

(p) J. W. S. McArthur exercised a dominating influence over his associates.

(q) Representations were made in prospectuses and "literature" issued by the Investment Executive Trust of New Zealand, Ltd., that in the debentures of the Investment Executive Trust of New Zealand, Ltd., the public were being offered "one of the most desirable investments it is possible to secure"—"an opportunity . . . for purchasing a collective interest in a large number of the world's soundest investments"—"ensuring safety of principal and regularity of income"; that "the portfolio of the Trust's Investments shows a wide selection of the soundest securities and investments it is possible to obtain in the British Empire"; that "the policy of spreading capital over a large number of sound investments has been adopted by the Trust"; that the Trust "is conducting its business on a similar basis to British Trusts and is meeting with similar success." These representations were conveyed to the public through the medium of a brokerage agency specially organized to conduct throughout New Zealand an intensive selling campaign by expert salesmen. Nearly half a million pounds in cash or securities has been collected from the public of New Zealand and has been brought under the control of one man, J. W. S. McArthur, who has used a large portion of this money, firstly, in extricating himself from his own financial difficulties, and, subsequently, in furthering schemes for his own enrichment in utter disregard of the representations upon which the money has been obtained from the public or of the principles which should govern the management of an Investment Trust. In our opinion, it would be definitely prejudicial to the interests of debenture-holders that J. W. S. McArthur or his nominees should continue to have any voice in the control of the Investment Executive Trust of New Zealand, Ltd., or its associated companies.

(r) In view of the publicity which has been given to the inquiry into the affairs of the Investment Executive Trust of New Zealand, Ltd., and into the affairs of the associated companies, it is practically certain that, even under changed control, further debenture funds would not, for a long period, be procurable from the public.

(s) Without further funds, the Investment Executive Trust of New Zealand, Ltd., can carry on investment trust business only with its existing investments.

(t) Only a portion of its present investments are suitable as investments of an investment trust company.

(u) In our opinion, it is desirable that the Investment Executive Trust of New Zealand, Ltd., should be wound up. We do not, however, think that pressure should be exerted to enforce a speedy realization of the trust building unless at a satisfactory price.

(v) We think that if liquidation proceedings are commenced by petition to the Court, and if such petition is opposed by the Investment Trust of New Zealand, Ltd., protracted and expensive litigation may ensue.

(w) In his interim report dated 1st November, 1934, Mr. Justice Halse Rogers says, at page 14 :—

"As the net result of the transactions of Messrs. McArthur and Alcorn is that they seem to have enriched themselves by some £100,000 without risking a penny of their own money, and entirely through using money contributed by the public to the trust companies, the justice of the case seems to require that they should be declared trustees of these profits for the benefit of the companies, and in view of the legal difficulties already referred to, it may be deemed advisable to legislate for that purpose."

We say with respect that the justice of the foregoing comment is, in our opinion, undoubted.

(x) If any special legislation is suggested in connection with the winding-up of the Investment Executive Trust of New Zealand, Ltd., we are of opinion that consideration should be given to the question of appointing an Advisory Board to assist the liquidator.

(y) If J. W. S. McArthur and C. G. Alcorn are declared trustees of the profits made by them the question will arise as to the parties for whom they are to be declared trustees. The whole position is extremely complicated. The principal claimants on any such trust fund would doubtless be, directly or indirectly, the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd. (The Investment Executive Trust of New Zealand, Ltd., as virtual owner of the Transport Mutual and General Insurance Co., Ltd., has, through that company, an additional large interest in debentures issued by the British National Trust, Ltd., and is again further interested through its holding of debentures in the Southern British National Trust, Ltd.) Perhaps the most equitable way in which to divide any such trust fund would be in proportion to debenture capital subscribed to the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd., respectively.

(z) If on a winding-up there is any shortage of funds with which to repay the debenture-holders, out of the investments, &c., of their respective series, the funds subscribed by them, then, in our opinion, the debenture-holders rank under the terms of clause 1 of their debentures as unsecured creditors for any shortage, *pari passu* with other unsecured creditors.

(aa) Preference capital to the extent of £5,775 is shown in the balance-sheet of the Investment Executive Trust of New Zealand, Ltd., as having been allotted and fully paid up as at 30th June, 1934. Much of this was subscribed by the public but we have given no special consideration to any losses which may be sustained by them, as they must of necessity be postponed to the rights of debenture-holders and unsecured creditors. 1,109 of the preference shares are held by the Sterling Investments Co. (New Zealand), Ltd.