

THE RESULT ON DEBENTURE-HOLDERS' STATUS.

It is most important for the debenture-holders in the Investment Executive Trust to note that the *result of this series of transactions is to fix their relative rights according to the mere accidental effects and results of these transactions*. They were put through for purposes wholly unconnected with debenture-holders' rights, and are wholly inconsistent with the undertakings on which debenture-holders' cash and property were entrusted to the directors of the Investment Executive Trust, but their effect is, if existing law is to be applied to existing records, to determine the rights of the debenture-holders. This statement relates not only to the rights of the debenture-holders in general against the Investment Executive Trust, but to the relative rights of the holders of each series towards the holders of other series; it relates to the relative rights of the Investment Executive Trust towards the Southern British National Trust; to the relative rights of these companies to the various subsidiary companies as they are all recorded in the books at the present time. All these respective rights as now recorded are the result of the artificial jungle of transactions based on the mixed motives described above.

All the Governments' advisers in New Zealand and New South Wales, both legal and accountancy, are unanimous in believing and stating that these considerations will inevitably tend to defeat and break down any attempt to reconstruct and carry on the affairs of the companies. *It is their unanimous belief that an attempt to straighten out these transactions by the application of the existing laws of the two States will result in expensive and wasteful litigation which might easily dissipate the funds of the debenture-holders.*

THE TRANSFER TO NEW SOUTH WALES AND ITS RESULTS.

Furthermore, debenture-holders of the Investment Executive Trust should note carefully that, although they were persuaded to subscribe to a purely New Zealand concern, with a New Zealand board of directors, their books and records and their securities were, without their consent, transferred to the State of New South Wales, from which State the directors of the Investment Executive Trust attempted to administer the affairs of the company.

Many of the transactions outlined above originated in one country and were carried to fruition in another. Thus, the company which purchased the trust building is incorporated in New Zealand, whilst the company which has the ninety-nine years' lease is incorporated in Canberra. The company formed to raise cash to remodel the building is incorporated in New South Wales. The building itself, and the mortgage on it, is subject to the laws of New South Wales. The large sale of B.N.I.T. shares originated in Auckland, but was accepted and made a binding contract in Sydney by a decision of the Canberra company to purchase shares.

Inquiries have been held on both sides of the Tasman Sea—in New Zealand by independent public accountants, acting as Inspectors, and in New South Wales by a Royal Commission. Neither of these inquiries could get a complete history or picture of the transactions involved without taking into account materials obtainable in the other State, and this added to their difficulties. This state of things would seem to have been designedly brought about by the directors whose transactions have been so roundly condemned, but whilst it hampered it did not preclude full inquiry. If, however, a new phase of inquiry should involve reference to the Courts under existing laws, there is presented a good opportunity to use the difficulties inherent in these facts to support technical legal objections and submissions.

It may be premised for a start, for instance, that any appeal to the existing law on either side of the Tasman Sea will be strenuously fought by those directors. In the report of the evidence and proceedings in New South Wales, before the Royal Commission, at page 495, in replying to a suggestion by the Royal Commissioner that in a winding-up a procedure might be found to obtain more for the debenture-holders than in an ordinary suit under the application of