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MINNESOTA FARM BUSINESS NOTES

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THE FRAZIER-LEMKE FARM BANKRUPTCY ACT
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As an amendment to the Federal Bankruptcy Act of 1898, the Frazier-Lemke Farm Bankruptcy Act was approved by the President and became a law June 28, 1934.

This Act aims to provide a way whereby the farmer who goes through bankruptcy proceedings, under the terms of the Act, may retain possession of his estate for a period extending possibly to six years, and repurchase the same if he so desires, by complying with certain provisions outlined in the Act. In this way the Act is designed to provide relief from prospective foreclosure and an opportunity to recover for those farmers who are unable to meet their debt payments and who are facing foreclosure. The provisions of the bill apply to debts existing at the time the Act became effective.

In referring to the Frazier-Lemke Farm Bankruptcy Act, a common error on the part of many is to confuse it with the rather widely known Frazier Bill which for some time has been before Congress. Careful distinction should be made between these two measures. The Frazier Bill proposed to refinance farm mortgages at a low rate of interest. It also carried provisions which had they become effective would probably have been distinctly inflationary in character. This bill did not become a law. The Frazier-Lemke Act, which was passed at a recent session of Congress, deals with the same general problem of farm finance but in a much different form.

The Frazier-Lemke Act is the third significant amendment made to the Federal Bankruptcy Act since February 1933. The first amendment approved March 3, 1933 provided for the appointment of a county conciliation commissioner by the United States District Court upon the petition for the same by 15 or more farmers within a county. The second amendment, June 1934, made the appointment of such a commissioner mandatory in every county having an agricultural population of over 500 persons. To date, 72 conciliation commissioners have been appointed in Minnesota. It is understood that the intent of the District Court is to appoint at least one conciliation commissioner for each county in Minnesota as soon as attorneys having the required qualifications can be selected. The duty of these commissioners is to assist farmers in financial distress in securing a settlement of debts by an equitable agreement between themselves and a majority of their creditors. Such a majority in this case is stated in the Act to pertain to both the number of existing creditors and the amount of money involved. The agency through which settlement is intended to take place is the County Farm Debt Adjustment Committee.

These amendments and the Frazier-Lemke Act encourage settlement between debtors and creditors as far as possible outside of the courts of bankruptcy. The Farm Debt Adjustment Committees set up to settle amicably the differences between

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farmers and their creditors by voluntary conciliation may now come into use more than in the past. Already operating in 42 states more than 2400 local County Farm Debt Adjustment Committees can function effectively in adjusting the burden of rural debt outside of bankruptcy courts. Every encouragement has been offered in this legislation to both debtors and creditors to make use of these committees in arriving at a settlement. Where possible, the farmer will prefer to follow this procedure and creditors will avoid the uncertainties that accompany reappraisal of the property, under the terms of the Act.

The Frazier-Lenke Farm Bankruptcy Act provides a plan whereby a farmer who fails to obtain the acceptance of a majority of his creditors to the proposed adjustment of debts, or who is not satisfied with such adjustment may petition the court to be adjudged a bankrupt. Before a farmer can make use of the facilities provided by the Act, however, he must be willing to be adjudged a bankrupt and show that he is unable to meet his debts. A financial statement clearly portraying the nature and amounts of his assets and liabilities must be submitted. He must furnish a complete list of his creditors and the amount due each. He must also have attempted a settlement with his creditors through the aid of the conciliation Commissioner appointed by the Bankruptcy Court for that purpose. Only on the failure of the farmer to reach such an agreement will his appeal to be adjudged bankrupt be recognized. All provisions pertaining to eligibility must have been met before definite action is taken by the Federal Bankruptcy Court.

If the appeal is granted, the court will have all the property belonging to the farmer appraised by three disinterested persons. These persons are to be appointed by the conciliation commissioner. No reference to the required qualifications of these appraisers is made in the Act. Such appraisal shall be at its "then fair and reasonable value not necessarily the market value at the time of such appraisal". It is presumed that the appraised value will be considerably below that at which the obligations were originally incurred. This would be particularly true in the case of real estate. Exemptions under the State law, if any, are set aside and title to the remainder of the property is transferred to a trustee appointed by the court, subject to liens and mortgages existing thereon. Liens, pledges and encumbrances acquired prior to this action will remain in full force and effect and the property covered by such will be subject to the payment of the claims of the secured creditors holding same up to the actual value of such property as fixed by the appraisal provided. Herein lies an element of uncertainty for the creditor. In refusing to accept the composition of debts proposed by the debt adjustment committee or the conciliation commissioner, he assumes that the appraisal under the terms of the Act will yield him more than settlement outside the courts. At least he apparently is willing to take that chance. It is altogether possible that under this appraisal, his returns could be less than those provided under the scaled down figure presented for his approval before resort to the courts had been made.

Although the title to property subjected to this procedure is given over to the Federal Bankruptcy Court and the debtor must farm under the jurisdiction of the court, the law allows the farmer to retain possession of the property, with the opportunity to repurchase same in one of two ways. The procedure to be followed is contingent upon whether or not written objection to bankruptcy proceedings under the terms of the Frazier-Lenke Act is offered by any of the secured creditors.

Where no such objection is raised, the farmer may regain title to the property by paying the full appraised price within six years, and meeting all other conditions required by the bankruptcy court. Interest must be paid but the rate is nominal, being only one per cent, payable annually on unpaid balances. Along with this interest, the farmer is required to pay all taxes and insurance. In the event of failure to meet these payments, the property may be sold by order of the

court. The Act also requires that principal of the appraised value be retired by paying $2\frac{1}{2}$ per cent of the appraised price within two years from the date of the agreement, another $2\frac{1}{2}$ per cent of the appraised price within three years from the date of the agreement, 5 per cent within four years, another 5 per cent within five years, and the unpaid balance (85 per cent if the other payments have been made only in the minimum amounts) within six years. Under the provisions of this Act and in the event of failure to meet the required payments, the creditors may proceed with foreclosure. It is interesting that since the passage of this Act certain private agencies have adopted a somewhat similar procedure with respect to terms for their debtors.

Where these payments have been met on the terms stated, title to the property is given back to the farmer. He then owns it free from all claims of his creditors which were in existence when the petition for bankruptcy was filed. Under the provisions of the Act the foregoing plan outlining the manner in which a farm may be repurchased may be used only where all the secured creditors accept it.

If a secured creditor files objection, the court stops all proceedings that may be instituted by creditors against the farmer for a period of five years. During this time the farmer may retain possession of all or any part of his property under the control of the court by paying a "reasonable" rental annually for that part of the property of which he retains possession. The first payment of such rental must be made within six months of the date of the order staying proceedings. Such rental is to be distributed among the secured and unsecured creditors as their interests may appear, under the provisions of the Act. In addition to the rent, the farmer is required to pay also the taxes and insurance on the part he has rented. If, under this plan the farmer wishes to reacquire title to the property, he must pay into the court in cash, at or before the end of five years, the appraised value of the property.

Of some significance is a final provision of the Act wherein it is stated that if any creditor having a lien on the real estate at any time makes a written request for a reappraisal of real estate, the court shall cause the same to be made. In order to reacquire title to the property, the debtor must pay the reappraised price or the original appraised price, whichever is the higher. No reference is made in the Act to the procedure to be followed should a reappraisal be requested by the debtor.

At this point the question arises as to where a farmer will obtain the money at the end of the designated period to clear up all his debts under the provisions of the Frazier-Lemke Act. If creditors consent to the six-year purchase plan, and minimum payments only have been met, the farmer will be called upon to pay 85 per cent of the appraised price, during the sixth year of the agreement. Under the rental plan, he is required to meet 100 per cent of the appraised price (or the reappraised price, whichever is the higher) at the end of five years. Either plan calls for some method of financing more liberal than anything now generally available.

MINNESOTA FARM PRICES FOR AUGUST 1934

Prepared by Adena E. Terras

The index number of Minnesota farm prices for the month of August 1934 was 72.4. When the average of farm prices of the three Augusts 1924-25-26 is represented by 100, the indexes for August of each year from 1924 to date are as follows:

August 1924 - 95.2	August 1930 - 80.7
" 1925 - 104.5	" 1931 - 55.2
" 1926 - 100.5	" 1932 - 40.9
" 1927 - 99.9	" 1933 - 55.7*
" 1928 - 100.3	" 1934 - 72.4*
" 1929 - 104.2	

*Preliminary

The price index of August for the past month is the net result of increases and decreases in the prices of farm products in August 1934 over the average of August 1924-25-26 weighted according to their relative importance.

Average Farm Prices Used in Computing the Minnesota Farm Price Index,
August 15, 1934, with Comparisons*

	Aug. 15, 1934	July 15, 1934	Aug. 15, 1933	Av. Aug. 1924-25- 26	% Aug. 15, 1934 is of July 15, 1934	% Aug. 15, 1934 is of Aug. 15, 1933	% Aug. 15, 1934 is of Aug. 15, 1924-25-26
Wheat	\$1.03	\$.88	\$.78	\$1.38	117	132	75
Corn	.65	.49	.36	.94	133	181	69
Oats	.44	.38	.28	.35	116	157	126
Barley	.73	.61	.38	.60	120	192	122
Rye	.74	.59	.57	.81	125	130	91
Flax	1.80	1.71	1.68	2.24	105	107	80
Potatoes	.60	.55	1.20	1.17	109	50	51
Hogs	4.55	3.85	3.60	10.58	118	126	43
Cattle	3.70	3.70	3.70	6.08	100	100	61
Calves	4.75	4.45	4.75	8.67	107	100	55
Lambs-sheep	5.46	5.82	5.85	11.06	94	93	49
Chickens	.094	.091	.076	.182	103	124	52
Eggs	.15	.11	.10	.26	136	150	58
Butterfat	.26	.24	.20	.41	108	130	63
Hay	13.70	11.90	7.44	11.60	115	184	118
Milk	1.51	1.39	1.18	2.13	109	128	71

*Except for milk, these are the average prices for Minnesota as reported by the United States Department of Agriculture.

Indexes and Ratios of Minnesota Agriculture*

	Aug. 1934	July 1934	Aug. 1933	Av. Aug. 1924-26
U.S. farm price index	61.7	57.6	51.1	100.0
Minnesota farm price index	72.4	55.7	55.7	100.0
U.S. purchasing power of farm products	76.2	72.3	68.9	100.0
Minnesota purchasing power of farm products	89.5	69.9	75.3	100.0
U.S. hog-corn ratio	6.3	6.7	7.8	11.4
Minnesota hog-corn ratio	7.0	7.9	10.0	12.3
Minnesota egg-grain ratio	10.5	9.3	10.5	14.2
Minnesota butterfat-farm-grain ratio	19.1	21.2	25.0	32.4

*Explanations of the computation of these data are given in Farm Business Notes No. 126.