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NEW ZEALAND INSTITUTE OF VALUERS

Incorporated by Act of Parliament

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1960-1962	J. W. Gellatly, Wellington.		

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E. J. Babe (1975)	R. L. Jefferies (1979)	K. J. Cooper (1981)
R. S. Gardner (1977)	S. W. A. Ralston (1980)	S. L. Speedy (1983)
	A. L. McAlister (1986)	

The New Zealand VALUERS' JOURNAL

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Editorial Comment

"The New Zealand Valuers' Journal"

The world has seen more change in the past 100 years, than in the previous 1000 years. Events can occur at such a rapid rate that we are inclined to lose our perspective and look at the surface results of change rather than the reasons for the change.

The issues must be faced by all registered valuers and particularly those registered valuers of the Institute offering their services to the public. The likely removal of restrictions on advertising for registered valuers and even the Government attitude towards the recovery of costs by Government departments, has launched us all into a more competitive environment.

As registered valuers, our primary function is to provide the highest standard of service to the public on valuation-related matters for the full range of property activities. Let us not be modest. Our qualifications in New Zealand place us in a unique position. There is no comparable organisation with the degree of training, expertise and access to well researched information that we offer. Our services are required over a very wide range including:

Valuations,
Investment advice,
Property Management and Development.

Already, many registered valuers have moved out of the traditional 'valuation' role into other areas and this trend will continue. The danger is that valuers are beginning to have a blurred appreciation of their role in the scheme of things. There are many now actively involved in development and entrepreneurial activities, some on their own account. The question is not how we as valuers may view these activities, but in conjunction with the more competitive and commercial environment, how our clients may view us.

'The New Zealand Valuers' Journal' is our 'Flagship' and it is by this journal that at least some of our clients and a proportion of the public will identify us. The Institute's advertising consultants recommended promotion of the Institute's activities through The Journal. This was taken up by the Editorial Board, who, and for perhaps the first time, have set down the purpose and objectives of The Journal. The Board agreed that the primary function of The Journal is to provide educational and technical information for the profession and that such information needed to be informative, as well as topical. The Journal should also be seen as a 'flagship' for the Institute.

It was resolved after detailed discussion that the Editorial Board considers The Journal should remain in its present format as to material content and type of articles, but with extension in certain areas and a more modern presentation.

The Editorial Board went on to discuss details such as the frequency of publication, a change of name to better identify The Journal, the method of presentation to members, the wider appeal of our Journal to other organisations, and the

sponsoring of an annual address to be known as the 'Annual Lectureship'.

The resolutions of the Editorial Board were framed in recommendations to the Council meeting and were accepted as the direction in which Council desires that The Journal should move. The early results of these decisions you have in the issue before you.

There is little doubt that your journal presents information on property and case material which is nowhere else covered and cannot be adequately or professionally compiled by any other organisation. In a world which is becoming investment conscious on a wide scale and which is thirsty for knowledge on property matters, the demand for registered valuers' services and their knowledge will continue and expand. The investing public are interested to read what registered valuers have to say. 'The New Zealand Valuers' Journal' is the vehicle for disseminating that knowledge.

The report on the 47th Council Meeting and Annual General Meeting summarises The Editorial Board's recommendations approved by Council. Three areas should be highlighted.

1. Why a change of name to The New Zealand Valuers' Journal? Quite simply the style of name is required to identify three things. Where does the publication come from? What specific area of expertise does it cover? What is the publication?

Finally any name change should not be so great a departure from the present name that it upsets the way in which the publication is cited for legal purposes. The name 'The New Zealand Valuers' Journal' satisfies all requirements.

2. The Editorial Board, in conjunction with The Institute, is actively seeking a National sponsor to fund an address of national/international recognition on property or a property related topic. The address will be presented annually at the seminar held in conjunction with the Annual General Meeting. Current thinking is that once every three years a speaker should be invited from overseas, with the first overseas speaker to present an Address at the 14th Pan Pacific Congress of Real Estate Appraisers, Valuers and Counselors in 1988 at Christchurch.

3. The New Zealand Valuers' Journal is frequently cited as the only publication where certain important property cases are reported or noted. The Journal has a long record of public service in this regard. Many important cases would have been overlooked had it not been for the diligence of many members of The Institute. The importance of this task has been recognised by the appointment of a suitably qualified person to act in an honorary capacity as the legal expert to assist the Editor on case law. The Institute and The New Zealand Valuers' Journal is honoured that Byron O'Keefe has agreed to act in this capacity on your behalf.

John Harcourt Memorial Award 1986

Allen Lindsay McAlister

At the April 1986 Council Meeting at Whangarei, Allen Lindsay McAlister was honoured with the John Harcourt Memorial Award.

This high award of the New Zealand Institute of Valuers is in recognition of the work by the recipient, (who need not necessarily be a member of the NZ Institute of Valuers) who has made an outstanding contribution to the profession of valuation and through this to the community generally.

While there is provision for this premier award to be made annually, it is not automatic and has been awarded only every second year since its inception in 1975 to persons whose achievements merit the highest recognition that the NZ Institute of Valuers can bestow.

This year, Lindsay McAlister is the recipient, essentially for his long and distinguished service as a member of the Executive Committee encompassing 17 years, the last 8 of which he has been Chairman.

It is for this sustained period of active involvement within the day to day affairs of the NZ Institute of Valuers that forms the basis of the presidential decision for the Award.

As Chairman of Executive, Lindsay McAlister has served a number of Presidents of the Institute and the Council itself, being instrumental in steering the Institute through numerous critical changes in the nature of valuation practice and its operation in the public environment. He has always maintained and presented a balanced view between the rights of the individual and those of the profession, and has striven for a fair view on every issue with a good humoured manner.

While the Executive Committee is a non public activity carrying out the policy decisions of Council, it is nevertheless

of considerable importance in the management of the Institute's affairs.

Lindsay's particular responsibilities within the immediate past years have been in the areas of professional liability and insurance, professional practice, valuation fee structures and the implementation of standards and guidance notes, and liaison with the Registration Board.

His abilities have been recognised by Council in appointing him as Chairman Co-ordinator of the 1988 Pan Pacific Congress which is to be held in Christchurch.

Lindsay is a family man with a supportive wife Olive, and four children who have all travelled the world extensively, and one grandchild.

He was educated at Rongotai College, and on leaving school joined the firm of Horace Baker Ltd, a family business of which his late father, Mr L. A. McAlister, a former President of the Institute, was then Managing Director.

Following qualification through the Institute's Professional Examinations he continued his father's practice with Horace Baker Ltd until 1969 when the firm of Gellatly Robertson Hanna and McAlister was formed, this firm subsequently becoming the Public Valuation Practice known as Gellatly Robertson & Company.

Lindsay McAlister's extensive service to the Institute began as the Student Representative on the Wellington Branch Committee then as Branch Secretary, Committee Member and Chairman of the Wellington Branch in the 1969/70 year.

He was advanced to Fellow of the Institute in 1972.

Citations for Fellowship

His professional standing and his work in the valuation field are highly regarded amongst his colleagues particularly within the Wellington region and, quite apart from his outstanding performance as the General Secretary, the Wellington Branch unanimously support the recommendation for Kevin's advancement to the status of Fellow of the Institute.

Kevin Michael Allan

Kevin Allan is currently the General Secretary of the New Zealand Institute of Valuers, but this citation disregards the fact that Kevin is an employee of the Institute.

Appointed as an urban field trainee in January 1966, Kevin commenced with the Valuation Department at Gisborne before being transferred to Wellington to take up studies and work as a cadet in the Wellington Branch Office. He sat the Institute examinations with tuition at the Wellington Polytechnic, qualifying within a minimum time in February 1969. He gained Registration as a valuer in 1971 following completion of the NZIV Urban Professional examination and was advanced to an Associate of the Institute in 1972. Born in 1947 and educated at Gisborne, Kevin attained University Entrance prior to joining the Valuation Department as an urban field trainee.

In addition to his valuation experience within the Wellington region Kevin was appointed Senior Valuer Lower Hutt in 1971 and subsequently as sole charge urban Senior Valuer in Gisborne in 1972. He rose to District Valuer level at Wellington in 1973, the position he held until his rapid promotion again to Supervising Valuer, Head Office in November 1976. He was later appointed Assistant Chief Valuer in April 1980 until he resigned to take up his present position in December 1982.

While in Gisborne and in Wellington, Kevin was an active member of both district Branch committees commencing as Newsletter Editor and Secretary at Gisborne. He was appointed a member of the Publicity and Public Relations Committee and chairman of the Institute's New Technology Committee in Wellington. He was also appointed by Council in 1979 to serve on the Executive Committee. Thus his contribution to the Institute was quite significant whilst employed by the Valuation Department. Additionally, he tutored in valuation studies and marked the New Zealand Institute of Valuers professional examinations; he has been an active participant in all Branch activities and seminars having delivered a number of papers and commentaries.

Kevin is held in high regard both within the Valuation Department and by Public Valuers for his ability as a valuer. During 1979/80 Kevin participated in the Nareen Agreement scheme spending six months in the Valuer General's office in Queensland.

Michael Evan Leigh Gamby

Evan Gamby is a partner in the Auckland valuation practice of Mahoney Young & Gamby and of national reputation as the Honorary Editor of 'The New Zealand Valuer', the Institute's quarterly journal.

Evan was born in 1946, and joined the Valuation Department as an urban field cadet in 1964, starting his cadetship in Hamilton and completing his Diploma in Urban Valuation at Auckland University in 1967. He was admitted as an Intermediate member of the Institute in 1968, was registered in March 1971 being advanced to an Associate member in July 1971. His career with the Valuation Department was as a cadet in Hamilton until the end of 1966 before being transferred to the Auckland office, and upon completing his qualifications, obtained experience in the field office.

Evan joined the national firm of Livingstone & Jones Lang Wootton in February 1970 as assistant to the Auckland property manager, and was involved in property management work until mid-1972 when he went into practice on his own account before joining in partnership with Messrs P. J. Mahoney and R. P. Young, forming the partnership of Mahoney Young & Gamby, Property Valuers, Consultants and Managers in late 1973. He is also a member of the Property Management Institute and an Associate of the Real Estate Institute of New Zealand.

Evan has been active in Institute affairs having taught valuation at the Carrington Technical Institute in 1975/76 in the Institute's education programme, and having been involved in a number of seminars and conferences including presenting a paper 'Government's Control and Zoning Regulations' to the 10th Pan-Pacific Congress of Appraisers, Counselors and Valuers held in Japan in October 1979.

Evan has a long association with the Institute's journal, having spent a time from March 1973 to June 1974 as its Assistant Honorary Editor, and taking up the position of Honorary Editor from March 1982 to the present time. Dur-

ing this time the journal has expanded in content and format and it is in this area of the Institute's activity that Evan's contribution has been most outstanding.

Evan Gamby has served the profession both in his vocation and repute as a valuer of high standing, now primarily involved in commercial and industrial valuation work. He has given service to the Institute over a long period of time for which the Branch Committee unanimously supports his nomination for elevation to Fellow of the Institute.

William Alan Cleghorn

Bill Cleghorn was born in 1938 and since 1974 has been in private practice and currently is a principal in the firm of Cleghorn, Gillespie & Associates.

Bill joined the Valuation Department in Auckland as a Rural Field Cadet in 1962 before being transferred to Rotorua in 1966. He obtained the Institute's Rural professional examination and later became registered as a valuer in 1970; gaining Associate status of the Institute in the same year.

He has continuously served the Branch Committee since coming to Rotorua, the first ten years as Secretary and more latterly as Dominion Councillor. During this period he has also acted as a Rural examiner for the past four years.

As well as promoting the Institute's needs, Bill has also responded to the community's call. Currently he holds the position of Chairman of the Rotorua High School Board, is the local member of the Hamilton Education Board while also being a Justice of the Peace.

Bill's endeavour to promote the highest of professional standards and his standing in the community are a credit to the Institute.

The Branch Committee has no hesitation in recommending his advancement to Fellowship status.

Gordon Edward Whale

Gordon Whale is in public practice as a Registered Valuer and a director of Baker Bros. (Estate Agents) Ltd, Christchurch.

Gordon was born in February 1927 in Christchurch and educated at Christchurch Technical College until 1942 when he undertook a joinery apprenticeship with H. W. Smith Ltd. He rose to the position of Works Manager over the sixteen years he was employed by this firm and for the following six years he was a partner in South Island Mouldings Ltd producing timber mouldings used in the construction industry.

In 1963 Gordon joined the Christchurch real estate firm of Hutchinson White Ltd as a salesman and from 1966-72 was manager of that company. In the latter years he undertook valuation work on behalf of Hutchinson White Ltd.

Gordon teamed up with Mr Robert K. Baker as a director of Baker Bros. Ltd in 1972 and continues in that capacity within a firm specialising in valuation, with only a small real estate department.

Gordon completed the Real Estate Institute examinations in 1964 and became an Associate of that Institute in 1966. Gordon undertook the NZIV examinations between 1965 and 1969 and was Registered as a valuer on 9 April 1970. He was admitted as an Associate of the New Zealand Institute of Valuers in April 1971.

Gordon's service to the Canterbury-Westland Branch has been outstanding. From 1971 to 1977 he was Branch Secretary and during some of this period also acted as Newsletter Editor. He served on the Branch Committee from February 1977 to 1983, was on the Examiners Panel, and was Branch Chairman for the 1980-82 period.

Since 1970 Gordon has been a consistently strong supporter of all Branch activities. His professional standing amongst his clients and fellow members is particularly well respected. The Branch Committee unanimously supports this recommendation for advancement to Fellowship status within the Institute.

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MANAGER: IAN HOWAT

Imm, 1

Graeme Thomas Foster

Graeme Foster, who is a senior grade District Valuer in the Valuation Department, was born in 1934 and educated at Auckland.

He attended Massey University and graduated with a Diploma in Agriculture in 1958. His early career involved farming at Canterbury, North Auckland and Bay of Plenty before becoming a farm manager at Matawai in Poverty Bay.

In 1966 he joined the Valuation Department, became registered in 1969 continuing in the Gisborne region until 1977 when he transferred to Napier as Senior Valuer. In 1980 he returned to Gisborne as District Valuer. Graeme was advanced to the status of Associate of the Institute in 1972.

Graeme is an active member of the Institute of Valuers having been Secretary and Chairman of the local Branch, and also Councillor from 1980. Throughout his career Graeme has spent much time in the training of younger valuers and has a very practical and thorough knowledge of the legislation governing valuation and the local market within which he works.

Graeme Foster is held in high regard by his fellow members and clients alike. His competent professional approach has enhanced the standing of the Valuers' Institute in the Gisborne region.

The Gisborne Branch Committee is unanimous in its recommendation for advancement to that of a Fellow of our Institute.

David Bruce Lugton

David Lugton is 37 years of age, was born and educated in Hamilton, and is now the Managing Director of the family real estate and valuation firm of Lugton Land Ltd. He joined the Valuation Department trainee scheme in 1966 and completed the Institute's Urban examinations at the Wellington Polytechnic. He worked as a valuer at the Valuation Department in Wellington, New Plymouth and Hamilton.

He joined the family firm in late 1971, became an Associate

Member of the Institute in 1973, Associate of the Chartered Institute of Arbitrators and a Member of the Property Management Institute both in 1978. David was Chairman of the Waikato Branch of the Institute in 1976-77, and has been the Branch Councillor since 1977. He is also a Fellow of the Real Estate Institute and is currently the Chairman of the Waikato-Bay of Plenty Branch of the Real Estate Institute.

David has been an active member of the Valuers' Institute both at local and national level. He has been a speaker to Branch meetings on a number of occasions, and was on the practical and oral examination panel for some years. David is active in all facets of urban valuation with his professional standards and opinions being held in high regard. He also has interests in fishing, squash and tennis.

The Waikato Branch unanimously supports the recommendation for his advancement to Fellowship status.

Arthur Geoffrey Stewart

Arthur Stewart is a senior partner and current Chairman of the national valuation practice of Darroch Simpson & Co. Arthur was born in 1940 and completed his secondary school education at Auckland Grammar. Upon leaving school he commenced an urban field cadetship with the Government Valuation Department, graduating with a Diploma in Valuation from Auckland University in 1961. He was employed by the Department as a valuer in Wellington, becoming an Intermediate member of the Institute in 1964.

Arthur obtained registration and Associate membership status in 1965 and in 1967 completed a Bachelor of Commerce degree at Victoria University. He is also an Associate member of the Real Estate Institute, an Associate member of the Institute of Arbitrators and a member of the Property Management Institute.

On leaving the Department, Arthur spent 10 years with S. George Nathan & Co. in Wellington as a valuer and when he resigned in 1973 he was also managing their commercial real estate division. He left to set up as a valuer on his own account, practising in Wellington and following several mergers his practice has developed into the Darroch Simpson group of today.

Arthur has served the Institute of Valuers as an examiner and as a member of the Education and New Technology Committees. He has also participated on numerous occasions as a speaker at seminars and has written a number of articles for 'The New Zealand Valuer' and other professional journals. Arthur's professional standing and his competence in the field of valuation is highly regarded in Wellington and in other areas of New Zealand. Included among his clients are many of New Zealand's leading commercial firms. Arthur's outside interests are largely directed towards off-shore yachting where he has represented New Zealand over a number of years.

The Wellington Branch Committee unanimously supports Arthur Stewart's elevation to a Fellow of our Institute.

Report on the 47th Council Meeting and Annual General Meeting of The New Zealand Institute of Valuers

By The Editor

This year's Council Meeting, Annual General Meeting, and Valuation Seminar was held in Whangarei, 12th-15th April 1986.

The President, Mr G. J. Horsley, welcomed two new Councillors, Mr T. (Tim) J. Bernau, Waikato, who has succeeded Mr D. Lugton, and Mr I. (Iain) W. Gribble, Wellington, who is the new Valuer General nominee.

Mr Horsley made a number of opening remarks relating to his first year as President. He indicated the changes which had taken place and which were currently taking place in the practice of valuation, the changing business environment and the need for the Council and the Institute as a whole to look to the future and issues confronting the profession. He indicated that the profession would continue to face some major challenges, and that he had observed a number of overseas trends which would radically alter the environment in which valuers were offering services to the community.

Mr Pat Gill, President of the Australian Institute of Valuers was invited to attend all sessions of the Council Meeting.

The Minutes of the October 1985 Mid-year Council Meeting were taken as read and approved as a true and correct record.

Matters Arising:

Progress has been slow on the Valuers' Bill and the Institute has not received any indication as to when the Valuers' Bill might be introduced to Parliament. There is in fact no guarantee that the Bill will be introduced in the 1986 year. The Institute is continuing to be active in discussions with both the Minister and the Registration Board on matters likely to affect the registration of valuers, including the protection of the term 'valuer', the publication of names and proceedings, and the structure of the Bill.

On valuation reporting standards, Council resolved that:

"An exposure draft together with a covering letter be circulated to all members".

Having resolved that the reporting standard be a 'guideline' Councillors felt that an amendment to the Code of Ethics and a Special General Meeting would be timely. After debate on the wording of Clause 17 of the Code of Ethics, it was resolved that:

"The proposed wording of Clause 17A be referred back to the Executive Committee and the Institute's Solicitor together with the expressed concerns and comments of Council."

Executive will report on this matter to the mid-year Council meeting.

Acting in consultation with accounting advisers, the financial records and membership systems of the Institute are in process of being upgraded. This involved upgrading the institute's computer hardware and the purchase of C.B.A. account packages. The report on the Institute's new financial accounting and membership information computer systems was received and formally noted by Council. The General Secretary indicated that this will prove to have been a bold, progressive and well timed decision.

Life Memberships:

There were no nominations for Life Membership placed before Council.

Honorary Memberships:

No Honorary Memberships were conferred.

John Harcourt Memorial Award:

Mr A. L. (Lindsay) McAlister was honoured with the John Harcourt Memorial Award for the current year.

Advancement to Fellowship:

The following members were elevated to the status 'Fellow of the New Zealand Institute of Valuers':

Kevin Michael Allan	Wellington
William Alan Cleghorn	Rotorua/Bay of Plenty
Graeme Thomas Foster	Gisborne
Michael Evan Leigh Gamby	Auckland
David Bruce Lugton	Waikato
Arthur Geoffrey Stewart	Wellington
Gordon Edward Whale	Canterbury/Westland

Committee Reports:

1. Advertising by Valuer Practices:

In his report, Mr Jefferies referred to a summary of the five submissions received by the Institute on Valuer practice advertising. The submissions were reasonably evenly divided between, on the one hand a continuation of the status quo, while on the other hand opening up for general advertising.

In referring to the few submissions received from members, Mr Jefferies felt that the vast majority of members must have felt comfortable with the approach recommended and adopted by the October Council Meeting. In the opinion of the Task Force, the submissions were not of sufficient weight to cause Council to amend their earlier proposal.

Council resolved:

"To adopt the recommendation of the Institute's Solicitors in regard to the wording of the new Provisions together with any minor amendments and that this go forward for framing into a Notice of Motion and incorporation into the Code of Ethics."

Council further resolved that:

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guidance notes be prepared for circulation to members with the amended provisions to Clause 23 of the Code of Ethics intended for substitution at an Annual or Special General Meeting."

Council discussed the implementation of the changes proposed and Mr Jefferies pointed out the options available, i.e. by Annual General Meeting, Special General Meeting, or Referendum. It was the recommendation of his Task Force that a Special General Meeting be held in mid-year. This was agreed to by Council in the following resolution:

"That the change to the Code of Ethics be effected by way of Notice of Motion at a Special General Meeting to be held in late 1986."

2. Publicity and Public Relations Committee:

Mr Kirkealdie spoke to his written paper detailing the developments and decisions taken by the Publicity and Public Relations Committee since October 1985. He indicated the procedures that had been followed in arranging the market survey undertaken by Survey Research Limited. The results of the survey have been summarised and were presented to Council by means of a series of overhead slides showing the

principal responses to the major questions asked. This summary has been reproduced in the current issue of the Journal. Council passed a resolution that:

- (a) The reports are held as archival records in the Institute for the use and information of all members.
- (b) The 'Overview' Report is published in its entirety in 'The New Zealand Valuers' Journal' at the earliest opportunity.
- (c) A copy of each report is forwarded to the Chairman, Valuers' Registration Board with our respectful invitation/request for a monetary contribution in view of the benefit accruing to the whole of the valuing profession.

Mr Kirkcaldie then presented and spoke to the proposals put forward by Charles Haines, Advertising Agents appointed by The New Zealand Institute of Valuers. The Charles Haines proposal was endorsed by Council for media advertising for 1986.

The President asked that the General Secretary record a debt of thanks by Council to Graham Kirkcaldie for both his market research and advertising campaign report, as well as his substantial involvement in preparing the market report for the current year.

3. New Zealand Valuer:

Costs of producing the 'New Zealand Valuer' have increased by approximately 25 % over the past 12 months period, a clear indication that the costs of publishing the magazine will require a revision of the casual subscription rate and advertising charges. Part of the increased costs was a direct result of inflation factors, particularly imported inflation with added costs of buying paper, following a period when the printer had held substantial volumes of paper and these had finally run out.

The Professional Directory is seen to meet a need with now approximately 70 firms taking advantage of this service by December 1985.

The Editorial Board met in December 1985 and held in-depth discussions on the nature of the publication and its future.

Council endorsed the findings of the Board in this matter in the following resolution:

"That the primary function of the Journal is to provide educational and technical information for the profession and that such information needs to be informative as well as topical. The Journal should also be seen as the flagship for the Institute; that this statement be seen as the guideline for Editorial Board policy."

In respect of the specific recommendations detailed by the Editor's paper, Council resolved:

- (a) That the Editorial Board report be accepted and actioned by Council.
- (b) That Volume 26 of 'The New Zealand Valuer' be closed off at the March 1986 issue.
- (c) That 'The New Zealand Valuer' be restyled 'The New Zealand Valuers' Journal'.
- (d) That Council adopt a new cover and external image for 'The New Zealand Valuers' Journal'.
- (e) That the accent on the current style and format of the journal be retained.
- (f) That the Institute seek a sponsor willing to fund an Address of national/international recognition at each annual seminar to be later published as a work in the journal. This Address to be known as 'The Annual Address' and to be presented at the Annual Seminar.
- (g) That a suitably qualified person be appointed as the legal expert to assist the Editor on Case Law, and that he be remunerated for his expenses. (Mr J. A. B. O'Keefe has kindly agreed to act in this capacity.)
- (h) That the casual subscription rate to the publication be increased in principle, subject to Executive approval.
- (i) That the advertising charges be increased to commence from the June 1986 issue.
- (j) That contributors to the journal be offered a reimbursement of costs at the rate of \$50.00 per accepted article.

(k) That a composite index be prepared for The Valuer up to the last issue of Volume 26 and thereafter on an annual basis.

(l) There will be a greater involvement of the General Secretary's office producing a concise summary of relevant articles which come to hand from overseas organisations and overseas publications.

(m) That the publication be distributed in a clear 'cellophane style' wrapper commencing with the June 1986 issue."

4. TIAVSC New Zealand Situation:

Nine countries were represented at the latest TIAVSC meeting, held during the week preceding the Pan-Pacific Conference in Hawaii.

The Chairmanship was transferred from Idris Pearce of London to Don Dorchester of the U.S.A., (a past-President of the A.A.I.), for a two-year term.

In speaking to his report, Mr Horsley noted that in New Zealand there has been a trend for accountancy firms to engage valuers and in the U.K. many chartered surveyors have been employed by Merchant Banks. The membership of TIAVSC is now 28 countries with a further application being considered from Nigeria.

As a member from a participating country, Mr Horsley was asked to present papers at the World Bank Conference in Washington in May 1986. Council approved the contribution of \$3,000 towards the President's costs.

5. Pan-Pacific Congress Hawaii:

Mr Horsley, as our Chief Delegate, referred to his paper detailing the presence of New Zealand and its activities at the 1986 Honolulu Congress. He reaffirmed that the decision to actively promote New Zealand at this Congress has resulted in positive feedback, and a large amount of interest in the 1988 New Zealand Pan-Pacific Congress.

6. Pan-Pacific Congress (1988) New Zealand:

Mr McAlister has been appointed the Chairman Co-ordinator of the Pan-Pacific Congress to be held in Christchurch New Zealand in 1988.

No final decision has been made as to date or programme but there is substantial interest being expressed by overseas institutes. Councillors were in approval of the outline plans thus far, and agreed with the suggestion that New Zealanders travelling overseas could assist considerably in selling the Congress if calling on sister-associations, particularly in the Pacific area.

7. Education Committee Board of Examiners:

Mr R. J. Chappell spoke to his circulated report. He referred to a number of concerns of his Committee with respect to the limited practical experience offered by universities tutoring in Valuation.

Council resolved:

"That Council set up a sub-committee on education to report to the mid-year meeting on the philosophy, goals and objectives of Institute education."

Messrs Chappell, Laing, Hargreaves and Gribble were so appointed.

It was further discussed and resolved:

"That the institute devote time at the mid-year meeting of the Council to an institute Corporate Plan and that Messrs Cooper and Horsley be responsible for bringing the process together."

Mr Hargreaves then gave a practical demonstration of the advantages of video style technology. The New Zealand Institute of Valuers funded a scholarship for Mr J. L. Comley to present a thesis on the valuation of horticultural lands. Mr Hargreaves agreed that copies of the video presentation could be circulated to branches for the information of members, when the publication becomes available.

8. Statistical Bureau Report:

Mr J. N. B. Wall, Chairman of this Committee, spoke to his report outlining activities of the Bureau in the past 12 months. It was agreed by Council that there would be no increase in microfiche subscriptions for the 1986 year.

9. Publicity and Public Relations Committee Report: Mr Kirkcaldie spoke to his report detailing the types of reports submitted by branches for the 1985 Market Summary.

It was agreed by Council that the annual report was a most important source of public and professional information.

Following Mr Kirkcaldie's report, Council discussed the release of a market report as at April 1986. It was agreed by Council not to release the report on this occasion and resolved:

"That Council agree to the guidelines for any branches wishing to release a local market report."

10. Council of Land Related Professions:

Mr Jefferies has been proposed as Vice-President for the current year. The various land related professional organisations were exchanging newsletters and journals. It was emphasised that continued efforts should be made to co-ordinate on a national basis all land based seminars, conferences, etc.

Valuers' Registration Board:

Messrs S. W. A. Ralston, P. E. Tierney and R. P. Young were welcomed to the Council meeting by the President of the Institute.

Mr Ralston referred to the number of complaints handled by the Board in the past year (13 new referrals) and indicated the time-frame to fully process a typical complaint which on average could take in the order of nine months, but some were still being processed between 12 and 18 months later.

The Chairman asked the Institute to note that if the full costs of operating the Valuers' Registration Board were met by holders of Annual Practising Certificates, then a fee of perhaps \$100-\$150 per annum might be the level of funding required.

There were a number of matters discussed between the Institute and the Board including the recertification of valuers, education, and information supplied to the Board for registration by certain applicants.

American Society of Appraisers:

Dr Shannon Pratt of the A.S.A. spent some 20 minutes addressing the Council on the size, state and activities of the Society, which has some 15,000 members. Some four or five thousand of those individuals attend the annual convention. The A.S.A. is a multi-disciplined appraisal society. It has a certification roll and makes awards and certificates in a number of areas. Dr Pratt's experience was in the business appraisal field particularly and he had undertaken a wide number of assignments both in America and off shore as well as having lectured in the field and written widely on business appraisal.

The real estate division of A.S.A. offered competitor qualifications to the M.A.I. and S.R.E.A. designations. Dr Pratt made presentations of his publications to the Institute and was thanked by Mr Horsley for his attendance.

Branch Reports:

Council resolved:

"That the nett income tax payable on Branch investments be deducted from capitation due and payable for the 1987 year and thereafter."

Membership Statistics and Trends:

There has been a sharp increase in the number of both students and practising valuers over the past 12 months.

Office Bearers for 1986:

Mr Hallinan was duly re-appointed as a Vice-president of the Institute. Council noted the retirement by rotation of Messrs Hargreaves and Cleghorn and in accordance with Section 13(4) of the Valuers Act, Councillor Lyall.

1986 Committee Appointments:

1. The present Education Committee was re-appointed under the Chairmanship of Mr Chappell.
2. Statistical - Messrs Wall, Allan and Newton were re-appointed.
3. Technology This Committee has been disbanded.
4. Publicity and Public Relations Messrs Kirkcaldie, Allan and Horsley were re-appointed with power to co-opt additional members for specific tasks.
5. Professional Practice The two Vice-presidents and the Chairman of Executive were appointed to this committee.
6. Executive for 1986 will comprise:

J. N. B. Wall
K. J. Cooper
R. J. Chappell
H. F. McDonald
G. Kirkcaldie

Mr McAlister indicated his decision to stand down from Executive after serving a period upwards of 17 years.

Scheduled Meetings of Council:

The 1986 mid-year meeting will be held in Wellington around September 27-29th.

The April 1987 Council meeting and A.G.M. is set down for April 11-12th in Nelson, preceded by the Council Meeting.

The 1988 Annual General Meeting is to be held in Wellington at a date to be determined following a firm decision on the date for the Pan-Pacific Congress in Christchurch.

Annual General Meeting:

14th April 1986.

The President welcomed Mr D. G. Morrison, a Life Member of the Institute.

The Minutes were passed as a true and correct record.

The Minister did not approve Rule 16(a) of the Code of Ethics which was treated as ultra vires the Act. It was resolved that the matters referred to remain as guidance notes of good professional practice.

The 47th Report and Accounts were taken as read and were adopted by the meeting. Mr N. H. Chapman was re-appointed as Auditor.

In general business Mr Horsley outlined to the members some of the business conducted in Council over the previous two days. He also indicated that Mr A. L. McAlister was stepping down as a member of Executive after a long period of service. He then presented to Lindsay the J. M. Harcourt Memorial Award in recognition of this outstanding service. This was warmly applauded by the Institute members present.

Prior to closing the meeting, Mr Horsley proposed a vote of thanks to Councillor Bill Burgess, Chairman Malcolm Ashby and the Northland Committee, and especially the Ladies' Committee for contributing to an excellent seminar.

Membership

Admitted to Intermediate:

Ayre, S. V. (Miss)	Auckland
Barbour, C. J.	Waikato
Bender, K. A.	Auckland
Chester, D. J.	Northland
Epsom, A. D.	Central Districts
Geill, P. M. C.	Waikato
Haeusler, G. B.	Rotorua
Hall, D. C.	Auckland
Hinden, R. E. (Ms)	Auckland
Johnston, I. M.	Rotorua
Laird, C. J.	Auckland
Martin, R. H.	Auckland
Ong, B. T.	Overseas
Radovonich, J. L.	Canterbury
Seah, K. S.	Overseas
Snell, D. J.	Auckland
Wiseman, A. P.	Northland
Yerex, S. (Ms)	Auckland

Advanced to Associate:

Browne, M. N.	Auckland
Johnston, S. R.	Auckland
,	Central Districts
Loveridge, P. J.	Wellington
MacKay, S. E. (Ms)	Northland
Mattin, A. M. (Mrs)	Rotorua
Owen, D. J.	Auckland
Robertson, M. J.	Waikato
Ross, J. R.	

Registration:

Boughen, B. A.	Overseas
Compton, P. A.	Southland
Dowse, G. M.	Central Districts
Dunbar, M. G.	Canterbury
Hales, M. D.	Northland
Hancock, J. L.	Nelson
Horner, T. M.	Southland
Lemoto, S. N.	Overseas
MacKay, S. E.	Wellington
Scott, M. J.	Auckland
Waddell, R. L.	Northland
Webster, J. C.	Rotorua
Wills, B. W. M.	Waikato

Reverted to Non-practising:

Churchill, P. J.,	Canterbury
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Deceased:

Corker, R. J.	Northland
Tomlinson, F.	Canterbury/Westland

Resignations:

Stuart, A.	Auckland
Townsend, E. J. C.	Waikato

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Roy Howard Rolle

The death occurred in March of this year of one of the early members of the Institute and an individual whose reputation and name has been among those often recalled as one who made a significant contribution to the profession. Roy Rolle died at the age of 77 at his home in Levin.

Mr Rolle took an active part in the affairs of the Institute and profession at large right from the very earliest days of its development. He was further recognised as being one of the original practitioners of valuation and established his highly regarded valuing practice in Wellington. He will be remembered as one who gave considerable assistance to the Institute in the areas of education, professional practice and publicity. In this latter area he was for a time the Institute's Dominion spokesman on publicity matters and was often identified in the release of institute statements to the media. He maintained these interests until his retirement from active service around 1976.

Born in England, Roy Rolle came to New Zealand at the age of twelve and joined the Wellington real estate firm of J. H. Bethune and Company in 1923. He worked in that Company for many years and saw overseas war service in

the years 1942/45. After a considerable period as a salesman and obtaining Fellowship of the Real Estate Institute, Roy Rolle opened what was believed to be the first valuing practice in Australasia and was joined shortly after, around 1954, by Mr A. F. Pyne. He was advanced to the status of Fellow of the Institute in 1959.

In addition, Roy Rolle was the author of a number of articles on valuation and assisted in compilation of the original 'Principles and Practice of Urban Valuation' manuals. He was co-author of the original Valuers' Handbook and served in many capacities on Branch and national Institute committees.

In his practice as a valuer, Roy Rolle was regarded highly by his colleagues and the public and in addition to acting for many major clients, was often involved in major valuation and arbitration cases in the Wellington area.

After his retirement Mr Rolle returned to England for a number of years and lived there until 1984 when he purchased a home and shifted back to New Zealand. Mr Rolle is survived by his second wife and to her and his family the Institute extends its condolences.

Publicity Developments Research Results

Following the preliminary direct media advertising campaign during mid-1985, the Council of the Institute sanctioned a survey of the general public to determine awareness of, and attitudes towards, valuers and to provide a base for the development of future promotion.

Two research agencies were approached and offered proposals; however the Committee selected Survey Research International Ltd as providing the widest ranging enquiry for the available budget.

Briefly, the survey, largely conducted during November and December, 1985, involved telephone interviews, using a pre-structured questionnaire to 408 residential respondents, 101 rural respondents, and 102 commercial respondents, selected by utilising Valpack to identify the parties directly involved in property transactions during the twelve months preceding October 1985.

The objectives of the survey were to ascertain:

1. The level of awareness of the organisations that provide property related valuations.
2. The level of awareness of the various services provided by property valuers.

3. The attitudes and perceptions of consumers towards property valuers.
4. How consumers select a property valuer and the services most commonly used.
5. The attitudes and opinions of the users of property valuers towards the services provided.

The specific target groups for each area of the survey were: Urban Respondents - persons twenty years and over who were mainly responsible for arranging the finance for house purchases; Rural Respondents - farm owners or those who had an interest in the ownership of a farm; and Commercial Respondents - the person mainly responsible for the decisions regarding property investment for the particular company or organisation.

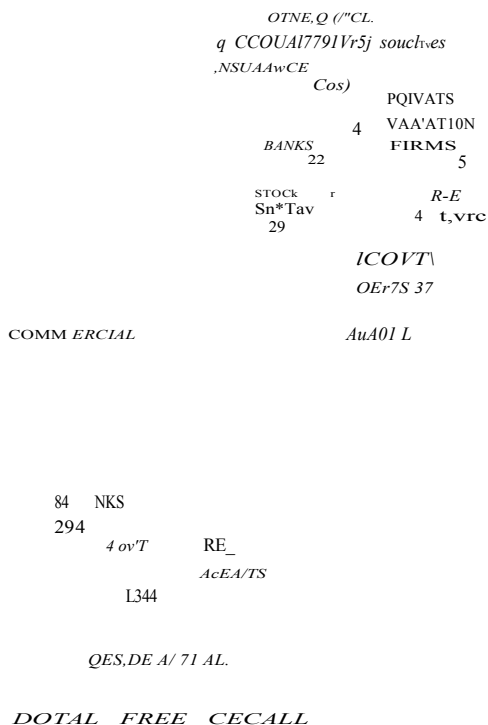
The survey itself (in three substantial volumes plus an overview) is now an archival record of the Institute and as such is available to all members of the profession for reference. The Institute's advertising agency, Charles Haines Ltd, has prepared the detailed analysis of the survey reproduced below.

Graeme Kirkcaldie

RESEARCH RESULTS: SLIDE PRESENTATION

SLIDE 1: Awareness of Organisations providing Property Related Valuations

1.



Figures on this slide refer to percentage of respondents recalling a particular organisation and sum to more than 100 because of multiple responses.

Pie charts illustrate the variety of different organisations nominated by respondents in either the commercial, rural or residential sector: the size of each segment within the pie charts indicates how dominant this organisation is in the minds of respondents. Where no one segment is dominant, e.g. Residential Sector, this indicates that respondents perceived that a range of organisations provide property related valuations.

Figures used are top-of-mind plus free recall, since we are not interested only in the first organisation the respondent recalled, but rather all organisations freely recalled.

Results:

1. Commercial:
 - Greatest awareness of private valuation firms 84.37%.
 - Greatest awareness of services available from Real Estate Agents 51.07%.
2. Rural:
 - Less aware of Private Valuers, Real Estate Agents.
 - Much greater use of Rural Bank, Stock and Station Agents.
 - Significant dealings with Government Departments.
3. Residential:
 - High awareness of Government Department Services i.e., Valuation Department, Council Valuations, Housing Corporation.
 - Relatively high awareness of banks and Real Estate Agents, as providing valuation services.
 - Least likely to be familiar with a firm of Valuers.

SLIDE 2: Awareness of Term 'Registered Valuer'

2. 92 1 92'L

High in commercial and rural surveys, lower in residential. Reflects fact that residential respondents are less sophisticated users of valuation services, less likely to have dealt directly with a valuer themselves.

SLIDE 3: Awareness of services provided by Valuers

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 GUIDANCE
 86.3

OTHER: MAQIFAL DISPUTES
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Sales and purchase guidance was service most often recalled across all sectors. About the same percentage of respondents recalled Sales and Purchase Guidance as a Valuer's service in the rural, residential and commercial surveys; however a wider range of other responses were given by commercial respondents.

Commercial sector quite aware of Valuers' services re rental reviews.

Valuation for insurance purposes only significant in the residential sector.

SLIDE 4A: Positive Attitudes towards Valuers

4A

COMMERCIAL

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This was an open-ended question without prompted responses, hence the overlap between some responses.

Key words in *commercial* sector are: essential to operations/ independent.

Key words in *rural* sector are: unbiased and professional/ knowledgeable.

Key words in *residential* sector are: unbiased/accurate/ prompt/efficient.

Significant that almost 1/2 of commercial respondents believed a Valuer was essential. The Commercial sector is the greatest user of private valuation services.

Pan Pacific Conference Christchurch 1988

Organisation for the Pan Pacific Congress to be held in Christchurch in early 1988 has commenced. Considerable interest in the Congress has already been shown by Canadians, Australians and Japanese. A change in the format from previous conferences is envisaged and the Planning Committee hopes to make this the best of these conferences yet held. Full particulars regarding the programme and arrangements will be published in subsequent issues of The Valuers' Journal.

SLIDE 4B: Negative Attitudes towards Valuers

48.

COMMERCIAL

- 1. Valuer is a necessary evil. ✓
- 2. Would you use Valuer? ✓
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h,s*ry denia ded d
- 3. TOO expensive! 7%

RURAL

- 1. too expensive ✓
- 2. Not accurate
- 3. fees not acceptable, because car/ do own value

RESIDENTIAL

Necessary evil.

Would you use?

- 3. Services not necessary, because can do own valuation; 0% 1%

Price is obviously the factor causing most concern; however complaints about price should not be given undue weight.

- 1. Percentage of people complaining is actually very low.
- 2. Commercial sector, who are highest users of private valuers, complained least. They are less likely to have been offered overpriced services by non-registered valuers, they are also most likely to have seen their valuation report and have a greater appreciation of the amount of work which has gone into writing it.
- 3. There is a group of people in society who will always complain about the cost of professional services in the hope that prices will be reduced as a result.
- 4. Price is very much a relative concept and depends on perceived value for money. It is more important to concentrate on assuring and proving to customers that they are receiving value for money, than to reduce price.

SLIDE 5: Ever used a Valuer?

8 47%

COMMERCIAL RURAL RESIDENTIAL
'Yes' responses

Reflects greater need for Valuation services within the commercial sector, either because of corporate structure or because of legal requirements for independence.

SLIDE 6: Time Frame within which a Valuer last used

b.

45%

Commercial users have used a Valuer more recently, and tend to use valuers more frequently (at least once a year) than residential or rural users.

SLIDE 7: Selection of Valuer

7-

COMMERCIAL RURAL RESIDENTIAL
Commercial Valuers
OF RESPONDENTS WHO HAD SELECTED VALUERS
THEMSELVES.

Commercial users were much more likely to have selected a Valuer themselves rather than used some intermediary such as a bank or R.E. Agent This reflects the common practice of banks etc. of obtaining an independent valuation report which the owner of the property may not even see, e.g. for mortgage financing. Results indicate that residential and particularly rural users are strongly influenced by intermediaries in their choice of valuer and that it is as important to target communications at these intermediaries as at the end user.

SLIDE 8: How was Valuer selected?

8. Commercial Valuers

1. On basis of recommendation
from bank, estate agent, etc.
2. Good reputation, or reliable
reputation
3. On grounds of past performance
of Valuer.

1. On basis of previous dealings with the Valuer
2. Valuers reputation / bid
3. (Valuer known Person) (MOUA lecw, roendafion)

RESIDENTIAL

- | | | |
|--|------|------------|
| | /12% | COMMERCIAL |
| 1. On basis of Valuers reputation | 25.4 | |
| 2. On Basis of past dealings with Valuer | | |
| 3. Valuer's recommendation | 23.4 | |
| 4. Law Recommendation | 1 | |

This question was asked only of those respondents who had selected the Valuer themselves. The most important selection factors were:

1. Reputation and recommendation by friends/lawyer.
2. Past dealings with the valuer.

Personal contacts are obviously particularly important in the rural context.

RESIDENTIAL

COMMERCIAL (SELECTED BY 25% OF RESPONDENTS)

PROMPT, ACCURATE PROPERTY SEARCHES.

Our highly trained Staff are in full time attendance at the Land Transfer Office, Lands & Survey Department, and Companies Office.

Daily attendance at Inland Revenue, High & District Courts and Valuation Department.

Courier Delivery Available.

PHONE (09) 735-138

J & C PEARCE (1985) LTD LEGAL AGENTS
 P.O. Box 5346, AUCKLAND.

This question asked only of those respondents who had *no* selected the valuer themselves. Note that in the commercial sector only 9% of sample had not selected valuer themselves so these results may not be representative. Solicitor is most important outside influence on choice of Valuer in the residential sector. This has important repercussions for communication strategies, which should be targeted at solicitors as well as end-users.

Rural users were strongly influenced in the selection of a Valuer by their bank/Rural bank or Government department.

SLIDE 12: Degree of Satisfaction with Service Received

COMMERCIAL

RURAL

SLIDE 10: Was the Valuer last used a Registered Valuer?



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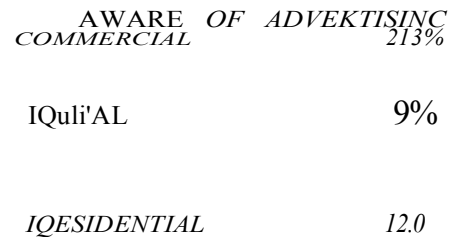
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RESIDENTIAL

Levels of satisfaction are very high in all sectors. Commercial users *may* have been more satisfied because they had more accurate preconceptions of service expected. They would also have been less personally involved in the valuation because it took place in a business environment, rather than relating to a family home or farm.

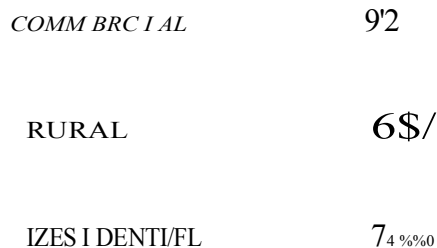
SLIDE 13: Advertising Awareness

oh



It is probable that *all* the commercial respondents had dealt with a *Registered Valuer*. The much lower percentage in the rural sector reflects the larger number of non-Registered Valuers operating, and also the greater use of Rural Bank/Banking personnel. In the residential sector, up to 99% of respondents may have used a Registered Valuer: the 22% of 'Don't know' responses indicates either confusion about the term 'Registered' or a lack of knowledge about the details of the Valuation obtained.

SLIDE 11: Valuation Report: Percentage Seen



Almost all commercial respondents had seen their report as would be expected. Only 6% of rural respondents had seen their report, which would again suggest that there are non-Registered Valuers (e.g. Farm Advisory Consultants) operating in the rural sector who do not provide a Valuation Report. The fairly low residential figure is likely to be accounted for by cases where the finance provider has requested an independent valuation report which is not always shown to the property owner.

Whilst these figures may appear low, they are quite satisfactory given that:

1. People are generally reluctant to admit that they have been influenced by advertising. On cross-examination, however they usually reveal information which indicates that they have indeed been influenced.
2. The advertising campaign was limited to users only. Much higher awareness would have been created had television been used.
3. The advertisement was small and appeared in the classified section (Properties for Sale) which was relevant to the target audience but not likely to engender any awareness amongst the general public thus generating reinforcement by word-of-mouth.
4. Advertising occurred in the latter half of 1985 whereas sample selected was homebuyers who had purchased throughout 1985. Therefore a large number of respondents may have purchased before advertising commenced and would have paid little attention to it.

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Valuers and G.S.T.

By John K. Forrest

John K. Forrest is Chief Examiner of G.S. T. Audit Section, Inland Revenue Department Henderson. He is studying for a Diploma in Business Studies and his Departmental experience includes involvement in the Company section, Individual Technical Section, Estates, Partnerships and Income Tax Audits. This article is based on a recent address delivered to the Property Management Institute, Auckland Branch.

The Government announced on 20th August 1985 various taxation reform measures and the most significant of these is the introduction of a Goods and Services Tax (G.S.T.). The introduction of G.S.T. is cited as being the way to lower personal income taxes and a fairer spread of the taxation burden across a wider range of activities.

The implementation date for G.S.T. is 1 October 1986 and this date will become very important for Valuers as you plan your next six months work loads.

Before I go further into your involvement in G.S.T. I think it pertinent to mention a few new words and phrases peculiar to G.S.T.

- GOODS AND SERVICES TAX ACT 1985 hereinafter referred to as the G.S.T. Act. The Act became law on 3 December 1985.
- REGISTERED PERSON means a person who is registered or is liable to be registered under the G.S.T. Act. This person must be conducting a 'Taxable Activity' and the significance of being registered is that only 'Registered Persons' may charge G.S.T. to their customers/clients (Output Tax) and claim back the G.S.T. component of goods and services purchases (Input Tax) as part of their 'Taxable Activity'. This is known as the credit offset mechanism.
- NON REGISTERED PERSONS cannot do any of the above and are end consumers for G.S.T. purposes. These persons are not regarded as conducting a 'Taxable Activity'.
- TAXABLE ACTIVITY means an activity which is carried out continuously or regularly by any person, whether or not for pecuniary profit, and involves or is intended to involve, in whole or in part, the supply of goods and services to any other person for a consideration, and includes any such activity carried on in the form of a business, trade manufacture, profession, vocation, association or club. This also includes activities of public and local authorities, including Government Departments.
- OUTPUT TAX The G.S.T. you charge your customers, and must account to Inland Revenue.

- INPUT TAX The G.S.T. you pay for goods and services purchased for use in your Taxable Activity from other 'Registered Persons' which is claimed back from Inland Revenue.

As from 1 October 1986 every person, being a 'Registered Person', who makes supplies of goods and/or services is obliged to charge 10% G.S.T. on the value of those supplies. That seems simple enough you say and yes it is, however there are situations where the 'supply' spans the introduction date of 1 October and this makes matters a little more difficult. For that reason certain transition provisions have been included in the G.S.T. Act to account for these situations. You will be concerned mainly with Building and Civil Engineering works under construction and Long Term contracts/leases. Let's now look at each of these and consider the implications for Valuers.

You will be asked to carry out valuations of numerous constructions in progress as at 30 September 1986.

Building or Civil Engineering Work Under Construction at 1 October 1986 (Section 84(4) of the G.S.T. Act) Property sold by a 'Registered Person' on or after 1 October 1986 is subject to G.S.T. at a rate of 10% of the value of that property. However it is recognised that a portion of the value relates to construction carried out prior to 1 October 1986 and therefore that value should not attract G. S.T. Section 84(4) of the G.S.T. Act provides that the consideration in money for the supply shall be reduced by the value of work and materials permanently incorporated in or affixed on the site at close of 30 September 1986.

This is the point where the Valuer becomes involved. You will be asked to carry out valuations of numerous constructions in progress as at 30 September 1986.

Working papers must be kept for valuations done and they can be attached to the valuation or kept by the Valuer. There are however two provisos to Section 84(4) of which you must be aware.

The *first proviso* states that the valuation must be carried out by a competent independent valuer and the value must be determined on or before 1 December 1986. A competent independent valuer who is under contract to a client may be an architect, valuer or quantity surveyor. The valuer must be independent of the contractor.

This is where the Act applies pressure on you by setting time constraints to complete an unknown number of valuations.

The *second proviso* relieves some of the pressure set above. It states that a valuation by a competent Valuer is *NOT* required if the supply or sale and purchase is between two 'Registered Persons'. The parties to the sale and purchase may still make a valuation however. This may be by way of mutual agreement between the parties. If agreement between the parties is not possible, then you may get involved.

The reason behind this second proviso is that where the sale is between two 'Registered Persons' there is no NET effect to the revenue, i.e. the G.S.T. charged by the Vendor is able to be deducted by the purchaser through the credit offset

mechanism. Also where a sale is between registered persons, the time constraint of 1 December 1986 for completion of the valuation shall not apply, therefore if you are engaged under these circumstances these valuations can take lower priority.

Although the revenue is not affected by this situation it will have a profound effect on the cash flow of both Vendor and Purchaser as they will be required to account for and pay G.S.T. on the reduced value of the property.

The following example will illustrate the effect of the transitional measures and the calculations are the same whether the valuation is determined by a competent independent valuer or by mutual agreement.

<i>Contract Price</i>	<i>\$1,000,000</i>
<i>Work completed 30 September 1986</i>	<u><i>800,000</i></u>
<i>Reduced Value of Consideration</i>	<i>200,000</i>
<i>G.S.T. at 10016</i>	<u><i>20,000</i></u>
<i>G.S.T. Inclusive Price for G. S. T. Return Purposes</i>	<u><i>\$220,000</i></u>

Note: The contract price now becomes \$1,020,000, of which \$20,000 must be accounted to Inland Revenue. Registered Purchaser may claim back from Inland Revenue \$20,000.

Contracts/Leases

Reviewable and Non-reviewable

Having just discussed contracts and additional charges on contracts, the question arises, how can I charge G.S.T. on a fixed contract or a lease which has a number of years to run? The G.S.T. Act has made provision for such situations in Section 78 where it discusses the 'Effect of Imposition or alteration of tax' and Section 85 where it discusses Reviewable and Non-reviewable Contracts.

Section 78 states 'Where an alteration in the law is made and a supplier, being a registered person, has entered into any agreement or contract in respect of the supply of goods and services with a recipient, unless express provision for the exclusion of any such alteration in the law is contained in the agreement or contract, or it is clear from the terms of the agreement or contract that the alteration in the law has been taken into account, every such contract shall be deemed to be modified as follows' - the Act then goes on to describe various ways in which G.S.T. must be charged on contracts entered into prior to 1 October 1986.

A further variation on the above is contained in Section 85 Reviewable and Non-reviewable contracts.

NON-REVIEWABLE CONTRACTS/LEASE. For the purposes of G.S.T. a Non-Reviewable contract is a written contract where:

1. The goods and services are specifically identified in the contract and
2. The consideration in money is specified by way of amount or a formula for calculation and
3. The contract contains no provision for and does not otherwise contemplate any change to that consideration arising either directly or indirectly from the imposition of G.S.T.

REVIEWABLE CONTRACTS. This is a contract which is not a Non-Reviewable contract i.e. the contract incorporates a review clause.

The important aspect of *BOTH* types of contract is that they will only fall within the transition provisions if the contracts are entered into on or before 20th August 1985 otherwise Section 78 above applies. The significance of 20 August 1985 is that this was the date the G.S.T. measures were announced and the implications of G.S.T. should have been considered in any contract negotiated after that date.

What does all this mean?

If you have a 'Non-Reviewable' contract/lease effective prior to 20 August 1985 G. S.T. will be charged on 1 October 1986 at a rate of zero percent. This means that the customer/lessee will not be charged any G.S.T. on the contracted price; however the 'Registered Person'/Lessor is still able to claim 'input', in relation to that contract or lease, incurred after 1 October 1986.

If you have a 'Reviewable' Contract effective prior to 20 August 1985 G.S.T. will not be chargeable until 1 October 1986 under any circumstances.

If the first review date is between 20 August 1985 and 1 October 1986 G.S.T. will be charged at a rate of 10% from 1 October 1986.

If the first review date is after 1 October 1986 G.S.T. will be charged at a rate of zero percent until the review date and at 10% thereafter. The effect of zero rating is the same as with Non-Reviewable contracts.

There are numerous other areas which need explanation, however most are outside the scope of this article. The Inland Revenue Department has various publications which will assist in explaining G.S.T. and we are offering an advisory service on a personal basis, so if you want to know more please telephone any branch of Inland Revenue.

Remember, any fees you charge clients for any valuations you carry out on or after 1 October 1986 as 'Registered Persons', you will be required to charge G.S.T.

Computer Assisted Valuations The State of the Art

By R. V. Hargreaves A.N.Z.I.V.

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Bob has been a regular contributor to 'The Valuer' on the subject of new technology over the past two years, keeping valuers informed on the type of hardware available and suitable applications. This article on Computer Assisted Valuations is based on a conference attended at Harvard in August 1985.

The second World Congress on computer assisted valuation was held in August 1985 at the Law School, Harvard University. The Congress was meticulously organised by staff from the Harvard based Lincoln Institute of Land Policy. Over five days 300 delegates from 35 countries were exposed to the latest developments in the field of computer assisted valuations. Included in the five man New Zealand delegation were three university lecturers whose attendance at the Congress was made possible by the financial assistance provided by the Valuers' Registration Board and the overseas leave granted by their respective universities. This paper highlights some of the new developments that were discussed at the Congress.

Computer Assisted Sales Selection

Several computer programmes have been developed to assist valuers with the selection of comparable sales information. Most New Zealand valuers now use a manual process to select sales sorting these on the basis of one variable at a time. For example, if the subject property is a suburban single family home built in 1960 the valuer might search through the total sales file and pick out houses built around 1960. From these sales the valuer would choose houses of similar size to create a new subset of sales. The valuer would then apply variables for locality, house size, condition of house, and number of bedrooms until a final subset of comparables was selected. Apart from being time consuming one of the main limitations of the standard manual sales selection procedure described above is that the valuer cannot think about more than one or two selection criteria at the same time. Thus a house built in 1950 and added to during the 1960s might be excluded from manual selection when it actually should be included.

This type of iterative matching procedure lends itself to computer analysis since computers are very good at quickly searching large sales files and selecting sales that meet certain

preselected criteria. This is exactly the sort of procedure that the NZIV 'Valpak' program uses.

Having selected the most comparable sales the valuer then normally adjusts the sales by using either percentage or dollar amounts following the procedure outlined by Jefferies' in 'Urban Valuation in New Zealand Volume 1'.

Another method of selecting comparable sales is described by Sauter² as a dissimilarity index. To use this method the valuer has to specify the variables to be matched with the subject property and assign weights to each variable. Using the previous example the valuer selects on the basis of age of dwelling, locality, house size, condition of house, and the number of bedrooms. The valuer then has to rank the variables in order of importance by assigning weights to them.

Fraser' notes that dissimilarity index type computer programs typically square the difference between the value of the variable for the subject property and the value of the variable for a particular sale, selecting the sale properties with the smallest sum of the differences. Since this procedure emphasises the differences between the subject and the sales, the user can be fairly sure that the final group of sales selected are very comparable. Should insufficient sales be selected then most programs allow the user to relax the selection procedure. The most comparable sales are then printed out to give the user an estimation of the most likely selling price of the subject.

The two types of procedures described are not mutually exclusive and hybrid computer programs have been developed that use both the iterative matching procedure and a dissimilarity index. Normally the iterative matching procedure would be used first to quickly select a subset of sales based on several major search criteria. The dissimilarity index method, which is a somewhat slower procedure, would then be applied to this group and would produce the final 6-10 comparables.

Computers have a definite place in the comparable sales approach both in terms of speeding up the selection process and ensuring that all the sales on file are considered. The dissimilarity index type approach also allows the user to determine in a mathematical way what constitutes the best group of comparable sales. The New Zealand valuation profession is in a good position to take advantage of these methods as the basic sales data is now available in electronic format.

The Laser Video Disc

The laser video disc is a relatively new technology that appears to have a definite use in the valuation field. Either still or motion pictures of a property can be stored on a laser video disc and appear on a TV screen in colour. The laser video disc technology allows the user random access to the video information so that it can be retrieved in any sequence. Thus property could be selected according to street address, type, size, owner's name, or comparable sales. Laser video disc equipment is typically linked to a computer so that the user can bring up the descriptive information about the property on the computer screen and on the other screen the video images of the same property.

Paul Jacobs, Chief Assessor, from the City of Rochester, New York, presented a paper to the Congress describing the successful implementation of a laser disc system in Rochester. Video images of some 60,000 properties were captured from

the street using TV cameras mounted in a specially equipped van.

The major benefits appeared to be reduction in field work, doing a lot of review work from the office, and improvement in public relations when handling queries and objections to assessments. At this stage the technology is so new that there are still unresolved questions about the cost effectiveness of using laser discs. Costs are likely to fall in the future as more organisations make use of this technology and the economies of mass production become evident. The Rochester experience also showed that the laser video discs images of city property can be very useful to other Departments in the City administration such as Fire Services, Police, and Town Planning.

The concept of the base home has been developed by Gloude-mans⁴ in the State of Arizona, U.S.A. A similar approach was described by Muler⁵ and is operating in Denmark. The base home approach attempts to tackle the problem of the lack of 'explainability' inherent in many of the mathematical/statistical approaches presently used in mass appraisal. For example, when multiple regression is used as a valuation tool the valuation analyst uses actual sales data to produce a mathematical equation which is typically along the following lines:

The Base Home

$$Y = B_0 + B_1X_1 + B_2X_2 + B_3X_3 + \dots + B_nX_n + e$$

where
 Y = Predicted sale price
 B₀ = Constant term, being the intercept with the Y axis
 B₁, B₂, B₃, ... B_n = Regression coefficients
 X₁, X₂, X₃, ... X_n = Value of the independent variables
 e = error term

The sale price for an individual property can be predicted by inserting the X values for a particular property into the equation and multiplying them by the regression coefficients.

Most valuers still don't feel comfortable with this type of mathematical equation. Furthermore, if a valuer tries to explain a regression equation to a client or ratepayer there is considerable potential for confusion, particularly if some of the regression coefficients don't seem logical. For example, let's suppose the type of sink bench shows up as being a very significant variable and that on average a house with a wooden sink bench is worth \$5,000 less than a house with a stainless steel sink bench. (A more detailed investigation may show that houses with wooden sink benches are poorer quality than houses with stainless steel sink benches and that the sink bench variable is acting as a proxy for house quality.) In any event the client is likely to be very skeptical about the valuation.

Mass appraisal operations have tried to get around the problem of explainability in two ways. The first approach is to keep the regression equations hidden from the public and to use the conventional manual methods to justify any valuations that are being argued about. This approach has worked reasonably well in New Zealand and in parts of the U.S.A., but with greater freedom of information there usually comes a time when the regression equations are put under the scrutiny of ratepayers and perhaps later argued in front of the courts.

The second approach, typified by the base home, is a more open approach whereby the public are given access to the regression equations and every effort is made to make the methodology explainable. According to Gloude-mans⁶ the base home approach involves 'repackaging' the valuation equation derived from statistical methods such as multiple regression into a tabular format. The State of Arizona is divided into a number of market areas and a valuation equation is developed for each area. The base home selected for each market area must be representative of the properties in the area and is usually

either the average or the median home. The base home must include all the variables used in regression equation and the value of the base home is estimated from this equation. The next step is to convert the regression coefficients into tabular form showing the adjustments to be made in dollar amounts where an individual property is different from the base home. Taking a simple example, let's suppose that the base home is worth \$90,000 and the subject property is 20m² larger than the base home and similar in all other respects. Assuming that the additional size is worth \$300/m² then our subject property would be worth \$90,000 + (20 x \$300) = \$96,000. The base home approach can be expressed as follows:

$$Y = BHV + A_1 + A_2 + \dots + A_n$$

where

Y = Predicted sale price

BHV = Base home value

A₁, ... A_n = Variable factors

In summary the advantages claimed for this approach are that the base home model has a simple design and that the coefficients used in the model can be seen by valuers and ratepayers to be reasonable. Land and improvements can be valued separately and, by measuring the net effect of different characteristics, various base home models can be compared with each other over time. The base home appears to be a more intuitive starting point for a valuation than the regression equation.

Adaptive Estimation (Feedback)

Feedback is a mathematical technique developed by engineering scientists Carbone and Longini.⁷ The feedback methodology is now also utilised in a number of diverse fields including valuation, time series analysis, marketing, technological assessment procedures, and targeting weapon systems! The mathematical properties of the feedback equation are not yet fully understood since the method is relatively new. Standard statistical performance tests cannot be applied, as it is not a statistical method.

Valuation researchers are excited about feedback because it appears to produce good results for predicting sale prices. Feedback models can be developed using desk top microcomputers and relatively small data bases, whereas regression models typically require larger data bases and larger computers.

In explaining how to apply feedback in a valuation context, Eckert⁸ divides property characteristics into quantitative and qualitative variables. Quantitative variables contribute to value in an additive way, e.g. the size of the house expressed in dollars per m². Quantitative variables contribute either to the value of land or to the value of improvements.

Expressing the value of a house just in terms of dollars per m² is usually insufficient. Valuers are well aware that factors such as the quality of construction, condition, and age are also important. Qualitative variables are used to make percentage adjustments to the quantitative variables. Qualitative variables are split into those that make percentage adjustments to the improvements (such as condition of the house), those that make percentage adjustments to the land (such as rear section), and those influencing both the land and improvements values (such as the type of neighbourhood). Value is calculated by multiplying the qualitative characteristics by the quantitative one for each variable and then adding to find the total.

Using a simplified example let's assume that the value of a house in average condition is \$60,000. Our subject house is in good condition and we assign 1.0 (average) 1.1 (good). The value of our subject house is 60,000 x 1.1 = \$66,000. Our average section value is \$30,000 (1.0) but because our subject is a back section we assign (0.9). The added land value is

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$\$30,000 \times 0.9 = \$27,000$. The value of the subject property is thus $\$66,000 + 27,000 = \$93,000$.

The starting point for using feedback is to assign quantitative and qualitative values to the property characteristics that have been selected for inclusion in the model. The initial coefficient terms used are tentative since the model builder does not know what the current values are. Regression coefficients are sometimes used as a starting point, but this is not essential since the feedback computer model 'learns from experience'. Feedback uses the tentative values that have been assigned and compares predicted value with an actual sale price. The computer adjusts the coefficients to produce an altered equation and then goes through the same process by looking at each sale property in turn and continuing to fine tune the equation. Some feedback programmes allow the user to make both forwards and backwards passes through the data with iteration normally ceasing on a forward pass after the mean percentage error has been reduced to a certain predetermined level.

Research scientist, Jan Schreiber' believes that there are still a number of unanswered technical questions about feedback and it may take some years for the answers to emerge. In the interim valuers are likely to be attracted to the method as good results are being achieved in predicting sale prices.

Artificial Intelligence

The debate of what is artificial intelligence and whether computers can be programmed to think in the way that we think is likely to continue for many years.

What is very clear is that organisations are increasingly substituting machines for people over a broad range of occupational groups. Car assembly plants that make extensive use of robots are well known. Closer to home, the New Zealand Post Office has dramatically reduced the number of

There seems little doubt that some of the 'scientific' aspects of valuation can be performed very efficiently with the use of a computer. It is interesting to note that several of the real estate investment analysis type programs were microcomputer versions of programs that were previously developed by Professor James Graaskamp of the University of Wisconsin and were originally only capable of being run on large mainframe computers.

telephone operators by installing automatic switching gear. The higher status occupations are not immune from the impact of the computer and we read about computers increasingly being used for medical diagnosis. Delegates to the World Congress were shown survey equipment that can automatically draw plans from field recordings thereby drastically reducing the role of the draughtsman.

Valuation is affected by these influences as automated systems of mass appraisal have enabled valuers around the world to achieve greater productivity.

There seems little doubt that some of the 'scientific' aspects of valuation can be performed very efficiently with the use of a computer.

Such tasks as storage and retrieval of comparable sales, and developing regression or feedback equations are best done on a computer. What the computer cannot do, as yet, is to exercise judgment, the so-called 'art' of valuation. If the regression or feedback equation is meaningless then it takes a skilled valuer to interpret this result and to reformulate the equation so the coefficients make sense.

Developments in the area of Advanced Computer Science or what is popularly known as 'expert systems' make it possible that in the future computers will be programmed to exercise judgment based on a set of decision rules specified by an expert valuer. Carter⁰ suggests that the templates sold commercially to go with electronic spread sheet programs are a simple example of an expert system. An inexperienced valuer can use the template without necessarily understanding the complex set of inter-relationships and decision rules that the expert valuer has supplied.

The Lincoln Institute is one of several valuation organisa-

tions in the U.S.A. working on computer programs that incorporate the latest ideas in advanced computer science. The Lincoln Institute project is called CAESAR (Computer Assisted Expert Systems for the Analysis of Revenue). It is understood that David Jensen of Sigma Systems Technology Inc. is working on a similar project incorporating a technique called Bayesian (Linear or Non Linear) Regression. Charles Cook, who was instrumental in developing the 'Solir' package for the Lincoln Institute, is now working on an advanced system for the Cole, Lyster, Trumble Co. At least one of these programs will be on the market during 1986.

Although skeptics of artificial intelligence still outnumber the proponents, the chess players amongst the skeptics have to admit that computers have recently become very much better at playing chess. These days good computer chess programs can defeat all but the most expert human chess players.

Computer Applications for Private Valuers

Computers were first used to assist valuers in the U.S.A. perform mass appraisals almost twenty years ago and the New Zealand Valuation Department have at least fifteen years experience with computer assisted valuations. Very few private valuers around the world have more than five years of computer experience and thus are generally at a somewhat lower point on the computer experience learning curve than their public sector counterparts.

One of the five simultaneous workshops 'tracks' at the World Congress was devoted to the use of computers in fee appraisal (private valuations). Dillmore" described how he had developed a number of programs for use in his valuation

4. There will be a computer on almost every desk by the early nineties.

practice. It is interesting to note that several of the real estate investment analysis type programs were microcomputer versions of programs that were previously developed by Professor James Graaskamp of the University of Wisconsin and were originally only capable of being run on large mainframe computers.

A challenging paper titled: 'Is there a future for Real Estate Valuation after the Microcomputer Revolution?' was presented by Jaffe" who made ten predictions about the future of computer assisted valuation.

1. The entire world will experience the effects of the micromputer wave."
2. The computerisation of our world will transcend the boundaries of human knowledge; computers are likely to be viewed as extensions of man's intelligence rather than simply as computational devices.
3. In this new information age, information will be equated to power.
4. There will be a computer on almost every desk by the early nineties.
5. Computers will lead to substantial increases in productivity.
6. By 1986, there will be one terminal for every ten employed people.
7. The information revolution will fundamentally change the real estate industry.
8. The most important change of all may be in social attitudes towards information systems.
9. The wide availability and dissemination of information in the future will be the 'great equaliser' and this in turn will lead to a more egalitarian society.
10. The best uses for personal computers haven't been invented yet."

Jaffe concluded that the future practice of real estate valuation will involve more computerisation than ever before with

the computer being utilised as a tool for those practitioners seeking reliable answers to difficult valuation questions.

Shenkel" reviewed the present methods of projecting net income under the income approach for valuation. He suggested major improvements could be made to subjective forecasts if valuers used historical information to develop time series forecasts incorporating seasonality, trend analysis, and cyclical data. Computer programs that utilise exponential smoothing projections and Box-Jenkins Time Series Analysis are now available for microcomputers and can assist the valuer in making projections.

The New Zealand Scene

Any discussion about the state of the art in computer assisted valuation must include reference to New Zealand because we are world leaders in several aspects. The Valuer General, Stan Ralston, presented a paper to a plenary session of the Congress which discussed the training of valuers in New Zealand, and the on-line sales system operated by the Valuation Department. Apart from the Swedish system, described by Ahrenby," where there is an on-line sales system for both the private and public sector valuers, no other country has such a sophisticated national system for distributing sales data. In countries such as the U.S.A., Canada and Australia some private valuers have on-line access to sales data, but very often there is a lack of standardisation between systems within a country. A major advantage in New Zealand is that all valuers can use the same standardised data base and this helps to ensure a more even standard of valuation practice. In addition our national system makes it very much easier to monitor market trends over time.

Our ability to keep abreast with the rest of the world over the next 5-10 years appears to be good provided the financial resources necessary to implement the Land Information New Zealand (LINZ) data base are forthcoming. The LINZ data base will incorporate data from a number of Government Departments. Of particular interest to valuers is the valuation, title, and survey data.

Conclusions

It is very pleasing to see the current developments making the mass appraisal computer models more explainable for both valuers and valuation users. In the past there has been a tendency for many valuers to feel uncomfortable using statistical methods such as multiple regression, where the variables used in the equations and the regression coefficients did not always seem logical. The base home approach in particular, and feedback to a lesser extent, have overcome a number of the problems related to explainability.

The introduction of more sophisticated computer programs based on expert systems is likely to encourage widespread use of computers in valuation practice. Many of the tasks previously performed on large computers can now easily be done on relatively low cost microcomputers.

The microcomputer revolution has also meant that private sector valuers are now rapidly catching up with their public sector counterparts in the field of computer applications to valuation. This is particularly true in the application of electronic spread sheets to cash flow analysis.

Having access to the Valuation Department's electronic sales system puts the valuation profession in New Zealand in a unique position to take advantage of some of the new developments in the comparative sales approach to valuation that have been outlined in this paper.

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Agricultural Productivity and Land Value

By Iain W. Gribble, A.N.Z.I.V.

over recent years. However the Meat Board had more than 40,000 tonnes of sheep meat rendered down into meat meal, bone meal and tallow last season because it could not find export markets for this product. As export meat it was worth \$NZ100 million, as meat meal etc. \$6.5 million. There was a change of Government in New Zealand in 1984 whose policies included an intention to phase out incentives for agriculture as well as other export industries to make the country more competitive in an attempt to reduce both the internal and external deficit. As a result the return to farmers in 1985/86 for produce has been reduced to the level supported by overseas prices without government support. Average prices to be paid this year by comparison with 1984/85 are:

	1984/85	1985/86
Lamb per head	\$24.30	\$14.93 est
Mutton per head	\$15.00	\$3.00 est
Beef per head	\$538.85	\$451.00 est
Wool per kg Greasy	377.4¢	377.40¢*
Milk Fat	400-4100	400¢**

* Subject to 15% drop in value of NZ dollar in relation to US dollar. •
350-3700 expected for 1986/87.
NZ\$ = US 57.1¢.

In 1984 there were 76,633 farm holdings, averaging in area 277 hectares (685 acres). The types of farms were 21 % mainly dairy, 36% mainly sheep, 4% mixed livestock, 3% crop and 36% other. There is a growing horticultural industry especially in the North Island where in some areas agriculture has given way to more intensive horticultural use when soils, climate, water supply are suitable and land values have risen to a level which cannot support normal agricultural production. Forestry has also increased in importance as land of differing quality is planted and income expectations improve.

This then sets the scene for this paper on agricultural productivity and land value in the New Zealand context.

From the early 1970s in New Zealand it could be fairly stated that production was not a major factor in the price paid for farm land. Farming provided a way of life, and although returns were small, capital growth compensated for this factor. With only minor fluctuations this continued until 1983 when it was realised there must be a return to the pre-1970s situation and land should be farmed more for production, which is now being reflected in 1985 prices. It is evident from this comment that for just over a decade until 1983 agricultural productivity has not been the major factor influencing land values in New Zealand. There have always been a number of factors influencing rural land prices each varying in degree of importance at any particular time. These include:

1. Production (related to net income).
2. Non-monetary returns. ('Way of Life'.)
3. Wealth storage, i.e. tax free capital gains.
4. Development potential (capacity to increase production).
5. Incentive schemes.

It was realised in the 1970s with inflation rising at unprecedented levels when compared with the 1950s and 1960s that the purchase of land could keep the farmer investor

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Agricultural productivity and land value was a hot talking point in government and farming circles in New Zealand at the time of preparing this paper (October 1985) as produce prices and land values continued to fall. Productivity has been described as the capacity of land to produce products which have economic use. The word economic must be stressed as we move further into a general over-supply of agricultural products on world markets.

On researching this topic the scene was set in Mr R. M. Donaldson's (FNZIV, Past President N.Z.I.V.) paper at the 12th Pan Pacific Congress at Kuala Lumpur in 1983 entitled 'Inflationary/Recessionary Economy - Its Effect on Real Estate Development'. The 1983 paper included the general background to the New Zealand rural scene as it applied then and from my investigations there has been a continuation of the trends apparent at that time.

New Zealand is a small country made up of three islands in the South Pacific with a human population of 3.291 million and at last count seventy million sheep and nearly eight million cattle. Close to 60% of New Zealand's total export earnings are pastoral products. From these figures it is evident that the country is still reliant on its agricultural productivity. It is recognised that New Zealand farmers are amongst the most efficient producers of agricultural products in the world, due in a large measure to the climatic conditions of the country with resultant excellent pasture growth. At the moment agricultural productivity cannot support the level of land values of two years ago and in some cases five years ago. Production in the country has continued to increase generally supported by government incentives and these have been many and varied. The milk fat production increased 3% and the meat export kill 12% in the last year including 34.7 million lambs, although total stock numbers on the land have stabilised

ahead of the inflation rate. The demand for land increased as did prices. It should be realised that in New Zealand most of the farms are owner-occupied although some are farmed by managers and staff, sharemilkers, partnerships, family companies etc. The availability of farm finance and the current interest rate has caused some distortions over the last few years as has government assistance and incentives to increase farm production through farm enlargement, development of land and improvement of breeds. Agricultural output in many countries, including New Zealand, has been increasingly subject to problems of over-supply, output exceeding commercial demand which is likely to remain so for some time. This has been partly created by agricultural protectionism. The increased output in New Zealand can be attributed to improved management techniques, increased fertiliser usage, greater irrigation, all fully supported by Government incentive schemes. These problems of over-supply are being addressed by Governments around the world; however, it is likely to be a long slow process. It is evident from the figures in Table 1 that capital growth increased at a greater rate than production and this capital gain factor had its effect on land values and prices paid. Increases in production since 1970 in relation to dairy farms can be tabulated as follows:

Table 1

	Percentages															
	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	Overall
Land Values	3.9	2.8	8.1	25.0	48.4	18.4	7.3	7.7	7.0	11.7	16.8	30.7	34.9	-8.7	-1.6	549.0
Av. Dairy Production	-5.8	6.2	11.5	-1.0	-3.6	5.4	8.9	4.9	-11.5	11.0	6.5	-0.4	0.3	1.6	9.4	49.5
Av. Net Income (after interest)	8.7	9.4	55.3	13.4	2.7	-1.0	11.0	9.3	-3.3	31.3	3.0	10.5	19.7	14.3	4.3	436.0
Consumer Price Index	7.8	10.2	6.3	9.6	11.5	15.9	15.9	14.7	11.0	15.5	16.4	15.6	15.2	5.2	8.6	439.0

The farming community does not generally farm for capital growth; however this has been a by-product of the demand. Farmers are generally more interested in a 'way of life' which is created by an adequate income covering all outgoings. The return on capital invested has been a secondary consideration. With the high proportion of owner occupiers and family farm concerns, which are retained in the family, the capital growth causes significant expense when estate duties etc. are considered. It could be argued that productivity did have some bearing on prices even if returns on capital investment were in the range of 2-30%. Valuers tended to have a productivity check on their valuations after arriving at the capital value on a sales comparison approach. The cross check was the land value or capital value related to a 'per stock unit' or 'per kilogram of milk fat'. (A stock unit relates all animals back to a 'ewe' equivalent.) These could then be compared with other property sales to confirm or otherwise the valuation approach.

A typical average quality dairy farm in the Waikato area of the North Island could be analysed as follows: 45 hectares (111 acres) being an average one man dairy unit with ageing improvements on easy undulating to flat contour close to Hamilton City.

Year of Valuation	Capital Value (\$)	Land Value (\$)	Milk Fat (kg)	CV/kg (\$)	LV/kg (\$)
1949	11,560	6,560	10,600	1.09	0.62
1954	24,660	13,260	10,800	2.28	1.23
1959	25,000	14,420	11,300	2.21	1.28
1964	29,880	17,680	12,200	2.45	1.45
1969	45,800	28,600	16,700	2.70	1.70
1974	121,000	88,000	17,300	7.00	5.10
1979	158,000	107,000	17,800	8.90	6.00
1984	375,000	300,000	17,500	21.40	17.10

The property sold in June 1962 for \$32,220 and an estimate of value in June 1985 would be \$375,000.

The statistical average of dairy farms in the Waikato is \$400,000. This farm is below that figure due primarily to the age of the improvements.

The same analysis on a fattening unit in the Waikato of 201 hectares, (496 acres) carrying 3000 stock units, well farmed

and generally of easy contour rising to steeper hills at the rear, with good access and no weed problem.

Year of Valuation	Capital Value (\$)	Land Value (\$)	Stock Units	CV/su (\$)	LV/su (\$)
1955	36,160	18,200	1,450	25.00	12.55
1960	38,900	20,610	1,550	25.00	13.29
1965	46,720	25,700	1,900	25.00	13.52
1970	69,900	40,200	2,625	27.00	15.00
1975	153,000	95,000	2,800	55.00	34.00
1980	324,000	231,000	2,900	111.00	80.00
1985	540,000	370,000	3,000	180.00	123.00

Estimates of value for late 1981 early 1982 was over \$600,000 capital value and in September 1984 at \$580,000 capital value with a \$410,000 land value. The property was farmed by the one family for all of the above period until sold in March 1985 for \$542,000.

As farm incomes drop values in recent times have reduced in sympathy. Those most feeling the pinch in these changing times are generally those new farmers who have purchased in the last few years whose costs have increased significantly including mortgage interest rates while government incentives and assistance have been removed. These have included supple-

mentary minimum prices (SMP's) land development encouragement (L.D.E.L.) loans, livestock incentives scheme (L.I.S.), concessional interest loans and suspensory loans. In 1984/85, S.M.P.'s of \$2.50/lamb and \$4.70/sheep for mutton applied.

The land that had the largest increases in value in the early 1980s, the second class hill country, gained most from the government moves and has now had the largest reductions in land value of recent times even though their production has increased. However the prices expected to be received in

as income and costs become market orientated, the purchaser must now more fully consider the net income of the farming enterprise.

1985/86 for this production, and therefore net income, is likely to be significantly reduced. Short term mortgage finance has also fallen due for repayment, and new loans have been at significantly higher interest rates.

Those farms fully developed with only a small mortgage or stock debt can carry on with a reduced income in the meantime. However, farmers established since the late 70s must be more efficient especially those with net incomes of less than \$10,000.

It is obvious that as long as there is a market for agricultural products at the right price, increasing productivity on farms will have the effect of increasing the land value of those properties if all other economic factors remain stable. With a movement toward farming for productivity, as income and costs become market orientated, the purchaser must now more fully consider the net income of the farming enterprise.

However, the individual farmer's management skill has a significant bearing on what can be recovered from the land in the form of production and net income. Purchasers of land will not pay in direct proportion to net income as potential is reflected in the purchase price, i.e. the purchaser will consider how long it will take to obtain maximum production and profits from the land and reflect that in the price offered.

Turning to a typical dairy farm and the valuation of the

land related to productivity, a modal type of dairy farm in New Zealand could well be:

Size in hectares	70	
In calf cows and heifers	130	
Replacement heifers	30	
Total cattle	160	
Calving percentage	90	
Kilogram milk fat total	18000	
Kilogram milk fat per cow	140	
Cull cow sale price	\$265	
Bobby calf price	\$35	
Price per kg milkfat	\$3.80	
Total income	\$82000	
Per kg milk fat	4.55	
Farm expenses (incl. drawings)	\$43000	
Per kg milk fat	2.39	
Operating surplus	\$39000	\$39000
Per kg milk fat	2.16	
Less return on livestock and plant		
Say 20% on \$100,000		<u>\$20000</u>
		<u>\$19000</u>

\$19000 Capitalised @ 5% = \$380,000 capital value

With expected increases in on farm costs of 15-20% and a reduction of income due to pressure on overseas prices, this income will be significantly reduced leaving little, if any, to cover debt servicing. This must naturally have the effect of lowering land values.

In the above example, where \$150,000 is borrowed at 15% the net operating surplus is reduced to \$16,500 showing a return of 5016 on equity, including stock and plant.

Mortgage interest rates from the State owned Rural Bank and Finance Corporation have increased from 7 1/2 % through 10% to a high of 15% for new farmers. At the same time private institutions are charging up to 22% if the money is available. This is the background that agricultural productivity must be viewed against. Whereas if product prices hold, as is possible with the dairy payout, on farm costs are still increasing with resultant lowering of net income. A mortgage debt of more than 20% of value will make balancing the budget difficult. However, once the rural market settles down and the rural community get used to the new price levels for sheep meat, wool, dairy products etc. as well as interest rates for

Horticultural properties have also taken a drop in land value over recent times,

mortgage at market levels more value will be attributable to the efficient operator as rural land sells and is bought on the basis of agricultural productivity with the capital growth aspect having a lower impact on prices. Advances in technology, the continued move towards horticulture, and the expansion of cities into the rural areas with establishment of rural residential blocks still permits an increase in value which is not related to current productivity but to future potential. This type of land however has different demands than the straight rural property and as such must be valued reflecting all potentialities.

Horticultural properties have also taken a drop in land value over recent times, however this is more a reflection of the increase in interest rates and the removal of opportunities to write off development costs against 'off farm' income for tax purposes. This was a good source of development funds for all rural properties especially syndicates and partnerships while marginal tax rates were at 66 cents in the dollar on taxable incomes over \$38,000. This incentive was costing the Government approximately \$100 million a year.

With land values increasing significantly from 1979 it is interesting to note that the farmers equity on average remained at around 80%. The very large increase in land value was

therefore at a cost to the farmer through increased borrowing for re-financing and development, resulting in increased debt servicing as interest rates increased. In 1982/83 3% of sheep and beef farmers had an equity of less than 50% and a further 12% had less than 65% equity. Land values have reduced since then while interest rates have climbed, and as a result equity has reduced further together with net incomes. As a further consequence it has been mentioned by some experts that 6% of sheep and beef farmers are in a position of having to sell if they can find buyers and a further 15% are working on deficit budgets. The danger zone is seen when interest payments represent 25% or more of income and approximately 20010 of sheep and beef farms fall into this category at present. It is evident that with (1) lamb prices, sheep meat, beef and wool prices all having slipped, (2) inflation continuing at over 15% per annum (3) the New Zealand dollar significantly increasing in value against Australian and United States currency between March and September 1985 with its consequent effect on product prices and (4) the increased mortgage interest rates, there is an expected reduction in net incomes of approximately 30% for 1985/86 on sheep and beef farms and consequently as a flow on effect, reductions in land values. Already some new farmers have lost their total equity in their farms, and some have threatened to walk off their properties.

Farmers are quickly having to adapt with diversification programmes and large reduction in on-farm costs in an effort to increase or maintain net incomes. A further effect is the movement towards offshore borrowing where individual farmers are able to borrow at significantly reduced mortgage interest rates and are prepared to take the currency risk. Only time will tell if this is a good move or not.

Another interesting aspect affecting New Zealand is that with the reducing net incomes of the rural sector, land values in adjoining small urban townships are now falling in sympathy as the farmers are spending less in the community, jobs are fewer in the townships and fewer people are moving in, thus reducing demand for residential land.

In summary, agricultural productivity does have an effect on land value in New Zealand moreso now than in the seventies and early eighties when the 'way of life' together with consequent capital growth (non-taxable) played such a big part in the value of New Zealand farms. There is now a return by purchasers and valuers to the approaches used pre-1970, looking more closely at productivity and net income when arriving at the price/value of land for New Zealand farms. Although sales are few and far between for economic farming units due mainly to the lack of demand caused by uncertainty with the current economic climate and the reduced prices for agricultural products it is clearly evident that values have reduced in sympathy with the reduced net incomes on New Zealand farms.

Land and Capital values for farms can and will be valued on the same basis as for all other investment type property with the necessary modifications. Budgets have increased significantly in importance, and the old rule of thumb of 'capital value being 2-3 times gross income' (depending on economic conditions) is now applicable at close to the former ratio especially on grazing and fattening units. A productivity or net income approach to farm values is quickly being adopted by purchasers who had earlier been used to significant capital growth, artificially low interest rates and subsidised product prices.

This is cold comfort to the owner of a farm purchased in 1981/82 at the market peak whose mortgage interest rate has increased 71h % or more, net income has dropped even though production has increased, and is now in danger of losing all his equity.

The Government is now reviewing its position as to these critical farms in an endeavour to assist those farmers in greatest need caused by changing circumstances outside their control, the effect of which is shown on the graph.

INDEX
4000 1

3600

3200

2800

Farm Land
Sale Prices

2400-1

2000•

1600-

8000-

4000-

70/71 72/73 74/75 1 76/77 78/79 80/81 82/83 1 84/85 * 85/86
71/72 73/74 75/76 77/78 79/80 81/82 83/84 *

YEAR

" Provisional Income.

" Provisional land sale price, estimated net income.

Source: New Zealand Meat and Wool Board's Economic Service.
Sheep and Beef Farm Survey.
Valuation Department (Combined Grazing and Fattening Land Sale Index).

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Financing Real Estate Enterprises in Japan Today

By Kiyohiko Mizobuchi

Financing of Real Estate Enterprises in Japan Today was the award winning paper, presented on behalf of Japan by Kiyohiko Mizobuchi, at the 13th Pan Pacific Congress of Real Estate Appraisers, Valuers and Counselors, Honolulu, Hawaii in February 1986. The address is reprinted by permission of the American Society of Real Estate Counselors and the American Institute of Real Estate Appraisers. No further reproduction is permitted.

1. Real estate enterprises in Japan's economy today have become a basic support in the industrial structure of the nation.

The scale of financing of real estate to provide funds to this industry, is continually expanding in response to the supply and demand of funds. I am attempting today to outline for you the historical development of the real estate industry together with the indivisibly closely related financing of real estate enterprises, endeavour to analyse the present situation and present a preview of the near future.

2. Real Estate Enterprises and their Financing

- (a) Real estate enterprises cover a wide range of activities, from the development of large scale 'new towns' to the operation of rental apartments, abounding in variety; and can be roughly divided into the following:
 - (i) Development of real estate (the developers' field)
 - (ii) Real estate subdivision sales (the dealers' field)
 - (iii) Real estate brokerage (the brokers' field)
 - (iv) Real estate rentals (the rentals field)
 - (v) Real estate financing (the field of loans)
 - (vi) Real estate related activity (appraisal and consulting)

Depending upon the field of activity involved, these occupations are referred to as developers, apartment businesses, selling of homes, office rentals, brokerage, etc. but there are very few confining themselves to any one of the above fields and normally combine to cover at least two or more fields in one establishment. Each establishment endeavours to develop its own speciality within such boundaries.

- (b) Financing of real estate enterprises refers for convenience sake to the supply of financial funds to any one or more of the aforementioned activities which are all encompassed for statistical convenience under the heading of real estate. (However in actual fact, nearly every known industrial concern lists real estate business as a segment of their corporate activity, resulting in the actual volume of financing of real estate enterprises, reaching an enormous volume.)

3. Financing of Real Estate Enterprises and the Japanese Economy

- (a) *Characteristics of real estate enterprises*

Since real estate enterprises have land as the major basis of their activities, the amount of capital invested in comparison to other industries, is characteristically quite large. Furthermore real estate enterprises involved in real estate activities are comparably small (80010 of real estate operators have a capital of less than 10 million yen). The capital invested in land invariably consists of funds borrowed from financial institutions, and structured with very little of its own capital

tied up. Furthermore the purchasers of homes in subdivisions which are the major nucleus of real estate activities, rely upon loan borrowings to an overwhelming degree so that they are relying upon home financing institutions. Consequently real estate activities are very closely related to the ups and downs of the Japanese economy.

- (b) *Business trends and real estate activities*

When business trends are stagnating, as one of the most effective stimulants of business activities, an increase in home investment by government institutions is effected with the simultaneous reduction of home loan interest rates. Since real estate activities are enormously affected by government policy, the repercussions to related activities are also quite large, resulting in the stimulation of institutional activity and commercial investment.

On the other hand when the economy becomes overheated as was the case in 1973-4, investment in both land and homes involved very large sums of capital and very easily became inflationary factors so that interest rates were raised and artificial controls were instituted.

- (c) *Financing of real estate activities and homes*

In other words when financial activity is comparably quiet, the lending of funds (financing of real estate activities) to real estate activities by financial institutions is utilized for the stimulating of business trends towards greater activity. Ultimately, as a means to facilitate sales of the major product (homes) of the real estate industry, the home purchaser or buyer is supplied with a form of buyer's credit through the simultaneous positive support of home financing.

4. Past and Current Financing of Real Estate Activities

- (a) *Present financing of real estate activities*

As of the end of 1984, the outstanding loan balance of banks throughout the country to the real estate in-

Within the national industrial structure, real estate ranked 4th in sequence to loans to individuals, the service industries and manufacturing.

industry stood at 13,936,000 million yen or 6.7% of all outstanding lendings. New loans made to the real estate industry during 1984 amounted to 1,925,700 million yen which was 11.9% of all new lendings. Within the national industrial structure, real estate ranked 4th in sequence to loans to individuals, the service industries and manufacturing.

It is therefore quite apparent in both stock and flow, how financing towards real estate activities has become an integral part of the industrial structure of the Japanese economy, as a result of its phenomenal post-war growth as a separate industry.

Of all the banks in Japan, a bank which came to specialize in real estate activities was established in 1957 with emphasis placed on such functions, the Nippon Credit Bank Ltd (formerly Japan Real Estate Bank). Recent lendings including 17.9010 for real estate represents a share which is 2.5 times the average for

banks throughout Japan, and continues to show a healthy yearly increase.

Financing of real estate as a share of overall lendings in the Nippon Credit Bank Ltd is as follows:

March 1983	16.8%
March 1984	17.4%
March 1985	17.9%

(b) *Financing of real estate activities in recent years*

Overall lending to the real estate industry rapidly increased from 1965. This coincides with the inception of real estate funding (financing against real estate collateral) by the legislation of commercial home financing regulations, outlined below:

The period of high growth in the latter 1950s involved extensive commercial investment in manufacturing facilities to take the initiative in economic growth, resulting in the inordinate stultifying of the formation of capital relegated to the building of homes and regional development, and social funding capital. With the commencement of a more stabilized growth in the latter 1970s, before a background of improvement in the level of national income, there was a surfacing of an enormous demand for homes. Consequently after the Olympic recession, a majority of industries (private railways, trading companies, manufacturers and financial institutions, etc.) moved into real estate, resulting in a tremendous growth in demand for funds.

Consequently the net increase of lendings directed to real estate industries since 1969 on the basis of banks throughout the country is shown below:

Net increase in lendings

1969	380,700 million yen
1970	423,100 million yen
1971	995,700 million yen
1972	2,185,400 million yen
1973	11,147,200 million yen
1974	387,800 million yen
1975	480,700 million yen
1976	345,000 million yen
1977	433,200 million yen
1978	1,002,300 million yen
1979	503,300 million yen
1980	482,100 million yen
1981	992,200 million yen
1982	1,473,900 million yen
1983	1,956,000 million yen

The net increases in lendings in 1970 and 1971 were 423,100 million yen and 995,700 million yen respectively, and it phenomenally jumped to 2,185,400 million by 1972, showing the highest growth rate of our leading industries.

A glance at the growth rate of total assets by industry shows an average industrial growth rate of 19 times in 1972 over 1955 for all industries whereas real estate multiplied 143 times over the same period.

However in 1974, lendings to the real estate industries which had continued to steadily increase up to 1973, made an about-face for an abrupt decrease.

The sudden growth in lendings to real estate activities resulted in the skyrocketing of land and home prices, accelerating of delays in development of public facilities caused by the increasing difficulty of securing land for public purposes which in turn triggered general inflation of commodity prices together with abuses arising from inequalities in the distribution of income. Consequently the Ministry of Finance instituted restrictions on the financing of real estate, legislation for taxes on real estate and the National Land Use Planning Act. Simultaneously the Bank of Japan switched to a tight money policy from January 1973 in regulating of finance and in five successive steps, raised the official discount rate which by

The major cause of a phenomenal increase in lendings to real estate activities by banks throughout the country during the 1972-3 period as related above, can be attributed to the generation of excessive liquidity.

January 1974 reached 9% from 4.25%. As a result of these measures, the rise in land values receded quite rapidly and in fiscal 1974 fell 9.2% from the previous year's level.

This became a turning point in the overheated aspect of lendings to real estate activities and related environmental changes initiated by restrictions on financing related to land, brought about a major transformation in the operations of real estate enterprises.

The major cause of a phenomenal increase in lendings to real estate activities by banks throughout the country during the 1972-3 period as related above, can be attributed to the generation of excessive liquidity.

At that time, the energetic commercial investment in private manufacturing facilities had died down, and five successive reductions by the government in the official discount rate had resulted in a level under 5% but in August 1971, an international monetary crisis was brought about by the suspension of the dollar convertibility into gold which resulted in the flow into Japan of enormous short term funds whereby financial inactivity was also stimulated by external factors.

1972 saw a continuation of large surpluses in international trade balances with the Bank of Japan reducing the official discount rate once more to reach an all time postwar low of 4.25%.

Secondly the diversion of surplus capital to investment in land or of lending to real estate activities meant that prior to a recovery in investment in manufacturing facilities, the demand for homes was quite strong and rampant.

The age group born during the postwar baby boom period had reached the age of home demand and the number of homes started during the 1972 period broke all records with a total 1.86 million and during a ten year period straddling this year, a yearly level of 1.5 million was sustained. As a direct result of the first and second factors reviewed above, land costs experienced a phenomenal growth in values.

Review of officially published land prices shows the following:

Growth rate in land value against the previous year, based on Officially Published Land Prices (national average):

1971	12.4%
1972	30.9%
1973	32.4%
1974	-9.2%

To summarize, as the growth in the price of real estate (in this case, chiefly land) exceeded that of lending interest rates, corporations and individuals throughout the country borrowed money to purchase real estate, and was tantamount to a national frenzy over real estate investment '100 million real estate investors'.

5. Financing of Homes at the Present Time and in Recent Years

(a) *Current financing of homes*

Home financing in Japan has been based on the three avenues of private financing, public financing and corporate financing, all of which have played important roles in the nurturing of the real estate industry.

At one time, public financing was confined solely to

the loans available from the Housing Loan Corporation but today private commercial financing in both stock and flow, enjoy senior positions.

A breakdown is given below of the trends in outstanding balances of home loans (stock) and new loans (flow) to individuals: (Unit: Y1 million)

Trend of Outstanding Loan Balances

	Public	Private-commercial	Total
1980	13,979,600 (31%)	31,312,000 (69%)	45,291,600 (10001o)
1981	17,005,600 (33.407D)	33,989,300 (66.6%)	50,994,900 (10001o)
1982	20,593,300 (36.301D)	36,118,900 (63.707e)	56,712,200 (10001a)
Trend	Share /	Share \	

Trend in Outstanding Balances of New Loans (Unit: Y1 million)

	Public	Private-commercial	Total
1980	3,132,300	5,903,900	9,336,300
1981	3,677,500	6,272,900	9,950,400
1982	3,424,200	6,068,200	10,492,400
Trend	Share	Share -	

By the end of 1982, outstanding balances of home loans to individuals reached Y56,712,200 million, and indicated a net increase in loans on a yearly basis of Y5-Y6 trillion. This includes the largest share enjoyed by the Housing Loan Corporation which is the core of public institutional lending with a 30% share of new loans, followed by a 10.5% share enjoyed by commercial institutions specializing in home finance and 9.6% share by city banks in third place, followed by 8.5 % share by local banks in 4th place.

(b) Commercial home financing in recent years

Financing of homes saw its inception in Japan with the start of the public institution, Housing Loan Corporation in June 1950 which monopolized home financing until home financing was started by private financial institutions in 1962.

The first legislation of commercial financing of homes saw the establishing of the Long Term Credit Bank in 1957 as a commercial financial institution in Japan and the Nippon Credit Bank Ltd (formerly the Japan Real Estate Bank) which placed emphasis on financing against real estate collateral.

(i) Methods of home financing

The Nippon Credit Bank Ltd initiated in 1962 for the first time, a home financing system for repayment over 7 years with the inception of the 'Savings Fudo Loan'; commenced providing building funds to corporate borrowers for employee housing in 1965, and in 1966 in conjunction with real estate entrepreneurs who provided the necessary guarantees, made available to individuals 'Tied Long Term Home Loans' and for individuals who enjoyed a yearly income in excess of Y800,000 who submitted their purchased homes as collateral, and up to 15 year 'General Long Term Home Loans' which at the time was an epoch making innovation pioneering commercial home loans in Japan.

(ii) Evaluation of real estate collateral and home financing

With the inception of the 'General Long Term Home Loan' the subject bank shifted its emphasis on the calculation of assessment value from the heretofore employed Income Capitalization Approach to Market Data Approach derived comparison value, and thereby overcame the problem posed by an otherwise shortage of collateral arising from the heretofore employed Income Capitalization Approach. Consequently this

resulted in the fortifying of the position of the home as collateral and a rush of loan applicants. This triggered a rapid funding of real estate as other financial institutions followed suit so that with the subsequent high growth of the Japanese economy causing skyrocketing land values, there was a corresponding phenomenal growth in financing against real estate collateral.

6. Current Financing against Real Estate Collateral

The trend in outstanding balances of financing against real estate collateral by banks throughout the country is given below. These figures include besides financing of real estate activities, commercial financing of business in general and also home financing.

March 1980	Y32,678,400 mil. (4.9% growth over previous year)
March 1981	Y34,186,400 mil. (4.6% growth over previous year)
March 1982	Y37,465,400 mil. (9.5 % growth over previous year)
March 1983	Y39,743,700 mil. (6.0% growth over previous year)
March 1984	Y42,207,500 mil. (6.2% growth over previous year)

In the case of March 1984, the share of financing against real estate collateral against the total outstanding loan balances was 22.7%.

The percentages of growth over the previous year, for outstanding balances of financing against real estate collateral have yearly from 1983 and 1984 shown steady increases which exceed the economic growth percentages and in the light of the world wide tendency for financing practices to do away with collateral requirements, indicate an interesting development.

This leads us to the conclusions that for both corporate and private borrowing entities in commercial financing of real estate businesses and home financing.

(a) Financially they are obliged to turn to borrowed capital;

(b) Since the object being possessed is real estate, the object itself is submitted as collateral, resulting in correspondingly increasing loan balances in collateral financing of real estate. In actual fact, the response of commercial financing institutions has changed with the aforementioned systematization of 'Real Estate Utilizing High Calibre Loans' by the Nippon Credit Bank in November 1983. This consists of the financing of real estate projects over an extensive period (max. 20 years) involving commercially rentable buildings, buildings for office rental and apartment rental, and also combined office and apartment rental buildings, whereby entrepreneurial income generated by the real estate is applied to financial resources for repayment and loans are made with the subject real estate being offered as a security.

As times change, the loan periods have become extended to meet the requirements of the borrowers, and with these developments, it is assumed that collateral financing of real estate shall continue to grow, into the future.

7. Financing of Real Estate Activities and the Response of Financial Institutions

With some emphasis on the macroaspects of real estate activity financing today, multifaceted approaches have been reviewed so far but with the various commercial financing institutions which are funding real estate activities, from the time of lending until such funds are recovered, the recent methods of private commercial financing institutions in responding to requirements for funding, are reviewed below.

This report consists of actual hearings I have conducted with various private commercial lending institutions in Japan.

Synopsis of subject of research:

- (a) Subject of research: 16 private commercial financing institutions
Breakdown:
City banks, long term credit bank, trust banks, local banks, mutual banks, credit corporations, home financing specialty institutions.
- (b) Research content: Systems employed from time of funding request submission, until loan funds recovered.
- (c) Research Method: Parallel employment of questionnaires and hearings.
- (d) Period covered: March-May 1984.

Synopsis of the subjects concerned is given below:

- (a) Financing facilities
All of the respective financial institutions are handling real estate financing at all of their respective offices and the number of applications are considerable, being approximately equal to the number of home loans.
- (b) Authority to undertake requests
As a basic principle, such authority is vested in the respective branch managers but depending upon the amount involved and due to the highly diversified range of projects involved, the head office is also involved. An average of about 50% of all applications are actually taken up.
- (c) Evaluation of collateral
When the amount involved is small, evaluation of collateral is left to the respective office manager's judgment but as a basic principle, a majority of the institutions have adopted a system whereby collateral evaluation is undertaken by the head office and the authorized person is usually an evaluation specialist qualified with a capability equal to a licensed real estate appraiser or someone who is officially licensed with such authority.
- (d) Basis of collateral evaluation
As a basic rule, real estate evaluation is on the basis of current market value and the limit of financing, according to the item itself, is established at 60-100% of the appraised value. As a general rule, in the case of land, the market data and officially published land prices, and in the case of a building or structure, the cost of construction together with replacement cost becomes the basis of establishing an evaluation.
- (e) The respective values of evaluation points
The check points in evaluation are considerable in number but the following points are placed on the same level by the various financial institutions and it appears that in all cases, it is a condition that they must exceed a specific level in order to have the subject application adopted or accepted.
Primary consideration
Collateral evaluation + financial content (financial resources) + acceptability of projected program + creditworthiness of personnel + current condition of other outstanding loans
Secondary and succeeding considerations
Age, replies of credit investigation institutions, etc.
- (f) Loan conditions
Length of loan period: 7 to 35 years
Interest: Determined on the basis of length of loan period, credit level, profitability of transaction, etc.
- (g) Management of loaned funds (cause of delayed repayment)
In the case of financing of real estate activities, what are the reasons for delay in recovery of loans made? Most delays may be attributed to the following:
Failure in correctly assessing demand; irresponsible management; failure of other projects; unprofitability of the business; management lacking in management capability; etc.

(h) Recovery of debts

Recovery of debts as a rule, gives priority to arbitrary disposal but when difficult, exercises the right of mortgagee.

The right of mortgagee has recently been exercised more often and the time to exercise such rights being gradually accelerated or brought forward, can be considered a characteristic development.

8. The Near Future of Real Estate Activities

With the development of the Japanese economy, real estate activities have in keeping with the requirements of the times, gradually evolved changes in content through continuous evolution to the present.

Contrary to the period of high growth, under more stabilized growth into the future, the rate of land appreciation can hardly be expected to exceed interest rates and consequently it is difficult to anticipate any capital gains such as were at one time experienced through the mere acquisition of land. Consequently together with the accelerating of the time of recovery of invested capital, various real estate activities involved in the contributing of added value to land, have been successively developed.

Since the latter 1950s, up to the present time, real estate activities have been evolving as follows:

The latter 1950s:

- Subdivision of home properties
- Reclamation of land
- Subdivision of resort properties
- Office buildings
- Subdivision of apartment properties (first apartment building boom from 1960)

The latter 1960s:

- Subdivision of home and resort properties
- Subdivision of prebuilt homes
- Commercial buildings
- Subdivision of apartments (second apartment building boom of 1968 onwards)
(third apartment building boom of 1971 onwards)
- Golf links
- Super highrise office buildings for rental
- New Town subdivisions, etc.

The latter 1970s:

- Subdivision of apartment properties (fourth apartment building boom from 1977 onwards)
- Subdivision of prebuilt homes (phenomenal increase from 1976)
- Subdivision sales of town houses (spectacular from 1977)
- Single room apartments
- Leisureland developments
- Suburban type shopping centres
- Athletic clubs
- Do-it-yourself home centres
- Urban type hotels, etc.

Most Recent Times:

- Construction of intelligent buildings
- Acquisition of real estate overseas
- Purchase and sale of large scale commercial buildings
- Real estate collateral financing (free loans)
- High grade rental apartments for foreigners
- Mortgage certificate business
- New town facilities for independent aged retirees
- Urban redevelopment business
- Fashion oriented building management
- Reformation business (offices, homes)
- Homes with basements
- Professional and trade schools, etc.

As outlined above, real estate activities are becoming far more diversified, compounded and generating into added

value formations and with co-ordinating functions accompanying urban redevelopments, which are in turn calling for the fortifying of software development for a general departmentalization of real estate functions whereby heretofore cultivated know-how is becoming the means to develop high grade technologies as over-all general consultants, seems to be the evident trend of today.

As a concrete example of such developments as listed above, we cite (1) the construction of intelligent buildings, (2) the urban redevelopment business, (3) financing obtained through real estate collateral, (4) issuing of mortgage certificates, (5) investment in overseas real estate that is already being undertaken.

The sudden skyrocketing of land values in the highly commercialized areas of central metropolitan Tokyo is most phenomenal. This is most likely the result of anticipations that Tokyo is to become a third world centre for international money and marketing functions, in turn giving recognition to certain specific areas whereby Japan's advanced technologies are to be forged together with such international centre func-

tions in the formation of intelligent buildings to respond to the requirements of the times.

The relationship between land values and buildings is of a most close and indivisible nature whereby any rise in land values invariably results in a corresponding rise in investment capital in buildings and appurtenances on such land. As a result, this in turn causes a rise in the value of air rights in the city which is a combination of the values of both land and buildings. Any rise in air rights evaluation comes from the utilization of such, from which in turn comes the development of the related software. This area is the world of innovation and creation which is infinite in its possibilities. Work in this field is a crucial research and development theme for real estate appraisers of which I am one, and is directly related to the most effective utilization of real estate.

I am confident that at no time before, has society turned to us with as much anticipation for commensurate advice from utilization of the creativity and experience of real estate appraisers, to thereby evolve the most lucrative and effective utilization of urban air rights.

Property Development Introducing the Developers' Perspectives By W. K.

S. Christiansen"

Ken Christiansen is the Associate Professor of Property Administration, University of Auckland, a Chartered Surveyor and a person long involved in Property Development and Property Management in New Zealand.

This article seeks to explain, the imperatives of development from the developers' point of view. It looks at the criteria applicable to successful development work, at the orderly process of development and identifies the developers.

The Development Scene

New Zealand has been experiencing a major redevelopment of its city centres. The emphasis has been on new office towers, luxury hotels and high rise apartments. This renewal and expansion has been especially noticeable in Auckland which, in the last few years, has witnessed a veritable explosion of development.

While Auckland has shattered all previous records of new construction the impact has been the greater because development tends to come in waves there. In Wellington, on the other hand, the development industry has been having a feast for nearly three decades.

The advent of the latest Labour government with its attendant new ministries, departments, corporations and the hiring of additional public servants to deal with new taxation, welfare, commerce, tenancy and other legislation can but fuel the office development scene, particularly in the capital city.

Christchurch, Hamilton, Dunedin and, in fact, all our cities are experiencing their own versions of the on-rush of new developments. While our slow growth population increase does not encourage residential subdivision on a vast scale, pretty well everything else has been flourishing.

On the fringes of city centres and in suburban locations low rise office buildings and office parks are sprouting. In established residential areas town houses and units are replacing single dwellings and flourishing in what used to be back gardens.

Even on the industrial front, and despite the troubled manufacturing and export prognostications, there is activity in small scale development. And practically everyone is developing retirement villages

At the sharp end of the development process the production of new office space there is some criticism of the design of buildings and of the impact of demolition and construction on the central city environment.

Much of this is ill-informed on two counts. First, few outside the development industry have the slightest inkling what it is all about. Secondly, criticism of architectural design takes us into the heady area of aesthetics and subjective judgments.

If anyone can come up with a practical method of ensuring that style and appearance of new buildings will meet everyone's tastes then most developers would be delighted. There are those who believe the BOMA/PMI method of measurement is responsible for glass fronted buildings. But BOMA/PMI is only a method of measuring floor areas, not determining the rent (if any) for what is measured.

Motivations

As to what motivates the developments industry there is surprisingly little literature. And yet there are no particular secrets or mysteries about who the developers are, what they do and how they do it. Perhaps it is that since development is a dynamic activity it produces persons of action rather than verbalisers.

A simple answer as to what motivates developers is to say: profit. Of course this is one answer. But this is too simplistic. Every commercial and business enterprise has to be profitable to exist, survive and continue to exist.

The real question is now can developers be profitable? And like every other profitable enterprise it is success which generates profits. And success, by and large, comes from producing something which the market place wants and is prepared to buy.

Developers who cannot perform to this simple measure will be unsuccessful. And therefore unprofitable. Such developers will fail and be consigned to oblivion.

The 'market', in the development context, is all-embracing. A downtown building not only has to satisfy owners, investors and lessees. It also has to be in the right place and provide the right facilities for all those who will, for whatever reason, be expected to utilise the building.

It is in this sense that developments have to be 'sold': everyone involved and concerned has to be prepared to 'buy' the variegated aspects or features which make up the whole. And this includes public or community acceptance or 'purchase'.

Development is a creative and productive activity. In an urban context it is the sum total of construction activities which produce our 'built environment'. The private sector development industry produces buildings for economic use and occupation.

It satisfies the needs for permanent and occasional human shelter and the requirements of shoppers, commerce, industry, recreation and leisure. It also builds for the public sector. Development brings together the land resource, public services and utilities, professional expertise, finance, building materials, construction technology and manual skills and converts these into useful finished products.

The trigger for all development is a perception of need. This may be an 'internal' need to cater for expansion, growth or replacement. Or it may arise from an 'external' opportunity to cater for predicted demand.

In the first category of need are those developments which are planned by organisations to fulfil their own requirements, be it for a new head office, a new factory or staff housing.

The second category is the one which is generally recognised as 'real' development. The office block which is commenced before any tenants are found, the shopping centre which is started before all the shops are let, the warehouse built for sale or lease, the subdivision undertaken before any sections are sold or houses built.

It is the perception of need or potential demand in the market place which brings out the entrepreneurial skills of the developer: the flair, vision, evaluative and intuitive genius and rapid decision making talents which are essential for real success.

Criteria for Success

It is the convergence of these qualities that produces developments which meet the three necessary criteria of full occupancy, appropriate financial return and general acceptance.

- Full occupancy: this represents full utilisation and full efficiency. Most developments are intended to be fully utilised. Space built to be occupied but remaining empty can mean a design fault or incorrect market research as to both type of space required and demand for the space provided. Vacancies mean lost income and reflect adversely on any development project.

- Financial performance: property developments should meet the investment market criteria as to rental levels, proportion of outgoings, sustainable net income, ease of management, marketability and future capital appreciation. For any range of development type and location there are common financial expectations. A development should meet or better these.
- General acceptance: The two previous criteria are dependent upon this, the third criterion. Full occupancy depends upon sufficient demand by lessees which in turn depends on the expectation of sufficient clientele, custom or orders to enable the lessees to pay the rent and prosper. There is also public acceptance of convenient location, efficient planning, comfort and attractive design.

There are those who believe the BOMA/PMI method of measurement is responsible for glass fronted buildings.

The good, responsible, developer uses a combination of scientific methods and intuition to assess development possibilities. The science comes in in the market research to determine the potential demand from retailers, from office users, from industrialists, from investors, from shoppers, from superannuitants, from holiday makers, from overseas tourists.

The professions supply the services relating to site seeking, land valuations, design options, rental levels, planning opportunities, detailed layouts, capital costings, critical paths, finance, marketing programmes and other necessary inputs.

The intuition is what binds it all together. Developers are either born or they achieve proficiency at their chosen career largely through their own efforts. It is difficult, if not impossible, to teach intuition.

Development is potentially a high risk occupation.

Development is potentially a high risk occupation. Which is why the big names in development - world wide - have usually been individuals who had little to lose when they took their first risk.

Those who made the wrong decisions have been forgotten. Those whose intuition served them well prospered and went from strength to strength, though even many of these have come unstuck through being overcommitted at the wrong moment.

Development is very much of a quick decision making activity. Individuals, unrestrained by large corporate organisations, are best able to act quickly. They can also be more adventurous and innovative. On their own, or as part of a larger entity, they still have to make the right decisions.

Development Process

The development process is well established and follows a logical sequence. A number of influences have to come together at the beginning. These include the identification by the developer of the general objectives of the exercise and access to the necessary skills in the professional areas to initiate a development and carry it through to a conclusion.

Two things without which there can be no development are a site and sufficient money. Sooner or later these two key elements have to come together. These two are the basic essentials.

The development process itself works its way through several distinct, though usually overlapping, stages.

- Conceptual: this is the stage of deciding how best to use a site, of looking at alternative designs and budgets, of sounding out potential occupiers, financiers, relevant authorities which might help or hinder the project.

- Preparation: in principle the development is to proceed and all the preparatory work is completed. The project team is assembled, designs and pricings are finalised, the legal and financial loose ends are tied up. The building contract is concluded. The final decisions are taken.
- Construction: this is the visible tip of the iceberg construction on site. The routine of building work and contract supervision, of keeping on programme and within budget.
- Commissioning: all of the final and vital touches are applied. The leasing campaign is concluded and the fitting out of space is completed to allow the occupants in. The building management procedures are put in place. The final construction accounts are settled. The ultimate owner takes over.

Depending upon the nature and the size of the project there may be a total project manager to control the development from before conception to beyond completion. Major projects will benefit from having a compact project control group (PCG).

Developer's Profit

That which tantalises most is 'developer's profit'. The uninitiated imagine that development is all profit: vast profit, immoral profit. All good emotive stuff. One wonders whether those who think that way ever pause to wonder why so few development concerns have a long history, or even a high survival rate.

Of course developers make profits. Some more than others. Some none at all. Is that not what private enterprise and free competition in the market place are all about? Traditionally in New Zealand profits from development have been modest though, obviously, adequate.

Orthodox developer's profit is the difference between the total cost of the project and the price at which it is sold. There are other approaches, such as a percentage of outlay built into the cost, or the profit element might be expressed as a return differential. They each represent a mark up on cost, not an unusual business practice.

There are other items in the course of putting a project

together which can produce profits: site price, design fee, contractor's margin, project control, development consultancy, leasing, property management. These depend on the characteristics of the developer and the way in which the development is assembled and disposed of. It used to be common practice for all developers to dispose of their projects; more recently it has become the growing rule to retain them.

The Developers

Who are the developers? There is a range of development concerns. The public sector carries out much development work for its own purposes. In the private sector there are:

- entrepreneurs - the 'true' developers, who develop for disposal
- investors who buy other people's developments or carry them out for retention
- builders - who engage in development to provide themselves with building contracts, and
- occupiers who need the space they develop for their own business enterprises.

Conclusion

The development industry is as diverse as any other. Developers can be large or small, good or bad. So can developments. It is not an occupation for the faint hearted.

It is also worth remembering that developers, in particular, are very much at the mercy of the money and investment markets. Developers have to meet the costs and conditions on which finance will be made available. Their finished products have to compete with other investments and with the returns from other investment options. The developer is seldom lucky or independent enough to be free of the necessity to meet the stringent requirements of others. To stay in business requires profits. The best profits result from the best developments. It is therefore both common sense and the survival of the fittest to meet the three criteria of successful development mentioned earlier: full occupancy, financial performance and general acceptance. It is by these that developer performance should be judged.

Squire Speedy Prize in Property Administration

The 1985 recipient of the Squire Speedy Prize is:

Mr Peter John Kennedy
7 Fancourt Street
Karori
Wellington

Property Companies

By John N. B. Wall F.N.Z.I.V.

erty development companies would not have achieved the growth in New Zealand's towns and cities and more lately in the farming and horticulture sectors.

- Pension Funds, who see a continuing need to commit their contributions capital to long term real estate investment for both capital growth and annual income.
- National, firmly based public property companies, which have a wide variety of property participation including development, ownership, trading and management.
- Family owned companies both large and small that have seen the need for a wider base and more stable investment than the areas from which the business surplus capital has been accumulated.

John N. B. Wall is a senior partner in the Wellington firm of Gellatly Robertson & Co. - Public Valuers and Property Consultants.

He is a Fellow of The Chartered Institute of Arbitrators and has been active in the affairs of the Institute over a period of 26 years including 11 years on Council Executive as well as a long participation in Branch affairs.

John Wall was appointed to sit as an Assessor and Member of the High Court in 1985. He has also participated on many occasions in local and national seminars on property matters and has had a number of articles published in 'The New Zealand Valuers' Journal'.

It has become fashionable over recent years in New Zealand to form publicly listed property companies, whereby both small and large investors can participate in the proceeds from a portfolio of property ownership without the expertise required and time availability necessary for individual ownership.

This concept of group property ownership is not of recent times however if we cast our minds back to the numerous property syndicates that mushroomed during the late 1960s and early 1970s.

Property syndication at that time accounted for quite extensive small to medium developments which were in the main for new structures having investors limited in number to not more than 25 persons to avoid company formation.

With the collapse of J.B.L., followed by Cornish and to a lesser extent the Public Service Investment Society difficulties, the public became disillusioned to a degree with group property ownership even though such concern was quite wrongly directed at property rather than the cause management.

Possibly the current rash of 'special partnerships' ranging from investment in real estate to horses is fulfilling the void created by the demise of syndicates.

Such surface ripples as a result of public concern in the early 1970s received considerable publicity but it had absolutely no effect upon the larger property investors such as

- National and multi-national insurance companies whose portfolios include substantial real estate investment in various forms. These institutions are continually purchasing major developments and shedding those that do not perform to their satisfaction. They trade continually.

Without the capital input of these institutions many pro-

Turning now to the more recent property market entrants, it is most interesting to observe the participation of sharebrokers such as Renouf and Jarden into property development and ownership. Perhaps these sharebrokers have observed the recent past performance of the institutions and the property companies and made the decision to have a slice of the real estate action.

Whatever the reason for their apparent quickening of interest in property, they are having quite an impact on the Wellington property market at present.

Back to the subject of property companies attached are. New Zealand listed property companies showing the par value of shares, 1985 share prices, dividend rate and dividend yield.

It is interesting to compare the performance of these companies with what I term business companies.

Presumably the share prices reflect essentially the level of investor confidence of such companies.

Confidence or otherwise is based upon amalgam of many factors comprising:

- Company profile, including public recognition of the Directors
- Past performance
- Quality and standard of present property ownership
- Level of management expertise
- Profit, both real and unrealised

In an attempt to analyse the term 'profit' as applied to property companies perhaps a brief look at some of the published statements will be of assistance.

Sir George Chapman, in his role as Chairman of the Auckland property investment operation Landmark Properties in his March 1985 annual report said "Directors would continue including property revaluations as part of its trading profit as it is believed that the combination of operating income and the growth in value of the company's portfolio is the best method of identifying to shareholders the real increase in value of their enterprise during any particular financial trading period".

An article in the Evening Post of August 3 1985 entitled 'Chase Report a glossy, but thin on detail' had this to say "Chase Corporation Ltd, the Auckland based property and investment company, has outdone all others in producing the glossiest of glossy reports.

And the profit looks pretty glossy too leaping from \$8 million in 1984 to \$21.4 million in 1985.

Chase has established a new policy of revaluing its proper-

ties and a revaluation reserve of \$8.9 million has been created in addition to the \$11.9 million unrealised property development profits.

This, together with \$8.9 million out of capital reserves of \$26.6 million (through unrealised property revaluations), plus the unrealised development profit of \$5.2 million in 1984, means that \$25.9 million of total reserves of \$45.9 million are in fact paper reserves derived from valuations of some kind or other".

Confused or amused - there is more to come from the same Company Scrutiny article.

"The accounting procedures of companies such as Chase has forced Mr Robert Jones of Robt Jones Investments Limited to reconsider his previously strongly stated opposition to property revaluations", that company's annual report shows.

Robert Jones nearly doubled his profit after tax to \$1 million, while property revaluations were up to \$5.2 million compared with \$4.4 million in 1984.

However, Mr Jones says the company may be forced to swim with the tide.

"We are conscious of the weak share price for our script, given this company's excellent performance compared with its rivals" says Mr Jones.

"This we attribute in part to the quality of property shares available, but substantially to the failure of the market to distinguish between reported gains and actual gains."

Mr Jones is further reported as saying: "In many cases real profits are being distinguished by a variety of accounting devices including revaluations, purported future goodwill, equity accounting, unrealised development profits and the like.

Sizeable revaluation gains ought to be reflected by sizeable

tax paid earnings yet, our own company excepted that in most cases is not occurring."

These few comments imply financial manipulation highlighting the need for a uniform method of both accounting and valuing procedures resulting in the Society of Accountants Reporting Standards For Property Companies and the Institute of Valuer's two publications being Asset Valuation Standards and Valuation of Company Property Assets for Current Cost Accounting.

Is it not essential that if shareholders are to compare the performance of various companies, both accounts and valuations that are included in those accounts are completed and presented with a similar base?

Now what of the August 1985 Budget effects upon property companies?

Company capital dividends are now taxable.

This abolition of tax free dividends will be missed by many investors who have come to rely upon them, but companies can be expected to react quickly to the new requirements in an attempt to move around this measure.

Bonus issues remain untaxable and it is expected that this method of profit distribution will replace capital dividends for the moment.

It seems to me that the 1985 budget will have little if any effect upon property companies, which is quite different from the drastic measures that the 1982 budget imposed upon the individual and small groups of investors with what was in effect a capital gains tax for under 10 year property ownership and the maximum annual tax loss on property investment ownership to an individual of \$10,000.00 per annum.

For those of you who complete annual revaluations for property companies may I suggest that you obtain their annual reports and endeavour to interpret how your valuations are being used you may be surprised.

Listed Property Companies

COMPANY	Par value of shares cents	High cents	1985 Share prices		Dividend rate		Dividend yield %	Ratio of Price x par value times
			Low cents	Present cents	Cents per share	%		
Aurora	25	225	180	205	3.75	15.0	1.8	8.2x
Baker	50	315	208	260	7.00	14.0	2.7	5.2 x
Chase	20	320	133	320	9.00	45.0	2.8	16.0 x
City Realities	10	90	54	71	2.20	22.0	3.1	7.1 x
Commercial Securities	50	80	49	75	1.25	2.5	1.7	1.5 x
Cromwell	50	460	420	450	-	-	-	9.0 x
Fund of N.Z. (units)	100	210	155	210	8.00	8.0	3.8	2.1 x
General	50	140	86	120	10.00	20.0	8.3	2.4x
Grosvenor	25	185	125	180	7.00	28.0	3.9	7.2 x
Lakeland	50	50	43	47	-	-	-	0.9 x
Landmark	25	62	45	47	1.63	6.5	3.5	1.9x
Mainstay	50	64	45	56	2.50	5.0	4.5	1.1 x
N.Z. Property Trust (units)	100	119	102	105	12.00	12.0	11.4	1.1 x
Robt. Jones	50	118	100	108	5.00	10.0	4.0	2.2 x
Smart	50	125	90	102	-	-	-	2.0 x
Tag (Prolink)	50	62	5	50	-	-	-	1.0x
Williams	50	142	100	120	4.00	8.0	3.4	2.4 x

Book Reviews

Valuing Small Businesses and Professional Practices.

By Shannon Pratt. Dow Jones - Irwin

483 pages. U. S. \$45.00.

Reviewed by Alex P. Laing.

Shannon Pratt states in the preface his primary goals for the book which include presentation as comprehensively as possible within a single volume, discussion of valuation techniques and related issues clearly and nontechnically, so the reader needs no background in the topic in order to understand it. These goals have been achieved for the book is well set out with easy to locate specific sections, contains sufficient examples and exhibits to demonstrate the application and despite the inevitable American terminology the understanding is not impaired.

This book will be a timely addition to any valuer's library for it clearly defines the framework into which assessment of the value of real estate falls in a business context. To understand the framework of the value of a business enterprise is of great assistance although the valuer's duty may be to make a partial contribution. Not the least is the opportunity for the valuer to consider a broader application of his skills in a changing professional environment with a complete chapter related to the Comparison between Business Appraisal Practices and Real Estate Appraisal Practices.

Shannon Pratt takes a pragmatic approach to the subject and charts a clear path to the 'bottom line' of the appraisal. The book also includes a section so often lacking in texts which is entitled 'Reaching the Value Conclusion' and includes sections on 'Making a Sanity Check: Is it Affordable' and 'Common Errors'.

A section of the valuation of Professional Practices could serve as a handy blueprint to evaluate a valuer's own practice.

The volume is well indexed and contains a good Bibliography.

Comments by other reviewers of the publication in the United States of America include:

"Valuation in practice

Lawyers advising and negotiating sales of businesses will appreciate the book's detailed explanation of the strengths and weaknesses of different valuation techniques. Chapters are included on practical topics such as working with business brokers and appraisers, preparing a business and its records for sale, the trade-off between cash and terms, and making a 'sanity check' on whether a business is affordable.

The book should be equally valuable to litigators. Litigating the value of a closely held business is a kind of theatre in which lawyers must persuade courts of prices likely to be paid by hypothetical buyers. If a court is not persuaded by either side's performance, it will adopt its own hypothetical negotiations and price. The book should be tremendously helpful in presenting persuasive scenarios in divorce suits, damages actions and estate and tax litigation.

The A.B.A. Journal"

". . . in the valuation of small businesses and professional practices, as in real estate, the appraiser usually states earnings and cash flow figures on a pre-tax basis. However when valuing large corporations, the appraiser usually states earnings and cash flow on an after tax-basis. This difference in approach, when valuing small businesses as opposed to large corporations, may be a perspective the real estate appraiser possesses. Also, the rationale for valuing small businesses and professional practices the appraiser uses may be the same as that used in valuing real estate.

Valuing Small Businesses and Professional Practices focuses on firms worth up to \$1 million, with valuations of businesses in the first half and valuations of professional practices in the second half.

There are, of course, many subtle differences between the valuation of small businesses and professional practices and the valuation of real estate. As the author points out:

Most of the businesses and professional practices do not sell for cash or cash equivalents. The majority of small businesses and professional practice sales include a cash down payment, typically 20 to 35% of what is called the transaction price, with the balance on a contract. The contracts for the balance of the transaction price are usually interest-bearing contracts, but the rate of interest almost always is below a market rate of interest.

The Appraisal Journal"

The institute library holds a copy of this volume as well as the companion volume 'Valuing a Business: The Analysis and Appraisal of Closely Held Companies' by the same author.

Commercial Rent Reviews: Law and Valuation Practice.

Edited by R. T. M. Whipple.

Published by the Law Book Company Ltd, Sydney 1986.

Pp xxvii + 205. ISBN 0 455 206414.

Reviewed by Squire Speedy.

New Zealand rental reviews will never be quite the same after this book if only because of the introduction of apt terms and phrases. There is the 'thunderclap effect' of an unexpectedly high review rent that 'elevates a tenant's blood pressure' with the 'locked in syndrome'. On the other side there is the 'domino principle' when a landlord uses the tactic of picking off an easy tenant to accept a new rent. The 'fudge effect' refers to an imaginary concession used to conclude a deal. Then there are 'speaking' reports that give detailed references and reasoning in contrast with 'non-speaking' reports that protect the valuer. At the opposite end: 'There is nothing like increasing vacancies to concentrate the mind of a landlord upon the benefits of effective property management'.

Dr Tom Whipple, through the agency of the Sydney Land Economy Society, has brought together leading legal and valuation experts in the field of commercial leases. It is a timely

book for not only valuers and lawyers but also for all those interested in the administration of such leases.

The authors are Dr J. A. Farmer Q.c., C. A. Greener, M. J. Morrow, all of whom are lawyers who understand the principles of valuation, and Andrew Baum (of Reading), Geoff Hayden (of Richardson & Wrench, Sydney) and Dr Tom Whipple, all highly respected valuers in this area. The book arose out of a seminar conducted at Sydney University. Even experienced practitioners will gain much from the important points of current and future significance. As Whipple observed, the valuer is not absolved from the onus to think and to be fully familiar with the literature of his profession. This piece of literature will help fill an important gap.

It is apparent that the system of reviewing rents both overseas and in New Zealand has worked as well as it has because of the commonsense of lessors, lessees and their advisers. This is in spite of the tangle of technical vines in the commercial lease jungle. New Zealand theory and practice can gain much by drawing on the Australian and English experiences and references which are strong precedents here.

The various definitions of rental value are analysed in some detail which will give food for thought for draughtsmen. As Greiner says: 'The lot of the draughtsman of a rent review clause is not an easy one'. Different kinds of leases are discussed. There is the RFI lease (full repairing and insuring), the IRT lease (internal repairing terms). Leases of differing

review periods are covered under the thorny topic of comparable rents.

One major theme concerns the question of whether reviewed rents by locked in tenants are at open market rental values and suitable as comparable evidence. Whipple believes that there should be a 'contemporary' approach to assess the 'most probable' rental value. While he believes that the evidence of locked in tenants does not represent open market value, Farmer points out that such evidence is admissible but it's up to the valuer, or what Baum refers to as the quality of the evidence.

Baum's chapter on comparable evidence is particularly valuable. Whipple's chapter on office building rentals will be lapped up by the modern generation of statistically trained valuers. Others will know they are now technically out of date. Baum's case studies illustrate some problems of capitalising various forms of rental value, and Heydon's check list is full of practical ideas.

Farmer's discussion on market rental value raises many issues. Yet, as he says, at the end of the day the lawyer will usually pass the ball back to the valuer and say: "Well, I've done my bit. Now it's on you!"

I agree with the comments of Edward St John Q.c. in his foreword when he recommends this book. Although it is not specifically for New Zealand it is the next best thing. Indeed it has added value because of their wider experience.

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Legal Decisions

CASES RECEIVED

Notice of cases received are given for members' information. They will be printed in The New Zealand Valuers' Journal as space permits and normally in date sequence.

CASES NOTED

Cases 'noted' will not normally be published in The New Zealand Valuers' Journal.

Copies of cases 'received' and 'noted' may be obtained from the Registrar of the Court under whose jurisdiction the cases were heard. (A charge is normally made for photocopying.)

CASES NOTED

IN THE MAORI APPELLATE COURT OF NEW ZEALAND
WAIKATO MANIAPOTO DISTRICT

IN RE Te Kumi A31 and A42 and an appeal by MITA TE KANAWA and Others against an order of 24 July 1984 awarding costs in favour of Mark Martin. Appeal 1984/517 Waikato Maniapoto Maori Appellate Court Minute Book 38-54.

DECISION: 20 December 1985.

IN THE MAORI APPELLATE COURT OF NEW ZEALAND
WAIKATO MANIAPOTO DISTRICT

IN THE MATTER of an appeal by Robert Duke Crown against an award of Costs given in the Maori Land Court at Te Kuiti on 30 January 1985 in respect of Tiroa E Block Appeal 1984/2 17 Waikato Maniapoto Appellate Court.

DECISION: 3 February 1986.

IN THE HIGH COURT OF NEW ZEALAND (ADMINISTRATIVE
DIVISION) WELLINGTON REGISTRY M.613/82

IN THE MATTER of the Public Works Act 1981

AND

IN THE MATTER of a claim for compensation under Section 60 of the said Act

BETWEEN

THE MINISTER OF WORKS AND DEVELOPMENT Appellant

AND

THE NATIONAL MUTUAL LIFE ASSOCIATION OF AUSTRALASIA LIMITED, FLETCHER-MAINLINE LIMITED AND JUBILEE INVESTMENTS LIMITED Respondents.

DATES OF HEARING: 30,31 July, 1 August 1985.

COUNSEL: K. Robinson for Appellant.

T. G. Evans and Miss H. F. Mathieson for Respondents.

JUDGMENT: 28 August 1985.

This is an appeal by the Crown to the Administrative Division of the High Court from a decision of the Land Valuation Tribunal which had identified two issues (1) whether the existence at the relevant time of what is referred to as a reserve credit accumulated by a claimant with a local body in the course of a development project enhanced the value of the land, and (2) whether in the event that the land was so enhanced there must be paid additional compensation to a claimant to the extent of that enhancement.

The Administrative Division found that there was an agreement as to the values attributable to the site if reserves credit was to be taken into account and if reserves credit was not to be taken into account. That was a matter of fact. At the end of the day the developers were awarded compensation and interest at 10% compounded.

The case was under Section 249 of the Public Works Act 1981, the claim being under Section 60 of the Act. Cases cited were *Coomber v. Birkenhead Borough Council* [1980] NZLR 681; *Winstone v. Petrie* [1949] NZLR 886 at p.899; *Prestige Homes Corporation Ltd v. Minister of Works* (1968) N.Z. Valuer, Vol. 20, No.8, p.383 at p.384; *McKee v. Valuer-General* [1971] NZLR 436 at 439; *Valuer-General v. Treadwell* [1969] NZLR 320; *Waitemata County Council v. Ballarat Holdings Ltd* (1973) 4 NZTPA 397; *Ransom & Luck Ltd v. Surbiton B.C.* 119491 C.180; *Triggs v. Staines U.D.C.* [1969] 1

Ch.10; *Windsor, etc. B.C. v. Brandrose Investments Ltd* [1981] 1 W.L.R. 1083; *Mercantile Group Ltd v. Manukau City Council* [1972] 4 NZTPA 166, 171; *Hopper Bros. Developments Ltd v. Rodney County* [1984] 10 NZTPA 134; *Moore v. The Minister* (1962) 18 The Valuer 245; and *The Minister v. Stocks & Parkes Investments Pty. Ltd* (1973) 129 C.L.R. 385.

On the compound interest point *Drowser v. M.O.W.* [1984] NZLR 26 C.A. was relied upon.

JUDGMENT OF DAVISON C.J.

AND MR I.W. LYALL, ADDITIONAL MEMBER

This is an appeal from a decision of the Land Valuation Tribunal awarding the respondents compensation in the sum of \$88,808 for land taken under the Public Works Act 1928 for the purpose of a school.

Background

The land in question is contained within the Whitby development which is partly within Porirua city and partly within the Hutt County. The developers were a consortium of the three respondent companies ('the developers').

Whitby is a completely planned development where in the planning stage sites were identified for reserves, schools and other facilities in an area designed for a total population of between 15,000-17,000 people who will occupy between 3,750 and 4,000 houses.

The Discovery Primary School site was developed during 1971-2 and was handed over to the Education Board in 1974. The Postgate Primary School site was developed in 1974 and handed over in 1975. The third Primary School site for the Adventure School is the subject of this appeal.

Negotiations for the acquisition of the Adventure School site took place between the developers and the Minister of Works and Development. It was the developers' contention that the site should be valued and compensation paid by the Crown on the basis that a full reserves credit was available to the Crown in respect of the site and that it should be valued as if an owner intending later to subdivide would not be required to make any reserves contribution to the County Council. The foundation for the developers' argument was that they had already vested in the County in total reserves far in excess of those which could be required by the County for any future subdivisions of land within the Whitby development. This was acknowledged by the County.

Both the developers and the Crown agreed that the valuation of the Adventure School site was \$253,000 if full reserve credit was available and \$205,000 if such reserve credit was not available. On that basis they entered into an agreement dated 9 March 1978 by which the Crown agreed to pay to the developers the sum of \$205,000 but without prejudice to the developers' right to have compensation determined under Part III of the Public Works Act to decide whether any further amount should be paid.

That agreement, however, was varied by a subsequent agreement dated 19 November 1978 by which the shape, size and street frontage of the school site were adjusted and the valuation of the site was reduced from \$253,000 to \$206,500 and the sum payable by the Crown pending resolution of the dispute regarding reserve credit was reduced from \$205,000 to an agreed figure of \$147,000 a sum of \$58,000 and this sum was repaid by the developers to the Crown.

The situation now remains as follows:

<i>Agreed</i> value of adjusted site if given full reserve credit		\$206,500
Less sum already paid by Crown under first agreement	\$205,000	
Less refund made by developers under second agreement	58,000	147,000
Balance in dispute	\$59,500	

The Claim Before the Tribunal

The developers made a claim against the Crown pursuant to the provisions of the Public Works Act 1928 and that claim was heard by the Land Valuation Tribunal on 18 and 19 November 1982. (The specified date was agreed as 1 October 1978.)

In its decision dated 10 December 1982, the Tribunal identified the issues before it as follows:

1. Whether the existence at the relevant time of what is referred to as a reserve credit accumulated by the claimant with the Hutt County Council in the course of this development enhanced the value of the subject land; and
2. If the value of the subject land was so enhanced whether the respondent must pay additional compensation to the claimant to the extent of that enhancement upon the purchase of the subject land for the Adventure School."

The Tribunal recorded that the factual background of the matter was not in dispute and that evidence was called only by the claimant – the developers.

The Tribunal found:

1. That by 1978 the position had been reached where a sufficiently large credit in reserves already dedicated by the developers existed, which credit would have allowed for the whole of the balance of the development to proceed without there being any further requirement for the deduction of reserves. Indeed, had that been the course of events, some credit in reserves would still have remained at the end.
2. That the existence of a reserve credit in 1978 would have enhanced the value of the site to the purchaser if it was able to avoid the cost of providing for reserves should the land be subdivided for residential purposes.
3. On the evidence the County Council would not require a reserve contribution in respect of any subsequent subdivision of the Adventure School site.
4. If the subject land were available on the open market, a willing buyer would have paid a price which would have reflected the existing reserves credit and that portion of it which is referable to any future subdivision of the land.
5. That the sum referable to the reserves credit in this case is \$59,500 based on the two agreements between the parties and the evidence given at the hearing.

In reaching these conclusions the Tribunal rejected arguments advanced on behalf of the Crown:

First – That the site was earmarked as a school right from the beginning and the Crown has never had and does not have any intention to subdivide it for residential purposes. The reserve credit is personal to the developers and does not run with the land.

Second – That the sum of \$59,500 should be discounted for the reason that the Crown is laying out its capital in respect of the reserves contribution in advance of the event of its subdividing the land.

The Tribunal having found that the developers were entitled to recover the sum of \$59,500 as claimed then proceeded to fix a further sum necessary to give the developers 'full compensation' as required by the Act (now Public Works Act 1981, s.62) and adopted the approach and the rate allowed in *Coomber's case* (*Coomber v. Birkenhead Borough Council* [1980] 2 NZLR 681). This resulted in the Tribunal awarding to the developers the further sum of \$29,308 which was arrived at by allowing 100% compound interest on the sum of \$59,500 from 1 October 1978 (the specified date) to 10 December 1982 (the date of decision).

The Appeal

This appeal in accordance with the rules of the Administrative Division is by way of rehearing. Because of deficiencies in the transcript of the proceedings before the Tribunal, counsel sought to have all the evidence reheard, and after considering the record we agreed to that request. In the event, again no evidence was called for the Crown.

Mr Robinson for the Crown based the appeal upon four submissions. They were:

1. That the added value allegedly arising from the non-liability for reserves fund contribution has not been established because it has not been established that the Council could, or would, have exercised its discretion favourably to a hypothetical purchaser of the site. Furthermore, the 'willing buyer/willing seller' involves a hypothetical dealing and normally such excludes the actual parties and any special attributes attributable to them.
2. The Court, if it concludes that a reserves credit could form part of the price, ought to evaluate the chance of Council's consent to such a transfer of reserves credit being given.
3. If the 'willing buyer/willing seller' concept does permit the inclusion of a reserves credit element of value, it also involves an open market and the figure should be discounted for earlier payment of the sum involved.
4. Enhancement or betterment is a relevant factor and any assessment of compensation should be discounted to allow for it.

Decision

This case by reason of s.249 of the Public Works Act 1981 must be considered under that Act.

Let us say at the outset that we approach this appeal on the basis that there

was agreement between the parties as to the values attributable to the Adventure School site if reserves credit is to be taken into account (\$206,500) and if such reserves credit is not to be taken into account (\$147,000). That was found by the Tribunal to be so.

That, too, was how the Crown conducted its case before the Tribunal. It called no evidence of value to dispute the developers' figures and, in accordance with well established principle, the Crown is bound by the course which it took at the trial: see *Winstone v. Petrie* [1949] NZLR 886 at p.899.

Mr Robinson submitted that on the basis of evidence given by Mr Hunter to the effect that in his opinion the value of the reserve credit was \$45,795, that that was the maximum sum that should be fixed by way of compensation for that element. We disagree. The issue of the valuation of the reserve credit was not before us for decision having regard to what we find was the agreement between the parties fixing that figure at \$59,500, and also having regard to the course taken by the Crown both before the Tribunal and before this Court.

We pass now to consider Mr Robinson's other submissions.

1. Council's Consent not Established or Unlikely

We have no doubt that a reserves credit, if proved to exist, and its availability to a purchaser, if established, are proper factors to be taken into account in deciding what price a willing buyer is likely to pay for a property: see *Prestige Homes Corporation Ltd v. Minister of Works* (1968) N.Z. Valuer Vol.20, No.8, p.383 at p.384.

The evidence before us establishes, as was found by the Tribunal in evidence presented before it, that the developers had vested in the County Council reserves well in excess of those which would be required for the whole of the balance of the Whitby development and that they had in fact a reserves credit which could be available to the purchaser of the Adventure School site. That fact was not seriously disputed before us. Of greater significance in the Crown case, however, was the submission that it was not established that the Council could or would have exercised its discretion to allow the credit.

There is no doubt that the Council has power where an application is made for approval of a subdivision in an area where there is already an adequate or excess provision for reserves, to reduce the requirement to provide for reserves in that subdivision by an amount not exceeding the amount of the excess area already set aside. In the present case a large excess of reserves had been established sufficient to entitle the Council to waive the provision of further reserves altogether in the event of the subdivision of the Adventure School site and also of any other land in the Whitby development: see *Local Government Act 1974, s.287*. The question is would the Council have done so?

In considering this matter we bear in mind it is the chance of the Council approving of the reserve credit which must be evaluated: see *McKee v. Valuer-General* [1971] NZLR 436 at 439; also *Valuer-General v. Treadwell* [1969] NZLR 320.

We have considered the evidence and are left in little doubt that the chance in the present case was a virtual certainty. This is established by the evidence of Mr Kinnear, the Council Town Planner, and confirmed by the expressed policy of the Council.

On 12 September 1977 the developers wrote to the Council asking it to state categorically that it was prepared to transfer a reserves credit from the developers to the Crown in respect of the Adventure School site and that the Crown would not be called upon to contribute to a reserves fund if the site is subdivided in the future. The Council replied on 26 September 1977 stating that at its meeting on 22 September 1977 it had resolved:

"That provided the Consortium set aside an area of 3375 in, for reserve, pursuant to Section 28 of the Counties Amendment Act 1961 as the reserve requirement for the Adventure School site area had it been subdivided into residential allotments then, should the Crown purchase this school site, Council agrees to transfer a reserve credit for this amount, namely 3375 m', to the Crown to be used against any subdivision of the site into residential allotments."

(Mr Robinson was prepared to concede that the reference to setting aside an area in that resolution meant no more than the developers agreeing to a debit against reserves already set aside.)

We are prepared to accept that such a resolution may have been ultra vires the powers of the Council at that time as it was not made in respect of an application before it. Be that as it may, the resolution is a clear confirmation of Mr Kinnear's evidence as to the policy of the Council had such an application properly come before it for consideration.

Mr Robinson submitted that the Council could not bind itself in advance to exercise its statutory discretion in that way. He cited in support of that submission *Waitemata County Council v. Ballarat Holdings Ltd* (1973) 4 NZTPA 397; *Ransom & Luck Ltd v. Surbiton B. C.* [1949] Ch. 180; *Triggs v. Staines U.D.C.* [1969] 1 Ch.10; and *Windsor, etc. B.C. v. Brandrose Investments Ltd* [1981] 1 W.L.R. 1083.

Mr Robinson then submitted that even if the resolution was regarded as an indication of the chances of a similar resolution being made in favour of a hypothetical purchaser, it fails because it relates to the Crown and says nothing of Council's attitude to some other developer, and says nothing of any cash contribution in lieu of land.

Mr Robinson further submitted that such a resolution by Council would fail to take into account a relevant consideration if it did not consider a cash contribution as relevant to the cost likely to be imposed on future ratepayers to maintain reserves. He referred to *Mercantile Group Ltd v. Manukau City Council* [1972] 4 NZTPA 166, 171; and to *Hopper Bros Developments Ltd v. Rodney County* [1984] 10 NZTPA 134. We do not accept Mr Robinson's submissions.

The cases cited relative to the Council binding itself in advance in the way

it would exercise its discretion are not applicable to the present facts. We accept that the purported resolution of 22 September 1977 was probably *ultra vires* but Council was entitled to have a policy regarding reserves credit and to apply that policy so long as it did not disregard relevant considerations in deciding what to do in a particular case. We are satisfied that Council's policy was to grant a reserves credit in a case such as this and we have already indicated our assessment of the chances of its so doing. The suggestion that Council should consider asking for a cash contribution in lieu of land, we reject. If Council has already obtained as part of the overall Whitby plan far more reserves than are required by statute, and sufficient to satisfy the needs of Whitby, then there is no justification for requiring a future subdivider to pay cash in lieu of setting aside land.

We are required to assess the chance of the Council giving its consent to the transfer of the reserves credit in all the circumstances of the present case if application were made by a purchaser of the school site for approval of a plan of subdivision. In our opinion the evidence establishes not only that the Council would likely grant its consent, but we go further and say that in the circumstances it would be unreasonable for it not to do so. Whitby is a completely planned development. In the early planning stages the reserves desirable for the whole area were identified and located and in accordance with those plans the developers have vested them in the Council. How can it now be said that the Council can or should reasonably ask for more when what has been done has resulted in reserves being established so generously in excess of the legal requirements of the Local Government Act?

Mr Robinson under this head finally submitted that the hypothetical willing seller envisaged by s.62(l) of the Public Works Act 1981 is not one who has already subdivided a large area of land and thereby established a reserves credit with the Council. The reserves credit, he said, is a factor special to these developers but is not applicable to a hypothetical vendor. We reject this submission because the developers have established a reserves credit which is applicable not only to them but to any other future subdividers of land in the Whitby development. It is of the nature of this pre-planned and structured development that reserves were located and established throughout the whole development at the outset. There is therefore no requirement for any further reserves. The reserves credit established by the developers is available for all who in the future seek approval of further subdivisional plans. The concept of hypothetical willing seller/willing buyer must be considered in relation to the area in question in this case the Whitby development and not merely in vacuo.

2. Court Should Evaluate Chance as Affecting Price

We can deal with this submission very quickly. It must follow from what we have already said that the chance of the Council approving of the transfer of the reserve credit amounts to a virtual certainty and therefore there is no good cause to reduce the element of compensation referable to that credit at all.

3. Discount for Early Payment

This submission of Mr Robinson proceeded on the basis that a subdivider would probably seek to pay a reserves cash contribution by instalments as the subdivision progressed instead of having to make a total cash payment at the outset. This may or may not be so but in our view the submission does not answer what is the real basis for taking reserves credit into account in fixing the value of the Adventure School site in this case. That basis is that the developers have already set aside sufficient reserves to enable a future subdivider to cut up and sell the whole of his land without having to vest part of that land in the Council for reserves or pay Council a cash equivalent. The reserves credit adds value to the subdivider's land equal to the value of that part of his land that he would otherwise lose to reserves. It is that added value that the Crown is paying the developers for in this case. It is not making a reserves contribution in advance of subdivision.

4. Enhancement or Betterment

Enhancement or betterment is a factor for the Court to take into account: see s.62(l)(e) Public Works Act. The question is whether or not there is any such factor to be taken into account in this case.

Mr Robinson referred us to Australian cases where it has been held that the presence of a school is such a factor: see *Moore v. The Minister* (1962) 18 The Valuer 245; and *The Minister v. Stocks & Parkes Investments Pty Ltd* (1973) 129 C.L.R. 385.

Such cases, however, must be related to their own facts as must the present case. We must look to see whether the establishment of the Adventure School by the Crown will enhance the value of other properties of the developers in the area. We are not satisfied that it will. This is a planned development. There are already two schools operating in Whitby and further schools, including the Adventure School, will be constructed as the numbers of children attending schools increase. School facilities are already available and property values already reflect that fact. The establishment of further schools to meet growth in the area will not be likely to affect such property values.

Interest

We were advised by counsel that they have agreed that if further compensation is payable by the Crown then we should assess interest pursuant to s.94 of the Public Works Act on such sum from the specified date 1 October 1978 to the date of judgment.

In accordance with that agreement we fix interest at 10% per annum compounded from 1 October 1978.

Conclusion

We award the developers:

1. By way of compensation \$59,500.
2. Interest on \$59,500 at 10% compounded from 1 October 1978.
3. Costs both before the Tribunal and in this Court to be fixed by the Court after counsel submit memoranda as to quantum.

R. K. DAVISON
Chief Justice

I. W. LYALL
Additional Member

Solicitors for the Appellant
Solicitors for the Respondents

Crown Law Office (Wellington)
BuddleFindlay (Wellington)

IN THE HIGH COURT OF NEW ZEALAND

CA.35/82

IN THE MATTER of the Maori Vested Lands Administration Act 1954

BETWEEN

THE PROPRIETORS OF ATIHAU-WHANGANUI INCORPORATION
- Appellant

AND

IAN FREDERICK MALPAS First Respondent.

AND

CORIN SCOTT MCGREGOR, DOUGLAS JOHN MCGREGOR,
MARGARET ALISON MCGREGOR and HELEN ISOBEL HAYWARD
- Second Respondent.

AND

WALTER CRACROFT WILSON Third Respondent.

CORAM: Cooke, J. (presiding), Richardson, J., McMullin, J.

DATES OF HEARING: 23,24, 25 October 1984.

COUNSEL: D. H. Brown and C. P. Brosnahan for Appellant.

G. P. Barton and D. J. S. Laing for Respondents.

C. J. McGuire for Valuer General.

JUDGMENT: 18 September 1985.

As the judgment says "This is a case of historical as well as legal interest" and we could say of valuation interest as well. The final word has now been given on the 'Phantom trees' which should be a good basis for the future and confirm the valuation approach of the past.

JUDGMENT OF THE COURT DELIVERED BY McMULLIN J.

This application for leave to appeal is brought by the appellant pursuant to s. 18A of the Land Valuation Proceedings Act 1948 against the judgment of the Administration Division of the High Court (Speight J and Ralph Frizzell Esquire) delivered on 2 December 1981 in respect of objections to valuations made by the Valuer General of land owned by the appellant and formerly leased to the respondents. The proceedings have a long history and have already given rise to one appeal to this Court - *The Proprietors of Atihau-Wanganui Incorporation v. Malpas* [1979] 2 NZLR 545. Applications for leave to appeal to the Privy Council were dismissed on the ground that s. 18A(4) of the Land Valuation Proceedings Act 1948 makes the decision of the Court of Appeal final: see [1980] 1 NZLR 1. The present application for leave to appeal was unopposed at the hearing. The issues of law raised in the judgment of the Administrative Division and on which the appellant seeks the determination of this Court are difficult. No determination was made on the application for leave; as is often the case the Court considered the application against the background of the issues raised on the substantive appeal itself. These are dealt with fully in this judgment.

This case is of historical as well as legal interest. It concerns three separate but adjoining blocks of land in the Parapara hills to the south west of Raetihi. The respondents and their predecessors in title have been lessees of this land from its Maori owners since 1906 or thereabouts. The three blocks comprise 392 hectares (Malpas), 960 hectares (McGregor) and 1784 hectares (Cracroft-Wilson).

In the early 1900s the land in this area, which was rugged and largely inaccessible, was covered in bush containing trees such as the great podocarps, some hardwoods, the smaller trees of the forest and thick scrub. But during the first fifty years of this century much of the land was transformed from that condition into pastoral farms. This was done by clearing the forest trees and scrub by felling and firing them and removing their stumps, where possible, from the burned areas.

This appeal involves a consideration of the state of the land at the beginn-

ing and end of this period of development. A convenient entry point to the case is the Maori Lands Administration Act 1900 which was passed to secure the better use of the lands then owned by the Maoris while at the same time ensuring that the ownership of these lands did not pass from the Maori owners. The statutory scheme aimed to accomplish these objects by the leasing of the land to settlers for development into farming land with compensation to be paid to the lessees for improvements effected by them during the period of development. The Act set up Maori Land Councils in which Maori lands could be vested by the owners for purposes of the Act and it authorised the transfer of land to such Councils for the purposes of leasing. Thousands of acres now in the name of the appellant (including the lands the subject of this appeal) were vested for this purpose. The 1900 Act did not itself set out the terms and conditions of the leases to be made under it but s.50(10) empowered the making of regulations prescribing the forms, conditions, and covenants of the leases to be made under it. In fact excerpts from the relevant regulations made in 1900 were set out in the leases and became part of the leases themselves. These regulations, when first made, were considered to be somewhat inadequate in their provision for compensation to the lessees for permanent improvements effected by them to the leased land and, for this reason, the leases in some areas were not at first sufficiently attractive to the European settlers who might otherwise have been interested in taking them up.

Several statutes bearing on the management and leasing of Maori lands were passed after the 1900 enactment. Most notable of these are the Maori Land Settlement Act 1905 which reconstituted the Councils as Maori Land Boards, the Maori Land Amendment Act 1952 which vested the lands in the Maori Trustee and the Maori Vested Lands Administration Act 1954 which provided for the vesting of the lands in the Maori owners of which the appellant is one. This last enactment was passed to give effect to the recommendations of a Royal Commission set up in 1949 to enquire into and report upon questions relating to leases granted under the 1900 Act, and to provide for new leases to be issued in place of the expired ones with new rights as to compensation. Further reference to the report and the 1954 Act is made later in this judgment. The report itself is of interest as an historical document.

Between 1903 and 1905 the Aotea District Maori Land Council, which was reponsible under the 1900 Act for the issuing of leases in the Ohutu Block where the three subject properties are situated, arranged for a survey and subdivision of that block. After the survey various sections of land were offered for leasing for 21 years with the right of renewal for a further 21 years, the rental on renewal to be 5/10ths of the unimproved value of the land at the date of renewal. Most leases on the block were taken up between 1904 and 1907. They required continuous occupation by the lessees for development purposes. It is convenient to refer to them throughout as the 1906 leases.

As mentioned, because of the inadequacy of the initial compensation provisions, the response to the offer of leases in the Ohutu Block at first was poor. Consequently in 1903, with a view to attracting more settlers, a new regulation, Reg.78A, was passed, making fuller provision for compensation for permanent improvements effected by the lessees. The regulations relevant to improvements under the 1906 leases are Reg.74 to Reg.83 of the 1900 Regulations and Reg.78A. Of these, Reg.74 required the lessees to bring into cultivation, within four years of the date of the lease, not less than one fifth of the land, and, within six years of the date of the lease, to put substantial improvements of a permanent character on the land of a value which varied according to its classification as first class or second class land. The term 'substantial improvements' was defined to mean and include 'reclamation from swamps, clearing of bush, gorse, broom, sweetbriar, or scrub, cultivation, planting with trees or live hedges, the laying out and cultivating of gardens, fencing, draining, making roads, sinking wells or watertanks, constructing water races, sheep dips, making embankments or protective works of any kind in any way improving the character or fertility of the land, or the erection of any building'. Regs.75 to 83 provided for the lessees to be paid the value of improvements effected by them in the event of the sale or other disposal of the lease, including forfeiture, and Reg.78A for the weighting of the land with the value of the lessee's improvements when the property was again offered for lease. Reg.78A provided:

In any case where a lease is granted with a right of renewal for *one* further term only, not exceeding twenty-one years, the Council shall, on the expiration of such further term, or on the expiration of the original term, or in the case of a lease where the right of renewal is perpetual, on the expiration of any term, if the right of renewal has in any case been surrendered or otherwise determined, weight the land with the value of the improvements of the outgoing tenant on again offering it for lease; or the Council may in its discretion retransfer the land to the Native owners on payment of the value of the improvements and all other charges to which the land maybe lawfully subject. The value of such improvements, or the balance thereof, after deducting any amounts which may be due to the Council by the outgoing lessee, shall, when recovered by the Council, be paid over to him.

A brief reference should now be made to the system of valuation which has long since pertained in New Zealand, with its classification of capital value, unimproved value and value of improvements. For about a century there has been a valuation system in New Zealand for such purposes as rating, the assessment of estate and gift duties, the assessment of rentals on public lands and the calculation of compensation for improvements effected on leased land. This system has been based on the premise that the unimproved value of land varies, generally by increase, because of factors unconnected with the efforts of the owner or occupier. The system thereby recognises the community created increment which is included in the unimproved value. And it recognises the contributions of the owner or occupier in the value of improvements. That is the

personal increment factor. In effect the capital value is the sum of the two, though not arrived at that way but by direct valuation. This system of valuation was recognised by s.6 of the Valuation of Land Act 1896 which provided for a uniform system of valuation to be administered by the Valuer-General throughout New Zealand. But the concept itself seems to have been recognised in practice before receiving statutory approbation. A new term 'land value' was inserted in the Valuation of Land Act 1951 in place of 'unimproved value' by s.3(1) of the Valuation of Land Amendment Act (No.2) 1970 but the definitions of capital value and improvements were retained. The new term 'land value' does not need to be discussed as it has no bearing on this appeal. The application of the classifications of capital value, unimproved value and value of improvements to a lease in which provision is made for compensation for improvements, means that when the lessee goes out of possession at the end of the term he hands over to the owner a property made more valuable than it was at the beginning of the lease by his actions, and so he is to be compensated for the improvements which he has brought about according to the formula provided in the particular lease.

This scheme of compensation and valuation was effectively adopted by the regulations which were incorporated in the leases from 1906 right through to the new leases entered into after the passing of the Maori Vested Land Administration Act 1954.

In the 1920s the terms of the leases granted in the early 1900s expired but these were renewed for a further 21 years. The renewals were expressed in the form of fresh leases. While they were executed in years which differed according to the date of expiry of the original leases it is convenient to refer to them as the 1927 leases. They are referred to in more detail later. Then from the 1940s onwards the 1927 leases expired, and by June 1951 leases affecting approximately 100,000 acres in the Aotea Land Board's district had come to an end. However, their terms were extended further by the provisions of a series of Acts, the Maori Purposes Acts 1948, 1950, 1951, 1952 and 1953, pending a more final solution being found to the problems caused by their termination. One of the difficulties occasioned by the termination of the leases was the sheer insufficiency of funds held by the Maori Land Boards, and accumulated from the payment of rents, to compensate the lessees for the improvements they had effected. The value of the improvements effected by the various lessees in clearing the land of bush, and in grassing and fencing it, was very considerable in relation to the unimproved value of the land. The lessees for their part, expected to receive payment in cash for the improvements they had effected, and, if payment was not to be made in cash, the only course open to them under the leases (apart from the exercise of a right in certain cases to remain in possession pursuant to a special provision contained in the leases) was to have a receiver appointed with power to lease the lands and pay the value of the improvements out of the rentals received. The Maori owners for their part had funds which were quite inadequate to pay compensation and the raising of moneys to discharge this obligation was reckoned to be well-nigh impossible. This impasse was one of the principal reasons for setting up the Royal Commission in 1949. The Commission's report was published in 1951 and, as mentioned, led to the passing of the Maori Vested Lands Administration Act 1954.

One of the problems with which the Commission was concerned, and the very one which has given rise to these appeals, stems from the removal of millable timber from the leased lands in the process of clearing the bush. Reg.74 of the leases made it obligatory for the lessees to bring one fifth of the land into cultivation within four years of the date of the lease, and to put substantial improvements on it within six years, obligations which, counsel told us, proved largely impossible to fulfil. The first step to be taken in the settler's attempt to meet that obligation was to clear bush from the lands. But the leases required more than the felling of the bush. They were pastoral leases which contemplated that the lessees would develop the land at least to the stage of grazing, possibly to the stage of cultivation. The leases effectively required the settlers to carve farms out of country which in all likelihood was in much the same condition as it was when New Zealand first became a Crown Colony and possibly when the Maoris first arrived in New Zealand. There was, however, another factor which influenced the settlers to clear the land as quickly as possible. Rapid steps had to be taken toward the clearing and grassing of the land if the lessees were to be able to earn a living from it and meet the rentals payable under the leases. And so, in carrying out the terms of the leases and putting the land to the use that both the settlers and the Maori owners intended for it, it was necessary for the former to clear the land of the bush which stood in the way.

In the earlier years of the leases the clearing of the land was effected by the progressive felling and burning of the bush. There was a sufficiency then, if not an abundance, of native timber available for milling in accessible places, and very little bush, if any, was milled for timber in the Ohutu area. Timber was a barely marginal resource on much of the land there and its ready availability on a large scale would have brought low prices at best for the vendors. In these earlier years timber on the leased properties would have been hard to dispose of having regard to the inaccessibility of the blocks. The settlers were primarily, if not wholly, concerned with the removal of the total bush cover. Hence the practice of felling and burning it in situ.

From the mid-1920s onwards, with the declining availability in New Zealand of accessible native timber, milling of some parts of the Ohutu area became economically worthwhile. Where timber came to be milled for commercial purposes on the Ohutu Block the better and more accessible timber trees were felled and removed from the bush first, and the cut-over bush, which was what then remained, was felled and fired subsequently. The 1906

leases and 1927 renewals provided that royalties paid by millers for timber taken from the bush should be shared equally between the lessors and the lessees although the lessees were also entitled to take timber for building or other improvements on the land or for firewood for their own use. These leases and the renewals allowed the lessees to fell, cut and burn any timber standing upon the bush land, and the removal of timber was expressly provided for either by requiring it to be cleared or permitting it to be cut and removed on terms which required the proceeds to be shared equally. But the whole thrust of the leases was to ensure the development of the land by the clearing of existing growth and the terms of the leases, as the Administrative Division found in the judgment under appeal, not only condoned but encouraged the removal of millable trees. But after the passing of the Maori Vested Lands Administration Act 1954 all timber trees growing on the leased land were reserved to the owners.

It seems that no trees were ever milled on the Malpas block, only a small area was milled on the McGregor block, but some timber was extracted from the Wilson block between 1924 and 1931 and 80 acres was milled there in 1954. However, a number of trees which can now be identified from their stumps as one-time millable timber trees of a certain species, were cut down and fired in the general clearing operations of all the lessees over the years.

By way of expanding on the references already made to the processes of bush clearing it should be said that the pattern adopted by lessees who were not concerned with saving those trees which might, given the demand, have been millable, was to fell as much of the bush, including substantial trees, as they could, and then to set fire to the felled areas. Some larger trees were not felled but were burned down over a period of time by fires lit around their trunks. When the bush had been cleared of all growth, or as much of it as could be cut and fired, grass seed was sown in the ashes left on the cleared land between stumps and fallen logs. Following a good bush burn the growth of grass was considerable and, because of the natural fertility brought about by the rotting down of vegetation on the floor of the forest over countless years and the minerals contained in the ashes, the land was able to carry more stock in the first few years following felling and firing than it did some years later. The initial fertility could be maintained only by the sowing of fertiliser and, until the advent of aerial topdressing, the contour of the country made this difficult, if not impossible. The cutting and burning of the forests, possibly viewed now as wasteful by many who are rightly concerned to preserve the ancient forests and to save the last stands of indigenous timber from destruction, must be judged against the times in which they occurred. At the beginning of this century forests grew over much of New Zealand; pasture did not. The early settlers could survive and make their way only by clearing the land of the then seemingly useless bush and converting it to pastoral uses.

The Maori Vested Lands Administration Act 1954 reflected the recommendations of the Royal Commission and provided for leases to be issued in place of the expired leases, but with timber trees reserved to the lessor. It also contained provisions for compensation to be paid to the lessees for improvements they had effected. Taking a practical view of the difficulties which now faced the Maori owners in meeting claims for compensation, and having regard to the low rentals paid by the lessees, calculated as they were on the unimproved value of the land at the beginning of the leases, the Commission recommended that the lessees should be paid 75% of all permanent improvements effected by them to the land. This recommendation was adopted in s.28 of the 1954 Act.

On 30 June 1975 the terms of the three subject leases, extended in the interim as they had been by legislative intervention in the 1950s, expired, and notice was given by the Maori owners of their intention to resume possession of the lands. Valuations were made by the Valuer-General to determine compensation for the permanent improvements effected by the lessees. These valuations set out, as required by the Act, the unimproved value of the leased lands, the value of the improvements and the capital value as at 30 June 1975. They were made by the Valuer General for the purposes of determining compensation in terms of s.28 of the 1954 Act. The Maori owners objected to them. They were entitled to do so under s. 14 of the Act. In *Atihau-Whanganui v. Malpas* [1979] 2 NZLR 545 this Court on appeal from Sir Richard Wild CJ considered a preliminary question of law on the valuations made by the Valuer-General. Confirming the decision of the Chief Justice it held that the words 'inclusive of the value of any indigenous trees' in the definition of 'unimproved value' in s.2 of the 1954 Act referred only to trees on the property at the time of valuation. This decision reflected the existing valuation practice which is referred to in the judgment of Archer J in *Re Wright's Objection* [1959] NZLR 920.

The point is one of considerable importance. There are upwards of 150 leases from the appellant Incorporation to which the present proceedings will have relevance. Under these the lessees are entitled to the same measure of compensation as are the respondents. The Maori owners now claim that the value on 30 June 1975, when the leases ended, of commercially millable-trees, extracted between 1906 and 1975 during the currency of the leases and their renewals, (assuming that these trees were still standing) would be in excess of \$3 million, so that if the value of these now non-existent trees (Richardson J referred to them in the 1979 judgment as 'phantom trees') were to be taken into account the value of the improvements effected by the respondents clearing the land would be cancelled out and no compensation would be payable to them.

The Valuer General's figures for capital value, unimproved value and improvements for the three blocks at 30 June 1975 were as follows:

	Capital value \$	Unimproved value \$	Value of improvements \$
Malpas	199,200	18,800	180,500
McGregor	432,000	41,650	390,350
Wilson	674,000	62,500	<u>611,500</u>
			\$1,182,350

If these figures are upheld the compensation required to be paid by the appellant to the respondents would be an amount equal to 75% of \$1,182,350 this last figure being the total value of the improvements effected to the three blocks since the 1906 leases were executed. The Maori owners do not accept these valuations; they object to them. Before the Administrative Division they maintained that the capital value as fixed by the Valuer General as at 30 June 1975 was too high; that the Valuer General had failed to take sufficient account of the value of the land excluding improvements; that the unimproved value was too low; and that irrespective of whether or not the capital value as fixed by the Valuer General was too high, that the value of the improvements was too high.

After this Court delivered its decision in *Atihau-Whanganui v. Malpas* [1979] 2 NZLR 545 the Administrative Division of the High Court (Speight J and Mr Ralph Frizzell) heard valuation evidence and assessed the values of the respective properties as follows:

	Capital value \$	Unimproved value \$	Improvements \$
Malpas	185,500	42,750	142,750
McGregor	384,000	91,000	293,000
Wilson	675,000	120,000	<u>555,000</u>
			\$990,750

Two judgments were delivered in the earlier case in this Court. Although they differed to some extent in their approach, the two judgments were unanimous in their decision that the relevant words related to trees standing on the land at the time of valuation in 1975. The Court adopted what Judge Archer had said in *Re Wright's Objection* [1959] NZLR 920 at 922. The earlier decision of this Court proceeded on the basis that there had never been any commercial milling of timber on the land and that the land was probably more valuable in its developed state. But expert evidence has since satisfied the Administrative Division that millable indigenous timber which, if still standing would be worth in excess of \$3 million, has been removed by the lessees from the blocks since the leases were first granted in the early 1900s. The issue therefore now has to be considered in a factual setting very different from that previously assumed.

In these circumstances, in reaching its decision which is the subject of the present appeal, the Administrative Division rejected a submission made on behalf of the Maori owners that, in ascertaining the unimproved value of the lands, the valuer is required to assume that bush and forest of whatever kind growing upon the land at the beginning of the leases is still there. On this appeal two main submissions were made on behalf of the Maori owners.

The first submission was that the Administrative Division was wrong in holding that no allowance should be made for the 1975 value of the indigenous timber trees removed from the land from the commencement of the leases in the early 1900s in assessing whether, and to what extent, improvements had been effected by the lessees, and that it had erred in holding that the starting point in assessing unimproved value was the cut-over state or that which existed after the millable timber trees had been removed. Further to this it was contended that the Administrative Division had misinterpreted the earlier decision of this Court.

As mentioned, the judgments at the earlier stage of the proceedings were given on the assumption, which evidence since heard by the Administrative Division shows not to have reflected the factual position, at least in the case of Wilson, that no commercially millable timber was ever extracted. But implicit in each of the earlier judgments is a recognition of the need to consider the state of the lands at the commencement of the leases and their state when the leases came to an end in 1975, so as to compare like with like.

Both judgments held that the words 'exclusive of the value of any indigenous timber trees' appearing in the definition of unimproved value, referred only to trees on the property at the time of valuation, not to trees that had been on the property at any time. Both judgments made the point that since the unimproved value and the value of the improvements are required to equal the capital value, indigenous timber trees which are no longer there at the date of valuation cannot be taken into account. Both judgments made the point that it is work done on or for the benefit of the land insofar as its effect is to increase the value of the land and is unexhausted in that respect at the valuation date, that is to be taken into account as an improvement.

In a broad sense the contention of the appellant is that the work of felling, burning, stumping and clearing land of bush, while possibly a work done for the benefit of the land and as yet unexhausted, had not increased its value at the end of the leases; that, viewed in the light of considerations relevant in 1975 when the leases expired, the land was then worth less than it was worth in the state it was in 1906 when the leases commenced; that the apparent improvements effected by the lessees to the extent of \$990,750 (being the figure fixed by the Administrative Division) must be offset by the reduction in value brought about by the destruction of the commercial timber which, had it still

been standing in 1975, would then have been worth about \$3 million. As the Administrative Division put the appellant's contention:

Regardless of what may have been the improvements by the lessee properly understood in the way of constructing buildings, erecting fences, producing thousands of acres of pasture land, all would be extinguished and more by this enormous but theoretical counter-balancing figure for timber value.

We have reached the conclusion that the Administrative Division was right to ignore the value which the millable trees would have had at the end of the lease had they not been felled. We say that for several reasons. In the first place, the function of the Court in proceedings such as these is to determine the values, capital and unimproved, and the value of improvements, in terms of s. 11 of the Maori Vested Lands Administration Act 1954 at 30 June 1975 when the owners resumed possession on the expiry of the leases. The ultimate effect of the Court's decision in so determining the values will be to determine the amount of compensation to be paid by the owners to the lessees. But the Administrative Division, and this Court on appeal from it, has a limited function. It is to fix the relevant values, not to award compensation. In particular it is not their function to act as courts trying an action by the owners against the lessees for any alleged waste. In *Re Wright's Objection* at 921. It follows that the present enquiry must be directed to the ascertainment of whether the felling, burning, stumping and clearing of bush from the land during the currency of the leases was for the benefit of the land insofar as its effect was to increase the value of the land and the benefit of the work remains unexhausted at the time of the valuation. If the work done by the present lessees meets that test it is both an 'improvement' and an 'improvement effected by the lessee' within s.2(1) of the 1954 Act. Whether work, sought to be classified as an improvement, was in fact done for the benefit of the land is a matter to be determined objectively and not subjectively. We prefer the view that the question should be was it for the benefit of the land at the time it was done? Not merely was it intended to be for the benefit of the land at that time? Whether the work done increased the value of the land and, if so, whether and to what extent the benefit remains unexhausted, are questions to be answered at the date of valuation. If the work done by the lessee has not resulted in a benefit it must be ignored as also must the intention or expectation of the lessee that it should do so. If, in doing a work which results in a benefit to the land, trees, then having no millable value are removed, and the benefit of that work remains unexhausted, the fact that these trees would, if still standing, now have a value is not to be an offset against the value of the improvements or used to diminish their value if their benefit is unexhausted at the date of valuation. The removal of the trees was a necessary step in the process of effecting what was clearly regarded as an improvement at the time that the work was done. Where timber is milled commercially then land from which that timber was taken is to be taken in that cut-over state for the purposes of arriving at the unimproved value of the land - this for the reasons given by the Administrative Division in the judgment under appeal.

It is not suggested that the value of the improvements done by way of cutting, felling, burning and clearing the bush was in fact exhausted or diminished at the time of the valuation. In fact, we were told that the Maori owners are now using the land for the training and settlement of Maori farmers, a function which the land could not discharge had not the lessees first done the clearing work. So the pastoral uses to which the lessees converted the land remain for the use of the owners. In reality the argument for the owners was that in effecting work, which at the time it was done was recognised as improvements (the leases classified such work as improvements), the lessees destroyed an asset which at the time the work was done was virtually worthless, although viewed in the light of today's values the timber is worth a sum in excess of the unexpired value of the improvements. An argument of this kind concentrates on the word 'is' in the statutory definition of 'Improvements' and gives in our view insufficient weight to history. The destruction of the forest can be brought into account, if it can be brought into account at all, only in proceedings claiming damages for waste. But in making that observation we do not wish to be understood as suggesting that the owners can maintain any claim of the kind.

There may be cases where, in the effecting of improvements a valuable natural asset is destroyed; for example, the destruction of a lake as a water source by the building of an access road. In such a case it is possible that the loss of the one must be offset in the valuation of improvements against the benefits to be derived from the other. But this is not that case. We are unanimously satisfied that the historical factors discussed in the present judgment justify a distinction.

The point is not free from difficulty, if only because the statutory definitions are open to the interpretation indicated in some of the dicta quoted in [1979] 2 NZLR at pp.549-550 that the unimproved value must be arrived at by considering the land as it would have been at the relevant date for valuation if at that date it had no improvements upon it. But on the argument of the present appeal counsel drew attention to three historical factors, none of which had been brought to notice in the 1979 arguments, which also tell against adopting that approach. They are part of the background against which the legislation has to be interpreted.

First, in the 1913 Explanatory Memorandum quoted in [1979] 2 NZLR at p.552 the Valuer-General stated that it became a question for the valuer to determine whether the land would not sell at the present day at a higher price with the timber on it than it would without the timber. Subsequently, however, the view of the Department changed. In the corresponding Explanatory Memorandum issued by the Valuer-General in 1938, with reference to the Valuation of Land Act 1925 and its Amendments, the following is stated at p.7:

In many cases if the original land covering, as of bush, flax, etc., had been preserved, it would to-day give a considerably added selling-value to land, because it would have a use as timber, firewood, or fibre, which value had to be sacrificed to allow the Dominion to be developed agriculturally. It would therefore be unreasonable to assess the unimproved value with a value for these purposes, as there was no such value at the time when development had to be undertaken.

Counsel for the Valuer-General put this passage to us as representing a departmental practice now of long standing. The material legislative provisions have been in effect re-enacted more than once since that practice became established. As Mr McGuire contended, on the authority of Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v. Pemsell* [1891] A.C. 531, 590-1, long-standing administrative practice can properly be taken into account in ascertaining Parliamentary intention in such circumstances.

Secondly, the practice has evidently not been confined to New Zealand but has applied in Australia also, in relation to statutes similarly worded. We were referred to three decisions of Pike J. in the Land and Land Valuation Court of New South Wales which are treated in Australian textbooks as correctly stating the existing position: *Alison v. Valuer-General* (1922) 6 L.G.R. 25; *Reading v. Valuer-General* (1923) 6 L.G.R. 132; *Donald v. Valuer-General* (1927) 8 L.G.R. 91. The effect of the three cases, more particularly *Reading*, is that the value of timber originally on land which would have been of value at the date of valuation, but which was felled at a time when it had no value, should not be included in the unimproved value. It seems therefore that the current New Zealand legislation has been enacted against the background of a general Australasian understanding.

Thirdly, we permitted counsel to refer to passages in Hansard relating to the Maori Vested Lands Administration Bill 1954 (304 New Zealand Parliamentary Debates pp.1969-76). It is clear from what was said both by the Minister of Maori Affairs and by the Leader of the Opposition that the Bill represented a compromise arrived at after extensive negotiations between the Maori owners (acting on the advice of Sir Alexander Johnstone Q.C.) and the lessees and following upon the report of the Royal Commission already referred to. It is also clear that a basic assumption on both sides in working out that compromise was that there would be compensation to lessees on reversion of the lands to Maori possession. As already mentioned, however, the Administrative Division point out that in the present cases (and the same must apply in many other cases) no compensation at all would be payable if the lands were valued as if still in timber.

For present purposes it is not necessary to embark on a discussion of the use of Parliamentary debates as an aid to legislative interpretation. There is a valuable discussion by Mason J. in *Wacando v. The Commonwealth* (1981) 148 C.L.R. 1, 25-27. The only purpose of referring to the debates here is to bring out that the Act was preceded by a broad agreement between the Maori owners and the lessees. The Courts are entitled to lean towards an interpretation of the Act which would not run counter to a fundamental premise of that agreement.

Further, if these proceedings were in fact to be treated as a means of determining to what extent, if any, the loss of millable timber trees should be brought into account in fixing the compensation payable to the lessees by the Maori owners, the terms of the various leases could not be ignored. To ignore them would be to impose financial sanctions on the lessees for carrying out the very obligations imposed on them. From the 1906 leases it is clear that both parties intended that the lessees would carry out bush clearing as part of the improvement work. The lessees were required to bring the land into cultivation and otherwise to improve the land. The whole purpose behind the leasing arrangements was to enable the Maori owners to retain ownership while at the same time having the land converted for pastoral purposes. It was intended that at the end of the leases the land would be resumed by the owners as pastoral land. These were benefits the Maori owners were to obtain from the leases. The lessees for their part assumed the burden of bringing bush covered land into production. The benefits they received from this were the use of the land in the pastoral state to which they had converted it during the rest of the term and the promise of compensation for their work at the end. Under the 1906 leases the lessees were required to clear the bush. They were entitled to cut as much marketable timber as they required for building or other improvements on the land or for firewood for their own use. The royalties for timber which was cut and removed from the land were to be divided equally between the lessees and the owners. It is not suggested that the lessees have failed to account to the owners for their share. Clause 9 of the 1927 leases contained somewhat similar provisions for the cutting of marketable timber. Section 29 of the 1954 Act and clause 30 of the 1956 leases reserved the millable timber to the owners. The contractual provisions of the 1906 and 1927 leases should not be overlooked in the fixing of compensation. To allow of what is effectively a counterclaim by the owners, in the face of these provisions, would enable them to escape the payment of compensation for the doing of work for which the lessees received no monetary compensation and for ridding the land of what was then regarded as a burden when they necessarily undertook the work as part of the obligations which the owners imposed on them.

The second submission made on behalf of the owners was that, even if there were rights of compensation for the lessees in the 1906 leases, these rights were not carried forward into the subsequent leases. In 1927, when the first leases expired, fresh lease documents rather than documents of renewal, were executed. But these leases recorded that they were executed in terms of the lessee's rights to renewal under the earlier leases. Moreover the form of a

1927 lease was expressed to be a lease 'Under the Native Land Act 1909 and its Amendments being a renewal of a Lease granted under the Maori Land Administration Act 1900 and its Amendments and the Regulations made thereunder'. The 1927 leases provided for the making of a valuation at the end of the lease of all substantial improvements of a permanent character made by the lessee 'during the preceding and the current term' and in existence on the land at the time of valuation. 'Substantial improvements of a permanent character' included the clearing of bush from the land. Clause 17 provided that the amount of compensation should not constitute a debt payable by the Board or the Maori owners to the lessee, but that it should, until paid or otherwise discharged constitute a charge on the land and upon all revenues received therefrom by the Board after the termination of the said term, and the said charge should be enforceable in accordance with the provisions of s.263 of the Native Land Act 1909. Clause 18 conferred the right to the lessee to remain in possession of the land until the compensation was paid.

The Administration Division held that s.263(1) of the 1909 Act, to the provisions of which we make more detailed reference, was imported into the 1927 leases, and thereby removed any doubt that may have existed as to the rights of the lessees to compensation for improvements affected in the form of the 1906 leases.

The appellant contends that the Administrative Division was wrong in reaching this conclusion. The argument for the appellant, as it was put by Mr Brown, started with the 1906 leases. He submitted that the 1906 leases contained no general provision conferring a right to compensation on lessees for improvements effected by them to the leased lands; that in essence the relevant provisions of the leases did no more than provide for the passing on of any benefits effected by lessees to the purchasers of their interests, and for the payment to the Maori owners of the amount received for improvements done by the outgoing lessees as and when they were received, the Council having the right but not the duty to sue an assignee who had not paid the amount of any valuation of improvements; and that clause 78A, which required the land to be weighted with the value of the improvements effected by the outgoing tenant when offered for further leasing, with provision for the land to be transferred back to the Maori owners on payment of the value of any improvements, did no more than, at the most, create some form of charge on the land but conferred no rights on the lessees to sue for compensation. That is, while assignees and the Maori owners had to recognise the value of the improvements done, the outgoing lessees had no right to enforce payment from the owners.

Then it was argued that the 1927 leases contained no rights of compensation; that although they provided for a valuation of all substantive improvements of a permanent character made by the lessees during the preceding and current terms of the leases, and for the deduction from the compensation payable to the lessees of the costs of repair or reinstatement to improvements that had been destroyed by the lessee, and for the charging of the land with compensation which remained unpaid, they made no express provision for the payment of compensation to the lessees.

Finally, it was said that the Maori Vested Lands Administration Act 1954 did not improve the lessee's position in respect of compensation for improvements as s.7 of that enactment did no more than confer on the lessees the same rights to compensation as were conferred on the lessees by the leases purporting to be renewed.

The somewhat imperfect nature of these compensation provisions was referred to by the Commission in its report (paras.35-39) although counsel before the Commission seemed able to agree that compensation for improvements effected since 1906 should be paid to the outgoing lessees. But when the compensation provisions are viewed as a whole it becomes apparent that, whatever defects there may have been with regard to the setting up of complete machinery provisions for the payment of compensation, the clear purpose of the 1900 Regulations, the 1906 leases, and the 1927 renewals, was that the lessees were to be paid full compensation for permanent improvements effected to the land from 1906 onwards. This is particularly clear from the passing of Reg.78A which the Commission said was enacted to make the leasing more attractive to prospective settlers by the provision of compensation either at the end of the original term or the end of the renewed term. Improvements were defined by Reg.74 as including the clearing of bush. Although Reg.79 provided that the outgoing tenant did not have a claim against the Maori owners personally for the value of improvements in default of payment, neither that regulation nor any other extinguished what might be called the declared intention of Reg.78A that the lessees were to be compensated for their improvements. While the Maori owners may not have been liable in personam to meet claims for compensation, the land was encumbered with the value of the improvements until these were paid to the former lessee; when leased again it was weighted with the value of the improvements; and it could not be transferred back by the Council to the original Maori owners without payment of compensation. In short, the Regulations spelled out an entitlement to compensation even though the provisions for its payment may have been less than perfect.

The Maori Lands Administration Act 1900 was repealed by s.431 of the Native Land Act 1909, but by virtue of s.434 of the latter, Regulations made under the former survived for the purposes of the 1909 Act. Section 287(3) of the 1909 Act (included in Part XV) on which the Administrative Division relied provided:

Nothing in this section shall affect any lease or other alienation to which any such land is subject at the commencement of this Act or the right of any person to enforce any valid contract made with respect to any such land before the commencement of this Act.

While the leased lands became subject to the 1909 Act (s.287(1)) the lessees'

rights under the 1906 leases survived because of the saving provisions of s.287(3).

Other provisions of the 1909 Act should be mentioned. Section 266(1) (included in Part XIV which related to leasing) provided:

Every lease granted under this Part of this Act shall be in the form prescribed, or in such one of the forms prescribed as the Board thinks fit, and may contain such terms, covenants, and conditions (consistent with this Act) as are authorised by regulations.

Section 263(1):

Every such lease the term whereof (including the term of any renewal thereof under a right of renewal) is not less than ten years shall confer upon the lessee a right to compensation, on the termination of the lease or of any such renewed lease by effluxion of time, for all substantial improvements of a permanent character (as defined by the Land Act, 1908, or any other Act amending or substituted therefor and in force at the time when the improvements were effected) which are put upon the land during the continuance of the said term and are unexhausted on the termination thereof.

And s.263(2):

The compensation so payable shall not be recoverable from the Board as a debt, but shall constitute a charge on the land demised and upon all revenues therefrom by the Board after termination of the lease and of any renewal thereof.

These sections establish that whatever the lessee's rights (including the right to compensation) might be, they were preserved; that land vested in the Board should be reserved for leasing on terms that every lease that was not less than ten years in duration should confer on the lessee a right of compensation for all substantial improvements of a permanent character; and that such compensation was to be a charge on the land although not recoverable from the Board as a debt.

The 1927 leases were given in respect of the renewal period of 21 years referred to in the 1906 leases. The drafting of the 1927 leases caused some difficulties because of substantial alterations to the law. Ultimately leases were granted in a special form without any reservation. Although the 1927 leases were in truth no more than renewals of the 1906 leases and contained a recital to that effect, they omitted provisions of the 1906 leases and contained provisions which were not in the earlier ones. In particular, as Mr Brown pointed out, the provisions of the 1900 regulations, now revoked but replaced with regulations similar in content in 1909, were not incorporated into the 1927 leases as they had been in the earlier ones. For the respondents it was contended that it is reasonable to read into the 1927 leases a right to compensation on the same terms as were contained in the 1900 leases because the recitals of the 1927 leases declare them to be renewals of the earlier leases, they being in effect documents which caused the earlier rights of renewal which had been exercised by the lessees to survive. And, the 1927 leases were expressed to be granted by the owners in exercise of the powers vested in it by Parts XIV and XV of the 1909 Act and 'of the right of renewal granted' by the 1906 leases. Although then the 1927 leases are in form new leases, the fact that they contained no express rights to compensation is not to be taken as an abandonment of these by the lessees or the non-recognition of compensation obligations by the owners.

We think that the respondents' contentions are well founded and that, although the compensation provisions in the 1927 leases are not as full as those of the earlier leases, the 1927 leases are to be read as relating not only to improvements effected since the commencement of the 1927 leases, but also to improvements effected between 1906 and 1927 and in existence at this last date. Thereafter the compensation rights were preserved by the 1954 Act.

Therefore the Administrative Division was right in concluding that whatever rights the lessees had under the 1906 leases were preserved by the 1927 leases so that the lessees were entitled at the end of the 1927 leases to compensation for all permanent improvements effected between the commencement of the original leases in 1906 and the expiry of the renewed terms about 1948.

For these reasons we think that the Administrative Division was right in the decision it reached. The application for leave to appeal to the Court is granted but the appeal is dismissed. The appellant is to pay costs to the respondents in the sum of \$5,000 together with disbursements to be fixed by the Registrar. There will be no order for costs in respect of the Valuer General.

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