

as mortgagee and mortgagor, that once it is conceded that the mortgagee was entitled in the ordinary course of law to exercise its rights of sale under its security, then the position had to be viewed as if the bank had become the owner for purposes of disposing of the works and of obtaining a transfer of the license, morally if not legally, attached to the works.

How can these gentlemen justify an attack upon the Minister. Does one standard of conduct apply when they are owners desirous of selling, and another when the mortgagee is admittedly quite legally exercising his power of sale ?

In our opinion, if the Meat Board, after it had been approached by the mortgagee, and after it had, with the knowledge—of which there is ample evidence—it possessed, come to a unanimous decision that it could raise no reasonable objection to Vestey and Co. purchasing the Poverty Bay Company's works if they closed down and dismantled their other works, some eight miles away—which Vestey's had agreed to do—had in a businesslike way advised the owners of the works of its decision ; had adhered to that decision ; had firmly but emphatically said that they had decided the matter ; and, when they were approached by the company and asked either to consider or reconsider the position, had intimated that they had considered and come to a decision on the matter, and that they refused to reopen the position, there would be no justification whatever for any complaint. We wish it to be understood that we do not consider that there was any absolute legal duty on the Board to communicate to the company the fact that they had considered an application from the mortgagee and had decided not to intervene. Furthermore, we believe that Mr. Jones, the Chairman of the Board, did, on the 12th September, inform Mr. Lysnar that the Board had definitely reached a decision on the matter.

We also think there is a considerable amount of truth in that part of Mr. Lysnar's letter, referred to as "Enclosure A2" in the letter of 14th June, which is a letter in reply to Mr. Jones's letter to Mr. Lysnar of the 16th April, where Mr. Lysnar refers to the interview with Mr. Jones—

. . . Early in September, 1923 . . . and to my amazement and astonishment you intimated to me and two of my co-directors that the Board had already dealt with the matter and they would not interfere . . .

We think that Mr. Lysnar's memory is at fault in his recollection of this interview. He had come away from a very disquieting interview between himself and the general manager of the National Bank, and some allowance must be made for his naturally perturbed state of mind in the circumstances. It may be that the officials of the Board considered there was no need for any further intimation as to the decision which the Board had reached when their Chairman had communicated this decision to Mr. Lysnar. He (Mr. Lysnar) was the chairman of the company with whom they had frequently been in communication, and whom they quite possibly had come, as Mr. Jolly had come according, to his evidence, to look upon as practically equivalent to the directors of the company, or, at any rate, the main, dominant, or effective part of the board of directors.

We consider that the wording of the telegram of the 9th October, 1923, which is attached as Appendix U, entitled the Board to treat the company's request to be heard as disposed of, and we take no exception to the telegram of the 10th October, 1923, which reads as follows :—

Your telegram received. The proposal for a conference with the Board came from your company and we agreed to it. We note that your shareholders expect the Meat Board to do what is right in the matter. This has and will be the Board's attitude.

Once it is admitted that the National Bank had the right to put the property up for sale under the security which it held, it seems to us that it was the party entitled to be heard by the Board. The bank did no wrong in making its application to the Meat Board. The Board had actually given a decision before any application was made on behalf of the company. We consider it was not the Board's duty to act as if it were a Judge hearing an application under the Mortgages Extension Act.

Mr. Lysnar has attempted to make a great deal of capital out of failure of the Minister and failure of the Meat Board to hear his company. This appears to us to be quite a wrong point of view. The general broad principles regarding licenses