantee applications put to us.

It might be helpful if I were to spend a few minutes giving you a little of the background to Allied Mortgage Guarantee and the rather special nature of our operation in this country. I think that in turn might be helpful in giving you an understanding of why we have certain expectations given that this may not always be so for other lenders or guarantors.

AMG was established some 13 years ago by the founding shareholders, New Zealand Insurance, South British Insurance, National Insurance and UDC Finance. Following upon the merger of NZI and South British some three years ago the shareholding has now reduced to three and each of the shareholders - the NZI Group, National Insurance and UDC - hold one-third of our issued capital of $2 million dollars.

I have been with the company since its incorporation in August 1970 and it's been very rewarding and interesting to see the evolutionary path we've gone down in our attempts to provide a service and facility which meets the needs of mortgage lenders and borrowers in this country.

Initially AMG was to act purely as a guarantor for other lenders' loans - that being the prime function of most mortgage insurers established overseas. When a lender considers making a high ratio loan, that is in excess of two-thirds of valuation, the need for additional security in the form of a guarantee is of course quite obvious. We were a little disappointed in those early years to find that notwithstanding the availability of a guarantee which sets out to eliminate the risk factor in high ratio lending, very few lenders were in fact in a position to make larger than normal loans. That probably stems of course from the scarcity of mortgage finance which this country has experienced for many years and the much less effective role which Building Societies and other traditional providers of home finance have played in this country. For that reason, AMG found itself being asked to insure only those loans which had some other aspect about them where the lender felt the need for additional protection and to that extent, as an insurer, we were being selected against. Only indifferent or poor-quality loans were being insured, the better ones the lenders saw no need for a guarantee and I'm sure you will all appreciate that with that kind of a flow of business AMG could have found itself paying a lot of claims without the benefit of a good volume of other claims-free business.

For that reason, we decided back in 1972 to get into the business of originating loans ourselves. This we did by way of small second residential mortgages following the traditional State Advances first mortgages. My mind goes back to the very first ones we did where I think the SAC loans were around about $7,500. There would be family capitalisation of maybe $1,000 or so, there'd be cash available from the home buyer of $1,000 or $1,500 and the shortfall, which needed to be met by second mortgage was somewhere in the vicinity of $1,500 to $2,000. AMG encouraged applications for that kind of second mortgage from the legal profession on the condition that the borrower would pay a guarantee fee in consideration of which, the mortgage would be insured by us and then made available for sale to the investing public.

Now, that was the start of what today is quite a large-scale mortgage banking operation. In all our advertising and publicity material regretfully we can't use the term mortgage bankers as there is a special prohibition on the use of that word unless formally registered as a bank but in international terms the function of mortgage banking is one which AMG follows very closely in this country but with the additional advantage that not only do we warehouse mortgages in anticipation of the investing public's needs but we also provide a corporate guarantee as to the performance of the borrower.

From those early days we have enlarged our activities to the extent that first and second mortgages on all kinds of real estate property have been considered by the company and to give you an idea of the extent of our present lending notwithstanding the recently introduced interest rate controls, for the year to 31st March last, just over $43 million was loaned being some $10,000 up on the 31st March, 1983 year which in turn has progressively increased over previous years.

I mentioned before our primary role as an insurance company and in terms of the Insurance Companies Deposits Act, we have deposited with the Public Trustee at Wellington some $500,000 to meet our obligations under that Act. As an insurance company you may well ask what level

of claims do we meet in the course of a normal year's trading. I'm very pleased to say and I'm sure my shareholders are equally pleased, that our actual losses arising from underwriting mortgages have been modest indeed. In fact prior to 1979, that is the first eight years of our operation, there were no claims. In 1979 and 1980 we paid claims - each of approximately $14,000 - 1981 $12,000 and in 1982/3 and the year just ended there were in fact minor profits in our claims account resulting from the resale of properties either acquired in earlier accounting periods or in the same period which were subsequently resold at a profit. Having regard to our current annual premium income, which in the year just ended has exceeded $2.1 million, that looks to be a rather unusual situation for an insurance company most of whom have a difficulty in achieving an underwriting profit although investment profits seem to carry the day.

For a mortgage insurer, the incidence of serious claims tends to have longer cyclical peaks and hollows.

Sooner or later however, we know we will be faced with claims and the likelihood is that they will be substantial. For that reason the establishment of good reserves in these better years is a very wise precaution. In addition, as an insurance company we in turn reinsure some of our liabilities with international groups who specialise in this area. This is achieved through reinsurance treaties underwritten by companies in the United Kingdom, Sweden, Denmark, Switzerland, Germany and Australia, nearly all of whom have local branches in New Zealand.

I'd now like to turn to a philosophical consideration on which my company would be at some variance with other mortgage lenders in this country and in particular the legal profession. Possibly the traditional practice for solicitors and many other lenders to advance only to 60 or *66%* of the valuation gives rise to an almost total reliance on the valuation of the real estate itself and far less regard, if any, for the substance of the personal covenant. You will all of course know that a mortgage is written in a manner which deals with the personal covenant as the prime security and then almost as an afterthought goes on to say - `and for the better securing of this loan I hereby give you a charge over a particular piece of real estate.' In our view that is the way sound mortgage appraisal should be considered, but it is evident to us that for many lenders there appear to be only three essential items before a loan is made.

1. Is there a demand.
2. Do we have the funds; and
3. Is there a valuation to support the loan and relieve us, the lender, of any liability in the event that this loan turns out to be a bad one.

I know I'm generalising when I speak along these lines because of course there are some lenders who, like ourselves, would consider that even a 20% loan to valuation mortgage is still an unsound transaction where there is serious doubt regarding the servicing capability of the borrowing party.

We never cease to be surprised at the lack of enquiry into a determination of the worth of the personal covenant by some lenders. This is especially true, I regret to say, with our legal friends as evidenced by the considerable number of transactions put to us over the years where the most basic rules for mortgage appraisal appear to have been ignored. In submissions made by the Law Society to the Securities Commission over the forthcoming Contributory Mortgage Regulations, the Society has pointed to the few instances if any where actual losses have been sustained on mortgage lending by their investing clients other than from reasons of fraud or misappropriation which of course were the responsibility of the Fidelity Fund, suggesting as they do that a solicitor's judgement has been sound. With all due respect to the legal profession, we think that this has been more by good fortune than skilful lending as we have been living in an inflationary situation for many years where the passage of time has covered up any bad loan decisions simply because the property has appreciated significantly in value during the term of the loan.

So - what I'm leading to is an examination of these two important aspects when lending on mortgage. How good is the borrower's promise to pay and how good is the safety net - that is the value of the real estate in a foreclosure situation.

During the last 12 years as Chief Executive of AMG I've had three opportunities to travel extensively internationally looking at the activities of mortgage insurers in various parts of the world and in conjunction with that, the quality of the real estate valuations employed by lenders and mortgage guarantors in conducting their business. So that I may establish fairly early in the piece that I do intend to throw some bouquets and not all brickbats today, let me assure you that I think our standards in New Zealand are very high in comparison with Australia, the United States and Canada, the three areas in particular where I've had the most experience.

Reverting however just for a moment to the importance of the personal covenant in mortgage lending, I'd like to tell you briefly about a catastrophic situation which has recently occurred in Denmark. Here the property market has suffered enormous losses. That factor coupled with widespread unemployment has created, particularly in the rural area enormous losses which have been sustained by mortgage lenders, mortgage insurers and the reinsurers who were underwriting the transactions. The Danish system however, relies exclusively on the real estate and totally ignores the quality of the borrower. When a mortgage loan is first granted over a new property the amount of the credit is assessed in relation to the value of the real estate at the time and the borrower who wishes to acquire the real estate sells the mortgage bond on the market using the proceeds to finance himself into the property. In the event that he wishes to resell

the property at a later date, the mortgage debt previously arranged is readily transferable without regard to the qualifications of the new owner. That is where the difficulties in Denmark have arisen. The bottom has now fallen out of the property market and when recourse against the mortgagor is taken, his substance is insufficient to meet the mortgage debt and a loss is sustained.

Valuation as we all know is not an exact science. Professional opinion no matter how well researched will vary from individual to individual and this is of course apparent to all who are in the business of valuing or reviewing the work of those who appraise property. Equally as difficult is an accurate analysis of the worth of a borrower. In the same way that property values can significantly change through inflation and other economic considerations, so too can the worth of a borrower. At the time a loan is made he may look just fine on paper, have no adverse credit history yet fall upon disastrous times in the future which in turn will affect his ability to service his loan. We go to quite extraordinary lengths to construct budgets to determine servicing capability and many loan applications to AMG have been unsuccessful, not because the security of the real estate offered to us was inadequate but because we had doubt about the borrower and for that reason the application was rejected.

I mentioned earlier in my opening remarks the peculiar role of AMG as a mortgage banker and insurer whereby we are giving an unqualified guarantee to those investors who buy our own insured mortgages, that not withstanding default by a borrower during the term of the mortgage we will automatically credit to the investor's bank account quarterly interest as it becomes due. It will therefore be very apparent to you that with such a commitment, which currently amounts to close on $4 million each quarter, we wish to be rather careful in our selection of those to whom we loan money. Our judgement to date appears sound in view of the negligible default rate we have experienced and as a consequence, there have been few occasions when it has been necessary for us to put your valuations to the test when we compulsorily dispose of a mortgagor's property.

However, that may not always be the case and I hope you will excuse the time I have spent in painting the background to our operation and our philosophy on these two important characteristics of mortgage lending namely the assessment of the personal covenant and the fair value of the real estate. Because we know that sooner or later mortgage lenders will be exposed when property values are significantly depressed we must always look very carefully at the valuation supplied to us and it's this area that I would now like to spend the remaining part of my address.

The first aspect is qualifications. Is the valuer registered and is he experienced in the area in which he is valuing? For example - does he hold rural qualifications when valuing a rural property? As a general rule, AMG will not accept valuations from real estate agents or directors of Building Societies unless they are appropriately qualified. Neither will AMG insure a loan for another lender or advance on loan ourselves in the absence of an up-to-date, that is not older than six months appraisal from a registered valuer. Government Valuation alone, whilst of interest to us, does not provide sufficient information for a mortgage banker to in turn offer the ultimate investor. You may be interested to know that prior to approving any loan or guarantee application, an experienced AMG employee will always complete an inspection of the security property and photograph it from its most and least favourable angle.

Independence. It should be unnecessary to state that before a valuer accepts instructions, he must be in a position where his independence and integrity is not in question. Not only must he know that he is acting independently but he must be seen to be in that role. Those firms of real estate agents who have valuers on their staff pose difficult questions for AMG where it comes to our knowledge that the real estate firm is involved as agent in the transaction which we are being asked to finance. I recall from my personal knowledge of a few years ago a large firm of real estate agents in Hamilton who had a valuation division. Their policy was that their valuers could not accept instructions to value a property the sale of which involved any commission agent of that same firm and I think that's the way it should be. Accordingly, AMG would find unacceptable a valuation furnished to us in these circumstances and we would require a check valuation.

I would now like to come to the other question of independence and that is whether a valuer can be said to be acting independently when he furnishes a report with a full trustee recommendation and yet acknowledges in the opening remarks of his valuation having received instructions from the owner or intending purchaser of the property. I know that this has been a subject which has been given a good airing in your 1983 issue of `The New Zealand Valuer' and I must say I found the article most helpful and could pick little fault with it. As the article correctly points out, not all prospective lenders are trustees and therefore do not need a valuation which makes a recommendation in terms of the Trustee Act. Therefore it seems to me that it is really only a matter of habit that so many valuers insist on concluding their reports with a trustee recommendation when the circumstances of their instruction, preclude such a recommendation.

In correspondence I am having with one of your members who has also quoted to me the December article, parts of which he does not agree with, he claims it would be improper for a valuer to take positive action to check the status of his instructor and suggests that in practice it's quite impossible for him to be aware of the circumstances for which his valuation may later be used. In a recent letter he goes on to state that the valuer is required only to comply with his legal and professional obligations in terms of the Valuers Act 1948 and other relevant legislation but is not persuaded that his responsibilities necessarily extend beyond that.

He takes the example which has been the subject of our correspondence suggesting it can forceably be argued that there is no way in which he would be able to establish the purpose for which the report and recommendation were required. For instance, it is entirely possible that the mutual client may have been intending to take a personal interest as mortgagee or alternatively that he may have been trustee for a mortgagee legally quite distinct from himself.

The valuer goes on to express the view that these are matters which neither are nor should be the concern of the valuer and it might be proposed that any such concern would be professionally improper.

In practical terms I find it difficult to accept that any person seeking a valuation would take offence at any question posed of him by the valuer as to the purpose for which the valuation is required. Surely the valuer must know whether he should be preparing a report for mortgage valuation purposes containing a mortgage recommendation or merely a market valuation to assist the owner in determining what would be a fair price to list his property. If the question elicits that the former is the case, whereupon the valuer should now know that if he accepts such an instruction he cannot be seen to be acting independently of the owner, the simplest answer which I know is adopted by many valuers is to say to the party seeking the valuation – `I would be pleased to do the work but it would be best if you had your solicitor instruct me'.

In that fashion not only does the valuer have the benefit of having his fee guaranteed by the lawyer but may also address his report to the lawyer acknowledging that it was he from whom his instruction originated. As an end-user of valuation reports, a valuation coming to AMG in that fashion would normally be acceptable to us as a mortgage lender without the absolute insistence that it contains a trustee recommendation. We have some 5,000 investment clients some of whom are however acting as trustees for other party's funds and if those trustees wish to ensure that their liability in that role is not endangered, they will wish to see that the valuation appears to them to conform with the requirements of the Trustee Act although I'm bound to say that some seem quite careless in this regard.

One example which comes to mind from last year was the matter of a very large first mortgage advance contemplated by a pension fund well in excess of a half a million dollars to be secured over a rural property. The pension fund had provisionally accepted an out-of-date valuation by a valuer who did not have rural qualifcations and which was addressed to the owner and acknowledged instructions from that source. AMG was asked to guarantee the loan and being dissatisfied with the valuation report in its present form requested, via the Pension Fund, to have the Valuer update his report and address it to the Fund. This was duly arranged and we were concerned to note that when the new valuation was received, only the date and addressee had been changed. Since the date of the original report, some rural properties had suffered significant reductions in market value and we had expected some specific comment as to whether this property had been similarly affected.

We then initiated a number of enquiries which disclosed that the valuer was indeed lacking in rural qualification although believed he had sufficient experience. The property was situated in an area many miles from the valuer's own address, no sales evidence had been quoted and although not disclosed at the time, the valuer proved to be the brother-in-law of the owner. A check valuation did however show that the original valuation was not excessive there being a difference of only some 6 or 7% possibly well within the range of professional opinion. The reason I relate this story to you is that in my view there were several things wrong with the valuer undertaking this particular instruction all of which will be apparent to you.

Attached to this paper are some examples of reports which illustrate some of the above points.

Perhaps I should leave the point of independence at this stage and move on to other things but in summary what we are saying is that we believe a valuer should be wholly independent when undertaking a valuation for mortgage purposes irrespective of whether a trustee valuation is necessary.

Sales Evidence. Of the hundreds of valuation reports which come across my desk in the course of a year, I must say I am particularly impressed with those which go to the trouble of listing comparable sales evidence. To me, this demonstrates beyond doubt that the valuer has adequately researched his records all of which I appreciate takes time but the inclusion of sales evidence adds to the totality of an impressive valuation and one upon which, as a lender and guarantor, we feel we can rely with safety. Failure to include sales evidence does not necessarily mean that the exercise has not been done but it does create a doubt. In some cases there may be no comparable sales evidence and the report should state that is the case. In these modern days with all the office facilities and electronic gadgetry available to us all, particularly wordprocessing, I don't think it's too onerous to try and build in reference to sales evidence.

Breaking down a valuation into land and improvements. For some twelve years now we have unsuccessfully attempted to persuade almost all the valuers in Christchurch to split their valuation up into these components. If the valuation is known to be for AMG they do so willingly but it seems that for every other lender it is not done as a matter of course and this creates quite a problem for us in that irrespective of whether we are first or second mortgage lenders we need to know that there is an adequate sum insured on the improvements. How can we know that unless the figure is split? That requirement surely cannot be peculiar to AMG and I hope if there are any valuers here today from Christchurch they will reconsider including the split-up automatically in all their work irrespective of who commissions the valuation and if they

disagree with our requirements I would be very happy to discuss the matter in our question and answer session at the end of this address.

Further illustrative examples are included at the end of this paper.

My next point relates to income-producing properties where quite frequently we are offered only a bricks and mortar valuation. A most recent example related to a motel where the valuer had not attempted any exercise to determine the economic return, had not commented on the occupancy rates achieved nor in fact made any reference to the motel industry in the area and whether this motel in particular was doing better or worse than others. Instead, we received what would otherwise have been a very good bricks and mortar valuation but totally ignored the income aspect or what the possibilities were of converting to an alternative use or selling off units individually if so required. To take an extreme view, what if no-one had slept in the motel since it was constructed? Could a bricks and mortar valuation then be sustained? We took the matter up with the valuer concerned who rather reluctantly completed a half-hearted attempt to tackle the other side of the valuation and we concluded he thought our request was quite unreasonable as `everybody knew the motel was a thriving business'. Unfortunately, we didn't know that and the application failed as we had far better deals offering to us at the time.

How long should a report be? Again we observe from the work which comes to us from all over New Zealand, enormous variations in both the standard and the lengths of reports. Naturally, we do not expect that a report on a single unit $50,000 residential property will command as much time as an industrial complex worth $1 or $2 million but there should be some relationship. We note that many rural valuations we receive on properties approaching half a million dollars can vary from a meagre two page appraisal from a rural valuer, typed on what is clearly a very old-fashioned machine, to a twenty page report complete with photographs, boundary and paddock scheme plans, a search of the title, comparable sales evidence and a well-researched history of the property's production capability and in particular the skills of the owner.

As a professional body, I appreciate you cannot dictate how many pages must be contained in a report nor its exact format. However, I would like to suggest for your serious consideration that the Institute have their members adopt a standard schedule to summarise each valuation in a format which will enable the consumer to readily find the information sought instead of looking for it on the front page, in the middle or the end of the report as is so frequently the case. If you can agree on the content of such a schedule it should also serve as a useful checkpoint for the author to ensure that nothing is accidentally omitted. The adoption of such a practice should in no way limit or dictate what individual style a valuer may wish to adopt - heaven forbid - but at least it would present some degree of uniformity which we feel would benefit everyone concerned.

Disclaimers. We have noticed an increasing practice for the inclusion of disclaimers in valuation reports over the last one or two years. This was the subject of correspondence with your National Institute in November last and in the reply it was suggested that this development probably arose out of two considerations. The first being legal advice obtained by individual valuers and secondly a requirement of professional negligence insurers. While I am not in a position to comment on the first matter, enquiries made of two companies who are providing professional negligence cover do not confirm that the inclusion of a disclaimer is a condition precedent to a valid professional negligence policy. The growth in the use of disclaimers of course appears in other professional areas - one of which is accountancy.

From the consumer's viewpoint and having particular regard to valuers' disclaimers, a real difficulty is created if, as a prospective lender or guarantor, we are in receipt of a valuation containing a disclaimer the wording of which purports to relieve the valuer of any liability to any party other than to whom the valuation was addressed. What must we then do before we may rely upon it? Certainly, in the form in which most disclaimers are written our company nor any other prudent lender could proceed without having the disclaimer waived. We seek to do this on numerous occasions and always a request to the valuer concerned is met willingly. That however does involve a delay in the processing of the application and creates an additional administration function.

The question I would like to ask this Conference is why, if you are so willing to waive a disclaimer upon request, is it inserted in the first instance? What are you really achieving? It can be interpreted that you may lack confidence in the quality of your work. That in turn may not fill the reader with much confidence. In any event there appears to be considerable doubt as to the effectiveness of a disclaimer.

You will be aware of cases which have resulted in successful claims against valuers by parties into whose hands valuations had fallen and the defence that the valuer did not have a duty of care to a third party was not sustained.

My understanding is that provided a reasonable standard of professional care has been exercised at the time a valuation has been given, there should be no liability if it subsequently turns out - with the benefit of hindsight - that the valuation was not correct. Without labouring the point any further it is assumed that all diligent valuers will attempt to reach an appropriate standard on any assignment undertaken and the addition of a disclaimer should be unnecessary.

Attached are some examples of the varying forms which disclaimers take.

Unlawful alteration of valuation reports. Regretfully, some of the instances which have been reported overseas have occurred in this country in recent times and I am referring to the doctoring of a valuation report with a view to make the

proposal more attractive to a prospective lender. My company has been involved in two instances of this nature which has led us to adopt a company policy of requiring to sight the original of the valuation report at some stage prior to the settlement of our loan or the granting of a guarantee. In these modem days with photocopy machines producing material as good and sometimes better than the original I believe everyone should be on their guard to prevent unlawful tampering with reports. You may think that we are going to an extreme in suggesting that in multiple page reports the valuer's initials should appear on the bottom corner of each of the pages. How otherwise can we be sure that what purports to be page 8 has not in fact been substituted?

Some solicitors have suggested that our requirements to sight originals were rather extreme but when shown the evidence in our possession they quickly agreed that our requirements were wholly reasonable and gave a measure of protection to the valuer and the lender.

Let me conclude this address with a reaffirmation given to you earlier, that in spite of all I may have said of a critical nature I perceive our standards in this country are better than most other parts of the world and I believe as a profession you will want to see them remain that way.

We must however as a protection to ourselves and our investors, continue our practice of self-inspection obtaining check valuations in circumstances where we may have some hesitation regarding the professional standards of any particular valuer or firm or in any other situation where we need to be reassured that the vital component of independence has been scrupulously observed.

Examples follow selected from those provided by Mr McIntosh when delivering his paper. Names and addresses have been expunged.

Trustee Certificates.

20th June, 1983.

Licensed Real Estate Agent,
P.O. Box 62,

PALMERSTON NORTH.

Dear Sir,

Re: VALUATION: AVENUE,
PALMERSTON NORTH.

In accordance with your instructions I have this 20th day of June, 1983 inspected the land and buildings situated at Avenue, Palmerston North to assess a Fair Market Price and value as security for first Mortgage.

I submit the following report:

LOCALITY:

Palmerston North is the main city of the Central District of the North Island, is connected to all City services, power, gas, water and sewerage. The building has been recently altered and lined, redecorated as Real Estate offices with Ranch sliders to the street. It is divided into eight offices, reception area, two toilets - wash hand basin, shower, electric hot water - kitchenette for tea facilities.

This area of Palmerston North is rapidly becoming Commercial and the demand for this type of office complex is high. The standard of maintenance is high.

VALUATION:

Land as improved site	$33,000
Building some 1,900 s. feet	32,000
Fences, parking and like	3,000
	$68,000

I consider a Fair Market Price to be SIXTY EIGHT THOUSAND DOLLARS ($68,000).

RECOMMENDATION:

Under the 1956 Trustee Act I consider that using Avenue, Palmerston North, a prudent investor could advance with safety a sum of FORTY FIVE THOUSAND DOLLARS ($45,000) by way of first Mortgage.

Yours faithfully,

15th November, 1983.

Mr J. W.
C/o. Owner,
HAMILTON.

Dear Sir,

In accordance with your instructions I inspected the property described below in order to make a valuation for mortgage purposes and herein submit my report and valuation.

Date Inspected: 10th November, 1983.

Address of Property: Corner , Hamilton.

Legal Description: The Freehold Estate in the land described ... as being . . . entirely from a return on capital viewpoint, I consider the Capitalisation of Income method usually more closely reflects the market value of such property. However, it must be borne in mind that my estimate of the percentages that will be allowed after the various three year periods have elapsed for each tenancy, may require some adjustment to fit the inflation rates that will probably be gazetted by the Government. Therefore, I consider that the subject property has a current market value of $195,000 (One hundred and ninety five thousand dollars).

LOAN RECOMMENDATION: I hereby certify that I consider the above property provides satisfactory security for an advance of trust funds on first mortgage up to a maximum of $130,000 (One hundred and thirty thousand dollars).

14th April, 1983.

Mr D. F. (Owner),
104 Avenue,
HAMILTON.

Dear Sir,

Re: MORTGAGE VALUATION OF TWO FLATS CRESCENT, SILVERDALE, HAMILTON.

According to instructions we have re-inspected the above property and now provide an up-dated valuation.

LEGAL DESCRIPTION:

Page 2

MORTGAGE RECOMMENDATION:

We consider the property provides adequate security for a first mortgage advance of Trust Funds of up to $28,000 (twenty-eight thousand dollars), being two-thirds of the above assessed value.

We certify that we have valued the property independently of any owners of the property and our recommendation complies with Section 10 of the Trustee Act 1956 and amendments.

2nd March, 1984.

Mr A. S. (Owner),
37 -
EASTBOURNE.

Dear Mr Loveday,

Re: 37 , EASTBOURNE.

As requested I have made an inspection of the above mentioned property with a view to advising my opinion of the market value and to also make a recommendation as to the amount which might be advanced on first mortgage. I report as follows.

THE DWELLING	$128,000	
GARAGE AND AVIARY	4,000	
		$132,000
LAND AND IMPROVEMENTS (as an occupied site)		48,000
		$180,000

ONE HUNDRED & EIGHTY THOUSAND DOLLARS.

If required I would recommend in accordance with the provisions of `The Trustee Act, 1956', that an amount up to a sum of $120,000 (One Hundred and Twenty Thousand Dollars) could be advanced on first mortgage on the security of this property with all reasonable safety.

Yours faithfully,

Mr G. (Purchaser),
5 Street,
Herne Bay,
AUCKLAND.

Dear Sir,

Re: VALUATION OF RURAL PROPERTY 39.7166 hectares HINUERA.
OWNED BY : BEING PURCHASED BY YOURSELF.

Further to your instructions I inspected the above property for the purpose of ascertaining its current market value for mortgage purposes.

I report as follows.

LEGAL DESCRIPTION

-3

MORTGAGE RECOMMENDATION

Pursuant to Section 10 of the Trustee Act 1956 I consider the subject property provides satisfactory security in terms of normal first mortgage lending for an advance of $273,000 (two hundred and seventy three thousand dollars) which represents two thirds of my valuation.

Messrs
Barristers and Solicitors,
P.O. Box
TE

Dear Sirs,

Re: T. L. & M. J. : VALUATION OF FARMING PROPERTY,

Further to instructions received from Mr (Owner), we have completed an assessment for mortgage purposes of the current market value of farming property situated on the outskirts of Borough. We inspected the property on the 20th June and report as follows:

VALUATION SUMMARY:

The property valued comprises a 17.8510 hectare (44 acres 0 roods 17.7 perches) property situated on S.H. 3 (Road) on the outskirts of approximately 2 km north of the Post Office and commercial centre. Part of the property's eastern boundary adjoins residential property fronting S.H. 3, the Mangapiko Stream forms the property's eastern boundary.

Contour comprises approximately 5.6 hectares of flats and 12.2 hectares of moderate rolling downs, the area of hay country is approximately 8 hectares. The land contains good quality pastures, the non productive area is limited to 1.2 hectares.

Approximately 15:4 hectares of the property has been fenced for deer farming with both traditional post, batten and wire and netting fences and five wire electric fences, remaining boundary and road fences are of main good standard. The property is adequately subdivided and watered, water is reticulated from the Te

LOAN RECOMMENDATION:

We certify that we have acted independently of the instructions received and have valued the property in accordance with the Trustee Act 1956 and its subsequent amendments. We consider that the property represents suitable security for a first mortgage loan of trust funds of up to two thirds of our assessed value or a maximum loan of $159,000 (One Hundred and Fifty Nine Thousand Dollars).

There are no special conditions required to secure the mortgage other than those usual and implied.

No Split of Valuation Figures:

We have not examined the ability of the applicant to service the required mortgage finance but presume that a potential mortgagee would establish the viability of the property given the proposed borrowing.

As requested, we would confirm our valuation of the above property (Ref: 1283/1582) - a copy of which we understand you do hold. We would re-iterate that we believe the property to have a market value for mortgage security purposes in the vicinity of $83,000 (EIGHTY THREE THOUSAND DOLLARS), representing suitable and adequate security for the advancement of ifrst mortgage funds up to the usual two thirds of our valuation or $55,000 (FIFTY FIVE THOUSAND DOLLARS).

We would confirm that this valuation, had we been instructed independently of owners would have been in compliance with the Trustees Act 1956 and amendments, as if we had been independently instructed.

We trust this certification is suitable for your purposes, however should you require further assistance, please contact the writer.

CHRISTCHURCH 5

of mortgage interest rates which in the absence of other forces should reduce the level of the yield required by purchasers. This appears to be occurring although only to a slight extent.

VALUATION:

After examining all aspects we value this property for mortgage purposes at NINETY FIVE THOUSAND DOLLARS ($95,000).

MORTGAGE RECOMMENDATION:

We consider under the provisions of the Trustee Act 1956 that the property is satisfactory security for a loan on first mortgage of an amount up to FIFTY FIVE THOUSAND DOLLARS ($55,000).

No Split-up.

Toilet:

Situated

The car garaging associated with the property comprises that of a single car garage, together with a workshop area, having an exterior sheathing of brick veneer, together with timber. It has a corrugated iron roof and concrete floor. Access to the garage being via a concrete driveway. The boundary fencing to the property comprises mainly of timber palings, there having been developed in the rear portion of the property a barbecue area. The section area being developed in a typical fashion by way of lawns, trees, shrubs and garden.

Condition of Improvements:

At the date of inspection of the property we would advise the dwelling appeared . to be in a basically sound condition and certainly provides for a very comfortable standard of residential accommodation. The interior of the dwelling has obviously been very well maintained with the section area being in a very neat, tidy and presentable condition. As the subject dwelling is constructed of permanent materials there is little maintenance required to it.

General Comments:

The property is typical of many found throughout the immediate vicinity offering an average standard of three bedroom accommodation. Throughout this location over recent times there has been a reasonable increase in the fair sale values of properties within the majority of properties in the location which are constructed of permanent materials having fair sale values in the vicinity of $50,000.

In considering the current fair sale value of this property for mortgage purposes we would advise that we are aware of a number of properties that have been sold throughout the immediate vicinity over recent times and have used these as comparisons with the subject property to arrive at our assessment.

Valuation:

Following our investigation and in consideration of sales of other properties generally throughout the area and in consideration of the standard of accommodation provided by the subject property, we would consider this property to have a current fair sale value as inspected by us of FIFTY THOUSAND DOLLARS ($50,000) this being exclusive of any chattel content.

Mortgage Recommendation:

Pursuant to the provisions of the Trustee Act we would advise that an advance on a First Mortgage basis of up to THIRTY THREE THOUSAND DOLLARS ($33,000) could with reasonable safety be made against the security of the property within referred and hereby declare that we have carried out this valuation and make this mortgage recommendation disregarding the owner or other parties interests in the property.

If there is any further information you require regarding this please do not hesitate to contact us.

Yours faithfully,

Letter and Examples of Disclaimers:

28th March, 1984.

Mr Graham Mackintosh,
C/o. Allied Mortgage Guarantee Co. Ltd.,
P.O. Box 258,
AUCKLAND.

Dear Mr Mackintosh,

Re: PROFESSIONAL INDEMNITY INSURANCE FOR VALUERS.

I refer to your telephone enquiry of 27th March, 1984.

Generally Professional Indemnity Insurers require valuers to make it clear in writing that

valuation reports do not constitute a structural survey. In our experience it is not usual for Professional Indemnity Insurers to endorse their valuations to the effect that the valuation is applicable only to the addressee.

Yours truly,

D. F. ADAM, Director.

Dear Sir,

REVALUATION OF 51
YOUR CLIENTS:

As requested, we reinspected the above property on the 22nd December, 1983 for the purpose of assessing the property's current fair market value for mortgage security purposes.

Responsibility in connection with this updating valuation report is limited to our mutual client and to that client only or to those who may be requested by that client to advance money pursuant to the recommendation contained herein.

We disclaim all responsibility and will accept no liability to any other party.

We previously valued the property on the 14th January, 1982 and a further update on the 12th November, 1982. We understand that you have copies of these reports.

Currently, the property is largely as previously described, however now being tenanted by a family who appear to be maintaining the property in average order.

Re: VALUATION RURAL BLOCK,
McQUOIDS ROAD,
YOUR CLIENT

Further to your instructions the above property was inspected on November 27th, 1981 and we report as follows.

NATURE OF PROPERTY:

The subject property consists of a three bedroom home with substantial unfinished extensions on a 4.3356 hectare site in the Flatbush rural area to the southeast of Papatoetoe. The home, while sound requires decorating through most rooms.

PURPOSE OF REPORT:

This report has been prepared for mortgage ifnance purposes and is not to be relied upon by any third party for any other purpose.

INTERESTS:

We note a caveat lodged by . We understand this has been lifted in the last few days. Another caveat lodged by the client is assumed to protect his interest. Our valuation assumes clear title free of restrictive encumbrance.

Dear Sir,

VALUATION OF No.
YOUR CLIENTS:

As instructed we reinspected the above property on the 16th March, 1984 and herewith report as to its current worth as mortgage security.

Our report and recommendation therein is to be used on behalf of our mutual client only. We disclaim all responsibility and will accept no liability if relied upon by any party other than the proposed mortgage or for any other purpose.

We previously valued the property in July 1981 and for your information attach a copy of this report and confirmation of value. For general details we refer you to this report and restrict the present information to changes that have occurred and to a reassessment of value.

NATURE OF PROPERTY:

A tidy 1950's bungalow utilised as a medical clinic being ideally suited as such immediately north of the Takapuna commercial centre.

ZONING:

The land is zoned Residential 3C in the Takapuna City Council Operative District Scheme. This is a high density residential zoning permitting one household unit to 250 mz of land area or two on the subject land.

During our appraisal, the extent of the land and nature of the buildings and improvements thereon was ascertained as accurately as possible from the descriptions available; however, this report does not purport to be a structural, site or engineering survey and has been prepared for the purpose of investment of mortgage funds and advising as to our opinion of the current market value. No responsibility is accepted in the event of this report being used for market purposes by any third party.

Accordingly we submit our valuation report as follows:

Editor's Note

In the June 1984 issue, there were two transposition errors.

On page 579 the two lines "the country is rather mountainous, particularly in the larger South Island which is dominated" should be transposed with the words "climate is essentially temperate and maritime in nature".

The decision of the Valuers Act Board of Appeal on page 589 finishes one paragraph from the bottom, ifrst column on that page, and the item on page 596 headed "Valuers' Registrations Board" should start on page 589 as a new decision and appear above the portion commencing subparagraph 1 "that he being an agent ... ".

There are no missed sections to the decisions.

EXPECTATIONS OF A REGISTERED VALUER

Commentary by R. M. McGough

To comment is to remark or criticise. To be a commentator is to be a speaker who comments on affairs of the day.

My first serious criticism of this paper is Mr McIntosh's statement in the introduction when he says that we might consider it impertinent that he should dare to offer any criticism of our standard of professionalism.

My answer to that is simply this. When any profession feels upset or insulted that any end user or client should dare to discuss problems and suggest improvements in the service it provides, that profession can no longer hold themselves out to be professionals.

That comment of course does not extend to tailoring the end result to the needs of the user.

Mr McIntosh then goes on to outline what is, in my view, one of the best backgrounds to the attitudes of lenders or Guarantors that I have read. It is not until you sit quietly, read it and digest it, that you understand the very valid reasons for both his criticisms and suggestions.

Unless you have been around for a while, you could not possibly recognise the significance of his outline of low claims to date followed by this:

> "For a mortgage insurer, the incidence of serious claims tends to have cyclical peaks and hollows. Sooner or later however, we know we will be faced with claims and the likelihood is that they will be substantial."

Mr McIntosh then gives us the warning that for many lenders, the criteria is simply this:

(1) Is there a demand for my money?

(2) Do we have the funds?

(3) Have we got a valuation and if so, the valuer can carry the can if things go sour.

That simple situation is so true that it is inherent that it should be remembered when discussing problems as he sees them later in his paper.

Without reading his introduction, it is impossible to appreciate his very valid suggestions. Perhaps it is fair to say that his Company has not been put to the test because he looks for defects in the advice on which he bases his decisions.

Having dispensed with his excellent introduction, I will now deal with the nitty gritty of his balanced suggestions and criticisms. For the purpose of debate I will deliberately pose questions to both the listeners and Mr McIntosh.

Valuation Qualifications:

Obviously Mr McIntosh relies on Registered Valuers and that is comforting. I am sure that his non acceptance of Government Valuations is not a criticism of same but must be coupled with his earlier remark that even a 20% loan on some properties would be unsafe.

What he is really saying is that he relies on us but unfortunately, some of us let the rest of us down when we undertake work for which we may not be qualified.

May I pose this question - Eliminating the obvious rural/urban distinction, within each of those categories there are many grey areas. How do you gain practical qualifications, which are far better than academic, without attempting something new within the limits of the obvious rural/urban demarcation?.

Independence:

I agree entirely with Mr McIntosh when he says "that not only must the valuer know that he is acting independently but he must be seen to be in that role".

I am perturbed at the number of examples Mr McIntosh has outlined to me of valuations with Trustee Recommendations certifying independence and those valuations being addressed to:

(a) The owner of a property.
(b) The vendor.
(c) The purchaser.
(d) The vendor's Agent.

I find it difficult to understand how any report containing a loan recommendation could have been made without the question of the purpose having been asked.

I put forward the following questions and comments:

1. Valuers in Real Estate Companies - as a general rule, we in our firm do not value where the firm is acting as the selling agent. However, my experience shows that some lenders, despite that knowledge, still insist on the valuer connected to that firm, completing the assignment despite the dangers.

   What under those circumstances is Mr McIntosh's reaction to my own firm's policy of including a statement that we are aware that a sale has been effected through the ifrm and readers of the report should be aware of that fact?

2. What is the reaction of a lender when the report addressed to an owner or buyer, primarily carried out for say advice on a purchase price states:

   > "As this valuation has been carried out for a prospective purchaser we are unable to certify independence for a mortgage recommendation. However, we would be prepared to confirm our valuation and independently certify a loan recommendation to any intending lender."

I think both we and Mr McIntosh must recognise that valuations may be used for the dual purpose of advice as to price and lending. Accordingly, provision must be made to avoid putting the public to the expense of more than one valuation fee.

Under this discussion of ascertaining the purpose of the valuation in order to certify independently, I would agree with Mr McIntosh that the easiest answer is to say to a party:

"I would be pleased to do the work but it would be best if your solicitor instruct me."

I would not however bet on his next statement that in that manner the valuer's fee would be guaranteed by the lawyer.

In general, I agree entirely with the discussion of independence but I would ask Mr McIntosh what his reaction is when all is revealed.

In this respect does he as a major user of valuation reports from around New Zealand have a good list of reliable honest valuers and a black list of the minority.

Sales Evidence:

My comment goes no further than this - No valuation can be carried out without considering comparable sales and with modern dictaphone methods, non inclusion of same leaves the valuer wide open for criticism. Inclusion of same obviously enhances his reputation.

Breaking Down of Valuation into Land and Improvements:

From Mr McIntosh's remarks the non inclusion of land and building value is a local practice and I certainly hope the remarks made will be heeded. Perhaps the most important point for valuers to note is the fact that your reports are read well beyond the local environment. Thus, local practice can be detrimental to the profession in its widest sense.

I agree entirely with his remarks seeking guidance on the likely earning capacity of income earning properties and his general comments expressing concern on the variation in standards of reporting. However, I must disagree with any suggestion to straightjacket reporting styles. I ifrmly believe that for the valuer, the report is his or her advertising and the higher the standard the better that advertising is.

Disclaimers:

Disclaimers worry me because I very much doubt if in the end result, they will prove to have any real effect. I believe that a well researched logical full report showing reasons, would be almost impossible to be shown as negligent. Is that not preferable to disclaimers?

Take for example the third party disclaimed. It could well be justified for example in a valuation carried out for a specific purpose, e.g. sale or purchase to an adjoining owner and thus including elements of special value. But surely not in the case of a normal mortgage valuation which nine times out of 10 will be used by persons other than those to whom it is addressed.

I would suggest that we have a good think about disclaimers. A sparing use might well see them recognised but use as normal practice may equally see them ignored. I believe that disclaimers should be used as a warning sign or protection to the reader of the report rather than protection to the valuer.

Finally, what may we as valuers get from this paper:

1. It is obvious that our best advertising is through properly researched and logically presented reasoning. That is the standard of reporting.
2. As an Institute we can advertise as much as we like but the real advertising lies in the practitioner's own hands.
3. Should we as an organisation, not endeavour to straitjacket members, but produce Guidance Notes on topics other than that related only to professional charges.

Last but not least, perhaps I might suggest that unfortunately, we are as usual probably preaching to the converted.

The Court's Expectations on the Role of a Registered Valuer

by Hon. Mr Justice Sinclair, Judge of the High Court

A registered valuer giving evidence in a Court falls into a special class of witness namely, that of the expert and the purpose of his testimony is, as in the case of any witness, to establish the existence of certain facts which are relevant to the enquiry being conducted by the tribunal. The essential difference between an expert witness and the lay witness is that the latter is restricted to stating what he saw, observed, said or heard while the former, in addition to being able to give similar evidence, is able to give evidence as to his opinion in respect of the matters in issue. Thus the valuer, when giving evidence, is able to give evidence as to what in his view the value of a piece of property was at any given time whether it be for sale purposes, mortgage purposes, rental purposes or for any other purpose.

It is recognised that the science of valuation is not an exact science, but nevertheless the valuer must approach his duty with care and precision for the reason that if the tribunal accepts the validity of a particular valuation then that expert valuer has, in fact, taken the place of the tribunal for it is the expert and not the tribunal who has, in reality, determined the particular matter in issue. It is by reason of that premise that the expert must be forever on his guard to ensure that he is impartial and free from bias and, more importantly, that when giving evidence he demonstrates those qualities. No valuer would wish to be described in terms similar to those which were ascribed to a farm adviser when giving evidence before the High Court in New Plymouth last year. I hasten to add that I did not hear the case, but the Judge who did said of the witness that he "displayed the very worst of the human foibles and characteristics to which every expert witness is prone ... "

In 1977 an article appeared in the `Modern Law Review' relating to the evidence of expert witnesses and I wish to refer to some observations which were made in the course of the commentary. The article was entitled: "The Court Expert in Civil Trials - A Comparative Appraisal", but after reading the first page I came to the conclusion that a more appropriate title would have been: "The Court Expert in Civil Trials - The Denigration Thereof or Exit the Expert". An observation was made that the method of presentation of expert evidence often seems at odds with the objectivity espoused by the researcher in research and, as a result, has been subjected to considerable criticism from experts as well as lawyers. There then followed a list of seven "evils" which it was stated were those most frequently alluded to. I will refer to each of those "evils" as listed and comment upon each one; in so doing I trust that the comments may be helpful.

(1) The Court hears not the most expert opinions, but those favourable to the respective parties. This criticism is based on the fact that experience has shown that often a party will hawk his problem around from one expert to another until he gets the opinion he either wants to hear or which in his view will best suit his case. Objectivity is sacrificed for the sake of expediency.

(2) The corrupt expert may be a rare phenomenon but will not necessarily be exposed by an inexpert cross-examination. I hardly think this observation has much significance in the realm of valuation, but times change and one should not entirely overlook this criticism. There is always the rare chance that a person's evidence may have been bought.

(3) The expert is paid for his services, and is instructed by one party only; some bias is inevitable. It is, of course, a truism that almost inevitably in an adversary situation there will be an expert giving evidence on either side and the expert will have his fees paid usually by the party who calls him. To avoid a criticism such as I have just referred to is really in the hands of the expert himself. The manner in which he gives his evidence will help to dispel any notion of bias and his ability to make concessions where they ought to be made and not to cling to obvious weak points will greatly enhance the tribunal's view of the expert's creditworthiness.

(4) Questioning, whether educive or hostile, by a lay barrister may lead to the presentation of an inaccurate picture which will mislead the Court and frustrate the expert. The lesson to be learned from this criticism is really twofold: ifrstly there will be occasions during cross-examination when an opposing barrister either deliberately or through ignorance or through inexperience will ask questions which will cloud the issue. The expert must ensure that he carefully and persuasively adheres to the true intent of his evidence and, if he is compelled into a situation where he must give a "yes"/"no" answer, that he quickly adds "with a qualification" if he has one. The expert can rely on the integrity of the tribunal to allow him to express his qualifcation. Secondly, at all costs the expert must avoid giving the appearance of frustration; he must not lose his temper however much he may be annoyed and he must remember he is a witness and not an advocate. Do not pontificate; do not push a hobby horse; do not give the appearance of being partisan; make concessions which do your own evidence no harm or where they ought to be made.

(5) Where a substantial disagreement arises, it is irrational to ask a lay judge to solve it; he has no criteria by which to evaluate the opinions. Such a criticism usually comes from those whose opinions have been rejected or from those who cannot accept the view to which the Court has come. Part of a Judge's function is to listen to the divergence of evidence, evaluate it and then decide in which direction his preference lies. The Judge does in fact have the criteria available to assist him in making a decision even when there is a substantial disagreement between the experts. These are, inter alia, the manner in which the evidence is given, the impression made by the witness, the apparent soundness of the witness's knowledge and his ability to marshal facts which support his opinion.

(6) Success may depend on the plausibility or self confidence of the expert rather than his professional competence. I am of the view that today that criticism is not as valid as it may have been in the past. The plausible cheat does not last long in modem society and his transparency is fairly quickly exposed, particularly in an adversary system. Experience shows that professional competence is the keynote and nothing short of that will suffice.

(7) The professions on which the judicial system is reliant are antagonised by adversary trial procedure. There are those experts who condemn Courts and Court procedures from an arrogant standpoint. In other words, they hold the view that Courts cannot make a decision in a matter involving experts as they are not competent so to do and that the decision in question ought to be made by experts. I comment quite simply that at the present time there is no room for such views. For the resolution of many disputes the Courts and established tribunals are the only forums available. Until a new and different system is evolved the expert must accept that situation and if he cannot accept this his only alternative is to cease to be an expert, or at least one who never allows himself to be put in the position of giving evidence which may later have to be tested in Court.

I have used the term "expert" almost exclusively in the foregoing discussion; that was deliberate because that is precisely what a registered valuer is.

I now wish to refer to a case which I recently heard in which two valuers gave evidence. What I am about to relate may indicate some of the practical problems with which the Court is faced from time to time.

A married couple sued a land agent for damages arising out of the sale of some property in Auckland which consisted of three separate units. The owners alleged that the land agent had not exercised reasonable care and skill in advising them as to the appropriate manner in which the property should be marketed and in the subsequent handling of the sale. The allegation as to advice centred around a decision to sell the property in one block instead of three separate units. A sale was arranged at $58,000. Subsequently the same agent, and within a month of the original sale, had sold the property as three separate units for $92,000. At the time when the final unit was sold, the original purchaser had still not paid a deposit or settled the purchase which was not due for settlement until some time ahead. The agent at the time of the sale of the last unit did not inform the owners or their solicitor that the deposit had not been paid and if he had done so the owners could have cancelled their sale and obtained the benefit of the sales of the three individual units.

I held that the agent had been negligent in his advice and in failing to advise the owners of the non-payment of the deposit and because of this last aspect I fixed damages at the difference between the original sale price of $58,000 and the total sale price of the three units of $92,000. I did not, as a matter of fact, have to resort to the evidence of the valuers. Their evidence covered the sale of the property for various purposes such as investment, home and income, etc. Both valued on the sale of the three units on a block value and their respective valuations were as follows:

Valuer A:	
Gross realisation	$92,500
Nett realisation	$88,675
Less profit and risk 15/115	$11,527
Value after deduction of expenses	$71,020
Valuer B:	
Gross realisation	$85,539
Less profit and risk 20/120	$14,256
Value after deductions of expenses	$63,433

This resulted in an obvious difference of almost $8,000 or 122% of the value as ascertained by valuer B. On the face of it that is a substantial disparity in value. From the evidence it became apparent that valuer A, in coming to his gross value, had taken into account the sale of the three units in question, while valuer B had been inclined to put those sales to one side. Just why he felt those sales should have been put to one side did not become satisfactorily clear, particularly when there was no evidence to suggest that there was anything remarkable in relation to those sales or that there had been a particular influence which affected the prices. When valuer A was questioned as to whether the profit and risk should not have been increased to that used by valuer B, he disagreed, stating that he felt that approach to be too conservative. To be fair to valuer A, that particular aspect was not pursued further by either counsel. However, his reply did not help very much at all and I would have been interested to hear his reasons why he considered valuer B's approach to the problem to be too conservative. Without his explanation I may have come to a wrong conclusion. For instance, I may have inferred that a profit of $11,527 was to be considered a fair one having regard to the capital outlayed; or I may have inferred that an investor was capable of making two such investments in a year as there was evidence from a Multiple Listing Bureau that at the time in question units of the type in issue, and in the same locality, were sold in an average of 122 days from the date they were listed.

I may well have been wrong in drawing either of the above inferences, particularly in view of the fact that the three units in question were originally sold on the day they were listed to the ifrst purchaser and were all re-sold within a further period of 26 days.

In summary may I proffer the following to those who will be giving evidence before a Court or tribunal:

(a) Remember that you are giving evidence as an expert and that if your opinion is adopted then in fact you have become the decider of that issue.

(b) Ensure that you are able to back up your opinion with facts which can be established.

(c) Remember that you are a witness and not an advocate, nor are you there to push a particular barrow. In other words, remain detached and give the appearance of impartiality.

(d) Be clear and articulate in the manner in which you give your evidence, ever prepared to make concessions where they ought to be made.

(e) Avoid getting into arguments with opposing counsel and no matter how much you are provoked never lose your temper.

(f) Do not denigrate opposing views; differ from them by all means, giving cogent, clear and concise reasons why you do so.

(g) Avoid giving long and tedious answers to questions. It is better to use short sentences and a number of them in succession to express your view. If the evidence is being taken down on a typewriter ensure that you give your evidence at such a speed that it can be properly recorded. There have been instances where a witness has given his evidence far too fast and the person recording it has become so frustrated that all that appears is a series of dots. That is not very helpful when one is trying to recall evidence given some days before.

(h) Do not speculate when giving evidence; if you do not know the answer to a question, say so. You will get much more credit for being frank and honest than you will if you attempt to bluff your way out of a situation.

Some of what I have said will seem to be elementary, but I make no apology for saying it because it does no harm to be reminded from time to time just exactly how your role is seen to be by others.

Legal and Ethical Responsibilities of a Valuer

by Mr D. G. Clemens, Barrister and Solicitor, Rotorua

I have been asked to speak on professional responsibilities and negligence and the standards expected and required of registered valuers by the legal profession. I have already indicated to the Rotorua/Bay of Plenty Branch Chairman and your programme convener that the topic given to me to speak on is so large that one could possibly have an entire seminar based on that one subject. Rather than paint a very broad scene without any detail as one could do I have elected, after speaking to your local Chairman, to first talk about what a lawyer in a general practice sees a valuer's role and responsibility as being, and then talk on aspects of possible negligence as far as valuers are concerned illustrating the same with some cases that have been heard against valuers.

The legal profession in general uses valuers for:

1. Obtaining reports on buildings principally for the purposes of mortgage investment and to make sure that the valuation coincides with the provisions of the Trustee Act.
2. To ascertain rentals in rent and lease disputes.
3. To ascertain compensation that would be payable for the loss of some land or property.
4. To be utilised as a witness in a Court case and therefore be expected to give expert evidence.
5. To ascertain the value of goodwill or to make a report on a particular property or subject matter.

All of those matters require the valuer, in most cases, to give a written report to the Solicitor. The legal profession would expect that the valuer would have investigated his subject matter, made the inquiries appropriate for the report, and then have written a clear and concise report for the benefit of the lawyer's client. If those reports are in connection say with the valuation of a property for mortgage purposes the lawyer would expect that the valuer would have checked the zoning, made sure that the legal description is correct, indeed have inspected the correct property, made sure that the property in question is suitable for the purposes stated in the request for the report in the first instance, checked Town Planning requirements, made sure that the building met the usual requirements for the District Council. This may involve the valuer checking with local authority records, ascertaining whether the ground has been filled or in the case of a farm, reports on soil testing.

The valuer is expected to give a report based on what he estimates the value of the property is worth at the date of the report. This requires the valuer to check details of comparable properties. Some valuation reports give details of examples of the properties that the valuer has taken into account in assessing the value of the subject property. I believe that lawyers like to see such a reference in a report though this is not always so in all reports.

The legal profession rely upon the reports as do their clients for what they say. Accordingly I believe that these reports would be better served if they expressed in other terms the value placed on the subject property. Time and time again one sees a report on the value of a building calculated out on a square metre basis, a stated amount taken off for "depreciation" and the balance given. On many occasions I have had to have a discussion with clients always at their insistence as to why the home has been depreciated when in fact it has appreciated. Many reports do not contain details one would expect to find on the perusal of a property. Others in turn go to great detail in describing every room if not cupboard. I believe the reports could be amplified to show costing for landscaping, the costing for garaging, concrete paths etc. and these brought into account in the overall valuation. I am certain, as a lawyer, that the valuer does take these factors into account in assessing what he believes is the market value of the property but this does not often show up in the report.

I can see no reason at all why the valuation report cannot express an honesty of purpose in showing how a valuation of a property has been calculated. It has been refreshing to note in some reports that a certain house would be valued at $50,000.00 but because it is in such and such a street and in a certain locality it will only attract a market value of say $35,000.00.

Many reports lately have also shown a tendency of valuers to assess goodwill on a business. As a lawyer I applaud the efforts of the valuer in setting out in detail his calculations. I wonder, however, as to whether the valuer is (a) trained to do the work and (b) has the professional knowledge to put it into effect. I caution valuers that if they wish to indulge in reports putting in ifnancial and economic details of how a calculation for goodwill should be arrived at in that particular instance they could be called upon to justify their conclusions. Their report on economic matters may differ from that of the accountant say to the business.

Again as a lawyer one sees statements in various valuations particularly in connection with home units that reference to a restricted 999 year lease and whether or not there are exclusive areas nominated in the lease is of no effect in calculating the valuation of the property. This is a moot point. Some Real Estate Agents certainly advise to have the restricted areas shown in the leases.

A common contact of registered valuers with the legal profession is in the area of reports of rental assessments of properties. This often leads to the case where the valuer is appointed an arbitrator for the purposes of the lease. A valuer should make sure that he has read the lease that is the subject of the rental report. I state this because to use the phrase as sometimes appears in valuation reports that the rental is assessed at a certain figure on the assumption that it is a "standard lease for nine years or for rent reviews every three years with the tenant paying rates and insurance". In today's society rarely is there something of a standard in commercial leases. Consequently if the valuer holds himself out as giving a report to show what he thinks the rental will be on the premises he must be able to establish that that is the correct valuation for that particular lease and it is no good making a report to the legal profession on behalf of a client giving a valuation but not making it valid to that particular type of lease.

Often the valuer is involved in the sense of an arbitrator. The valuer's role here changes. The valuer becomes an arbitrator to determine a dispute that has already arisen. Prior to that he has been engaged as an expert to give a valuation of a rental situation. If he is appointed as an arbitrator the legal profession wishes to see him as an arbitrator not as an advocate for the party appointing him, but as a quasi judicial officer, determining the matter of the subject dispute. In a 1979 case called "in re: Application by the Hamilton Corporation" there was a dispute as to the quality of the person appointed as an umpire. The lessor contended that the person must "possess skills, expertise and general qualifcations in land valuation as suitable for the appointment of the office of umpire." The lessee contended that the office of umpire calls for judicial qualities and does not require any knowledge in the skill of valuing land. The dispute was over the valuation of rental under a public body lease. It was held in the High Court that the umpire "must consider the respective valuations made by each arbitrator. In all respects in which two valuations agree the umpire must adopt the conclusions of the arbitrators and while in all respects in which the valuations the arbitrators differ the umpire must determine and reach his own conclusion". The Judge then went on to state that the true nature of the duties of the umpire and valuer called upon in respect of an arbitration calls for "even more for judicial qualities and less for the knowledge and skill in the valuing of land".

The standard expected of registered valuers acting as arbitrators in rental disputes is high. In a 1982 decision called Wilson v. Currey Mr Justice Prichard set aside an arbitration because he found serious irregularities in the conduct of the arbitration. In talking about arbitrators in general and the function of the person taking the arbitration, the Judge said "the function was not to exert pressure on one party or the other nor has he the function to carry out private investigations of his own. His function is simply to hear evidence and to adjudicate."

This was a case involving a complex issue and it involved one arbitrator and a valuer having private discussions with the parties who had appointed him without having in his presence the other arbitrators. The Judge, in upsetting the arbitration, was particularly concerned that each of the arbitrators assisted the party by whom he had been appointed to formulate his claim. In this particular case the Judge upset the entire arbitration because of a breach of what is known as the Audi Alteran Partum rule. It was analogous to an arbitrator who is a witness in a rental dispute working for one side and not disclosing to the other side the details of his workings. The arbitrator in that case is an expert for the side that has appointed him and he cannot in all fairness act in a judicial capacity when he has been briefed by one party for that one party's exclusive use. The standard expected by the legal profession for a valuer in such a rental arbitration dispute is such that I believe that a valuer appointed as an arbitrator by one side should not accept appointment as an arbitrator in a rental dispute because he is already firmly of the opinion as to what the rental will be having received his commission to say that very subject by perhaps the lawyer's client. The arbitrator and valuer is therefore prejudiced as a prior bias before the hearing.

Where a person is in a position of an arbitrator with a duty to hold the scales evenly between two other parties for the purposes of resolving by the exercise of his own judgment a matter that it is not agreed between them, he may not be liable for negligent statements made by him which causes loss to either party. However, in order to establish immunity from suit it is necessary for the arbitrator to show that a formulated dispute between at least two parties have been remitted to him to resolve in a manner that was called upon to exercise a judicial function and the parties had agreed to accept his decision.

The Rotorua and District valuers will probably be aware of a case that I mentioned to them in an address some time ago in connection with arbitration disputes namely that of Turner v. ANG Mardell Limited. This is a case involving a building dispute which went to arbitration. A builder acted as the arbitrator, a decision was given and the aggrieved party applied to the District Court for the arbitration to be set aside. It was a case of where the arbitrator had gone onto the site, discussed the question with the owner of the property, gone to the builder and discussed the questions with the builder, gone back to the site again, made further observations and discussions with the owner and likewise gone back to the builder. It was argued before the local Court that a discussion by an arbitrator of the claims of one side in the absence of the other is in breach of what is known as the Audi Alteran Partum rule. The local Court rejected this argument and found in favour of the builder. The owner of the property then appealed to the High Court in Rotorua and a decision was given on the 20th July, 1983 by Mr Justice Prichard. The Judge made mention of "a convention or understanding of both parties that the arbitration is to be conducted on an informal basis and that

unless the parties require or one of them requires a hearing which both parties are present at the arbitrator need not observe the common law rules of conduct. The Judge did not hold to that view-point at all. He indicated that an arbitrator must act independently and the fact that their party asked for a formal hearing is not a circumstance which obviates the requirement that the arbitrator must act judiciously." He accordingly concluded that this was not the case and ordered a new arbitration.

I now turn to the question of the professional negligence aspect of valuations. Negligence in any circumstances is the failure to exercise that care which the circumstances demand. What amounts to negligence depends upon the facts of each case. It may consist in omitting to do something which ought to be done or doing something which ought not to be done either in a different manner or not at all. Where there is no duty to exercise care negligence has no legal consequences. Where there is a duty to exercise care reasonable care must be taken to avoid acts or omissions which can be reasonably foreseen to be likely to cause injury to persons or property. The development of the law of negligence confronted the concept of foreseeability. The test of reasonable foreseeability of risk must be based not only upon existing factors known but also upon those which there is a reasonable opportunity to learn. A person may reasonably be expected to take extra precautions on account of better knowledge of the facts. In every case there is a question of fact where conduct which disregards such knowledge or opportunity of knowledge amounts to negligence.

The Courts were always reluctant to extend the law of negligence to claims for foreseeable economic loss. However, since 1963 following the decision of Hedley Byrne v. Heller & Partners Limited they have held that in certain circumstances a person who suffers pecuniary loss through relying upon false statements carelessly made has a claim for negligence. This is where negligence comes into its being as far as valuers are concerned. The Courts have also held that where an act is foreseeably likely to cause damage to property and economic loss then the person who so suffers can recover that economic loss.

It is a question of fact whether a person has failed to show reasonable care in a particular circumstance. The law lays down general rules which determine the standard of care which has to be attained and it is for the Court to apply that legal standard of care to its finding of fact so as to decide whether a person has attained that sufficient standard. The standard is not the standard of the person himself, not the standard of the valuer himself but the standard of, in your case, the ordinary prudent valuer or the valuer using ordinary care and skill. It is no defence for a valuer or anyone that he acted to the best of his own ability or judgment if that best is below the reasonable standard required. When a person such as a valuer has held himself out as being capable of attaining standards of skill he is required to show the skill normally possessed by the persons doing that work. Skill must be usual to your standard of profession or calling. Professional advisors are liable in negligence if their careless advice or plans, as the case may be, result in harm. In order to be liable for such false statements the person must have assumed some responsibility for the advice, opinion or information which he has tendered and the circumstances must be such that he could reasonably see that the person would be relying upon that information and is relying upon your skill or judgment. The duty of care will exist if you hold yourself out carrying on a business or profession which involves giving that information or advice or if there is a financial interest in the transaction and he gives advice. A person who suffers financial loss due to a negligent omission or a negligent advice can claim.

Facing the above general rules on negligence (and this I stress is only a summary of the general aspects of negligence, it is a topic so wide it could possibly last the entire afternoon in discussion) one can equate various reports and cases to the attention of valuers. To give you some examples:

1. In a case of Baxter v. Gapp heard in 1939, there was a case of an overvaluation of a property. The valuer had an inadequate knowledge of the property in that locality. He overvalued a house for a purchaser proposing to buy the same on a mortgage. It was held that the purchaser could recover the whole loss sustained including expenses on the abortive sales, insurance premiums, builder's accounts for upkeep, mortgagee's expenses, agent's commission on the ultimate sale in addition to the principal advances and interest.
2. In the case of Daisley v. Hall a 1972 case, a valuer was held liable for failing to warn of danger to foundations to a house because of poplar tree roots.
3. In the case of Lees v. Englis heard in 1977, the valuer was held liable for failing to mention in his report that there had been a bad tie up between the old and new brickwork on the extension to a house which resulted in cracking that was visible from the street.
4. In the case of Konn v. Munday, a valuer was held negligent for failing to check in the cellar of a home and under a house which was clearly showing a bad infestation of woodworm and borer. This had an effect upon the value of the house.

In deciding to whom you owe a duty of care for your reports one must of course state that the duty is to your employer or client but also to any third person to whom your employer or client shows the report or to avhom you know will be shown the report, particularly if you know that it is being shown to someone to induce them to invest money or take some action on it. This involves a discussion on the test of proximity in relation to the negligence claimed. In a case known Cann v. Willson held in 1888 Judge Chitty dealt with a case of a valuer making a valuation of property for the purposes of enabling his client to raise a mortgage on it. In order to further the transaction the valuer himself actually

put the valuation before the mortgagee's Solicitor saying that it was a very moderate valuation and not made in favour of the borrower. The mortgagee advanced the money on the face of the valuation but it turned out that the valuer had been grossly careless and the mortgagee lost his money. The Judge held that the valuer was liable for negligence apart from any contract at all. He said that the valuation was sent by the valuer direct to the mortgagee's Solicitor "for the purposes of inducing the plaintiff and his co-trustee to lay out the trust moneys on mortgage. It seems to me that the defendants knowingly placed themselves in that position and the point of law incurred a duty towards him to use reasonable care in the preparation of the document called a valuation."

In the famous 1963 case of Hedley Bryne against Heller he took the view that a duty of care existed and a person could sue in negligence where there was no contractual or fiduciary relationships. It held that pure economic loss might give rise to an action for negligence.

As an example of the situation where a valuer has become negligent one has only to highlight the facts of a few cases. Without detailing all of the facts the following details may be of assistance. One was decided in the Court of Appeal in England in 1939 and is known Baxter v. F. W. Gapp and Co. This is a case where the defendant, a valuer, was sued for negligence in making a valuation of a property for the purposes of a mortgage advance. He apparently inspected the property but failed to make any local inquiries as to the value of that property or similar properties in that locality. He did not practice where the dwelling was situated and failed to inquire what prices were common in that locality. He apparently fixed a valuation of £1,800 on the property. The property was purchased by the mortgagor for £600 and the highest price that it had changed hands in recent times for neighbouring property was £850. The valuer recommended that a loan of up to £1,200 could be made. The valuation was given to the plaintiff's Solicitors who subsequently discovered the price the property had realised in recent transactions and it also received a suggestion from the local agent that the valuation was too high. The defendant failed to make mortgage payments, the property was sold and there was a loss on the sale. The Court held that the valuation was an excessive one and that had been without the exercise of the degree of care which an expert ought to bring to his task. The Court held that the measure of damages was the whole loss sustained by the plaintiff including the expenses of the sale, insurance premiums, builders account for repairs and upkeep on the property, mortgagees expenses and disbursements, the agents commission upon the ultimate sale of the property together with the additional principal advanced and the interest unpaid. The case gives details of the consideration of duties where a valuer is called upon to value a property outside his area or district where he has had no previous experience in valuation of properties in that particular district. The Judge in the hearing stated "a person who undertakes the duty of valuing property holds himself out as possessing the necessary experience and skill required to discharge that duty. It seems plain on the evidence that Mr Gapp did not possess that knowledge and experience which he ought to have possessed. By reason of his lack of knowledge and experience he made an overvaluation whereby the plaintiff has suffered loss. The plaintiff is therefore entitled to recover the loss which he sustained owing to the breach of duty on the part of Mr Gapp."

This case illustrates the standards that are required of a valuer. The legal profession would expect that valuers would undertake that kind of valuation with the knowledge of the local conditions that prevail in the district. The valuation referred to in that report is given solely to show a fact situation and though the Court of Appeal decision in England is not binding on the New Zealand Courts it is persuasive authority.

Another aspect of how the legal profession require valuers to take note of changing conditions in the legal field would be in respect of the valuations placed on lease premises. In a recent edition of the 1983 All England Law Reports I have noticed the case of Lear v. Blizzard. This is a case of where a valuer made an assessment for rental purposes. There was a lease for 21 years with a right of renewal for a further 21 years. The lease had a provision in it which one would find common in New Zealand namely that at the end of the first term a new lease would be granted "at a rent to be agreed between the parties or in default of agreement at a rent to be determined by a single arbitrator." From the time of the original lease until the time of its assessment 21 years later there had been a number of assignments of the lease and various assignees had effected improvements to the property. One of the questions to be decided by the arbitrator who was a valuer was whether or not these improvements were to be taken into account in the assessment of rental. The parties failing to agree as to the new rental the matter was referred to arbitration. Lear, the landlord, argued that by virtue of the lease the rent should be what the arbitrator determined would be a reasonable rent for the premises as improved on the open market. He further contended that as no provision had been made in the lease for rent review the arbitrator should add a percentage premium to take account of anticipated inflation during the currency of the term of the lease. On the other hand Blizzard, the tenant, contended that in determining the new rent the arbitrator should apply a subjective test and determine what would be a fair rent between the two of them, that the improvements should be disregarded in the calculation of the new rental, and that it would be wrong to add a premium because if he did so the arbitrator would in effect be making a provision for rent review when in fact none was stated in the document. The arbitrator was unable to reconcile the differences and referred the matter to the High Court for determination. The report only recently received in New Zealand is in fact dated the 2nd December, 1983. The Court held that the lease provided for rental of a lease at a rent "to be agreed between the

parties" it followed that a true construction of the lease the arbitrator was to determine subjectively what a fair rent would be for the two in all the circumstances taking into account all the considerations that would have affected the minds of those parties when they negotiated the rent themselves. It was found that the tenant could show that he had paid for the improvements to the premises and accordingly those improvements should be disregarded by the arbitrator in working out the value of the rental. Since the arbitrator had no power to introduce any variations of the original lease it followed that he had no power to add a premium to take account of anticipated inflation during the term, that the rental should be set for the rental as at the start of the lease namely at the time the rental was determined and not on what would happen during the period of the lease. The Judge stated "I therefore construe the option clause in the present case in a subjective sense and I must now consider the question of the improvements. Since the rent to be assessed by arbitration is to be a rent for these particular landlords and this particular tenant, taking into account all considerations which could affect the mind of either party, it must follow that he should consider as one of those considerations the question of past expenditure on the improvements".

I give the above case as an example of what is now required of a valuer in determining a rental question such as the determination in a standard commercial lease. Having said this, however, I expect the valuer in his report to state whether he finds any objections to any part of the lease. It may well be that the drafting of the lease leaves so much to be desired that the arbitrator valuer has difficulty in determining what is the correct rental. In that case I believe a lawyer would expect the valuer to comment accordingly. Last year I brought to the local valuation branch various details of a lease that I came across in the course of my work which involved acting for a Rotorua person moving down to near Palmerston North and taking over a country dairy/grocery. The contract for sale was conditional upon the purchaser's Solicitor approving the terms of the lease.

That type of clause has in itself many fish hooks. Be that as it may I had to decide on behalf of my client whether the lease was satisfactory. One of the clauses in the lease that gave me concern was the clause dealing with the right of renewal. No rental review had in fact been made at the time of the purchase but one was near and accordingly I had to bring this to my client's attention. A valuer had already made a report and given what he thought was the correct figure. He made in his report no comment about the terms of the lease and I subsequently ascertained he had not in fact even seen a lease. Luckily my client was able to get out of the contract and a new deal was arranged with a new lease. The clause in the lease dealing with the right of renewal stated "the rental herein reserved shall be subject to review at two yearly intervals during the term hereby created together with any renewal hereof, the rental to be reserved by such review to be such rental as shall be determined by agreement or failing as shall be ifxed by arbitration in accordance with the provisions of the Arbitration Act 1908 but in any event shall not be less than such increase as shall reflect the rate of inflation shown by the Consumer Price Index all indicators, the official Bank of New Zealand Business indicators, over the period since the previous rent review date and not in any case to be less than the rental paid immediately prior to the date of such review and to be a fair market rate." In that case I would have expected the valuer to have come back and told me what he thought the rental would be based on that formula. He had a number of factors to take into account. First he had to decide what would have been the rental on a subjective basis in accordance with the previous case I have just discussed. He then had to show that figure relfected the rate of inflation shown by the Consumer Price Index all indicators and this would have meant an exercise in finding out exactly what the Consumer Price Index meant. He then had to adjust that rental in accordance with the official Bank of New Zealand Business indicator and finally he had to state that this was a fair market rate. The juggling of all those factors probably was too much for the valuer who simply came up with a standard figure. I believe that that is an example of where the legal profession have been negligent in not drafting the document in a satisfactory clear and concise manner.

The legal profession have of course not escaped criticism in their professional responsibilities and negligence and this of course is highlighted in the case heard in June 1983 between the Auckland legal firm of Kendall Wilson Securities Limited v. C. T. Barraclough. This is a case where a valuer of 30 years' experience valued a property for mortgage purposes. In his report he indicated reference to the Manukau City Council Town Planning Scheme particularly as to zoning. He made a comment that from his discussion with the engineers he was satisfied that the Scheme change would go ahead and made his report based on that premise. The valuation was too high. The mortgagor went into default, with a mortgagee sale and there was a deficiency on the sale. The Counsel for the valuer accepted as a matter of law that a valuer who supplies a Trustee Valuation must accept that it might pass to another solicitor to be used for valuation purposes. He accepted that there was a duty of care to third parties such as prospective or actual lenders. After reviewing all of the facts, the Judge came to the question as to what in law is the standard of care required. He mentioned that in the circumstances of this case, negligence is the doing of something which a reasonably prudent registered valuer would not do or the failure to do something which a reasonably prudent valuer would do under circumstances similar to that shown in the evidence. It was the failure to use ordinary or reasonable care. The amount of the caution required by the valuer in the exercise of his ordinary care, depends upon the conditions apparent to him or what should have become apparent to a reasonably prudent valuer under similar circumstances. In this particular case, the lawyer did not read the valuation report cor-

rectly. He was content to use the phrase "to look at the bottom line containing the recommendation for the trustee loan". The Judge for his part criticised the lawyer for "not carefully reading the valuation making no analysis, no questioning, no investigation, no challenge, no reflection and no discussion. There was utter and complete reliance upon the bottom line of the valuation report containing the recommended ifgure for the trustee advance. There was no investigation of the financial stability of the borrowing company". In making this observation it was necessary for the Judge to determine the question of contributory negligence. In this case the Judge held that the solicitor was bound to exercise a detached professional judgment whether trust funds should be advanced to the borrower regardless of the ultimate designation of those funds. The Judge further stated "knowledge of the exact zoning came to him (the solicitor) in a valuation report buried in an avalanche of unwarranted speculative optimism with a recommendation for lending based not upon actual zoning but upon the possibility of a change in zoning to an industrial or even residential zone. The simple truth is that a zone is not changed until it is changed. "Applying the standard of care affixed by the ordinary skill and care the Court reached a view that Mr Barraclough was negligent in the preparation of his report but also found that the legal firm was negligent. The Judge held that the solicitor "briefly read a fairly complicated report without assessment, analysis as to its true meaning, further investigation of any kind and he made an immediate substantial advance of trust funds". The Judge went on to state "the shortest period of calm detached appraisement of the valuer's report would have revealed speculative flowed reasoning to its final recommendations." In that case the Law firm was found to be 60% negligent and the valuer 40%.

Another recent case dealing with the standards expected of valuers is illustrated from the fact situation of a case called London and South of England Building Society v. Stone, this being recorded in the 1983 weekly Law Reports. The case was heard on the 11th November, 1983 and is an English Court of Appeal decision again not binding in New Zealand but of persuasive authority. It illustrates the fact situation that one could find in New Zealand and shows up the responsibilities and standards expected of a valuer. Borrowers of the Building Society purchased a home for £14,800 and made application to the Building Society for a mortgage. The Building Society instructed the Defendant Stone a valuer to value the property in question. He stated that the property was suitable for a loan of £12,800 repayable over 25 years. In fact the Building Society advanced £11,800. The usual mortgage was completed and the borrowers moved into the property. Included in the mortgage was a clause that is common in most mortgages to the effect that the borrowers covenanted to not only make payment of the principal and interest but to keep the property in good order and repair. Soon after moving into the property, they noticed that part of the house was collapsing. They sought advice as to how this could be fixed up and were advised that the house would have to be under-pinned or demolished and a new house built. The borrowers did not have sufficient moneys to do this themselves and therefore contacted the Building Society. The Building Society decided to underpin the foundations. Although they thought that the cost would be about £11,000 it in fact cost £29,000. The Lender Building Society instituted an action against the valuer for damages for negligence. It was found as a matter of fact that the Lenders had acted reasonably in carrying out the necessary repairs to the security and not enforcing the covenants against the borrowers for them to fix up the home. The Lord Chief Justice indicated that there was no justification for the suggestion that was made in the Court that the Lenders were under a duty to the valuer to mitigate their loss by trying to extract the money from the borrowers. A pertinent statement was made by the Chief Justice at the time when he stated "I start by considering the nature of the Agreement between a Building Society and a valuer asked to value a house as security for a proposed loan of £12,800, the valuer does not warrant the accuracy of sufficiency of his valuation, he fulfils his part of the bargain if in making his valuation he exercises the care and skill reasonably to be expected from a member of his profession. If a valuer fails to exercise that skill and care in making his valuation he is in breach of his duty and liable in damages. Broadly speaking, his failure will be one of two categories. The first category is a case where he negligently makes a wholly erroneous valuation of the property. The second category is where the valuer has negligently failed to discover defects in the property for example the present case. If the duty is broken, what is the damage and how is it assessed? The fundamental rule is that the measure of damages is that sum of money which will put the injured party in the same position as that in which he would have been if he had not sustained the injury. Where the injured party is the purchaser or vendor of property who has acted on a negligent valuation the measure of damages is the difference in the valuation figure and the market value of the property at the date of the transaction, that is in cases where the valuation and purchase or sale are reasonably contemporaneous". The Judge went on to say that if the Defendant was a competent valuer, he ought to have seen the signs of subsidence and advised the Plaintiff Building Society that this is a property on which moneys should not be advanced. He then made an observation which I think is totally pertinent for the New Zealand scene because he stated that this is a case where the Building Society requested the valuer to make the valuation and in reliance upon that valuation made the advance. The valuation fee was paid by the proposed borrower but the borrower did not see the valuation report. The Judge stated "I can not help feeling that this is a situation which need not have arisen at all. If Building Societies and Insurance Companies were to make arrangements for their clients to have the benefit of the valuers report for which the clients have to pay, the

clients would then have a right of action against the valuer. It is a situation which is a trap though innocently set, which makes people think that in paying for the valuer's report they can rely on it in law. It is distressing to see people who have invested all of their savings in their homes being treated in this way".

Later on in the judgment, the Judge made comment on the suggestion that the lenders should not have spent the money on fixing up the security, but the Judge said "something had to be done for the evidence was that the house was about to fall down. The borrowers could not afford to put the house into repair, what then should the lenders have done? Should they have called for the loan in breach of contract and repossessed the property? That would have been a pointless exercise as the house was worthless and indeed a liability for it either had to be repaired or pulled down and the neighbouring premises shored up". He later went on to say "I can see no justification for the suggestion that the lenders were under any duty to the valuer to mitigate this loss by trying to extract money from the borrowers". Accordingly judgment was given against the valuer.

It is interesting to comment on the responsibilities and changes that the courts have now found against valuers. In the case that I have just mentioned, London Building Society v. Stone heard late last year in England, reference throughout the hearing was made to the professional status of valuers. "They are professional people within a profession and the public expected them to act with high standard". In my research, I came across an old New Zealand case called Gillies v. Auckland City Corporation reported in 1916 New Zealand Law Reports. That was a case where nine valuers were called by the Plaintiff to give evidence as to a valuation of property and six valuers were called by the Defendant to give evidence as to the value of a piece of property that was to be taken by the Council for a park. The case came before the Court not in connection with any compensation, but of the question as to what was the appropriate fees to be paid to the valuers, architects and the surveyors who gave evidence and the Court said "architects and land surveyors are professional men, land valuers are not but if they give evidence as experts they are entitled to some qualifying expenses".

THE PROFESSIONAL STANDARDS OF VALUERS

Commentary by Mr M. M. Mander, Valuer General

In recent years the most significant feature of the Board's activities has been the increase in the number of complaints received and consequent disciplinary enquiries which follow. This appears at least in part to be linked to periods when the property market is booming, where overly optimistic valuations and loan recommendations, in conjunction with injudicious lending, result in cases of substantial losses by mortgagees and investors.

There has also been a significant increase in the number of complaints lodged by valuers against valuers, while other complaints, because of their presentation, I suspect have been prepared with the advice of a valuer, but lodged through another person. One might interpret this as a healthy trend, where more practitioners are concerning themselves at the standards of the profession, on the other hand the more cynical would say it is a reflection of modern attitudes where competing practitioners aspire to score points against their opposition for commercial advantage.

During the nearly nine years I have been investigating complaints for the Board I have observed that a number of common elements regularly appear in almost every case. For instance most of the complainants are usually dissatisfied with the actual levels of value which have been presented together with the quality of the report in relation to the fee they have had to meet and how effective the whole job has been in promoting their particular objectives. It comes through very clearly at times that the complainant when requisitioning the valuation has been overly optimistic as to the degree the valuation will assist him and when the project turns sour the valuer becomes the target of his frustrations. Provided they are given the opportunity valuers could possibly reduce this sort of situation with better counselling prior to undertaking assignments.

A large number of complaints are accompanied by evidence of other valuations or opinions which are produced to demonstrate the various disparities when compared with the valuation which is the subject of the complaint. Sometimes it becomes apparent each of the valuations is as suspect as the other and it is not hard to appreciate the complainant's dilemma when he asks which valuation should he rely upon.

This brings me to the first point I would particularly like to emphasise and that is to make it clear that the Board's task is not that of a valuation tribunal, to decide the "correct" value of the land but rather to decide whether or not the valuer concerned has been incompetent or negligent in the performance of his duties as a registered valuer. To demonstrate what I mean let me put the hypothesis that it is perfectly feasible that an inquiry into a complaint against a valuer's performance could be warranted even though his valuation in isolation appeared "correct", for a valuer might, by a capricious or wholly negligent method, purely by chance, accidentally arrive at a proper figure and the valuer still be found incompetent in his performance. Everyone is familiar with the dictum in the decision of the case Baxter v. Gapp - "It is of course quite clear that the mere fact that there is an over-valuation does not of itself show negligence. Gross over-valuation, unless explained, may be strong evidence either of negligence or of incompetence".

It follows therefore that a board of inquiry could quite reasonably resort to using evidence of gross over-valuation to establish a prima facie case of negligence but only where a valuer chose not to reveal his methods, actions and other facts relative to the valuation. However in normal circumstances an inquiry has to establish if there has been a breach of the standard of care and competence to be expected of an ordinary, competent valuer and in the absence of some reasonable explanation, he adopted a method and standard of valuation which would be accepted as proper by a responsible body of opinion in the valuation profession.

Everyone will accept that the craft of valuing has a great deal of individual judgment involved in it and that there may be circumstances where the valuer has followed the correct procedures, collected all of the relevant facts, adopted the accepted method and having considered the relevant material still comes up with an erroneous valuation. Be assured I am not suggesting that very many cases of negligence can be answered by pleading an error of judgement but there can be legitimate errors of judgement which do not constitute negligence. Unfortunately based on the findings uncovered by most of the investigations I have undertaken almost without exception the Baxter Gapp edict has been found correct and gross over-valuation has proved to be the manifestation of technical incompetence and/or breaches of fidelity being the underlying causes of the negligence.

Unfortunately the law is not always helpful to the valuer in clarifying the issue as to what is the `right' or `proper' level of value.

While ad hoc legal decisions often provide protaganists with useful counter punching material they are most confusing to valuers who are looking to the legal system to provide sound principles of valuation practice. What is worse the valuation system as a whole is brought into disrepute through no fault of its own but rather by the inadequacies of the law. One cannot help but cogitate on the proposition that the valuation profession's public image could be improved if itself was willing and able to establish and agree on certain basic valuation principles rather than be so completely dominated by the legal system.

It is undeniable that in a great many marginal cases in valuation it is difficult to identify the point at which professional competence falls to a level which warrants a charge of negligence. Each case has to be carefully judged after all of the facts and circumstances have been marshalled. I am constantly surprised how many valuers are prone to a quick condemnation of another valuer's work without being adequately informed of all of the facts. This is even more surprising when some of those same practitioners would be the most responsible in themselves to assemble their data before personally embarking upon their own valuations. I am pleased to be able to state categorically that the Board is meticulous to a fault in the depth and detail of their considerations before deciding an issue. Even though in marginal cases the acceptable level of competency is not easy to identify, the major reasons for valuers slipping below the demarcation line are easier to recognise. While the usual frailties of human nature such as arrogance, greed, misguided pride and just plain ineptitude ifgure high in the analysis the element of advocacy is the dominant feature. For whatever reason, the erosion of a valuer's independence and integrity where he has strained to reach conclusions most favourable to his client's case is the major underlying cause of valuer negligence.

Judge Archer addressed the third Pan Pacific Congress in Wellington in April 1963 and he devoted a great deal of his paper to the shortcomings of valuers. His summation of the valuer's position in the scheme of things is just as relevant as it ever was .. .

> "The besetting sin of the expert is to confuse his position as a witness with that of an advocate. . . It is no part of a valuer's function to `argue' a case or to exercise those arts of advocacy which are the prerogative of Counsel ..... I have several times referred to the need for a valuer to be independent. By that I mean that he must steadfastly refuse to go no further, in the interests of his client, than he can honestly and sincerely go..... A valuer with a truly professional attitude towards his work will recognise that it is his duty to take full responsibility for any valuation he may make. By that I mean that he must satisfy himself personally as to the truth of the facts and the validity of the assumptions on which his valuation is based. When a solicitor invites a valuer to make a valuation, he is entitled to give the valuer an outline of the

facts, but he is not entitled to instruct him to make assumptions which are not in accordance with the facts."

Lawyers as a group have had a tremendous influence over the establishment and development of the valuation profession, both in N.Z. and in other countries. Their influence has been both to enhance and denegrate the valuer's craft and it is an unfortunate fact that an irresponsible valuer in the hands of an unscrupulous lawyer can be a thoroughly unprofessional but highly profitable combination. It has to be accepted that it is a fact of life that valuers must practise their craft in very close association with the legal profession and sometimes the measure of a valuer's success seems more dependent on the legal dexterity of counsel rather than the inherent qualities of the valuation or the valuer. Unfortunately there is still clear evidence that some valuers model their professional behaviour and attitudes on the adversary and advocacy principles which while perfectly acceptable in the legal fraternity, are totally at variance with our Code of Ethics.

Unfortunately these tendencies show through at many of the Board's disciplinary inquiries where defending counsel spend a great deal of time and energy promoting fine and complex legal issues rather than coming to grips with the real valuation subject matter of the complaint. (I sense the public are increasingly becoming disenchanted with the situation where the intricacies of the law seem to favour the errant practitioner rather than the public's protection from incompetency). These techniques also result in very lengthy hearings and add very considerably to the cost of maintaining a disciplinary system.

The cost-benefit aspect is a very real consideration when the structure of a disciplinary system is being designed or under review. At present the actual overall cost of a single straightforward two day disciplinary hearing, involving three board members, three solicitors, the Registrar, his assistant, the Valuer-General and say two witnesses, would be well in excess of $6,000. This makes no allowance for the loss of earnings of the valuer under examination nor for the time spent in preliminaries such as the investigating of the complaint, the Board's initial considerations, drawing and serving charges and briefing counsel.

There is also the question as to how these costs should be apportioned between Government and the profession. To date the proportion would be about fifty-fifty but if the present trend of an increasing volume of hearings continues the profession might well be called upon to increase its contribution.

I would not like to conclude leaving the impression that it is my view that either the standards of competency or ethics in the valuation profession in N.Z. have been found wanting or have been deteriorating over recent years. I do not believe that simply because more complaints are being received and there is an increasing stress on the maintenance of professional standards and conduct, both from within and outside the profession, that these are necessarily true measures of the profession's performance as a whole. Experience has certainly shown our present Act has some shortcomings and I am sure these will be remedied in the forthcoming review which is in the process of being undertaken.

Over the last decade I have had the opportunity of examining many of the valuation systems and institutions, both in the Commonwealth and the U.S.A. - compared to ours some are larger and wealthier, displaying impressive glossy exteriors, but I have yet to discover one, which in my estimation, is the equal of the N.Z. valuation profession with respect to overall standards of technical competency and professional behaviour. It is unfortunate that the public are generally unaware of this fact and there does not seem to be any convincing way of demonstrating our performance against our overseas equivalents.

On the other hand there is no room for complacency and the fact that the topic has been accorded such emphasis at this and other conferences of valuers would indicate that there is a very clear general consensus from both the public and the practitioners that improvements in the professional standards of valuers are desired.

I doubt that merely the introduction of more stringent disciplinary measures will achieve all of the improvements we are seeking but they are certainly necessary to ensure the public is adequately protected. I believe therefore that our future remains in our own hands and Judge Archer's statement is just as relevant today as when he made it 21 years ago.

"The vocation of the valuer is worthy of the status of a profession, but valuers will be accorded professional status by the community only when they achieve the reputation for complete independence and absolute integrity."

Tourist Hotel Development in New Zealand

by Mr K. E. F. Grenney, Chairman, Partington Properties Ltd. /Sheraton Hotels N.Z.

I have been asked to talk to you today about the growth of the Tourist industry in New Zealand and the role that the Sheraton Hotel Chain is playing in this area. In fact, I am able to do a little more than that because in my position with the Development Finance Corporation, I know that we are providing assistance to other operators as well as Sheraton so instead of this being a big commercial plug for Sheraton, I am able to give you all a much more independent and nationwide view . but I guess when you hold a seminar like this in this hotel, you have to work in a commercial somewhere.

I want to start by making some general comments and observations about the Tourist industry, and then settle down on to my theme which is the reason why we are attracting major chains to invest here, and the role of the Valuer in this activity too.

For many years, Tourism has been a Cinderella industry in New Zealand. It has been very slow to develop. I don't know whether Cinderella is still looking for her glass slipper or perhaps she dropped it but Prince Charming was too busy chasing "Think Big" projects that he forgot to pick it up ..... I don't know, but the growth and expansion, although steady, has been relatively unspectacular. . .

There is no doubt that we have a beautiful country. We have a wide selection of scenery, ranging from alps to plains; from country to city; from bush to parklands within just a few miles of each other.

There is no doubt either that as a nation and a people we tend to under-rate our country and its attractions. We face this in many areas. In Auckland for instance, one of the greatest problems we face in the developing of the "City of Sails" promotion, is persuading Aucklanders that their harbour is something special, and worthy of International promotion.

This attitude is also apparent when we talk of the Southern Alps, or our green bush and farmland. It is not so true of Rotorua, Queenstown and perhaps Waitomo Caves, but they are attractions which have been promoted by word of mouth, and patronage rather than any effort on the part of New Zealanders.

So we have to face up to overcoming this under-rating of New Zealand's attractions .....

I think it is also true to say that to date, most of our Tourist development has been of the "Do it Yourself" kind. There's nothing wrong with that of course, but it has to be horses for courses, and with the research which we are now amassing, and the growth areas of where our visitors are coming from, we have to look more closely at the type of facilities we are providing.

We have a lot of small Tourist accommodation operators. We like that. We encourage local ownership but we have to provide for the top end of the market too, and that is why we have to look at five-star International accommodation too . . . because there is a demand for that. We know that.

We also have to do our marketing in a much more vigorous and co-ordinated way. Up until now, most of the overseas promotion of New Zealand has been done by Air New Zealand, the Tourist and Publicity Department and the companies who bring tours to New Zealand - inbound operators like Mt. Cook, Guthreys, Atlantic and Pacific are examples.

They are all selling destination, but none of those people really have a mandate to do anything more than attract tourists. Air New Zealand want them to fly on their aircraft; Tourist and Publicity want them to visit Rotorua, Mt. Cook, Queenstown, Waitomo - the highly rated tourist attractions; the inbound tour people want to keep their visitors on the move touring the country. That's their business and they are good at it, but nobody is selling accommodation internationally, only a few are selling golf in New Zealand internationally; only a few are selling harbour cruises or wonderflights or other ground attractions.

The opportunity is there for a much more co-ordinated approach. Bringing together all the operators, pooling resources and making a major effort in targeted countries, where our research tells us there is interest and potential for real growth.

It sounds very simple doesn't it, but really we have not been doing this to date. It has all been very fragmented, and as a consequence, New Zealand has remained something of a secret in the South Pacific.

The introduction of Sheraton to New Zealand has given the industry a boost, and an incentive to do much better. The decision to allow Sheraton investment has been criticised, but frankly, I supported the move in Government, because I recognised that we needed an input of overseas expertise in this area, and in doing so, we predicted, and this is exactly what has happened, that the introduction of new proven International standard competition, would encourage everyone else in the business to sharpen up their own acts, to the overall benefit of the industry in this country.

Remember that Sheraton came into New Zealand very much on our terms. We have retained 80 per cent ownership of the Auckland Hotel, and 100 per cent ownership of this hotel. Sheraton have 20 per cent equity in Auckland and a management contract, while in Rotorua they have the management contract. So there is

absolutely no suggestion of an overseas company coming into New Zealand to rip off profits or stage an overseas takeover.....

Remember also we invited them to participate in this country, the Government recognised that there was a need for Five Star International accommodation, and they looked around the world at many operations before deciding to approach Sheraton.

So although the property may be bigger, and the market sector is much higher quality, New Zealanders are still very much in control of this sector of the market.

And this is the way that Sheraton wanted it too. They are very much a Management Contract Company. They like to run successful high quality hotels. They are not so keen on having great lumps of money tied up in hotel buildings, and they also favour local equity partners.

As they develop other properties in this part of the world - the South Pacific region - this will I am sure continue to be their policy.

So we began talking with them, and then along came Auckland which opened just a little over 12 months ago, and the Sheraton-Rotorua of course was existing, but we asked them to take this property on ..... And like good partners, they agreed.

Now what impact has Sheraton had on the New Zealand scene?

Well, I think first and foremost they have become a Flagship for hotels in this country. They offer top quality accommodation, and they are a name which tourists have confidence in, and can trust. They offer expertise in management which we previously did not have in New Zealand, and they have proved that by their aggressive marketing they can attract additional business to New Zealand.

The Sheraton Corporation is a multi-National Hotel operating company that has its name on 453 hotels worldwide in 60 countries. Sheraton began in 1937 as a small unprofitable Hotel Chain in the North East of the United States. There is not and never has been a Mr Sheraton - the company was founded by three World War I veterans who had $3,000 between them. They bought an hotel which had a 12-foot illuminated sign on its roof and when they discovered what the cost would be to remove the sign, they decided to change the name of the company instead.

They are going through a vigorous growth cycle which means that they are opening a Hotel somewhere in the world, on average every eight days.....

Their research has told them, just as it has told us, that the South Pacific is a high growth area for tourism, and they are investing in New Zealand and Australia for more hotels.

In Australia, they are located in Perth and Sydney, with Brisbane under construction: Ayers Rock about to start, Alice Springs about to sign, and Canberra in the pipeline.

In New Zealand, we have Auckland and Rotorua, and we have publicly talked about wanting to build in Wellington, where we have just had the go-ahead, and Christchurch, where the Christchurch City Council are working to provide a suitable site for us.

We have also said Queenstown, and one other, which may be the Bay of Islands. So you can see that with those plans, Sheraton is making a fair commitment to the development of Tourism in this country. Each of those propositions will I would think, be similar joint venture developments, involving majority local participation with Sheraton providing the management expertise.

Already Sheraton has had an impact on the Tourist figures for New Zealand as a destination. Last year, the hotel participated with Pan Am in the instigation of a programme which produced an additional 6,000 visitors to New Zealand from Australia, from mid April to August.

More than 80 per cent of those visitors would not have come had it not been for this particular promotion. That extra influx of visitors over that period helped to boost the Australian holidaymaker visitor figures for 1983 by 7.3 per cent.

It was a specific response to a special promotion offered by Sheraton and Pan Am, and it was developed because of the close International working association which the two companies have.

The Hotel has also boosted domestic tourism, and interestingly enough, it has boosted interest from people living in the same city. By utilising special weekend packages, many Auckland couples have taken the opportunity to shout themselves a weekend in the Hotel, trying the facilities, enjoying the food and beverage, and the attention and service, after a harrowing week of business.

No, I say that in jest. We have been very pleased with the number of people who are using the facilities at the Hotel, because this has helped make it, very quickly, an integral part of the Auckland community.

And there will be more of this type of growth in the accommodation and the Tourist industry generally. Through my involvement with D.F.C. I know we are involved with several other Hotel groups, including Regent, who have plans for further properties in New Zealand.

But of course where properties or buildings are planned, we need sites and when it comes to negotiating for sites, that is where the role of the Valuer becomes important.

Now I have been involved in business circles for about 30 years so there is not much that goes on that I haven't heard about. So I am not going to be so naive as to suggest to you that there isn't a fair bit of professional variance that can occur between two reputable and experienced Valuers, when they are both asked by their respective clients to put a value on some land or sometimes, some land and buildings.

And of course, some of the Real Estate people also believe, and often they are right, that they know what a site or a property can be sold for, on today's market (that's a favourite phrase of theirs), irrespective of what the valuation may be.

So I ask you, what does a prudent Board of Directors do? The Valuer on our side says one ifgure. The Valuer on the other side probably says another, and the Real Estate man says they are both wrong, and suggests quite another figure as a "Market value".

Well, a prudent Board of course listens to everyone, and then does what it intended to do in the first place, and that is settle its own figure, which is generally somewhere in the middle.

But I use this illustration to point out a dilemma which faces many directors in many companies.

There is no doubt that the Valuer fulfils an absolutely vital role of research and analysis. The searching of titles, the measuring of the site and the comparative market analysis are vital functions and every Board needs that sort of information to start with; they probably, or may need further information when the negotiations get under way, and I know of many instances where Valuers have been part of the negotiating team in the room.

The danger in this of course is that the negotiations may grind to a halt when our Valuer and the Valuer on the other side lock horns over an issue, and neither will budge or concede a point in the interests of keeping the dialogue and the negotiations going.

This is when I usually get in my car, often with the other side, and we go on a Cook's tour of the area, looking at other sites of comparable value that have sold, and when we return, sure enough those Valuers will still be going at it hammer and tongs.

By that stage though we have generally agreed about the level we are talking about, and the deal is close to being made.

What does this tell us about Valuers then? And before you laugh too hard, let me say that I for one would welcome more collaboration from Valuers, and the Real Estate industry so that directors like myself aren't put in the position of having to find the middle ground.

I would like to see Valuers with flair, look at sites and immediately look beyond the physical factors of the site to see new and exciting alternative uses, and to have some marketing "nous" - enough to know what sort of people or market that "alternative use" might appeal to.

I get quite excited by the sort of thinking that brings fascinating shopping complexes out of old Council workshops; or churches on sites formerly occupied by gasworks, to name a couple of examples. It is I guess a type of entrepreneurial lfair. I may be expecting too much of the traditional Valuer who sees the bricks and mortar and says that is worth `X'. But certainly it is food for thought for you in the future.

May I finish now, by making one final point, and it is somewhat ironical.

Valuers tend to assess their attitudes and professional judgement on the historical record. The price of X building sold yesterday sets the benchmark for tomorrow. The Real Estate man who makes the sale sets those benchmarks, so somewhere there we need to have a much closer working relationship. Now I know about the good-natured, I think, aggro which goes on between the Valuer and the Real Estate people, but the fact is that you need each other whether you like it or not. So try to work together and you will make the lives of simple directors like me much easier and harmonious.

Gentlemen, thank you for your attention.

Valuation, Tourism and Changing Land Value

*by A. D. Meister and A. B. Ward**

New land use opportunities, the current surge of excitement about tourism and changing community values all will lead to major changes in land use. Change as you know brings conflict because there are always groups of people who gain and groups that lose, and change itself tends to be painful and is inevitably associated with uncertainty. It is in this environment of change and conflict that the valuation profession has an important role to play, but a role that will not necessarily be an easy one.

When I was given the topic for this talk I was quite impressed by the areas you wanted me to cover:

Changing land use in a region;

The impact on the community and the economy;

The impact of tourism;

and, the need for versatility in valuation and town planning.

Quite a range, but all very relevant to the valuation profession. I will touch on all of them, and I will indicate how these developments may affect you. I will start off by giving you already an indication of my conclusion, which is that:

> "There is going to be more work for you but your task is going to be more difficult and to perform your task well you may have to go back to the basic principles of how to assess value."

Now that you know the end result of this talk, you can do a quick `back-of-the-envelope' valuation to decide if it is worth your while to stay and listen, or if you should go.

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You are all familiar with the rapid changes in land use that have taken place over the last two decades especially. I only have to mention kiwi-fruit, forestry, rural subdivision and urban expansion. The effect of these changes on different regions has been great, ranging from revitalisation of some rural areas to possible amalgamations of dairy companies, to the disappearance of farms and the appearance of forests. In some regions these changes have been enormous and the benefits to the New Zealand society as a whole are clearly seen. The benefits of other changes may not be so clear cut from a national viewpoint. But the changes have occurred and you are well aware of the implications of them for your profession.

Besides changes in land use caused by new economic opportunities, changes have also occurred in the values and preferences of our society. The demand for rural subdivision reflects this as well as the greater emphasis placed on the visual environment, the indigenous flora and the value of the environment (including land) as a recreational and amenity resource, rather than as a productive resource only. Again, as valuers, you will be aware of these shifts in values.

Now this morning you heard about the importance of tourism - U.S. dollars, Japanese yen, German marks (we expect 10,000 Germans this year) and Koreans wons - they are all welcome (they are just as good as or perhaps better than the foreign currency earned from exporting beef or sheep because no stroppy unions are involved). To get them, however, we need to attract the people, and even though speedy customs services and good hotels will help, it is the scenery, the rural area, the forest, the lakes, the mountains and the people that in the main will attract the tourists (the weather will help too, but we do not seem to be able to do much about it). Therefore, all this means that the rural areas need to cater for our visitors - and this is going to mean change.

Investors, regional development councils, Government departments etc. have all realised that there is money in tourism and many development proposals are in the pipe-line or are already under way. These proposals show a great variety - for example:

- Development of new ski-fields plus local accommodation;
- Upgrading rural churches to perform wedding ceremonies a la Canon Bob Lowe;
- Opening up of farms to show our tourist what `real' New Zealand farming is like - 'Country Contact Farm Visits';
- Club Med type resort development, as is proposed for Karikari in Northland;
- or small secluded subdivisions in the rural area for those who are either too old or too young for Club Med, etc.

I could mention many more examples. To attract the tourists we need such a variety, and our New Zealand countryside offers much of that. To get these developments off the ground it is clear that all are going to face a common hurdle - getting over local sensitivity about the impact on their physical and social environment. As I said earlier, with development, some stand to gain, others stand to lose. It is my opinion that the valuation profession will be right in the middle of this.

I can just imagine the following scenario. You have been asked to do a valuation on the following property:

It is a 300 ha sheep farm right in the middle of a farming area but close to a small lake surrounded by indigenous reserves. The area round the lake is owned by a development company which is currently building a range of cottages for tourist accommodation. The lake is a great spot for fishing and sailing and is a peaceful retreat area. If the development takes off as expected, more land will be needed to build additional cottages, a golf course and perhaps some tennis courts. The farm to be valued is the logical source for this extra land, especially since on the property there are already some areas under the Queen Elizabeth II Trust and also some extensive woodlots, all of which could be integrated to provide pleasant walkways.

In anticipation of these future developments the local council has zoned the lake area plus your farm and some other land into a special zone.

The local council is doing everything to encourage the development as it will boost regional employment and income. The zone carries some special ordinances which forbid the making of silage (tourists find that the smell destroys their appetite - this has been established experimentally) and also severely restricts spraying of chemicals (dead or sick tourists don't do much to advertise our country as a tourist paradise).

So there you are - a straightforward problem to a valuer I expect.

Not being a valuer myself I started to wonder how one would value such a property. To satisfy my yearning for greater knowledge I turned to "The New Zealand Valuer", the journal of your society. And as luck had it I found an article on the principles of valuation. I started at the first paragraph which read:

"The prime characteristic of land which uniquely distinguishes it from any other economic good or investment is its fixed geographical location from which its subsidiary characteristics are derived."

So far so good, I followed all that and I clearly saw that my example farm had a unique geographical location which would affect its value. On I went:.. .

"The technical term `geostasis' is given to those exogenous and autogenous locational attributes of a site which directly or indirectly contribute to its geophoric produce and hence value." [11

Well that got me: my dictionary and I were both lost. My quest for greater valuation knowledge stopped right there. I will stick from now on to economists' jargon.

But given all the above, I do want to make the point that an increased interest in tourism is going to lead to changes at a fast rate. They also will be of a different nature.

Most of the more recent changes in land use have been the result of the diminishing fortunes of the pastoral industry which encouraged farmers to look for new enterprises. The result today is that it is no longer unusual when driving through the countryside to see deer, to see woodlots or agro-forestry or to see shelter belts behind which you expect to find kiwifruit or other horticultural crops. Also, it was not only farmers who diversified, investors from the cities acquired land and invested in the rural area too. Now, besides family farms you have companies, syndicates, partnerships, tenancies-in-common, time-sharing etc. You will know it all better than I do and by now you will be quite used to them. Being used to them does not mean that it has made life easier for you (even though it has given you more work, a fact, I suppose, you do not regret).

All these changes involved new enterprises which all can be valued in terms of their productivity and as such things haven't changed much in terms of you having to perform your job, except that produce prices have changed dramatically, e.g. boysenberries from $1.50 to 30 cents and goats' milk prices from somewhere to nowhere. Now I see changes occurring which are of a different nature. Changes related to tourism, dealing with environmental aspects such as the visual and amenity values of the countryside.

To effect some of these changes, statutory restrictions, particularly those under the Town and Country Planning legislation and the associated local authority district schemes and by-laws, will place restrictions on the free choice of land usage. Some of this has already happened but more will come. If you want to see some extreme examples of how far this process could go, you only have to look to some of the planning restrictions in western European countries where permitted uses are becoming fewer and fewer and where in some areas even the colour of your house is no longer your own choice.

The point is, that if we want to attract tourism, then our countryside as it is at the moment with its farming activities and thousands of hectares of pinus radiata may not quite present the picturesque scene that we are trying to sell. New Zealand does have to become more aware of the visual aspects of some of these enterprises. So a few eucalypts or other tree species to hide the forests of pinus radiata and a few trees on the farm (to replace the trees and areas of native bush which we so faithfully cut down with our pioneering spirit) would help. The indiscriminate silage heap may have to move or be done away with altogether. And the same thing goes for old cars and discarded implements.

Some of the above changes will come by means of restrictions in district schemes and others through by-laws. All such restrictions will affect the value of our land.

There will also be more demand for other activities in the rural area. There will be an increased desire for rural subdivisions to cater for rural retreats, and for recreational pursuits, craft and cottage industry to service, among others, the tourists. Tourists do not come to New Zealand for our cities. They have bigger and better ones at home. It is the open space, the clean environment, the atmosphere and the scenic beauty that they want to enjoy (but with some of the comforts of home). An example of such a development is the recent sale of small sections

of land owned by N.Z. Forest Products in Northland. The bits of land sold off were not particularly suitable for trees but made nice exclusive retreats for residential or recreational use. In this particular case we have the best of two worlds. N.Z. Forest Products makes money (the sections were not cheap) and those who want to get (or develop) such a section are able to do so. If some of these developments are to attract tourism, roads and other facilities need to be upgraded in some areas.

If such activities are permitted, valuers should take note of such opportunities. They will affect values, and they will raise the expectations of other land owners.

The people who in the first place will have to deal with the developments described above are the county councillors and their planners.

From higher up they hear that tourism is desirable from a national point of view. From within the county they hear that more labour opportunities and more regional income is something they should encourage. But, they also know that most people believe that "change is good as long as it doesn't affect them." And change is going to affect them. Some will benefit from it as land values rise and they reap benefits from increased incomes. Others, however, will lose, and some will furiously oppose change. Zoning restrictions to ensure the maintenance of certain visual and scenic environments will affect land values. Rural subdivisions are desirable to some but represent a waste of good land to others. Crafts as a permitted use, to some bring in all types of strange elements within the stable rural community. And I could go on.

Many of these conflicts will need to be resolved under Town and Country legislation. Informed discussion is needed, information is required, and it is here that I feel the valuation profession has an important role to play. Much of the policy formulation within counties will inevitably follow the same trial-and-error pattern as we have seen in the past. However, this process can be sped up. By giving county councils precise information on the consequences and impacts of their proposed decisions, unnecessary mistakes and conflicts may be avoided. Many county councils are currently going through this process with regard to forestry and rural subdivision. [21 [31. The changes that I indicated above will lead to similar conflicts.

Where will all this change in land use, tourism and values lead to? In the first place it is going to increase your workload. Whatever the reason for a valuation, be it for a loan, sale, taxation, compensation, insurance or whatever, there is going to be more of it. An example at hand is for instance, the new joint venture agreements in forestry and kiwifruit thanks to last year's budget. With forestry, a contract is drawn up between farmers and investors to grow trees. When the trees are ready for harvesting, an independent valuation is to be done of the crop - this is a written requirement in the contract. Who else but you will do this kind of valuation? Another example could be that at some stage we may see that the owner of property will be compensated for limitations on the use of the property imposed in the public interest. Currently this is happening for special cases under the Public Works Act. But there may come a time that this principle is applied more widely to visual and amenity type restrictions as currently is done in countries like Denmark. Again this involves your rea of expertise.

The whole issue of the retention of farm land or the placing of restraints on use in the public interest is a difficult one and will become more so in the future. It is now realized that not only the land owner should bear the burden of this but that society as a whole must pay to retain such land. All these issues require the input of the valuation profession.

But even though there is going to be more work, it is going to be work that is more difficult. In the past the life of a valuer was not too complicated. With land changing hands regularly and land use changes not being too rapid, there were always some comparable sales around and the difference between productive and market value was known so that adjustments could be made. (If this all sounds simplistic just remember that I am an economist and not a valuer).

Today, with the uniqueness aspects of parcels of land increasing because of the rapid changes in land use and values, it will become harder to adjust sales data to make it comparable. Add to this the fact that with tourism potential many of these characteristics are of an intangible (e.g. environmental or psychological) nature and things become much more difficult. Value to individuals is very subjective, but with an active land market around these values will be reflected in market prices. Now with so many more factors influenc- ng `value', e.g. the effect of Town and Country 1 gislation and the great expectations of new enterprises and tourism, and with harder to adjust sales data because of the uniqueness of many situations, the task of a valuer appears to me much more complicated. Especially so today, with expectations changing so fast. Some of them will turn out to be real money spinners like kiwifruit, others will be real duds. You never know beforehand which will be which, but somehow you have to take note of the possibilities.

Conclusion

What then can I give you as my parting words? Let me summarise where I think we are.

The time of gradual changes in land use is passed. Today we live in a world where changes in land use patterns and community values are rapid. In many situations single purpose land use will make way for multi-purpose land use, where pastoral farming activities are combined with tourism, with forestry and with recreational pursuits. Land will be seen much more as belonging to the nation and as such to be used for the common good. As the same time there will be greater pressures to preserve as much as possible of the natural environment. Over and over again you will hear the term `wise use and management of land'. The interpretation of "wise" will continue to differ between those who do own and *Co* not own land. What probably will happen is 4hat we will `muddle' along changing the definition of "wise" in whatever way suits us. Still, I

hope that this `muddling' along will to some extent achieve the conservation and full use of the New Zealand environment. (These two terms are not in contrast so that the one does not exclude the other).

In the process of muddling or trial-and-error I encourage you valuers to get involved in the decision and policy making process at both local and national level. The consequences of decisions need to be evaluated, costs and benefits need to be compared to ensure that society as a whole will gain. With your expertise and local knowledge you can contribute much, especially at the local level.

At the same time I would like to sound a note of warning. Although the expertise is there, you may need to go back to basics. The situations that you will need to value will in many cases be unique, be they in terms of geographic characteristic or impact of Town and Country Planning legislation. There will be no or few comparable sales and because of intangibles productive evaluation will not often be possible as a way out. So you need to look at the principles again and see how you can tackle such problems. Currently you are going through similar exercises with the valuation of forestry on farms.

I am confident that you will handle the situations that will crop up just as you have done in the past. I therefore encourage you to apply yourself to these problems and at the same time, to get, with others, fully involved in the land use planning scene. It is only in that way that you will understand what is going on while others can benefit from your expertise.

I can see the future only as one that will be at the same time exciting and difficult for all of us.

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Tourism Its Impact on the Community

Outline of Remarks by Prof. Brian D. Henshall, Head of Management Studies, University of Auckland

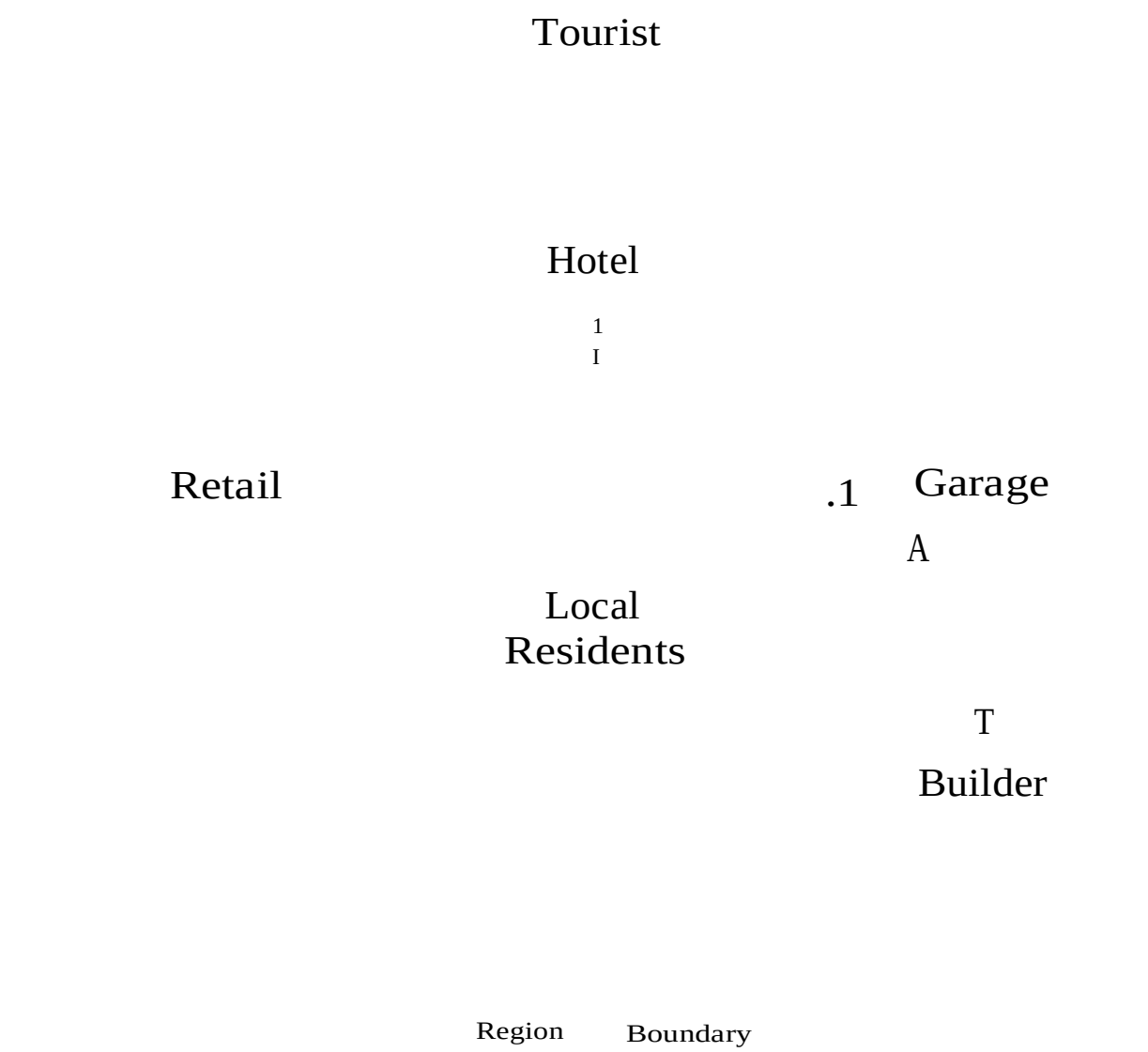
TOURISM AS AN ECONOMIC FORCE

A review of world prospects for the continued growth of international tourism has led to an assessment that the "Golden Age" of tourism has passed and it is unlikely that the arrival growth rates of 15-20% per annum achieved in the late 60's and early 70's will re-occur in the next decade. Present "longhaul" (air travel times of ifve hours or more) international tourism to Australia and New Zealand is growing at about 8-10% per annum and is expected to be growing more slowly at rates of 4-5% per annum by 1990-92. An encouraging factor for the Oceania Region is that these expectations are approximately double the average growth rates for world tourism.

These findings reflect the mature stages of a tourism product development cycle based on low price airfares, group tours and largely "stay-put" or coach-tour packages. It is characteristic of such stages of market development to see rapid switching between destinations in response to competitive promotion activities and general instability in markets with subsequent rationalisation and consolidation of individual companies into larger units. This `shake-out' phase should eventually leave only one or two surviving strong N.Z. companies still operating in the original product/market segments (mainly coach tours).

Throughout the world it is evident that an enduring and pervasive change in social values is occurring: from "outer-directed" values of status and conspicuous `quantity' consumption towards "inner-directed" values of `quality' of experiences and interactions with other individuals with many different lifestyles. These `inner-directed' people value educational and artistic interactions with peer groups. Although these `inner directed' people were only 7% of the population in the middle 1960's they now account for almost *25%* of the population in North America and even

Fig 1 Regional Income Generatic__- - Simplified Schematic Presentation



larger proportions in Western European countries. The challenge for the tourism industry in the decade ahead is to organise into a marketable set of products the experiences which these new opinion leaders value most. The majority prefer to travel in "free-wheeler" style and stay longer than their predecessors who wished to "collect" 10 countries in 17 days. "Been there" has been replaced by "Shared this experience with" good Kiwi jokers, hopefully.

The modern technology of advanced information systems will need to be applied to, say, a series of "farm-stays" linked with visits to local artists, craftspeople and local festivals. We will have to recognise that an occupancy ratio of, say, 15% is all that a "farm host" wants in order to preserve the spirit of gracious hospitality which can make the tourist N.Z.-er interaction quite memorable. The challenge will be to find the product mix quantity which ensures an economic profit for the producer while keeping the quality at levels which satisfy the `consumer' and their hosts.

The classical economic cost-benefit analyses and multiplier studies show that tourism fits neatly between agri-horticulture and export manufacturing as desirable investments for N.Z. capital. Tourism shows relatively low import requirements and is a relatively high labour user (in its outer-directed tourist form). However, it is relatively difficult to persuade N.Z. investors to sponsor developments which are designed to have (say) a 50% or more usage by overseas visitors - are they a fickle or unreliable base for investment decisions? In an exactly similar manner, it is relatively difficult to persuade N.Z. investors to sponsor developments in the manufacturing sector which are needed predominantly or solely to service export markets. (The vast majority of the N.Z. manufacturing industry has not reached the 20% of sales in exports desired by Government leaders). It is not surprising to find the Development Finance Corporation heavily involved in providing venture capital in these two sectors of the economy.

Both the manufacturing and tourism sectors receive export incentives which are regarded with mixed feelings by agencies outside the sectors: changes in policy are likely by 1985 and the recent Closer Economic Relations Draft Document serves to emphasise the pragmatic nature of these short-term assistance measures which, at times, run counter to desirable long run `more market' economic principles.

The Project Staff believe that the Tourism Industry should capitalise on the (near) freely traded nature of the tourism experience worldwide, embrace the CER concept and, by advocacy and practice, demonstrate that Tourism can be the first documented success story for CER. With the will to proceed in this direction, a host of collaborative possibilities emerge between the two flag-carriers - Air New Zealand and Qantas - our two Government agencies - Tourist and Publicity Department and the Australian Tourist Commission - in jointly and co-operatively marketing long-haul tourism to the South Pacific and Australasia.

Domestic tourism in both Australia and New Zealand will remain the cornerstone of "statistically recognised" tourism industry for many years to come. Domestic tourism expenditures have been estimated to be about $571 million in 1982. Of these, a substantial amount does not actually involve the tourism industry at all. (ie. an Auckland family taking a week's holiday to visit grandparents in Wellington and driving their own car without staying in motels or visiting any tourist attractions would simply transfer expenditures from Auckland to other areas during their trip: the $350 extra they spend would not create

THE ECONOMICS OF TOURISM

* Tourism provides one in every 20 employed New Zealanders with their job.
* Total employment is approximately 60,000 persons.
* To support one job in the Tourism industry requires 20 International tourists (i.e. $20,000 of expenditure).
* For every one direct man-year of employment generated in the tourism sector a further 0.4 of a man-year was supported in industries indirectly related to tourism.
* 12,000 new jobs are projected to be created in the Tourism industry by 1985 as a result of increased Tourist expenditure over that period.
* In addition, and as a result of that increased expenditure 4,800 jobs are projected to be created in other sectors of the economy.
* The original tourism dollar was spent in a wide range of activities, but with accommodation, transport and meals accounting for two thirds.
* Every one dollar spent in all of the Tourism sector combined generated a total added value to the economy of $1.69.
* An econometric model of the New Zealand economy shows the Tourism sector in relation to other sectors to be
  - A high labour user.
  - A low import user.
  - Having high capital requirements.
  - Generating high levels of net foreign exchange.
* At $979 million, Tourism revenues constitute 3.5% of the gross domestic product.
* At $419 million, International Tourism ranks among the top six foreign exchange earners.

any more jobs directly in the tourism industry.) We estimate that about 55010 of all domestic tourism lies largely outside the formal accommodation, attractions and transport sectors of the industry. Hence, real industry domestic tourism $ returns may be about $247 million. We note New Zealanders are tending towards more involvement with the tourist industry, i.e. more motel usage. The domestic industry should think carefully about how to capture more of this informal domestic tourism potential. Ironically, the international tourism sector is moving somewhat away from the formalised area as more visitors come on longer, experience-sharing, lifestyle tourism trips.

The project believes that long-haul international tourism will grow at a rate of 7.5% per annum from 1982-85, Trans-Tasman traffic will be static, and Domestic tourism will grow at 3% per annum during 1982-85. With the investment of an additional $500,000 in research and $1.5 million in promotion per year in 1983 and 84, it is likely that targets for the period 1986-1990 can be set for International Tourism to grow at 15% per annum and Domestic Tourism at 5% per annum. On this basis, the total Tourism sector of the economy would approximately double in constant 1982 dollars by 1990. At least 42,500 new jobs would be created in this process if these targets were achieved: some 12,100 new jobs could be created by 1985 in the initial stages of a planned tourism industry development process.

In summary, tourism is a sector worthy of a more respectable image, a better statistical base and more collaboration between its own sectional interests.

NEW ZEALANDERS DISCRETIONARY INCOME

MAJOR EXPENDITURE ITEMS 1980

Rank	Item	Home-owners %	Non-Home-owners %
1	Car	35	23
2	Home improvements/ purchase	34	35
3	Travel	17	34
4	Moveable furniture	6	4
5	Home appliances	6	4
6	Boat	2	-
		100%	100%

TOURISM - AS A SOCIAL FORCE

Many people argue that the surge in mass tourism in the 1960's and early 1970's was due to economic factors only. However, Professor Emery of the Australian National University, argues that it was also due to social reasons - the largely negative aspects of work and home environments. The basic message was "anywhere as long as we get away from home and work". By the 1980's however a major shift seems to have taken place not only in economic factors but also in social values. Research shows that people can be divided into:-

Outer-Directed - i.e. materialistic; people who seek satisfaction in the external aspects of life - possessions, status etc.

Inner-Directed - less materialistic; people who seek satisfaction within - self-fulfillment, involvement, relationships etc.

The significant change is that the inner directed group is rapidly increasing as a proportion of the population e.g. in U.S.A. from 2% in 1968 to 21% in 1980.

This research is echoed in Australia and in N.Z. in studies by the Commission for the future.

The significance for the Tourist industry is that the inner-directed tourist has very different needs from the traditional tourist. An inner-directed tourist to N.Z. is:-

- Equally concerned with interaction with N.Z.ers as with "seeing the sights".
- Less concerned about "collecting" N.Z. for their holiday stampbook.
- Less concerned about "resorts" and international quality entertainment.
- Less interested in scenery package tours, but more interested in special interest/ educational/sporting package tours.

In the past the Tourism industry has assumed that it is the Traditional tourist that constitutes the profitable and ever growing market. However perhaps growth in the future lies in the inner-directed (or New Age Tourism), especially for N.Z. which shows little sign of wanting to develop traditional tourism products well established in competing exotic destinations (such as Casinos, Club Med, Pacific Harbour etc. tourist enclaves).

When N.Z.ers go overseas for the first time they take with them a relatively unsophisticated understanding of how N.Z. compares with a variety of other countries.

As they travel around the world collecting their impressions on the `grand tour' (O.E.) they realise the uniqueness of N.Z.

N.Z.ers attitudes to tourism are ambivalent. Economically they think they may prefer mass tourism of say one million visitors staying five days. But socially they would prefer 100,000 visitors staying 50 days. Obviously these two extremes represent entirely different tourist products.

N.Z.ers are acutely aware of the value of the unpolluted, peaceful and friendly landscape which we have, and aware of the tourism pollution that can occur when big scale development takes place on narrow economic criteria only.

We strongly believe that a tourism policy for N.Z. must allow for a harmony between the needs, aspirations and values of N.Z.ers as well as the needs, aspirations and values of the overseas tourist.

Research by the T and P Department in 1981 showed that N.Z.ers are "do it yourself" holiday-makers. They feel competent to plan holidays which suit individual needs. Personal contact (with friends and relatives who have been there before) is the most powerful influence on destinations. They have a strong aversion to a rigid holiday package. In many respects N.Z.er's have developed domestically the kind of variegated tourist products characteristic of "New Age" tourism.

Tourism can be viewed as having another social effect. It can be a force which enriches the lifestyles of a well educated, tolerant, and enquiring population. Far too often we think of tourism in the context of hotels plus coach tours, something which is relatively anathema to the average N.Z.er. Tourism can however encourage a wider and more diverse array of lifestyles and overcome a national inclination towards insularity which is the bane of most remote island peoples the world over.

Overseas tourists can enrich our country with new ideas, with a sharing of differences, if they are allowed to "meet the natives".

New Age tourism develops the `host' and `visitor' elements on a friendship basis – this avoids the perennial problem of our confusion in N.Z. between service and servility.

What trends can we expect? Generally a move away from scheduled coach tours towards more lfexible holiday arrangements with greater opportunities to `meet the people'.

- More demand for rental cars, campervans, and motel accommodation.
- Increase in allied industry - (a) farm stays and home-hosting becoming far more organised and accessible as add-ons.
  (b) Event Tourism e.g. based around Pacific Culture, and sports phenomena, road running and international soccer.
  (c) Regeneration Tourism e.g. health and personal development centres.
  (d) Renta-bach n' boat.
  (e) Outdoor adventure - yacht chartering, tramping.

To summarise there has been a dramatic change in social values in many of those countries which are our main tourist markets.

Our preliminary analysis of 1982. In-flight surveys shows that many of our international tourists currently reflect this change in what they are seeking from their holiday in N.Z. The first three motivations to travel by overseas visitors to N.Z. were:

- Aid mutual understanding between people.
- Put one's own country into perspective.
- Broaden one's education.

The major images of N.Z. were (1) friendly people, (2) beautiful scenery, (3) uncrowded, (4) relaxed pace of life. In all cases the outbound tourist scored these factors higher than did the inbound tourist.

This New Age market is more sophisticated than traditional tourism. In order to realise the undoubted profits that are available in it the industry will need to:-

1. Sponsor sophisticated on-going attitude research to identify the sub-segments of the market and social impacts.
2. Move away from a production viewpoint (e.g. over-concern with overall visitor numbers) towards a marketing viewpoint.
3. Look carefully at markets previously rejected as not being within the industry e.g. so-called V.F.R. consumers and New Age products such as farm stay.
4. Be more flexible in ability to respond to changes in demand and to respond to the challenges of "organising the unorganised".

To Summarise:

"New Age" Tourism may be the growth segment of the industry in the future. For New Zealand, the attraction of New Age Tourism is the "fit" between inner-directed social values and the unique resources we have to offer in this country.

For New Zealanders, it promises a social acceptance of New Age Tourism with the host/visitor relationship based on a friendship basis.

Financing of a Major Hotel Development

by Mrs E. C. Kennedy, Stockbroker and Director of Hyatt Kingsgate Hotel

Thank you for the opportunity to speak. I am well aware that it is not a matter for me to speak to you about valuation. That is a matter for you. Your competency in this field is more than I could ever hope to achieve. Valuation of hotels is more than bricks and mortar and you are well aware of that.

The general consensus of opinion is that the tourist industry should become a major foreign exchange earner within the next five to ten years. But, of course, to understand this, we as a country, have to accept certain changes within the industry.

To understand further, let us look at a little of the history of tourism in this country. The investment by pioneers - because they gave us the basis upon which we are now able to build. Without their foresight, I doubt whether we could have come to this point. It spans not only accommodation, but transport and aviation. One has to admire the tenacity of those who established tourism in the Paradise Valley - who opened up the country of the Holyford Valley and Milford, because these remote areas were far more difficult than Rotorua or Queenstown.

In acknowledging this, we have to look at the aviation transport industry, the Wigley family who developed firstly, coach and horse, and finally, planes, allowing us to get through that difficult McKenzie country into our famous Mount Cook. The other pathfinder who should be mentioned, is Popeye Lucas of Southern Scenic Airways, when he flew people from Queenstown to Milford, opening the first vista of easy travel for those overseas tourists, and made possible the four routes to Milford by track, road, sea and air.

The families of Newmans, Guthreys, Hewatts and Coxheads were well aware of the potential for tourism and I take it for granted, of course, that you will acknowledge the investment by various Governments in NAC and Air New Zealand, for they have done much in bringing people to our shores. But now, of course, we must develop hotels.

Our hotels in the past were geared to the brewing industry, reyling mostly on the production of beer, rather than what is perceived today, to be the comfort of the traveller. However, we are seeing, with the new management of Dominion Breweries and Lion, a change in their attitude. Further, from the brewing industries, we gathered momentum to allow New Zealanders to travel to small motels, which were to have been cheaper accommodation for the travelling public. And then the Government created the Tourist Hotel Corporation to provide accommodation in areas of tourism, both overseas and domestic, to enable advantage to be taken of our most precious, spectacular scenery which makes this a unique country.

It was a far-sighted Government in 1974 that purchased the Rotorua Hotel in an effort to make those out of the way establishments, such as Milford, Te Anau and the Hermitage, viable and profitable. No one can deny that the Tourist Hotel Corporation's operation is anything other than exemplary. When one is aware that only 12 people run the head office, it is a very neat operation indeed, and has a fine reputation, both at home and abroad.

If you were valuing these hotels, it would be very difficult to value just the bricks and mortar. There is no doubt, ladies and gentlemen, that the land use, and the situation of the hotels is extremely well placed. But, in the tourist industry, New Zealand has not as yet tapped the international market. When we think that in 1982 tourism generated $980 million, and today, represents 43 per cent of international travel, and 57 per cent domestic, and that tourism itself actually ranks sixth on the top of our foreign exchange earners - we have a great resource in our hands. It is remarkable when we realise that one job is created for every 20 tourists who enter the country.

I would like to predict that tourism has become one of the "Think Big" projects over the next ifve years, and will continue. It certainly is the vital element of our country's recovery. It is our future, and we are very lucky in New Zealand, because half the assets are supplied free by nature. The other half is developing and utilising these assets. We have not really begun to develop our real potential. We have not even given thought to the fact that tourists should be seen as a permanent increase to our country's population. People who bring in foreign currency, who are consumers only, and are no social cost to this country.

We the ordinary New Zealanders, must learn to change in our attitudes in accepting people from overseas, and we must learn also to make provision to serve. We have seen, as I have said before, the growth of hotels owned by the breweries. We have seen the growth in the smaller motel, and the progress of the Tourist Hotel Corporation. We are now seeing the growth of the international hotels, which are either owned by Government, or private enterprise, but with management contracts to such overseas companies as Hyatt and Sheraton.

But what are the general principles of financing applicable to these new ventures? If we applied the principle, such as an appropriate gearing ratio of say, 60-40, an adequate return to the investor, and a positive cash flow from operations, then we are living in Utopia, because it will take 10 years from the germ of the idea, and ifve years from when the hotel is up and operating to within break-even point.

Therefore, in New Zealand, the industry is faced with the need to obtain funding off-shore. If the heavy investing by Government in the building of luxury hotels is to be replaced by private sector financing, then some incentives will need to be made. We should be aware that the Sheraton Auckland and Rotorua, and initially the Hyatt Kingsgate Rotorua, were all dependent upon funding from the DFC, Air New Zealand, and in some cases, directly by the New Zealand Government.

The Sheraton, Rotorua, however, is 100 per cent owned by the DFC. Now we are to understand, all that equity participation, was forced upon the corporation by the financial circumstances of the original owner. That is another matter. But one must question whether the DFC should have so much equity involvement in the face of trying to get private enterprise participation. It is my view that this heavy, in effect, Government funding, cannot continue at its present level, and should the DFC, as envisaged, become a bank within the foreseeable future, it will be constrained by reserve bank ratios and limits of money supply growth, in the same way as any other trading bank.

Current prognostications are, that this will have a material effect upon the corporation's investment programme. However, we are not here to debate the DFC's problem. But we are going to find it difficult to interest hotel owners from overseas to invest in heavy commitments capital when little incentive is given to them. It is, as I said before, five years from the opening of a major hotel to break-even point. Can we encourage private sector financiers to enter this ifeld?

Management contracts by organisations such as Sheraton, Hyatt Kingsgate and Travel Lodge, are desirable, because they give immediate contact to overseas reservation chains, and should ensure a standard of accommodation acceptable to American, Japanese and United Kingdom tourists. But as long as New Zealand continues the de facto devaluation, room rates, which may seem high to New Zealanders, are, in actual fact, quite modest by US standards, in US dollar terms, and a case could be very well argued for New Zealanders being charged in New Zealand dollars, at a rate smaller in real terms than to the Americans, thus providing them with cheaper accommodation in New Zealand terms than the overseas tourists. This would increase, I believe, occupancy rates.

Efficient hotel economics is determined by bodies in beds, not by vacant rooms and high prices. Cash flow needs to be generated which can sustain ongoing operations, and provide for development. To this end, let us discuss Hyatt Kingsgate. A public company with over 2,200 shareholders - the major shareholder being Mr Ho Whye Chung, a Singaporean who obviously has the vision - and the money - to push forward into these years of discovery. His first venture, the Hyatt Kingsgate Rotorua has established the kind of company he intends to develop with his New Zealand shareholders and board, with a keenness to spend $21 million building a hotel with facilities that are second to none, and to further committing himself and his company, to refurbishing Auckland, Rotorua and Queenstown.

Kingsgate International contracted Hyatt to manage their hotels immediately giving them entre to the overseas markets. Hyatt Kingsgate is committed to investing a further $40 million from 83/86 within the industry. Once the accommodation block is finished in Rotorua it will be the fifth largest hotel in the country.

Ladies and gentlemen, tourism is a people's business. A first-class hotel cannot operate in a vacuum - the whole community must look after it. Obviously, an international hotel chain must ifrst believe that it can capture its part of the overseas and domestic market. A major part of the initial financing of the Rotorua Hyatt Kingsgate came from the DFC funding, at interest rates of 19-21 per cent. That rate would be most daunting, and naturally private investors such as Kingsgate, had to look very carefully at what they were doing, and turned to other options of refinancing in foreign currencies. But here they are vulnerable to the currency exchange and to the ever overhanging black cloud of prospective devaluations. It takes a brave heart to enter this sort of negotiation in the face of the ability of the Sheratons of this world, to have what could be termed, Government funding, at more favourable rates.

There is no incentive for the private investor to come into this vulnerable area. It says much for the shareholders of the Kingsgate Group, that they have a great belief in what they are doing. One cannot value just bricks and mortar as well you know and, as I have said before. If we can get that right, we could have the most beautiful building in the world, but how do you train New Zealanders to provide a standard of service as is found in other developed countries? If you have the hardware right, how do you get the software right? How do you train human resources - the porter standing at the door looking very efficient, who walks towards you immediately to take your bag. The lady behind the desk to have a bright and cheery smile and look as if she means "Welcome to New Zealand - welcome to this hotel".

Those are the finer points, the frightening points of the hotel industry in this country where we have been taught that it is little less than second-rate to provide service. In fact, it is one of the most rewarding things, that one can do with one's life. We have in New Zealand what Hong Kong and Singapore do not have. We have a natural resource. What we do not have is the ability in New Zealand, because of our population, to match the colony of Hong Kong with its 5.5 million people - a smaller area than the province of Taranaki. That colony vibrates with activity. It could be called a "Professional Refugee Camp" where everyone is there to better himself - because it is a must for survival. It is where you can find an underground cross harbour traffic tunnel, completed by private enterprise and paying for itself in three years. A mass transit railway system built to become viable within five years. A multi-storey building demolished, and rebuilt

in under two years, and a 50-storey building that is up a floor in a week. A population that understands its very economy is based upon the need to work together.

This is what we need in New Zealand, and this is what our international hotels are dependent upon - a fast moving of the builder, contractor, and a fast moving of the staff within the hotel.

The hotel industry is probably one of the most difficult to manage and control. Unlike nuts and bolts, the product is not fixed or specified, or easily monitored. Just how many nips of whisky do you get in a bottle? No doubt a clever barman can produce a bottomless bottle by bringing in his own stock. How do you control food portion sizes, and food cost percentages? Did you know that a good chef is even worth much more than the general manager? Not that the general manager would like to know that.

Hotel management is in a sense, constant control, constant attention to detail, and constant administration, seven days a week, 24 hours a day, and management must continually watch and check. Hyatt Kingsgate itself created 100 positions and employed 35 people previously unemployed. The extra retail from tourists, food and beverages purchased by the owners of the hotel, or management, and the jobs created by that $21 million investment, in this particular hotel, must have an effect upon the economy, and the district at large.

There are 1200 new jobs projected to be created nationally in tourism in 1985, and as a direct result of this, 4,800 are projected to be created in other sectors of the economy. For every dollar spent in the tourist sector, it generates a total added value to the economy of $1.69. It is not going to be easy for private enterprise to create further hotels of the standard of Rotorua, with little, or no incentive so to do. The constant ifght for funds is difficult to say the least. There is no doubt that the private sector is behind the eight-ball when it comes to the funding of major hotels.

We have the Overseas Investment Commission, and they are of great assistance in helping with the evaluating of foreign investment policy associated with the tourist industry. Under the current policy, the commission takes into account the following aspects of a proposal:-

(a) The expertise of the investor.

(b) The ability to generate dollars and tourist traffic.

(c) The provision of job opportunities and training to New Zealanders.

And then the investment unit which acts as an advisory service within the Department of Trade and Industry. Staff drawn from that department can offer Government departments and the private sector, assistance, and then, of *course,* we have the DFC.

However, there is no doubt that more will need to be done if repeats of the $21 million spent here in Rotorua, are to be had. More incentives will need to be made. At the moment the Hyatt Kingsgate is embarking upon refurbishing the old International Hotel in Auckland. That refurbishing itself will cost somewhere between $6-$8 million. But what are our figures for this last year, if we are talking about investment, and we are trying to encourage more like the Kingsgate Group.

Visitor arrivals had an increase of 5.6 per cent from 1982/83. Total receipts, including international fares for 1982 were $546 million, and in 1983, $743 million - an increase of 39.5 per cent. The direct result of the visitor arrivals ifgures, which in December of 82 were 482,000 now in December 83 were 509,000. A further incentive may be that tourism employs 60,000 people, generating $353 million in foreign exchange earnings, and $389 million in international fare receipts.

This far and away outweighs the fishing industry, which employs only 4,000 and earns only $190 million, and horticulture which employs 14,000 and earns in foreign exchange, $244 million.

Overseas tourists in 1983 are as follows:

	Number	Aver. Stay Days
Australia	224,100	22
USA	85,716	19
United Kingdom	39,096	52
Japan	32,481	9

The total DFC investment in industry - $102 million which includes:

Sheraton	Auckland and Rotorua
Park Royal	Wellington
Terrace Regency	Wellington

These figures should be an inventive to overseas investors. The need to encourage people, such as Mr Ho Whye Chung with a vast experience in overseas markets in the building industry and foreign exchange, is essential if this country is to develop to its full potential.

I inquired of the Queenstown area from the local authority, what it saw as its needs. I find that building permits issued to the year ended 31/3/84 number 750, and total $17 million. The actual through-put of tourists was estimated at 450 to 500,000. The development of 190 condominiums was under way, or at least in the planning. A new shopping complex was planned and a six-shop complex nearing completion. Last month the hotel accommodation was fully utilised, and over a two-week period the nearest hotel beds were only available in Invercargill or Wanaka. Queenstown I am assured, needs 150 beds of the upper market level within one to two years. At least three overseas interests are currently investigating. Dwellings in the area are in keen demand, and selling 50 per cent in excess of the 1982 Government valuation. The Queenstown Borough Council itself has sold fifteen sections within two days, with prices ranging from $28,000 to $35,000. All cash sales, including two USA clients. Five per cent of the sections are owned by overseas clients. And add to this, just as an aside, one shop owner sold $8,000 worth of sheepskins in one week. It was a small shop. This is the sort of tourist potential that is available all over New Zealand - not just in Queenstown. The availability, and the

need for us to woo, and encourage New Zealanders and overseas people to have faith in an industry that is fast becoming a major earner of foreign exchange, is urgent.

I refuse to believe that the faith of the 2,200 investors of Kingsgate is misplaced, and believe that they will benefit along with their Singaporean colleague. At this moment there must have been a gremlin listening to me because the following telex was sent to me:

"Convinced that New Zealanders are not keen on long-term investments in hotels, the Development Finance Corporation has been to Singapore, Hong Kong and China seeking $40 million in equity capital to refinance and extend this country's Sheraton hotel chain. Initially new investors will be offered an equity slice of a three-hotel chain, combining the existing Sheratons in Auckland and Rotorua with a proposed 300-bed, $70 million to $75 million Sheraton Wellington.

"Further Sheraton hotels in Christchurch and Queenstown are planned and, longer term, the prospect of Sheraton hotels in Taupo and the Bay of Islands are being considered. DFC Assistant General Manager, Corporate Finance, Graeme Palmer, just back from Asia said: "'I don't think we can interest overseas investors in the Sheraton Wellington as a stand-alone project. A more workable concept would be to combine ownership of the two existing hotels with the rest of the chain'."

"Doing this would also allow the DFC to spread its equity risk over more hotels and perhaps achieve its long-term goal of passing its present equity interest over to the private sector. Neither of the two existing Sheraton hotels have been profitable, due largely to their poor debt/equity ratios and high debt/servicing burdens. Palmer said he did not expect any hotel except one 100 per cent equity-financed to become profitable in less than three to four years.

"The Sheraton Auckland has a debt/equity ratio of $23 million equity to $28 million debt finance. The debt side of this ratio will increase to about $32 million when the hotel's amenities are completed. This hotel, discounting room rates to achieve a 61 per cent occupancy rate last year, is still in the red. Sheraton Rotorua, owned 100 per cent by the DFC and managed by Sheraton, with a debt/equity ratio of $5 million equity to $6 million debt finance, is just now beginning to break even with a 67 per cent occupancy rate.

"The proposed Sheraton Wellington, a complex including 100,000 sq. ft. office block, would be financed with $40 million equity capital and $30 million debt finance syndicated internationally by the DFC. The DFC is drawing the line at its $11 million equity investment in Sheraton Auckland and $5 million equity in Sheraton Rotorua. Further DFC investments would be in the form of debt finance, not equity, Palmer said. Palmer said Sheraton has done more than its fair share in attracting overseas tourists. Brought here by Sheraton's aggressive marketing approach.

"Other hotels just whinge about us, but spend little or nothing promoting New Zealand overseas," he said."

"The DFC's plans for expanding the Sheraton chain were based on a Price Waterhouse market survey. Palmer was accompanied on his Asian fund-raising foray by Sheraton's Hong Kong based financial controller, Miguel Ko Andrichard Hartman, Sheraton's East Asia Manager and former Manager of Sheraton's New Zealand interests. New Zealand, said Palmer, was seen as a safe place to invest and bolt-hole for the Chinese Millionaire looking for escape. Palmer merely sowed the seeds of his scheme with bankers on this trip. When these bankers have had time to discuss it with their clients he will make a follow-up trip back."

So much for the DFC.

Governments have supported the farming industry for a long time. It is now time to support, and allow to develop, a free enterprise tourist industry, unfettered by Government restriction and interference. Therefore, I believe, that the private investors, such as Kingsgate International have bitten the bullet. They are taking the strains of foreign currency fluctuations, and the whims of political devaluations. But they are creating a chain that New Zealanders will have a part of, and will be proud of.

With all the hazards they face, it would be a truly private enterprise part of tourism, and this is a very vital element in this country's economic recovery, and an endorsement that tourism in our country has a fine future.

Thank you ladies and gentlemen.

rifof essional Standards Val ation Reports

by K. M. Allan, A.N.Z.I.V., General Secretary, N.Z.I.V.

Paper presented at the Hawke's Bay Branch Seminar, New Zealand Institute of Valuers, September 1983.

Kevin Allan was appointed Executive officer of the Institute in 1982 after 17 years employed as a valuer id the Valuation Department, Wellington, relinquishing the post of Assistant Chief Valuer, Head Office, to take up his appointment with the Institute. Kevin became General Secretary on the retirement of Mr F. B. Hunt in December, 1983.

I want to commence this address by invoking what is often a criticised feature of valuation reports - the disclaimer clause. Whilst the Institute has done some work on valuation standards and is presently looking to broaden this topic including a statement on valuation reporting, my ramble through the subject is essentially a personal view although it probably coincides with that of the Institute in a number of places.

One might wonder why the Institute should mount a discussion group or seminar on a matter as mundane as valuation reports. Even amongst ourselves, valuers can't agree on what constitutes an excellent report or a good report, an adequate, borderline or substandard one and this is perhaps because everyone's standard differs. For a variety of reasons touched upon in my address I believe it is timely that the Institute turn its attention to something which we may appear to have taken for granted.

Report writing is an art - a developed craft or technique that ranges right across the spectrum of competence. You might expect that a profession which has now moved to university educated entrants has solved the problem of reporting and presentation. Not so. I recently learned that at least one of the universities now training future valuers has been putting on remedial reading classes and insisting that at least some first year students take a compulsory English course. So it seems that the problem of communication is being diagnosed and treated at the learning stage. As the sub-title to this seminar suggests, reports are the shop window of the valuer's work. There is no single endeavour or promotion that we could pursue that would make a bigger impact on the public than a comprehensive improvement in the standard of valuation reports. We must recognise however, the fact that there are valuers whose English, basic comprehension and written expressive skills are less than adequate; we are all different, and some find it more difficult to relate the facts and detail the salient features in our reports. These written skills are more important of course in the free-flow, unstructured valuation report than in the form filling style of presentation.

Now what about this disclaimer clause that has become such a part of the valuation report? I am aware that its inclusion has been required by insurers who write professional indemnity cover for valuers or that at least the insurance available may be limited in the absence of a disclaimer. On balance one would have to conclude that it does detract a little from the quality and authority of a valuation report although one might also ask is not the valuation itself a conditional assessment of the property's worth? We assume a perceived set of market circumstances determine a quite finite valuation in the prevailing conditions and yet don't normally find it necessary to add the obvious proviso that the valuation is of no material use for any other purpose after even a short lapse of time. And yet we know that valuation reports are copied and passed to third and fourth parties who may be moved to act on the valuer's opinion rendered therein.

In the U.K. recently there has been some debate about professional indemnity insurance for chartered surveyors (valuers). One proposal floated involves the profession giving an absolute guarantee that 100% of practitioners be covered by a scheme in exchange for Government promoting legislation to limit the liability to specific areas of the valuer's work and report. That proposal was rejected by the members and

the situation remains as in New Zealand. The Institute of Valuers here continues to be alarmed at the number of professionals practising without any cover. Whilst insufficient data is available to reach a firm conclusion there is some suggestion that the worst reports coming to the attention of the Institute are authored by those who haven't got indemnity insurance.

From reports referred for the Institute's attention there are two categories of offenders whose reports are of concern but I hasten to add that these groups are not in any significant majority since complaints are to hand from all grades of valuer. The first category could broadly be described as the older brigade of practising valuer many of whom were valuing or secured registration on or about the time the Valuers Act was passed. These individuals have probably not changed their reporting style in thirty years and have never stopped to consider that the valuation report in the client's hands is an advertisement not only for themselves but reflects upon the whole profession. Their reports are perhaps characterised by the poor typewriter quality - often old mechanical machines hammering to death paper of dubious quality, reports of limited length, no setting out, no conclusion and bare bones opinion without reference to the wider market are observed faults.

The second identifiable group might be classified as the young offenders for age and experience appear to be synonymous. One gains the impression that their reports have been dashed out in extreme haste in order to move on to the next inviting job and whilst these have a more presentable format than those of the older brigade, serious errors of fact, and arithmetic errors in the valuation or mortgage recommendation occur.

Valuers are sometimes accused of spreading their report to some length thereby giving it the appearance of substance; I believe one of the equally culpable faults of presentation is to `cram' the report into too few pages, with the omission of headings, lack of margins and generally poor layout. Perhaps some of this work emanates from valuers turned typists. A valuation report is, after all, a communication medium and reflects all the positive and negative things about a valuer. Additionally of course it is a reflection of the whole valuing profession. and the individual members, committees, and education unit within the Institute must be ever vigilant in their pursuit of improved valuation reports.

Thus far I have discussed the appearance of the valuation report and now wish to look at the content of a report. Some might say the requirements of the Institute in regard to valuation reports are contained in Clause 17A of the Code of Ethics. One must immediately point out that such standard is merely the minimum requirement for any report and that other sections of the code also cover reporting e.g. Clause 15 requires that "no member shall knowingly prepare or certify any statement which is false, incorrect or misleading or open to misconstruction by reason of the misstatement, omission or suppression of a material fact or otherwise." One of the areas of current concern to the Institute is the rendering of valuation reports including a trustee recommendation to clients whom the valuer knows do not have trustee status A recent spate of cases before the Institute has caused a re-examination of the law and protocol between a valuer and a trustee. It is quite clear that the valuer and the trustee must establish an employer-employee relationship under the Trustee Act where the legislation requires the valuer to be "a person instructed and employed independently of any owner of the property". A legal opinion to hand goes further and holds that the term `owner' should include any lessor, lessee, or any prospective owner (mortgagor), prospective lessor or lessee. A valuation report is misleading therefore should the valuer state that his valuation is pursuant to, or in accordance with, the Trustee Act, 1956 or use any words to that effect unless he knows the person instructing and employing him to be someone other than the owner, lessor or lessee (as the case may be) or someone acting on their behalf. Even then there is no need for him to mention the Trustee Act if he knows that his client is not a trustee.

An article dealing with the valuer-trustee relationship appeared in the December 1983 issue of the "N.Z. Valuer".

Many of you may have followed the debate relating to Government's intention to introduce what it called the Competition Act involving a review of the Commerce Act and other minor consumer legislation. The Act would follow overseas consumer law (e.g. Trade Practices Act 1974, Aust: Fair Trading Act 1973; U.K.) in which it is held that pricing agreements between suppliers of goods and services is anti-competition in nature and is accordingly prohibited. It also follows that the market for services, including professional advisory services should be allowed freedom of competition to meet the desired level of public demand. Many clients of valuers have protested for a long time at the unnecessarily full reports provided by valuers and the consequent fees demanded and stated a case for more concise written opinions of value at a more affordable price. The valuer feels torn between meeting the client's request for a more abridged form of report and his professional ethics which require him to meet a minimum standard of performance and a reasonable level of professional fee. What the client fails to realise is the the valuer's expertise experience and judgement are just as much required to produce a valuation result irrespective of the length of the report. The client is not clamouring for a half-baked opinion as to value - only a half-baked report for some saving in fee. I suppose it's analagous to a reader advising the newspaper publishers to just send the news and cut out those pages of tiresome adverts - for which the reader will happily pay half the cost of the newspaper.

This brings us then to the matter of professional standards and what do the public require and expect of valuer reports - or rather, what should the public be entitled to receive having commissioned a valuation. The short answer is that they are entitled to nothing less than the professional best that the member can produce. I would main-

tain that insofar as the valuation is concerned. irrespective of how short is the report, how tatty the comments, how poor the presentation or how sketchy the details, the valuation must be accurate, well-researched, well-reasoned, defendable and a clear statement of a figure including any contingent comment. The experience found by the Institute over say the past three years, is that people don't often take cases and lay complaints about the report or its presentation. Most of the time the valuation sum itself triggers an action, a decision is made, a commitment entered into, or default on payment develops and the dollars of the valuation are examined. From that point the complainant looks further at the words and finds the errors of fact, misstatements and careless reporting.

The case for some valuation standards in New Zealand was publicly debated in the pages of the "N.Z. Valuer" from 1970 sparked by a letter from a member whose branch that year submitted a remit calling for the Institute "to issue statements and recommendations on standards of professional practice". Most reaction was generally supportive but other feelings of outraged indignation were apparent how dare the Institute attempt to advise members on the type of work they were expected to produce. Fortunately, Council of the Institute took the remit aboard and from that emerged the contents of the code of ethics known as Clause 17A. However, apart from the adoption of guidelines for current cost accounting around 1980/81, there has been precious little further debate or action on standards in the valuing profession until now. The present elected representatives of your profession have given consideration and support to the establishment of further standards and see their development as both desirable and necessary.

The case for and against the publication of professional standards includes the following arguments. Whilst the establishment of a standard has the object of setting a minimum level of performance, it may also, in some circumstances tend to be a maximum. Does it (the setting of standards) remove or reduce the initiative of the better-than-average report writer to produce a better product? Some valuers possess a `flair' for valuation and report writing - do standards kill flair?

Adoption of rigid standards may take away the legitimate differences between valuers' styles and become a leveller, whereas the institution of standards was attempted as a device to fix a new minimum basis of conduct. For this reason one would need to be cautious about the wholesale adoption of standards.

Standards tend to require the agreement from all parties likely to be affected before they are introduced, and in many situations that agreement is difficult to achieve. Once operative, standards (of good professional practice in given situations) could prove cumbersome to change as and where needed.

However, the existence of recognised codes gives the individual, the profession and the public a rod against which to measure the performance of any valuer. To have and maintain an effective complaints and disciplinary procedure may require a standard to establish the validity of alleged incompetent action by the valuer. Perhaps the completion of a comprehensive `form' valuation has the advantage of the valuer knowing that he has faithfully covered every aspect of the valuation and report - a check list type of discipline. However, this style of structured reporting may give the false impression that valuation is a paint-by-numbers science and that would be a dangerous view for the public to develop and potentially damaging to the continued promotion and profitability of the valuing profession.

Valuers have faced competition for appraisal work from members of the real estate fraternity and in the last year a property inspection service has been offered by the architectural profession for home owners. This latter group have set a standard `style' with their prepared forms which while not appropriate for valuation purposes, does set a standard of sorts. We observe the enterprisers who have marketed a do-it-yourself divorce kit and a do-it-yourself conveyancing kit. There seems no reason with the information sources available today, why a do-it-yourself valuation service would'nt find some market. But rather than dwell on this interesting prospect the profession must get on with the job and promote the Registered Valuer as the skilled, experienced and most logical person to retain to render an opinion for real estate decision-making. Lobby politicians, press for legislative recognition, make an impact in the media and the public areas but don't for one moment overlook the fact that the best form of defence is attack; the valuer must continue to produce a superior product in valuation terms, authoritative and well-presented and at an affordable price.

The adoption of standards in the U.K has been particularly widespread in mortgage valuation work on residential securities and this may have been hastened by recent sucessful litigation against valuers performing Building Society appraisals. On balance, I personally believe there is a case for some elaboration of the present minimum statement of a valuation report (Clause 17A) coupled with a public education programme. Standards are some measure of a professional's maturity.

We all know and respect colleagues whose valuations and reports we instinctively accept sight unseen; their opinions on valuations are considered sound, balanced and objective, their reports are invariably model works of art. In other words, valuers whose judgment and product we immediately classify as sound and these people, generally uncompromising in their adherence to ethics are categorised accordingly. There are others, however, whose views on valuation are obscure, unacceptable, inconsistent, or downright misleading, people who are open advocates and whose reports are more than a little rough at the edges. Their standard of practice is duly categorised by ourselves as dubious and unacceptable. So if, as a profession, we are able to form opinions on standards of performance, what about the public? Surely they (the public) can identify these people and it must be the responsibility of the profession to bring them up to the expected

standard. For most, formal re-education courses are of limited remedial benefit, but good example might be a more subtle and effective tool.

Some debate has taken place on the necessity or value of including comparable sales information in the valuation report. I will be pleased to hear the views of members and the legal and accounting spokesmen in attendance on this point. Should there be a consensus that selected sales should be quoted in given situations, the Institute will no doubt be looking at this point when developing any standard.

How do valuers as a group rate themselves and their performance in the eyes of the public In the only attempt at self analysis in recent times (1979/80) the Institute asked a series of questions and obtained responses from 690 members. You may recall the survey was basically a multiple choice answer format and reproduced below are three of those questions and findings:

Q 36. I consider the Institute and its activities are understood by the public (answers in percentage terms): Misunderstood 3. Generally poor appreciation 64. Average understanding 31. Widely understood 2.

Q 37. I believe the Institute could make the greatest impact on the general public in the following areas: (Rated in order 1 to 5): Factual analyses on property matters 3. Media comment on matters of topical interest 1. Published literature on valuer's role 4. Improve quality of service to clients 2. Other aspects (specified) 5.

Q 40. The factors which contribute most to any poor image, mistrust or unprofessionalism in the eyes of the general public are: (Rated 1 to 5): Wide variations in value of same property 1. Suggestions of high fees for limited effort 3. Limited accountability by the valuer 4. Poor standard of report and presentation 2. Other factors (specified) 5."

Those responses provide an interesting study and are a useful blueprint for determining education needs. The next survey the Institute conducts will be among clients of the profession and that might prove more revealing.

Among current debates is a call for some form of re-testing of qualified valuers after a specified period as a valuer. Just how such a scheme might work if agreed upon is debateable. Some in the profession favour the member or the registered valuer being required to attend a minimum number of days at approved seminars or in other learning modes (e.g. 5 days in each two year period or 60 hours over three years). Others maintain that valuers in the years preceding registration should be `articled' to a Registered Valuer for say not less than two years - this system has recently been introduced in Canada. Whatever form of primary or continuing education is adopted, the need remains for valuers to be responsive to the demands of the public and to maintain a self-critical view of the shop window. I want to commend the Hawke's Bay Branch for the initiative shown in providing a forum for such process.

Money Supply Changes and Movements in Urban House Property Prices

by K. Stuart Birks, B.A. Hons., M.Sc.

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Stuart Birks has contributed to the New Zealand Journal of Business and the New Zealand Times as well as presenting conference and seminar papers.

FIGUREI The Effect.on Quarterly House Price Growth Rates of a•Given Monetary Injection in.Quarter Q.

.FIGURE II The Cumulative Effect of a Monetary Injection in Quarter 0.

It has been frequently stated that movements in property prices are likely to occur as a result of monetary policy moves on the part of the government. In fact the recent rapid rise in house prices has been attributed to a credit expansion coinciding with the last general election.

Using econometric techniques it is possible to identify such a relationship and hence trace the impact of monetary growth. The results presented here used seasonally adjusted quarterly M3 ifgures (1964-1 to 1982-3) as the money supply measure and the Urban House Property Price Index. The latter is a 6-monthly series and was converted to quarterly by the standard practice of taking geometric means. This may have reduced the accuracy of specific coefficient estimates in the regressions, but it unlikely to seriously affect the overall pattern.

Both series were converted to quarterly rates of growth and attempts made to identify the time pattern of monetary policy impact by regressing current and lagged monetary growth rates on quarterly growth rates of residential prices. It is considered desirable to attempt to find the simplest possible relationship giving a high explanatory power and the following equation was selected as meeting these criteria (some equation diagnostics including t-statistics have been included for the enthusiast).

$$HPI_t = .843\ HPI_{t-1} + .051M_t + .122M_{t-1} + .037M_{t-2}$$
$$(11.73) \qquad (.38) \qquad (.81) \qquad (.26)$$

$$+ .299M_{t-3} + .002M_{t-4} - .233M_{t-5}$$
$$(2.03) \qquad (.02) \qquad (-1.76)$$

$$- .004$$
$$(- .92)$$

$\bar{R}^2 = .7783$ Durbin's H statistic .737

HPI_t = quarterly rate of growth of house prices at time t

M_t quarterly rate of growth of seasonally adjusted M3 at time t

While the equation appears to have good explanatory power, it is not immediately clear what this means in terms of the actual effect of a given money supply change. We can however use these coefficient estimates to simulate various monetary shocks. The following analysis uses the above results to consider the effect of a one-quarter abnormal injection of money into the financial system.

The simulation considered a steady, sustained quarterly rate of growth of both M3 and HPI of 2.94% (equivalent to an annual growth rate of 12.29%). Suddenly, in one quarter, M3 grows by 5%. Its growth rate then returns to 2.94%. The effects on the HPI growth rate are outlined in table 1 and illustrated in figures 1 and 2.

Table 1: The Effects on House Prices of a Monetary Shock.

Quarter	M3 growth (%)	BPI growth (%) (Fig. 1)	Cumulative Impact on BPI (%) (Fig. 2)
-1	2.94	2.94	0.00
0	5.00	3.05	2.93
1	2.94	3.28	12.37
2	2.94	3.30	22.46
3	2.94	3.86	48.09
4	2.94	3.72	69.83
5	2.94	3.12	74.77
6	2.94	3.09	78.93
7	2.94	3.07	82.43
8	2.94	3.05	85.37
9	2.94	3.03	87.85
10	2.94	3.01	89.94
11	2.94	3.00	91.69
12	2.94	2.99	93.17
13	2.94	2.98	94.41
14	2.94	2.98	95.45
15	2.94	2.97	96.32
24	2.94	2.95	99.72
34	2.94	2.94	100.00

The monetary injection has an increasing impact over the first 12-15 months after which house price growth rates gradually fall back to their old level. The strongest impact is felt as much as one year after the initial injection and at this stage only half of the total effect has been felt. Tail end effects are still noticeable more than four years after the expansion. It can be seen, therefore, that an apparantly minor "hiccup" in money supply can have a very long term effect on the housing market. This simulated increase in money supply would result in a stock of money, M3, 2% higher at any time in the future than if it had not occurred. The effect on the housing market is an increase in prices of 3.4% after four years and a long term effect of almost 3.6%. Clearly a reduction in M3 growth rates for some quarter would have a reverse effect and hence we can see that short term monetary fluctuations can have magnified and extended effects on housing markets.

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