

1935.
NEW ZEALAND.

REPORTS OF INSPECTORS

APPOINTED UNDER THE COMPANIES (SPECIAL INVESTIGATIONS) ACT, 1934,

TO INVESTIGATE THE AFFAIRS OF

The Investment Executive Trust of New Zealand, Limited,
and other Associated Companies,

TOGETHER WITH

COPIES OF THE REPORTS (INTERIM AND FINAL) OF THE NEW SOUTH WALES
ROYAL COMMISSION ON MATTERS CONCERNING THE PROMOTION AND
OPERATIONS OF SUCH COMPANIES IN NEW SOUTH WALES.

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THE INVESTMENT EXECUTIVE TRUST OF NEW
ZEALAND, LTD.

REPORT OF INSPECTORS.

THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT. }

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of the Investment Executive Trust of New Zealand, Limited.

REPORT OF INSPECTORS.

INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General, dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule of the special Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and John Macfarlane Elliffe, two of the Inspectors so appointed, respectfully submit a report of their investigations into the affairs of the Investment Executive Trust of New Zealand, Ltd., one of the companies named in the Schedule of the said Warrants of Appointment.

COMMENCEMENT OF INVESTIGATION.

1. We commenced our investigation into the affairs of this company by attending at its offices at Yorkshire House, Shortland Street, Auckland, on the morning of the 9th day of August, 1934, having previously received telegraphic notice of our appointments. Our investigations were at the outset conducted in co-operation with two other Inspectors appointed by His Excellency the Governor-General on the 8th August, 1934, in pursuance of the Companies (Special Investigations) Act, 1934—namely, Archibald Morris Seaman and Herbert Douglas Vickery.

2. After our investigations had progressed to a certain stage it became obvious that, in view of the fact that certain of the principal officers of the company were in Sydney, and in view also of the fact that many of the books and records of the company were in Sydney, it would be desirable for one or more Inspectors to visit that city for the purpose of pursuing inquiries into the affairs of the company, and the Inspectors submitting the present report—namely, John Leslie Griffin and John Macfarlane Elliffe—left New Zealand for Sydney on the 24th day of August, 1934.

SOURCES OF INFORMATION.

3. Evidence and information regarding the affairs of the company were obtained in New Zealand from various persons, including William Andrew Pilkington, chairman of directors of the company; Herbert Henry Pollard, a director of the company; Maurice Vincent Bates, New Zealand manager of the company; Madge Gregory, an employee of the company; and John Anderson, at one time auditor to the company.

4. During our visit to Sydney, His Honour Mr. Justice Halse Rogers was sitting as a Royal Commission to inquire, *inter alia*, into the affairs of the Investment Executive Trust of New Zealand, Ltd. The terms of His Honour's commission were to inquire into and report upon the following matters :—

- 1) The promotion, financial methods, control, management, operations, activities, and intended operations and activities of the companies mentioned in the schedule thereto, and each of them, and in particular, and without in any way limiting the generality of the foregoing—(a) the operation and activities and intended operations and activities of persons, firms, and companies, in connection with any of such companies, or with the employment or disposal of the share or debenture capital, or any other assets or income of any of such companies; (b) the respective powers, rights, and liabilities of promoters, shareholders, and subscribers of money borrowed or raised in any way by any of such companies; (c) the relations or intended relations of such companies, or any of them, *inter se*.
- (2) Whether a recommendation should be made by him that steps should be taken to wind up any of such companies.
- (3) Whether, in connection with any of the foregoing matters or his investigation thereof, he considered that any and, if so, what alterations should be made in the law relating to companies with respect to their formation, management, operations, capital, control, or otherwise.

The companies mentioned in the Schedule were :—

The Investment Executive Trust of New Zealand, Ltd.
 The Sterling Investments Co. (New Zealand), Ltd.
 The Investment Securities Association, Ltd.
 The British National Investment Trust, Ltd.
 The New Zealand Shareholders' Trust, Ltd.
 Wynwood Investments, Ltd.
 The Pacific Exploration Co., Ltd.
 Farms and Farmlets, Ltd.
 The First Mortgage Freehold Security Co. of New Zealand, Ltd.
 The Transport Mutual and General Insurance Co., Ltd.
 V. B. McInnes and Co. (New Zealand), Ltd.
 Alcorn, Trower, and Co., Ltd.
 Financial Publications, Ltd.
 The Southern British National Trust, Ltd.
 The British National Trust, Ltd.
 V. B. McInnes and Co. (Australia), Ltd.
 McInnes and Co., Ltd.

5. Our Warrants of Appointment read in conjunction with the provisions of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933, empowered us to examine on oath officers and agents of the company, but we were advised that this authority did not extend to us in New South Wales.

6. The books, documents, and papers of the company in New South Wales were, however, at a very early stage of the Sydney inquiry taken charge of by the New South Wales police, and later they were placed under the control of officers of the Auditor-General's Department of New South Wales.

7. On the application of Mr. Monahan, K.C., Senior Counsel appearing on behalf of the Attorney-General of New South Wales to assist the Commission, the Commissioner granted us access to the books, papers, and documents of the Investment Executive Trust of New Zealand, Ltd., and of the other companies whose affairs were being inquired into.

8. We were further able to make certain inquiries from officers of the company in Sydney, although we did not have authority to examine them on oath. The proceedings of the Royal Commission in New South Wales were, however, conducted in open Court, and we were accordingly able to attend a great many of the sittings and to hear the evidence which was given by the witnesses before that Commission, and we were further able, through the Commission, to arrange for certain questions to be submitted to the witnesses.

9. The evidence which was taken in Sydney was very lengthy, and the transcript of the evidence fills over five hundred closely printed foolscap pages. We do not in this report propose to traverse this evidence in detail, but shall refer briefly to the history of the company, to some of its more outstanding transactions, to its general policy, and, in particular, to the position as disclosed by the accounts of the company prepared as at 30th June, 1934.

10. His Honour Mr. Justice Halse Rogers made an interim report under date 1st November, 1934, and we attach (Exhibit "Z" [see pages 201-210]) a copy of this interim report. We respectfully suggest that at this stage this exhibit should be read. It sets out a number of very important findings by His Honour. Our own investigations, and the opportunities we have already referred to of having been enabled to hear much of the evidence given in Sydney, enable us to say with the utmost respect that we know of no reasons for disagreement with the findings made by His Honour.

ASSOCIATION WITH OTHER COMPANIES.

11. It would be impossible in this report to give any adequate picture of the affairs of the company without reference to all, and without frequent reference to most, of the other companies named in the Schedule to the Companies (Special Investigations) Act, 1934.

12. The companies are as follows:—

COMPANIES INCORPORATED IN NEW ZEALAND.						Date of Incorporation.
Alcorn, Trower, and Co., Ltd.	..	..	..	..	..	June, 1914
The First Mortgage Freehold Security Co. of New Zealand, Ltd.	..	..	..	..	..	November, 1924
Farms and Farmlets, Ltd.	..	..	..	..	..	August, 1928
The Investment Executive Trust of New Zealand, Ltd.	..	..	..	..	..	May, 1929
Wynwood Investments, Ltd.	..	..	..	..	..	August, 1930
The Sterling Investments Co. (New Zealand), Ltd.	..	..	..	..	..	October, 1930
The Investment Securities Association, Ltd.	..	..	..	..	..	December, 1930
The British National Investment Trust, Ltd.	..	..	..	..	..	November, 1931
The New Zealand Shareholders Trust, Ltd.	..	..	..	..	..	December, 1931
V. B. McInnes and Co., Ltd.	..	..	..	..	..	May, 1932
The Pacific Exploration Co., Ltd.	..	..	..	..	..	May, 1932
Financial Publications, Ltd.	..	..	..	..	..	May, 1933
The Transport Mutual and General Insurance Co., Ltd.	..	..	..	..	..	November, 1933

COMPANIES INCORPORATED OUTSIDE NEW ZEALAND.

The Southern British National Trust, Ltd.	..	..	..	..	..	January, 1933
The British National Trust, Ltd.	..	..	..	..	..	January, 1933

and reference will be made to these companies during the course of this report.

[NOTE.—In the foregoing schedules the various companies are arranged in chronological order according to dates of incorporation.]

CONSTITUTION OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

13. The Investment Executive Trust of New Zealand, Ltd., was registered as a public company under the provisions of the Companies Act, 1908, in May, 1929, with a nominal capital of £10,000, divided into 7,500 preference shares of £1 each and 25,000 ordinary shares of 2s. each. On 2nd February, 1933, the capital was increased to £100,000, consisting of 250,000 ordinary shares of 2s. each and 75,000 preference shares of £1 each.

14. The objects of this company are set out in clause 3 of the Memorandum of Association of the company, but it may briefly be said that the principal business of the company was to sell to the public, either for cash or in exchange for securities, debentures issued by the Investment Executive Trust of New Zealand, Ltd., and to distribute to the holder of such debentures *pro rata* the income (subject to certain deductions) from the funds so provided.

15. In evidence given on 9th August, 1934, before the Royal Commission in Sydney Mr. J. W. S. McArthur, managing director of the Investment Executive Trust of New Zealand, Ltd., said,—

“The business of the trust is to make investments, purchasing investments with the capital it obtains from debenture-holders and selling those investments from time to time as proper opportunity arises and taking the income from the investments purchased.”

16. A copy of the Memorandum and Articles of Association of the company is appended as Exhibit “Q” [not printed].

17. The foregoing company is the most important of those in the Schedule to the Companies (Special Investigations) Act, 1934, as it is through this company that the bulk of the money and funds collected from the public of New Zealand has primarily passed.

18. In order, however, that some idea may be formed of the inter-relation of the various companies and of the bearing of the other companies on the affairs of the Investment Executive Trust of New Zealand, Ltd., it is desirable, before going into any detail, to submit brief notes relative to the various companies.

NOTES RELATIVE TO ASSOCIATED COMPANIES.

19. *Alcorn, Trower, and Co., Ltd.*—This company was incorporated fifteen years before the Investment Executive Trust of New Zealand, Ltd. Its principal connection with the Investment Executive Trust of New Zealand, Ltd., is that Mr. C. G. Alcorn, who holds half the capital in Alcorn, Trower, and Co., Ltd., has been closely associated with Mr. J. W. S. McArthur in many of the transactions affecting the Investment Executive Trust of New Zealand, Ltd., and other companies in the group, more particularly the British National Investment Trust, Ltd., the

British National Trust, Ltd., and the Sterling Investments Co. (New Zealand), Ltd. It is clear that in relation to certain transactions apart altogether from Alcorn, Trower, and Co., Ltd., a species of informal partnership existed between J. W. S. McArthur and C. G. Alcorn, "profits" being shared in the proportion of four-fifths to J. W. S. McArthur and one-fifth to C. G. Alcorn.

20. Alcorn, Trower, and Co., Ltd., will also be referred to under the heading "Share Transactions of the Investment Executive Trust of New Zealand, Ltd.," in connection with a transfer of shares in the Investment Executive Trust of New Zealand, Ltd., from Mr. J. W. S. McArthur to Alcorn, Trower, and Co., Ltd., negotiated during 1931-32—a time when Mr. J. W. S. McArthur was experiencing financial difficulty. (See paras. 190-193.)

21. *The First Mortgage Freehold Security Company of New Zealand, Ltd.*—This company is of minor importance in so far as the Investment Executive Trust of New Zealand, Ltd., is concerned. It was incorporated five years before the Investment Executive Trust of New Zealand, Ltd., the principal shareholder being C. G. Alcorn. Present shareholders include the Investment Securities Association, Ltd., and Alcorn, Trower, and Co., Ltd. The Investment Executive Trust of New Zealand, Ltd., holds as an investment on account of the "B" Series debenture-holders nine debentures of £25 each in the First Mortgage Freehold Security Co. of New Zealand, Ltd., and a further thirty-two of £25 each—i.e., £1,025 in all—on account of the "Second B" Series debenture-holders. The report of the Inspectors relative to the affairs of the First Mortgage Freehold Security Co. of New Zealand, Ltd., shows that debentures were issued by that company for £19,100 and states that—

" the gross inadequacy of the securities is apparent, and grave doubt is cast upon the genuineness of the sales which provided the basis for financing within the apparently stringent limitations of the Articles of Association."

22. *Farms and Farmlets, Ltd.*—This company until comparatively recently had practically no connection with the Investment Executive Trust of New Zealand, Ltd., other than that Mr. W. C. Hewitt and his wife each held five hundred shares out of the total capital of the company of £1,000 in 1,000 shares of £1 each. Mr. W. C. Hewitt acted as solicitor to certain of the companies mentioned in the Schedule to the Companies (Special Investigations) Act, 1934." He was also a director of the British National Trust, Ltd., agent for New South Wales for the British National Investment Trust, Ltd., and attorney for the Southern British National Trust, Ltd.

23. In March and June, 1933, however, 65,000 shares in the British National Trust, Ltd., were transferred by J. W. S. McArthur, C. G. Alcorn, and T. R. McArthur to Farms and Farmlets, Ltd., and Farms and Farmlets, Ltd., gave in exchange to J. W. S. McArthur and C. G. Alcorn debentures to the extent of £65,000.

24. The sum of £500 was also paid by the Sterling Investments Co. (New Zealand), Ltd. to W. C. Hewitt and Flo. Hewitt, the only shareholders in Farms and Farmlets, Ltd., in consideration of an option to purchase their shares.

25. *Wynwood Investments, Ltd.*—As at 30th June, 1934, the shareholders in this company were as follows: J. W. S. McArthur, 9,900; S. Grange, 100.

26. This company owns considerable assets taken over from the Sterling Investments Co. (New Zealand), Ltd. At 30th June, 1934, J. W. S. McArthur was not only the principal shareholder in this company, but was also its only disclosed creditor, holding debentures for £40,000 issued by the company.

27. *The Sterling Investments Co. (New Zealand), Ltd.*—The transactions of this company are intimately connected with the affairs of the Investment Executive Trust of New Zealand, Ltd. It may broadly be stated that the Sterling Investments Co. (New Zealand), Ltd., was used as a "clearing house" for many transactions of the Investment Executive Trust of New Zealand, Ltd., and other associated companies. The unravelling of the affairs of the Sterling Investments Co. (New Zealand), Ltd., is made most difficult by the fact that all efforts to locate the books of account for the period prior to the 1st March, 1934, have proved unavailing. It is, however, definite that large sums were advanced to this company by the Investment Executive Trust of New Zealand, Ltd.

28. Mr. Justice Halse Rogers in his interim report referred to above (para. 10) says, at page 5:—

"Practically the whole of the first £60,000 subscribed by the public for debentures in the Investment Executive Trust of New Zealand, Ltd., was applied for the salvage of Mr. McArthur's assets through the medium of a company called the Sterling Investments Co. (New Zealand), Ltd."

29. The funds supplied to this company by the Investment Executive Trust of New Zealand, Ltd., were also applied in purchasing from dissatisfied debenture-holders their debentures in the Investment Executive Trust of New Zealand, Ltd., and the Sterling Investments Co. (New Zealand), Ltd., included among its assets as at 30th June, 1934, over £80,000 in respect of debentures and shares of the Investment Executive Trust of New Zealand, Ltd. The Sterling Investments Co. (New Zealand), Ltd., also granted loans upon the security of debentures issued by the Investment Executive Trust of New Zealand, Ltd.

30. As at 30th June, 1934, the principal shareholder in the Sterling Investments Co. (New Zealand), Ltd., was the British National Trust, Ltd. (20,801 shares out of 21,007), while of the remaining 206 shares 101 were in the name of C. G. Alcorn. It is of interest to add that the principal shareholder in the British National Trust, Ltd., is Farms and Farmlets, Ltd. (65,000 shares out of 65,007); the

Sterling Investments Co. (New Zealand), Ltd., claims to have an option over all the shares in Farms and Farmlets, Ltd.; and J. W. S. McArthur and C. G. Alcorn have debentures (£65,000) over the assets of Farms and Farmlets, Ltd. The British National Trust, Ltd., is, however, a large unsecured creditor of the Sterling Investments Co. (New Zealand), Ltd.

31. *The Investment Securities Association, Ltd.*—Up to the time of the commencement of our investigation on the 9th August, 1934, no books had been written up for this company. It was largely controlled by C. G. Alcorn, who regarded this company as his own private business. The Investment Securities Association, Ltd., was the allottee of 9,000 shares in the British National Investment Trust, Ltd., which shares were at a later date transferred to J. W. S. McArthur, and by him to the British National Trust, Ltd.

32. *The British National Investment Trust, Ltd.*—This company was originally incorporated under the name of the Stock Exchange Corporation of New Zealand, Ltd. It is of major importance in considering the operations of the group of companies, as it was in the name of this company that the *Daily Telegraph* building at the corner of Castlereagh and King Streets, Sydney, was purchased.

33. On 3rd February, 1933, ordinary shares of the nominal value of 2s each in this company were allotted—190,395 to J. W. S. McArthur and 49,598 to C. G. Alcorn, on terms requiring them to pay 10 per cent. of the face value of the shares—i.e., 2½d. per share, within one month. The shares so allotted, together with 9,000 then controlled by J. W. S. McArthur, totalling in all 248,993, were, on 1st March, 1933, sold by J. W. S. McArthur and C. G. Alcorn to the British National Trust, Ltd., of which company they were directors, for £287,000.

34. *The New Zealand Shareholders Trust, Ltd.*—This company is also of major importance in that it was used for the purpose of acquiring from the public debentures to the extent of well over a quarter of a million pounds issued by the Investment Executive Trust of New Zealand, Ltd., in the "A" and "B" Series, debentures in the "Second A" and "Second B" Series of the Investment Executive Trust of New Zealand, Ltd., being issued in their place. These transactions are further referred to in this report under the heading "Investments on account of 'Second B' Series Debenture-holders," and under the heading "Exchange of Debentures of the Investment Executive Trust of New Zealand, Ltd., in First Series for Debentures in Second Series."

35. *The Pacific Exploration Co., Ltd.*—This company is also of importance. Its principal shareholder was, and is, the Sterling Investments Co. (New Zealand), Ltd., but it has throughout its existence been controlled by J. W. S. McArthur. Not only has practically the whole of its paid-up share capital (£6,486 7s.) been supplied by the Sterling Investments Co. (New Zealand), Ltd., but that company has from time to time made very substantial advances to the Pacific Exploration Co., Ltd. The funds supplied by the Sterling Investments Co. (New Zealand), Ltd., were obtained by that company principally from funds subscribed by the public to the Investment Executive Trust of New Zealand, Ltd. The funds of the Pacific Exploration Co., Ltd., were used principally for the financing of the auxiliary yacht "Morewa" and for making advances to J. W. S. McArthur.

36. *V. B. McInnes and Co., Ltd.*—The importance of this company lies in the fact that it and V. B. McInnes personally (trading as "V. B. McInnes and Co."), prior to the incorporation of V. B. McInnes and Co., Ltd., were the brokers or selling agents for debentures in the Investment Executive Trust of New Zealand, Ltd., receiving for their services 5 per cent. brokerage plus 5 per cent. administration charge—10 per cent. in all. V. B. McInnes and Co., Ltd., also acted as the principal brokers in connection with the "conversion" operations already referred to under the heading of "The New Zealand Shareholders Trust, Ltd." For this latter service they received 2½ per cent. on the "Second Series" Debentures issued.

37. *Financial Publications, Ltd.*—Among the activities of this company was the publication of the *Investment Review*, a monthly magazine which was widely circulated in New Zealand, mostly gratuitously, and which lent support through its columns to the investment-trust principle. This publication was conducted at a heavy loss, and up to 6th March, 1934, its disclosed losses amounted to £5,567. It had sundry creditors of over £6,000, of which the sum of over £5,400 was owing to the Sterling Investments Co. (New Zealand), Ltd. (At 30th June, 1934, the amount owing to the Sterling Investments Co. (New Zealand), Ltd., had increased to £8,280 3s. 3d.) The funds of the Sterling Investments Co. (New Zealand), Ltd., were obtained principally from the Investment Executive Trust of New Zealand, Ltd.

38. Financial Publications, Ltd., is now in liquidation. We consider it inevitable that a heavy deficiency will ensue. This will involve loss to the Sterling Investments Co. (New Zealand), Ltd., and through this, we consider, loss to the British National Trust, Ltd., the principal creditor of the Sterling Investments Co. (New Zealand), Ltd. This loss to the British National Trust, Ltd., will be reflected in the value of the debentures issued by the British National Trust, Ltd.

39. *The Transport Mutual and General Insurance Co., Ltd.*—This company was formed nominally to conduct the business of insurance. Practically the whole of its share capital was held by the Investment Executive Trust of New Zealand, Ltd., and, up to 15th August, 1934, the sum of £51,000, out of a total paid-up share capital of £51,107, had been provided by the Investment Executive Trust of New Zealand, Ltd. This money had been invested as to £21,525 in twenty-one debentures of £1,000 each in the British National Trust, Ltd., and the balance of the funds had been to a large extent invested in the purchase of shares in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., with a view to obtaining a controlling interest in that company, nominally in order to provide a foundation for the business of insurance, but more probably to enable the Investment Executive Trust of New

Zealand, Ltd., through the Transport Mutual and General Insurance Co., Ltd., to secure control of the trust funds (believed to amount to several millions of pounds) administered by the Trustees, Executors, and Agency Co. of New Zealand, Ltd.

40. Mr. T. H. Macky, chairman of directors of the Transport Mutual and General Insurance Co., Ltd., stated that the object in endeavouring to acquire a controlling interest in this company was "for the purpose of controlling the insurance." Mr. J. W. S. McArthur, however, in a statement submitted on 11th September, 1934, as sworn evidence before the Royal Commission in Sydney, said :—

"The plan to obtain a controlling interest in these companies is one which is conceived primarily in the interests of the Investment Executive Trust debenture-holders, and its success will have the effect of adding to the Investment Trust Capital a large amount of funds without thereby appreciably increasing the costs of management and administration."

41. *The British National Trust, Ltd.*—This company is of major importance in that shares issued by the British National Investment Trust, Ltd. (the owner of the trust building), to J. W. S. McArthur and C. G. Alcorn, which shares were called up to 2½d. per share were sold by J. W. S. McArthur and C. G. Alcorn to the British National Trust, Ltd., at approximately 23s. each, the total consideration money being £287,000. In part payment for these shares, McArthur and Alcorn received debentures issued by the British National Trust, Ltd., and certain of these debentures have found their way into the accounts of a number of other companies in the group, including the Investment Executive Trust of New Zealand, Ltd., the Southern British National Trust, Ltd., the Transport Mutual and General Insurance Co., Ltd., the Sterling Investments Co. (New Zealand), Ltd., and the British National Investment Trust, Ltd. The British National Trust, Ltd., now owns 249,993 out of the 250,000 ordinary shares of the British National Investment Trust, Ltd.

42. *The Southern British National Trust, Ltd.*—This company was incorporated in Sydney, New South Wales, in January, 1933, and issued debentures to the public in Australia in much the same way as the Investment Executive Trust of New Zealand, Ltd., did in New Zealand. Its directors included W. A. Pilkington (chairman), J. W. S. McArthur (managing director), O. M. Hope, and H. H. Pollard, all of whom were at one time directors of the Investment Executive Trust of New Zealand, Ltd. The principal bearing of this company on the affairs of the Investment Executive Trust of New Zealand, Ltd., lies in the fact that included in the investments held by the Investment Executive Trust of New Zealand, Ltd., on account of the "First B" Series of debentures issued by that company is the sum of £55,000, representing 5,500 debentures of £10 each in the Southern British National Trust, Ltd.

43. Further, the Southern British National Trust, Ltd., in common with the Investment Executive Trust of New Zealand, Ltd., is a large holder of debentures of the British National Trust, Ltd. The Southern British National Trust, Ltd., and the Investment Executive Trust of New Zealand, Ltd., are, therefore, both vitally interested in the value of the "Trust Building" in Castlereagh Street, Sydney, on the value of which building the value of the debentures issued by the British National Trust, Ltd., is very largely dependent.

44. The Southern British National Trust, Ltd., is also the owner of 110,000 preference shares of 10s. each in the British National Investment Trust, Ltd.

THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

45. We are of opinion that we can best commence the presentation of a view of the affairs of this company by dealing at this stage with certain aspects of its position, as disclosed by the balance-sheet as at 30th June, 1934, submitted by the company's officials to the Royal Commission in Sydney. A copy of this balance-sheet is appended to this report (Exhibit "A" [not printed]).

46. Later in this report reference in more detail is made to certain transactions, but we wish to make it clear that for many reasons it has not been practicable for us to make a detailed or complete investigation of the books. Sufficient information has, however, been secured by us to enable us to make the comments, conclusions, and recommendations, which are set out at the close of this report. Among the reasons for the impracticability of making a detailed investigation are the following :—

- (a) The principal books of the company have been transferred from New Zealand to Sydney.
- (b) The principal officers of the company are in Sydney.
- (c) While we were in Sydney the books were constantly required for production in Court, for reference by counsel assisting the Commission, by counsel for the company, by the Sydney Chartered Accountants assisting the Commission, and by the Sydney Chartered Accountants assisting the company.
- (d) The books had not been written up to date, and uncertainty existed regarding various transactions.

Mr. Justice Halse Rogers, in his interim report dated 1st November, 1934, said, at page 9 :—

"The very greatest difficulty was experienced in finding what was the true position of any one of the companies, and various adjournments were asked for and granted in order that the accountants might bring the books into such a state that balance-sheets could be prepared."

- (e) Constant reference to the books was required by officers of the company who were engaged in preparing accounts to 30th June, 1934.

BALANCE-SHEET OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., AS AT 30TH JUNE, 1934 (EXHIBIT "A" [NOT PRINTED]).

47. The most significant features of this balance-sheet, from the point of view of those members of the public who have subscribed the funds for the debentures issued, are the figures relating to debenture capital subscribed and the corresponding investments of such debenture capital. These, as extracted from the balance-sheet as at 30th June, 1934 (uncertified), submitted by the company to the Royal Commission in Sydney, are (figures taken to nearest pound) as follows:—

				Debenture Capital Subscribed.	Investments.	Shortage.	Surplus.
				£	£	£	£
"A" Series	..	..	..	25,990	12,357	13,633	..
2nd "A" Series	..	..	..	1,190	609	581	..
"B" Series	..	..	..	304,852	330,098	..	25,246
2nd "B" Series	..	..	..	423,892	412,373	11,519	..
				<u>755,924</u>	<u>755,437</u>	<u>25,733</u>	<u>25,246</u>
						Net shortage, £487	

48. The foregoing figures are extracted from the "Debenture-holders' Section" of the balance-sheet as at 30th June, 1934. Other assets in this section of the balance-sheet total £16,544 14s. 6d., against which there are liabilities, &c., as under:—

					£	s.	d.
Reserves	..	..	..	..	10,260	17	10
Appropriation Account	..	..	..	..	2,782	2	7
Sundry creditors	..	..	..	..	3,014	13	8
					<u>£16,057</u>	<u>14</u>	<u>1</u>

49. For present purposes it suffices to consider the above schedule of debenture capital subscribed and investments.

50. Dealing first with the "A" Series, it will be noted that the debenture capital subscribed is £25,990, while the investments on account of this series total £12,357 only, a shortage of investments of over 50 per cent. of the amount subscribed.

51. In the "Second A" Series the amount subscribed is £1,190, and the corresponding investments total £609, a shortage of investments of approximately 50 per cent. of the amount subscribed.

52. In the "B" Series the amount shown as investments is £25,246 in excess of the amount subscribed, while in the "Second B" Series the amount shown as investments is £11,519 less than the amount subscribed.

53. It would appear from the preceding paragraph that, taking the "B" and the "Second B" Series together, there is a surplus of investments. It is, however, necessary to examine the constitution of the investments held on behalf of these two groups.

INVESTMENTS ON ACCOUNT OF "B" SERIES DEBENTURE-HOLDERS.

54. Included in the investments totalling £330,098 on account of the "B" Series Debenture-holders are the following:—

	£
Debentures of British National Trust, Ltd.	154,000
Debentures of Southern British National Trusts, Ltd.	55,000
Shares in Transport Mutual and General Insurance Co., Ltd.—60,000 shares	
of £1 each paid up in all to £44,367 10s.	44,367
	<u>£253,367</u>

55. In order to form some idea as to the value of the foregoing investments, and also as to the propriety of investing therein the funds of debenture-holders, it is necessary to outline briefly the history of the purchase of the property known as the *Daily Telegraph* building, situated at the corner of Castlereagh and King Streets, Sydney. In October, 1932, this property was sold by auction for the sum of £100,000, Australian currency.

56. On 1st November, 1932, a resolution of directors of the Stock Exchange Corporation of New Zealand, Ltd., was passed—

"That the agreement for the acquisition of the *Daily Telegraph* building in Sydney for the price of £100,000 Australian currency in terms of the agreement for sale and purchase as tabled be confirmed and the company carry out the terms thereof to completion."

57. At this meeting steps were also initiated towards changing the name of the company from the Stock Exchange Corporation of New Zealand, Ltd., to the British National Investment Trust, Ltd., and, in due course, the change of name was effected.

58. The terms of the purchase of the building were—a deposit of £10,000, a further payment of £40,000, while £50,000 was on mortgage to the Australian Glass Manufacturers Co., Ltd.

59. The £50,000 for deposit and further payment was provided by the Investment Executive Trust of New Zealand, Ltd., out of funds subscribed by debenture-holders, and debentures to cover this amount were issued by the British National Investment Trust, Ltd., to the Investment Executive Trust of New Zealand, Ltd.

60. On 3rd February, 1933, there were allotted by the directors of the British National Investment Trust, Ltd., to C. G. Alcorn 49,598 ordinary shares of 2s. each, and to J. W. S. McArthur 190,395 ordinary shares of 2s. each, and the allottees were required by the resolution to pay an amount equal to 10 per cent. of the face value of such shares within one calendar month.

61. On the 1st March, 1933, it was resolved at a meeting of directors of the British National Investment Trust, Ltd., that the company lease the building to the British National Trust Ltd., of Canberra, Australia, for a term of ninety-nine years at an annual rental of £7,500 (later increased).

62. At a meeting of the directors of the British National Investment Trust, Ltd., held on 2nd March, 1933, transfers of shares were approved from the Investment Securities Association to J. W. S. McArthur of 9,000 ordinary shares, from J. W. S. McArthur to the British National Trust, Ltd., of 199,395 ordinary shares, and from C. G. Alcorn to the British National Trust, Ltd., of 49,598 ordinary shares.

63. The consideration expressed in the transfer C. G. Alcorn to the British National Trust, Ltd., was £57,400, and in the transfer J. W. S. McArthur to the British National Trust, Ltd., £229,600, a total of £287,000.

64. Thus the British National Trust, Ltd., purchased from J. W. S. McArthur and C. G. Alcorn for a consideration of approximately £1 3s. per share 248,993 shares of a nominal value of 2s. each. On these shares there had been called up (but not at that time actually paid up) only 2½d. per share.

65. Payment of the £287,000 to J. W. S. McArthur and C. G. Alcorn was made by the British National Trust, Ltd., by issuing to them 222 British National Trust, Ltd., debentures of £1,000 each and 65,000 ordinary shares in the British National Trust, Ltd., of £1 each fully paid. Of the 222 debentures, 95 were applied in part payment for 382,000 ordinary shares of 5s. each in the Southern British National Trust, Ltd., and 22 were applied in payment for 220,000 ordinary shares of 2s. each fully paid in the Investment Executive Trust of New Zealand, Ltd.

66. Numbers of the British National Trust, Ltd., debentures have found their way into the investments held by various companies in the group as investments directly or indirectly on account of the money subscribed by debenture-holders in the Investment Executive Trust of New Zealand, Ltd., or in the Southern British National Trust, Ltd.

67. As the principal asset of the British National Trust, Ltd., apart from its lease of the *Daily Telegraph* building, was the shares in the British National Investment Trust, Ltd., which shares had been bought at the inflated price referred to in paragraph 64, the value of debentures issued by the British National Trust, Ltd., was dependent largely on the value of the *Daily Telegraph* building (hereinafter referred to as the "trust building").

68. Evidence was given before the Royal Commission in Sydney by Mr. Robert Hill, a chartered accountant employed to assist the Commission, that if the trust building were valued at £250,000 he estimated that the value of the debentures issued by the British National Trust, Ltd., was 9s. 7d. in the pound. Similar estimates of values made by him on the basis of valuations of the trust building of £300,000 and £400,000 respectively showed valuations of the British National Trust, Ltd., debentures at 12s. in the pound and 16s. 10d. in the pound respectively.

69. An estimate of the value of the British National Trust, Ltd., debentures on the basis of a valuation of the trust building of £350,000 is made in this report. (Paras. 119 to 122.)

70. From the foregoing it is apparent that the value of the investments totalling £330,098 held on account of the "B" Series debenture-holders of the Investment Executive Trust of New Zealand, Ltd., in so far as those investments consist of the £154,000 debentures in the British National Trust, Ltd., can be a matter of estimate only.

71. The next item forming part of the £330,098 to require consideration is the sum of £55,000 invested in the debentures of the Southern British National Trust, Ltd. As previously mentioned (para. 42), the Southern British National Trust, Ltd., was incorporated in Sydney, New South Wales, in January, 1933, and it is desirable to explain how debentures in the Southern British National Trust, Ltd., came to be held by the Investment Executive Trust of New Zealand, Ltd.

72. It has already been mentioned (para. 59) that the £50,000 required by the British National Investment Trust, Ltd., for deposit and first payment to the vendors of the trust building was provided by the Investment Executive Trust of New Zealand, Ltd., and that debentures were issued to the Investment Executive Trust of New Zealand, Ltd., by the British National Investment Trust, Ltd., to cover this sum. At a later stage, however, the Southern British National Trust, Ltd., took up in the British National Investment Trust, Ltd., 110,000 preference shares of 10s. each and the funds so provided—viz., £55,000—were applied in part in paying off the debentures issued by the British National Investment Trust, Ltd., to the Investment Executive Trust of New Zealand, Ltd. In this transaction, however, no actual money passed because the Investment Executive Trust of New Zealand, Ltd., in turn took up £55,000 debentures in the Southern British National Trust, Ltd.

73. The balance-sheet as at 30th June, 1934, of the Southern British National Trust, Ltd. (Exhibit "M" [not printed]), submitted by the officials of that company to the Royal Commission in Sydney, showed that in respect of a paid-up debenture capital of £181,156 13s. 5d. in the "B" Series, the investments totalled £183,025 2s. 8d. Of this sum, £99,000—less amounts owing, £1,448 16s. 8d., leaving £97,551 3s. 4d.—was represented by debentures in the British National Trust, Ltd., and £55,000 by the preference shares already referred to (para. 72) in the British National Investment Trust, Ltd. In so far, therefore, as the investments on account of the "B" Series debenture-holders are represented by debentures in the Southern British National Trust, Ltd., the value of such investments is again dependent largely on the value of the trust building.

74. The next item for consideration is the sum of £44,367 invested on behalf of the "B" Series debenture-holders of the Investment Executive Trust of New Zealand, Ltd., in the Transport Mutual and General Insurance Co., Ltd. This sum represents the amount paid up as at 30th June, 1934, on 60,000 shares of £1 each held in that company.

[NOTE.—The amount paid up on these shares as at 15th August, 1934, was £51,000. (See para. 39.)]

75. As the total issued capital of the Transport Mutual and General Insurance Co., Ltd., consists of 60,307 ordinary shares, the Investment Executive Trust of New Zealand, Ltd., holds practically the whole of the shares in that company. The investments of that company as at 15th August, 1934, total £50,121 2s. 11d. Of this sum, £21,525 was represented by twenty-one debentures of £1,000 each in the British National Trust, Ltd., and £20,665 10s. 5d. was represented by what is termed in the accounts of the company "Share Purchase Account" and which is made up as follows:—

	£	s.	d.
Shares in the Trustees Executors and Agency Co. of N.Z., Ltd., and in the Perpetual Trustees Estate and Agency Co. of N.Z., Ltd., purchased through A. H. Anthony	14,779	1	6
Shares in the Trustees Executors and Agency Co. of N.Z., Ltd., and in the Perpetual Trustees Estate and Agency Co. of N.Z., Ltd., purchased in London	2,810	6	7
N.Z. Government Inscribed Stock	3,006	14	0
Insurance premium on policy on the life of Mrs. McArthur with the Australian Mutual Provident Society	69	8	4
	<u>£20,665</u>	<u>10</u>	<u>5</u>

76. The shares purchased in the Trustees Executors and Agency Co. of N.Z., Ltd., and in the Perpetual Trustees Estate and Agency Co. of N.Z., Ltd., were purchased in many instances at prices considerably higher than the ruling market rate at the time of purchase.

77. It is obvious from the foregoing examination of the three main investment items referred to in para. 54 that the value of the investments made on behalf of the debenture-holders of the "B" series debentures of the Investment Executive Trust of New Zealand, Ltd., depends very largely through both direct and indirect investment, on the value of the debentures issued by the British National Trust, Ltd., and thus on the value of the trust building.

INVESTMENTS ON ACCOUNT OF "SECOND B" SERIES DEBENTURE-HOLDERS.

78. Reference to the table set out above (para. 47) discloses that according to the balance-sheet of the company as at 30th June, 1934, the amount subscribed by "Second B" Series debenture-holders amounted to £423,892, while the investments on their account amounted to £412,373. The shortage in investments amounts to £11,519, but, here again, it is necessary to inquire into the constitution of the investments making up the total of £412,373.

79. The foregoing total of £412,373 includes the sum of £69,000 for debentures in the British National Trust, Ltd., and the value of the investments on account of the "Second B" Series of debenture-holders is to this extent, therefore, dependent on the value of the trust building.

80. The foregoing total of £412,373 also includes the sum of £285,695 secured by debentures from the New Zealand Shareholders Trust, Ltd. For all practical purposes it may be said that the assets of the New Zealand Shareholders Trust, Ltd., comprise debentures in the "A" and "B" Series of the first issue of debentures of the Investment Executive Trust of New Zealand, Ltd.

81. Most of these debentures held by the New Zealand Shareholders Trust, Ltd., were bought by that company at a premium of 10 per cent. and the New Zealand Shareholders Trust, Ltd., had, in most cases, also to bear the cost of brokerage at 2½ per cent. paid to V. B. McInnes and Co., Ltd., or others, and also the stamp duty on the transfers of the debentures from the prior debenture-holders to the New Zealand Shareholders Trust, Ltd. The funds to finance these purchases were supplied by the Investment Executive Trust of New Zealand, Ltd. The effect of these debenture transactions (sometimes referred to as "conversions") through the New Zealand Shareholders Trust, Ltd., was that the prior holders of the first series "B" debentures received in exchange therefor debentures in the second series. The second series debentures were, in general, issued at the rate of £110 for every £100 of first series "B" debentures "converted." Thus the holders of the "Second B" Series debentures in the aggregate held as part of the investments of the funds of their series debentures given by the New Zealand Shareholders Trust, Ltd., charging the debentures held by that company in the first series debentures issued by the Investment Executive Trust of New Zealand, Ltd. It is necessary to note, however, that every £1,000 worth

of debentures of the New Zealand Shareholders Trust, Ltd., held on account of the "Second B" Series of debenture-holders of the Investment Executive Trust of New Zealand, Ltd., represents approximately only £880 of debentures in the first series of the Investment Executive Trust of New Zealand, Ltd. This may be illustrated as follows:—

First Series "B" Debentures acquired by the New Zealand Shareholders Trust Ltd., by transfer—nominal value	£	s.	d.
880	0	0	
Add Premium 10 per cent.	88	0	0
	968	0	0
Add Brokerage $2\frac{1}{2}$ per cent.	24	4	0
	992	4	0
Add Stamp duty on £968 at 5s. 6d. per £100 or part of £100. As debentures not necessarily transferred in multiples of £100, say	2	15	0
	994	19	0
Add Office expenses of the New Zealand Shareholders Trust, Ltd., say	5	1	0
Money advanced by the Investment Executive Trust of New Zealand, Ltd., for which debentures issued to the Investment Executive Trust of New Zealand, Ltd., by the New Zealand Shareholders Trust, Ltd.	£1,000	0	0

82. Certain reasons for these transactions have been advanced from time to time by those concerned with the carrying-out of the operations, but we are forced to the conclusion that the transactions were carried out primarily in an endeavour to enable the Investment Executive Trust of New Zealand, Ltd., to avoid or modify the burden of certain obligations placed upon it by the first prospectus issued by it and by the debentures issued thereunder. This matter is further referred to in this report under the heading "Exchange of Debentures of the Investment Executive Trust of New Zealand, Ltd., in First Series for Debentures in Second Series." (Para. 97; see also paras. 104, 219, and 226.) At this stage we say merely that if our supposition as to reason underlying the transactions is correct the transactions were, in our opinion, in the absence of full disclosure to the transferors of "first series" debentures, most improper; and further, the Investment Executive Trust of New Zealand, Ltd., has the same obligations under the debentures transferred to the New Zealand Shareholders Trust, Ltd., as it had to the original holders of such debentures, and so actually to the holders of the "Second B" Series debentures, who are the real owners of the Investment Executive Trust of New Zealand, Ltd., debentures held by the New Zealand Shareholders Trust, Ltd. We also consider that it was most improper to invest the funds of the "Second B" Series debenture-holders in this manner.

PROSPECTUSES ISSUED BY THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

83. The first prospectus issued by this company is dated 12th March, 1931, and a copy was filed with the Registrar of Companies, Auckland, on 14th March, 1931. A copy of this prospectus is appended. (Exhibit "R" [not printed].)

84. This prospectus provided for the issue of debentures in two series—an "A" Series of 50,000 "First Mortgage Perpetual Income Debentures" of £10 each, and a "B" Series of 50,000 "First Mortgage Perpetual Income Debentures" of £10 each.

85. The following provisions are extracted from this prospectus:—

"The holders of the 'A' Series income debentures will have a first mortgage over the whole of the investments in the series, consisting of Government bonds, municipal debentures, first-mortgage debentures, and securities authorized by the Government of New Zealand for the investment of trust funds, and shall be entitled to 95 per cent. of the net revenue from the series after making provision for reserves."

"The holders of the 'B' Series income debentures will have a first mortgage over the whole of the investments in the series, consisting of any investments authorized by 'A' Series and preference and ordinary shares in approved financial, industrial, and commercial companies registered within the British Empire, and shall be entitled to 95 per cent. of the net revenue from the series after making provision for reserves."

"The whole of the proceeds of this issue, less administration costs of the issue, will be invested in the securities and investments authorized in each series."

"*Distribution of Profits.*—The annual net revenue received from all investments in each series, after deducting administration costs, will be distributed in the following manner:—

"Firstly, 95 per cent. shall be set aside for the income debenture-holders as interest, and shall, in accordance with the terms of the debenture, be paid to the debenture-holders, less 10 per cent., which shall be placed to a reserve in each series and which shall be reinvested by the company in such investments and securities as are specified by the debentures of each series.

"Secondly, the remaining 5 per cent. shall be the profits of the company, out of which the company shall pay the directors' fees,

“Investments to be Spread over Several Securities.—To ensure an equitable distribution of securities consistent with economical operations and safety, the company has planned to invest its debenture capital in a large number of securities, and undertakes that upon completion of this issue of debentures in each series, not more than 10 per cent. of the total debenture capital received shall be invested in any one security.”

NOTE.—This provision is somewhat illusory, as the 10 per cent. stipulation applies only on completion of the issue. Nevertheless, it was unquestionably used as an inducement to investors to invest in the debentures. We examined on oath two ex-salesmen of V. B. McInnes and Co., Ltd., and set out hereunder certain questions asked by us regarding this 10-per-cent. clause and the witnesses' answers:—

First Witness.

Question.—“What did you understand by the provision in the debenture relating to the proportion which any one investment was to bear to the whole funds?”

Answer.—“I understood that not more than 10 per cent. of the total funds could be invested in any one particular investment, and I used this statement frequently as an argument for selling debentures.”

Second Witness.

Question.—“You know that in the debentures there is a special clause which appears to limit the investment in any one security to 10 per cent. of the total issue?”

Answer.—“I believe that was the case.”

Question.—“Did you emphasize that in any way?”

Answer.—“In approaching the prospect I on many occasions emphasized that not more than 10 per cent. of the debenture capital could be invested in any one concern, although I believed that, as I had been told the number of companies in which the debenture-holders' money was then invested was in the vicinity of 100, the percentage in each would be much less than 10.”

The 10-per-cent. clause was omitted from all subsequent prospectuses.

“Administration.—Owing to the nature of the company's business the office costs will be almost negligible.”

NOTE.—This provision was omitted from all subsequent prospectuses. The question of administration costs is further referred to in para. 221.

“Brokerage.—The company reserves the right to pay brokerage at the rate of 5 per cent. on the value of income debentures subscribed.”

86. The amount paid up on debentures of “A” Series and “B” Series issued by the Investment Executive Trust of New Zealand, Ltd., and presumably all issued under the first prospectus was, as at 30th June, 1934:—

					£	s.	d.
“A” Series	..	..	..	..	25,990	0	0
“B” Series	..	..	..	..	304,851	13	1

87. The second prospectus is dated 7th February, 1933, and a copy was filed with the Registrar of Companies, Auckland, on 7th February, 1933. A copy of this prospectus is appended. (Exhibit “S” [not printed].) We have not seen a printed copy of this prospectus and have no evidence that it was ever actually issued to the public.

88. The second prospectus was followed by a third prospectus dated 8th April, 1933, and a copy was filed with the Registrar of Companies, Auckland, on 8th April, 1933. A copy of this prospectus is appended. (Exhibit “T” [not printed].)

89. The third prospectus is, in many respects, identical with the second. A close comparison of the prospectuses reveals, however, the following points of difference:—

Third Prospectus, 8th April, 1933.

Second Prospectus, 7th February, 1933.

Page 1, lines 13, 14, and 15—

“Of the authorized share capital 50,000 preference shares only are offered for subscription by this prospectus. Terms of subscription: 10 per cent. on application, and the balance on allotment.”

Not in (but see under “Line 45” below).

Line 23—

“No portion of the first issue of debenture capital is offered for subscription by this prospectus.”

Not in.

Line 26—

“Second A.”

“A.”

Line 32—

“Second B.”

“B.”

Line 45—

“The whole of the second issue of debenture capital is now offered for subscription by this prospectus.”

“50,000 preference shares and the whole of the second issue of ‘A’ and ‘B’ Series debentures only are now offered for subscription by this prospectus. The terms of subscription for preference shares are—10 per cent. on application and the balance on allotment.”

Third Prospectus, 8th April, 1933—*continued.*

Lines 46 and 47—

"The debentures of the second issue of debenture capital constitute a first mortgage over the assets secured thereby, and do not rank *pari passu* with the debentures of any other issue."

Page 2, line 47—

"The Trust held 180 separate investments . . ."

Line 50—

"£159,000,000."

Page 3, line 2—

"For second issue of debenture capital offered for subscription by this prospectus."

Line 20—

"100,000 debentures all in like form called 'Second A' Series numbered 1 to 100,000."

"200,000 debentures all in like form called 'Second B' Series numbered 1 to 200,000."

Line 55—

"Debentures."

Line 83—

"('Second A' Series)."

Line 86—

"('Second B' Series)."

Second Prospectus, 7th February, 1933—*continued.*

Not in—

But after the words "To which such certificate relates" in line 49 of the prospectus of 8th April, 1933, are added the words, "and the debentures will constitute a first mortgage over the investments in that series."

"The Trust held 195 separate investments . . ."

"£158,000,000."

Not in.

"100,000 ('A' Series), 200,000 ('B' Series); like debentures numbered 1 to 100,000 ('A' Series), 1 to 200,000 ('B' Series)."

"Debenture."

"('A' Series)."

"('B' Series)."

90. The principal object in replacing the second by the third prospectus appears to have been to make clear that no portion of the first issue of debenture capital was offered under the new prospectus.

91. The second and third prospectuses read in conjunction provided for the issue of further debentures in two series—100,000 "Second A" Series first mortgage perpetual income debentures of £10 each, and 200,000 "Second B" Series first mortgage perpetual income debentures of £10 each.

92. In the second and third prospectuses (and also in the fourth prospectus) the form of debentures is set out in full.

93. The conditions of the second, third, and fourth prospectuses and of the debentures issued thereunder were materially different from the conditions of the first prospectus dated 12th March, 1931, and of the debentures issued thereunder in various respects including the following :—

- (a) The first prospectus provided that 10 per cent. of 95 per cent. of the income should be placed in reserve and reinvested while the later prospectuses provided for a similar 10 per cent. "*or such greater percentage as the directors shall determine.*"
- (b) The first prospectus stated that "to ensure equitable distribution of securities consistent with economical operations and safety the company has planned to invest its debenture capital in a large number of securities and undertakes that upon completion of this issue of debentures in each series not more than 10 per cent. of the total debenture capital received shall be invested in any one security." This provision was omitted from the later prospectuses.
- (c) The first prospectus stated under the heading "Administration": "Owing to the nature of the company's business the office costs will be almost negligible." This provision was omitted from the later prospectuses.
- (d) The First Series debentures provided for the retention of "brokerage and administration costs" out of moneys received for the sale of debentures.

The Second Series debentures provided for the retention, out of moneys received for the sale of debentures and *out of income and profits from investments, of all costs, charges, taxes, commissions, and expenses incurred and moneys paid by the trust, on any account whatsoever* (other than costs, &c., relative to formation and registration of trust and obtaining and investing share capital and directors' remuneration).

- (e) The First Series debentures provided (clause 9) for deduction from income of "*administration costs.*"

The Second Series debentures provided (clause 10) for deduction of proportion of "debenture charges" and also "*all costs, charges, taxes as the directors of the trust shall deem proper.*"

94. It may be here noted that the Southern British National Trust, Ltd., issued a prospectus dated 18th January, 1933—i.e., approximately three weeks before the date of the second prospectus of the Investment Executive Trust of New Zealand, Ltd., was issued. This Southern British National Trust, Ltd., prospectus also contains a specimen form of debenture, and the Investment Executive Trust of New Zealand, Ltd., debenture as set out in the prospectus dated 7th February, 1933, is, for all practical purposes, identical with the Southern British National Trust, Ltd., debenture. In fact, the only variations, other than in the name of the company issuing the debenture, are as follows:—

Conditions, Clause (1).—The Investment Executive Trust of New Zealand, Ltd., debenture provides for the issue of a different number of debentures and for two series of debentures. The word “against” in the last line but one of *Conditions, Clause (8)* of the Investment Executive Trust of New Zealand, Ltd., debenture does not appear in the Southern British National Trust, Ltd., debenture. The omission of the word “against” in the debenture of the Southern British National Trust, Ltd., was possibly a printer’s error or a draftsman’s error.

Conditions, Clause (10).—The words “and all costs, charges, taxes” appear in the seventh and eighth lines of the debenture of the Investment Executive Trust of New Zealand, Ltd., but not in the debenture of the Southern British National Trust, Ltd. We think it is probable that these words were inserted in the debenture of the Investment Executive Trust of New Zealand, Ltd., to make certain that the trust was empowered to charge income-tax against the funds of the debenture-holders.

In the same clause in the seventeenth and eighteenth lines the Investment Executive Trust of New Zealand, Ltd., debenture contains the words “or such greater percentage as the directors shall determine.” These words do not appear in the Southern British National Trust, Ltd., debenture.

95. The fourth and last prospectus issued is dated 3rd April, 1934, and a copy was filed with the Registrar of Companies, Auckland, on 3rd April, 1934. A copy of this prospectus is appended. (Exhibit “U” [not printed].) This prospectus largely follows the form of the third prospectus, but contains fuller and further information presumably to comply with the provisions of the Companies Act, 1933, which came into operation on 1st April, 1934.

EXCHANGE OF DEBENTURES OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., IN FIRST SERIES FOR DEBENTURES IN SECOND SERIES.

96. We think it is probable that the words “or such greater percentage as the directors shall determine” quoted in the last subpara. of para. 94 were inserted in the debentures of the Investment Executive Trust of New Zealand, Ltd., for the following reasons:—

97. It has already been stated that in the second and later prospectuses certain very important clauses appearing in the first prospectus were omitted or greatly modified. Moreover, certain of the provisions contained in the First Series debentures were of such a nature that doubt arose as to whether the Investment Executive Trust of New Zealand, Ltd., was legally entitled to charge against the funds of the debenture-holders the sums paid to V. B. McInnes and Co. and/or V. B. McInnes and Co., Ltd., in addition to the 5 per cent. brokerage paid to that company; and also as to whether the trust was empowered to deduct from the income earned by investments held on behalf of any specified series of debenture-holders, income-tax payable on the income earned by such investments.

98. In order to persuade the holders of debentures in the First Series to exchange their debentures for debentures in the Second Series it became necessary for the brokers of the Investment Executive Trust of New Zealand, Ltd., to have some apparently satisfactory reason which they could advance to debenture-holders. It is obvious, for example, that if the debenture-holders were told that the reason for desiring them to exchange their debentures was that the trust should be legally entitled to deduct from the funds subscribed by them certain administration charges which it might not otherwise be legally entitled to deduct, and also to deduct from the income earned on the investments, income-tax which the trust might not otherwise be legally entitled to deduct, then the debenture-holders would almost certainly decline to exchange their debentures.

99. The insertion of the words “or such greater percentage thereof as the directors shall determine” enabled the selling agents of the trust to put forward the argument—and, in fact, to do this with truth—that under the First Series of debentures the trust was under a definite obligation to distribute to debenture-holders 95 per cent. of the net income less 10 per cent. to be placed to reserve, whereas under the new form of debenture the directors were empowered to retain a larger sum in reserve and so to smooth out fluctuations in debenture-holders’ income.

100. About August, 1933, active steps began to be taken to regain control of the debentures issued in the “First A” and “First B” Series. This was done through the medium of the New Zealand Shareholders Trust, Ltd. The method adopted was for the company’s brokers (usually V. B. McInnes and Co., Ltd.) to approach the debenture-holders and to put forward reasons why the debenture-holder should “convert” from First to Second Series. On the debenture-holder agreeing to this course he signed a form of transfer of his existing debentures to the New Zealand Shareholders Trust, Ltd., and a form of application to the Investment Executive Trust of New Zealand, Ltd., for debentures in the Second Series. This application was usually (in the case of “B” Series) for a sum of debentures 10 per cent. in excess of the debentures originally held—this “premium” being held out by the agents of the trust as an added inducement to “convert.” Where the added 10 per cent. did not bring the total sum up to an even number of tens of pounds the difference was adjusted either by the debenture-holder paying in sufficient to bring the total sum up to the next multiple of £10 or by a refund being

made to him of the difference over the last multiple of £10. The debenture-holder also signed a letter authorizing and requesting the New Zealand Shareholders Trust, Ltd., to pay over the purchase-price of the debentures to the Investment Executive Trust of New Zealand, Ltd., to be applied in payment for debentures in the Second Series.

101. According to the records of the New Zealand Shareholders Trust, Ltd., as at 30th June, 1934, the debentures of the Investment Executive Trust of New Zealand, Ltd., held by or due to be transferred to the New Zealand Shareholders Trust, Ltd., amounted, at par, to—

	£
" A " Series	17,050
" B " Series	248,500
	<u>£265,550</u>

102. Reference to the balance-sheet of the Investment Executive Trust of New Zealand, Ltd., as at 30th June, 1934, shows that the total paid up issue of " A " and " B " Series debentures was as follows :—

	£	s.	d.
" A " Series	25,990	0	0
" B " Series	304,851	13	1
	<u>£330,841</u>	<u>13</u>	<u>1</u>

103. Since 30th June, 1934, further " A " and " B " Series debentures have been acquired by the New Zealand Shareholders Trust, Ltd., and, moreover, a considerable number were held by the Sterling Investments Company (New Zealand), Ltd. The latest figures available to us are as follows :—

" A " Series debentures held by the Sterling Investments Company (New Zealand), Ltd., as at 30th June, 1934, paid up to	£ 540
" B " Series debentures held by the Sterling Investments Co. (New Zealand), Ltd., as at 30th June, 1934, paid up to	20,353
" A " Series debentures held by the New Zealand Shareholders Trust, Ltd., as at 29th August, 1934, paid up to	17,550
" B " Series debentures held by the New Zealand Shareholders Trust, Ltd., as at 29th August, 1934, paid up to	253,970
	<u>£292,413</u>

104. The funds for the purchase of First Series debentures of the Investment Executive Trust of New Zealand, Ltd., by the New Zealand Shareholders Trust, Ltd., were supplied out of the funds provided by the " Second B " Series debenture-holders of the Investment Executive Trust of New Zealand, Ltd. The New Zealand Shareholders Trust, Ltd., gave to the Investment Executive Trust of New Zealand, Ltd., debentures providing that the interest payable under such debentures should be the income received by the New Zealand Shareholders Trust, Ltd. Therefore, if there has been deducted from the income allocated to the debentures held by the New Zealand Shareholders Trust, Ltd., any income-tax not legally deductible, or any unauthorized administration charges then, in our opinion, the holders of " Second B " Series debentures have a claim against the Investment Executive Trust of New Zealand, Ltd., and/or its directors for refund of such amount.

105. The question as to the deductibility of income-tax and of certain administration charges has, in the past, been submitted by or on behalf of the Investment Executive Trust of New Zealand, Ltd., for legal opinion, and reference is made to this matter in paras. 218 to 227 of this report. In the meantime, we content ourselves with saying that the matter is very involved, and that in the books of the Investment Executive Trust of New Zealand, Ltd., only an approximation of income has been transferred to the credit of the " Second B " Debenture-holders' Income Account in respect of the investments in debentures of the New Zealand Shareholders Trust, Ltd.

" REDEMPTION " OF DEBENTURES OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

106. The prospectus dated 12th March, 1931, provides :—

- " The holders of the " A " Series income debentures will have a first mortgage over the whole of the investments in the Series ."
- " The holders of the " B " Series income debentures will have a first mortgage over the whole of the investments in the Series ."
- " The whole of the proceeds of this issue less administration costs of the issue will be invested in the securities and investments authorized in each series."
- The " A " Series debentures and the " B " Series debentures both contain the following provision :—
 - " The company hereby charges with the due performance of its obligations hereunder : All stocks, debentures, and other investments and securities held by the company or on its behalf and forming or representing investments of the proceeds of sales of debentures in this Series ."

107. The prospectuses dated 7th February, 1933, 8th April, 1933, and 3rd April, 1934, respectively, each contain the form of debenture to be issued and these forms of debentures contain the following provisions:—

“The Trust hereby charges with the due performance of its obligations hereunder:—

“(a) All investments and securities from time to time forming or representing investments of the net proceeds of sales of debentures of this series and of any reserve in respect of this series.”

108. It appears to us that the effect of the provisions quoted above was that as the funds provided by the debenture-holders were (subject to deduction of administration charges, &c.) under charge to the debenture-holders, the trust could not dispose of any of its assets so under charge for the purpose of redeeming any debentures.

109. The procedure referred to in para. 99 and following paras., possibly avoided the legal objection that the trust could not of itself repurchase its own debentures, but such procedure must, in our opinion, be regarded as a subterfuge.

110. It is desirable to add that from time to time certain debenture-holders became dissatisfied with their investments, and made application that the money subscribed by them for debentures be refunded. Where the Investment Executive Trust of New Zealand, Ltd., complied with this request it was done usually by the Sterling Investments Company (New Zealand), Ltd., making payment to the debenture-holders and taking from the debenture-holders a transfer to itself of the debentures. This is largely reflected in the balance-sheet of the Sterling Investments Company (New Zealand), Ltd., as at 30th June, 1934. (Exhibit “F” [not printed].) In addition to the “A” and “B” Series debentures held and already referred to in para. 103, that company held as at 30th June, 1934, “Second B” Series debentures to the extent of £51,380. Debentures of the Investment Executive Trust of New Zealand, Ltd., of all series held by the Sterling Investments Company (New Zealand), Ltd., as at 30th June, 1934, numbered 7,377 paid up to £72,273. These debentures were not all, however, bought from dissatisfied debenture-holders. Some were bought on the open market.

111. The question of repurchase of debentures from dissatisfied debenture-holders will be further referred to in the Inspectors’ Report on the Sterling Investments Company (New Zealand), Ltd., more particularly in relation to what is referred to as the “Smith Transaction.”

112. We have given some thought to the question of whether the “conversion” operations referred to in para. 99 *et seq* might have been inspired by a desire for “window-dressing” by showing an inflated total of debentures subscribed. The inflated total has been made use of. For example, in the prospectus dated 3rd April, 1934, the amount paid up on debentures is shown as follows:—

	£
“A” debentures	25,990
“B” debentures	303,059
“Second A” debentures	690
“Second B” debentures	350,307

The large sums shown above may have been a factor in inducing some investors to subscribe for debentures in the Investment Executive Trust of New Zealand, Ltd. We think, however, that the inducements to the Investment Executive Trust of New Zealand, Ltd., to regain control of the First Series debentures, on account of the conditions of the prospectus under which they were issued, and on account of the doubts arising regarding the charging of administration charges and income-tax, were so strong as to overshadow any consideration of possible advantage to be secured by “window-dressing.”

VALUATION OF DEBENTURES ISSUED BY THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

113. An endeavour is now made to arrive at an approximate valuation of the debentures issued by the Investment Executive Trust of New Zealand, Ltd.

114. Any valuation of these debentures can at best be an approximation only as the basis of calculation is of necessity complicated by many factors. Among the most important of these are the following:—

- (a) As the Investment Executive Trust of New Zealand, Ltd., holds debentures issued by the Southern British National Trust, Ltd., it is necessary before arriving at any valuation of the debentures of the Investment Executive Trust of New Zealand, Ltd., to consider first the value of the debentures of the Southern British National Trust, Ltd.
- (b) As both the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd., hold debentures issued by the British National Trust, Ltd., it is necessary before arriving at any valuation of the debentures of either the Investment Executive Trust of New Zealand, Ltd., or of the Southern British National Trust, Ltd., to consider first the value of the debentures of the British National Trust, Ltd.
- (c) The value of the debentures of the British National Trust, Ltd., is dependent to a great extent on the value of the trust building. It is also dependent to a considerable degree on the value of the assets owned by the Sterling Investments Company (New Zealand), Ltd.
- (d) The trust building is owned by the British National Investment Trust, Ltd., but the building was leased by that company to the British National Trust, Ltd. for a term of ninety-nine years at an annual rental of £7,500 per annum (afterwards increased).
- (e) Of the 110,080 preference shares issued by the British National Investment Trust, Ltd., 110,000 are owned by the Southern British National Trust, Ltd., and of the 250,000 ordinary shares of the British National Investment Trust, Ltd., 249,993 are owned by the British National Trust, Ltd.

115. The trust building stands in the books of the British National Investment Trust, Ltd., as at 30th June, 1934, at cost to that company to date £100,848. Property improvements stand in the books of the British National Trust, Ltd., as at 30th June, 1934, at £107,498, a total of £208,346. In addition, "Property Establishment Account" stands in the books of the British National Trust, Ltd., as at 30th June, 1934, at £30,753 4s. 2d.

116. In evidence given before the Royal Commission in Sydney various values were placed upon the trust building. Mr. Justice Halse Rogers, in his interim report dated 1st November, 1934, said, at page 12:—

" . . . The evidence of value called before me was not very satisfactory, and I certainly think that £300,000 is probably below the true value, and that £400,000 is too high a figure . . . On the evidence before me I do not think it proper to attempt to put a definite value on the building; but I am of opinion that £300,000 is nearer to the value than £400,000 . . . "

117. In the calculations which follow we have assumed a value of £350,000, which we think is on the liberal side.

118. If the building were sold, it would doubtless require to be sold subject to the long-term lease to the British National Trust, Ltd., and this would depreciate its value to any one except the British National Trust, Ltd. For the purpose of the following calculations it has, however, been assumed that the building could be sold for £350,000 by the British National Investment Trust, Ltd., so enabling preference capital, held principally by the Southern British National Trust, Ltd., to be paid out in full.

CALCULATIONS.

119. Section A—

<i>The British National Investment Trust, Ltd.</i>				£
Valuation assumed for trust building	..	..	..	350,000
Other assets as at 30th June, 1934:—				
Furniture and stationery, say par	..	..	..	46
Balance at bank	..	..	..	232
Owing by the Southern British National Trust, Ltd.	..	..	..	17
Debentures of the British National Trust, Ltd., £3,075—deducted in Section B. The British National Trust, Ltd., from total debenture liability (see para. 121).				
The British National Trust, Ltd., £55,573 (not treated as collected, as if it was it would be handed back by way of distribution on ordinary shares).				
				£
Less Mortgage and accrued interest	..	..	100,250	
Sundry creditors	..	..	2,612	
Repayment of preference share capital	..	..	55,040	
Premium 10 per cent. on preference shares on winding-up (in terms of Article 148 of articles of association)	..	..	5,504	
Liquidation expenses (not taken into account)	..	..
				163,406
Balance to ordinary shareholders (the ordinary shares are held almost entirely by the British National Trust, Ltd.)	..	..		186,889

120. Section B:—

<i>The British National Trust, Ltd.</i>				£
Surplus from the British National Investment Trust, Ltd., Section A	..	..	186,889	
Other assets as at 30th June, 1934:—				
Signs, linoleum, and building equipment—book value assumed	..	..	687	
30 preference shares in the British National Investment Trust, Ltd., at 10s., plus 10 per cent.	..	..	16	
3,000 shares 2L.E. Radio Corporation, Ltd.—book value assumed	..	..	3,000	
Shares in the Sterling Investments Co. (New Zealand), Ltd. (We consider that these have no value, and that on the contrary there is a considerable potential contingent liability for unpaid capital. We have not, however, brought this into account in our calculations. Had we done so, the valuation of the British National Trust, Ltd., debentures would have been correspondingly reduced.)				
Debentures in the Southern British National Trust, Ltd., par assumed	..	..	4,090	
Sundry debtors (these include the Sterling Investments Co. (New Zealand), Ltd., £91,356 (see footnote). Book value assumed for all sundry debtors	..	..	96,776	
Prepayments	..	..	1,244	
Balances at bank	..	..	1,999	
Available to meet debentures	..	..		£294,701

NOTE.—The amount which will be realized from the debt of £91,356 showing in the books of the British National Trust, Ltd., as owing by the Sterling Investments Co. (New Zealand), Ltd., is problematical. (Incidentally,

the amount appearing in the books of the Sterling Investments Co. (New Zealand), Ltd., as owing to the British National Trust, Ltd., is £91,565.) It is, however, necessary to point out that the balance-sheet of the Sterling Investments Co. (New Zealand), Ltd., as at 30th June, 1934 (Exhibit "F" [not printed]), is endorsed with a note as follows:—

"In pursuance of an agreement the above credit balance of J. W. S. McArthur is to be transferred to the credit of J. W. S. McArthur in the books of British National Trust, Ltd."

The credit balance referred to in the above note is one of £28,557 10s. 10d., and, if the agreement is carried into effect, the British National Trust, Ltd., will become the only creditor of consequence of the Sterling Investments Co. (New Zealand), Ltd., and the assets of the Sterling Investments Co. (New Zealand), Ltd., will thus practically all form part of the security of the debenture-holders of the British National Trust, Ltd.

In view of the foregoing, we have for the purposes of this calculation assumed book value for the debt due by the Sterling Investments Co. (New Zealand), Ltd., to the British National Trust, Ltd., although, in our opinion, many of the assets of the Sterling Investments Co. (New Zealand), Ltd., will realize much less than their book value.

121. The sum of £294,701 arrived at in the preceding paragraph is available to meet	£
debentures issued by the British National Trust, Ltd., as at 30th June, 1934, and interest	
accrued thereon	415,583
Deduct Debentures held by the British National Investment Trust, Ltd., and interest	
accrued thereon, referred to in Section A (para. 119)	3,075
	<u>£412,508</u>

122. On the foregoing basis (£294,701 to meet secured liabilities of £412,508) the debentures of the British National Trust, Ltd., are worth approximately 14s. 3d. in the pound. On the basis of a £350,000 valuation of the building we consider this is a liberal estimate by reason of the values assumed for other assets, and that it is highly probable that the position has deteriorated since 30th June, 1934.

123. Section C—

<i>The Southern British National Trust, Ltd.</i>				£
Investments "A" Series—book value assumed .. .. .	..	..	..	2,168
Investments "B" Series sundries—book value assumed .. .. .	..	..	..	29,205
				£
Preference shares in the British National Investment Trust, Ltd. ..	..	55,000		
Add 10 per cent. premium referred to in Section A (para. 119) ..	..	5,500		
				<u>60,500</u>
Amount owing by the Investment Executive Trust of New Zealand, Ltd.—book value assumed .. .. .	..	..	..	322
Balance at bank .. .. .	..	..	..	1,098
Debentures of the British National Trust, Ltd.—nominal value ..	..	99,000		
Less "Owing" .. .. .	..	1,448		
				<u>97,552</u>
Add Interest accrued .. .. .	..	1,673		
				<u>£99,225</u>
£99,225 as above at 14s. 3d. in pound as per Section B (para. 122) ..	..	..		70,698
				<u>163,991</u>
Available to meet debentures .. .. .	..	..	..
				<u>£184,536</u>
Liability on debentures as per balance-sheet (Exhibit "M") .. .. .	..	..	..

124. On the foregoing basis (£163,991 to meet secured liabilities of £184,536) the debentures security is worth approximately 17s. 9d. in the pound.

125. In making the foregoing calculations we have not overlooked the fact that the debentures of the Southern British National Trust, Ltd., were issued in two series, an "A" and a "B," and it is, strictly speaking, necessary to consider the respective rights of the holders of debentures in the respective series. As, however, the paid-up value of debentures of the "A" Series is only £3,380 out of a total for both series of £184,536, this consideration does not materially affect the valuation.

126. In our opinion, the debenture-holders have in terms of the debentures issued to them, an unsecured claim ranking *pari passu* with ordinary unsecured creditors, against the general assets of the Southern British National Trust, Ltd., for any shortage in debenture security. It is, therefore, necessary to consider what sum in the pound should be added to the estimate of 17s. 9d. arrived at above.

127.		£
The total debenture liability of the Southern British National Trust, Ltd., as at 30th June, 1934, was .. .. .	..	184,536
Estimated available funds as arrived at above (para. 123) .. .. .	..	163,991
		<u>20,545</u>
Claim as unsecured creditors .. .. .	..
Other unsecured creditors as per balance-sheet as at 30th June, 1934 (Exhibit "M" [not printed]) .. .. .	..	3,284
		<u>£23,829</u>

NOTE.—Credit balances of J. W. S. McArthur and C. G. Alcorn amounting to £24,472 have not been taken into account in above as they are stated to be "in respect of shares to be subscribed."

Unencumbered Assets—

	£
Office furniture—Book-value assumed	3,287
McInnes and Co., Ltd.—Book-value, £4,334. No value placed on this item .. .. .	..
Investments, Australian Securities, Ltd.—Book-value assumed	60
Shares in the Investment Executive Trust of New Zealand, Ltd., nominal value £19,400—	
Book-value, £77,600. In our opinion of no value .. .. .	..
Balance at bank	16
Debentures the British National Trust, Ltd., and accrued interest £15,689 at 14s. 3d. in	
£1 as per Section B (para. 122)	11,178
	<u>£14,541</u>

128. On the above basis (£14,541 available to meet liabilities of £23,829) the additional security amounts to approximately 12s. 3d. in the pound on the claim. Twelve shillings and threepence in the pound on the estimated deficiency of £20,545 amounts to £12,584 which is equivalent to approximately 1s. 4d. in the pound on the total debenture liability of £184,536. One shilling and fourpence in the pound added to the previous estimate of 17s. 9d. in the pound (para. 124) gives a total estimated value, on the basis adopted, of 19s. 1d. in the pound for the debentures of the Southern British National Trust, Ltd.

129. *Section D: The Investment Executive Trust of New Zealand, Ltd.*—The position regarding valuation of debentures of the above company is complicated by the fact that its debentures are issued in four series. We propose, however, in the first place to consider the position broadly and to regard all the debentures issued as having equal claims on the assets, ranking *pari passu* as between themselves.

130.

The assets held on account of debenture-holders as per the balance-sheet as at 30th June, 1934 (Exhibit "A" [not printed]): total £ 771,981

Included in the foregoing assets are debentures of the British National Trust, Ltd., as follows:—

	£
Held on account "B" Series	154,000
Held on account "Second B" Series	69,000
Held by the Transport Mutual and General Insurance Co., Ltd.	21,000
	<u>244,000</u>

Also included are debentures of the Southern British National Trust, Ltd., held on account of "B" Series 55,000

Also included are debentures of the New Zealand Shareholders Trust, Ltd., held on account of "Second B" Series 285,695

584,695

Balance being other assets, including shares in the Transport Mutual and General Insurance Co., Ltd., which in turn owns shares in certain trustee companies bought at prices considerably in excess of market rates. ("B.N.T." debentures held by the Transport Mutual and General Insurance Co., Ltd., are extracted separately above)

"B.N.T." debentures as above £244,000 at 14s. 3d. in £1 as per Section B (para. 122) 187,286

"S.B.N.T." debentures as above £55,000 at 19s. 1d. in £1 as per Section C (para. 128) 173,850

"N.Z.S.T." debentures as above 52,479

Less, say, 12 per cent. to reduce to approximate nominal value of debentures held by the New Zealand Shareholders Trust, Ltd., in the Investment Executive Trust of New Zealand, Ltd. 285,695

34,283

Assumed nominal value of debentures of the Investment Executive Trust of New Zealand, Ltd., held by the New Zealand Shareholders Trust, Ltd. 251,412

Deduct 3s. 3d. in £1 to bring estimated value into correspondence with estimated value of 16s. 9d. in £1 arrived at at conclusion of this calculation 40,854

210,558

Available to meet debentures £624,173

Liability on debentures as per balance-sheet (Exhibit "A") £755,923

Note re the New Zealand Shareholders Trust, Ltd., debentures: The figure of £251,412 arrived at above is an approximation only, but we consider that it is sufficiently accurate for the purposes of the present estimate. The actual holdings of debentures of the Investment Executive Trust of New Zealand, Ltd., by the New Zealand Shareholders Trust, Ltd., as at 30th June, 1934, were, as far as we can ascertain—

	£
"A" Series	17,050
"B" Series	248,500
	<u>£265,550</u>

This sum is £14,138 in excess of the figure adopted by us. The difference is principally accounted for by the fact that the balance-sheet of the New Zealand Shareholders Trust, Ltd.,

as at 30th June, 1934, shows a bank overdraft of £13,429. This overdraft is not actual, and to meet the cheques drawn further advances of approximately the same amount would be required from the Investment Executive Trust of New Zealand, Ltd.

The figure of 12 per cent. adopted in the calculation is explained by reference to para. 81 of this report, under the heading "Investments on account of 'Second B' Series debenture-holders," where it is noted that every £1,000 worth of debentures of the New Zealand Shareholders Trust, Ltd., represents approximately only £880 of the Investment Executive Trust of New Zealand, Ltd., debentures.

131. Assuming book-value for the remaining investments there is, on the foregoing basis, a sum of £624,173 available to meet a total debenture issue of £755,923, or approximately 16s. 6d. in the pound.

132. In our opinion, the debenture-holders in the Investment Executive Trust of New Zealand, Ltd., have, similarly to the case of the Southern British National Trust, Ltd., an unsecured claim (arising out of clause 1 of the debentures), ranking *pari passu* with ordinary unsecured creditors, against the general assets of the Investment Executive Trust of New Zealand, Ltd., for any shortage in debenture security.

133. It is, therefore, necessary to consider what sum in the pound should be added to the estimate of 16s. 6d. in the pound arrived at above.

The total debenture liability of the Investment Executive Trust of New Zealand, Ltd.,	£
as at 30th June, 1934, was	755,923
Estimated available funds as arrived at above (Para. 130)	624,173
Claim as unsecured creditors	131,750
Other unsecured creditors as per balance-sheet as at 30th June, 1934 (Exhibit "A") :—	
	£
Sundry Creditors	3,124
The Sterling Investments Company (New Zealand), Ltd.	4,375
Income-tax reserve	4,000
	11,499
	<u>£143,249</u>

NOTE.—Credit balances of J. W. S. McArthur and C. G. Alcorn have not been taken into account in above as they are stated to be "in respect of shares to be subscribed."

Unencumbered Assets—

	£
Office furniture—Book-value assumed	1,212
Shares in Smith and Smith, Ltd.—Book-value assumed	40
Sundry debtors, say	2,000
Bank balance	756
"B.N.T." debentures £13,275 at 14s. 3d. in £ as per Section B (Para. 122)	9,458
	<u>£13,466</u>

134. On the above basis (£13,466 available to meet liabilities of £143,249) the additional security amounts to approximately 1s. 10d. in the pound on the claim. One shilling and tenpence in the pound on the estimated deficiency of £131,750 amounts to £12,077 which is equivalent to between threepence and fourpence in the pound on the total debenture liability of £755,923. Threepence in the pound added to the previous estimate of 16s. 6d. in the pound (para. 131) gives a total estimated value, on the basis adopted, of 16s. 9d. in the pound for the debentures (all series being for this purpose, regarded as one conglomerate group) of the Investment Executive Trust of New Zealand, Ltd.

135. We think that in view of the various favourable assumptions we have made as to values the foregoing estimate of 16s. 9d. in the pound is a liberal one. We emphasize, however, that no great reliance can be placed upon it. The interlocking of interests makes valuation both involved and difficult. Moreover, the valuation is based on many suppositions, and is liable to be affected materially by a number of factors. For example, any considerable reduction in the valuation of the trust building below £350,000 will reduce the estimate of debenture values. Per contra, the Sterling Investments Company (New Zealand), Ltd., is set forth as the owner of almost all the shares in the Pacific Exploration Company, Ltd. The Pacific Exploration Company, Ltd., includes among its assets an area of approximately 27,000 acres of land at North Auckland. The book-value of this land is £4,793. Mr. J. W. S. McArthur stated in evidence before the Royal Commission in Sydney on 11th September, 1934, that this land contains rich and extensive deposits of kauri-gum; that on a conservative estimate the quantity of gum on the area is not less than 50,000 tons, and that, valued at £60 per ton, the gum alone is worth £3,000,000 gross. This evidence does not greatly impress us, but we mention it as one of a number of factors which may possibly affect the value of the debentures. We are, however, strongly of the opinion that the debenture-holders should not have to rely on assets so problematical and speculative as this as part of their security.

136. We have already indicated that the above valuation of 16s. 9d. in the pound is based on a broad consideration of the position, all debentures issued being regarded as ranking *pari passu*. Actually this is not the case. The debentures are issued in four series—viz., "A," "B," "Second

A," and "Second B." The respective debentures give to the debenture-holders a charge over the assets of *their series*. We have already set out in Para. 47 of this report a summary of the amounts of debenture capital subscribed in the respective series and of the investments on account thereof. In amplification of this, we set out hereunder the trial balance, as at 30th June, 1934, of the "First A" Series in the books of the Investment Executive Trust of New Zealand, Ltd.:—

"A" SERIES.

	£	s.	d.	£	s.	d.
Debenture-holders	25,990	0	0			
Office furniture	34	11	3			
Appropriation				70	7	2
Reserve				196	18	2
Investments.. .. .	12,357	0	8			
Revenue				82	11	5
Farmers Trading Co.	10	0	0			
N.Z. Shareholders Trust				277	6	0
1st "B"	7,860	17	3			
2nd "B"	2,969	9	0			
Shareholders	1,876	11	8			
Sterling Investments Co.	29	2	6			
Cash-book balance	1,479	10	5			
	£26,617	2	9	£26,617	2	9

137. From the foregoing it will be seen that the amount subscribed by debenture-holders—viz., £25,990—is, on paper, fully accounted for by various assets, some of which are "internal" or "inter-series." Thus the item "1st B £7,860 17s. 3d." indicates that the sum of £7,860 17s. 3d. is owing by the "B" Series to the "A" Series.

138. Hereunder we set out similar trial balances, all as at 30th June, 1934, in respect of the "Second A," "B," and "Second B" Series:—

"SECOND A" SERIES.

	£	s.	d.	£	s.	d.
Debenture capital	1,190	0	0			
Office furniture	0	18	4			
Investments.. .. .	608	15	0			
1st "B"				0	15	3
2nd "B"				3	15	0
Shareholders	72	7	11			
Revenue				7	16	7
Reserve				0	17	2
Appropriation	7	15	3			
Cash-book—Balance cash at bank	513	7	6			
	£1,203	4	0	£1,203	4	0

"B" SERIES.

	£	s.	d.	£	s.	d.
Debenture capital "B"	304,851	13	1			
Interest accrued (1st "B")	2,849	14	2			
Revenue				3,748	0	3
Reserve				8,697	9	3
Investments.. .. .	5,000	1	6			
Office furniture	325,098	0	0			
Farmers Trading Co., Ltd.	412	17	4			
V. B. McInnes and Co., Ltd.	100	0	0			
British National Trust				25	7	6
Stock Exchange Corp. of New Zealand				150	11	5
1st "A" Account	4,799	9	3			
2nd "B" Account				7,860	17	3
2nd "A" Account	233	5	3			
Shareholders	0	15	3			
N.Z. Shareholders Trust (Interest Suspense Account)				1,101	15	8
Sydney Cash-book				13,607	5	0
London Cash-book	113	13	1			
Cash-book balance	9	18	5			
	1,425	5	2			
	£340,042	19	5	£340,042	19	5

	"SECOND B" SERIES.				£	s.	d.	£	s.	d.
Debenture capital	423,892	3	10
Office furniture	436	13	1	..	..	..
Interest accrued (2nd "B")	1,013	16	0	..	..	..
Revenue	1,118	17	7	..	..	..
Reserve	1,365	13	3
Investments (2nd "B")	412,372	19	4	..	..	..
Shareholders	3,687	5	9
B. N. T., Ltd.	889	0	5
1st "B" Account	233	5	3
1st "A" Account	2,969	9	0
2nd "A" Account	3	15	0	..	..	..
V. B. McInnes and Co., Ltd.	348	12	4	..	..	..
N.Z. Shareholders Trust (Interest Suspense Account pending conversion of 1st "B")	13,884	11	0	..	..	..
S. B. N. T. Ltd.	20	0	0
Sterling Investment Co. (N.Z.), Ltd.	406	9	0	..	..	..
Cash-book balance	1,388	6	2	..	..	..
Wellington cash-book	1,452	0	1	..	..	..
Dunedin cash-book	630	17	11	..	..	..
					£433,056	17	6	£433,056	17	6

139. In order to facilitate a comparison of certain of the items in the foregoing trial balances with the corresponding items in the balance-sheet of the Investment Executive Trust of New Zealand, Ltd., as at 30th June, 1934, we set out hereunder summaries of some of these items :—

							£	s.	d.
<i>Cash Balances—</i>									
"A" Series	..	..	..	..	..	Dr.	1,479	10	5
"Second A" Series	..	..	..	..	..	Dr.	513	7	6
"B" Series	..	..	..	..	..	Dr.	113	13	1
"B" Series	..	..	..	..	..	Dr.	9	18	5
"B" Series	..	..	..	..	..	Dr.	1,425	5	2
"Second B" Series	..	..	..	..	..	Dr.	1,388	6	2
"Second B" Series	..	..	..	..	..	Dr.	1,452	0	1
"Second B" Series	..	..	..	..	..	Dr.	630	17	11
Asset as per balance-sheet							..	..	..
							£7,012	18	9
<i>Shareholders and Office Furniture—</i>									
							£	s.	d.
"B" Series shareholders	..	..	..	Cr.	1,101	15	8		
"Second B" Series shareholders	..	..	..	Cr.	3,687	5	9		
							4,789	1	5
"A" Series shareholders	..	..	..	Dr.	1,876	11	8		
"Second A" Series shareholders	..	..	..	Dr.	72	7	11		
							1,948	19	7
							2,840	1	10
"A" Series furniture	..	..	..	Dr.	34	11	3		
"Second A" Series furniture	..	..	..	Dr.	0	18	4		
"B" Series furniture	..	..	..	Dr.	412	17	4		
"Second B" Series furniture	..	..	..	Dr.	436	13	1		
							885	0	0
Liability to shareholders as per balance-sheet							..	..
							£1,955	1	10
<i>Reserves—</i>									
							£	s.	d.
"A" Series	..	..	..	..	..	Cr.	196	18	2
"Second A" Series	..	..	..	..	..	Cr.	0	17	2
"B" Series	..	..	..	..	..	Cr.	8,697	9	3
"Second B" Series	..	..	..	..	..	Cr.	1,365	13	3
As per balance-sheet							..	..
							£10,260	17	10
<i>Revenue Account and Appropriation Account—</i>									
							£	s.	d.
"A" Series Revenue Account	..	..	..	..	..	Cr.	82	11	5
"Second A" Series Revenue Account	..	..	..	..	..	Cr.	7	16	7
"B" Series Revenue Account	..	..	..	..	..	Cr.	3,748	0	3
"A" Series Appropriation Account	..	..	..	..	..	Cr.	70	7	2
							3,908	15	5
"Second A" Series—Appropriation Account	..	..	..	Dr.	7	15	3		
"Second B" Series—Revenue Account	..	..	..	Dr.	1,118	17	7		
							1,126	12	10
Appropriation Account as per balance-sheet							..	..
							£2,782	2	7
<i>Interest accrued—</i>									
							£	s.	d.
"B" Series	..	..	..	..	..	..	2,849	14	2
"Second B" Series	..	..	..	..	..	..	1,013	16	0
As per balance-sheet							..	..
							£3,863	10	2

140. We have already referred in paras. 54 and 79 to 81 of this report to the investments on account of the "B" Series and the "Second B" Series debentures and to the holdings of the British National Trust, Ltd., debentures and the New Zealand Shareholders Trust, Ltd., debentures, the latter being held solely on account of the "Second B" Series. Obviously, these factors must of necessity affect the valuation of the respective groups of debentures *inter se*. We have not, however, considered it profitable in this report to enter into lengthy calculations regarding these various groups. If the Investment Executive Trust of New Zealand, Ltd., is wound up the respective rights of debenture-holders in the various groups are matters which will demand the very careful consideration of the liquidator, who will, no doubt, require expert legal advice and may need to ask directions from the Court. If the company is left in the control of those who have hitherto been responsible for its affairs the whole of the problems involved will be left to them or other interested parties to determine.

INVESTMENT TRUST PRINCIPLES AND THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND LTD.

141. There is little doubt that had the Investment Executive Trust of New Zealand, Ltd., carried out in practice the principles which investors were reasonably entitled to expect from a perusal of its prospectuses and "literature," the position of debenture-holders to-day would have been very different from what it actually is.

142. We now refer to several extracts from the prospectuses and "literature" of the trust to show how widely the principles advocated have been departed from.

143. The following is extracted from the first prospectus issued by the trust dated 12th March, 1931 :—

"Insurance Principles applied to Investments.—The sponsors of the Investment Executive Trust of New Zealand, Ltd., believe that in the income debentures of the trust now being offered to the public they have instituted a specially desirable type of investment which ensures safety of capital and provides an assurance of regular and increasing income.

"The chief element of sound investing practice is diversification or the spreading of capital over several types of investments and securities. A carefully chosen security rarely fails entirely, but there is always a risk of substantial depreciation of capital and income in any single investment.

"The Investment Executive Trust of N.Z., Ltd., will follow the investment practice of leading British investment trusts.

"A list of thirty investment trusts published in the London Financial Times, June, 1929, showed not only an average dividend of 13½ per cent. per annum for the thirty trusts, but an increase in the market value of the shares on the London Stock Exchange of 170 per cent. above par.

"The Investment Executive Trust of N.Z., Ltd., has established a statistical organization which collects data relating to international exchange, prices and stocks of raw materials, and manufactured products in the main producing countries of the world, and political factors affecting investments. Quotations of selected investments and securities on the Stock Exchanges of Great Britain and the British Dominions are also obtained, as well as the balance-sheets and annual reports over a period of years of leading British and foreign companies. Statistics of this nature should form the basis of sound judgment and intelligent decision in the sale and purchase of investments.

"Anticipated earnings.—The company has provided for the prompt investment of debenture capital as it is received. Income will consequently accrue immediately, and profits will be distributed at the end of the first financial year. Thereafter, owing to the investment of reserves and premiums on the sale of debentures, the rate of income should steadily increase each year.

"Presuming the average net earnings from the debenture capital to be at the rate of 7 per cent. per annum, the income from reserves would be distributed annually and would, when such reserves reach 100 per cent. of the subscribed debenture capital, amount to a further 7 per cent., making a total income of 14 per cent. per annum.

"Debenture-holders would not only have the advantage of the progressively increasing rate of interest, but their invested capital should ultimately appreciate at least 100 per cent.

"Investments to be spread over several Securities.—To ensure an equitable distribution of securities consistent with economical operations and safety, the company has planned to invest its debenture capital in a large number of securities, and undertakes that upon completion of this issue of debentures in each series, not more than 10 per cent. of the total debenture capital received shall be invested in any one security.

"Administration.—The company was formed and registered in May, 1929. The intervening period has been devoted to the collection of data and compilation of statistical records required for investment and security appraisals.

"Owing to the nature of the company's business the office costs will be almost negligible.

* * * * *

"The consultants to the company will furnish reports upon general economic and political factors affecting investments, trade statistics in various countries relating to exports, imports, and internal consumption of goods; the production, consumption, and stocks on hand of basic commodities; accountancy practice and general business conditions.

"Statutory and general information.—The company reserves the right to pay brokerage at the rate of 5 per cent. on the value of income debentures subscribed."

“DIVERSIFICATION” (see also paras. 167 to 178).

144. Referring now to the question of “diversification,” there is no doubt whatever in our minds that investors in the trust, having read the prospectus, were entitled to assume that diversification, or the spreading of capital over several types of securities, would be practised.

145. Technically, perhaps, the trust can claim that this has been done but, actually, extremely large proportions of the investments consist of investments in individual securities.

146. The total investments on behalf of debenture-holders as set out in the balance-sheet of the trust as at 30th June, 1934, total £755,436 16s. 6d. From this sum should be deducted the sum of £285,695 representing amounts advanced to the New Zealand Shareholders Trust, Ltd., and, in effect, representing investments of the Investment Executive Trust of New Zealand, Ltd., in its own debentures.

147. The balance left amounts to £469,741 16s. 6d. Of this sum, £223,000, or almost 50 per cent., is directly represented by investments in the debentures of the British National Trust, Ltd.

148. A further sum of £55,000 is represented by investments in the debentures of the Southern British National Trust, Ltd., the value of which debentures, as has already been pointed out, is, like that of the debentures of the British National Trust, Ltd., dependent to a very great degree on the value of the trust building.

149. A further £44,367 is represented by investments in shares in the Transport Mutual and General Insurance Co., Ltd., and this company in turn holds £21,000 in debentures of the British National Trust, Ltd.

PRACTICE OF LEADING BRITISH INVESTMENT TRUSTS.

150. In the extracts already quoted (para. 143) from the first prospectus it is definitely stated that—

“The Investment Executive Trust of New Zealand, Ltd., will follow the investment practice of leading British investment trusts.”

151. It is, in our opinion, definitely established that this undertaking has not been carried out. It is perhaps not irrelevant to add that leading British investment trusts have a very substantial backing of real share capital.

152. The principle of following the practice of British trusts was also referred to in “literature” issued by the Investment Executive Trust of New Zealand, Ltd. The following is an example quoted from a pamphlet, undated, but bearing internal evidence that it was issued subsequently to 15th July, 1931:—

“The Investment Executive Trust of New Zealand, Ltd., which introduced the trust principle of group investing in New Zealand, is conducting its business on a similar basis to British trusts, and is meeting with similar success. It now holds a well-balanced group of investments, represented by banking, insurance, financial and Industrial Corporations having a total capital of £139,000,000 with accumulated reserves and undivided profits of £34,000,000, while the average rate of income is 8½ per cent. The investments have been carefully chosen with a view to capital appreciation. When normal conditions return the majority of these are almost certain to increase in value from 50 to 100 per cent. above their cost.”

153. The paid-up capital of the Investment Executive Trust of New Zealand, Ltd., as at 30th June, 1934, is shown in the balance-sheet as at that date as £30,110 14s., a very small sum in relation to the amount of debenture capital subscribed. Moreover, even this £30,110 14s. does not, in point of fact, represent actual cash paid in as backing against debenture-holders’ investments.

ANTICIPATED EARNINGS.

154. In the extracts quoted above from the first prospectus it is stated under the heading “Anticipated Earnings” that—

“Debenture-holders would not only have the advantage of the progressively increasing rate of interest, but their invested capital should ultimately appreciate at least 100 per cent.

155. In the first report to debenture-holders, dated 15th February, 1932, the Chairman stated,—

“The trust was registered in May, 1929, but the directors, believing that a heavy decline in the value of the majority of investments was then apparent, decided to postpone all investment operations until prices reached a lower level. A comparison between cost prices of the trust’s listed investments and the prices of the same investments in 1929 shows that had they been purchased in that year the average price would have been 51 per cent. higher.”

156. In the second annual report to debenture-holders for the year ended 31st December, 1932, the Chairman stated, under the heading “Market Appreciation of Investments,”—

“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. A comparison of the cost prices with market prices ruling at the end of the financial year indicates that, had the trust been desirous of paying larger profits instead of building up debenture-holders’ reserves, a considerably higher rate of interest could have been paid on the “B” Series debentures . . . Had all our investments in the “B” Series been turned into cash, our profits would have been more than double those which have been shown, after allowing for depreciation in prices of certain stocks. Such a proceeding would have been unwise, because of the nature of our investments. We believe a larger number would show further appreciation . . . ”

157. Much of the debenture capital subscribed to the trust was paid for by debenture-holders handing over to the trust investments already held by them, and there is no doubt that had the investments so taken over been held in their original form until the present time they would have shown in the aggregate, a very large increment in price for the benefit of debenture-holders; but, notwithstanding the statements made in the prospectuses and the remarks contained in the reports, very large quantities of these investments were realized for the purpose of providing, directly or indirectly, funds required for the financing of ventures such as the acquisition and development of the trust building in Sydney, that being, moreover, a venture where the probable increment in value was not made available to the debenture-holders, but was taken by J. W. S. McArthur and C. G. Alcorn personally.

ADMINISTRATION COSTS.

158. The extracts quoted from the first prospectus also contained the statement that—

“Owing to the nature of the company’s business, the office costs will be almost negligible.”

And contained a further statement that—

“The company reserves the right to pay brokerage at the rate of 5 per cent. on the value of income debentures subscribed.”

159. Brokerage at the rate of 5 per cent. was paid to V. B. McInnes and Co., and/or V. B. McInnes and Co., Ltd., and this was in accordance with the prospectus. In addition to this, however, a further sum of 5 per cent. was paid to the brokers for administration charges. There is grave doubt as to whether this payment was valid, particularly in respect of debentures issued under the first prospectus. Further reference is made to this matter in paragraphs 223 to 227 of this report, but, in the meantime, we wish to stress the fact that the statement that the office costs will be almost negligible can, in view of the fact that the additional 5 per cent. was paid to the brokers for administration charges, only be regarded as extremely misleading.

CONSULTANTS TO THE TRUST.

160. The extracts from the first prospectus quoted above (para. 143) state that—

“The consultants to the company will furnish reports upon general economic and political factors affecting investments, trade statistics in various countries relating to exports, imports, and internal consumption of goods; the production, consumption, and stocks on hand of basic commodities; accountancy practice and general business conditions.”

161. In the first prospectus it is set out that the consulting economist is Professor Belshaw, and that the consulting accountants are Messrs. Watkins, Hull, Hunt, and Wheeler, Mr. W. Crawford Young being named as the then resident partner of that firm.

162. Evidence on oath was given before us by Mr. W. Crawford Young that although he had not actually resigned his appointment he had never furnished any report to the trust. In reply to an inquiry by us as to whether he had even been consulted by the Investment Executive Trust of New Zealand, Ltd., Mr. Young said,—

“I was visited once by Mr. McArthur, who then took the opportunity to inform me that he was proposing to invest in certain overseas companies of world-wide repute which he named to me, and I think he gave me a few figures about their reserve position in relation to the capital. That was the only occasion on which I have had any discussion with him in this connection which can be considered as a consultation.”

163. Evidence on oath was also given before us by Professor Horace Belshaw. In reply to an inquiry by us as to whether he had ever supplied any report to the trust, Professor Belshaw said,—

“Shortly after my appointment I issued to the trust one report on sources of information. This is the only report I have ever furnished to the company, and the only report for which I have ever been asked. I resigned my position as consulting economist about eighteen months after my appointment; the reason which I furnished to the trust for my resignation was that I had not been called upon to make any further reports.”

164. Further reference to Professor Belshaw’s resignation is made in paras. 231 and 232 of this report under the heading “Misleading Information supplied by the Investment Executive Trust of New Zealand, Ltd., to V. B. McInnes and Co. and/or V. B. McInnes and Co., Ltd., brokers for the trust.”

NEW PROSPECTUSES.

165. We make the assumption that the officials controlling the trust realized that from their point of view certain of the statements (quoted in para. 143) made in the first prospectus issued by the trust were very dangerous.

166. We think the foregoing assumption is a reasonable one because, not only were the second and later prospectuses considerably modified, but a very strong and successful endeavour was made by the trust to regain, through the agency of the New Zealand Shareholders Trust, Ltd., control of the debentures already issued in the First Series.

“DIVERSIFICATION” (see also paras. 144 to 149).

167. Even, however, in the second and subsequent prospectuses issued by the trust there are statements which are subject to strong comment in the light of the actual practice adopted by the trust.

In these later prospectuses it is stated, under the heading "Insurance Principles applied to Investments,"—

"The sponsors of the trust believe that in the shares and debentures of the trust they are offering to the public one of the most desirable investments it is possible to secure. The chief element of sound investing practice is diversification, or the spreading of capital over a large number of sound revenue-producing investments, thus ensuring safety of principal and regularity of income.

"The policy of spreading capital over a large number of sound investments has been adopted by the trust, and plans are being made for the spreading of capital received from the sale of debentures in the second issue over at least one hundred separate investments within the next six months."

168. Technically, no doubt, the foregoing was largely complied with, but, in view of the very large sums placed in individual and, indeed, doubtful securities, it cannot fairly be claimed that the principle of diversification has been practised or that investments have been properly "spread."

169. The second and subsequent prospectuses issued state, under the heading "Income,"—

"Probably at no previous stage in the world's financial history has such an opportunity as that now offered by the trust been presented to investors for purchasing a collective interest in a large number of the world's soundest investments which can to-day be bought at prices much below their real value. The trust will use its capital to acquire a large number of well-distributed investments of this class, which should not only provide an immediate income, but should in a few years ensure a substantial increase in the market value of the investments held. The market quotations of forty British investment trusts listed on the London Stock Exchange in 1931 proved that for each £100 originally invested in that group a holder could then obtain an average of £260 on the London Stock Exchange, while the average annual rate of income on shares in the trusts was then 16 per cent."

170. In view of the actual investment practice of the trust, the foregoing may be characterized as specious and misleading.

171. In the second prospectus it is stated,—

"The trust held 195 separate investments on December 31st, 1932, spread over Government stocks, local-body debentures, and first-mortgage debentures, or shares in banking, insurance, finance, and industrial companies.

"Excluding Government stocks and local-body debentures, the aggregate capital of the companies in which the trust held investments was £650,000,000, and the total reserves of these companies stand at £158,000,000. The average period during which each company has been in existence is thirty-one years."

172. A similar statement appeared in the third prospectus, although in this prospectus the number of separate investments was altered from 195 to 180 and the figure of total reserves was altered from £158,000,000 to £159,000,000. There was no corresponding statement in the fourth prospectus.

173. The foregoing was, in our opinion, undoubtedly intended to stress the principle of diversification as an inducement to investors to invest in the debentures of the trust, and, in view of the actual practice adopted by the trust, was very misleading to investors.

174. By way of further illustration of the stressing by the Investment Executive Trust of New Zealand, Ltd., of the principle of "diversification" we quote the following extract from a copyrighted pamphlet by J. W. S. McArthur entitled "Insuring Investments: A Synopsis of Investment Trust Principles with Graphical Illustrations":—

"Diversification, or spreading investment capital over several types of securities or investments, is the chief element in sound investing practice. Though a well-selected security seldom fails entirely, there is a risk of loss with any single investment. This risk can be offset by a proper distribution of investment capital.

"The more the investor studies the science of investment the more loudly he preaches the gospel of distribution.

"It is highly improbable that the partial or complete failure of one concern would materially affect the securities in a well-selected group of diversified investments . . .

"The function of the investment trust is to afford the opportunity of investing comparatively small amounts in a large number of securities diversified according to undertaking, geographical location, and type of security. The result is that with careful management a maximum return can be had with a minimum risk, based upon safe marketable investments."

175. Representatives of V. B. McInnes and Co., Ltd., brokers to the Investment Executive Trust of New Zealand, Ltd., were supplied with large charts incorporating a world map and stressing graphically the security of the "trust investor." These charts are headed "The Southern British National Trust, Ltd., in association with the Investment Executive Trust of New Zealand, Ltd." On these charts is stated,—

"Actual overseas holdings include—

- "(1) Bank of England stock.
- "(2) Lloyds Bank, Ltd., London.
- "(3) London County Council debentures.
- "(4) The International Nickel Co. of Canada, Ltd.
- "(5) Imperial Chemical Industries, Ltd.
- "(6) Lever Bros., Ltd., Great Britain.
- "(7) Dunlop Rubber Co., Ltd.
- "(8) J. & P. Coats, Ltd.
- "(9) British South Africa Co., Ltd.
- "(10) The Canadian Pacific Railway Co."

176. In point of fact, the Investment Executive Trust of New Zealand, Ltd., had only small holdings in any of the above companies. The following is extracted from evidence given on 20th September, 1934, by Mr. J. W. S. McArthur before the Royal Commission in Sydney:—

“15466. *Mr. Monahan*; I want to ask you this: You sent out a letter, did you not, in 1932 to your representatives in various towns in New Zealand with regard to the debenture securities?—I wrote letters, I know.

“15467. Do you think what you said in this letter was fair?—I think so.

“15468. Do you remember sending one out on 26th September, 1932, and I think you sent it to about twenty-two different agents in various towns spread through New Zealand? I would like to take you through it and see if you think it was not a letter liable to deceive. It says,—

‘In view of the increase in the market prices of the shares and Government stocks, I feel that a brief report on the trust’s present investments and recent transactions would be of interest to your clients who have already acquired our first mortgage perpetual income debentures, or those who contemplate doing so.

‘The trust now holds over 120 of the soundest investments it is possible to obtain, spread over Government stocks, corporation debentures, first-mortgage debentures, and ordinary or preference shares.’

“And then there are one or two other paragraphs I do not read. Then—

‘Our list of oversea investments includes the following.’

“Do you remember sending that out?—Yes, I remember that letter.

“15469. Tell me, first, has there been any change in your oversea holdings from that day to this?—Very little change.

“15470. You start off with this:—

‘Bank of England: The Bank of England was established by charter in 1694, and has a present paid-up capital of £14,553,000. The bank has the sole right to issue notes in England.’

“I suppose you intended the people who got this to presume you had a fair holding of Bank of England stock?—Yes, we had a reasonable holding.

“15471. What do you call a reasonable holding?—At that time we had made the initial investments.

“15472. What do you call a reasonable holding?—It depends on what would be available at the time, and the price.

“15473. What is your idea of the reasonable holding that you intended the readers of that to assume you had got?—It might be any holding at all from a few hundreds upwards.

“15474. From a few hundreds upwards? In point of fact you had £100 worth of stock in the Bank of England?—£300 worth.

“15475. Valued in your books at £300, but it was £100 worth of stock?—That was market value.

“15476. That is what you had?—Yes.

“15477. The next one:—

‘London County Council debentures, being part of an issue of £25,876,716.’

“Did you intend them to assume you had a fair holding of those?—A reasonable holding.

“15478. What would that amount to?—I do not know now what it would be.

“15478A. Three-per-cent stock, and you had £180 worth; that was the position?—Yes, probably.

“15479. And then:—

‘Lloyd’s Bank; share capital, £74,000,000.’

“And you go on to narrate all the different other companies that Lloyds Bank is connected with. How much did you have in Lloyd’s Bank?—I do not remember now. About £100, was it?

“15480. Fifty shares you had, had you not?—Fifty shares.

“15481. And:—

‘British South African Company, incorporated by Royal Charter, with paid-up capital of £6,000,000.’

“And then you narrate about six or eight of the subject properties that they own, amongst others, township sections, buildings, irrigation works, growing crops, &c., throughout Northern and Southern Rhodesia. Did you intend your people to assume you had a fair holding in that company?—We were giving them the types of holdings we had.

“15482. Were not you intending them to deem a fair proportion of your debenture capital was invested in these sorts of holdings when you sent this letter out?—We just intended them to know we had holdings in these investments.

“15483. In fact, you had £83 in that company.—How much?

“15484. £83?—I think they were worth more than that.

“15485. One hundred shares. £83 they were worth in your books; they stood at £83. And then you referred to the Canadian Pacific Railway with a capital of £95,000,000, and gave statistics about their carrying, the amount of tonnage they carried. You had £102 in that, did you not?—Yes.

"15486. Lever Bros. I think you referred to their capital of £59,000,000 and mentioned about thirty of the different concerns that they were the owners of?—Subsidiary companies, yes.

"15487. How much did you have in Lever Bros.?—Somewhat similar to the other holdings.

"15488. You had £140 worth. And then you mentioned the International Nickel Co. of Canada, Ltd., with a capital of £35,000,000, and what concerns it owned?—Yes.

"15489. Your holding in that was £118?—Yes."

177. The second, third, and fourth prospectuses state that—

"The indentures with debenture-holders in any series constitute an irrevocable floating first mortgage over the investments and securities in that series."

178. We think it improbable that subscribers for debentures in the Second Series were at any time advised that a very large proportion of the moneys subscribed by them was to be invested through the medium of the New Zealand Shareholders Trust, Ltd., in buying up debentures of the Investment Executive Trust of New Zealand, Ltd., itself.

SHARES "PAID UP IN CASH."

179. The second and third prospectuses contained the statement that—

"No shares or debentures have been issued or agreed to be issued as fully or partly paid up otherwise than in cash."

180. Reference to that part of our report dealing with the share transactions of the Investment Executive Trust of New Zealand, Ltd., and particularly with the allotment of shares to J. W. S. McArthur, C. G. Alcorn, and other officials of the trust, will show that in point of fact many of the shares were actually paid for by sums voted for services rendered. (See paras. 186, 205, and 211 to 216 inclusive). It is true that cheques may have been passed between the parties for these transactions but it is, in our opinion, definitely misleading to claim that they were paid up in cash. This was, we think, probably recognized by the officials of the Investment Executive Trust of New Zealand, Ltd., or by their legal advisers, for, in the fourth prospectus dated 3rd April, 1934, the wording is modified to read:—

"No shares or debentures have been issued or agreed to be issued as fully or partly paid up otherwise than in cash or its equivalent."

181. Even with the wording as modified it cannot, in our opinion, be properly claimed that the "services" which were in fact set off against the amount due on the shares, represented "cash or its equivalent."

182. In concluding this section of our report we quote the following extracts from the interim report dated 1st November, 1934, of His Honour Mr. Justice Halse Rogers:—

"... there is no doubt that in the early stages of the Investment Executive Trust of New Zealand, Ltd., the principles which should govern the management of such a company were entirely abandoned in order that the affairs of the managing director might be straightened out and without the consideration of the interests of the subscribing public." (Page 5.)

"In my opinion it is established that Mr. McArthur exploited the investing public for the purpose of saving his assets, and used the money which had come into his hands for trust purposes entirely for his private ends." (Page 6.)

"It is charged that the methods adopted by Mr. McArthur were a gross abuse of the Companies Act. I think it will be apparent from what has already been set out that Mr. McArthur's methods of collecting moneys for his own purposes amount to an exploitation of the public, under guise of legality. It has been urged before me time and time again during the proceedings of the Commission that what is allowed by law cannot be criticized, or called illegitimate. Without going into the question as to whether or not any particular transaction could be set aside in equity as constituting a breach of trust, I am very definitely of the opinion that there has been an abuse of the public confidence in the matter of the transaction of the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust. It appears to me that a scheme was very cunningly worked out with the very definite object of benefiting Mr. McArthur and his friends, and at the same time making it possible for them to say that nothing was done which was not permitted by law." (Page 8.)

"Whether or not various transactions are just within or just outside the law, may be a matter of argument; but there is no doubt that they have really abused the positions in which they were placed, and which must be regarded as positions of trust, for their own advancement." (Page 8.)

SHARE TRANSACTIONS OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

183. Although the company was incorporated in May, 1929, it did not commence operations until the early part of 1931 and the certificate entitling it to commence business was issued in January, 1931.

ALLOTMENT, ETC., OF SHARES TO J. W. S. McARTHUR.

184. The first allotment made to J. W. S. McArthur was on 27th January, 1931, when he was allotted two hundred and fifty ordinary shares of 2s. each.

185. The next allotment to him was on 25th February, 1931, when he was allotted 16,750 ordinary shares.

186. The manner in which these 16,750 shares were paid for was as follows: On 25th February, 1931, an extraordinary general meeting of shareholders was called at which there were present J. W. S. McArthur, C. G. Alcorn, T. R. McArthur, and H. C. Glasson. At this meeting it was resolved:—

“That J. W. S. McArthur be paid £1,675 for services rendered to the company subsequent to its formation to date.”

187. It will be noted that this amount represents the exact sum necessary to pay for the 16,750 shares of 2s. each.

188. It may be here noted, however, that reference to the company's share register shows that J. W. S. McArthur paid in the sum of £1,625 only, so that there is a balance still outstanding of £50 on these shares. This is supported by the fact that in the company's balance-sheet as at 30th June, 1934, there is what is termed an “uncalled liability” of £65 on the ordinary shares representing J. W. S. McArthur's £50 and £15 of C. G. Alcorn's.

189. It will be seen, therefore, that in respect of these 16,750 shares the company, in fact, provided the moneys to pay for these shares.

190. Up to 29th February, 1932, J. W. S. McArthur's shareholding was, therefore, 17,000 ordinary shares.

191. On or about 29th February, 1932, a transfer of 16,750 shares from J. W. S. McArthur to Alcorn Trower and Co., Ltd., was recorded, the instrument of transfer being dated 16th October, 1931. The transfer document expressed the consideration for the sale of these shares as £500 and stamp duty £1 15s. was paid thereon.

192. There is no doubt that the transfer of 16,750 shares from J. W. S. McArthur to Alcorn Trower and Co., Ltd., was made by McArthur at a time when his own financial position was precarious, and at a time when he was making endeavours to place certain of his assets in safety and to secure the same from attacks of creditors. In this connection we refer to certain correspondence between Mr. W. C. Hewitt and Mr. J. W. S. McArthur, and to evidence given before the Royal Commission in Sydney by C. G. Alcorn and J. W. S. McArthur. This correspondence and evidence is set out in detail as Exhibit “AA” [not printed]. The extracts from the evidence are somewhat lengthy, but are quoted for four reasons: Firstly, to illustrate the difficulties which were experienced in arriving at facts; secondly, to demonstrate Mr. McArthur's views of business ethics; thirdly, to demonstrate Mr. McArthur's views as to the suitability of certain “securities” for the investment of the funds subscribed by debenture-holders; and, fourthly, to indicate the state of Mr. McArthur's financial position at the time when the Investment Executive Trust of New Zealand, Ltd., commenced to function.

193. It is of interest to add that J. W. S. McArthur has stated that when he transferred the 16,750 shares to Alcorn Trower and Co., Ltd., he retained the voting-power in respect of these shares by an irrevocable power of attorney.

194. Reverting now to the share transaction whereby J. W. S. McArthur transferred 16,750 shares to Alcorn Trower and Co., Ltd., this left McArthur with two hundred and fifty shares only.

195. The next transaction took place on 26th May, 1933, when 193,400 ordinary shares were allotted to J. W. S. McArthur.

196. On 28th February, 1933, there is an entry in the company's cash-book purporting to represent payment for these shares—viz., £19,340. This item of £19,340 formed part of what purported to be a deposit in the company's bank on 28th February, 1933, for £22,006 15s. made up as follows:—

	£	£	s.	d.
J. W. S. McArthur	19,340			
C. G. Alcorn	2,660			
		22,000	0	0
Other items			6	15
		£22,006	15	0

197. The £22,000 really represents twenty-two debentures of £1,000 each issued by the British National Trust, Ltd. (see para. 65), actual cash for this sum not passing.

198. Mr. J. W. S. McArthur's holding of shares at this stage was 193,650.

FURTHER SHARE TRANSACTIONS WITH J. W. S. McARTHUR.

199. On 21st August, 1933, J. W. S. McArthur acquired from O. M. Hope (who was a director of the company but resigned on 27th July, 1933) five hundred shares, bringing his total holding up to 194,150 shares.

200. On 20th April, 1934, J. W. S. McArthur sold 155,320 of these shares, having a nominal value of £15,532, to the Southern British National Trust, Ltd., for £62,128—four times the nominal value of the shares.

201. As a result of the transaction, J. W. S. McArthur's account in the Southern British National Trust, Ltd., was credited with £62,128 against which there were certain debits for cash drawings. McArthur's account was then debited with £60,000 for a transfer to him of debentures in the British National Trust, Ltd.

202. J. W. S. McArthur's holding of ordinary shares in the Investment Executive Trust of New Zealand, Ltd., remains at 38,830.

C. G. ALCORN'S SHARES.

203. It has already been mentioned in para. 19 of this report under the heading "Alcorn Trower and Co., Ltd." that in relation to certain transactions apart altogether from Alcorn Trower and Co., Ltd., a species of informal partnership existed between J. W. S. McArthur and C. G. Alcorn, "profits" being shared in the proportion of four-fifths to J. W. S. McArthur and one-fifth to C. G. Alcorn. An illustration of this may now be given.

204. Reference has just been made (para. 201) to the transfer by the Southern British National Trust, Ltd., to J. W. S. McArthur of debentures £60,000 of the British National Trust, Ltd., in part payment for shares in the Investment Executive Trust of New Zealand, Ltd. At the same time the Southern British National Trust, Ltd., transferred to C. G. Alcorn the British National Trust, Ltd., debentures £15,000. To explain this transaction it is necessary to refer briefly to C. G. Alcorn's transactions in the Investment Executive Trust of New Zealand, Ltd., shares.

205. Mr. C. G. Alcorn acquired his first parcel of shares—viz., two hundred and fifty—on 27th January, 1931, the same date as J. W. S. McArthur acquired his. On 25th February, 1931, Alcorn was allotted 4,750 shares of 2s. each and, similarly to McArthur, was voted by resolution of shareholders £485 "for services rendered to the company subsequent to its formation to date." Presumably, it was intended that this sum should be utilized in part in payment for the 4,750 shares. Actually, however, he has been credited with £460 only. The £15 short credited has already been referred to in para. 188 under the heading "Allotment, &c., of shares to J. W. S. McArthur."

206. On 26th May, 1933, Alcorn was allotted a further 26,600 shares of 2s. each, bringing his total holding to 31,600. The method of payment for these shares has already been referred to in paras. 196 and 197 in connection with the allotment of shares to J. W. S. McArthur on the same date.

207. On 20th April, 1934, Alcorn is shown as the transferee of 16,250 shares from Alcorn Trower and Co., Ltd., bringing his total holding up to 47,850 shares.

208. On or about 10th May, 1934, Alcorn transferred to the Southern British National Trust, Ltd., 38,680 shares for £15,472—exactly four times the nominal value of the shares, as in J. W. S. McArthur's case. (Para. 200.)

209. As already mentioned (para. 204) there were transferred to C. G. Alcorn in part payment for these shares £15,000 debentures of the British National Trust, Ltd. The foregoing transaction left C. G. Alcorn the holder of 9,170 shares.

HOLDINGS OF OTHER ORDINARY SHAREHOLDERS.

210. We refer briefly to the holdings of some of the other ordinary shareholders and the method of payment for their shares

211. *T. R. McArthur* (son of J. W. S. McArthur and formerly a director of the Investment Executive Trust of New Zealand, Ltd.) was allotted two hundred and fifty shares of 2s. each on 27th January, 1931, and is credited in the share register with cash £25. On 25th February, 1931, he was voted the sum of £22 10s. "for services rendered to the company subsequent to its formation, to date."

212. *H. C. Glasson* (secretary to the company), was allotted one hundred shares of 2s. each on 25th February, 1931. These shares are shown as having been paid for in cash on that date. On the same date he was voted the sum of £10 "for services rendered to the company since its formation, to date."

213. *R. Glover Clark* (at various times associated with Mr. J. W. S. McArthur, but more particularly at a later date in connection with the management of the New Zealand Shareholders' Trust, Ltd., and Financial Publications, Ltd.), was allotted one hundred shares of 2s. each on 25th February, 1931. On the same date he was voted the sum of £10 "for services rendered to the company since its formation, to date."

214. *W. A. Pilkington* (chairman of directors of the company), was allotted five hundred shares of 2s. each on 21st April, 1931, on condition that the first year's director's fees would be applied in paying the shares in full.

215. *H. H. Pollard* (Director, since resigned), was allotted five hundred shares of 2s. each on 21st April, 1931, on similar terms to W. A. Pilkington.

216. *O. M. Hope* (Director, since resigned), was allotted five hundred shares of 2s. each on 21st April, 1931, on similar terms to W. A. Pilkington and H. H. Pollard. Mr. Hope resigned his position as director on 27th July, 1933, and his shares were transferred to Mr. J. W. S. McArthur as already mentioned. (Para. 199.)

SHAREHOLDINGS IN THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., AS AT 30TH JUNE, 1934.

217. These are set out in Exhibit "C." [Not printed.]

DEDUCTIBILITY OF INCOME-TAX.

218. Reference has been made in para. 97 to the question of the deductibility or otherwise, from the income of debenture-holders, of income-tax and certain administration charges.

219. Dealing first with the question of income-tax, the Second Series debentures specifically provide for the deduction of "taxes." The First Series debentures did not make this specific provision. In an opinion dated 1st December, 1932, supplied to the Investment Executive Trust of New Zealand, Ltd., counsel stated:—

"I can find no authority on which one could safely advise that land and income tax would be deducted from the revenue as being part of the administration costs. It seems a reasonable deduction, but there is at least a real doubt as to whether the rather indefinite expression 'administration costs' is wide enough to include it.

* * * * *

"In the result, I consider the right of the company to include land and income tax in deductions by way of administration costs as being at least too doubtful to be *prudent* without a ruling of the Supreme Court."

220. It is not within our province to pronounce an opinion on this point. If the company is wound up the liquidator will doubtless seek legal guidance on the matter, and will thereafter take such action as he may deem proper.

DEDUCTIBILITY OF CERTAIN ADMINISTRATION COSTS.

221. We have already pointed out in para. 93 (c) that the first prospectus of the Investment Executive Trust of New Zealand, Ltd., stated that—

"Owing to the nature of the company's business the office costs will be almost negligible."

222. In addition to the 5 per cent. paid to V. B. McInnes and Co. and/or V. B. McInnes and Co., Ltd., for brokerage, there was paid to them a further 5 per cent. for a "salaries and general administration allowance." This is considered in the next section of this report.

ASSOCIATION OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., WITH V. B. MCINNES AND CO. AND V. B. MCINNES AND CO., LTD.

223. The Investment Executive Trust of New Zealand, Ltd., obtained a certificate authorizing it to commence business in February, 1931. V. B. McInnes and Co., Ltd., was not incorporated until May, 1932. Prior to that time the position of organizing broker of the Investment Executive Trust of New Zealand, Ltd., was held by Mr. V. B. McInnes, operating under the style of "V. B. McInnes and Co." This position was taken over by V. B. McInnes and Co., Ltd., on its incorporation.

224. We summarize hereunder arrangements recorded from time to time between the Investment Executive Trust of New Zealand, Ltd., and V. B. McInnes (trading as "V. B. McInnes and Co.") and/or V. B. McInnes and Co., Ltd. Copies of certain of the letters and of the agreement referred to hereunder are appended to this report as Exhibit "BB."*

NOTE.—(a) On 14th March, 1931, a copy of the first prospectus of the Investment Executive Trust of New Zealand, Ltd., was filed with the Registrar of Companies, Auckland.

(b) On 4th May, 1931, Mr. V. B. McInnes wrote from Dunedin to Mr. J. W. S. McArthur, as managing director of the Investment Executive Trust of New Zealand, Ltd., stating that he was desirous of taking up a contract "under V. B. McInnes and Co." with that company. Mr. McInnes in this letter suggested that collections should be payable at his offices, and stated that he was prepared to do this for a nominal fee as he could thus keep in touch with clients. (Letter quoted in Exhibit "BB."*)

(c) On 8th May, 1931, Mr. J. W. S. McArthur, as managing director of the Investment Executive Trust of New Zealand, Ltd., replied to V. B. McInnes and Co. that he was forwarding a letter of appointment, which he trusted would be satisfactory. (Letter quoted in Exhibit "BB."*)

(d) On 8th May, 1931, J. W. S. McArthur, as managing director, in a letter signed "W. McArthur, per H. Glasson," wrote to V. B. McInnes confirming his appointment as broker for the South Island, and verbal arrangements made—a brokerage of 5 per cent. on sales of debentures, an expense allowance of 2½ per cent. on sales of debentures, and an overriding commission of 1 per cent. on debenture sales made by Stock Exchange brokers in the South Island. This letter also stated that the Investment Executive Trust of New Zealand, Ltd., would supply prospectuses and literature free of charge, and would make reasonable allocations for advertising. (Letter quoted in Exhibit "BB."*)

(e) On 27th October, 1931, J. W. S. McArthur, as managing director of the Investment Executive Trust of New Zealand, Ltd., wrote to V. B. McInnes and Co. offering a bonus of £410 if sales of preference shares and debentures to the value of £12,500 were made from 22nd October, 1931, to 31st May, 1932, and a bonus of £1,000 if such sales between the above dates amounted to £25,000. (Letter quoted in Exhibit "BB."*)

(f) On 27th October, 1931, V. B. McInnes wrote from Dunedin to the managing director of the Investment Executive Trust of New Zealand, Ltd., "accepting an arrangement" of £2 per week for office allowance. This letter also refers to the bonuses mentioned in the letter referred to in (e) above. (Letter quoted in Exhibit "BB."*)

(g) Under date 1st June, 1932 (i.e., subsequent to the incorporation of V. B. McInnes and Co., Ltd., in May, 1932), an agreement was entered into between the Investment Executive Trust of New Zealand, Ltd., and V. B. McInnes and Co., Ltd. Clause 12 of this agreement provides for the payment to V. B. McInnes and Co., Ltd., of 5 per cent. brokerage and 5 per cent. as a "salaries and general administration allowance." (Agreement quoted in Exhibit "BB."*)

(h) On 10th August, 1932, Mr. John Anderson, the then auditor of the Investment Executive Trust of New Zealand, Ltd., wrote to the company a letter in which he said, *inter alia*:—

"*Bonus to Brokers.*—Ten £100 debentures out of 'B' Series investments, expressed to be a bonus, have been given to Messrs. McInnes, Ltd., brokers, who have not acknowledged receipt of same.

"This transaction is obviously *ultra vires*.

"It is wholly irregular to detract from the security of debenture-holders.

"It is my duty to require that the debenture-holders' securities be placed in its proper order, in so far as this transaction is concerned."

(i) On 31st August, 1932, Mr. J. W. S. McArthur, as managing director, in a letter to Mr. Anderson, stated, *inter alia*:—

"*Re Bonus to Brokers.*—We are arranging for Messrs. McInnes and Co., Ltd., to pay us for the ten £100 debentures in the Dominion Fertilizer Co., Ltd."

* Not printed.

This letter also stated :—

“ We wish to submit all other matters mentioned in your statement to some competent authority for an opinion, and in this respect will be glad to again confer with you.”

(j) On 14th September, 1932, the solicitors to the Investment Executive Trust of New Zealand, Ltd., wrote to Mr. John Anderson a letter, in which they advised, *inter alia*, that—

“ Clause 8 of the debenture would appear to import that the company is entitled to deduct ‘ brokerage and administration costs (whatever that might mean)’ from the moneys received for the sale of debentures.” (Para. 3 of solicitors’ letter.)

This letter also states :—

“ . . . but with regard to ‘ administration costs ’ and our opinion under paragraph (3) hereof, it would be advisable to take counsel’s opinion if there is any ambiguity.”

(k) Under date 1st December, 1932, an opinion covering certain points was supplied to the Investment Executive Trust of New Zealand, Ltd. This opinion deals in part with the question of “ administration costs,” but counsel does not appear to have been asked *what* administration costs could be deducted, nor, in particular, whether the additional amounts over and above 5 per cent. brokerage paid to V. B. McInnes and/or V. B. McInnes and Co., Ltd., could be deemed “ administration costs.”

(l) On 23rd March, 1933, Mr. John Anderson wrote to the solicitors to the Investment Executive Trust of New Zealand, Ltd., a letter, in which he said, *inter alia* :—

“ I have been requested by the managing director of this company to submit certain questions for consideration and report by the solicitor for the company . . .

“ 1. Out of the capital of ‘ A ’ Series and ‘ B ’ Series, there has been drawn and paid to V. B. McInnes, Ltd., during the year ended 31st December, 1932, the sum of £12,768 16s. 3d.

“ I am informed that there is in existence an agreement between the Trust and V. B. McInnes, Ltd., whereby the Trust agrees to pay V. B. McInnes, Ltd., in addition to the permitted brokerage of 5 per cent., a further 5 per cent., which is represented by the above sum, to cover the expenses of V. B. McInnes, Ltd., as brokers to the trust, V. B. McInnes, Ltd., agreeing to devote the whole of its time and organization in New Zealand in the interests of the trust.

“ (a) Is this sum administration costs ; and if so, then under what authority ?

* * * * *

“ (c) What are administration costs ? ”

(m) Under date 28th March, 1933, the company’s solicitor gave for the Investment Executive Trust of New Zealand, Ltd., an opinion on matters arising out of Mr. Anderson’s letter of 23rd March, 1933. In the course of this opinion he says :—

“ It is, of course, clear that the company is restricted to payment of not more than 5 per cent. brokerage. It appears equally clear that Mr. V. B. McInnes and/or V. B. McInnes and Co., Ltd., are the brokers to the company. One is immediately concerned to inquire whether this payment is not a brokerage payment in excess of the authorized amount of 5 per cent. . . .

“ It has already been pointed out that whom the company employs in its administration, and at what cost, is solely a matter for the company. It is not prevented from employing its broker. Needless to say, it is singularly unfortunate that the company should find it desirable to employ its broker in so responsible a position, for the doubts inevitably and immediately arise—Is the broker necessary in the administrative part of the company ? Is the broker encouraged, by substantial payments for administration, to proceed with the sale of debentures ?

“ The risk of these doubts arising, and being challenged is, of course, the company’s. Having formulated these doubts, which must immediately be present to counsel from a perusal of the agreement and the auditor’s letter, it is only fitting that I should add that I have the assurance of the managing director that the position is otherwise ; that V. B. McInnes and Co., Ltd., render vital service as administrative managers, and that the payment to them for such services is by no means excessive.”

(n) On 28th April, 1933, Mr. J. W. S. McArthur, as managing director, wrote to Mr. V. B. McInnes “ to place on record ” the terms of his engagement for the period from 8th May, 1931, to 1st June, 1932, “ for the purpose of carrying out administration work in the Dominion on behalf of this company.” This letter sets out the duties of V. B. McInnes and the remuneration payable—“ 5 per cent. of the nominal value of the debentures of this company subscribed for during the term of this engagement.” This letter also states that the engagement was not affected by any brokerage contract between V. B. McInnes and the company. (Letter quoted in Exhibit “ BB ” [not printed].)

(o) On 28th April, 1933, a similar letter was written by Mr. J. W. S. McArthur, as managing director, to V. B. McInnes and Co., Ltd., in respect to the period of five years from 1st June, 1932. (Letter quoted in Exhibit “ BB ” [not printed].)

(p) On 28th April, 1933, the secretary of V. B. McInnes and Co., Ltd., wrote to the Investment Executive Trust of New Zealand, Ltd., acknowledging that company’s letter of 28th April, 1933, and saying :—

“ We find these terms and conditions in order and have pleasure in confirming same.”

(q) On 20th May, 1933, Mr. J. W. S. McArthur, as managing director, wrote to Mr. V. B. McInnes as follows :—

“ I enclose a letter relative to our arrangement with you prior to the conversion of your business into a limited-liability company. This is to meet the auditor’s requirements. Would you be good enough to let me have your confirmation as early as possible.”

This letter was presumably sent as covering the letter of 28th April, 1933, referred to in (n) above.

(r) On 29th May, 1933, Mr. V. B. McInnes wrote to Mr. J. W. S. McArthur, as managing director, as follows :—

“ In reply to your advice of the 28th April, 1933, I hereby confirm the conditions, duties, &c., as set out in the said advice which operated as from 8th May, 1931, to 1st June, 1932.”

225. It is possible that the letters above referred to dated 28th April, 1933, written to V. B. McInnes and V. B. McInnes and Co., Ltd., respectively, were prompted by the doubts which had arisen as to whether the Investment Executive Trust of New Zealand, Ltd., was legally entitled to charge against the funds of debenture-holders the sums paid to V. B. McInnes and/or V. B. McInnes and Co., Ltd., in addition to the 5-per-cent. brokerage. The letters may have been written in an attempt to justify and legalize what had already been done in the past.

226. It is not within our province to pronounce an opinion as to whether the payments were justified. If the Investment Executive Trust of New Zealand, Ltd., is wound up, it will be a matter for the liquidator to consider and to take such action as he may think appropriate.

227. It may be claimed that the matter is of academic importance only inasmuch as in the balance-sheet as at 30th June, 1934 (Exhibit “ A ” [not printed]), the whole of the “ Establishment Account ” of the Investment Executive Trust of New Zealand, Ltd., is transferred to the “ Shareholders Section.” If, however, there is any shortage in debenture-holders’ funds, debenture-holders are, in our opinion, entitled to have the matter reviewed.

MISLEADING INFORMATION SUPPLIED BY THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., TO V. B. McINNES AND CO. AND/OR V. B. McINNES AND CO., LTD., BROKERS FOR THE TRUST.

228. We believe that misleading information was from time to time supplied to potential investors by representatives of V. B. McInnes and Co. and/or V. B. McInnes and Co., Ltd. We do not make an attempt to apportion to V. B. McInnes and Co. and/or V. B. McInnes and Co., Ltd., their share of the responsibility. We refer hereunder, however, to several matters which indicate responsibility on the part of the Investment Executive Trust of New Zealand, Ltd.

229. (A.) Under date *31st March, 1933*, Mr. J. W. S. McArthur wrote as managing director of the Investment Executive Trust of New Zealand, Ltd., to V. B. McInnes and Co., Ltd., as follows :—

“ In answer to your inquiry *re* the relationship between the Sterling Investments Co. (N.Z.), Ltd., and the trust, I wish to advise that the trust has no shareholding in the Sterling Investments Co. (N.Z.), Ltd., nor does it hold any debentures in that company, nor is that company in any way indebted to the Investment Executive Trust of New Zealand, Ltd.”

230. The facts are that the minute-book of the Sterling Investments Company (New Zealand), Ltd., records on *22nd March, 1933*, the transfer of 801 shares from the Investment Executive Trust of New Zealand, Ltd., to the Investment Securities Association, Ltd. Prior to *31st March, 1933*, debentures had from time to time been issued to the Investment Executive Trust of New Zealand, Ltd., by the Sterling Investments Co. (New Zealand), Ltd. Up to the *31st March, 1933*, all advances made to the latter company by the Investment Executive Trust of New Zealand, Ltd., were debited to a special account in the name of the Sterling Investments Co. (New Zealand), Ltd. As at *31st March, 1933*, this account was balanced off by a credit of £50,300, and all subsequent advances to the Sterling Investments Co. (New Zealand), Ltd., were debited to an account in the name of the British National Trust, Ltd.

231. (B.) In a letter dated *28th February, 1934*, Mr. J. W. S. McArthur wrote as managing director of the Investment Executive Trust of New Zealand, Ltd., to V. B. McInnes and Co., Ltd., as follows :—

“ I wish to advise you in connection with the resignations of Mr. Hope as director and Mr. Anderson as auditor that both resigned for personal reasons.

“ Professor Belshaw resigned because, as he explained to me personally, he was becoming involved, in 1933, in heavy work on behalf of the Government and would, therefore, not have time to devote to the business of the trust.”

232. Professor Belshaw has informed us that the reason he furnished to the Investment Executive Trust of New Zealand, Ltd., for his resignation was that he had not been called upon to make any further reports. When informed by us of the extract from the letter quoted above, he said that Mr. McArthur saw him after he resigned and told him that the trust had not required any further reports because they were getting in securities rather than cash, in exchange for debentures. Mr. McArthur told Professor Belshaw that he would like him to continue the appointment, but Professor Belshaw said that in any case he would be too busy.

233. (C.) In a letter dated *7th August, 1933*, Mr. W. A. Pilkington wrote as Chairman of the Investment Executive Trust of New Zealand, Ltd., to V. B. McInnes and Co., Ltd., as follows :—

“ We wish to inform you that Mr. J. Anderson, our former auditor, is now acting for the company in an advisory capacity.

“ Owing to the growth of the trust, a continuous audit has been found necessary, and Mr. M. C. O'Neill, A.P.A., N.Z., has been appointed auditor for this purpose.”

234. Mr. John Anderson has given evidence before us on oath as follows :—

“ The reasons for my resignation were that I was not in accord with the Board on certain fundamental principles concerning the treatment of certain account.”

“ I resigned my position as auditor of the Investment Executive Trust of New Zealand, Ltd., in May, 1933. I did not thereafter act in an advisory capacity to the Investment Executive Trust of New Zealand, Ltd. If any one has made this statement it is definitely untrue.”

235. (D.) We examined on oath an ex-salesman of V. B. McInnes and Co., Ltd. The following is an extract from his evidence :—

Witness : “ From December, 1932, adverse publicity was given by the press to the Investment Executive Trust and this resulted in prospects asking a number of questions pertinent to the nature of the investments in which their moneys would be placed. In order to get the information with which to give them the answers to the sets of questions being asked I had definite verbal instructions from Mr. McArthur.”

Question : “ Would you indicate the nature of the instructions ? ”

Witness : “ I was told to emphasize that the New Zealand Company had no financial connection with any overseas company and that the New Zealand company had no connection with the purchase of the trust building in Sydney, and that no debenture-money was invested in the trust building in Sydney.”

236. (E.) On *29th June, 1933*, Mr. J. W. S. McArthur wrote as managing director of the Investment Executive Trust of New Zealand, Ltd., to V. B. McInnes and Co., Ltd., as follows :—

“ In answer to your inquiry we wish to advise that the trust holds no investments in any company of which the trust's directors are directors. There is nothing, however, in the constitution of the trust to prevent us taking up such investments, and as the trust expands it is our intention, if thought advisable in the interests of debenture-holders, to take up such investments in future.”

237. The latter part of the above statement is somewhat disingenuous. Mr. J. W. S. McArthur was appointed managing director of the British National Trust, Ltd., by the articles of association of that company. His resignation as managing director is certainly recorded as having been tendered at a meeting of directors held on 1st March, 1933, but on that same date, prior to his resignation, he had transferred to the British National Trust, Ltd., the 199,395 shares in the British National Investment Trust, Ltd., referred to in para. 33 of this report. The consideration for these shares was, in part, debentures of the British National Trust, Ltd., some of which debentures were, prior to 29th June, 1933, held by the Investment Executive Trust of New Zealand, Ltd.

238. The foregoing are quoted as illustration of statements which, even if in some cases technically true, definitely tend to convey an impression very different from what would have been conveyed if the whole truth had been told.

RESPONSIBILITY OF THE DIRECTORS OF THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., FOR LOSSES.

239. The following is a copy of a memorandum headed "Trustees" received by V. B. McInnes and Co., Ltd., from the Investment Executive Trust of New Zealand, Ltd. :—

"A considerable amount of thought was given to the question of appointing trustees by the directors and it was concluded that no good purpose could be served by so doing for the following reasons :—

"1. The auditor who is appointed under the provision of the Companies Act and who must be a certified accountant, verifies all investments.

"2. The nature of the trust's business is quite different to the usual industrial or trading concern.

"3. The directors of the trust are virtually in the position of trustees for the debenture-holders.

"4. Trustees' remuneration is usually based on the amount of capital subscribed, and they have, therefore, no interest in making profits for the debenture-holders.

"5. The directors of the trust receive remuneration based, primarily, on profits made for debenture-holders.

"6. Trustees usually contract themselves out of liability for any losses which may be sustained, and in some cases they expressly stipulate that they shall not be liable in the event of debenture-holders suffering through improper conduct on the part of their servants.

"The directors, on the other hand, are bound by the Companies Act and cannot escape liability in the event of improper conduct, &c.

"7. The placing of investments in charge of trustees, who would have no interest in making profits and no liability in the event of losses, would be entirely inconsistent with the best interest of debenture-holders, since the directors would theoretically be held responsible for the losses, which would give rise to a conflict of opinion between trustees and the directors as to what investments should be acquired.

"In view of the above reasons it should be quite apparent to investors generally that the best guarantee they have of the security of their capital, and the largest possible rate of income consistent with safety, is the placing of direct responsibility for results on the directors, who have naturally made a closer study of investments than the usual trustee corporation."

240. In evidence given before the Royal Commission in Sydney on 19th September, 1934 (13969 *et seq.*), Mr. J. W. S. McArthur said he remembered drawing up the foregoing document and admitted that the position as he saw it was that the directors were virtually in the position of trustees for the debenture-holders.

241. It is not within our province to express an opinion as to whether or not the directors were trustees. If the company is wound up this will be a matter for the liquidator to consider, especially in regard to the question as to whether Mr. J. W. S. McArthur, in using funds of the Investment Executive Trust of New Zealand, Ltd., to protect his own assets and to provide finance for a transaction admittedly entered into for his own financial gain, has been guilty of breach of trust.

RESPONSIBILITY OF J. W. S. MCARTHUR FOR STATE OF BOOKS OF VARIOUS COMPANIES.

242. We refer to the remarks contained on pages 9 and 10 of the interim report of Mr. Justice Halse Rogers, already referred to and appended as Exhibit "Z." [See pages 201-210.] In addition, we quote the following extract from evidence given by Mr. J. W. S. McArthur on 18th September, 1934, before the Royal Commission in Sydney :—

13426. *Commissioner.*—Sterling does not carry on any business for which you would incur travelling-expenses ?—No. Of course, it would have been more proper to have apportioned it to the various trusts prior to putting it in there.

13427. Supposing this Commission had not been appointed, Mr. McArthur, when were you proposing to clear up these various matters between the companies as regards what should be charged against each company and how they should put their balance-sheets in order ?—Well, we were working on that for months beforehand. As soon as we got settled here I contemplated completely reorganizing the whole system, and we have been working on it.

13428. But you had not even made a start when the Commission started ?—Exactly.
13429. And some accountants have been weeks since the Commission started trying to get the matters in order ?—Yes ; but we would have got them in order in three months.
13430. Do you take any responsibility for the chaotic condition of these books ?—Yes ; I must accept the responsibility.
13431. As a matter of fact, you must accept the responsibility for everything in connection with all these companies, whether here or in New Zealand ?—Yes.”

“ PROFITS ” DERIVED FROM INTER-GROUP TRANSACTIONS.

243. The close association and inter-locking control of the various companies enabled the Investment Executive Trust of New Zealand, Ltd., to show “ profits ” which it could probably not otherwise have done. The following are examples of this :—

- (a) The Investment Executive Trust of New Zealand, Ltd., had purchased from Mr. T. H. Macky 25,000 7½ per cent. preference shares in the Cambridge Clothing Factory, Ltd., for £20,500, or approximately 16s. 5d. per share. At a later date 5,000 of these shares were sold by the Investment Executive Trust of New Zealand, Ltd., to the Transport Mutual and General Insurance Co., Ltd., for £5,000, or £1 per share. The Investment Executive Trust of New Zealand, Ltd., held 60,000 shares, paid up in all to £51,000, out of 60,307 shares paid up in all to £51,107, in the Transport Mutual and General Insurance Company, Ltd., of which company Mr. T. H. Macky was chairman of directors.
- (b) The Investment Executive Trust of New Zealand, Ltd., also sold to the Transport Mutual and General Insurance Co., Ltd., twenty-one debentures of £1,000 each in the British National Trust, Ltd., for £21,525, a premium of £525 (which may, however, include certain accrued interest).
- (c) The revenue of the Investment Executive Trust of New Zealand, Ltd., was from time to time inflated by taking credit for “ profits ” on transactions with the Sterling Investments Co. (New Zealand), Ltd. The following is an illustration of this : Certain debentures issued by the Sterling Investments Co. (New Zealand), Ltd., to the Investment Executive Trust of New Zealand, Ltd., were redeemed on 31st March, 1933. As at that date a cheque was drawn by the Sterling Investments Co. (New Zealand), Ltd., for £54,875, the cheque-book butt showing that this was made up as follows :—

	£
Repayment part debenture capital	50,000
Premium	4,000
Interest	875
	<hr/>
	£54,875
	<hr/>

The above amount was paid to the Investment Executive Trust of New Zealand, Ltd., which company then drew a cheque for £55,000, which was paid to the Sterling Investments Co. (New Zealand), Ltd. The effect of this was that the Investment Executive Trust of New Zealand, Ltd., was enabled to show (apart from ordinary interest) a profit of £4,000 on the transaction, which could be used to show profits available towards payment of interest to its own debenture-holders.

INTEREST PAID ON DEBENTURES.

244. From time to time the Investment Executive Trust of New Zealand, Ltd., has drawn attention to the substantial rates of interest paid on its debentures. In this connection it is of interest to refer to the constitution of the revenue disclosed by the Revenue Account for the year ended 30th June, 1934. (Exhibit “ B ” [not printed]). The gross revenue is shown as £50,139 10s. 6d. Included in this amount are the following approximate sums :—

	£
Profits on sales of investments	19,000
Interest, the British National Trust Ltd., debentures	7,700
Interest, the British National Investment Trust, Ltd., debentures	1,900
Interest, the New Zealand Shareholders Trust, Ltd., debentures	13,800
	<hr/>
	£42,400
	<hr/>

245. The above figures are taken from notes of approximate figures extracted by us in Sydney. As the books of the company are still in Sydney we are unable to verify them, but quote them to show the large proportion of the “ profits ” realized from the sale of investments, approximately 45 per cent. of the “ net profit ” disclosed of £42,223 10s. 4d.

“ ESTABLISHMENT ACCOUNT.”

246. In the balance-sheet of the Investment Executive Trust, Ltd., as at 30th June, 1933, there appeared the following item :—

	£	s.	d.
Establishment, records and statistics, debenture-holders	25,375	2	6

In the balance-sheet as at 30th June, 1934, the whole of the “ Establishment Account ” amounting to £61,750 5s. 9d. has been included among the assets of the “ Shareholders’ Section.” This was rendered possible by the company incurring a liability to J. W. S. McArthur and C. G. Alcorn for the British National Trust, Ltd., debentures handed over to the Investment Executive Trust of New Zealand, Ltd., and treated as an investment on account of debenture-holders. It is to be noted that the balance-sheets showing the alteration was issued after the Royal Commission commenced its sittings in Sydney.

RESIGNATION OF FIRST AUDITOR TO THE INVESTMENT EXECUTIVE TRUST OF
NEW ZEALAND, LTD.

247. We think it is desirable to give certain extracts from evidence given before us by Mr. John Anderson, public accountant, of Auckland. Mr. Anderson said :—

“ I was the auditor of the Investment Executive Trust of New Zealand. I was appointed from the inception of the company. The appointment was made in the name of my then firm, Maben and Anderson, and that was announced in the prospectus. The appointment would be by the promoters or directors. I personally conducted the audit all the way through. I audited the accounts up to the 31st December, 1932. I had completed my audit of this by the 30th March, 1933 ; I resigned my position in the May following.

“ The reasons for my resignation were that I was not in accord with the Board on certain fundamental principles concerning the treatment of certain accounts. There was also a point relating to transactions with two companies that seemed to me to be subsidiary companies. I refer to the Sterling Investment Co. and the British National Investment Trust, Ltd. The latter was, I believe, a New Zealand company.

“ One thing I took objection to was the presence in the balance-sheet of what I deemed to be a purely fictitious asset, under the heading ‘ Statistics, Records, and Establishment.’ My objection to this was that I desired that the details of that account should be shown on the balance-sheet. I made a report to them under that heading. It is as follows—

“ ‘ Statistics and Records, £2,779 9s. 4d. ; brokerage in “ A ” Series, £1,320 10s. ; “ B ” Series, £13,134 10s. : total, £14,455 for the two series. That means a total capital expenditure of £17,234 9s. 4d. General expenses, including advertising, £14,735 19s. 5d. That makes a total of £31,970. Included in the amount of £14,735 is the sum of £12,768, paid to V. B. McInnes, Ltd., being additional fees over and above 5 per cent. brokerage.’

“ These various items appeared in the balance-sheet in one heading under the title ‘ Statistics, Records, and Establishment,’ and the amount was £31,970. That balance-sheet was in the form in which it was intended to submit it to the shareholders. It was submitted to me as the balance-sheet that I was to audit and append my certificate to for that purpose. The directors would not agree to the disclosure of the details that I required. There were present J. W. S. McArthur, W. A. Pilkington (chairman), and H. Glasson (secretary). They took the stand that they were putting it there as a temporary asset for the purpose of spreading it like preliminary expenditure. They did not write any proportion of it off in that year’s accounts. I find now on refreshing my memory and looking at the figures that they did write off a proportion in that year, and the sum shown under the asset would represent the balance. As to the £12,768 paid to V. B. McInnes, Ltd., I attacked that not merely because of the heading under which it appeared in the balance-sheet, but because I held it to be *ultra vires* and therefore an improper payment, and I asked that it should be shown as a separate item under a suspense heading, if they wished, pending investigation into it and a decision as to its legality. They did not accept my view and they just left the matter in abeyance.

“ At this time the total paid-up capital of the company was £7,367. The expenditure I am now calling attention to, therefore, was many times the total paid-up capital of the company. Therefore, it must have come out of the debenture-holders’ money.

“ It is to be remembered that this was the company’s second financial year and this was to be its second published balance-sheet. This capitalized expenditure that I complained about very largely increased in that year. Much of it in my opinion in this second year was proper revenue expenditure which should have been charged against revenue ; under that description there was the sum of £1,967, and there was also the £12,768 paid to V. B. McInnes and Co., Ltd.—a payment that I had questioned. My objection to the form of the accounts was that it meant submitting the accounts to the shareholders in a form in which the directors could recommend a payment of dividends to holders of ‘ A ’ and ‘ B ’ Series debentures. The balance-sheet shows that they had a balance in appropriation account of nett revenue totalling £6,312, and that would enable payment of a dividend on the debenture capital taking into account the dates on which it was paid up.

“The strongest objection the directors had to my requisitions concerned my decision to report the advances to the subsidiary companies that I have named—namely, Sterling Investment Co. of N.Z., Ltd., and the British National Investment Trust. I am not satisfied to use the word subsidiary in my answer here. I am not clear that it is a correct description. What I said in my report was, ‘Apparently through the medium of the membership of the two organizations there is created a connection between such organizations and the Investment Executive Trust of New Zealand, Ltd.’ The directors objected strongly to that. They said that I had no right as an auditor to call attention to that, and I said, ‘I know my duty as an auditor, and it is going in.’ They strongly objected, and I think that is why they would not publish this balance-sheet. The total amount they had invested in those two companies was £88,000 out of total investments of £243,675.

“I completed my audit, and I placed on the balance-sheet the following certificate: ‘Subject to my separate report of even date, to which members are referred, I certify that my requirements as auditor have been complied with and that the foregoing balance-sheet is properly drawn up so as to exhibit a correct view of the position of the Investment Executive Trust of New Zealand, Ltd., as at the 31st December, 1932.’”

“In my report I classified the capital items to which I objected, and gave the detailed figures, and I referred to the transactions with the associated companies. My report was as follows:—

“‘The following is my report mentioned in my certificate of even date appearing upon the balance-sheet of the Investment Executive Trust of N.Z., Ltd., of the 31st December, 1932.

“‘*Investments.*

“‘1. I have examined the bonds and certificates representing investments, except where such were not in possession of the trust, then I inspected acknowledgment from depositories of transfer for registration to the trust, except as to overseas investments, amounting to £570 5s., and transfers to the trust of investments amounting to £2,312 held by three companies pending approval.

“‘2. Included in “B” Series are two investments, one of £52,000 and the other of £36,358, in the debentures issued by British National Investment Trust, Ltd., and Sterling Investments Co. (N.Z.), Ltd., respectively.

“‘Apparently through the medium of the membership of the above two organizations there is created a connection between such organizations and the Investment Executive Trust of N.Z., Ltd.

“‘*Statistics, Records, and Establishment.*

“‘These are made up as follows:—

				£	s.	d.
“‘ Statistics and records	..	..	..	2,779	9	4
“‘ Brokerage—				£	s.	d.
“‘ “A” Series	..	..	..	1,320	10	0
“‘ “B” Series	..	..	..	13,134	0	0
				<hr/>	<hr/>	<hr/>
				14,455	0	0
“‘ Capital expenditure	..	..	..	17,234	9	4
“‘ General expenses including advertising	..	..	..	14,735	19	5
				<hr/>	<hr/>	<hr/>
				£31,970	8	9

“‘Included in the amount of £14,735 19s. 5d., is the sum of £12,768 16s. 3d. paid to V. B. McInnes, Ltd., being additional fees over and above 5 per cent. brokerage.

“‘I am of the opinion that this sum, £12,768 16s. 3d., should be transferred to a Suspense Account until it is decided whether or not such expenditure is administration costs as referred to in the debenture contract, if so, the same should be temporarily capitalized and gradually written off against revenue.

“‘I am of the opinion that the balance, £1,967 3s. 2d., should be charged against revenue even though unduly heavy because of the initial costs of getting the company into operation.

“‘*Investments.*

“‘The balance-sheet shows that the value of the investments are taken at cost. No comparative statement of market value with costs has been shown to me.

“‘(Sgd.) JOHN ANDERSON, F.P.A.N.Z.,

“‘30th March, 1933.

Auditor.’

“After I handed in my report I was invited to meet the directors and discuss the matter with them. I was met by Mr. McArthur and Mr. Pilkington, Directors, and Mr. H. Glasson, Secretary. They refused to accept my views, and after that meeting I resigned; I sent my resignation in next day.

“After this, the financial year of the Investment Executive Trust was extended to the 30th June, and a new balance was made and the balance-sheet as at that date prepared. It covered a period of eighteen months.”

NON-PRODUCTION OF BOOKS OF THE STERLING INVESTMENTS COMPANY (NEW ZEALAND), LTD.

248. We have already made several references to the Sterling Investments Company (New Zealand), Ltd., and have stated that the affairs of this company very materially affect the affairs of the Investment Executive Trust of New Zealand, Ltd. One of the most unpleasant features of the inquiry is the "loss" of the books of the Sterling Investments Company (New Zealand), Ltd., for the period from its inception to 28th February, 1934. The "lost" books cover a period during which transactions took place vitally affecting the Investment Executive Trust of New Zealand, Ltd. The loss of these books will be referred to in some detail in the Inspectors' Report on the affairs of the Sterling Investments Company (New Zealand), Ltd.

249. Mr. Justice Halse Rogers, Royal Commissioner in Sydney, said on 25th September, 1934, nearly seven weeks after the first sitting of his Commission:—

"18016. *Commissioner*: This Commission is drawing towards a close, and I am getting less and less information, apparently, about the really important and vital matters. Of course, one of the matters I will have to consider is whether or not, if it takes special legislation to move the present officers from this trust, I should recommend that special legislation be passed to remove them, and if it needs special legislation to get back any money which I think has been got by the mishandling of what are practically trust funds, then I shall have to consider whether I shall advise special legislation to revest that money in the trust company. I am simply saying that this attitude of 'you find out if you can' is most unsatisfactory. I am not at all satisfied Sterling books could not have been produced if there was any desire to produce them. Since the 9th August it has been stated quite definitely that the key to the whole position was the Sterling books, and I think if there had been any real desire to produce the Sterling books, if they had not been destroyed, they would have been here."

BALANCE-SHEETS AND ACCOUNTS GENERALLY.

250. The balance-sheets and accounts submitted as exhibits are mostly copies of balance-sheets and accounts submitted to the Royal Commission in Sydney. We accept no responsibility for the correctness of these accounts, the majority of which are unaudited.

251. Balance-sheets submitted by counsel for the various companies to the Royal Commission in Sydney were frequently amended as errors were discovered, and it is not improbable that further errors have since been discovered in a number of them. In certain instances the balances between companies differ in their respective balance-sheets.

252. Moreover, the position has changed in various respects since 30th June, 1934, but we have not, except in a few instances, referred to transactions recorded in accounts subsequent to 30th June, 1934. We have, however, little doubt but that balance-sheets of the various companies as at to-day's date would, in general, show that the security of the debenture-holders is less than it was as at 30th June, 1934.

REMOVAL OF BOOKS AND SECURITIES FROM NEW ZEALAND TO AUSTRALIA.

253. The principal books of account and records and securities of the Investment Executive Trust of New Zealand, Ltd., were transferred from New Zealand to Sydney, New South Wales, in about May or June, 1934. Mr. H. C. Glasson, secretary to the company, stated in evidence given on 9th August, 1934, before the Royal Commission in Sydney that the company was not conducting any business in Sydney, and in reply to an inquiry as to why in that case the books were kept in Sydney, said that he understood that eventually there was to be an amalgamation between the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd.

254. Mr. W. A. Pilkington, chairman of directors of the Investment Executive Trust of New Zealand, Ltd., in evidence given on oath before us, when asked what was the object of taking the books, documents, and papers of the trust to Sydney, said:—

"Well, the object—we had several objects in view. One was the central position of Sydney. In calculating the localities of our operations we found that the distance from Sydney to Perth was considerably greater than the distance from Sydney to Auckland, and as the volume of business in Australia was considerably larger than the business in New Zealand we felt that it would be a much more central position to have all our valuable documents in Sydney—that is, coming in from Australia and New Zealand—and work from Sydney as the centre. In addition to that the number of valuable documents had increased to such an extent that it was necessary for us to have bigger and more commodious and safer deposit vault."

255. We regard as entirely unconvincing Mr. Pilkington's suggestion as to more commodious deposit vault accommodation for the Trust's "valuable documents" necessitating their removal to Sydney. Mr. Pilkington's whole evidence to us was unsatisfactory, and he was either unable or unwilling to supply us with much useful information which one would naturally expect him, in his capacity as chairman, to have available.

256. As the Investment Executive Trust of New Zealand, Ltd., was registered in New Zealand and had its registered office in Auckland, and as practically the whole of its debenture capital was subscribed in New Zealand, we consider that the removal of its books, records, and control to Australia was most improper. If the underlying reason for removal was, in fact, a contemplated amalgamation with the Southern British National Trust, Ltd., we say that, in our opinion, it was improper to take steps to this end before consulting the New Zealand debenture-holders.

GENERAL COMMENTS, CONCLUSIONS, AND RECOMMENDATIONS.

257. We submit the following comments, conclusions, and recommendations :—

(a) The debenture-holders, as such, have had no share in the control of the Investment Executive Trust of New Zealand, Ltd.

(b) Until the commencement of the inquiry into the affairs of the Investment Executive Trust of New Zealand, Ltd., debenture-holders have received only meagre information as to the affairs of the Trust, and, in certain cases, this information has been presented in such a form as to be distinctly misleading.

(c) The control of the affairs of the Investment Executive Trust of New Zealand, Ltd., and of many of the associated companies, on the accountancy side has been very weak, as was evidenced by the difficulty and delay experienced by the Commission in Sydney in securing statements of the position of the various companies as at 30th June, 1934.

(d) The accounts of many of the companies have never been audited.

(e) No audited balance-sheets as at 30th June, 1934, of any of the companies whose books were removed to Sydney have yet been produced.

(f) The Investment Executive Trust of New Zealand, Ltd., had no substantial backing of real share capital.

(g) Practically no cash was put into the Investment Executive Trust of New Zealand, Ltd., or the associated companies by Mr. J. W. S. McArthur or his principal associates.

(h) Shares were stated to have been paid up in cash when, in fact, the device of exchanging of cheques was adopted.

(i) J. W. S. McArthur's personal finances at about the time the Investment Executive Trust of New Zealand, Ltd., commenced business in 1931 were in a very involved state.

(j) J. W. S. McArthur, through the medium of subsidiary or associated companies, used the funds subscribed by debenture-holders in the Investment Executive Trust of New Zealand, Ltd., to protect and salvage his own personal assets. The following is quoted from evidence given on 18th September, 1934, by Mr. J. W. S. McArthur before the Royal Commission in Sydney :—

“ 13458. *Commissioner*.—That means that the Investment Executive Trust were protecting your personal interest ?—Yes.

“ 13459. With money subscribed by debenture-holders in Investment Executive Trust ?—Yes ; but Investment Executive Trust were protected.

“ 13460. Do you think that is a proper investment for debenture-moneys in Investment Executive Trust, protecting your personal interest ?—Yes, I think so.”

“ 13479. *Mr. Monahan*.—Is not this the position : that they were taken over from Sterling and paid for with the money of Investment Executive Trust ? You had property you wanted to protect. It was mortgaged beyond your control, and you wanted it back, so you called the Investment Executive Trust to finance Sterling to the extent of £22,000, and Sterling paid that money out, and so got control of that property ?—Yes.”

“ 13485. *Commissioner*.—So that is all nonsense to talk about these involved dealings with Sterling, and so on, when actually you are just protecting your own personal interests ?—And in protecting my own personal interests I maintain I was protecting the Trust's.”

(k) J. W. S. McArthur used the funds subscribed by debenture-holders of the Investment Executive Trust of New Zealand, Ltd., to finance the purchase of the trust building, a transaction which was admittedly one for the purpose of securing financial gain to himself and to C. G. Alcorn. There was no margin of security for the transaction unless the building was worth more than the amount paid for it at auction.

(l) A large portion of the funds subscribed by the debenture-holders of the Investment Executive Trust of New Zealand, Ltd., is now for all practical purposes locked up in an investment in real estate.

(m) The prospectuses issued by the Investment Executive Trust of New Zealand, Ltd., were misleading and their terms were not carried out in the spirit and, in certain instances, not in the letter.

(n) Statements made by representatives of V. B. McInnes and Co. and/or V. B. McInnes and Co., Ltd., the authorized brokers of the Investment Executive Trust of New Zealand, Ltd., to investors in the trust, were misleading.

(o) The control of the Investment Executive Trust of New Zealand, Ltd., and of many of the associated companies has been exercised in a way greatly prejudicial to the interests of the debenture-holders.

(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.

(bb) Section 266 of the Companies Act, 1933, provides that—

“If any person, being at the time of the commission of the alleged offence a director, manager, or other officer of a company which is subsequently ordered to be wound up by the Court or which subsequently passes a resolution for voluntary winding-up—

“(a) Has by false pretences or by means of any other fraud induced any person to give credit to the company; . . .

“he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding twelve months.”

The statements made in the various prospectuses undoubtedly induced persons to give credit to the company. If a liquidator is appointed we consider that he should seek legal advice as to whether any of such statement constitute “false pretences,” and that if he is so advised he should take appropriate action. We further consider that any liquidator appointed should seek legal advice as to whether certain actions of the directors of the Investment Executive Trust of New Zealand, Ltd., more particularly those actions relating to the financing and purchasing of the “trust building” constitute misfeasance or breach of trust on the part of J. W. S. McArthur, C. G. Alcorn, and/or the other directors of the company.

(cc) The suggestion has been made that the wishes of debenture-holders should be ascertained before any action is taken relative to liquidation. With this suggestion in the abstract it is impossible to do otherwise than agree. It must, however, be borne in mind that the problems are of so complicated a nature that it is extremely difficult for debenture-holders, in general, to form a clear conception of the issues at stake, and if any action is to be based on the expressed views of debenture-holders, we consider it of importance that steps should be taken to supply them with such information as may enable them properly to form an opinion.

J. L. GRIFFIN,

J. M. ELLIFFE,

Inspectors.

Wellington, N.Z., 28th January, 1935.

EXHIBITS : A-Z, AA AND BB. [NOT PRINTED.]

THE STERLING INVESTMENTS CO. (N.Z.), LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of the Sterling Investments Co. (N.Z.), Ltd.

REPORT OF INSPECTORS.

1. INTERPRETATION.

In this report, unless the context otherwise requires, "the Sterling Co." means "the Sterling Investments Co. (N.Z.), Ltd."

"The Investment Executive Trust" means "the Investment Executive Trust of New Zealand, Ltd."

"The Pacific Co." means "the Pacific Exploration Co., Ltd."

"The Wynwood Co." means "Wynwood Investments, Ltd."

"The Royal Commission in Sydney" means "His Honour Mr. Justice Halse Rogers," who was appointed by the Government of New South Wales as a Royal Commission to inquire into the affairs of certain companies, including the companies mentioned above.

2. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed to investigate the affairs of the companies specified in the Schedule to the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe and John Leslie Griffin, two of the Inspectors so appointed, respectfully submit a report of their investigations into the affairs of the Sterling Investments Co. (N.Z.), Ltd.

3. COMMENCEMENT OF INVESTIGATION.

We commenced our investigations into the affairs of this company by attending at its registered office and calling for the production of the company's books and records. There were no books available at the registered office in Auckland, and we were informed that they had been taken to Sydney. With a view to securing information regarding this and other companies whose records and officers were in Sydney, we visited that city, leaving New Zealand for Australia on the 24th August, 1934. The position regarding books and records is discussed in section 6 of this report.

4. CONSTITUTION OF COMPANY.

A. REGISTRATION.

The company was registered as a public company on 14th October, 1930, the Memorandum of Association being dated 8th October, 1930.

B. CAPITAL.

The original capital of the company was £10,000 in £1 shares. The nominal capital was, in December, 1932, increased to £50,000, and in March, 1934, to £100,000, all shares being of £1 each. In all, 21,007 shares have been issued, on which £2,370 14s. is recorded as paid up. The names of past and present shareholders and of their holdings are given in Exhibit "D" appended hereto.

C. OBJECTS.

The Memorandum of Association gives the company power to carry out a great variety of financial operations, the thirty-five paragraphs which appear under the “Objects” clause covering almost every conceivable form of financial transaction.

D. ARTICLES OF ASSOCIATION.

Table “A” of the Companies Act, 1908, is adopted with a number of modifications. In particular provision is made by Article (6) for a quorum for general meetings of at least two members holding or representing by proxy not less than one-half of the issued capital, and by Article (8) for the number of directors being not less than two nor more than four.

It may be pointed out that there is no specific power in either the Memorandum of Association or the Articles of Association by which the directors may appoint an attorney to whom they may delegate their powers. Further reference to the appointment of certain persons under powers of attorney is made in section 8 (B) of this report.

E. SHAREHOLDERS.

The subscribers to the Memorandum of Association were—							Shares.
Richard Glover-Clark	..	..	..	..	..	..	1
Kenneth Curtis Aekins	..	..	..	..	..	..	1
Harold Arthur Charles Davy	..	..	..	..	..	..	1
Roy Clifford Dormer	..	..	..	..	..	..	1
Charles Graham Alcorn	..	..	..	..	..	..	1
John Saunders Callinan	..	..	..	..	..	..	1
Milford Larritt	..	..	..	..	..	..	1
							—
							7

The report presented to the statutory meeting on 28th November, 1930, states that 307 shares had then been issued. Of these 307 shares, 300 were accounted for by allotments of 100 shares to each of R. Glover-Clark, K. C. Aekins, and C. G. Alcorn, these shares having been “allotted as fully paid for services rendered during formation of the company.”

The following allotments were subsequently made :—				Shares.
19th June, 1931—Modern Homes, Ltd.	..	..	..	200
30th Sept., 1931—Investment Executive Trust of New Zealand, Ltd.	..	..	..	500
27th March, 1933—Investment Securities Association, Ltd.	..	..	..	20,000

All shares issued except the 300 allotted to directors as fully paid, are paid to 2s. per share. The shareholdings as at 30th June, 1934, were as follows :—

—						Number of Shares.	Amount paid per Share.	Total Amount paid.
							s. d.	£ s. d.
Aekins, K. C.	..	..	..	..	..	1	2 0	0 2 0
Aekins, K. C.	..	..	..	..	..	100	20 0	100 0 0
Alcorn, C. G.	..	..	..	..	..	1	2 0	0 2 0
Alcorn, C. G.	..	..	..	..	..	100	20 0	100 0 0
Davy, H. A. C.	..	..	..	..	..	1	2 0	0 2 0
Dormer, R. C.	..	..	..	..	..	1	2 0	0 2 0
Callinan, J. S.	..	..	..	..	..	1	2 0	0 2 0
Larritt, M.	..	..	..	..	..	1	2 0	0 2 0
British National Trust, Ltd...	..	..	..	..	..	20,701	2 0	2,070 2 0
British National Trust, Ltd...	..	..	..	..	..	100	20 0	100 0 0
						21,007	..	£2,370 14 0

5. PERSONNEL.

A. DIRECTORS.

The first directors of the company were Kenneth C. Aekins, Solicitor (Chairman), R. Glover-Clark, and C. G. Alcorn, who were appointed in accordance with the provisions of the Articles of Association.

Mr. R. Glover-Clark resigned on 22nd September, 1932, and the vacancy so created was not filled. Mr. K. C. Aekins and Mr. C. G. Alcorn still hold office as directors, having occupied such offices continuously since the incorporation of the company.

B. SECRETARY.

Miss M. Gregory has been secretary of the company since its inception. Giving evidence on oath before us, Miss Gregory stated that she was an employee of the Investment Executive Trust, being confidential typiste to Mr. J. W. S. McArthur (managing director) and also typiste to Mr. H. C. Glasson

(secretary). She was nominally secretary to the Sterling Co., but she had never kept the books of the company, and had signed cheques or documents when required on instructions from Mr. J. W. S. McArthur or Mr. H. C. Glasson, although she admitted that in many cases she did not know the purport of the documents or the reason for issuing the cheques.

C. AUDITOR.

No reference to the appointment of an auditor is made in the minutes of the company. None of the balance-sheets which we have inspected bears an audit certificate. We were informed that at one stage Mr. G. G. Cayley-Alexander, Secretary of V. B. McInnes and Co., Ltd., was appointed auditor, but he has stated that this was merely a formal appointment, that he had never inspected the books of the company and had since resigned from the position.

D. BANKERS.

The principal bank account of the company was opened with the Commercial Bank of Australia, Ltd., in Auckland on 23rd October, 1930. This account was operated on by any one director and the secretary jointly. Another bank account was opened on 20th January, 1932, with the National Bank of New Zealand, Ltd., at Auckland, under the name Sterling Investments Co. (N.Z.), Ltd. (Investments Account). This account was operated on solely by Mr. J. W. S. McArthur, who, as managing director of the Investment Executive Trust, was attorney for the company, and the account is further referred to in section 13 (E) of this report. A bank account was also opened at Bombay with the Chartered Bank of India, Australia, and China. The resolution authorizing the opening of this account is dated 30th October, 1930.

E. SOLICITOR.

Mr. Kenneth C. Aekins, in addition to holding the office of chairman of directors of the company, acted as solicitor to the company.

6. BOOKS AND RECORDS.

A. BOOKS, ACCOUNTS, AND DOCUMENTS INSPECTED.

The following books, accounts, and documents of the company have been inspected:—

- (a) Journal, cash-book, and ledger covering the period from 28th February, 1934, to 30th June, 1934 (the date to which the books were written up at the time of our leaving Sydney to return to New Zealand).
- (b) Copies of the shareholders and directors' minute-books, the originals being lodged as exhibits with the Royal Commission in Sydney.
In the copy of the minute-book with which we have been supplied, the minutes of a directors' meeting held on 3rd November, 1930, record the confirmation of the minutes of a meeting held on 21st October, 1930, the minutes of which are not included in the copy of the minute-book in our possession. Mr. K. C. Aekins, chairman of directors of the company, has inspected this copy. He stated that he had been responsible for the preparation of the minutes, and that the copy inspected appeared to be a correct copy, except that certain minutes dealing with business transacted in the early stages of the company's existence were not included. He thought that the business transacted at these meetings would include the allotment of the 300 shares to the directors "as fully paid for services rendered during formation of the company" as mentioned in section 4 (E) of this report, and certain formal matters—*e.g.*, appointment of directors and other officers, authorizing the opening of an account with the Commercial Bank of Australia, Ltd., &c.
- (c) Copies of balance-sheets dated 30th June, 1934, 31st August, 1932, and 28th February 1934. (Copies of these documents are appended to this report. Exhibits "A," "B," and "C.")
- (d) Copies of various documents which were handed in to the Royal Commission in Sydney.
- (e) Memorandum and Articles of Association and other documents filed in the office of the Registrar of Companies at Auckland.
- (f) Letter from Mr. K. C. Aekins, chairman of directors, explaining his connection with the company. A copy of this letter is appended to this report as Exhibit "G."

Section 4 (1) of the Companies (Special Investigations) Act, 1934, extends the application of section 142, subsections (3), (4), and (5) of the Companies Act, 1933, to include bankers of the company. Acting under these powers, we made application and particulars of the transactions passing through the company's two banking accounts in Auckland were supplied by the company's bankers.

B. DISAPPEARANCE OF CERTAIN BOOKS OF THE COMPANY.

As already mentioned in Section 3 of this report, none of the company's books was available in Auckland, and we were informed that the books were in Sydney. On our arrival in Sydney we found that the only books available there had been opened as at 28th February, 1934, by transfer from the previously existing books, and that the books available contained no record of transactions prior to 28th February, 1934.

Mr. H. C. Glasson, who had been responsible for the writing-up of the company's books since its formation, told us that in February or March, 1934, he had been instructed by Mr. J. W. S. McArthur to record the transfer of certain assets from the company, and thereafter to open a new set of books. This transfer of assets is discussed in more detail in Section 12 of this report under the heading "Sterling-Wynwood Transaction." The old books were closed off as at 28th February, 1934, and a balance-sheet was prepared as at that date, this balance-sheet providing the basis for the opening of the new set of books now in use by the company.

The books recording transactions prior to 28th February, 1934, have disappeared, their whereabouts not having been discovered despite exhaustive searches conducted by officers of the company and by the Inspectors appointed under the Companies (Special Investigations) Act, 1934. Mr. H. C. Glasson stated that when the new books were taken to Sydney, the old ones were left in the office of the Investment Executive Trust in Auckland, but search there has failed to reveal them. Mr. J. W. S. McArthur stated in evidence before the Royal Commission in Sydney that he thought it possible that the books might have been removed to his home in Hillsborough, Auckland, and that he had caused search to be made for them there, but without success.

The absence of these books has seriously hampered our investigations, as it leaves us without particulars of many important transactions. The "loss" of these vital records, combined with the fact that the officers of the company have apparently made no effort to reconstruct them, has raised in our minds a definite suspicion that the disappearance of the books was not accidental.

His Honour Mr. Justice Halse Rogers, sitting as the Royal Commission in Sydney, made the following remarks on 25th September, 1934 :—

"I am not at all satisfied Sterling books could not have been produced if there was any desire to produce them. Since the 9th August it has been stated quite definitely that the key to the whole position was the Sterling books, and I think if there had been any real desire to produce the Sterling books, if they had not been destroyed, they would have been here."

C. ATTEMPTED RECONSTRUCTION OF "LOST" BOOKS.

A partial reconstruction of the "lost" books was attempted in Sydney by J. M. Elliffe, one of the Inspectors submitting this report. A balance-sheet dated 31st August, 1932, was found among the company's papers in the trust building in Sydney, and the cheque-book butts from that date to 28th February, 1934, when the new books were opened, were also available. Information showing the source of a number of the bank deposits was obtained by us from the company's bankers. With this information it was possible to ascertain the principal avenues through which the funds of the company had been received and disbursed.

These reconstructed books cannot be regarded as final or complete, as there may have been transactions recorded by journal entries only, of which we have no particulars, but in some instances it has been possible to check the figures arrived at with the corresponding accounts in the books of associated companies. When this could be done, as, for example, with the Pacific Exploration Co., Ltd., and Financial Publications, Ltd., there was found to be approximate agreement between the two sets of figures.

These reconstructed books showed that, in the period of eighteen months covered by them, the Sterling Co. had received more than £70,000 in advances from the Investment Executive Trust, of which over £50,000 was expended on assets which were ultimately transferred to Mr. J. W. S. McArthur, this figure including approximately £8,000 advanced to him personally and over £6,000 expended in connection with his property at Hillsborough, Auckland. These, with other items affecting Mr. McArthur personally, were not brought into the new books, so that the transfers of assets were presumably recorded prior to the preparation of the balance-sheet as at 28th February, 1934.

D. AUDIT.

None of the balance-sheets produced bore any audit certificate, nor were any of them certified by any officer of the company.

7. GENERAL REVIEW OF COMPANY'S OPERATIONS.

The operations of the company may be classified under the following four principal headings :—

- (a) As Brokers for New Zealand Redwood Forests, Limited.
- (b) Transactions undertaken on behalf of Mr. J. W. S. McArthur.
- (c) Association with Investment Executive Trust.
- (d) Association with Investment Executive Trust Group Companies.

These operations are briefly discussed in the paragraphs immediately following and further details are given later in this Report.

(a) *As Brokers for New Zealand Redwood Forests, Ltd.*

It has been stated by both Mr. J. W. S. McArthur and Mr. R. Glover-Clark, who was at first managing director of the company, that the Sterling Co. was incorporated to assist in the sale of debentures of New Zealand Redwood Forests, Ltd., in New Zealand and India, and this is supported by the minute-book, which records that at a meeting of directors held on 30th October, 1930, it was resolved—

"That an account be opened in the name of the company with the Chartered Bank of India, Australia, and China at Bombay."

This was to facilitate the handling of cash received for the sale of debentures of New Zealand Redwood Forests, Ltd., in India by Palmer and Co., of Bombay, who have since that date acted as selling-agents for the Sterling Co. in India.

At a meeting of directors held on 20th February, 1931, the managing director reported that he had completed negotiations with New Zealand Redwood Forests, Ltd., to purchase 1,066 debentures, being "the remainder of that company's first issue of 8,000 debentures." Advances were to be made by the New Zealand Redwood Forests, Ltd., "on account of preliminary expenses, travelling-expenses, and printing, and certain of these advances had been expended." Nine of the Redwood debentures had already been sold at £35 each. It was accordingly resolved:—

"That the managing director's actions be and are hereby approved.

"That the company purchase the remainder of the New Zealand Redwood Forests, Ltd., first issue of 8,000 debentures of £35 at the agreed price of £25 each and that these be resold at the nominal value less any agreed discounts to cash purchasers."

At the next directors' meeting, however, held on 19th June, 1931, it is recorded that—

"As no agreement has been entered into between the company and New Zealand Redwood Forests, Ltd., for the purchase of debentures in the latter company it was resolved:—

"That the resolution of February 20th, 1931, which reads as follows—

"That the company purchase the remainder of the New Zealand Redwood Forests, Ltd., first issue of 8,000 debentures of £35 at the agreed price of £25 each, and that these be resold at the nominal value less any agreed discounts to cash purchasers

be rescinded.'"

The above are the only references to the sale of the Redwood debentures contained in the minute-book. Apparently the Sterling Co. at this time ceased to be actively interested in the sale of the debentures in New Zealand, but continued its endeavours to dispose of them in India, particularly so since September, 1933, when new terms for the acquisition for disposal by the Sterling Co. of Redwood debentures were agreed upon between the companies. New Zealand Redwood Forests Ltd., is one of the companies whose affairs are being investigated under the provisions of the Companies (Special Investigations) Act, 1934, and a separate report will be made by the Inspectors appointed in that regard. That report will give particulars of the bond-selling operations.

The accounts relative to the Sterling Co. in the books of the New Zealand Redwood Forests, Ltd., do not agree with the corresponding accounts in the books of the Sterling Co., and reconciliation and adjustment are necessary.

(b) Transactions undertaken on behalf of Mr. J. W. S. McArthur.

From about June, 1931, until the end of the year 1932 the principal activities of the Sterling Co. were directed towards the protection of certain assets belonging to Mr. J. W. S. McArthur. The assets consisted principally of properties and shares and debentures in companies. In 1931 Mr. McArthur was being pressed by creditors for payment of debts which he professed inability to meet. In a letter dated 25th September, 1931, and addressed to Mr. V. R. Meredith, Crown Solicitor, Auckland, who was claiming on behalf of the State Forest Service in respect of a guarantee by Mr. J. W. S. McArthur of a debt due by the Selwyn Timber Co., Ltd. (in Liquidation), Mr. McArthur stated, *inter alia*:—

"Forcing the claim on the part of the Crown would involve me in bankruptcy.

"From this statement" (financial statement enclosed with letter) "it is plain that if I am forced into bankruptcy at the present time, my creditors will get practically nothing."

A copy of this letter and statement enclosed is appended to this Report as Exhibit "E."

In order to protect certain of his assets from his creditors Mr. J. W. S. McArthur transferred them to the Sterling Co. Later, when his financial position improved, he obtained the retransfer of these assets to Wynwood Investments, Ltd., a company in which he held 9,900 shares out of 10,000 issued, and also all the debentures, £40,000. Details of these transactions are given in section 12 of this report.

(c) Association with Investment Executive Trust.

The Sterling Co. was also utilized to assist the Investment Executive Trust by—

(a) Making advances against Investment Executive Trust debentures. The Investment Executive Trust notified its debenture-holders that an arrangement had been made with the Sterling Co. whereby they could obtain advances up to 75 per cent. of the face value of their debentures. As security the Sterling Co. retained the debentures and also took a mortgage over them. No interest was payable by the borrower, but the debenture-holders assigned to the Sterling Co. the whole of the income from the debentures during the currency of the advances.

(b) Purchasing Investment Executive Trust debentures from dissatisfied debenture-holders, who, in a number of cases, had threatened legal action for recovery of money paid or securities transferred. Particulars of the largest transaction of this nature are given in section 15 of this report.

(c) Purchasing Investment Executive Trust debentures on the open market through sharebrokers, in some cases at a discount. Miss M. Gregory, secretary of the Sterling Co., when examined on oath, told us that, although she could not state the reason for the purchase of these debentures, she thought it was "to keep the market up," and this would appear to be an adequate reason, since it would be difficult to sell new debentures at par if it were possible to purchase debentures in the same series on the open market at a discount.

(d) Financing through Financial Publications, Ltd., the establishment of a financial publication *The Investment Review*, to assist in popularizing investment trusts and to counteract statements which it was believed would be detrimental to the Investment Executive Trust. This matter is discussed in the report of the Inspectors on the affairs of Financial Publications, Ltd., one of the companies being investigated under the provisions of the Companies (Special Investigations) Act, 1934.

(e) Buying Investment Executive Trust preference shares.

(d) *Association with Investment Executive Trust Group Companies.*

Substantial advances were also made by the Sterling Co. to various officers of the Investment Executive Trust and associated companies, and also to the associated companies themselves. As far as we have been able to ascertain, no security was given to the Sterling Co. covering these advances. Details of these advances are shown in the balance-sheet as at 30th June, 1934, which is appended hereto as Exhibit "A," and the items are discussed in section 11 (B) of this report.

8. MANAGEMENT OF COMPANY.

A. DIRECTORS.

The first directors of the company were Kenneth C. Aekins (chairman), R. Glover-Clark, and Charles G. Alcorn. (Mr. Glover-Clark resigned on 22nd September, 1932, and was not replaced.) We are convinced, however, that they were merely "nominal" directors who were prepared to carry out the policy dictated by Mr. J. W. S. McArthur. This is borne out by the minutes and correspondence of the company, and was admitted to the Inspectors by Mr. K. C. Aekins (chairman of directors and solicitor to the company) as far as he was personally concerned. Mr. K. C. Aekins was examined on oath, and admitted that he knew very little of the working of the company, and was not consulted as to many of its operations, nor when it was decided to transfer the books and documents to Australia. He also, as a director of the company, signed many cheques for substantial amounts without any knowledge of the transactions for which they were being paid.

The following is a verbatim report of part of Mr. Aekins' evidence given on oath before us in Auckland on 22nd August, 1934:—

Question.—These are all very substantial amounts of money. Isn't it strange that as a director you have no knowledge of them?

Answer.—I suppose it does appear strange to you gentlemen, but I was not an active director of the company. I did not formulate the policy of the company.

Question.—And yet you are chairman?

Answer.—And yet I am chairman.

Question.—Is it your province as chairman to wait until some one consults you, or issue directions yourself?

Answer.—I never issue directions myself at all.

Question.—I take it then, Mr. Aekins, you are really a director for convenience?

Answer.—That is what I assume. I did as I was told.

Question.—With all the responsibilities of a director?

Answer.—Admittedly.

Later, in answer to questions as to particulars of certain cheques which he had signed, Mr. Aekins made replies as under:—

Answer.—I understand from Miss Gregory that Sterling Investments had to pay wages in connection with Redwood Forests, but other than that I know nothing whatever about the transaction.

Question.—What security did you get for that?

Answer.—I never saw any security. I was told it was for wages, and instructions came from Australia to pay the amount over.

Question.—You did not regard it as your concern to see you got security for these payments?

Answer.—No, I did not.

Question.—It was a fairly substantial payment.

Answer.—I don't understand that.

B. POWERS OF ATTORNEY.

As is pointed out in para. 4 (D) of this report, there is no specific power contained in either the Memorandum of Association or Articles of Association by which the directors may delegate their powers. During the greater part of the life of the company, however, an attorney with very wide powers has been in practically complete control of the company's operations.

On 7th November, 1931, Mr. J. W. S. McArthur, as managing director of the Investment Executive Trust, wrote to the Sterling Co. requesting that a power of attorney in favour of the managing director of the Investment Executive Trust be prepared "together with such necessary deeds of covenant by your company and its directors as may be necessary for more fully and effectually carrying into effect the said power of attorney."

A power of attorney was accordingly prepared, and the document was approved, and the seal of the company authorized to be "attached thereto" at a meeting of directors held on 23rd December, 1931, the attorney nominated being the managing director for the time being of the Investment

Executive Trust of New Zealand, Ltd. Mr. J. W. S. McArthur has held the office of managing director of the Investment Executive Trust since the incorporation of that company. This power of attorney remained in operation until 5th December, 1932, when it was revoked and a new one granted to Mr. C. G. Alcorn.

In the period during which Mr. J. W. S. McArthur, as managing director of the Investment Executive Trust, held the power of attorney, very substantial amounts were advanced to him by the Sterling Co. direct to him and also through associated companies in order to protect and preserve his assets, and also to protect his personal interests. These assets ultimately came back to him through the Sterling-Wynwood transaction on 28th February, 1934. Further reference to this transaction is made in section 12 of this report.

Even after the revocation of the power of attorney to the managing director of the Investment Executive Trust and the appointment of Mr. C. G. Alcorn in the same capacity, the policy of the company was directed by Mr. J. W. S. McArthur.

In giving evidence before the Royal Commission in Sydney on the 3rd and 4th September, 1934, Mr. Alcorn admitted that in the affairs of the Sterling Company and other associated companies he acted at the dictation of Mr. J. W. S. McArthur. Mr. Alcorn's evidence on 3rd September, 1934, was as follows :—

7066. *Commissioner*.—Is it not a fact that in this transaction you simply did what you were told to do ?

C. G. Alcorn.—That is the position.

7067. *Commissioner*.—You were simply a puppet and some one else was pulling the strings ?

C. G. Alcorn.—It may be put that way.

7068. *Commissioner*.—I am not saying that offensively, but you had no personal direction in the matter ?

C. G. Alcorn.—I was really in the hands of the trust.

7069. *Commissioner*.—You carried out Mr. McArthur's instructions ?

C. G. Alcorn.—Yes, because he has control of the finances.

7070. *Commissioner*.—So that in any financial dealings which you transacted you did not have full knowledge of what they were ?

C. G. Alcorn.—No.

Evidence given by Mr. Alcorn on 4th September, 1934, is quoted in section 12 (B) (b) of this report.

His Honour Mr. Justice Halse Rogers in his interim report dated 1st November, 1934, at page 12 states,—

“ The other directors of the company who gave evidence were merely lay figures, or, shall I say, persons who merely registered Mr. McArthur's determinations and resolutions. They apparently had no independent initiative, and although in some instances they had nominally been in control of the companies' affairs for a very long time they had been content to do as they were directed by Mr. McArthur.”

C. SEPARATE “ INVESTMENTS ” ACCOUNT.

While as managing director of the Investment Executive Trust Mr. J. W. S. McArthur held the power of attorney, the Sterling Investments Co., at his request, opened a separate bank account on which he operated solely. This account remained active from January, 1932, to December, 1932, and during this period over £22,000 was deposited in the account. This account is dealt with in more detail in section 13 (E) of this report, where it is shown that practically all this money was expended in a manner which either immediately or ultimately resulted in benefit to Mr. McArthur.

D. AUTHORIZATION OF TRANSACTIONS BY SUBSEQUENT CONFIRMATORY RESOLUTIONS.

Many of the transactions, though of importance and involving the payment of large sums of money, are not recorded in the minute-book as duly authorized at the time, but from time to time confirmatory resolutions were passed by the shareholders authorizing all payments and transactions. Thus the following resolutions were passed :—

On 5th July, 1932 :—

“ That, having heard the report of the directors, this meeting of shareholders approves of all payments made by the directors in accordance with the statements submitted to the meeting, and confirms all acts and deeds done or entered into by the directors and by the attorney for the company, whether the same may have been sanctioned by the board of directors or the attorney or otherwise.”

On 21st December, 1932 :—

“ That all payments made by the company to this date and all acts of the directors, attorney, or other officer of the company be and are hereby confirmed, adopted, and ratified.”

On 14th March, 1934 :—

“ Resolved that all payments made by the company to this date and all acts of the directors, attorney, or other officer of the company be and are hereby confirmed, adopted, and ratified.”

9. METHOD OF FINANCE.

A. SHARE CAPITAL.

As set out in section 4 (E) of this report, up to 30th June, 1934, there had been issued 21,007 shares, on which £2,370 14s. is recorded as paid. Of this sum £300 was credited in respect of services rendered during the formation of the company, so that only £2,070 14s. was actually received in cash. Of this amount £2,000 should have been received from Investment Securities Association, Ltd., in payment of application and allotment money on 20,000 share allotted on 27th March, 1933. The affairs of the Investment Securities Association, Ltd., have been investigated by an Inspector appointed under the provisions of the Companies (Special Investigations) Act, 1934, and are the subject of a separate report. It is shown in that report that the books of the Investment Securities Association, Ltd., are incomplete. We have examined these books, but have been unable to trace the payment for these shares about the date of the allotment. In view of the incomplete state of the books of the Investment Securities Association, Ltd., and the fact that the Sterling books are not available, we are unable to verify the source from which the payment of £2,000 was received.

The balance-sheet of the Sterling Co. as at 31st August, 1932, showed £370 14s. as paid-up capital (this including the £300 credited as paid up as mentioned in the preceding paragraph). The assets as at that date, consisting mainly of advances to associated companies, were shown at £41,897 6s. 6d. At 30th June, 1934, when paid-up capital appears at £2,370 14s., the assets are shown at £122,291 18s. 1d. It is obvious, therefore, that the moneys paid up on shares provided but a small portion of the funds used by the company in its operations.

B. ADVANCES BY THE INVESTMENT EXECUTIVE TRUST.

Practically the whole of the money required to finance the operations of the Sterling Co. was provided by advances from the Investment Executive Trust of New Zealand, Ltd. The exact amount received by the Sterling Co. in this way cannot be ascertained owing to the loss of the books recording the transactions prior to 28th February, 1934.

A dissection of the deposits to the credit of the Sterling Co.'s banking accounts shows that over £360,000 was deposited, but that a substantial portion of this was balanced by the contemporaneous issue of cheques for amounts corresponding to the amounts deposited. Eliminating these as far as is possible with the meagre information available, it appears that at least £200,000 was advanced to the Sterling Co. during a period of about three years, and that almost the whole of these advances came from the Investment Executive Trust. Repayments were made from time to time, so that the whole £200,000 was not owing at any one time.

The method of treatment of advances to the Sterling Co. and various other associated companies by the Investment Executive Trust is explained in subsection C immediately following.

We have not been able to ascertain from the books of the Investment Executive Trust the total advances to the Sterling Co., and, as mentioned above, the books of the Sterling Company covering the transactions during the early years of the company's existence are "lost."

C. DEBENTURES ISSUED.

Security was given by the Sterling Co. to the Investment Executive Trust by the issue of debentures charging all the company's assets. Various issues were authorized as under :—

Authorized 19th June, 1931. Registered 19th June, 1931.

£5,000 in fifty debentures of £100 each bearing interest at 7 per cent. per annum : to be offered for sale at £90 each or "such higher prices as may be obtainable." (Some at least of these debentures were actually issued at £90, a discount of 10 per cent.)

Redeemed at par 30th September, 1931. Satisfaction registered 1st October, 1931.

Authorized 30th September, 1931. Registered 1st October, 1931.

£10,000 in ten debentures of £1,000 each. Terms and conditions similar to former issue.

Redemption resolved 31st May, 1932. Satisfaction registered 21st June, 1932.

Authorized 31st May, 1932. Registered 21st June, 1932.

£50,000 in fifty debentures of £1,000 each. Terms and conditions as before.

Redemption resolved 5th December, 1932. Satisfaction registered 21st December, 1932.

Authorized 5th December, 1932. Registered 21st December, 1932.

£100,000 in one hundred debentures of £1,000 each. Terms as set out in a form submitted to the meeting. Satisfaction registered on 28th February, 1934.

An attempt was made to trace the various issues of debentures of the Sterling Company in the books of the Investment Executive Trust. These showed that until 31st March, 1933, all advances to the Sterling Company were debited to a special account in the name of that company. As at that date this account was balanced off by a credit of £50,300, and all subsequent advances, together with advances to various other associated companies, were debited to an account in the name of the British National Trust, Ltd., the explanation given being that the Investment Executive Trust received debentures in the British National Trust, Ltd., for all such advances.

10. INTEREST ON AND REDEMPTION OF DEBENTURES.

From the particulars given in para. 9 (C) above, it will be noted that the first issue of £5,000 of debentures was redeemed within four months of issue ; the second series of £10,000, eight months after issue ; and the third, or £50,000 series, approximately six months from issue.

The authorized terms of issue provided for a discount of 10 per cent., and, as interest was paid on the advances, the Investment Executive Trust as holder of the debentures stood to make a large, though fictitious, profit out of the transactions extracted from funds provided wholly by itself.

The "loss" of the books of the Sterling Co., and the fact that the books of the Investment Executive Trust are in Sydney, have made it impracticable for us to trace the transactions fully, but though it appears that some at least of the debentures were taken up at par the loss of the discount was compensated for by repayment being made at a premium. An example illustrative of this is afforded by a partial redemption of debentures made on 31st March, 1933. On that date, the Sterling Co. paid to the Investment Executive Trust a cheque for £54,875 to cover—

					£
Repayment of part debenture capital	..	..	..	..	50,000
Premium ..	..	..	..	..	4,000
Interest ..	..	..	..	..	875
					<u>£54,875</u>

On the same date the Investment Executive Trust paid £55,000 to the Sterling Co. Though this seems to be merely an exchange of cheques, the effect is that the Investment Executive Trust was enabled to show a profit of £4,875 on the transaction, which could be used to show profit to enable additional interest to be paid to its own debenture-holders.

Another example of the manner in which the Investment Executive Trust made a "profit" out of its association with the Sterling Co. is shown by the following account which was found on the files of the Sterling Co. in Sydney :—

<i>Sterling Investment Co. (New Zealand), Ltd.; Auckland.</i>					£	s.	d.
Dr. to Investment Executive Trust of New Zealand, Ltd.					83	7	10
To Interest on debentures to 31st December, 1931 (6 months)	..				330	0	0
Commission <i>re</i> sale of debentures	..	..	..	..	21	0	0
Our fees <i>re</i> investments	..	..	..	..
					434	7	10
Less paid on account 10/2/32	..	..	..	..	100	0	0
Balance due	..	..	..	..	£334	7	10

E. & O.E., 15th February, 1932.

A cheque for £333 7s. 10d. in payment for this was paid on 15th February, 1932, the reduction of £1 being accounted for by an adjustment of interest.

11. REVIEW OF ACCOUNTS.

A. ACCOUNTS SUBMITTED.

Balance-sheets of the Sterling Co. as at 31st August, 1932, and 28th February, 1934, were found among the company's records in Sydney. Copies of these are appended as Exhibits "B" and "C."

These balance-sheets are not certified and cannot be verified from the books, as these are not available, but both balance-sheets were produced to the Royal Commission in Sydney, and Mr. J. W. S. McArthur did not question their accuracy.

A copy of a balance-sheet dated 30th June, 1934, is also appended, Exhibit "A." This balance-sheet was prepared by Mr. H. C. Glasson and other officers associated with him and was produced to the Royal Commission in Sydney. It has not been audited nor has it been signed by any officer of the company, and we accept no responsibility for its accuracy. The Revenue Account attached to it shows that a loss of £2,514 15s. 7d. has been carried forward from the previous period, but as a profit of £601 7s. 11d. was shown for the four-months period ended 30th June, 1934, this loss was reduced to £1,912 17s. 8d. as at that date.

B. REVIEW OF BALANCE-SHEET DATED 30TH JUNE, 1934.

Liabilities.

(a) *Paid-up Capital, £2,370 14s.*

The loss on Revenue Account, £1,912 17s. 8d., is deducted from this item, leaving a balance of £457 16s. 4d., representing shareholders' funds.

(b) *Commercial Bank of Australia, Ltd., Auckland.*

As at 30th June, 1934, the bank current account was shown as overdrawn £1,710 13s. 5d. The account was not actually overdrawn, as certain cheques had not been presented.

(c) *Sundry Creditors.*

					£	s.	d.
British National Trust	..	..	..	..	91,565	17	6
J. W. S. McArthur	..	..	..	..	28,557	10	10

A note is appended to the balance-sheet stating that Mr. J. W. S. McArthur has agreed that his credit balance shall be transferred to the British National Trust, Ltd. If this is done the liability of the Sterling Co. to the British National Trust, Ltd., would be correspondingly increased to £120,123 8s. 4d.

*Assets.**(d) Travelling-expenses not yet apportioned, £891 5s.*

This includes several payments to Mr. J. W. S. McArthur totalling £867, described in the books as “travelling-expenses and costs transferring to Sydney” and “cost removal to Sydney.” The balance, £24 5s. is described as “travelling-expenses (Miss Jones).” These items have yet to be analysed and charged to the various companies concerned.

*Investments.**(e) British National Trust, Ltd.: £1,000 Debenture.*

This debenture was taken over from C. G. Alcorn in part payment for cash advances made to him.

<i>(f) Investment Executive Trust, Ltd.</i>	£	s.	d.
Debentures and shares	80,181	16	2

These comprise 7,377 debentures of £10 each paid to £72,273, and 1,109 preference shares of £1 each in the trust, purchased by the Sterling Co. at a total cost of £80,181 16s. 2d.

A large proportion of these debentures were acquired from dissatisfied holders, and in some cases it was necessary to pay considerably more than face value, notably in the “Smith” transaction, which is dealt with in some detail in section 15 of this report. Others were purchased on the open market at a discount. The majority of the preference shares were acquired at a premium.

In the report of the Inspectors on the affairs of the Investment Executive Trust of New Zealand. Ltd., an attempt is made to estimate the value of the debentures issued by that company. It is there estimated that, even with a favourable realization, the assets would realize substantially less than the sum required to repay the debentures. It follows that the preference shares would be valueless. The estimate of value referred to indicates that on the basis of valuation adopted in that report, the value of the Sterling Co.’s holding of debentures and preference shares in the Investment Executive Trust is at least £19,000 below the figure at which they stand in the books.

<i>(g) Pacific Exploration Co., Ltd.</i>	£	s.	d.
9,979 shares paid to	6,465	7	0

Originally these shares were held by the Sterling Co., but as part of the Sterling-Wynwood transaction were to be transferred to Mr. J. W. S. McArthur. The book entries for the purchase consideration were made, but the transfer of the shares was not actually recorded in the books of the Pacific Exploration Co., Ltd. Subsequent to 28th February, 1934, the ownership of the shares reverted to the Sterling Co., Mr. J. W. S. McArthur being credited with £6,468 7s. which is £21 more than the amount paid up on the shares transferred.

(h) N.Z. Shareholders Trust, Ltd.: Shares, £877 18s.

This represents the amount paid up on 8,779 shares of 2s. each held by the Sterling Co. In our opinion these shares are of no value.

(i) Farms and Farmlets, Ltd.: Option on Shares, £500.

This represents the amount paid to Mr. W. C. Hewitt and Mrs. F. Hewitt for an option granted to the Sterling Co. to purchase the 1,000 shares held by them in Farms and Farmlets, Ltd. In our opinion this option is of no value.

(j) Liberty Motors Corporation, Ltd.: £1,140.

It is stated that debentures are held covering this advance. The affairs of this company are being investigated by an Inspector appointed under the provisions of the Companies (Special Investigations) Act, 1934, and a separate report is being made thereon by such Inspector.

(k) Prudential Assurance Co., Ltd.: £134 13s. 11d.

This is a policy on the life of G. Exley, which was taken over by the Sterling Co.

(l) Mortgage on Land: £320.

This represents a balance due by Mr. W. C. Hewitt for cash advanced, and is said to be secured by a mortgage on land.

(m) Mortgages on Debentures: £9,146 4s. 5d.

These are advances against Investment Executive Trust and Southern British National Trust debentures. For some years the Sterling Co. made in certain cases advances to holders up to 75 per cent. of the face value of the debentures issued to them by the Investment Executive Trust of New Zealand, Ltd., and held the debentures together with a deed of mortgage as security for the advances. No interest was payable by the borrower, but the whole of the interest payable under the debentures was retained by the Sterling Co. The mortgages and debentures are held in Auckland and have been inspected by us. Later a similar privilege was extended to holders of debentures issued by the Southern British National Trust, Ltd., but the number of advances made to these debenture-holders was comparatively small.

(n) Sundry Debtors.

	£	s.	d.
Investment Executive Trust, Ltd.	3,939	8	6
Southern British National Trust, Ltd.	73	10	7
British National Investment Trust, Ltd.	473	4	0
British National Investment Trust, Ltd.: Suspense Account ..	1,666	0	6
Pacific Exploration Co., Ltd.	1,000	0	0
Financial Publications, Ltd.	8,280	3	3
Transport Mutual and General Insurance Co., Ltd.	77	0	0
New Zealand Shareholders Trust, Ltd.	50	0	0
V. B. McInnes and Co., Ltd.	5	0	0
New Zealand Redwood Forests, Ltd.	2,306	4	5
Wynsel Timber Co., Ltd.	173	16	1
Afforestation Underwriters Co., Ltd.	19	1	8
Industrial and Agricultural Research Co., Ltd.	26	10	6
Stock Exchange Corporation of New Zealand	1,012	18	6

These represent principally balances due by associated companies, and as far as could be ascertained no security was obtained by the Sterling Co. In several cases the debits are not represented by corresponding credits in the books of the associated companies. Some of the advances—e.g., that of £8,280 3s. 3d. to Financial Publications, Ltd., which is now in liquidation—are almost certainly irrecoverable. The liquidator of Financial Publications, Ltd. (in liquidation) states that, whilst the realization of the assets of this company is not yet complete, “present indications are that the dividend, if any, which creditors of the above company are likely to receive will be very small indeed.”

The affairs of all of the above companies with the exception of the three last mentioned are being investigated by Inspectors appointed under the provisions of the Companies (Special Investigations) Act, 1934, and separate reports are being made by the Inspectors appointed in that regard.

(o) Advances to Officers of Associated Companies.

	£	s.	d.
C. G. Alcorn	400	0	0
Alcorn and McArthur	23	10	0
R. Glover-Clark	360	0	0
H. H. Pollard	150	0	0
W. A. Pilkington	270	0	0

These represent balances due by the above debtors for advances made by the Sterling Co. Mr. C. G. Alcorn, who has been attorney for the Sterling Co. for several years, received substantial advances from the company. The balance owing was reduced by the sale by him to the Sterling Co. of a debenture of £1,000 in the British National Trust, Ltd. This resulted in his account being credited with £1,000, leaving a balance of £400 owing at 30th June, 1934.

Mr. R. Glover-Clark has been closely associated with Mr. J. W. S. McArthur in connection with various companies. Mr. W. A. Pilkington is chairman of directors of the Investment Executive Trust, and is interested in several of the associated companies, while Mr. H. H. Pollard was until recently a director of the Investment Executive Trust.

As far as we could ascertain no security was held by the Sterling Co. for these advances, nor was interest paid thereon.

(p) Advances under Security.

	£	s.	d.
Advances on bills of sale	385	1	9
Bills receivable	425	0	0

We have not inspected the documents covering these advances. These documents are stated to be held in Sydney.

(q) Chartered Bank of India, Bombay: £497 3s. 10d.

This balance represents money deposited in India in respect of instalments collected on debentures of New Zealand Redwood Forests, Ltd. We have not verified this balance.

12. STERLING-WYNWOOD TRANSACTION.

For a considerable period from June, 1931, onwards the principal function of the Sterling Co. was to protect certain of Mr. J. W. S. McArthur's assets which were in jeopardy, and also to protect his personal interests, the necessary advances to the Sterling Co. being made by the Investment Executive Trust. Further reference to transactions undertaken in Mr. McArthur's interest is made in section 13 of this report. Some of the transactions undertaken with this object in view are authorized by the minutes: others are not mentioned in the minutes but are presumably covered by the special confirmatory resolutions already referred to in section 8 (D) of this report. During 1931 Mr. J. W. S. McArthur was being pressed by his creditors for payment of debts due and was in danger of being adjudicated bankrupt. He possessed certain assets, and in order that these might be protected in the event of his bankruptcy they were transferred to the Sterling Co. For the preservation and development of many of these assets the expenditure of further money was required. This money also was advanced by the Sterling Co. It is impossible to give the actual amount of cash which was advanced

for the purchase, protection, and development of these assets, as the books covering the period are missing, but from information gained from the reconstructed books already referred to, we are of the opinion that the cash actually advanced was in excess of £60,000.

On 28th February, 1934, when Mr. J. W. S. McArthur's financial difficulties had been overcome, largely through the assistance of the Sterling Co., an arrangement was made whereby all these assets were, in effect, retransferred to him, either directly or through the agency of Wynwood Investments, Ltd., a company in which Mr. McArthur holds 9,900 out of 10,000 shares, and all the debentures, £40,000. The following is a brief statement regarding this arrangement which was investigated by the Royal Commission in Sydney, and which is referred to herein as the Sterling-Wynwood transaction.

In March, 1933, Mr. J. W. S. McArthur, by the transfer of his shares in the British National Investment Trust, Ltd. (the company which had purchased the trust building in Sydney), to the British National Trust, Ltd., acquired a credit in the books of the latter company amounting to £229,600. (The facts relative to this transfer are set out in the report of the Inspectors on the affairs of the Investment Executive Trust of New Zealand, Ltd.) To pay part of this debt to Mr. J. W. S. McArthur, the British National Trust, Ltd., issued debentures in denominations of £1,000 each. Mr. J. W. S. McArthur, at 28th February, 1934, exchanged fifty-nine of these British National Trust debentures for debentures of the Sterling Co., amounting to £60,000, held by the Investment Executive Trust. In consideration of the transfer of certain assets from the Sterling Co. to the Wynwood Co. on 28th February, 1934, the debentures issued by the Sterling Co. were treated as redeemed and were cancelled. Cheques supporting the transaction were passed between the two companies, the Sterling Co. issuing a cheque for £60,000, made payable to Mr. J. W. S. McArthur personally. This cheque was banked to the credit of the Wynwood Co. and contemporaneously the latter company issued a cheque for £60,025 in favour of the Sterling Co. Later the Wynwood Co. transferred a number of the assets acquired to Mr. J. W. S. McArthur personally, who retransferred some of them back to the Sterling Co.

Although this was the largest and most important transaction undertaken by the Sterling Co., involving the transfer of substantial assets upon the acquisition and preservation of which the Sterling Co., we believe, expended at least £60,000, there is no record of the transaction in the minute-book of the company, nor was any agreement setting out the details of the transaction produced to the Royal Commission in Sydney or to us. Mr. K. C. Aekins, chairman of directors and solicitor to the company, has informed us that he had no knowledge of the transaction. The only documents produced before the Royal Commission were a document known as "Annexure 3," which Mr. J. W. S. McArthur handed in as an annexure to a formal statement which he made before the Commission on 11th September, 1934, and a document known as the "Alcorn receipt." A copy of "Annexure 3" is appended to this report as Exhibit "F." This document details a number of assets taken over by the Wynwood Co. and by Mr. J. W. S. McArthur personally, but no values are shown. We have not a copy of the "Alcorn receipt," but this was inspected by us in Sydney and appeared to be a copy of "Annexure 3" with a receipt appended signed by C. G. Alcorn as attorney for the Sterling Co., acknowledging receipt of £60,000 in payment for the assets transferred.

A. DISSECTION OF "ANNEXURE 3."

The following is a dissection of "Annexure 3" previously referred to, showing the assets which were acquired by the Wynwood Co. and by J. W. S. McArthur personally from the Sterling Co. through the Sterling-Wynwood transaction.

Assets transferred to Wynwood Investments, Ltd.

(The amounts shown indicate the value at which the assets were, on J. W. S. McArthur's instructions, taken into the Wynwood books.)

(1) All claims against Wynwood Investments, Ltd., in respect of legal expenses, rates, and taxes up to 28th February, 1934	£	s.	d.
.. .. .	144	0	7
(2) Properties consisting of four sections in St. Stephen's Avenue	£	s.	d.
One section in Grey St	5,000	0	0
Two sections in Mount Smart Road	5,250	0	0
One section in Oranga Avenue	350	0	0
One section in Meadowbank Road	175	0	0
One section in Woodley Avenue	425	0	0
460 acres (approximately) at Putaruru	375	0	0
Four sections at Maraetai	2,790	0	0
	240	0	0
	14,605	0	0
(3) Mortgage (a first mortgage over property at Putaruru from Hawke and Armstrong)	750	0	0
(4) 27,155 ordinary shares in Wynsel Timber Co., Ltd.	6,788	15	0
(5) 6,466 first-mortgage debentures in Wynsel Timber Co., Ltd.	6,466	0	0
(6) 6,125 ordinary shares in N.Z. Redwood Forests, Ltd.	3,426	0	0
(7) Eight debentures (£35 each) in N.Z. Redwood Forests, Ltd.	280	0	0
(8) Mortgage from the Selwyn Timber Co., Ltd. (in liquidation), to N.Z. Redwood Forests, Ltd., and assigned to the Sterling Co.	9,075	0	0
(9) Claim against British National Trust, Ltd., for £8,750 (approx.), being residue of mortgage together with accrued interest for Timberlands Wood Pulp, Ltd.	8,750	0	0
	£50,284	15	7

Assets transferred to J. W. S. McArthur personally.

(Amounts as shown in reconstructed books (see note below).)

	£	s.	d.
(1) All assets, benefits, or otherwise attaching to debenture, held by receiver of Selwyn Timber Co., Ltd. (in liquidation)	3,125	7	0
(2) All claims for costs or otherwise against the Wynsel Timber Co., Ltd., to 28th February, 1934	1,317	11	11
(3) All residues of assets acquired from Edgecumbe Forests, Ltd. (in liquidation), including mortgage from N.Z. Redwood Forests, Ltd., over 2,000 acres of land at Matahina	7,225	6	5
(4) All accounts due by J. W. S. McArthur in respect to—			
(a) Personal advances	7,897	3	2
(b) Additions to Hillsborough property	6,001	13	0
(5) All benefits attaching to the estate of the late E. M. McArthur	2,100	0	0
(6) All accounts due by the Pacific Exploration Co., Ltd., and 9,979 shares in the Pacific Exploration Co., Ltd.	20,689	14	1
(7) All claims against the Investment Executive Trust of New Zealand, Ltd., up to 28th February, 1934			
	£48,356	15	7
Less sundry credits and adjustments in reconstructed books (being amounts not allocated to individual items)	7,739	4	6
	£40,617	11	1

The amounts shown in the above list of assets transferred to J. W. S. McArthur personally are the balances shown against the several items in the reconstructed books of the Sterling Co. referred to in section 6 (C) of this report. J. W. S. McArthur in evidence before the Royal Commission in Sydney claimed that some items were included in both lists of assets and that certain adjustments were necessary. This aspect is further referred to in para. B (d) of this section of this report.

B. SUMMARY OF EVIDENCE, STERLING-WYNWOOD TRANSACTION GIVEN BEFORE ROYAL COMMISSION IN SYDNEY.

Considerable prominence was given to this transaction during the hearing of the evidence before the Royal Commission in Sydney, and the following is a brief *resume* of and comment on the evidence given:—

- (a) Mr. J. W. S. McArthur, according to a statement submitted by him to the Royal Commission in Sydney on or about 2nd October, 1934 (in this report referred to as his “final statement”), transferred fifty-nine British National Trust Debentures of a nominal value of £59,000, and received in exchange sixty debentures issued by the Sterling Co. of a nominal value of £60,000. No explanation is given of the discrepancy of £1,000 between the two figures. These Sterling debentures were redeemed by the sale of certain assets to Mr. J. W. S. McArthur by the Sterling Co. as at 28th February, 1934.
- (b) Both Mr. C. G. Alcorn, who was attorney for the Sterling Co. at the time of the transfer, and Mr. J. W. S. McArthur admitted in evidence that Mr. McArthur fixed the price to be paid, Mr. Alcorn merely carrying out his instructions, while, as previously stated, Mr. K. C. Aekins, the remaining director, has informed us that he knew nothing of the transaction.

The following is extracted from the transcript of evidence before the Royal Commission in Sydney on 4th September, 1934, during examination of Mr. C. G. Alcorn.

(Mr. Fuller appeared before the Royal Commission representing the Investment Executive Trust and other companies.)

(Dr. Louat appeared for the Sterling Co. and other companies.)

7600. *Commissioner*.—“Yesterday afternoon Mr. Alcorn admitted that he knew nothing whatever about these transactions, and his actions were what I would term dictated actions.”

7601. *Mr. Fuller*.—“With all respect, your Honour, I do not think that witness went so far as to admit that.”

7602. *Commissioner*.—“I suggest(ed) to him that he was a puppet or marionette and that he moved as the strings were pulled by somebody else. He agreed to that.”

7603. *Dr. Louat*.—“That was only in respect of the transaction to which reference was being made.”

7604. *Commissioner*.—“It was in respect of all the companies concerned.”

7605. *Mr. C. G. Alcorn*.—“My point was that these things were controlled by the Trust.”

7606. *Commissioner*.—“Your ultimate statement was that ‘they were all controlled by McArthur?’”

Mr. C. G. Alcorn.—“Oh, yes.”

Similar evidence was given by Mr. Alcorn on 3rd September, 1934, and this is quoted in Section 8 (B) of this Report.

The following extract is from Mr. J. W. S. McArthur's evidence before the Royal Commission on 27th September, 1934. (Mr. Monahan appeared on behalf of the Attorney-General of New South Wales.)

20067. *Commissioner*.—"I suppose the position really is that Mr. Alcorn had no option."

20068. *Mr. Monahan*.—"Was he told to transfer them to you at your price?"

Mr. J. W. S. McArthur.—"Yes, that was understood."

- (c) The books of the Sterling Co. prior to 1st March, 1934, cannot be found, and the receipt signed by Mr. C. G. Alcorn and Annexure 3 to Mr. J. W. S. McArthur's statement are the only documents produced relating to the transaction.
- (d) As set out previously in this section of this report, some of the assets were transferred by the Sterling Co. to the Wynwood Co. and were taken into the latter company's books at a figure of £50,284 15s. 7d., being a valuation made for the purpose by Mr. J. W. S. McArthur.

The remaining assets were taken over by Mr. J. W. S. McArthur personally, the value being assessed from the reconstructed Sterling books at £40,617 11s. 1d. This figure was accepted by Mr. McArthur, and is used by him in his final statement, though he claims that certain items are included in both lists of assets. Without allowing for any such duplication, there would be a total valuation of £90,902 6s. 8d. for the assets parted with by the Sterling Co. in exchange for fifty-nine debentures of £1,000 each in the British National Trust, Ltd.

- (e) In evidence given before the Royal Commission in Sydney, on 19th September, 1934, Mr. J. W. S. McArthur stated that £50,284 15s. 7d. represented a valuation which he believed the assets which were retained by the Wynwood Co. would be worth in the future, in "somewhere about five years."

The relevant evidence is as follows:—

14538.—*Mr. Monahan*.—"But they are your own figures?"

Mr. McArthur.—"Yes, but those are figures which I estimated the property would be worth at some time in the future, but not the present."

14539.—*Mr. Monahan*.—"How far is the future?"

Mr. McArthur.—"Somewhere about five years."

- (f) In further evidence given on 21st September, 1934, No. 16159, Mr. J. W. S. McArthur said that these same assets had stood in the Sterling Co.'s books at £32,000.

The following is the extract from the transcript of evidence:—

16159.—*Dr. Louat*.—"The remaining assets that you did not purchase from Wynwood had stood in the Sterling books at £32,000?"

Mr. McArthur.—"Yes."

- (g) Later on 27th September, 1934, after evidence had been given regarding the reconstructed books, Mr. J. W. S. McArthur again amended the figures and stated that the total cost of these assets to the Sterling Co. was £17,408, and this valuation was repeated in his final statement presented to the Royal Commission in Sydney on 2nd October, 1934.

The relevant evidence is as follows:—

19876. *Dr. Louat*.—"And what is the effect of the investigations you have made. What did you find that the cost to Sterling was of the Wynwood assets: give us particulars?"

Mr. McArthur.—"The total cost to Sterlings of Wynwood assets is £17,408. That is accounted for partly by the fact that the items—ordinary shares in Wynsel Co. and the first mortgage debentures were duplicated and were taken into account in Mr. Elliffe's figures."

- (h) There have therefore been three amounts applied to the same assets, given by Mr. J. W. S. McArthur for progressively smaller amounts. It is a fact, however, that the assets were brought into the Wynwood Co.'s books at £50,284 15s. 7d. on Mr. J. W. S. McArthur's instructions contained in a pencilled memorandum in his own handwriting, which memorandum was produced before the Royal Commission. This supplied the basis for increasing the capital of the Wynwood Co. to £10,000, and, as pointed out by the Commissioner and Mr. Monahan during the session of the Royal Commission on 27th September, 1934 (see extract given below), it would have been possible for Mr. J. W. S. McArthur at a later date to have sold these debentures for cash or other assets to the Investment Executive Trust or the Southern British National Trust.

The following passage is extracted from the transcript of evidence recording the examination of Mr. J. W. S. McArthur on 27th September, 1934, regarding the revised valuation of the assets acquired by the Wynwood Co.:—

"20088. *Mr. Monahan*.—"Do you want to say that should be written down to £20,000?"

Mr. McArthur.—"Yes, probably. I should say round about that figure."

"20089. *Mr. Monahan*.—"If you had any idea of the value, tell me why you took debentures of £40,000 for them?"

Mr. McArthur.—"What?"

"20090. *Mr. Monahan*.—"These assets. You took bearer debentures which you could have sold for £40,000; and you took £9,191 in shares. You took £50,000 practically in assets for them?"

"*Mr. McArthur.*—'Yes. That had not relation to that transaction at all. My intention in taking those debentures was eventually to take those assets back which were not producing any revenue to Sterling.'

"20091. *Mr. Monahan.*—'Why did you not do it by putting them in at what you thought were their values and only taking debentures proportionate to their real value?' (No answer.)

"20092. *Mr. Monahan.*—'The position was this: You took bearer debentures, which you could have turned into cash in the usual way, of £40,000. That is the position?'

"*Mr. McArthur.*—'Well, the Executive Trust got the benefit of that.'

"20093. *Mr. Monahan.*—'You put yourself in a position, through the agency of the Investment Executive Trust and the British National Trust Debentures, that whenever you chose you could get out another £40,000?'

"*Mr. McArthur.*—'No, I would not.'

"20094. *Mr. Monahan.*—'But you took bearer debentures for £40,000 for this property, and you could have sold those; that is the position, you know?'

"*Mr. McArthur.*—'I mean to say, that was my lookout.'

"20095. *Mr. Monahan.*—'It was your opportunity?'

"*Mr. McArthur.*—'No, I do not say that it was at all. You mean to say, that I took Sterling debentures for £40,000?'

"20096. *Mr. Monahan.*—'No, Wynwood debentures for £40,000.'

"*Mr. McArthur.*—'Oh, I see.'

"20097. *Mr. Monahan.*—'I suppose that Wynwood debentures could have been sold to Investment Executive Trust at face value?'

"*Mr. McArthur.*—'That is perfect nonsense.'

"20098. *Commissioner.*—'As far as I can see, that would have been a perfectly legitimate investment for Investment Executive Trust?'

"*Mr. McArthur.*—'I would not have stood that.'

"20099. *Commissioner.*—'That would have been a perfectly legitimate investment?'

"*Mr. McArthur.*—'No, I would not say that.'

"20100. *Commissioner.*—'Well, the first moneys that went from Investment Executive Trust to British National Investment Trust had no cover whatever as far as I could see?'

"*Mr. McArthur.*—'I think it had, your Honour.'

"20101. *Commissioner.*—'You work out those dates and you will see.'"

13. TRANSACTIONS UNDERTAKEN IN THE INTERESTS OF J. W. S. McARTHUR.

The following details are supplied of the purchase by the Sterling Co. of various assets which were either originally owned by Mr. J. W. S. McArthur or in which he was largely interested, and of the expenditure of money on these and other assets which were subsequently acquired by him in the Sterling-Wynwood transaction previously referred to.

A. SELWYN TIMBER CO., LTD. (IN LIQUIDATION).

The first substantial transaction of the nature referred to in the previous paragraph occurred on 25th June, 1931, when certain debentures of the Selwyn Timber Co., Ltd., were purchased by the Sterling Co. for £1,428 13s. 11d. Mr. J. W. S. McArthur at this date held 27,080 ordinary shares in the Selwyn Timber Co., Ltd., out of a total issue of 30,000 ordinary shares, so that substantially he was the company. The Bank of New Zealand held debentures over the assets of the Selwyn Timber Co., Ltd., and on default being made appointed a receiver who sold a number of the assets. The overdraft was thus reduced to £1,428 13s. 11d., at which figure the debt to the bank was taken over by the Sterling Co., which made payment by cheque and took over from the bank the Selwyn Timber Co., Ltd., debentures held by it. To finance this transaction the Investment Executive Trust purchased sixteen £100 debentures in the Sterling Co. at £90 each. The Sterling Co. gave to the Investment Executive Trust further security in the form of a charge over the Selwyn Timber Co., Ltd., debentures. Charles Graham Alcorn was appointed receiver of the Selwyn Timber Co., Ltd., by the Sterling Co.

The assets covered by the debentures included a timber mill situated near Putaruru and various town and rural properties. Several of these properties were subject to substantial mortgages which were paid off through the Sterling Co. with money provided by the Investment Executive Trust, and these properties, cleared of mortgages, were transferred on 28th February, 1934, to Wynwood Investments, Ltd., which, as already pointed out in this report, is in effect to J. W. S. McArthur, through the Sterling-Wynwood transaction previously referred to.

Examples of the type of transaction referred to in the preceding paragraph occur in connection with a property known as the "Grey Street Property" on which a mortgage of £2,000 was repaid and the "Parnell Property" on which mortgages and charges amounting to £2,929 8s. 11d. were paid through the Sterling Co.

B. PURCHASE FROM MODERN HOMES, LTD., AND T. R. McARTHUR OF SHARES IN N.Z. REDWOOD FORESTS, LTD., AND EDGECUMBE FORESTS, LTD.

The next substantial transaction is recorded in the minutes dated 30th September, 1931, when it was resolved :—

That the offer of the company to purchase the following shares be confirmed.

“(a) 7,500 fully paid shares of £1 each in N.Z. Redwood Forests, Ltd., from Modern Homes, Ltd., for the sum of £1,000.

“(b) 22,000 shares in Edgecumbe Forests, Ltd., of £1 each paid to 6s. 10d. per share from Modern Homes, Ltd., for the sum of £1,375.

“(c) 3,000 shares in Edgecumbe Forests, Ltd., of £1 each paid to 6s. 10d. per share from T. R. McArthur for the sum of £180.”

Substantial sums were paid out by the Sterling Co. on account of Edgecumbe Forests, Ltd., and certain amounts were also received on its account.

By resolution dated 9th November, 1931, the directors decided in response to a request from the managing director of the Investment Executive Trust (J. W. S. McArthur) that, so long as any moneys remained owing to the Investment Executive Trust, the Sterling Co. would not “sell, execute, or otherwise deal with” the assets acquired from the Selwyn Timber Co., Ltd., and Modern Homes, Ltd., and certain other assets, except with the written approval of the said managing director.

The residue of certain assets purchased by the Sterling Co. from Edgecumbe Forests, Ltd., was also acquired by Mr. J. W. S. McArthur under the Sterling-Wynwood transfer of 28th February, 1934. This residue appears to include a mortgage for £8,750 from Timberlands Wood Pulp, Ltd., which has since been repaid and credited to Mr. J. W. S. McArthur's account in the books of the Sterling Co., and the balance due on a mortgage from New Zealand Redwood Forests, Ltd., over 2,000 acres of land at Matahina.

C. PURCHASE OF INTEREST IN ESTATE OF LATE MRS. E. M. McARTHUR (DECEASED WIFE OF J. W. S. McARTHUR).

On 23rd December, 1931, the directors decided—

“That the company hereby confirm the purchase from Modern Homes, Ltd., as arranged by the managing director, of interest of the late Mrs. E. M. McArthur in the estate of her late father, E. R. Good, for £2,100.”

This asset also was transferred to Mr. J. W. S. McArthur under the Sterling-Wynwood transfer of 28th February, 1934.

D. PACIFIC EXPLORATION Co., LTD.

This company was incorporated in May, 1932, the shareholders being Sterling Investments Co. (N.Z.), Ltd., 9,999 shares, and M. Gregory, one share. Subsequently the Sterling Co. transferred ten shares each to Mr. C. G. Alcorn and Mr. T. R. McArthur.

During a period of a little over two years to 31st July, 1934, the Sterling Co. paid £6,465 7s. in respect of the shares above mentioned, to the Pacific Co., and in addition made cash advances totalling over £17,000. There is, however, no record in the directors' minute-book of the Sterling Co. authorizing the purchase of these shares or the advancing of moneys to the Pacific Co., in fact, no mention is made of the Pacific Co. in either the directors' or the shareholders' minute-books of the Sterling Co.

Practically all of the money advanced by the Sterling Co. to the Pacific Co. was expended in the four ways set out hereunder. The amounts expended, as shown by the books of the Pacific Co. at 28th February, 1934, are also shown :—

	£	s.	d.
Firstly, in building and equipping the auxiliary yacht “Morewa” ..	8,931	9	0
Secondly, in making personal advances to Mr. J. W. S. McArthur ..	4,165	10	0
Thirdly, in purchasing a property at Parengarenga, North Auckland	4,650	0	0
Fourthly, in making advances to Liberty Motors Corporation, Ltd.	1,520	0	0
	<u>£19,266</u>	<u>19</u>	<u>0</u>

The shares in the Pacific Co. and the first two of the above items were subsequently transferred to Mr. J. W. S. McArthur in the Sterling-Wynwood transaction of 28th February, 1934. The shares in the Pacific Co. were afterwards sold back to the Sterling Co. by Mr. McArthur after the yacht “Morewa” had been transferred to him and the personal debt due for advances had been cancelled.

E. SEPARATE INVESTMENTS ACCOUNT IN NATIONAL BANK.

At a meeting of directors held on 15th January, 1932, the chairman, Mr. K. C. Aekins, reported that the managing director of the Investment Executive Trust (Mr. J. W. S. McArthur) had requested that a separate bank account be opened, preferably with the National Bank of New Zealand, Ltd., and it was accordingly resolved :—

“That a bank account be opened with the National Bank of New Zealand, Limited, Auckland, to be styled Sterling Investments Company (N.Z.), Limited, Investments Account, such account to be operated upon by John William Shaw McArthur, managing director of the Investment Executive Trust Company of New Zealand, Limited.”

This account was duly opened on 21st January, 1932, and remained active until December, 1932, when it was closed. The company's ordinary banking account was with the Commercial Bank of

Australia, Ltd., Auckland. During the period above mentioned, the sum of £22,193 9s. 7d. passed through the account with the National Bank of New Zealand, Ltd. This money was received from the following sources :—

	£	s.	d.
Investment Executive Trust of N.Z., Ltd.	16,539	0	0
T. R. McArthur	4,910	0	0
W. McArthur (No. 2 account)	350	0	0
W. L. Wiseman	382	18	4
Sundries	11	11	3
	<u>£22,193</u>	<u>9</u>	<u>7</u>

The £16,539 from the Investment Executive Trust was paid direct into the "Investments Account" at the National Bank of New Zealand, Ltd.

The credit to Mr. T. R. McArthur (son of Mr. J. W. S. McArthur) arose through a somewhat complicated series of transactions through several associated companies, involving a number of cheques being drawn by these companies contemporaneously. The Sterling Co., through its "Investments Account" paid to Modern Homes, Ltd., a cheque for £4,475 on 20th January, 1932. Certain other moneys were paid into the Modern Homes, Ltd., account. Modern Homes, Ltd., although it had not passed a resolution for winding up, was in process of realizing its assets, and on the same day it made a distribution as follows :—

	£	s.	d.
T. R. McArthur (its principal shareholder)	3,414	9	3
Edgecumbe Forests, Ltd., and sundry small payments	1,505	0	0
Edgecumbe Forests, Ltd., immediately paid £1,500 to Mr. T. R. McArthur, who thus had—			
	£	s.	d.
From Modern Homes, Ltd.	3,414	9	3
From Edgecumbe Forests, Ltd.	1,500	0	0
	<u>£4,914</u>	<u>9</u>	<u>3</u>

From this he apparently paid back into the Sterling Co., £4,910.

The result of these transfers of cheques was apparently that the Sterling Co. acquired certain assets and Mr. T. R. McArthur became a creditor of the Sterling Co. This credit remained in the Sterling Co.'s books for some time, and was apparently later transferred to Mr. J. W. S. McArthur, who stated in evidence before the Royal Commission in Sydney that it was really his own transaction, and that he had merely made use of his son's name. In the absence of the Sterling Co.'s books it is impossible to say how this matter was finally adjusted, but the credit certainly disappeared from the Sterling books prior to 1st March, 1934.

In the course of evidence given before the Royal Commission in Sydney on 18th September, 1934, Mr. J. W. S. McArthur admitted that most of the £22,000 which passed through this "Investments Account" was utilized for preserving his personal assets, and also that these assets came back to him in the Sterling-Wynwood transaction. This is shown in the following extract from the transcript of evidence :—

13450. *Mr. Monahan.*—"The position is this: Investment Executive Trust were advancing moneys to Sterling to the tune of £22,000, apparently?"

Mr. McArthur.—"Yes, but those items, I take it, would be in the Investment Executive Trust books—the corresponding items."

13451. *Mr. Monahan.*—"But what would not be in the Investment Executive Trust books was where the money went to when it was drawn out of the Sterling Account?"

(No answer.)

13452. *Mr. Monahan.*—"Did not some of it go to you for your private speculation?"

Mr. McArthur.—"From the Sterling Co.?"

13453. *Mr. Monahan.*—"I do not know what company. Investment Executive Trust moneys go in and Sterling is debited with it, and you are constituted the man who can draw it out, and you did draw £22,000?"

Mr. McArthur.—"Yes, and the Investment Executive Trust were fully protected."

13454. *Mr. Monahan.*—"I daresay. What I am interested in is where the money went that you drew out. Will you be able to explain that?"

Mr. McArthur.—"The most of the moneys went towards purchasing my personal assets to protect me from attacks which were being made on me."

13455. *Mr. Monahan.*—"So you do remember it. The material part is that it went towards purchasing your personal assets?"

Mr. McArthur.—"Yes."

13456. *Mr. Monahan.*—"What personal assets did you buy with this £22,000. It will swing round eventually. These are what you eventually got back from Sterling for part of that £60,000?"

Mr. McArthur.—"Yes."

13457. *Mr. Monahan.*—"Well, I thought so."

13458. *Commissioner.*—"That means that the Investment Executive Trust were protecting your personal interest?"

Mr. McArthur.—"Yes."

13459. *Commissioner.*—"With money subscribed by debenture-holders in Investment Executive Trust?"

Mr. McArthur.—"Yes; but Investment Executive Trust were protected."

13460. *Commissioner.*—"Do you think it is a proper investment for debenture moneys in Investment Executive Trust, protecting your personal interest?"

Mr. McArthur.—"Yes, I think so."

13461. *Commissioner.*—"Is it not a fact that the whole of these companies—everything you have had transactions with in the last three years—have been run entirely in connection with your personal benefit?"

Mr. McArthur.—"No, your Honour."

13462. *Commissioner.*—"I am forced to the conclusion that no steps have been taken except for your personal benefit?"

Mr. McArthur.—"The debenture-holders were well protected at every turn, and have made large profits."

13463. *Commissioner.*—"The fact that they ultimately got large profits does not alter the fact that their money was at a risk during the time you were being protected?"

Mr. McArthur.—"I do not think it was a risk at all, because the assets were considerably in excess of the liability."

F. MORTGAGE AND ADVANCES *re* HILLSBOROUGH PROPERTY.

This property was owned by Elizabeth Marjory McArthur, former wife of Mr. J. W. S. McArthur. Mrs. McArthur died on 8th January, 1930, and under her will the whole of her estate was left to Mr. J. W. S. McArthur personally. The Hillsborough property was subject to a mortgage for £4,500. On 16th June, 1932, a letter was forwarded by the Sterling Co. to the solicitors for the mortgagee offering to enter into an agreement to purchase the mortgage at the expiry of the term, 21st March, 1934, for £3,500, and stating that the company was prepared to advance £500 to be spent in permanent improvements to the property within six months. This letter was signed on behalf of the Sterling Co. by Miss Gregory, as secretary. The agreement outlined in the letter was approved by the directors of the Sterling Co. on 4th July, 1932. The mortgage was released on 1st May, 1934, on payment of £3,500 and interest, which amount was paid by the Sterling Co., the amount being debited to Mr. J. W. S. McArthur's account in its books.

Substantial advances were also made to Mr. J. W. S. McArthur by the Sterling Co. in connection with the renovation of the Hillsborough property. The reconstructed books referred to show that the amounts advanced for this purpose to 28th February, 1934, amounted to £6,001 13s. This balance does not appear in the present books, which were opened at 1st March, 1934, so that presumably the personal debt of Mr. J. W. S. McArthur in this connection was discharged in the course of the Sterling-Wynwood transaction.

G. PAYMENT OF AMOUNT DUE BY J. W. S. McARTHUR (UNDER GUARANTEE) TO THE STATE FOREST SERVICE.

Some time before the Selwyn Timber Co., Ltd., went into liquidation it entered into an agreement with the State Forest Service which called for certain payments. These payments were guaranteed by Mr. J. W. S. McArthur, who was the principal shareholder in the Selwyn Co., Ltd. On liquidation of the company the balance owing to the State Forest Service was £3,114, and as the company was unable to pay, demand for payment was made on Mr. J. W. S. McArthur, as guarantor. After considerable negotiation, in the course of which a bankruptcy notice was served on Mr. McArthur, the amount was paid by the Sterling Co. on his behalf.

The following letter, dated 5th July, 1932, and signed by Miss Gregory, as secretary of the Sterling Co., was addressed to Mr. C. G. Alcorn and Mr. W. A. Pilkington:—

"We hereby request and authorize you to purchase on our behalf from the State Forest Service and to hold as trustees the debt due by the Selwyn Timber Co., Ltd. (in liquidation), in respect of which J. W. S. McArthur, of Auckland, is a guarantor.

"We enclose a cheque for the sum of £500, being deposit, which we wish you to pay immediately. The balance, £2,614, to be paid on July 15th, 1932.

"(Signed) M. GREGORY, Secretary."

Thus Mr. J. W. S. McArthur was relieved of a pressing liability and his indebtedness to the Sterling Co. in this connection was apparently adjusted in connection with the transfer of assets from the Sterling Co. to the Wynwood Co. on 28th February, 1934.

No record authorizing the above transaction appears in the Sterling Co.'s minute-book, and presumably it was authorized by Mr. J. W. S. McArthur as attorney for the company.

H. PERSONAL ADVANCES TO J. W. S. McARTHUR.

Substantial advances were also made by the Sterling Co. to Mr. J. W. S. McArthur personally. The total amount advanced in this way as shown by the reconstructed Sterling Co.'s books was £7,897 3s. 2d., and this figure was not challenged by Mr. McArthur before the Royal Commission in Sydney. This balance apparently disappeared from the Sterling books in the course of the Sterling-Wynwood transaction at 28th February, 1934.

I. CASH ADVANCED TO J. W. S. McARTHUR BY N.Z. REDWOOD FORESTS, LTD.

In the Sterling Co.'s account in the books of the N.Z. Redwood Forests, Ltd., a company whose affairs are being investigated under the provisions of the Companies (Special Investigations) Act, 1934, and of which Mr. J. W. S. McArthur was managing director, appear the following debit entries against the Sterling Co. :—

1933.		£	s.	d.
June 30	Transfer of debit balance in account of J. W. S. McArthur ..	416	19	10
	Transfer of amount paid to J. W. S. McArthur, August 12th, 1932, wrongly debited in Redwood books to travelling-expenses—should have been debited to J. W. S. McArthur's account	179	18	6
		<hr/> £596 18 4 <hr/>		

As the books of the Sterling Co. are in Sydney we have not had, since the above entries in the books of N.Z. Redwood Forests, Ltd., came under our notice, an opportunity of ascertaining whether the amounts are correctly debited to Mr. J. W. S. McArthur's account in the Sterling Co.'s books. This should be verified in due course and the books adjusted if necessary.

14. TRANSFER OF SHARES FROM J. W. S. McARTHUR AND C. G. ALCORN TO SOUTHERN BRITISH NATIONAL TRUST, LTD.

In the report of the Inspectors relative to the affairs of the Investment Executive Trust of New Zealand, Ltd., reference is made to the transaction by which Mr. J. W. S. McArthur and Mr. C. G. Alcorn transferred a large parcel of shares in the Investment Executive Trust to the Southern British National Trust, Ltd., at a price which, on paper, showed a very substantial profit to themselves. It may be pointed out that Mr. McArthur was, at the time of the transfer, and in fact has been since the incorporation of these companies, managing director of both the Investment Executive Trust and the Southern British National Trust, Ltd., while Mr. Alcorn has been very closely associated with him in connection with both companies. The transfers were made in April and May, 1934, Mr. J. W. S. McArthur selling 155,320 shares, having a nominal value of £15,532, for £62,128, and Mr. C. G. Alcorn 38,680 shares, with a nominal value of £3,868, for £15,472, in each case the selling-price being four times the nominal value of the shares. The stamp duty on these transfers amounted to £271 15s. 6d., made up of £217 10s. 6d. in respect of Mr. J. W. S. McArthur's transfer and £54 5s. in respect of Mr. C. G. Alcorn's transfer. This stamp duty was paid by the Sterling Co. When the books of that company were closed off as at 30th June, 1934, this stamp duty was written off as an expense of the Sterling Co. This treatment was, in our opinion, quite improper, as it is difficult to see how the Sterling Co. could be responsible for the payment of this stamp duty. We are of opinion that the amount of the stamp duty should be refunded by the Southern British National Trust, Ltd., to the Sterling Co.

15. PURCHASE OF DEBENTURES ISSUED TO MISS SMITH PREVIOUSLY REFERRED TO AS "THE SMITH TRANSACTION."

Towards the close of 1932, Miss Elizabeth Smith, an elderly lady resident in Christchurch, was induced by the Christchurch agent for V. B. McInnes and Co., Ltd., brokers for the Investment Executive Trust, to exchange shares in various well-known companies for debentures in the Investment Executive Trust of New Zealand, Ltd. She received 2,613 debentures in the First "B" Series and later, through the "conversion" operation which is described in the report of the Inspectors on the affairs of the Investment Executive Trust, she received an additional 261 debentures, which brought her holding to 2,874 debentures in the Second "B" Series.

In January, 1934, Miss Smith executed a power of attorney in favour of the Guardian Trust and Executors Co. of New Zealand, Ltd., and this company instituted proceedings to have the shares retransferred and any differences between the income actually received from the debentures and the income which would have been received from the shares adjusted. As it was believed that certain of the shares had been sold, and as the market price of the shares had in the interim advanced considerably, an alternative claim was made that a sum of money be paid which would enable the shares to be purchased on the Stock Exchange, any difference in income to be adjusted as previously mentioned.

The statement of claim set out that the transaction was unfair, unjust, and unconscionable on the grounds that Miss Smith was induced to exchange her shares for debentures by misrepresentations by the salesman, and also that plaintiff was unable to appreciate the unusual features of the debenture issue. The statement also alleged certain breaches of the provisions of the debentures and of the prospectus issued by the defendant company.

The Investment Executive Trust at first refused to recognize the claim, but finally agreed to pay the full amount claimed, payment being made as follows :—

1934.		£	s.	d.
16 March.	Cheque from Sterling Co.	8,210	0	0
26 April.	Cheque from Sterling Co. per Hampson and Wiseman ..	5,000	0	0
30 April.	Cheque from Sterling Co. per Hampson and Wiseman ..	3,755	15	1
	Cheque from Southern British National Trust to Sydney office of Guardian, Trust, and Executors Co. of N.Z., Ltd.	10,000	0	0
		<hr/> £26,965 15 1 <hr/>		

The balance due to Miss Smith was satisfied by the retransfer of shares, the total value of the settlement by payment and transfer being approximately £39,000. The 2,874 debentures in the Investment Executive Trust held by Miss Smith were transferred to and are now held by the Sterling Co.

16. GENERAL REVIEW.

(a) The Sterling Co. formed an important link in the group of companies controlled by Mr. J. W. S. McArthur. Through it very substantial sums of money totalling probably over £200,000 were advanced at Mr. McArthur's direction for the following major purposes :—

- (1) To protect J. W. S. McArthur's assets and also his personal interests during a critical period.
- (2) To assist the Investment Executive Trust by buying out dissatisfied debenture-holders who threatened to cause trouble, by buying other debentures on the open market, and by advancing money to various associated companies.

(b) The loss of the books of the Sterling Co. covering the period to 28th February, 1934, has made the task of conducting a complete investigation into the affairs of the company extremely difficult. No satisfactory explanation of the disappearance of the books was given by the officers of the company either to the Royal Commission in Sydney or to the Inspectors.

(c) The large sums of money which passed through the Sterling Co. were provided almost entirely by the Investment Executive Trust, being money paid by the public for the purchase of debentures and money realized from the sale of securities taken over from the public in exchange for debentures.

Mr. Justice Halse Rogers, Royal Commissioner, in his interim report dated 1st November, 1934, stated, at page 5,—

“ There is no doubt that it (Investment Executive Trust) was in its early stages used by Mr. McArthur entirely for his own purposes. Practically the whole of the first £60,000 subscribed by the public for debentures in the Investment Executive Trust of New Zealand, Ltd., was applied for the salvage of Mr. McArthur's assets through the medium of a company called the Sterling Investments Co. (New Zealand), Ltd. This company was nominally controlled at that time by another company in which Mr. Alcorn was practically the only shareholder, but it is scarcely disputed, and I find as a fact that in all the dealings of Mr. McArthur with the various companies, wherever Mr. Alcorn did anything he did it at the bidding of Mr. McArthur.”

(d) It is apparent that Mr. J. W. S. McArthur controlled the affairs of the company and the directors and other officers acted in a purely nominal capacity and carried out J. W. S. McArthur's instructions.

(e) Many important transactions which were entered into by the company often involving the investment of many thousands of pounds, are not recorded in the minute-book, and apparently the directors were not consulted regarding them. Periodically, however, these transactions were ratified by confirmatory resolutions, which Mr. J. W. S. McArthur and Mr. C. G. Alcorn were able to have passed by the shareholders through their control of the shares and debentures.

(f) The books of the company were never audited nor were the three balance-sheets produced certified to by any officer of the company.

(g) In our opinion several of the assets appear in the balance-sheet at figures considerably in excess of their realizable value.

(h) Substantial sums were advanced by the Sterling Co. to associated companies and to the various officers of these companies, without a charge being made for interest, and apparently without security being given for the advances.

(i) The principal transaction entered into by the company—i.e., the Sterling-Wynwood transaction, by which Mr. J. W. S. McArthur acquired assets upon which, in our opinion, the Sterling Co. expended at least £60,000—is not fully set out in an agreement, nor is it authorized by minute. Conflicting statements regarding the cost to the Sterling Co. of the assets concerned were made by J. W. S. McArthur in his evidence before the Royal Commission in Sydney.

(j) Although the company was registered in New Zealand and had its registered office at Auckland, and, as far as we could ascertain, practically all its operations had been carried out in New Zealand, the books and records were removed to Sydney in May or June, 1934. In our opinion the removal of the books and records of the Sterling Co. in this way, in conjunction with the removal of the books and records of the Investment Executive Trust, was most improper.

17. RECOMMENDATION.

We are definitely of the opinion that this company is hopelessly insolvent. The company is also indebted in a very large sum to the British National Trust, Ltd. The Investment Executive Trust of New Zealand, Ltd., holds a large sum in debentures of the British National Trust, Ltd. The Inspectors reporting on the affairs of the Investment Executive Trust of New Zealand, Ltd., have expressed the opinion that that company should be wound up. The Inspectors reporting on the affairs of the British National Trust, Ltd., have said that as that company is incorporated outside New Zealand and is not carrying on business within New Zealand they have no recommendations to make regarding that company. They have, however, stated that if the Investment Executive Trust of New Zealand, Ltd., should be wound up it would, in their opinion, be desirable in the interest of the debenture-holders of the Investment Executive Trust of New Zealand, Ltd., that the British National Trust, Ltd., should also be wound up.

In view of—

- (a) The various matters set out in this report :
- (b) The fact that in our opinion the Sterling Investments Co. (N.Z.), Ltd., is hopelessly insolvent :
- (c) The large indebtedness of the Sterling Investments Co. (N.Z.), Ltd., to the British National Trust, Ltd. :
- (d) The recommendations and comments above referred to from the reports of the Inspectors on the affairs of the Investment Executive Trust of New Zealand, Ltd., and of the British National Trust, Ltd.—

we recommend that the Sterling Investments Co. (N.Z.), Ltd., should be wound up.

J. M. ELLIFFE,
J. L. GRIFFIN,
Inspectors.

Auckland, N.Z., 13th February, 1935.

STERLING INVESTMENTS CO. (N.Z.), LTD.
SCHEDULE OF EXHIBITS.

- Exhibit.
- A. Balance-sheet as at 30th June, 1934, and Revenue Account for period 28th February, 1934, to 30th June, 1934.
 - B. Balance-sheet as at 31st August, 1932.
 - C. Balance-sheet as at 28th February, 1934.
 - D. Statement showing past and present shareholders in the company.
 - E. Copy of letter from Mr. J. W. S. McArthur to Mr. V. R. Meredith, Crown Solicitor at Auckland.
 - F. "Annexure 3."
 - G. Copy of letter from Mr. K. C. Aekins.

EXHIBIT "A."

THE STERLING INVESTMENTS CO. (N.Z.), LTD.

REVENUE ACCOUNT FOR PERIOD FROM 1ST MARCH, 1934, TO 30TH JUNE, 1934.

<i>Dr.</i>				<i>Cr.</i>			
1934.		£	s. d.	1934.		£	s. d.
June 30	To General office expenses ..	653	9 6	June 30	By Interest	1,707	3 0
	Stamp duty	368	11 7				
	Legal expenses	83	4 0				
	Balance carried down ..	601	17 11				
		£1,707	3 0			£1,707	3 0
1934.		£	s. d.	1934.		£	s. d.
Feb. 28.	To Balance brought forward ..	2,514	15 7	June 30	By Balance brought down ..	601	17 11
					Balance carried down ..	1,912	17 8
		£2,514	15 7			£2,514	15 7
1934.		£	s. d.				
June 30	To Balance brought down ..	1,912	17 8				

BALANCE-SHEET AS AT 28TH FEBRUARY, 1934.

PROFIT AND LOSS ACCOUNT.

					£	s.	d.							£	s.	d.
General expenses	..	..	..	..	965	12	1	Exchange	..	..	..	..	..	242	4	3
Interest	..	..	..	..	6,013	19	2	N.Z. Redwood Forests, Ltd.: Debenture sales	..	..	..	..	..	997	4	10
								Interest received British National Trust, Ltd.	..	..	..	..	..	1,512	15	3
								Interest—								
								Accrued	..	..	..	..	..	621	0	0
								Received (sundry)	..	..	..	..	..	381	3	7
								Profits on sale of assets to Wynwood Investments,								
								Ltd.	..	..	..	..	..	38	4	3
								Loss	..	..	..	..	..	3,186	19	1
														£6,979	11	3

EXHIBIT "C"—*continued.*

[Copy]

THE STERLING INVESTMENTS CO. (N.Z.), LTD.

SCHEDULE OF LOANS AS AT 28TH FEBRUARY, 1934.

						£	s.	d.
R. Glover-Clark	..	..	..	..	..	60	0	0
D. Campbell (State Forest Service)	..	..	..	..	..	100	0	0
K. C. Aekins	..	..	..	..	..	125	0	0
W. C. Hewitt	..	..	..	..	..	820	0	0
Norman Levy	..	..	..	..	..	300	0	0
S. M. Craike	..	..	..	..	..	345	0	0
C. M. Ward ..	..	..	..	..	..	25	0	0
H. H. Pollard	..	..	..	..	..	100	0	0
W. A. Pilkington	..	..	..	..	..	270	0	0
D. E. Connell	..	..	..	..	..	145	0	0
W. H. Bade ..	..	..	..	..	..	97	10	0
J. R. McArthur	..	..	..	..	..	239	14	9
W. C. Pocock	..	..	..	..	..	30	0	0
W. Crawford Young	..	..	..	..	..	200	0	0
Miss Sagar ..	..	..	..	..	..	150	0	0
H. Burley ..	..	..	..	..	..	75	0	0
C. F. Herbert	..	..	..	..	..	375	0	0
A. Lindsay ..	..	..	..	..	..	50	0	0
J. Studholme	..	..	..	..	..	2,250	0	0
M. M. Frost ..	..	..	..	..	..	210	0	0
M. Batchelor	..	..	..	..	..	300	0	0
C. M. McCulloch	..	..	..	..	..	100	0	0
F. E. Frost ..	..	..	..	..	..	60	0	0
J. Crawford ..	..	..	..	..	..	75	0	0
Charnley	..	..	..	..	..	500	0	0
Cowen	..	..	..	..	..	200	0	0
Collins	..	..	..	..	..	50	0	0
Evans	..	..	..	..	..	500	0	0
Formby	..	..	..	..	..	1,500	0	0
Goodwin	..	..	..	..	..	30	0	0
Pargetter	..	..	..	..	..	15	0	0
Bradfield	..	..	..	..	..	52	10	0
Herd	..	..	..	..	..	22	10	0
Knight	..	..	..	..	..	200	0	0
W. H. Allen	..	..	..	..	..	82	10	0
						£9,654	14	9

EXHIBIT “D.”

SHOWING PAST AND PRESENT SHAREHOLDERS OF THE STERLING INVESTMENTS CO. (N.Z.), LTD.

Shareholder at 30th June, 1934.	Number of Shares.	Amount paid per Share.	Total Amount paid.	How acquired.	Previous Holders, and Dates transferred.
K. C. Aekins ..	1 100	s. 2 20	£ s. d. 0 2 0 100 0 0	Memorandum of association. Allotted 21st October, 1931, as fully paid in consideration of services rendered.	
C. G. Alcorn ..	1 100	2 20	0 2 0 100 0 0	Memorandum of association. Allotted 21st October, 1931, as fully paid in consideration of services rendered.	
H. A. C. Davy ..	1	2	0 2 0	Memorandum of association.	
R. C. Dormer ..	1	2	0 2 0	Memorandum of association.	
J. S. Callinan ..	1	2	0 2 0	Memorandum of association.	
M. Larritt	1	2	0 2 0	Memorandum of association.	
British National Trust, Ltd.	20,000	2	2,000 0 0	Transferred from Investment Securities Association, Ltd., 19th April, 1934	Allotted to Investment Securities Asso- ciation, Ltd., 27th March, 1933.
Ditto	500	2	50 0 0	Ditto	Allotted to Investment Executive Trust, 30th September, 1931. Transferred to Investment Securities Asso- ciation, 22nd March, 1933.
„	200	2	20 0 0	„	Allotted to Modern Homes, Ltd., 19th June, 1931. Transferred to Alcorn, Trower, and Co., Ltd., 16th March, 1932. Transferred to Investment Executive Trust, 17th March, 1932. Transferred to Investment Securities Asso- ciation, 22nd March, 1933.
„	100	20	100 0 0	„	Allotted to R. Glover-Clark, 21st October, 1931 (100 as fully paid for services rendered and 1 memorandum of asso- ciation).
„	1	2	0 2 0	„	Transferred to Investment Executive Trust, 22nd September, 1932. Transferred to Investment Securities Asso- ciation, 22nd March, 1933.
	21,007		£2,370 14 0		

EXHIBIT “E.”

COPY OF LETTER FROM MR. J. W. S. McARTHUR TO MR. V. R. MEREDITH, CROWN SOLICITOR, AUCKLAND.

[Copy.]

Yorkshire House, Shortland Street, Auckland,
25th September, 1931.

V. R. Meredith, Esq., Crown Solicitor, Auckland.

DEAR SIR,—

I am in receipt of your letter of the 23rd instant, advising that you have entered up judgment in respect of the Crown's claim.

There are two points particularly which I wish to make clear—

- (1) I do not wish to escape liability for payment of this claim, but, unfortunately, at present I have neither money to meet the claim nor assets upon which I can realize.
- (2) Forcing the claim on the part of the Crown would involve me in bankruptcy, and would deprive me of recovering from my present position which has been brought about solely by a series of misfortunes and would, therefore, make it impossible for the Crown to benefit by such pressure.

As to the first point, I enclose with this letter a statement of my position showing all assets and liabilities. I am prepared, if you wish, to give any further information regarding my personal position you may desire. From this statement it is plain that if I am forced into bankruptcy at the present time, my creditors will get practically nothing.

The second issue is one which I desire to deal with at some length, and from which I think you will agree that my present financial position is not due to any fault of mine.

The business of the Selwyn Timber Co., Ltd., was started by me, so far as milling operations were concerned, in the year 1907, but prior to that time I spent approximately eighteen months in negotiating the purchase of bush from the

Crown, setting out tramways and roads for the future transport of the timber, and making plans for milling and logging operations. From that time up to 1921 practically the whole of my earnings went back into the business and the whole of my time was devoted to the building-up of the company. I need hardly add that, like many other working sawmillers, I had to work sixteen hours a day and seven days a week.

About the year 1920 the present State Forest Service was inaugurated and took over the administration of the forests from the Lands and Survey Department, and an application was subsequently made to this Department for the further area of forest. Approximately 1,500 acres were measured and put up for sale by the Department. Prior to this period the Selwyn Timber Co., Ltd., had purchased the whole of its forests from the Lands Department. The price charged as royalty by the State Forest Service on the 1,500-acre area put up in 1920 was more than double the previous price which we paid the Lands Department. We were assured by officers of the State Forest Service (not now with the Department) that their system of measurement would show a reduction of at least 33½ per cent. on the basis adopted by the Lands Department. The result, however, of the milling operations, as you are no doubt aware, showed that the measurement of the State Forest Service was seriously overestimated. This overestimate is chiefly responsible for the unfortunate position in which the Selwyn Timber Co., Ltd., finds itself to-day. As managing director of that company I certainly would not have incurred the heavy expenditure of a new tramway into this forest at a cost of £17,200. Furthermore, the extra cost of logging the scattered timber was approximately £6,000. This is borne out by the fact that the New Zealand Government Railway accounts show that the cost of logging and milling the timber on an adjacent area, which certainly had a larger quantity of forest per acre than our area, was 33s. 4d. per 100 ft., not including depreciation. This price is 14s. per 100 ft. more than the Selwyn Timber Co.'s selling-price on rail at Mangatapu. It is quite obvious, therefore, that the extra capital cost of tramway and the additional cost of working the scattered bush made the difference between my company getting through the slump or going under.

There is a further feature which I wish to point out at this juncture, and that is the Selwyn Timber Co., Ltd., paid out in wages £190,000; the Railway Department received £43,000 in respect of freights on timber produced at our mill; the Crown received £18,600 cash in royalties, and we paid £3,800 in taxes. *The Crown received altogether £65,000, chiefly as a result of my personal efforts and money which I invested in the concern*, while the total dividend paid to the shareholders of the company (I being the largest shareholder) was £9,500. The total capital paid up by shareholders was £41,000, which cannot be recovered until the Crown is fully paid.

On Sunday, the 6th instant, I took the receiver and liquidator of the Selwyn Timber Co., Ltd., to Mangatapu and showed them over the mill and plant. They are both convinced that the assets in their present cohesive form are so substantial that it would be a shameful waste to destroy their value by splitting them up and selling them piecemeal. They are both satisfied that if the mill and plant were conserved even for three or four years if necessary, until times become normal, their ultimate value will pay all creditors and provide a dividend for shareholders.

From the enclosed statement you will see that my chief asset consists of the 24,000 shares in the Selwyn Timber Co., Ltd. I believe that with a revival of the timber industry these shares can be reinstated at a substantial value. You will understand, therefore, that I have a personal interest in seeing that the creditors receive payment in full.

The receiver of the company, I am informed, is now taking definite steps to acquire clear titles to the properties on which the mill and plant exist.

If I am given a chance to recover, I am still firmly of the belief that the creditors of the Selwyn Timber Co., Ltd., and my own creditors will receive 20s. in the pound.

I am at present chairman of directors of the N.Z. Redwood Forests, Ltd., which company has been exceedingly unfortunate during the past three years owing to litigation which was forced upon it and from which it eventually emerged successfully. This litigation threw the company back several years, but its position is still sound, and I believe that I can in two or three years make it one of the soundest and most successful afforestation projects in the country.

I am also managing director at present of the Investment Executive Trust of New Zealand, Ltd. This company is only in its infancy, but is having a fair measure of success. If I can continue to direct its policy for a further few years, the success of the company will materially help me personally.

As I mentioned in the opening paragraphs of my letter, I have no assets with which to meet the liability to the Crown, which is not a debt of my own, but a guarantee. I am therefore prepared to make this offer to the Department:—

That I will pay the sum of £300 (*three hundred pounds*) *per annum* out of remuneration for services which will be paid to me by the Redwood Forests, Ltd., and the Investment Executive Trust of N.Z., Ltd., for a period of ten years.

£150 to be paid in June of next year, £150 in December of the same year, and payments of £150 every six months thereafter until the debt is extinguished.

This offer is made on the understanding that I am to rank equally with the Crown as a preferential creditor of the Selwyn Timber Co., Ltd., for such amounts of this debt as I may discharge. Any sums realized by the Crown from the liquidation of the Selwyn Timber Co., Ltd., will, of course, correspondingly reduce my liability.

Yours faithfully,

(Signed) W. McARTHUR.

Encl. Statement.

<i>Liabilities.</i>	£	s.	d.	<i>Assets.</i>	£	s.	d.
Guarantee, State Forestry Department ..	3,000	0	0	280 shares in Edgecumbe Forests, Ltd.—sub-			
Guarantee to Mrs. A. Harris	1,000	0	0	ject to uncalled capital of 13s. 2d. per share :			
Guarantee to G. N. Ritchie—secured over				value	135	0	0
my shares in Selwyn Timber Co., Ltd. . .	3,000	0	0	200 fully-paid shares in N.Z. Redwood Forests,			
Bank of New Zealand—secured by debenture				Ltd.—present value doubtful. Future value			
stock in Matahina Rimu Co., Ltd.				depends on sale of the balance of debenture			
(face value, £1,349)	900	0	0	issue			
Guarantee of mortgage to Diocesan Board				24,000 fully-paid ordinary shares in the Selwyn			
overdue—interest in arrears	2,600	0	0	Timber Co., Ltd. (in liquidation): Present			
Guarantee of mortgage to Grey Vincent				value doubtful. Future value contingent			
Syndicate—overdue interest in arrears. .	3,000	0	0	on revival of timber industry			
Unsecured creditors	680	0	0	Motor-car	140	0	0
Guarantee of mortgage to Porter on pro-				Personal effects—value	130	0	0
perty, Hillsborough Road	4,500	0	0				
Alcorn, Trower, and Co.—secured by mort-							
gage over 17,000 ordinary shares of 2s.							
each in the Investment Executive Trust							
of N.Z., Ltd.	560	0	0				
	<u>£19,240</u>	<u>0</u>	<u>0</u>		<u>£405</u>	<u>0</u>	<u>0</u>

EXHIBIT "F."

"ANNEXURE 3."

BEING COPY OF STATEMENT PRODUCED TO THE ROYAL COMMISSION IN SYDNEY BY MR. J. W. S. McARTHUR AS AN ANNEXURE TO HIS FORMAL STATEMENT ON 11TH SEPTEMBER, 1934.

ALL claims against Wynwood Investments, Ltd., in respect of legal costs, rates, and taxes up to 28th February, 1934.

Properties consisting of—

- Four sections in St. Stephen's Avenue.
- One section in Grey Street.
- Two sections in Mount Smart Road.
- One section Oranga Avenue.
- One section Meadowbank Road.
- One section Woodley Avenue.
- 460 acres (approx.) at Putaruru.
- Four sections at Maraetai.

Mortgages : A first mortgage over property at Putaruru from Hawke and Armstrong.

27,155 ordinary shares in the Wynsel Timber Co., Ltd.

6,466 first-mortgage debentures in the Wynsel Timber Co., Ltd.

6,125 ordinary shares in the New Zealand Redwood Forests, Ltd.

8 debentures of £35 each, in the New Zealand Redwood Forests, Ltd.

All assets, benefits, or otherwise attaching to debentures held by the receiver of the Selwyn Timber Co., Ltd. (in liquidation).

Mortgage from the Selwyn Timber Co., Ltd. (in liquidation), to the New Zealand Redwood Forests, Ltd., and assigned by the New Zealand Redwood Forests, Ltd., to the Sterling Investments Co. (N.Z.), Ltd.

All claims for costs or otherwise against the Wynsel Timber Co., Ltd., to 28th February, 1934.

All residues of assets acquired from the Edgecumbe Forests, Ltd. (in liquidation), including mortgage from the New Zealand Redwood Forests, Ltd., over 2,000 acres of land at Matahina, and

Claim against the British National Trust, Ltd., for £8,750 (approx.), being residue of mortgage, together with accrued interest from Timberlands Woodpulp, Ltd.

All accounts due by J. W. S. McArthur in respect of personal advances and improvements and additions to Hillsborough or other properties up to 28th February, 1934.

All benefits attaching to the estate of the late E. M. McArthur.

All accounts due by the Pacific Exploration Co., Ltd.

9,979 shares in the Pacific Exploration Co., Ltd., and

All claims against the Investment Executive Trust of New Zealand, Ltd., up to 28th February, 1934.

EXHIBIT "G."

K. C. AEKINS, Solicitor.

Telephone 43-639.

J. M. Elliffe, Esq.,

Public Accountant, Auckland.

National Insurance Buildings,

2nd Floor, 12 O'Connell Street,

Auckland, C. 1, N.Z., 7th February, 1935.

DEAR SIR,—

Re STERLING INVESTMENT CO. (N.Z.), LTD.

Further to my conversation with you of to-day I now desire to place on record the following matters.

You have asked me whether I have any knowledge of the transfer of substantial assets from the Sterling Co. to Wynwood Investments, Ltd., and J. W. McArthur personally on the 28th February, 1934. I have to advise you that I know nothing whatever about this transaction. With regard to the transfer of shares in Sterling Investment Co. from Investment Securities Association to the British National Trust in April, 1934, I also know nothing whatever about this matter.

I would like to add that I never received one penny from Sterling Investments by way of director's fees.

If there is anything further that you feel I can assist you in I shall be happy to do so.

Yours faithfully,

K. C. AEKINS.

WYNWOOD INVESTMENTS, LTD.

REPORT OF INSPECTOR.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of Wynwood Investments, Ltd.

REPORT OF INSPECTOR.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule to the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, one of the Inspectors so appointed, respectfully submits the report of his investigations into the affairs of Wynwood Investments, Ltd.

2. SOURCES OF INFORMATION.

I commenced my investigation into the affairs of this company by attending at its registered office, which was at the office of the Investment Executive Trust of New Zealand, Ltd., in Yorkshire House, Shortland Street, Auckland. None of the officers there, however, had any intimate knowledge of the operations of the company, and I was told by them that it was a private company which was controlled by J. W. S. McArthur personally, and that only he could give complete information regarding it. None of those questioned in Auckland could give any information regarding the books, but it was understood that these were with Mr. McArthur in Sydney. With a view to securing information regarding this and other companies, I visited Sydney, leaving New Zealand for Australia on the 24th August, 1934.

On arrival in Sydney, I was permitted by His Honour Mr. Justice Halse Rogers, who was sitting as a Royal Commission to inquire into the affairs of certain companies, which included Wynwood Investments, Ltd., to inspect the books and documents of that company which were there. The position regarding the books is discussed in section 4 of this report.

On returning to New Zealand certain information regarding the early operations of the company was obtained from Kenneth Forrest and Maurice D. Grayson, two of the first directors of the company, and also from W. L. Wiseman, solicitor, of the firm of Hampson and Wiseman, who acted as solicitors to the company and attended to the legal formalities connected with its incorporation. I have been unable to establish communication with Albert W. Coffey, who was a director and shareholder of the company at the time of its incorporation, and I understand that he is not now resident in Auckland.

3. CONSTITUTION OF COMPANY.

(a) REGISTRATION.

This company was registered as a private company on 6th August, 1930, the memorandum and articles of association being dated 5th August, 1930.

(b) CAPITAL.

The capital of the company on its incorporation was £100 in £1 shares, which were subscribed for in the memorandum of association by—

	Shares.
Kenneth Forrest, solicitor	34
Maurice Dearsley Grayson, law clerk	33
Albert William Coffey, clerk	33
	<hr/> 100

On 8th September, 1930, these shares were allotted as fully paid “in consideration of the payment by the subscribers to the memorandum of association of all preliminary expenses.”

On the 11th April, 1932, the capital was increased to £1,000, and on 26th October, 1933, to £10,000. Particulars of the allotment of these additional shares and of changes in the shareholdings are set out in section 5 of this report.

(c) OBJECTS.

The principal objects of the company as set out in the memorandum of association are :—

To purchase, hire, or lease land or other real or personal property, &c.

To develop assets so acquired.

To purchase and sell shares, and generally to carry on financial and investment operations.

(d) ARTICLES OF ASSOCIATION.

The articles of association adopted were Table “A” of the Companies Act, 1908, with many modifications.

4. BOOKS AND RECORDS.

The books which were examined by me in Sydney were the cash-book, journal, ledger and share register. The minute-book was deposited with the Royal Commission in Sydney, and a copy of this was supplied to me.

5. SHAREHOLDERS.

The original capital of £100 was subscribed for in the memorandum of association, and allotted as fully paid to—

	Shares.
Kenneth Forrest	34
Maurice Dearsley Grayson	33
Albert William Coffey	33
	<hr/> 100

On the 11th April, 1932, the capital was increased to £1,000, the additional 900 shares being taken up by—

	Shares.
C. G. Alcorn	1
J. W. S. McArthur	1
Sterling Investments Co. (N.Z.), Ltd.	898
	<hr/> 900

Following on this allotment and the transfer by the original shareholders of their shares, the shareholding on 12th April, 1932, was—

	Shares held.	Paid per Share.	Amount paid up.
		s. d.	£ s. d.
Sterling Investments Co. (N.Z.), Ltd.	898	..	Nil.
The Investment Securities Association, Ltd.	10	20 0	10 0 0
Sterling Investments Co. (N.Z.), Ltd.	90	20 0	90 0 0
C. G. Alcorn	1	..	Nil.
J. W. S. McArthur	1	..	Nil.
	<hr/> 1,000		<hr/> £100 0 0

Of the 900 shares allotted on 11th April, 1932, the two taken up by C. G. Alcorn and J. W. S. McArthur were allotted on terms requiring payment in full on application, while the 898 allotted to the Sterling Investments Co. (N.Z.), Ltd., were payable as to 2s. per share on application. As is explained in section 11 of this report, these application-moneys were not paid to the company until 11th December, 1933.

On 5th October, 1933, various transfers were approved, which altered the shareholding to—

	Shares.	Paid up.
		£ s. d.
R. Glover-Clark	900	90 0 0
Stanley Grange	100	10 0 0
	<hr/> 1,000	<hr/> £100 0 0

On 26th October, 1933, the capital of the company was increased to £10,000 by the creation of an additional 9,000 shares of £1 each. These shares are entered in the Share Register as allotted to J. W. S. McArthur on the 24th February, 1934, the cash in payment recorded as received on the 20th February, 1934, being an item in the Sterling-Wynwood transaction referred to later in this report.

On 10th March, 1934, approval was given to a transfer of 900 shares from R. Glover-Clark to J. W. S. McArthur.

The shareholding then, and at 30th June, 1934, was—

				Paid to		Paid up.		
				s.	d.	£	s.	d.
J. W. S. McArthur ..	..	..	9,090	20	0	9,090	0	0
J. W. S. McArthur ..	..	..	810	2	0	81	0	0
Stanley Grange ..	..	..	12	20	0	12	0	0
Stanley Grange ..	..	..	88	2	0	8	16	0

The minute-book states that it was then resolved—

“That the company agree to a cancellation of the agreement of 5th September, 1930, with Modern Homes, Ltd., to purchase 19,425 shares in the New Zealand Redwood Forests, Ltd., and that the seal of the company be affixed to the cancellation in terms of the articles of association.”

These minutes are also signed “K. Forrest, Chairman.”

Though the minutes of these two meetings appear to be in order, such is apparently not the case, as both K. Forrest and M. D. Grayson state that they never attended a meeting of the company, nor have they at any time seen or had any communication with the other shareholder, A. W. Coffey. In a statement signed by them and dated 27th September, 1934, a copy of which is appended to this report marked Exhibit “B,” they say,—

“After the incorporation of the company we signed an agreement respecting the purchase of shares and Mr. Forrest signed certain minutes in relation to the agreement. No formal meeting of the company was held, but Mr. Wiseman assured us that he had obtained the consent of Mr. Coffey.”

K. Forrest, when questioned regarding his signature to the minutes, stated that these had been prepared by W. L. Wiseman, who had assured him that they were approved by A. W. Coffey.

In their statement, K. Forrest and M. D. Grayson, who are both employees of a leading legal firm in Auckland, state that they were approached by W. L. Wiseman of the firm of Hampson and Wiseman, Solicitors, Auckland,—

“with a request that we should give his firm assistance in protecting them for substantial costs which were owing to them by N.Z. Redwood Forests, Ltd. . . . Mr. Wiseman advised us that the only manner in which they could be protected for costs was to obtain a hold over certain shares as at the time the company concerned had no documents over which a charge could be obtained. It was the suggestion of Messrs. Hampson and Wiseman that a company be formed and that we subscribe for shares which we agreed to do provided there was no liability on our part and also because Mr. Wiseman gave us his personal assurance that it was quite in order.”

They further state,—

“We were given to believe that the company had been formed for the one specific purpose of protecting Messrs. Hampson and Wiseman for costs. Neither of us has at any time received any consideration or remuneration from the company or from Messrs. Hampson and Wiseman, or from any other source.”

Their statement concludes,—

“At no time prior to our transferring our shares were we aware that Mr. McArthur had any interest whatsoever in the affairs of the company.”

This statement was submitted by Mr. Forrest to Messrs. Hampson and Wiseman, who replied stating that the document “appears a fair statement of the position.” A copy of their reply is appended to this report as Exhibit “C.”

From the foregoing it would appear that the sole reason for the incorporation of Wynwood Investments, Ltd., was to provide a means whereby certain costs alleged to be due to Messrs. Hampson and Wiseman by New Zealand Redwood Forests, Ltd., could be collected. The partners in this legal firm, M. H. Hampson and W. L. Wiseman, did not wish to appear as shareholders, and K. Forrest, M. D. Grayson, and A. W. Coffey agreed to subscribe for the shares, regarding themselves “as nominal trustees for Messrs. Hampson and Wiseman.”

It appears that they genuinely believed that the object of the formation of the company was as set out above, and it seems that in agreeing to lend their names to the project they were actuated by a desire to help a firm of solicitors with whom they were in close contact. The statement made by K. Forrest and M. D. Grayson shows that they were largely influenced by the personal assurance which they state was given to them by W. L. Wiseman—that “it was quite in order.”

The only transaction entered into during the period of their directorate was to agree to purchase from Modern Homes, Ltd., 19,425 shares in New Zealand Redwood Forests, Ltd. This is recorded as approved on 8th September, 1930, and the cancellation of the agreement to purchase was approved on 5th April, 1932.

As the formation of the company is stated to have been to protect the interests of Messrs. Hampson and Wiseman, this firm was asked to make a statement explaining the circumstances. Their reply is dated 9th January, 1935, and is signed by W. L. Wiseman on behalf of the firm. The following is an extract :—

“We confirm the writer’s intimation to you of yesterday herein—namely, that in the year 1930 we were personally liable to Messrs. H. P. Richmond and A. H. Johnstone for counsel’s fees in connection with the N.Z. Redwood Forests, Limited’s, reconstruction scheme, and also there was a large amount owing to us for solicitor and client costs. At this time, we did not hold, nor were we able to obtain a lien over any documents of the company for costs, and the only protection available (whether adequate or not) was to obtain a holding title over certain shares of the Redwood Company. For this purpose the above company was formed and entered into the agreement which we understand Mr. Duthie has handed to you.

“The costs were paid during the year 1931 and thereafter the agreement was cancelled by endorsement about April, 1932. Upon payment of Redwood costs we had no further interest in the agreement of 1930, and no further use for the company. Mr. McArthur intimated that the company might be useful to him and it was agreed that we would obtain transfers of the shares to him or as he might direct provided we were reimbursed for the formation expenses of the Wynwood Company, amounting approximately to £40.

“All documents of the company were forwarded to Mr. McArthur on 6th April, 1932, and we were paid the costs of approximately £40 at a later date.”

It will be noted from the foregoing that Messrs. Hampson and Wiseman state that they had “no further use for the company” after payment of their costs against N.Z. Redwood Forests, Ltd., and that on reimbursement to them by J. W. S. McArthur of the formation expenses of the company they would obtain transfers of the shares to him or as he might direct. Pursuant to this arrangement, ninety of the shares were transferred on or about 7th April, 1932, from K. Forrest, M. D. Grayson, and A. W. Coffey to the Sterling Investments Co. (N.Z.), Ltd., a company from which at this time J. W. S. McArthur, as managing director of the Investment Executive Trust of New Zealand, Ltd., held a power of attorney, and which was controlled by him, and ten shares from A. W. Coffey to the Investment Securities Association, Ltd., a company which was controlled by C. G. Alcorn.

This completed the first phase of the company's activities. So far as can be ascertained, the company at this time had neither assets nor liabilities, there were no books of account, nor had any bank account been opened, although authority to do this was taken at the first “meeting” of the directors.

Nothing had actually been paid by shareholders in respect of their shares, and the expenses of formation had been paid by Hampson and Wiseman.

A copy of the agreement between Modern Homes, Ltd., and Wynwood Investments, Ltd., is appended to this report as Exhibit “D.”

9. SECOND PHASE OF THE COMPANY'S OPERATIONS.

As mentioned in the last preceding section of this report, the shares held by the original shareholders, Messrs. Forrest, Grayson, and Coffey, who were also the directors of the company, were transferred to the Sterling Investments Co. (N.Z.), Ltd., and the Investment Securities Association, Ltd. The minutes record the holding of an extraordinary general meeting of shareholders on 11th April, 1932, at which there were present J. W. S. McArthur and C. G. Alcorn, representing the above-named transferee companies.

It may here be pointed out that at this time neither of these companies was registered as a shareholder. His Honour Mr. Justice Halse Rogers during the session of the Royal Commission in Sydney on 18th September, 1934, drew attention to this and stated that because of this apparent irregularity it was possible that all subsequent acts of the company were invalid. I cannot express an opinion on this point, but, in view of His Honour's remarks, suggest that this possibility be given consideration.

At this meeting on 11th April, 1932, it was resolved :—

- (1) That the transfers from the original shareholders to the Sterling Investment Co. (N.Z.), Ltd., and the Investment Securities Association, Ltd. [already referred to in this report], be approved.
- (2) That the registered office be removed to Third Floor, Yorkshire House, Auckland—i.e., to the office of the Investment Executive Trust of New Zealand, Ltd. :
- (3) That the capital be increased to £1,000 by issuing an additional 900 shares :
- (4) That Messrs. C. G. Alcorn and J. W. S. McArthur be appointed the directors of the company for the ensuing year.

Meetings of directors were held on the 12th and 20th April, 1932. J. W. S. McArthur and C. G. Alcorn attended and the following business was transacted :—

- (a) Allotment of 900 shares created by increase of capital above mentioned.
- (b) Appointment of H. C. Glasson as Secretary.
- (c) Decision to open a banking account with the Commercial Bank of Australia, Ltd., in Auckland.

A further meeting of directors, held on 5th October, 1933, approved various transfers whereby all shares passed into the hands of R. Glover-Clark and Stanley Grange.

It must be noted here that the minutes of the three meetings of directors last referred to bear no signature or other evidence of their approval or confirmation either at the time or at subsequent meetings.

An examination of the evidence given before the Royal Commission in Sydney and of the circumstances surrounding these transfers of shares leads me to the conclusion that the shares were transferred in order to facilitate the carrying out of certain agreements concerning a number of assets and “rights of action” which intimately affected J. W. S. McArthur personally. These agreements, which are discussed at some length in section 10 of this report, are dated 9th October, 1933—i.e., four days after the approval of the share transfers. It is presumed that it was thought the validity of the agreements would be less likely to be questioned if J. W. S. McArthur were neither a shareholder nor a director of the company purchasing the assets.

Repeatedly in giving evidence before the Royal Commission in Sydney, J. W. S. McArthur stated that he regarded Wynwood Investments, Ltd., as his personal property. One such statement was made by him on 19th September, 1934, when in answer to a question regarding certain operations of Wynwood Investments, Ltd., he said, "Yes, but I was Wynwood."

Similarly when Stanley Grange was giving evidence before the Royal Commission in Sydney on 6th September, 1934, he was asked to give an explanation regarding certain cheques which he had signed as a director of Wynwood Investments, Ltd., and he replied to Mr. Monahan, who appeared for the Attorney-General of New South Wales,—

"To tell you the truth, I am only acting in a nominal capacity as a director in connection with that company. It is practically a private company of Mr. McArthur's, and there I am practically guided by his will."

It has not been possible to question R. Glover-Clark regarding the matter, but the information gained during the investigation indicates that he also acted in a nominal capacity.

Approval of the transactions embodied in the agreements of 9th October, 1933, is given in minutes signed by R. Glover-Clark and S. Grange on 26th October, 1933, resolutions being set out :—

- (1) Increasing the capital of the company to £10,000.
- (2) Ratifying and confirming the action of the directors in the acquisition of the properties from the Wynsel Timber Co., Ltd., in terms of the agreement of 9th October, 1933.
- (3) Authorizing the creation and issue of a series of debentures of £100,000 divided into 100 debentures of £1,000 each.

The only other business recorded as transacted by R. Glover-Clark and S. Grange as directors was at a meeting on 5th December, 1933, when it was resolved to open a banking account with the Commercial Bank of Australia, Ltd., Auckland. On this occasion the decision was given effect to, the account being opened on 11th December, 1933.

A further entry in the minute-book purports to be the minutes of a meeting of directors held on 10th March, 1934. It is not stated who was present, nor do the minutes bear evidence of confirmation or approval. The business recorded is the approval of a transfer of R. Glover-Clark's shares to J. W. S. McArthur, and the appointment of J. W. S. McArthur and S. Grange as directors.

It will be noted that J. W. S. McArthur was not a director between 5th October, 1933, and 10th March, 1934, within which period the Sterling-Wynwood transaction was consummated.

10. TRANSFER OF FORMER SELWYN TIMBER CO., LTD.'S ASSETS FROM WYNSEL TIMBER CO., LTD., TO WYNWOOD INVESTMENTS, LIMITED.

(a) TRANSFER FROM SELWYN TIMBER CO., LTD. (IN LIQUIDATION), TO WYNSEL TIMBER CO., LTD.

During the years 1932 and 1933 it was alleged by certain shareholders of the Selwyn Timber Co., Ltd. (in liquidation), that, while in charge of that company as managing director and holding a controlling interest in the shareholding, J. W. S. McArthur had induced the company to enter into certain allegedly irregular transactions which were very much to his own advantage. These transactions concerned the transfer of certain properties from J. W. S. McArthur to the company, the writing-off of certain items which it was alleged had been wrongly paid to him, and certain other matters.

These transactions are discussed in the report of the Inspectors concerning the affairs of the Selwyn Timber Co., Ltd. (in liquidation), a company which is being investigated under the provisions of the Companies (Special Investigations) Act, 1934.

By an agreement dated 30th March, 1933, the assets above referred to and certain other assets were disposed of by the Selwyn Timber Co., Ltd. (in liquidation), to the Wynsel Timber Co., Ltd., a company in which J. W. S. McArthur held a controlling interest, and which is also being reported on under the provisions of the Companies (Special Investigations) Act, 1934. The agreement was executed on behalf of the Selwyn Timber Co. by C. G. Alcorn acting as receiver for the debentureholder, the Sterling Investments Co. (N.Z.), Ltd., a copy of this agreement being appended to this report as Exhibit "E."

The assets transferred included certain land near Putaruru, on a portion of which a sawmill was erected; a section of land in Grey Street, Auckland; several sections of land at Parnell, Auckland; certain sawmill plant, machinery, and chattels; and also all or any rights of action that the Selwyn Timber Co., Ltd. (in liquidation), might have against J. W. S. McArthur in respect of—

- (1) Sale by J. W. S. McArthur to Selwyn Timber Co., Ltd. (in liquidation), of Grey Street property.
- (2) All similar rights in respect of Parnell property.
- (3) All similar rights *re* India Suspense Account amounting to £1,074 9s. 11d.
- (4) All similar rights *re* alleged overpayment of directors' remuneration.
- (5) All similar rights *re* sale of shares in Redwood Forests, Ltd., by the Selwyn Timber Co., Ltd., to Modern Homes, Ltd.
- (6) All similar rights for payment of £1,395 for unpaid calls on shares in the Selwyn Timber Co., Ltd. (in liquidation).
- (7) All debts, sums, claims, demands, suits, rights, privileges, remedies, book debts, choses in action, and unpaid capital (if any) due and owing to the Selwyn Timber Co., Ltd. (in liquidation), by any person, firm, or corporation, together with any other claims, &c., that the Selwyn Timber Co., Ltd. (in liquidation), may have against any person or firm.

The consideration for this transfer was to be the sum of £11,250, payment to be made as follows :—

- (1) By payment of a deposit of £1,000, the receipt of which was acknowledged in the agreement.
- (2) By the purchaser taking over the mortgages of £2,218 10s. 11d. on the Putaruru property and of £2,000 over the Parnell property.
- (3) The balance to be secured by debentures payable £1,000 in six months, £1,000 in one year, and the balance in three years.

(b) TRANSFER FROM WYNSEL TIMBER CO., LTD., TO WYNWOOD INVESTMENTS, LTD.

On the 9th October, 1933, a further agreement, of which a copy is appended as Exhibit "F," was entered into between the Wynsel Timber Co., Ltd., and Wynwood Investments, Ltd., whereby the former agreed to sell the assets acquired as above from the Selwyn Timber Co., Ltd. (in liquidation), with the exception of approximately 118 acres of land comprising the sawmill site near Putaruru, and the mill, plant, machinery, and chattels situated thereon. The consideration payable was £6,500, of which receipt of a deposit of £500 is acknowledged by the agreement.

The balance of purchase-money, amounting to £6,000, was to be paid by the purchaser to the vendor on or before 31st October, 1933.

This agreement was signed on behalf of Wynwood Investments, Ltd., by S. Grange, director, and H. Glasson, secretary, and, as already set out in section 9 of this report, confirmation of the directors' action in the matter was given by a shareholders' signed minute on 26th October, 1933.

On the same date as the above agreement was made—viz., 9th October, 1933—the Sterling Investments Co. (N.Z.), Ltd., which was interested as the holder of the debentures of the Selwyn Timber Co., Ltd. (in liquidation), undertook, by letter under seal of the company, to release the properties sold from existing securities for the consideration and upon the terms and conditions following :—

- (1) The purchase-money of £6,500 to be paid to the Sterling Investments Co. (N.Z.), Ltd., and to be appropriated by it in the manner following :—
 - (a) £2,000 to be utilized in repayment of the mortgage over the Parnell property.
 - (b) The balance of £4,500 to be appropriated towards reduction of the securities given by the Wynsel Co. to the Sterling Co. for the balance of purchase-money on the acquisition of the property by the Wynsel Timber Co. in March, 1933.
- (2) Upon such payment as aforesaid payment of the instalment of £1,000 due on the 30th September, 1933, not to be requested—i.e., instalment due by the Wynsel Timber Co., Ltd., in respect of purchase by it under agreement of 30th March, 1933.

A copy of the letter above referred to is appended as Exhibit "G."

From the agreements and the particulars given above it is seen that Wynwood Investments, Ltd., had undertaken to pay £6,500, though at that time it had no money, and, in fact, did not open a banking account until some two months later, on 11th December, 1933.

The payment of £500, which is acknowledged in the agreement as having been made to the Wynsel Timber Co., Ltd., is not recorded in the books of either company, nor has the balance of £6,000 been discharged by Wynwood Investments, Ltd., as a money transaction.

Owing to the loss of the books of the Sterling Investments Co. (N.Z.), Ltd., for the period prior to 1st March, 1934, it is not possible to discover by what means, if any, discharge was effected of the debt of £6,000 which, in pursuance of these agreements, was to be paid by Wynwood Investments, Ltd., to the Wynsel Timber Co., Ltd., and which had then to be paid over to the Sterling Investments Co. (N.Z.), Ltd. The item does not appear in the books of the Wynsel Timber Co., Ltd., or in the available books of the Sterling Investments Co. (N.Z.), Ltd., and it was presumably discharged or eliminated during what is referred to as the Sterling-Wynwood transaction, dealt with at some length in section 12 of this report.

It is difficult to appreciate the reason for the transactions described in this present section unless on the assumption that they were carried through in this manner for the personal benefit of J. W. S. McArthur. The main points of the transactions can be thus summarized :—

- (a) Certain transactions carried out or arranged by J. W. S. McArthur, as managing director of the Selwyn Timber Co., Ltd., were alleged to be irregular. Any rights of action which might arise out of these and certain other assets (in particular, real properties) were sold to the Wynsel Timber Co., Ltd., by the receiver for debenture-holders of the Selwyn Timber Co., Ltd., on the 30th March, 1933.

The alleged irregularity of the transactions was not admitted by J. W. S. McArthur.

The sale to a third party of the rights of action would tend to deter, if not actually prevent, the creditors and/or shareholders of the Selwyn Timber Co., Ltd., from pressing for enforcement of remedies against J. W. S. McArthur.

- (b) The greater part of these assets were sold by the Wynsel Timber Co., Ltd., to Wynwood Investments, Ltd., on 9th October, 1933, when, as pointed out in section 9 of this report, J. W. S. McArthur was neither a shareholder nor a director of Wynwood Investments, Ltd. At that time all shares were held by R. Glover-Clark and Stanley Grange, who were also directors. I believe that, in respect of matters affecting J. W. S. McArthur's companies, Messrs. Clark and Grange were completely under his domination.

This further transfer would impose an additional barrier against those who might wish to prosecute the alleged claims against J. W. S. McArthur.

- (c) Though Wynwood Investments, Ltd., undertook to pay £6,600, it had no funds from which the payment could be made, nor is there any record in the books of the company of the payment of any part thereof having been made subsequently.

Nevertheless, so far as can be ascertained, the assets concerned are now in the name of Wynwood Investments, Ltd., or in the name of J. W. S. McArthur.

- (d) All the information before me indicates that J. W. S. McArthur was in complete control of the various companies concerned in the transaction, and, as his personal interests are vitally concerned and the transaction as a whole appears to be of material advantage to him, the matter is one which I consider should be reviewed in the event of the liquidation of the company or of any action against J. W. S. McArthur.

11. TRANSACTIONS PASSING THROUGH THE COMPANY'S BANKING ACCOUNT.

An examination of the cash-book of Wynwood Investments, Ltd., reveals that, with one exception, the only substantial transaction entered into by the company, and involving it in the payment of money, was the Sterling-Wynwood transaction, discussed in section 12 of this report.

The first banking transaction recorded is the deposit on 11th December, 1933, of £91 16s., made up of moneys supplied by the Sterling Investments Co. (N.Z.), Ltd. This is recorded in the books of Wynwood Investments, Ltd., as on account of calls on 900 shares, being apparently in payment of 2s. per share on 898 shares allotted on 12th April, 1932, to the Sterling Investments Co. (N.Z.), Ltd., and of 20s. per share on two shares allotted on the same date—one each to J. W. S. McArthur and C. G. Alcorn respectively. As is shown in section 5 of this report, Sterling Investments Co. (N.Z.), Ltd., held no shares in Wynwood Investments, Ltd., at the time this payment of £91 16s. was made, all of its holding, and also the two shares allotted to J. W. S. McArthur and C. G. Alcorn, having been transferred to R. Glover-Clark and Stanley Grange.

The one transaction apart from the Sterling-Wynwood transaction involving the payment of a substantial sum of money, was as follows:—

On 22nd December, 1933, an advance of £700 from the Sterling Investments Co. (N.Z.), Ltd., was lodged to the credit of the banking account of Wynwood Investments, Ltd., and on the same date a cheque for £750 was paid to Mr. V. R. Meredith, Crown Solicitor, at Auckland, the item being entered in the cash-book as "Purchase from V. R. Meredith of 2,892 debentures in Wynsel Timber Co., Ltd." In this matter Mr. Meredith was acting on behalf of various Government Departments which had instituted proceedings for the recovery of debts due by the Selwyn Timber Co., Ltd. (in liquidation). These Departments, in common with other creditors of that company, had agreed to accept, in satisfaction of their claim, debentures to be issued by the Wynsel Timber Co., Ltd., a company formed to take over certain of the assets of the Selwyn Timber Co., Ltd. (in liquidation). An undertaking was given by Wynwood Investments, Ltd., to Mr. Meredith that if he, on behalf of the Departments concerned, would apply for the debentures which they were expected to take under the compromise, Wynwood Investments, Ltd., would purchase the debentures for £750. The payment recorded in the cash-book is in fulfilment of this undertaking.

12. TRANSFER OF CERTAIN ASSETS FROM STERLING INVESTMENTS CO. (N.Z.), LTD., TO WYNWOOD INVESTMENTS, LTD., AT 28TH FEBRUARY, 1934, REFERRED TO AS THE STERLING-WYNWOOD TRANSACTION.

(a) GENERAL DESCRIPTION OF THE TRANSACTION.

In the report of the Inspectors appointed under the provisions of the Companies (Special Investigations) Act, 1934, in respect to the affairs of the Sterling Investments Co. (N.Z.), Ltd., the transfer of assets from that company to Wynwood Investments, Ltd., at 28th February, 1934, is discussed at some length. By this transaction J. W. S. McArthur, who controlled the Sterling Investments Co. (N.Z.), Ltd., and who held 9,900 shares out of a total capital of 10,000 shares issued, and also all the debentures (£40,000) in Wynwood Investments, Ltd., arranged that certain assets owned by the former company should be transferred to the latter company. The consideration was nominally £60,000, which was paid by the transfer of fifty-nine debentures in the British National Trust, Ltd., having a nominal value of £59,000. No explanation has been given of the discrepancy of £1,000 between the two figures. These debentures had been acquired in the following manner:—

In March, 1933, J. W. S. McArthur, by the sale of his shares in the British National Investment Trust, Ltd. (the company which had purchased the trust building at the corner of King and Castlereagh

Streets, Sydney), to the British National Trust, Ltd., acquired a credit in the books of the latter company amounting to £229,600. The facts relative to this transaction are set out in the report of the Inspectors on the affairs of the Investment Executive Trust of New Zealand, Ltd.

To discharge part of this debt to J. W. S. McArthur the British National Trust, Ltd., issued to him a number of debentures in denominations of £1,000 each. By handing over fifty-nine of these debentures Mr. McArthur purchased from the Investment Executive Trust of New Zealand, Ltd., the debentures issued by the Sterling Investments Co. (N.Z.), Ltd., amounting to £60,000.

In consideration of the transfer of certain assets from the Sterling Investments Co. (N.Z.), Ltd., to Wynwood Investments, Ltd., the debentures issued by the former company were treated as redeemed and were cancelled.

Cheques supporting the transaction were passed between the two companies, the Sterling Investments Co. (N.Z.), Ltd., issuing a cheque for £60,000, made payable to J. W. S. McArthur personally, to redeem the debentures.

This cheque was banked to the credit of Wynwood Investments, Ltd., and contemporaneously the latter company issued a cheque for £60,025 in favour of the Sterling Investments Co. (N.Z.), Ltd., to pay for the assets acquired.

It is difficult to report the details of this transaction with any certainty for the following reasons :—

- (a) The books of the Sterling Investments Co. (N.Z.), Ltd., containing a record of its transactions prior to 1st March, 1934, are stated to be “lost,” and although exhaustive search has been made both by the officers of the company and by Inspectors appointed under the Companies (Special Investigations) Act, 1934, they have not been found.
- (b) No agreement fully recording the transaction has been produced either to the Royal Commission in Sydney or to the Inspectors.
- (c) There is no record of the transaction in the minute-books of Wynwood Investments, Ltd., or the Sterling Investments Co. (N.Z.), Ltd., and the particulars in the books of account of the former company are very meagre.

During the years 1931 and 1932, as is shown in the report of the Inspectors appointed under the provisions of the Companies (Special Investigations) Act, 1934, relative to the Sterling Investments Co. (N.Z.), Ltd., J. W. S. McArthur experienced financial difficulties. He was being pressed for payment of debts, which he professed inability to meet. A bankruptcy notice was served on him. In order to protect certain assets in which he was personally interested he transferred these to the Sterling Investments Co. (N.Z.), Ltd. This latter company, which was wholly under his domination, advanced substantial sums of money to preserve and develop these assets. These and other assets were subsequently transferred to Wynwood Investments, Ltd., and J. W. S. McArthur personally in the course of a transaction referred to in this report as the Sterling-Wynwood transaction.

Although this, the largest and most important transaction undertaken by either the Sterling Investments Co. (N.Z.), Ltd., or by Wynwood Investments, Ltd., involved the transfer of very substantial assets, there is no record of it in the minute-books of either company, nor has any document fully recording the transaction been produced to the Royal Commission in Sydney or to the Inspectors. The only relevant documents produced to the Royal Commission were a document designated “Annexure 3,” which J. W. S. McArthur handed in as an annexure to a formal statement which he made before that Commission on 11th September, 1934, and a document referred to as the “Alcorn receipt.” A copy of “Annexure 3” is appended to this report as Exhibit “H.” The “Alcorn receipt” was handed in to the Royal Commission in Sydney as an exhibit, but I have not now a copy of this document. I inspected the original in Sydney, however, and this appeared to be a list of assets similar in form to “Annexure 3,” with a receipt appended signed by C. G. Alcorn, as attorney for the Sterling Investments Co. (N.Z.), Ltd., acknowledging receipt of £60,000 in payment for the assets transferred.

As already stated in this report, the books of the Sterling Investments Co. (N.Z.), Ltd., recording transactions prior to 1st March, 1934, have been “lost.” An attempt was made by me partially to reconstruct these “lost” books from cash records available in Sydney and Auckland. These reconstructed books cannot be regarded as final or complete, as there may have been transactions recorded by journal entry only, of which no particulars are available.

From these reconstructed books I am convinced that at least £60,000 in cash was expended by the Sterling Investments Co. (N.Z.), Ltd., on the assets which were transferred in the Sterling-Wynwood transaction, though, for the reasons given above, the exact figures at which these assets stood in the books of the Sterling Co. cannot be stated.

Certain of the assets involved in the transaction were immediately transferred to J. W. S. McArthur at a valuation of £11,000, and on his instructions, contained in a pencilled memorandum, which was produced to the Royal Commission in Sydney, the remaining assets were entered in the books of Wynwood Investments, Ltd., at a total value of £50,284 15s. 7d. No detailed list of the assets taken over by J. W. S. McArthur is contained in the books of Wynwood Investments, Ltd., and, as the books of the Sterling Investments Co. (N.Z.), Ltd., at that period cannot be found, particulars cannot be stated with certainty, but it appears from the reconstructed books of the latter company, and also from an examination of “Annexure 3” referred to above, that they comprised principally items which affected J. W. S. McArthur personally.

(b) DISSECTION OF "ANNEXURE 3."

The following is a dissection of "Annexure 3," previously referred to, showing the assets which were acquired by Wynwood Investments, Ltd., and by J. W. S. McArthur personally from the Sterling Investments (N.Z.), Ltd., through the Sterling-Wynwood transaction:—

*List 1.**I. Assets transferred to Wynwood Investments, Ltd.—*

(The amounts shown indicate the values at which the assets were, on J. W. S. McArthur's instructions, taken into the Wynwood books.)

	£	s.	d.
(1) All claims against Wynwood Investments, Ltd., in respect of legal expenses, rates, and taxes, up to 28th February, 1934	144	0	7
(2) Properties consisting of—			
Four sections in St. Stephen's Avenue	5,000	0	0
One section in Grey Street	5,250	0	0
Two sections in Mount Smart Road	350	0	0
One section in Oranga Avenue	175	0	0
One section in Meadowbank Road	425	0	0
One section in Woodley Avenue	375	0	0
460 acres (approx.) at Putaruru	2,790	0	0
Four sections at Maraetai	240	0	0
	14,605	0	0
(3) Mortgage (a first mortgage over property at Putaruru from Hawke and Armstrong)	750	0	0
(4) 27,155 ordinary shares in Wynsel Timber Co., Ltd.	6,788	15	0
(5) 6,466 first-mortgage debentures in Wynsel Timber Co., Ltd.	6,466	0	0
(6) 6,125 ordinary shares in N.Z. Redwood Forests, Ltd.	3,426	0	0
(7) Eight debentures (£35 each) in N.Z. Redwood Forests, Ltd.	280	0	0
(8) Mortgage from the Selwyn Timber Co., Ltd. (in liquidation), to N.Z. Redwood Forests, Ltd., and assigned to the Sterling Co.	9,075	0	0
(9) Claim against British National Trust, Ltd., for £8,750 (approximately), being residue of mortgage, together with accrued interest from Timberlands Wood Pulp, Ltd.	8,750	0	0
	£50,284	15	7

*List 2.**II. Assets transferred to J. W. S. McArthur personally:—*

(Amounts as shown in reconstructed books, see note below.)

	£	s.	d.
(1) All assets, benefits, or otherwise attaching to debenture, held by receiver of Selwyn Timber Co., Ltd. (in liquidation)	3,125	7	0
(2) All claims for costs or otherwise against the Wynsel Timber Co., Ltd., to 28th February, 1934	1,317	11	11
(3) All residues on assets acquired from Edgecumbe Forests, Ltd. (in liquidation), including mortgage from N.Z. Redwood Forests, Ltd., over 2,000 acres of land at Matahina	7,225	6	5
(4) All accounts due by J. W. S. McArthur in respect to—			
(a) Personal advances	7,897	3	2
(b) Additions to Hillsborough property	6,001	13	0
(5) All benefits attaching to the estate of the late E. M. McArthur	2,100	0	0
(6) All accounts due by the Pacific Exploration Co., Ltd., and 9,979 shares in the Pacific Exploration Co., Ltd.	20,689	14	1
(7) All claims against the Investment Executive Trust of New Zealand, Ltd., up to 28th February, 1934			
	48,356	15	7
Less Sundry credits and adjustments in reconstructed books (being amounts not allocated to individual items)	7,739	4	6
	£40,617	11	1

The amounts shown in the above list of assets transferred to J. W. S. McArthur personally are the balances shown against the several items in the reconstructed books of the Sterling Investments Co. (N.Z.), Ltd., referred to previously in this report. J. W. S. McArthur, in evidence given by him before the Royal Commission in Sydney, claimed that some items were included in both of the above lists of assets, and that certain adjustments were therefore necessary.

It may be pointed out that the total of List 2 shown above, £40,617 11s. 1d., represents money actually disbursed by the Sterling Investments Co. (N.Z.), Ltd., as shown by the reconstructed books. In addition, a substantial amount of cash was expended by that company on the assets included in List 1. The funds of the Sterling Investments Co. (N.Z.), Ltd., were received almost wholly from

the Investment Executive Trust of New Zealand, Ltd. That company received its funds from the public in exchange for the issue of debentures, and it follows that in this indirect way a very substantial amount of money subscribed by the public to what was believed to be an Investment Trust Company was utilized for the acquisition and preservation of assets in which J. W. S. McArthur was personally interested, and which were ultimately acquired by Mr. McArthur. The circumstances surrounding this transaction, and the evidence in relation thereto given before the Royal Commission in Sydney, are more fully discussed in the report of the Inspectors concerning the affairs of the Sterling Investments Co. (N.Z.), Ltd. It is there pointed out that J. W. S. McArthur first stated in evidence that the valuation of the assets retained by Wynwood Investments Co., Ltd., £50,284 15s. 7d., as shown in List 1 above, was a valuation which he believed the assets would be worth "somewhere about five years" in the future. In his evidence on two later occasions he revised the figures, first stating, on 21st September, 1934, that the assets "had stood in the Sterling books at £32,000"—i.e., had cost the Sterling Co. that sum. On 27th September, 1934, after evidence had been given regarding the reconstructed books, Mr. McArthur stated that "the total cost to Sterling's of Wynwood assets is £17,408."

It is, however, a fact that on the personal instructions of J. W. S. McArthur the assets were brought into the books of Wynwood Investments, Ltd., at a valuation of £50,284 15s. 7d., a figure which was used as a basis in the increase of the capital to £10,000 and the issue of debentures for £40,000.

For the proper assessment of the transaction, to this amount of £50,284 15s. 7d. there must be added £40,617 11s. 1d., which is the recorded value, as shown by the reconstructed books, of the assets acquired from the Sterling Investments Co. (N.Z.), Ltd., and immediately transferred to J. W. S. McArthur personally. This gives a total of £90,902 6s. 8d. as the value of the assets acquired in consideration of the transfer in debentures of a face value of £59,000 issued by the British National Trust, Ltd. While the accuracy of this figure cannot be established conclusively because of the inadequacy of the company's records, it is founded on J. W. S. McArthur's own valuation of £50,284 15s. 7d., which was used by him as the basis for the writing-up of the books of Wynwood Investments, Ltd., and on this basis debentures amounting to £40,000 were issued by the company. As was pointed out before the Royal Commission in Sydney by Mr. Justice Halse Rogers and Mr. Monahan on 27th September, 1934, it would have been possible for Mr. McArthur to sell these debentures at face value to the Investment Executive of New Zealand, Ltd., or to the Southern British National Trust, Ltd.

It is appropriate to point out here that certain of the assets taken over by J. W. S. McArthur, and included in List 2, have recently been mortgaged to secure advances.

Item No. (6) in the list includes the yacht "Morewa," which on 31st October, 1934, was mortgaged as security for an advance of £6,000 made by the National Investment Co. of Queensland (Proprietary), Ltd. This mortgage was discharged on 31st January, 1935, the discharge being registered on 5th February, 1935.

By bill of sale dated 31st January, 1935, and registered on the 5th February, 1935, J. W. S. McArthur transferred the whole of his holding in the ship—namely, sixty-four shares—to the National Investment Co. of Queensland (Proprietary), Ltd. This means that this company is now the registered owner of the vessel, freed from all encumbrances. No details of this transaction are available from the register.

The Hillsborough property referred to in Item (4) on List 2, and on which over £6,000 was expended by the Sterling Investments Co. (N.Z.), Ltd., was also mortgaged for £5,000 to the National Investment Co. of Queensland (Proprietary), Ltd., on 2nd November, 1934. This mortgage was released by a release dated 31st January, 1935, and registered on 6th February, 1935.

By transfer number 267547 of the same date, and also registered on the 6th February, 1935, the property was transferred by Mr. McArthur to the above company, the consideration expressed being £5,000.

13. REVIEW OF BALANCE-SHEET DATED 30TH JUNE, 1934.

A copy of the balance-sheet of the company as at 30th June, 1934, is appended to this report as Exhibit "A." This balance-sheet was prepared under J. W. S. McArthur's instructions, and was presented to the Royal Commission in Sydney. It bears no signature, is not audited, and I cannot vouch for its accuracy, but it has been compared by me with the books in Sydney and is in accordance therewith. A footnote states that there are no transactions on Revenue Account.

LIABILITIES.

(1) *Capital, £9,191 16s.—*

This shows that of the total capital of 10,000 shares issued all are fully paid except 898 shares, which are paid up to 2s. only.

(2) *Debentures to Bearer, £40,000—*

These were held by J. W. S. McArthur, and comprise forty debentures of £1,000 each, being the total number issued. Authority was taken to issue 100 of these debentures with a nominal value of £100,000.

The Public Trustee who has been appointed Receiver and Manager of this company by the Companies (Temporary Receivership) Act, 1934, informs me through his Auckland office that he was notified by Messrs. Hampson and Wiseman on the 12th December, 1934, that the National Investment Co. of Queensland (Proprietary), Ltd., now holds thirty-one of these debentures.

(3) *Investment Fluctuation Reserve, £1,209 15s. 7d.—*

This amount was entered in the books when these were opened, and no explanation has been given as to the reason for doing this. The actual journal entry is as follows:—

1934.		£	s.	d.		£	s.	d.
Feb. 28	Sundry assets as per schedule	..	..	61,284	15	7		
	To Sterling Investments Co.	..	..	..	..	60,025	0	0
	Investment Fluctuation Account	..	..	..	..	1,259	15	7

No journal narration is given and no schedule of these assets has been produced.

(4) *Preliminary Expenses, £249 0s. 7d.—*

These comprise all the expenses of the company to date which have not been charged to other asset accounts.

(5) *Real Estate—*

				£	s.	d.
St. Stephens Avenue	..	..	C/T 616/5	Four sections	5,000	0 0
Grey Street	..	..	C/T 147/284	..	5,250	0 0
Mount Smart Road	..	..	C/T 604/171	Two sections	350	0 0
Oranga Avenue	..	..	C/T 483/99	One section	175	0 0
Meadowbank Road	..	..	C/T 347/196	One section	425	0 0
Woodley Avenue	..	..	..	One section	375	0 0
Springleigh Avenue	..	..	C/T 451/105	..	..	..
Putaruru	..	..	C/T 649/227	460 acres	2,790	0 0
Maraetai	..	..	C/T 632/168	Two sections	240	0 0
Maraetai	..	..	C/T 470/30	One section		
Maraetai	..	..	C/T 470/31	One section		
					£14,605	0 0

The title deeds for these properties are in the custody of the Public Trust Office at Auckland, and I have inspected all the deeds with the exception of that relating to the St. Stephen's Avenue property. It was explained that the deeds relative to this property are deposited with the Land Transfer Office, Auckland, two of the four sections comprising this property having been sold under instructions from J. W. S. McArthur a short time before the Public Trustee was appointed Receiver, one section for £450 and one for £500.

Some of this purchase-money has already been paid to the Public Trustee, and the balance of approximately £250 is still to be collected.

Among the deeds inspected there is no reference to any property which I could identify as the section in Woodley Avenue, referred to in the balance-sheet. Certificate of title 451/105 relates to a section in Springleigh Avenue, and as this is not referred to in the balance-sheet I have assumed that this is the property described in the balance-sheet as Woodley Avenue section.

Putaruru Property: A portion of this property has been sold and is now represented by a further mortgage from H. T. Hoad for £1,150. The balance still unsold comprises 295 acres (approximately).

The recorded values of these properties are based on the pencilled memorandum compiled by J. W. S. McArthur, previously referred to. The three properties representing the greater part of the value of the real estate asset, viz:—

	£	s.	d.
St. Stephen's Avenue	5,000	0	0
Grey Street	5,250	0	0
Putaruru	2,790	0	0

were taken over from the Wynsel Timber Co., Ltd., under the agreement dated 9th October, 1933, referred to in section 10 (a) of this report. The other properties consist of sections in Auckland city and suburbs.

(6) *New Zealand Redwood Forests, Ltd.—*

	£	s.	d.
6,850 shares of £1 each fully paid	3,426	0	0
Eight debentures of £35 each	280	0	0
£3,706 0 0			

The Public Trustee holds no documents covering these shares and debentures.

In the books of New Zealand Redwood Forests, Ltd., these shares and debentures still appear in the name of the Sterling Investments Co. (N.Z.), Ltd., transfer to Wynwood Investments, Ltd., not having been completed.

(7) *Wynsel Timber Co., Ltd.—*

	£	s.	d.
27,115 shares of £1 each fully paid	6,788	15	0
6,466 debentures of £1 each	6,466	0	0
£13,254 15 0			

The Public Trustee holds no documents covering these shares and debentures. In the books of the Wynsel Timber Co., Ltd., Wynwood Investments, Ltd., appears as the holder of 27,160 shares and 3,620 debentures. The 2,892 debentures referred to in section II of this report are still shown in the books of the Wynsel Timber Co., Ltd., as in the name of Mr. V. R. Meredith. It will be noted that there is a slight discrepancy between the numbers of shares and debentures shown in the balance-sheet and in the books of the Wynsel Timber Co., Ltd. This will require further examination.

(8) *Mortgages—*

	£	s.	d.
N.Z. Redwood Forests, Ltd., mortgage No. 213270	9,075	0	0
(This mortgage is secured on a property of 2,000 acres freehold land at Te Teko.)			
Hawke and Armstrong, mortgage No. 225080	750	0	0
(This mortgage is secured on 150 acres freehold land at Putaruru.)			
Total	£9,825	0	0

The mortgage described as N.Z. Redwood Forests, Ltd., comprises the land under C/T 620/170. This title is in the name of T. H. Dawson, solicitor, and L. Knight, public accountant, Auckland, who are trustees for the debenture-holders in New Zealand Redwood Forests, Ltd. It appears that there is a possibility that Messrs. Dawson and Knight may be personally liable under the mortgage, but they have not paid interest and refuse to do so, alleging that an undertaking given in respect of the transaction has not been carried out, and that had this undertaking been complied with they would have been free from liability. The mortgage is dated 4th April, 1931, but interest is stated to run from 9th June, 1930. So far as I have been able to ascertain no interest has been paid.

I have inspected the mortgages which are held by the Public Trust Office at Auckland.

(9) *J. W. S. McArthur on open account, £8,750—*

This debit arose in the following manner. Included in the assets taken over by Wynwood Investments, Ltd., in the Sterling-Wynwood transaction was “a claim against British National Trust, Ltd., £8,750 (approximately), for residue of mortgage, together with accrued interest from Timber Lands Wood Pulp, Ltd.” This, when paid, was lodged to the credit of the banking account of the Sterling Investments Co. (N.Z.), Ltd., in whose books it was credited to J. W. S. McArthur’s personal account. It thus ceased to be a debt collectable from the British National Trust, Ltd., by Wynwood Investments, Ltd., in whose books the account was transferred to the debit of J. W. S. McArthur.

(10) *Commercial Bank of Australia, Ltd., Auckland, £11 16s.—*

This is the balance to the credit of the company’s account with the Commercial Bank of Australia, Ltd., at Auckland.

14. GENERAL REVIEW.

1. The investigation into the affairs of this company discloses certain irregularities, which appear to require further examination.

2. The circumstances under which the company was incorporated were unusual. Several series of minutes are inserted in the minute-book purporting to record minutes of meetings of shareholders, and these are signed by one of the shareholders as chairman. These meetings were never held; in fact, two of the shareholders now state that the third shareholder, who is recorded as having been present at each of the two meetings, is quite unknown to them and that they have never seen or had any communication with him. The minutes are stated to have been signed on the assurance of Mr. W. L. Wiseman, of the firm of Messrs. Hampson and Wiseman, that “it was quite in order.” The object of the formation of the company is stated to have been to secure payment of certain legal costs due to Messrs. Hampson and Wiseman, and of certain other costs for which this legal firm was liable as guarantors, but it is difficult to see how the arrangement made could have been effective except with the full concurrence of all the companies concerned.

3. The minutes of several meetings have not been signed and bear no evidence of being confirmed, while one set of minutes does not state who attended the meeting.

4. The transaction by which Wynwood Investments, Ltd., acquired certain assets from Wynsel Timber Co., Ltd., on 9th October, 1933, also bears many unusual features, and appears to have been undertaken with the primary object of protecting J. W. S. McArthur from attack in connection with certain transactions which were alleged to have been irregular.

5. The funds with which the assets acquired by Wynwood Investments, Ltd., were purchased and developed were supplied by the Sterling Investments Co. (N.Z.), Ltd., which in turn was financed almost wholly by the Investment Executive Trust of New Zealand, Ltd., which obtained its money from the public by the issue of debentures. Thus J. W. S. McArthur, who was practically the sole owner of Wynwood Investments, Ltd., was enabled to obtain the use of funds for purposes which could hardly have been contemplated by investors in an “Investment Trust Company.” This was possible by reason of his being in effective control of all the companies concerned, a fact which was admitted by him in evidence given before the Royal Commission in Sydney.

15. RECOMMENDATION.

The Inspectors reporting on the affairs of the Investment Executive Trust have expressed the opinion that that company should be wound up. They have also referred to an extract contained in the interim report, dated 1st November, 1934, of His Honour Mr. Justice Halse Rogers, wherein he 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.”

and have stated with respect that in their opinion the justice of His Honour's comment is undoubted. The Inspectors have also referred in that report to certain problems which will arise if J. W. S. McArthur and C. G. Alcorn are declared trustees of profits made by them.

In his final report, dated 10th January, 1935, His Honour makes this further comment at pages 15 and 16:—

“Mr. McArthur and Mr. Alcorn undertook to give their aid to ‘the plan’ which was put forward by their counsel. ‘The plan’ itself involved the surrender by them of some of the profits they had made as the result of their transactions in connection with the purchase of the *Daily Telegraph* building. It must be realized that this surrender will not be voluntarily made if the companies are put into liquidation, and it will be a matter for consideration by the proper authorities whether legislative action should be taken to make their profits available for the debenture-holders through the employment of whose money they were able to make them.

“Legislation depriving individuals of money and shares is a matter which involves serious consideration. In ordinary circumstances there are very strong reasons for leaving where it is what cannot be recovered through process of law, and the dangers of creating a precedent by legislating against the individual are apparent. But this not an ordinary case; already legislative action has been taken in the interests of the debenture-holders, and my recommendation involves the consideration of the desirability of further legislation, so that the question really is whether, as part of such suggested legislation, there should be provision made that profits arising out of the improper use of moneys subscribed by the public should be held for the benefit of those who subscribed. That is a matter which really concerns authorities outside this State, as it does not appear to me to be competent for the legislature of this State, in view of the location of the assets, to take any effective steps. I shall not presume to offer advice as to what steps should be taken if action is determined upon, but I think that it is within my province to state that the whole matter is one which needs very careful consideration; and, owing to the way in which Mr. McArthur's assets which were salvaged are involved with the profits which were made, it will probably be found necessary, if legislation is to be passed, to settle its terms in consultation with financial advisers if all parties are to be dealt with in an equitable manner.”

Certain of the profits made by J. W. S. McArthur are now in the form of assets owned by Wynwood Investments, Ltd. As debenture-holder and principal shareholder in that company it is within Mr. McArthur's power (if the company is released from the control of the Public Trustee as Receiver) at any time to pledge the assets of that company, as has already been done with some of the assets taken over by him personally.

In view of the findings of His Honour Mr. Justice Halse Rogers, and in view of the remarks contained in the various reports of the Inspectors appointed under the provisions of the Companies (Special Investigations) Act, 1934, to investigate the affairs of various companies in which J. W. S. McArthur is directly or indirectly concerned, I think it is desirable that the assets of Wynwood Investments, Ltd., should not again be brought under the control of J. W. S. McArthur until the reports of the Inspectors on the affairs of other companies have been fully considered.

I therefore recommend that the company remain for the meantime under the control of the Public Trustee as Receiver.

Auckland, 16th February, 1935.

J. M. ELLIFFE, Inspector.

EXHIBIT " B."

WYNWOOD INVESTMENTS, LTD.

IN or about the year 1930 Mr. Wiseman, of Messrs. Hampson and Wiseman, approached us with a request that we should give his firm assistance in protecting them for substantial costs which were owing to them by N.Z. Redwood Forests, Ltd. He had previously mentioned the matter to Mr H. R. Hesketh, one of our principals.

Mr. Wiseman advised us that the only manner in which they could be protected for costs was to obtain a hold over certain shares, as at the time the company concerned had no documents over which a charge could be obtained.

It was the suggestion of Messrs. Hampson and Wiseman that a company be formed and that we subscribe for shares which we agreed to do provided there was no liability on our part and also because Mr. Wiseman gave us his personal assurance that it was quite in order.

All company documents were prepared by Messrs. Hampson and Wiseman and executed by us at Mr. Wiseman's request. It was clearly understood that our position as shareholders was purely one of nominal trustees for Messrs. Hampson and Wiseman.

Neither of us at any time saw or had any communication with the other shareholder, Mr. Coffey.

After incorporation of the company we signed an agreement respecting the purchase of shares and Mr. Forrest signed certain minutes in relation to the agreement.

No formal meeting of the company was held, but Mr. Wiseman assured us that he had obtained the consent of Mr. Coffey.

At a later date we were advised by Mr. Wiseman that their costs had been paid and that our assistance was no longer required, and share transfers were submitted to us for execution. These transfers were executed and handed to Mr. Wiseman. Also the agreement in respect of purchase of shares was cancelled. We then considered that we had nothing further to do with the matter and depended entirely upon Messrs. Hampson and Wiseman, who were the principal parties concerned to complete the transfers. We mention again that we were merely nominal trustees in the whole matter, and the whole of the proceedings of the company were concluded by our principals, Messrs. Hampson and Wiseman.

Mr. Wiseman, at his first interview in connection with the company, used words to the effect that neither of the partners of his firm wished to appear as shareholders.

We may say that the company, as far as we are aware, at the time of the transfer of the shares had neither assets nor liabilities as the agreement to purchase shares had been cancelled.

We are surprised to learn that this company is included in the McArthur group, as we were given to believe that the company had been formed for the one specific purpose of protecting Messrs. Hampson and Wiseman for costs. Neither of us has at any time received any consideration or remuneration from the company, or from Messrs. Hampson and Wiseman, or any other source.

Within the last week we were approached by Mr. Wiseman to make a statement regarding the signing of the transfers of the shares, naming the date thereof, and the parties to whom the shares were transferred.

We advised Mr. Wiseman that we were prepared to sign a statement as requested, provided the documents referred to were produced for our inspection. Our reasons for asking for production of the documents were that all the documents were prepared by Messrs. Hampson and Wiseman and were only seen by us at the time of execution.

We consented to Mr. Wiseman sending a cable, we presume to the company, advising that we were unable to give a statement until the documents referred to were produced for inspection.

It is therefore impossible for us to make any statement other than to say that share transfers were signed.

Since the investigation of the McArthur companies has started Mr. Wiseman has seen us and assured us that the company was formed for the purposes above mentioned, and was not formed for the purpose of any dealings by the McArthur group.

Mr. Wiseman stated that his records showed that the transfers were signed on 5th April, 1932, and were forwarded to Mr. McArthur, with all other documents of the company, with a covering letter on 6th April, 1932, but we have no knowledge of these facts.

At no time prior to our transferring our shares were we aware that Mr. McArthur had any interest whatsoever in the affairs of the company.

(Sgd.) K. FORREST.
(Sgd.) M. D. GRAYSON.
27/9/34.

EXHIBIT "C."

Hampson and Wiseman.

P.O. Box 1290.

N.Z. Insurance Buildings, Queen Street, Auckland, N.Z., C. 1.

K. Forrest, Esq., Solicitor, Auckland, C. 1.

26th September, 1934.

DEAR SIR,—

Re WYNWOOD INVESTMENTS, LTD.

We thank you for your statement herein to us, and have to inform you that this appears a fair statement of the position.

With regard to Mr. Coffey, the minutes were submitted to him by the writer before submission to you for your own and Mr. Grayson's approval, and, as you state, he was fully in accord with the resolutions set out.

Upon payment of our costs, we had no further use for the company, but Mr. McArthur informed us that it would be useful to him. We accordingly prepared transfers as Mr. McArthur directed. We are informed that these transfers are now in the possession of the Royal Commission in Sydney.

With regard to the last paragraph of your statement, it might be inferred that Mr. McArthur was interested in the company while you were shareholders. This is not so.

Yours faithfully,

HAMPSON AND WISEMAN,

Per W. L. Wiseman (Sgd.).

EXHIBIT "D."

AGREEMENT made this 5th day of September, 1930, BETWEEN MODERN HOMES LIMITED a company duly incorporated under "The Companies Act 1908" and having its registered office in the City of Auckland (hereinafter called "the Vendor") of the one part AND WYNWOOD INVESTMENTS LIMITED a Company duly incorporated as aforesaid and having its registered office in Auckland aforesaid (hereinafter called "the Purchaser") of the other part WHEREAS by Agreement bearing date the 13th day of November 1929 and made between The Selwyn Timber Company Limited (therein described) of the one part and the Vendor of the other part the Selwyn Timber Company Limited agreed to sell and the Vendor agreed to purchase (1) 18,550 shares in the capital of the New Zealand Redwood Forests Limited numbered 3011 to 21560 inclusive of which it was registered proprietor. (2) 10,875 shares in the capital of the said New Zealand Redwood Forests Limited of which it was the beneficial owner and standing in the name of John William Shaw McArthur as to shares Numbered 21661 to 31660 inclusive in the name of Harold Edwin Nixon as to shares Numbered 2186 to 2985 inclusive and standing in the name of Robert Henry Nixon as to shares Numbered 1711 to 1785 inclusive upon the terms and conditions set out in such Agreement AND WHEREAS the said Agreement has been partially performed inasmuch as shares Numbered 21661 to 31660 standing in the name of John William Shaw McArthur have been transferred in terms of the said Agreement at or for the sum of £1,000 AND WHEREAS the parties hereto have now agreed that the Vendor will sell and the Purchaser will purchase the balance of the said shares at or for the sum of 10s. upon the Purchaser indemnifying the Vendor for and against payment of the balance of calls amounting to £4,856 5s. owing upon the said shares.

NOW THEREFORE it is hereby agreed and declared by and between the parties hereto as follows:—

1. THE Purchaser will purchase from the Vendor the said shares numbered 3011 to 21560 inclusive numbered 2186 to 2985 inclusive and numbered 1711 to 1785 inclusive.

2. THE consideration therefor shall be:—

(a) The sum of 10s. receipt whereof is hereby acknowledged.

(b) The Purchaser shall assume the liability for and shall be bound to the New Zealand Redwood Forests for payment of the said arrears of calls amounting to £4,856 5s. and shall indemnify the Vendor for and against any claim that may be made against it in respect of such arrears of calls.

3. SHOULD default be made by the Purchaser hereunder the Vendor shall at its option be entitled to rescind this contract and retain the deposit paid or in the alternative it shall be entitled to specific performance of this contract.

IN WITNESS whereof these presents have been executed the day and year firstly hereinbefore mentioned.

THE COMMON SEAL of MODERN HOMES, LIMITED, was hereto
affixed in the presence of—

(Sgd.) C. G. ALCORN, Director.

(Sgd.) JOHN ANDERSON, Secretary.

THE COMMON SEAL of WYNWOOD INVESTMENTS, LIMITED, was
hereby affixed in the presence of—

(Sgd.) K. FORREST, Director.

(Sgd.) J. COMPTON, Secretary.

THIS agreement is hereby cancelled by mutual consent of the parties hereto—

DATED at AUCKLAND, this 5th day of APRIL, 1932.

THE COMMON SEAL of MODERN HOMES, LIMITED, was hereto
affixed in the presence of—

(Sgd.) T. R. McARTHUR, Director.

(Sgd.) W. C. HEWITT, Secretary.

THE COMMON SEAL of WYNWOOD INVESTMENTS, LIMITED, was
hereto affixed in the presence of—

(Sgd.) K. FORREST, Director.

(Sgd.) J. COMPTON, Secretary.

EXHIBIT "E."

AGREEMENT made this 30th day of March 1933 BETWEEN CHARLES GRAHAM ALCORN of Auckland Company Manager as Receiver appointed by The Sterling Investments Company (N.Z.) Limited a duly incorporated company having its registered office at Auckland being the holder for the time being of a series of 10 debentures of £1,000 each issued by The Selwyn Timber Company Limited (in Liquidation) on or about the 23rd day of January 1928 and registered with the Registrar of Companies at Auckland on the 3rd day of February 1928 (hereinafter called "the Vendor") of the one part AND THE WYNSEL TIMBER COMPANY LIMITED a duly incorporated company having its registered office at Auckland aforesaid (hereinafter called "the Purchaser") of the other part WHEREBY the Vendor agrees to sell and the Purchaser to purchase all that the real and personal property enumerated in the Schedule hereto at or for the price or sum of £11,250 upon the terms and conditions following, that is to say:—

1. A deposit of £1,000 has been paid upon the execution hereof by the parties as the Vendor doth hereby admit.

2. The purchaser will take over and assume liability for (1) the Mortgage over the Putaruru property and collateral Bill of Sale over the mill plant, machinery and chattels securing the sum of £2,218 10s. 11d. and (2) the Mortgage of £2,000 and interest over the Parnell property.

3. The balance shall be secured by debenture to be given by the Purchaser to the Vendor and collateral mortgage over the property and chattels repayable £1,000 in six months: £1,000 in one year, and the balance in three years from the date of settlement hereinafter appointed together with interest thereon at the rate of £5% per annum payable half-yearly.

4. Settlement shall be effected on or before the 31st day of March 1933 up to which date all apportionments of interest rates and other outgoings shall be made between the parties hereto.

5. If the purchaser shall make default in settlement as hereinbefore provided it shall be lawful for the Vendor at his option to enforce the present sale in which case the whole of the unpaid purchase money shall then become due and at once payable or if the Vendor shall think fit to rescind the sale in which event the said deposit shall be forfeited to the Vendor.

IN WITNESS whereof this Instrument has been executed the day and year firstly hereinbefore written.

THE SCHEDULE.

Land.

Firstly 26.9 perches more or less being part of Allotment 50 of Section 28 in the City of Auckland bounded as appears on a plan deposited in the Land Transfer Office at Auckland under No. 4224 and being all the land comprised in Certificate of Title Volume 147 Folio 284 Secondly 714 acres 3 roods 31.5 perches more or less being Lots 1, 2 and 3 on plan deposited in the Land Transfer Office aforesaid under No. 23457 Lots 1, 2, 3 and 4 on a plan deposited as aforesaid as No. 23458 Lots 1, 2, 3, 4, 5, 6, 7 and 8 on a plan deposited as aforesaid as No. 23884 and being part of Lots 1 and 2 of Section 105 of Blocks VII and XII of the Patetere North Survey District and part of the Block situate in the said Survey District called Whakaaratamaiti No. 2A and being all the land comprised in Certificate of Title Volume 633 Folio 128 Subject to the restrictions imposed by Sections 50 and 85 of the Lands for Settlement Act 1925 Thirdly 26.1 perches more or less being Lot 2 on Deposited Plan No. 22229 and being portion of Allotments 6, 15 and 23A of Section 2 of the Suburbs of Auckland and being all the land comprised in Certificate of Title Volume 616 Folio 5 And Fourthly 1 rood 35.7 perches more or less being Lots 3, 4 and 5 on the said Deposited Plan No. 22229 and being all the land comprised in Certificate of Title Volume 642 Folio 183.

*Mill Plant Machinery and Chattels.**Logging Equipment:—*

- 1 500 h.p. Washington Hauler, 180 lb. pressure.
- 60 chains $1\frac{1}{2}$ " wire rope.
- 128 chains tail rope.
- 28 Logging Blocks.
- 20 chains of $2\frac{3}{4}$ " hauling rope.
- 40 chains tail rope.

Tramways:—

- $7\frac{1}{2}$ miles of rails and sleepers, principally 30 lb. and 26 lb. rails.
- Tramway from mill to railway siding, 1 mile 30 lb. rail.
- 1 Price Locomotive, 24 tons geared.
- 12 sets Logging Trucks.

Mill:—

- 2 Multitubular boilers under-fired, fitted 2 dutch ovens, air blast grates, fed automatically with sawdust collected from machines.
- Engine: $14\frac{1}{2} \times 28$ Tangye 9 ft. fly-wheel.
- Breaking-down saw frame to take log 6' 6" in diameter and 36' long.
- 1 Niven winch for hauling logs from skids into mill.
- 1 Overhead Log Turner above skids between breaking down and pacific bench.

- 1 Fraser's pacific bench, iron frame double circular saws with carriage to take logs 50" in diameter and 40' long.
The carriage is worked by a Beek's steam engine underneath mill floor.
Live rolls extend from pacific bench to tail end of mill, being in two sets with set of automatic transfers to each set of live rolls.
- 1 breash bench to take circular saws up to 44" diameter.
- 1 Price double deal frame to take 2 fitches 16 × 24.
- 1 slab cut off or goose saw.
- 3 timber trimming goose saws.
- 1 Berlin planing Machine to dress timber up to 12" × 8".
- 1 re-cutting saw, circular.
- 1 automatic circular saw and deal frame saw grinder.
- 3 small saw sharpening machines.
- All pulleys and shafting.

Other Personal Property.

1. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against one of its Directors, namely, John William Shaw McArthur of Auckland in respect of the sale by the said John William Shaw McArthur to the company of a property situated in Grey Street, Auckland being Part of Allotment 50 Section 28 City of Auckland. The said John William Shaw McArthur disputes any claim against him in respect of such transaction.

2. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur in respect of the acquisition of a property situated in Parnell Auckland, being Lots 2, 3, 4 and 5 on Deposited Plan 22229 Auckland Registry. The said John William Shaw McArthur claims that no right of action exists, but on the contrary, there is a liability by the said company to him in respect of such transaction.

3. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur in respect of the "India Suspense Account" amounting to £1,074 9s. 11d. The said John William Shaw McArthur claims that these moneys were paid to him for, on behalf of, and at the request of the New Zealand Redwood Forests Limited and that this latter company has repaid these moneys to the Selwyn Timber Company Limited (in liquidation).

4. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur for directors remuneration claimed by the Company to have been paid by the Company to the said John William Shaw McArthur in excess of the amount authorized by the shareholders. The said John William Shaw McArthur disputes liability for any amount hereunder.

5. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur in respect of the sale of 10,000 fully paid £1 shares and 20,150 shares with unpaid calls of £4,856 15s. in the share capital of the New Zealand Redwood Forests Limited by the Selwyn Timber Company Limited to Modern Homes Limited. The said John William Shaw McArthur disputes any claim hereunder.

6. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur for payment of the sum of £1,395 for unpaid calls on Shares Nos. 28615/30000, 28503/4, 28506 and 28509/14 in the share capital of the Selwyn Timber Company Limited. The said John William Shaw McArthur disputes such claim.

7. All the several debts, sums, claims, demands, suits, rights, privileges, remedies, book debts, choses in action and unpaid capital (if any) due and owing to the Selwyn Timber Company Limited by any person firm or corporation as set forth, enumerated and described in the books of such company and all interest due for the same and each of them and the full benefit and advantage thereof, together with any other claims demands suits rights privileges remedies book debts and choses in action of any sort of nature whatsoever that the Selwyn Timber Company Limited may have against any person or persons corporation or corporations.

SIGNED by the said CHARLES GRAHAM ALCORN in the presence of—

(Sgd.) C. G. ALCORN.

(Sgd.) W. WISEMAN, Solicitor, Auckland.

THE COMMON SEAL of THE WYNSEL TIMBER COMPANY LIMITED was hereto affixed in the presence of—

(Sgd.) A. E. OLSEN, Director.

(Sgd.) C. McCULLOUGH, Secretary.

EXHIBIT " F."

AGREEMENT made this 9th day of October 1933 BETWEEN THE WYNSEL TIMBER COMPANY LIMITED a duly incorporated Company having its registered office at Auckland (hereinafter called " the Vendor ") of the one part AND WYNWOOD INVESTMENTS LIMITED a duly incorporated Company having its registered office at Auckland aforesaid (hereinafter called " the Purchaser ") of the other part WHEREBY the Vendor agrees to sell and the Purchaser to purchase all that the real and personal property enumerated in the Schedule hereto at or for the price or sum of £6,500 upon the terms and conditions following that is to say :—

1. A deposit of £500 has been paid upon the execution hereof by the Purchaser as the Vendor doth hereby admit.

2. The balance of purchase money amounting to £6,000 shall be paid by the Purchaser to the Vendor on or before the 31st day of October 1933.

3. Upon payment of the said purchase money the Vendor will execute an assurance or assurances of the property sold free from all encumbrances save as herein mentioned such assurance or assurances to be prepared by and at the expense of the Purchaser and to be tendered to the Vendor for execution.

4. On the 31st day of October 1933 the Purchaser shall be entitled to possession of the said property and shall pay all rates taxes and outgoing payments payable in respect of the same current rates and other outgoing payments to be apportioned in the customary manner as at the date to possession being given.

5. During the continuance of this Agreement the Purchaser will keep all buildings gates fences paths hedges ditches and drains in upon and about the said premises and also all fixtures and appurtenances in and about any such buildings in good and substantial repair and condition and preserve the same against waste or damage of every preventable kind and will not remove or alter them or any of them without the written consent of the Vendor.

6. The Purchaser will comply with the provisions with regard to fire insurance which would be implied herein if these presents were a mortgage executed under the provisions of " The Property Law Act 1908 " or " The Land Transfer Act 1915 ".

7. Time shall be the essence of this contract.

8. The Purchaser shall admit the identity of the property purchased by it with that comprised in the documents offered by the Vendor as the title thereto upon the evidence (if any) afforded by a comparison of the descriptions contained herein and in such documents respectively. The Vendor shall not be required to account for any discrepancy in names numbers acreage abutments or boundaries nor shall he be required to point out or identify any boundary.

9. If any misdemeanour error or omission shall be discovered in this Agreement it shall not annul the sale but shall be the subject of compensation to be given or taken by the Vendor as the case may require and to be assessed in the event of disagreement by two arbitrators or their umpire to be appointed in manner and with the powers provided by " The Arbitration Act 1908 ".

10. The property is sold subject to all existing tenancies and drainage rights and easements (if any) and subject also to all outstanding liabilities in respect of fencing.

11. All requisitions upon and objections to the title shall be delivered in writing to the Vendor's solicitor within 14 days from the date of sale and in default of any such objections or requisitions the Purchaser shall be deemed to have accepted the title. In the event of the Purchaser within the period aforesaid making any requisition or objection which the Vendor shall be unable or unwilling to comply with the Vendor may (notwithstanding any attempt to remove or satisfy the same) by notice in writing to the Purchaser rescind the contract in which event the Purchaser shall be entitled to receive back the deposit paid but without interest or compensation and without payment of any cost of investigating the title.

12. If the said sum of £6,000 or any part thereof shall not be paid on the date hereinbefore provided for payment of the same or if default shall be made in payment of any of the interest or any part thereof for the space of twenty-one days after any of the days on which the same is hereinbefore agreed to be paid or if default shall be made in the performance or observance of any condition or agreement on the Purchaser's part herein contained or implied then and in any of the said cases it shall be lawful for the Vendor at the Vendor's option to enforce this present sale in which case the whole of the unpaid purchase money shall then become due and at once payable or if the Vendor shall think fit to rescind the sale in which event the said deposit shall be forfeited to the Vendor and the Vendor may resell the said land at such times and places in such manner upon credit or for cash altogether or in lots by public auction or private contract and subject to such conditions in all respects as the Vendor shall think fit, and in case of a resale any increase of price shall belong to the Vendor and any deficiency in price which may result on and all expenses attending a resale or attempted resale shall forthwith be made good by the Purchaser and be recoverable as liquidated damages and on any such resale no purchaser shall be concerned to see or enquire as to the fact of such default having been made or otherwise as to the necessity regularity or propriety of any such sale or be affected by notice that no such default as aforesaid has been made or that the sale is otherwise unnecessary irregular or improper.

IN WITNESS WHEREOF this Agreement has been executed the day and year firstly hereinbefore written.

THE SCHEDULE.

Land.

(1) All those parcels of land containing 596 acres and 35 perches more or less being Lots 1, 2, 3, 4, 5, 6, 7, and 8 on a plan deposited in the Land Transfer Office at Auckland as number 23884 and being parts of Lot 2 of Section 105 of Blocks VII and XII of the Patetere North Survey District and

part of the Block situated in the said Survey District called Whakaaratamaiti No. 2A and part of the land in Certificate of Title 633/128 Auckland Registry SUBJECT as to part of the above land to Sections 50 and 85 of "The Lands for Settlement Act 1925".

2. All that piece of land containing 26·9 perches more or less being part of Allotment 50 of Section 28 City of Auckland and more particularly shown on a plan deposited in the Land Transfer Office as No. 4224, being the whole of the land in Certificate of Title Volume 147 Folio 284 Auckland Registry.

3. All that piece of land containing 26·1 perches more or less being Lot 2 of a plan deposited as aforesaid under No. 22229 being portion Allotments 6, 15 and 23A of Section 2 of the Suburbs of Auckland and being the whole of the land in Certificate of Title Volume 616 Folio 5 Auckland Registry.

4. All that piece of land containing 1 rood 35·7 perches more or less being Lots 3, 4 and 5 on the said deposited Plan 22229 being portion Allotments 6, 15 and 23A of Section 2 of the Suburbs of Auckland and being the whole of the land comprised and described in Certificate of Title Volume 643 Folio 182 Auckland Registry.

Personal Property.

1. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against one of its Directors, namely, John William Shaw McArthur of Auckland in respect of the sale by the said John William Shaw McArthur to the Company of a property situated in Grey Street, Auckland, being part of Allotment 50 Section 28 City of Auckland. The said John William Shaw McArthur disputes any claim against him in respect of such transaction.

2. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur in respect of the acquisition of a property situated in Parnell, Auckland, being Lots 2, 3, 4 and 5 on Deposited Plan 22229 Auckland Registry. The said John William Shaw McArthur claims that no right of action exists, but on the contrary, there is a liability by the said company to him in respect of such transaction.

3. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur in respect of the "India Suspense Account" amounting to £1,074 9s. 11d. The said John William Shaw McArthur claims that these moneys were paid to him for, on behalf of, and at the request of the New Zealand Redwood Forests Limited and that this latter company has repaid these moneys to the Selwyn Timber Company Limited (in liquidation).

4. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur for directors remuneration claimed by the company to have been paid by the company to the said John William Shaw McArthur in excess of the amount authorized by the shareholders. The said John William Shaw McArthur disputes liability for any amount hereunder.

5. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur in respect of the sale of 10,000 fully paid £1 shares and 20,150 shares with unpaid calls of £4,856 15s. 0d. in the share capital of the New Zealand Redwood Forests Limited by the Selwyn Timber Company Limited to Modern Homes Limited. The said John William Shaw McArthur disputes any claim hereunder.

6. All or any rights of action that the Selwyn Timber Company Limited (in liquidation) may have against the said John William Shaw McArthur for payment of the sum of £1,395 for unpaid calls on Shares Nos. 28615/30000, 28503/4, 28506 and 28508/14 in the share capital of the Selwyn Timber Company Limited. The said John William Shaw McArthur disputes such claim.

7. All the several debts, sums, claims, demands, suits, rights, privileges, remedies, book debts, choses in action and unpaid capital (if any) due and owing to the Selwyn Timber Company Limited by any person firm or corporation as set forth enumerated and described in the books of such company and all interest due for the same and each of them and the full benefit and advantage thereof together with any other claims demands suits rights privileges remedies book debts and choses in action of any sort or nature whatsoever that the Selwyn Timber Company Limited may have against any person or persons corporation or corporations.

THE COMMON SEAL OF THE WYNSEL TIMBER COMPANY LIMITED was hereto affixed in } (SEAL.)
the presence of—

(Sgd.) S. E. CONNELL, Director.
(Sgd.) C. McCULLOUGH, Secretary.

THE COMMON SEAL OF WYNWOOD INVESTMENTS LIMITED was hereto affixed in the } (SEAL.)
presence of—

(Sgd.) S. GRANGE, Director.
(Sgd.) H. GLASSON, Secretary.

EXHIBIT "G."

TO THE WYNSEL TIMBER COMPANY, LIMITED, AUCKLAND,

The Sterling Investments Company (N.Z.) Limited doth hereby agree to the completion of the annexed Agreement for Sale and Purchase and doth undertake to release the properties sold from existing securities for the consideration and upon the terms and conditions following:—

1. The purchase money of £6,500 is to be paid to the Sterling Investments Company (N.Z.) Limited and is to be appropriated by it in manner following:—

- (a) The sum of £2,000 is to be utilized in repayment of the mortgage over the Parnell property now in course of being transferred by the General Trust Board to the Sterling Investments Company (N.Z.) Limited.
- (b) The balance of £4,500 is to be appropriated towards reduction of the securities given by the Wynsel Company to the Sterling Company for balance purchase money on the acquisition of the property by the Wynsel Company in March, 1933.

2. Upon such payment as aforesaid payment of the instalment of £1,000 due on the 30th day of September, 1933, shall not be requested, but the above settlement is to be made without prejudice to the Sterling Company's right to ask for all or any future instalment in reduction of principal as the same shall become due.

3. The aforesaid releases are to be given without prejudice to the securities held by the Sterling Company so far as they affect the remaining security.

Dated this 9th day of October, 1933.

The COMMON SEAL of THE STERLING INVESTMENTS COMPANY (N.Z.) LIMITED is hereto }
affixed in the presence of—

(Sgd.) K. C. AEKINS, Director.
(Sgd.) M. GREGORY, Secretary.

EXHIBIT "H."

"ANNEXURE 3."

BEING COPY OF STATEMENT PRODUCED TO THE ROYAL COMMISSION IN SYDNEY BY MR. J. W. S. McARTHUR AS AN ANNEXURE TO HIS FORMAL STATEMENT ON 11TH SEPTEMBER, 1934.

All claims against Wynwood Investments, Ltd., in respect of legal costs, rates and taxes up to February 28th, 1934.

Properties consisting of—

- 4 sections in St. Stephen's Avenue
- 1 section in Grey Street
- 2 sections in Mt. Smart Road
- 1 section Oranga Avenue
- 1 section Meadowbank Road
- 1 section Woodley Avenue
- 460 acres (approx.) at Putaruru
- 4 sections at Maraetai

Mortgages: A first mortgage over property at Putaruru from Hawke & Armstrong.

27,155 Ordinary Shares in the Wynsel Timber Co. Ltd.

6,466 First Mortgage Debentures in the Wynsel Timber Co., Ltd.

6,125 Ordinary shares in the New Zealand Redwood Forests Ltd.

8 Debentures of £35 each in the New Zealand Redwood Forests Ltd.

All assets, benefits or otherwise attaching to Debentures held by the Receiver of the Selwyn Timber Co. Ltd (in liquidation)

Mortgage from the Selwyn Timber Co. Ltd. (in liquidation) to the New Zealand Redwood Forests Ltd. and assigned by the New Zealand Redwood Forests Ltd. to the Sterling Investments Co. (N.Z.) Ltd.

All claims for costs or otherwise against the Wynsel Timber Co. Ltd. to February 28th, 1934.

All residues of assets acquired from the Edgecumbe Forests Ltd. (in liquidation) including mortgage from the New Zealand Redwood Forests Ltd. over 2,000 acres of land at Matahine, and

Claim against the British National Trust Ltd. for £8,750 (approx.) being residue of mortgage, together with accrued interest from Timberlands Woodpulp Ltd.

All accounts due by J. W. S. McArthur in respect of personal advances and improvements and additions to Hillsborough or other properties up to 28th February, 1934.

All benefits attaching to the estate of the late E. M. McArthur.

All accounts due by the Pacific Exploration Company Limited.

9,979 shares in the Pacific Exploration Company Limited, and

All claims against the Investment Executive Trust of New Zealand Limited, up to February 28th, 1934.

THE INVESTMENT SECURITIES ASSOCIATION, LTD.

REPORT OF INSPECTOR.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT. }

IN THE MATTER of the Companies (Special Investigations) Act, 1934, the Companies Act, 1933,

and

IN THE MATTER of the Investment Securities Association, Limited.

REPORT OF INSPECTOR.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General, dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Giffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedules of the said Warrants of Appointment. Copies of the Warrants of Appointment have been filed in the Supreme Court at Wellington.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, Archibald Morris Seaman, one of the Inspectors so appointed, herewith respectfully submits the report of his investigation of the affairs of the Investment Securities Association, Ltd.

2. BOOKS AND RECORDS.

When I entered on my investigation there were produced to me the Share Register and the minute-book, and I was informed by Miss E. R. Alcorn, a director, that she knew of no books of account having been kept for the company, or for the partnership which preceded it, and whose business it took over.

After some delay the company secured the services of Mr. L. W. Swan, Public Accountant, to write up the books of the company. By reason of the paucity of the information available in the absence from New Zealand of Charles Graham Alcorn, who had handled the business of the association, considerable difficulty was experienced by Mr. Swan in the compilation of the books. He has carried the work as far as is practicable with the explanations available to him, but from information which I have regarding certain transactions of the company, I know that the books in their present state do not contain a full record of the transactions, nor can a reliable statement of the company's position be prepared therefrom. For this reason I am unable to report fully and definitely on the affairs and position of this company. To some extent it has been possible to effect agreement with the books of related companies, but in at least one case, where the other company's records are also deficient, there is a substantial disagreement of which a reconciliation cannot be effected from the sources of information available to me.

The minute-book contains records of two meetings only—viz., of a shareholders' meeting held on 17th December, 1930, at which amendments to the articles of association were approved, and of a directors' meeting held on 23rd May, 1934, to pass the necessary resolutions for the opening of a banking account in the company's name. The last-mentioned minutes were on a loose typewritten sheet, not fastened into the minute-book.

Though the company had conducted banking transactions continuously from its incorporation, it was not until after the directors' resolution of 23rd May, 1934, that an account was opened in the company's name.

I direct attention to the provisions of section 267 of the Companies Act, 1933, relative to failure to keep proper books of account, and express the opinion that, in the event of a winding-up order being made against this company, the question of a prosecution under this section should be given consideration. As will appear from section 7 of this report, the business of the company involved the handling of large sums of money, the property of others, making the need for proper records more imperative.

3. PERSONS SUPPLYING INFORMATION.

Such information as I have obtained has come almost entirely from Miss E. R. Alcorn, who, though a director of the company, had no intimate knowledge of the details of its business. The Secretary, Miss Sylvia Grange, also had little knowledge of the company's affairs. The information given by these two was to the effect that Charles Graham Alcorn, the Managing Director, handled the company's transactions, and that he alone was aware of the nature of many of them. Very many of the items passing through the books relate to his private affairs and not to company matters, and I am informed that he used the company's banking account largely as his private account.

This is borne out by evidence given by him before Mr. Justice Halse Rogers, sitting in Sydney as a Royal Commission to inquire into the affairs of various companies of which the Investment Securities Association, Ltd., was one. In reply to a question put to him, on 9th August, 1934, C. G. Alcorn said, "It was my own business, and I registered myself as a private company."

4. CONSTITUTION OF COMPANY.

The company was registered on the 10th December, 1930, the memorandum of association being dated 3rd December, 1930.

The company is a private company.

The capital is £1,000 in 750 shares of £1 each and 5,000 shares of 1s. each.

The principal objects of the company are : To acquire and hold shares, stocks, debentures, &c. ; to issue debentures ; to act as trustees in connection with the issue of debentures ; to guarantee performance of contracts and to act as agents for collection or payment of money ; to negotiate and issue loans ; to act as agents or brokers ; to carry on business as financiers ; and to act as promoters.

Articles of association were registered on 10th December, 1930.

On the 17th December, 1930, a resolution was passed amending the articles by providing that a director need not be a shareholder, but this amendment was not registered.

5. DIRECTORS.

The directors of the company are—

Charles Graham Alcorn.
Elizabeth Roberta Alcorn.
William Andrew Pilkington.

There is no record of the appointment of the first two, but the last-named, who is not a shareholder, was appointed by shareholders' resolution on 17th December, 1930.

6. SHAREHOLDERS.

The subscribers to the memorandum of association were :—

	£
Charles Graham Alcorn 725 shares of £1	725
Charles Graham Alcorn 3,000 shares of 1s.	150
Elizabeth Roberta Alcorn 2,000 shares of 1s.	100
Kathleen Isabel Grange 25 shares of £1	25
	<hr/>
	£1,000

There has been no change in the shareholding.

7. OPERATIONS OF COMPANY.

Prior to the incorporation of the company, a business was carried on by a partnership consisting of C. G. Alcorn, E. R. Alcorn, K. I. Grange, and Alcorn, Trower, and Company, Ltd., under the style or name of "The Investment Securities Association."

By agreement this business was sold for £1,000, to be satisfied by allotment of fully paid shares as subscribed for in the memorandum of association of the Investment Securities Association, Ltd. That C. G. Alcorn regarded the company as his own property is shown by evidence given before the Royal Commission in Sydney on 9th August, 1934, when he said,—

479. "I carried on the business as Investment Securities Association myself, and I built up a connection in investment business, and I think that was registered as a limited liability company. . . ."

485. ". . . it was purely my own business, nobody else was concerned in it."

487. "It was my own business, and I registered myself as a private company."

493. *Mr. Monahan*: "What security did you get for the loan to the company?"—"I did not get any security, because it is practically myself, there is nobody concerned in it but myself."

The company (and the partnership to which it was the successor) was the medium used for the issue of the greater part of the debentures issued by the First Mortgage Freehold Security Co. of New

Zealand, Ltd., and for the interrelated financial dealings between that company and others in the Alcorn group. It acted as collector and paying agent for such companies, and, in the case of Alcorn, Trower, and Co., Ltd., which had no banking account of its own, the Investment Securities Association, Ltd., handled most of the monetary transactions. Much of the interest recorded as received by the First Mortgage Freehold Security Co. of New Zealand, Ltd., was paid to it by the Investment Securities Association, Ltd., even though the latter had not received it from the debtor companies.

The books of the Investment Securities Association, Ltd., show that Alcorn, Trower, and Co., Ltd., the Auckland Provincial Town Properties, Ltd., New Zealand Freeholds and Buildings, Ltd., and Freeholds, Ltd., are all in debit for substantial sums paid on account of interest and other current payments, which, so far as is ascertainable from the books in their very incomplete state, was possible only because the company had failed to pay over to Freeholds, Ltd., a sum of £4,400 received on the sale of the debentures of that company to the First Mortgage Freehold Security Co. of New Zealand, Ltd. In short, the payments of interest due to that company were kept up out of the proceeds of loans raised from the same company.

8. CONNECTION WITH INVESTMENT EXECUTIVE TRUST GROUP OF COMPANIES.

The Investment Securities Association, Ltd., has, at different times, held shares in various of the companies enumerated in the Schedules of my Warrants of Appointment, and in particular in—

The Investment Executive Trust of New Zealand, Ltd., in which it was the holder of 100 shares, since transferred to the Sterling Investments Co. (N.Z.), Ltd.

The Sterling Investments Company (N.Z.), Ltd., in which it was the principal shareholder, as the holder of 20,801 shares, since transferred to the British National Trust, Ltd.

The British National Investment Trust, Ltd., in which it held 9,000 ordinary shares, later disposed of to J. W. S. McArthur and resold by him to the British National Trust, Ltd.

V. B. McInnes and Co., Ltd., in which it holds 10 shares.

In addition to its interest as shareholder, there were several transactions of relatively minor importance with the Executive Investment Trust of New Zealand, Ltd., and the Sterling Investments Company (N.Z.), Ltd.

9. POSITION OF THE COMPANY.

The state of the company's records is such that it is impossible to ascertain the true position of the company.

It holds a mortgage for £300 over a property in Pirie Street, Wellington.

It took up 24,000 shares of 2s. 6d. each in Freeholds, Ltd., to pay for which £3,000 was taken from purchase-money payable by that company to Mrs. E. C. Alcorn (wife of C. G. Alcorn), a transaction not, as yet, fully recorded in the books of the Investment Securities Association, Ltd. These shares we consider valueless, but Mrs. Alcorn is entitled to a credit for the £3,000 in the books of the Investment Securities Association, Ltd.

It is the holder of 100 shares in the First Mortgage Freehold Security Co. of New Zealand, Ltd., on which no payment has been made, and on which it is therefore liable to pay £100 when called upon.

It is under a liability of £4,400 to Freeholds, Ltd., in respect of debenture moneys not paid over, offset by amounts of over £700 paid out on behalf of that company.

Apparently the only real asset is the £300 mortgage over the Wellington property, while the liability to Freeholds, Ltd., alone is far in excess of that sum.

10. RECOMMENDATION.

From the information available and detailed in the last preceding section of this report, it appears that the company is insolvent.

It is therefore recommended that it be wound up.

A. M. SEAMAN, Inspector.

Auckland, 28th January, 1935.

THE NEW ZEALAND SHAREHOLDERS' TRUST, LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of the New Zealand Shareholders' Trust, Ltd.

REPORT OF INSPECTORS.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedules of the said Warrants of Appointment. Copies of the Warrants of Appointment have been filed in the Supreme Court at Wellington.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and Archibald Morris Seaman, two of the Inspectors so appointed, herewith respectfully submit the Report of their investigation of the affairs of the NEW ZEALAND SHAREHOLDERS' TRUST, LTD.

We commenced our investigation into the affairs of this company by attending at its office on the 9th day of August, 1934.

2. BOOKS AND RECORDS.

The books of the company had been kept satisfactorily, and had been subjected to audit. The information we required was readily ascertainable from the books and records and from the directors and other officers of the company.

3. CONSTITUTION OF COMPANY.

This company was registered on the 8th December, 1931, the Memorandum of Association being dated 7th December, 1931.

The objects of the company are in general to act as financiers, financial agents, and brokers. Specific power is given to acquire bonds and debentures, and to raise money by the issue of debentures.

The original capital was £10,000 in 100,000 shares of 2s. each. On 22nd July, 1932, the capital was increased to £60,000 by the creation of 50,000 4-per-cent. cumulative preference shares of £1 each.

The subscribers to the Memorandum of Association were :—

								Shares.
Lois Hewitt, Clerk	..	..	..	..	..	..	..	1
Geof. Howard Allison, Printer	..	..	..	..	..	..	..	1
Sylvia Ray Grange, Clerk	..	..	..	..	..	..	..	1
Robert Rex Fielder, Clerk	..	..	..	..	..	..	..	1
Dorothy Ellice Litherland, Clerk	..	..	..	..	..	..	..	1
Alison Grange, Clerk	..	..	..	..	..	..	..	1
Irene Ion, Clerk	..	..	..	..	..	..	..	1

4. DIRECTORS.

The Articles of Association provide (Article 75) that the first directors shall be appointed by the majority of the subscribers to the Memorandum of Association, and (Article 78) that the qualification of a director shall be the holding of 250 ordinary shares.

On 8th December, 1931, pursuant to the articles, the following were appointed directors :—

J. W. S. McArthur,
W. A. Pilkington, and
T. R. McArthur.

On 9th December, 1931, the qualification shares of 250 each were allotted to these directors, and appointments were made of W. A. Pilkington as chairman and J. W. S. McArthur as managing director.

On 10th February, 1932, R. Glover-Clark was appointed managing director in place of J. W. S. McArthur, his 250 qualification shares being allotted to him on 9th March, 1932.

At the statutory meeting on 9th March, 1932, the appointments of the above directors were confirmed.

On 22nd July, 1932, W. A. Pilkington and T. R. McArthur retired from the directorate, C. J. Lovegrove and R. S. Abel being appointed. The two last named were allotted their qualification shares on 27th July, 1932.

The minutes contain no definite record of the retirement of J. W. S. McArthur from the directorate, but he apparently retired at the annual general meeting held on 28th July, 1933, as the minutes of that meeting record the re-election of C. J. Lovegrove, R. S. Abel, and R. Glover-Clark.

The present directors are :—

R. S. Abel,
R. Glover-Clark, and
C. J. Lovegrove.

5. SHAREHOLDERS.

An effort was made, by issue of a prospectus in August, 1932, to dispose of the preference shares created by the increase of capital, but the effort was abortive, only 24 preference shares being allotted. These were eventually taken over from the holders by R. Glover-Clark.

The shareholders on the 29th August, 1934, were :—

Ordinary Shares.						Number of Shares.	Paid up. £ s. d.		
Hewitt, Lois	..	..	..	..	..	1	0	2	0
Allison, G. H.	..	..	..	..	..	1	0	2	0
Grange, S. R.	..	..	..	..	..	1	0	2	0
Felder, R. R.	..	..	..	..	..	1	0	2	0
Litherland, D. E.	..	..	..	..	..	1	0	2	0
Grange, A.	..	..	..	..	..	1	0	2	0
Ion, I.	..	..	..	..	..	1	0	2	0
Glover-Clark, R.	..	..	..	..	..	1,020	102	0	0
Staples, H. R.	..	..	..	..	..	20	2	0	0
Lovegrove, C. J.	..	..	..	..	..	350	35	0	0
Wilkinson, E. D.	..	..	..	..	..	50	5	0	0
Sterling Investments Co. (N.Z.), Ltd.	..	..	..	..	..	8,779	877	18	0
Abel, R. S.	..	..	..	..	..	250	25	0	0
						10,476	£1,047 12 0		

Preference Shares.						Number of Shares.	Paid up. £ s. d.		
Glover-Clark, R.	..	..	..	..	..	24	24	0	0

Of the amounts credited as paid up on the directors' shares, £34 credited to C. J. Lovegrove, £25 to R. Glover-Clark, and £25 to R. S. Abel, are covered by directors' fees or other payments for services rendered to the company, and not by actual cash payments made by the shareholders themselves.

6. DEBENTURES.

At a general meeting of shareholders held on 25th August, 1933, an issue of 500 debentures of £1,000 each was authorized, these being issued as explained later in this report.

The issue was registered on 5th September, 1933. These debentures are secured by a floating charge on the company's undertaking. By clause 7 of the conditions of the debenture, the whole of the income from the investments made from the proceeds of the debentures is payable to the

debenture-holders, and by clause 10 it is provided that on a winding-up of the New Zealand Shareholders' Trust, Ltd., the assets charged by the debentures shall be applied in repayment of the debentures, and the balance of such assets shall belong to the holders of the debentures. (A specimen debenture is attached to this Report as Exhibit No. 1.)

7. OPERATIONS OF COMPANY.

We have been unable to ascertain the purpose for which the company was formed, but from information supplied by R. Glover-Clark, the first active endeavour appears to have been to organize a co-operative society which could distribute information to investors and protect stockholders' interests. This failing, a fresh effort was made in August, 1932, in conjunction with an offer to the public of preference shares, to effect the same objects.

This again was a failure, and the company remained dormant till July, 1933.

We quote here from a statement supplied to us by R. Glover-Clark:—

“It was at the end of July, 1933, that the Investment Executive Trust of New Zealand, Ltd., approached the company to carry out a conversion arrangement on behalf of the trust; the procedure was explained to the directors and following arrangements were made: The New Zealand Shareholders' Trust, Ltd., created an issue of a series of 500 bearer debentures of £1,000 each on the terms and conditions set out in the debenture. With the funds obtained by the sale of these debentures to the Investment Executive Trust, Ltd., the company purchased from holders of ‘A’ and ‘B’ 1st Series Investment Executive Trust debentures.

“The company as purchasers obtained through its brokers, Messrs. V. B. McInnes and Co., Ltd., an authority from the seller to pay the consideration money (10 per cent. premium on the face value of ‘B’ and par value on ‘A’) to the Investment Executive Trust and in respect of the issue of ‘A’ and ‘B’ 2nd Series Investment Executive Trust debentures.

“The New Zealand Shareholders' Trust, Ltd., had transferred to it the scrip in respect of the 1st Series debentures which it has purchased from the original holders and this scrip was the security supporting the £1,000 bearer debentures issued by the company.

“The New Zealand Shareholders' Trust, Ltd., as purchasers, paid the brokers 2½ per cent. commission upon all ‘A’ and ‘B’ 1st Series Investment Executive Trust debentures bought on its behalf by the brokers; in addition it paid the stamp duty upon transfers, and the general expenses incurred.”

The carrying-out of this scheme has been the only active operation undertaken by the company.

The initiative came from the Investment Executive Trust of New Zealand, Ltd., which, for reasons which are examined in the report of the Inspectors on the affairs of that company, wished to withdraw from public holding, as far as possible, its First Series of “A” and “B” debentures, and to replace them by debentures in its Second Series, for which purpose it was prepared to allow a premium on the original holding of “B” debentures, and to pay all costs of the transfers.

Funds to enable the operation to be carried through were advanced to the New Zealand Shareholders' Trust, Ltd., by the Investment Executive Trust of New Zealand, Ltd., security being given by the periodical issue to the Investment Executive Trust of New Zealand, Ltd., of New Zealand Shareholders' Trust, Ltd., debentures.

The total amount received from the Investment Executive Trust of New Zealand, Ltd., up to 31st August, 1934, for the carrying through of this operation was £306,367 10s. 2d., in respect of which debentures for £306,000 had been issued by the New Zealand Shareholders' Trust, Ltd., at that date.

The carrying through of the process involved,—

- (1) An approach to the holder of First Series “A” or “B” debentures, in most instances through V. B. McInnes and Co., Ltd., with a proposition for an exchange to Second Series debentures—if of “A” debentures, at par, and if of “B” debentures, at a premium of 10 per cent. Differences of less than £10 were to be adjusted either by a payment in cash to the holder of such difference, or by the holder paying up cash to bring the difference up to £10, to enable another debenture to be issued.
- (2) On the debenture-holder agreeing, he signed—
 - (a) An application for the new debentures. (Exhibit No. 2 attached.)
 - (b) A form of transfer to the New Zealand Shareholders' Trust, Ltd., of his existing holding of First Series debentures. (Exhibit No. 3 attached.)
 - (c) A letter of authority to V. B. McInnes and Co., Ltd. (or other broker), authorizing them to receive from the New Zealand Shareholders' Trust, Ltd., the consideration money, and to apply such money on behalf of the transferor debenture-holder in purchase of the new Second Series debentures. (Exhibit No. 4 attached.)

- (3) The issue by the Investment Executive Trust of New Zealand, Ltd., to the New Zealand Shareholders' Trust, Ltd., of certificates for the "A" and "B" First Series debentures thus acquired by the latter company. These certificates were issued *in globo* from time to time, and up to 29th August, 1934, there had been issued certificates covering—

			Nominal Value.	Cost to N.Z. Shareholders' Trust.
			£	£
17,550 "A" Series	..	..	17,550	17,550
1,350 "B" Series	..	..	1,350	1,234
252,620 "B" Series	..	..	252,620	277,882
			<u>£271,520</u>	<u>£296,666</u>

in all, £17,550 "A" Series and £253,970 "B" Series.

In addition to paying the actual cost of purchase as above, the New Zealand Shareholders' Trust, Ltd., paid brokerage at $2\frac{1}{2}$ per cent. on the purchase price and stamp duty on the transfers. Up to 29th August, 1934, the amounts paid or payable under these headings were :—

				£	s.	d.
Brokerage	..	..	..	7,379	5	0
Stamp duty	..	..	..	904	19	6

The Investment Executive Trust of New Zealand, Ltd., as holders of the debentures, agreed to allow the New Zealand Shareholders' Trust, Ltd., to capitalize a further $\frac{3}{4}$ per cent. of the purchase price of the Investment Executive Trust debentures, representing administration expenses incurred in the carrying-out of the operation. The total charged under this head is £2,224 19s. 10d., so that the total recorded as the cost of "converted" debentures of a face value of £271,520 is—

				£	s.	d.
Payment to former holders	..	..	..	296,666	0	0
Brokerage	..	..	..	7,379	5	0
Stamp duty	..	..	..	904	19	6
Expenses capitalized	..	..	..	2,224	19	10
				<u>£307,175</u>	<u>4</u>	<u>4</u>

8. POSITION OF COMPANY.

The books of the company, at 29th August, 1934, showed the following assets apart from the above investment in Investment Executive Trust debentures :—

					£	s.	d.	£	s.	d.
Balance in bank	..	..	..	..	484	9	9			
Cash	..	..	..	..	0	15	2			
Hewitt and Co.	..	..	..	..	28	11	5			
T. R. McArthur	..	..	..	..	0	1	0			
								513	17	4

while liabilities apart from debentures were :—

Investment Executive Trust (to be covered by debenture)	..	367	10	2			
V. B. McInnes and Co., Ltd.	..	62	9	8			
Investment Securities Association, Ltd.	..	80	1	0			
S. Grange	..	14	8	0			
J. W. S. McArthur	..	25	0	0			
Financial Publications, Ltd.	..	58	10	9			
					607	19	7

There is necessarily some slight change since that date by reason of the making of some routine payments, but there have been no further purchases of Investment Executive Trust debentures or issue of debentures to the Investment Executive Trust of New Zealand, Ltd. Practically, it may be said that there is a liability of £306,000 on Debenture Account, and that the only asset available to meet it is a debenture investment of a face value of £271,520, an apparent deficit of approximately £35,000 being revealed, which deficit is, of course, increased if the debentures issued by the Investment Executive Trust of New Zealand, Ltd., are worth less than par.

9. BALANCE-SHEET AS AT 30TH JUNE, 1934.

The balance-sheet of the company as at 30th June, 1934, together with Profit and Loss Account and Profit and Loss Appropriation Account for the period 6th March, 1934, to 30th June, 1934, are appended to this report as Exhibit No. 5.

10. RECOMMENDATION.

The operations of this company are referred to at some length in various sections of the Report of the Inspectors on the affairs of the Investment Executive Trust of New Zealand, Ltd., more particularly under the headings "Investments on Account of 'Second B' Series Debenture-holders," and "Exchange of Debentures of the Investment Executive Trust of New Zealand, Ltd., in First Series for Debentures in Second Series."

We are of the opinion that the New Zealand Shareholders' Trust, Ltd., has been utilized as a "tool" of the Investment Executive Trust of New Zealand, Ltd., for the purpose of carrying out a series of transactions which were not in the interests of the general body of debenture-holders of the Investment Executive Trust of New Zealand, Ltd. We are unable to see any good purpose which can be served by the continued existence of the company. In our opinion it should be wound up. We further recommend that if a liquidator is appointed he should pay careful consideration to the amount of income which has been allotted to the New Zealand Shareholders' Trust, Ltd., as interest on the debentures held in the Investment Executive Trust of New Zealand, Ltd. We are of opinion that on investigation he will find that approximate allocations only have been made, and if such prove to be less than the company is entitled to, he should, in our opinion, seek legal advice as to whether he has grounds for action against any officer or officers of the Investment Executive Trust of New Zealand, Ltd.

Auckland, 28th January, 1935.

A. M. SEAMAN } Inspectors.
J. L. GRIFFIN }

EXHIBIT No. 1.

THE NEW ZEALAND SHAREHOLDERS' TRUST, LTD.

[The issue is made under clauses 3 (c) and 89-92 of the Company's Memorandum and Articles of Association respectively and in pursuance of a resolution of the shareholders passed on the 25th day of August, 1933.]

Issue of Bearer Debentures of £1,000 each number 1 to 500.

Debenture No. . . . £1,000.

1. THE NEW ZEALAND SHAREHOLDERS' TRUST, LTD. (hereinafter called "the trust") in consideration of the sum of one thousand pounds (£1,000) paid to the trust by the first holder hereof hereby binds itself to pay to the bearer of this debenture at the time and in the events provided by the conditions endorsed hereon the sum of one thousand pounds (£1,000) and until payment thereof to pay interest thereon in manner provided by the said conditions.

2. The trust hereby charges with the due performance of its obligations hereunder :—

- (a) All investments and securities from time to time forming or representing investments of the net proceeds of sales of debentures of this Series and of any reserve in respect of this Series ;
- (b) All moneys being net proceeds of sales of debentures of this Series from time to time held by the trust pending investment as provided in the said conditions ;
- (c) All moneys being net proceeds of the sale realization or release of any such investments and held by the trust from time to time pending reinvestment ; and
- (d) The annual net earnings (as defined in the said conditions) from the said investments held by the trust from time to time pending appropriation and distribution.

3. This debenture is issued subject to and with the benefit of the conditions endorsed hereon.

THE COMMON SEAL of the New Zealand Shareholders' Trust, Ltd., was hereto affixed this day of , 193 , in the presence of—

, Director.
, Director.
, Secretary.

The Conditions within referred to.

1. This Debenture is one of a Series of 500 Debentures all in like form numbered 1 to 500 inclusive issued or about to be issued by the Trust. All the Debentures of this Series are payable *pari passu* and will rank equally as a first charge upon the specific property and assets of the Trust described in paragraph 2 of the within Debenture without any preference or priority one over another. The Trust however reserves the right to issue such further Series of Debentures from time to time as it shall deem expedient.

2. The said charge shall constitute a floating security only not hindering any sale or other dealings in the ordinary course of business by the Trust with the property or assets comprised in the charge, but the Trust shall not be at liberty to create any mortgage or charge upon the property or assets comprised in the security in priority to or ranking *pari passu* with the charge hereby created.

3. The covenants conditions and obligations of this Debenture will be performed and observed and the moneys payable hereunder paid by the Trust to the bearer hereof free from and without regard to any equities between the Trust and the original or any intermediate holder hereof and the receipt of the bearer for interest moneys hereunder shall be a good discharge to the Trust for the payment of such interest moneys.

4. All moneys received by the Trust by way of premiums on the sale or issue of Debentures of this Series shall be placed to the credit of the Investment Account in respect of this Series.

5. The costs charges taxes commissions and expenses incurred and moneys paid in the formation and registration of the Trust and in obtaining the share capital thereof and in the investment of such share capital of the Trust shall not be charged against Debenture capital or income therefrom but all other costs charges taxes commissions and expenses incurred and moneys paid by the Trust on any account whatsoever (hereinafter called "Debenture Charges") shall be charged from time to time by the Trust in such proportions as the Directors of the Trust may determine against the moneys received by the Trust from the sale of Debentures in this and any other Series now or hereafter issued by the Trust and against the income and profits from investments of the proceeds of the sale of such Debentures.

6. The Trust shall as and when it shall think fit invest in the name of the Trust or otherwise on its behalf the moneys received by it from the sale of Debentures in this Series in such of the investments and securities mentioned in the Schedule hereto as it shall think fit with power from time to time to vary all or any of such investments as it shall think fit so long however as the investments from time to time representing such moneys shall be in some or other of the investments and securities mentioned in such Schedule PROVIDED however that the Trust shall not be required to invest but shall be entitled from time to time to deduct and retain from such moneys such proportion of the Debenture Charges referred to in paragraph 5 hereof as the Directors of the Trust shall deem proper.

7. Not later than the 31st day of March in each year during the currency of this Debenture the Trust shall determine the income and profits during the twelve months prior to the preceding 31st day of December from the investments referred to in paragraph 6 hereof and after deducting therefrom such proportion of the Debenture Charges referred to in paragraph 5 hereof and all costs charges taxes as the Directors of the Trust shall deem proper in respect of that period the balance (hereinafter called "the annual nett earnings") shall be paid to Debenture holders of this Series *pro rata*.

8. The holder of this Debenture shall not be entitled to call in or compel payment of the said principal sum of £1000 unless an order made or a special or extraordinary resolution passed for winding up the Trust PROVIDED ALWAYS that if the Trust shall fail for a period of two consecutive years after the 31st day of March, 1934, to earn a total income on the investments of this Series including Reserves amounting in the aggregate for such period to 6% on the moneys invested in this Series excluding Reserves and such failure is not due directly or indirectly to any moratorium act of God or foreign enemy or default on the part of any authority government ruler commissioner corporation company or guarantor under any of such investments, the holder of the Debenture may by notice in writing left at the registered office of the Trust in the month of April following such second consecutive year require repayment out of the property and assets charged by the within Debenture of the principal sum of £1000 hereby secured within three calendar months from the date of such notice and on receiving repayment of such amount will execute a memorandum of satisfaction of this Debenture.

9. This Debenture is a negotiable instrument with all the incidents of negotiability.

10. Upon the winding up of the Trust the property and assets of the Trust charged by the Debentures of this Series shall be applied in repayment of the sum of £1000 secured by each Debenture of this Series then current and the balance of such property and assets shall belong to the holders of such Debentures.

The Schedule hereinbefore referred to.

(a) Investments and securities authorized for the investment of Trust funds by the Governments of Great Britain, the Commonwealth of Australia, the Australian States, the Dominion of New Zealand, and any other part of the British Empire or by any of such Governments.

(b) Stocks debentures debenture stocks bonds obligations and securities issued or guaranteed by any Government whether of Great Britain, the Commonwealth of Australia, any Australian State, the Dominion of New Zealand, or of any other part of the British Empire or of any foreign country, or by any sovereign ruler commissioner public body supreme municipal local or otherwise in any part of the world; and

(c) Shares stocks debentures debenture stocks bonds obligations and securities issued or guaranteed by any company bank trust or other corporation constituted or carrying on business in Great Britain, Australia, New Zealand, or in any other part of the world.

EXHIBIT No. 2.

[This form, which is issued with the trust's prospectus of 3rd April, 1934, should be filled in and forwarded to the Secretary, G.P.O., Box 910, Auckland, New Zealand, or any branch of the company's bankers.]

THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

(Incorporated under the Companies Act, New Zealand, 1908.)

Second Issue of Debenture Capital 200,000 "Second B" Series First Mortgage Perpetual Income Debentures of £10 each.

(Under prospectus registered with the Registrar of Companies, Auckland, on 3rd April, 1934.)

FORM OF APPLICATION.

To the directors of the Investment Executive Trust of New Zealand, Ltd.

Yorkshire House, Auckland, New Zealand.

Gentlemen,—

Having enclosed herewith the sum of £ , on application for debentures of £10 each in the above "Second B" Series of first mortgage perpetual income debentures, I/we request you to allot to me/us that amount of such debentures upon the terms of the company's prospectus dated the 3rd day of April, 1934, a copy of which was issued to me/us with this Form of Application, and I/we agree to accept such number or smaller number of such debentures that may be allotted to me/us and I/we authorize you to place my/our name(s) on the Register of "Second B" Series debenture-holders.

[Please write in
block capitals.] { Name in full :
Address (in full) :
Description or occupation :
[If lady, state whether "married," "widow," or "spinster."]

Date : , 193 .

Usual signature :

EXHIBIT No. 3.

DEBENTURE TRANSFER.

I, of
in consideration of the sum of paid to me by
[Occupation] [Address]

do hereby transfer to the said Series of first mortgage perpetual income debentures of £10 each in THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD., numbered to standing in my name in the books of the company.

To HOLD unto the said his executors, administrators, and assigns, subject to the several conditions on which I hold the same at the time of the execution hereof

AND I, the said do hereby agree to take the said debentures, subject to the conditions aforesaid.

As WITNESS our hands the day of one thousand nine hundred and .
Witness to sellers' signature— } [Seller.]
Occupation : }
Address : }
Witness to buyer's signature— } [Buyer.]
Occupation : }
Address : }

Address :

, 1933.

To—

Messrs. V. B. McInnes and Co., Ltd.,
P.O. Box 1862, Auckland, C. 1.

DEAR SIRS,—

I hereby authorize you to receive on my behalf from the New Zealand Shareholders' Trust, Ltd., the sum of £ being consideration payable by that company for transfer of " A " " B " Series first mortgage perpetual income debentures of £10 each in the Investment Executive Trust of New Zealand, Limited, numbers enumerated in margin, and registered in my name in the Debenture Register of that company.

Total proceeds so received are to be immediately applied by you in full payment for debentures of 2nd "A" "B" Series first mortgage perpetual income debentures of £10 each in the Investment Executive Trust of New Zealand, Ltd., in accordance with their cash application form dated _____ and signed by me.

It is understood that interest on my First Series debenture holding will be paid me by the transferee as from 1st July, 1933, to date of debenture transfer, interest adjustment to be calculated at the end of the financial year of the Investment Executive Trust of New Zealand, Ltd.

I attach the following documents :—

- Debenture transfer ;
- Debenture certificate/s in support ;
- Cash application form.

Yours faithfully,

Witness :

Occupation :

Address :

EXHIBIT No. 5.

NEW ZEALAND SHAREHOLDERS' TRUST, LTD.

Schedule of Sundry Creditors as at 30th June, 1934.

[illegible]

Schedule of Sundry Debtors as at 30th June, 1934.

						£	s.	d.
Financial Publications, Ltd.	..	..	..	..	..	31	8	9
Hewitt and Co. ..	..	..	..	..	..	28	11	5
McArthur, T. R. . .	..	..	..	..	..	0	1	0
						£60	1	2

No. 1 SECURITY ACCOUNT.

Schedule of Sundry Creditors as at 30th June, 1934.

							£	s.	d.
McInnes, V. B., and Co.	..	..	..	..	..	..	382	14	8
Grange, S.	..	..	..	..	..	..	14	8	0
Investment Securities Association		..	..	..	..	..	80	1	0
							£477	3	8

EXHIBIT No. 5—*continued*.

NEW ZEALAND SHAREHOLDERS' TRUST LTD.

STATEMENT OF ACCOUNTS FOR PERIOD FROM 6TH MARCH, 1934, TO 30TH JUNE, 1934.

Profit and Loss Account.

	£	s.	d.		£	s.	d.
To Salaries	147	17	4	By Commission from No. 1 Security Account ..	255	15	0
Rent and rates	14	0	0	Balance, being loss	37	11	3
Office and general expenses	10	8	11				
Accountancy and audit fee	21	0	0				
Travelling-expenses	100	0	0				
	<u>£293</u>	<u>6</u>	<u>3</u>		<u>£293</u>	<u>6</u>	<u>3</u>

Profit and Loss Appropriation Account.

	£	s.	d.		£	s.	d.
June 30—				March 6—			
To Loss for period	37	11	3	By Balance	107	2	4
Balance	69	11	1				
	<u>£107</u>	<u>2</u>	<u>4</u>		<u>£107</u>	<u>2</u>	<u>4</u>

BALANCE-SHEET AS AT 30TH JUNE, 1934.

No. 1 Security Account.

<i>Liabilities.</i>				<i>Assets.</i>			
	£	s.	d.		£	s.	d.
Debentures issued—279 debentures of £1,000 each	279,000	0	0	Investments (at cost)	256,159	0	0
Sundry creditors (as per Schedule)	477	3	8	Investment Executive Trust of N.Z., Ltd. ..	27,595	0	0
National Bank of New Zealand, Ltd.	13,429	3	8	Revenue Account—			
General Account	1,054	4	0	Expenses to 6th March, 1934 ..	9,085	8	1
				Brokerage	833	5	0
				Stamp duty	103	10	9
				Office expenses	255	15	0
					<u>10,277</u>	<u>18</u>	<u>10</u>
				Less Interest received	71	7	6
					<u>10,206</u>	<u>11</u>	<u>4</u>
	<u>£293,960</u>	<u>11</u>	<u>4</u>		<u>£293,960</u>	<u>11</u>	<u>4</u>
Authorized capital—				Current Assets—	£	s.	d.
100,000 ordinary shares of 2s. each	10,000	0	0	No. 1 Security Account	1,054	4	0
50,000 4-per-cent. cumulative preference shares of £1 each ..	50,000	0	0	Sundry debtors (as per Schedule) ..	60	1	2
				Cash in hand, 15s. 2d.; balance at bank, £61 12s. 9d. ..	62	7	11
	<u>60,000</u>	<u>0</u>	<u>0</u>	Total of current assets	<u>1,176</u>	<u>13</u>	<u>1</u>
Less Unallotted	58,928	8	0				
Paid-up capital	1,071	12	0				
Profit and Loss Account	69	11	1				
Total of shareholders' funds	1,141	3	1				
Sundry creditors (as per Schedule)	35	10	0				
	<u>£1,176</u>	<u>13</u>	<u>1</u>		<u>£1,176</u>	<u>13</u>	<u>1</u>

THE PACIFIC EXPLORATION COMPANY, LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, the Companies Act, 1933,

and

IN THE MATTER of the Pacific Exploration Co., Ltd.

REPORT OF INSPECTORS.

(1) INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule to the said Warrants of Appointment.

Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe and John Leslie Griffin, two of the Inspectors so appointed, respectfully submit the report of their investigations into the affairs of the Pacific Exploration Co., Ltd.

(2) BOOKS AND RECORDS AVAILABLE.

We commenced our investigations into the affairs of this company on the 9th August, 1934, by attending at the registered office of the company in Auckland and calling for production of the company's books and records. There were no books or records available at the registered office, nor were there any officers of the company from whom information regarding its affairs could be obtained. In order to secure information regarding this and other companies whose records and officers were in Sydney we found it necessary to visit Sydney, and for this purpose we left New Zealand on 24th August, 1934. On our arrival in Sydney we were informed by one of the accountants assisting the Royal Commission then sitting in Sydney for the purpose of inquiring into the affairs of certain companies, including the Pacific Exploration Co., Ltd., that when he inspected the books of that company on or about the 18th August, 1934, the general cash-book was written up for some three or four pages but was not added, and bore no bank pass-book reconciliation, while the journal had two entries in it. There were no other entries in the books. The books were subsequently written up, and these, with all other records available, were later produced for our inspection. The information thus made available was such as to enable us to trace most of the transactions of the company. The book entries are not complete and there are some serious discrepancies in dates, while in some instances the entries as made are not fully informative.

A copy of the minute-book was produced to us, the original having been deposited as an exhibit with the Royal Commission. It contained the minutes of meetings of directors held on 21st May, 1932, and on 4th July, 1932, and of an extraordinary meeting of members held on 5th July, 1932. In addition to these there were entered "attorney's minutes" dated 20th June, 1932, 30th June, 1932, 22nd July, 1932, and 1st December, 1933. With the exception of the appointment of J. W. S. McArthur as the company's attorney and the authorization of the opening of accounts with the National Bank of New Zealand, Ltd., at Auckland and London, on which accounts J. W. S. McArthur, as attorney of the company, was empowered to operate, the business recorded is of a formal nature dealing mainly with share transactions.

In the minute-book were also two loose unsigned sheets. The first purports to set out a directors' resolution passed on 1st December, 1933, as follows:—

"That the auxiliary yacht 'Morewa,' together with all equipment, supplies, utensils, and stores pertaining thereto, be sold to J. W. S. McArthur, of Auckland, for the sum of

It will be noted that the amount of the consideration for the sale of the yacht is not stated.

The second, which is undated, sets out a "certificate of transfer" drawn for signature by two directors, in the following form:—

"Certificate of Transfer.

"We, the undersigned directors of the Pacific Exploration Company, Ltd., hereby certify that we have transferred to John William Shaw McArthur, of Auckland, the auxiliary yacht 'Morewa,' and that all payments, obligations, or otherwise in connection with the said transfer have been discharged.

Director."
Director."

In view of the failure to keep proper books we direct attention to the provisions of section 130 of the Companies Act, 1933, and also to the provisions of section 267 of the Companies Act, 1933.

(3) CONSTITUTION OF COMPANY.

The Pacific Exploration Co., Ltd., was registered as a private company on 3rd May, 1932, with a capital of £10,000 in 10,000 shares of £1 each. The memorandum and articles of association are dated 29th April, 1932. The articles of association were filed with the Assistant Registrar of Companies at Auckland on 17th May, 1934.

The memorandum of association gives wide powers, the main object being "to seek for and secure openings for the employment of capital in the Pacific or in any other part of the World." Power is taken "to lend and advance money . . . to any company or person and on such terms as may be thought fit . . ."

The articles of association adopted were Table A of the Companies Act, 1908, with many modifications. In particular the articles authorize the directors to appoint an attorney to whom they may delegate all or any of their powers, including the power to manage and control the business of the company.

(4) DIRECTORS.

The Articles of Association provide (Article 74) that—

"Charles Graham Alcorn and Thomas Richard McArthur shall be the directors of the company, and they shall hold office until removed by special resolution . . ."

(5) SHAREHOLDERS.

The signatories to the Memorandum of Association were:—

	Shares.
The Sterling Investments Co. (N.Z.), Ltd.	9,999
Madge Gregory	1
	<hr/> 10,000

On 20th June, 1932, an attorney's minute approved two transfers of ten shares each to C. G. Alcorn and T. R. McArthur from the Sterling Investments Co. (N.Z.), Ltd.

Calls on shares were made from time to time, and on 31st July, 1934, the position of the shareholding was as follows:—

	Number of Shares.	Paid per Share.	Capital paid up.
		s. d.	£ s. d.
The Sterling Investments Co. (N.Z.), Ltd.	9,937	13 0	6,459 1 0
The Sterling Investments Co. (N.Z.), Ltd.	42	3 0	6 6 0
Gregory, M.	1	20 0	1 0 0
Alcorn, C. G.	10	20 0	10 0 0
McArthur, T. R.	10	20 0	10 0 0
	<hr/> 10,000		<hr/> £6,486 7 0

In the company's balance-sheet as at 31st July, 1934, which was prepared by the company's officers and which is attached as Exhibit "A," particulars of the Capital Account are given showing the uncalled capital as £3,513 13s. From the details of calls made on shares as recorded in the minute-book, it seems that the uncalled capital is £3,492 13s.—i.e., 7s. per share on 9,979 shares held by the Sterling Investments Co. (N.Z.), Ltd., and that on forty-two of these shares there is 10s. per share called up but unpaid.

(6) CONTROL OF COMPANY.

At the first meeting of directors held on 21st May, 1932, it was resolved to appoint J. W. S. McArthur as attorney for the company. Acting under this power, the attorney made calls, approved transfers of shares, and apparently directed all the operations of the company.

Apart from certain formal business transacted at their first meeting, the only recorded acts of the directors were in May, 1932, to appoint J. W. S. McArthur as attorney and to authorize him to operate on the company's banking account at Auckland, and in July, 1932, to give him power to operate on a banking account in London which it was then determined should be opened.

The company's records and such information as we have been able to obtain from other sources indicate that the directors of the company acted in a nominal capacity only.

The action of the directors in appointing J. W. S. McArthur as attorney on 21st May, 1932, was confirmed at an extraordinary meeting of members held on 5th July, 1932.

(7) FINANCING OF THE COMPANY.

In section 5 of this report it is shown that the Sterling Investments Co. (N.Z.), Ltd., holds shares on which there is paid £6,465 7s. out of a total paid-up capital of £6,486 7s. The Sterling Investments Co. (N.Z.), Ltd., also made advances to and payments on account of the Pacific Exploration Co., Ltd., the total of such advances shown in the books of the Pacific Exploration Co., Ltd., being £18,821 2s. 8d. Of this sum £1,475 17s. was transferred to complete the payment of calls on the shares above referred to, so that the funds recorded as provided by the Sterling Investments Co. (N.Z.), Ltd., were :—

	£	s.	d.	£	s.	d.
On account of share capital				6,465	7	0
On account of advances	18,821	2	8			
Less applied in payment of calls	1,475	17	0			
				17,345	5	8
				<u>£23,810</u>	<u>12</u>	<u>8</u>

So far as we can ascertain, no security was given for these advances, nor was any interest paid thereon.

The report of the Inspectors on the affairs of the Sterling Investments Co. (N.Z.), Ltd., will show that that company was financed almost wholly by the Investment Executive Trust of New Zealand, Ltd., which in turn obtained its funds by the issue of debentures to the public. In effect, therefore, the public provided the moneys used in the operations of the Pacific Exploration Co., Ltd.

(8) OPERATIONS OF THE COMPANY.

The operations of the company fall under four headings :—

- (a) Building and equipping the auxiliary yacht "Morewa."
- (b) Making advances to J. W. S. McArthur on personal account.
- (c) Purchasing a property at Parengarenga, North Auckland.
- (d) Advancing to Liberty Motors Corporation, Ltd., moneys secured by debentures.

These transactions are examined in detail in sections 9 to 12 of this report.

In the report of the Inspectors on the affairs of the Sterling Investments Co. (N.Z.), Ltd., particulars will be given of a transaction in February, 1934, referred to in that report as the "Sterling-Wynwood transaction." By that transaction J. W. S. McArthur acquired, *inter alia*, the whole of the interest held by the Sterling Investments Co. (N.Z.), Ltd., in the Pacific Exploration Co., Ltd., including its holding of shares in the Pacific Exploration Co., Ltd. The price paid for the individual assets is not disclosed.

Pursuant to the arrangement there were transferred to J. W. S. McArthur all the assets of the Pacific Exploration Co., Ltd., except the debt due to that company by Liberty Motors Corporation, Ltd., which at that date, 28th February, 1934, amounted to £1,520, and the property at Parengarenga. The main assets thus transferred were the auxiliary yacht "Morewa" and the debt due by J. W. S. McArthur himself to the Pacific Exploration Co., Ltd.

The shares in the Pacific Exploration Co., Ltd., thus acquired by J. W. S. McArthur are recorded in the books of the Sterling Investments Co. (N.Z.), Ltd., as having been repurchased by that company on 31st March, 1934, for £6,486 7s. The changes in the ownership of these shares are not recorded in the books of the Pacific Exploration Co., Ltd., nor has there been produced to us any minute or document of the Sterling Investments Co. (N.Z.), Ltd., supporting or verifying either the transfer of the shares to J. W. S. McArthur or their retransfer by him.

At the 28th February, 1934, the date of the purported purchase of the shares by J. W. S. McArthur, the principal assets of the Pacific Exploration Co., Ltd., at book value were—

	£	s.	d.
Auxiliary yacht "Morewa"	8,931	9	0
J. W. S. McArthur Advance Account	4,165	10	0
Parengarenga Land Account	4,650	0	0
Liberty Motors Corporation, Ltd., Advance Account	1,520	0	0
	£19,266	19	0

As at 31st March, 1934, the date of the purported repurchase of the shares by the Sterling Investments Co. (N.Z.), Ltd., the assets of the Pacific Exploration Co., Ltd., had been decreased by £13,096 19s., being the total of the first two of the above items, which had in the meantime been transferred to J. W. S. McArthur. There was a corresponding reduction in the liability of the Pacific Exploration Co., Ltd., to the Sterling Investments Co. (N.Z.), Ltd.

The price set against the shares on their repurchase from J. W. S. McArthur was £6,486 7s., an amount equivalent to the capital paid up on all the shares and not merely on those the subject of transfer.

In the course of the dealings J. W. S. McArthur was relieved of a private liability of £4,165 10s., and he acquired the "Morewa," in connection with which the sum of £8,931 9s. had been expended by the Pacific Exploration Co., Ltd., to the date of transfer, 28th February, 1934.

The transaction by which J. W. S. McArthur acquired the assets of the Pacific Exploration Co., Ltd., at 28th February, 1934, will be described in the reports of the Inspectors and/or Inspector covering the affairs of the Sterling Investments Co. (N.Z.), Ltd., and Wynwood Investments, Ltd., under the heading of the "Sterling-Wynwood Transaction." As the books of the Sterling Investments Co. (N.Z.), Ltd., prior to 1st March, 1934, are reported to be "lost" and the information which is available concerning the matter is very meagre, it is impossible to report the details with any certainty, but in our opinion it has been established that in the course of the transaction, by transferring fifty-nine debentures of the British National Trust, Ltd., having a nominal value of £59,000, J. W. S. McArthur acquired assets in which at least £60,000 in cash had been invested by the Sterling Investments Co. (N.Z.), Ltd.

(9) AUXILIARY YACHT "MOREWA."

In the memorandum of association the main object of the Pacific Exploration Co., Ltd., is set out as "to seek for and secure openings for the employment of capital in the Pacific."

In a statement made before the Royal Commission in Sydney on 11th September, 1934, J. W. S. McArthur, referring to the Pacific Exploration Co., Ltd., said,—

"Its main objects were to explore avenues for profitable investment in islands of the Southern Pacific, and to engage in any development work which would appear to be profitable. With this object in view, a schooner for exploratory work was built by the company. Shortly after the commencement of work on this ship, I realized that with the growth of the Investment Executive Trust it would be quite impossible for me to leave the business for any lengthy period, and consequently I decided to take over the ship myself when it was completed."

From the same statement it appears that the yacht was taken over in December, 1933. This is supported by the unsigned directors' minutes referred to in section 2 of this report, by a book entry recording the transfer under date 28th December, 1933, and by the fact that on 16th December, 1933, J. W. S. McArthur made a declaration before the Collector of Customs at Auckland that he was entitled to be registered as the owner of the sixty-four shares in the vessel.

(10) ADVANCES TO J. W. S. McARTHUR.

The Pacific Exploration Co., Ltd., made very substantial payments to, or on behalf of, J. W. S. McArthur personally, the debits in his account in the company's ledger totalling £239,733 2s. 1d. The first advance or payment appears under date 20th June, 1932. The greater part of this large total is in one item of £233,862, dated in the ledger—December, 1933. This amount is made up of a cheque for £230,644, paid through the Banking Account on 3rd March, 1933, and several other sums which, for some reason, have not been entered separately in the ledger, the total sum being entered in one item as at a later date, when the accounts were being adjusted.

To a considerable extent these large debits are offset by sums from various sources paid in to J. W. S. McArthur's credit. The main credit item is one of £231,324 under date 3rd March, 1933, which the bank deposit-slip shows to be made up of two cheques of £229,600 and £1,724 respectively, both drawn on W. C. Hewitt's Trust Account. As £229,600 was the consideration payable to J. W. S. McArthur on the sale to the British National Trust, Ltd., of his holding of shares in the British National Investment Trust, Ltd. (a transaction discussed in the report of the Inspectors on the affairs of the last-mentioned company), and as the dates correspond, it appears obvious that this credit entry, as well as the debit item of £230,644 referred to in the preceding paragraph, relates to this transaction.

J. W. S. McArthur is also credited with the item of £4,165 10s. referred to in section 8 of this report, and with £3,248 6s. 8d., described as "amount overpaid by J. W. S. McArthur on purchase of assets from Sterling Co." After these amounts and a number of relatively small cash items have been credited there remains a debit balance of £179 5s. 10d. against J. W. S. McArthur, the amount appearing as an asset in the company's balance-sheet as at 31st July, 1934.

Interest has not been charged by the company on advances made to J. W. S. McArthur. From the information available to us it does not appear that any security was given to the company for the advances.

(11) PROPERTY AT PARENGARENGA, NORTH AUCKLAND.

In a statement made on the 11th September, 1934, before the Royal Commission in Sydney, J. W. S. McArthur said, relative to this property:—

"The Pacific Exploration Co., Ltd., whose shares are owned almost entirely by the Sterling Co., which in turn is owned by British National Trust, possesses 27,000 acres of freehold unencumbered land in the northern part of the Auckland Province, which contains rich and extensive deposits of kauri-gum.

"On a conservative estimate, the quantity of gum on the area is not less than 50,000 tons. Valued at £60 per ton, the gum alone is worth £3,000,000 gross.

"The only method used in New Zealand for recovering gum (which usually lies from 6 ft. to 12 ft. below the surface) is by spearing and spade digging. A new mechanical method of removing the top soil before extracting the gum, in conjunction with mechanical and chemical purifiers, reduces the cost of gum-production very considerably. Furthermore, a very recent discovery, which we were aware of at the time the property was purchased, and which was not generally known, has revolutionized the values attaching to chalk gum, which forms a very large proportion of our deposits, and which hitherto was looked upon as being of low value.

"By the new purification process the chalk or oxidized gum is rendered just as valuable, if not more valuable, than white gum, which sells to-day at £160 a ton.

"Taking the average selling-price of our product at only £60 a ton, the net profit which would accrue on the working of these deposits, after making full allowance for overhead charges, depreciation, and taxes, would amount to £1,500,000.

"This asset is set down on the books of the Pacific Exploration Co., Ltd., at £4,700, being the cost of the land to the company. It would take probably thirty years to work out these deposits, while the annual net profits would amount to £50,000."

During his examination before that Commission on 27th September, 1934, J. W. S. McArthur further set out his views as to the value of this property. From this evidence it may be deduced that this estimate of the value of the property is dependent on the success of a purification process "discovered by the Department of Scientific and Industrial Research."

Information obtained from that Department by A. M. Seaman, one of the Inspectors appointed to investigate the affairs of the Pacific Exploration Co., Ltd., is to the effect that the process in question can be used only under license from the Department, and that it has not yet been fully tested on a commercial scale. The present market value of chalk gum we understand to be in the neighbourhood of £20 per ton, out of which a heavy production wage cost has to be met.

The property was purchased by the Pacific Exploration Co., Ltd., from Parenga Kauri Oils, Ltd. (in liquidation), with the consent of the National Bank of New Zealand, Ltd., as mortgagee. The price paid to the National Bank of New Zealand, Ltd., was £3,600, and, in addition, the Pacific Exploration Co., Ltd., paid £1,000 to one Deverill for the transfer of an option to purchase granted to him by Parenga Kauri Oils, Ltd. (in liquidation), with the consent of the National Bank of New Zealand, Ltd., as mortgagee. Payment of legal expenses and arrears of rates brought the total cost of the property up to £4,793 4s., at which figure it appears in the company's books.

The Government valuation of the property is £8,150. This valuation was made in 1927. We are not in a position to express an opinion regarding the actual present value of the property, although it is clear that the value of the gum deposits is by no means so definitely established as would appear from the statement made by J. W. S. McArthur and quoted above.

In the meantime, payments for rates and taxes have to be met, and the property is non-revenue producing.

We attach to this report a copy of an affidavit by Gordon H. D. Grant, solicitor, of Auckland, giving the result of his "search" of the documents of title of the Parengarenga property. Exhibit "B."

(12) ADVANCES TO LIBERTY MOTORS CORPORATION, LTD.

In the balance-sheet of the company prepared as at 31st July, 1934, there is included in the assets an amount of £2,070, "Liberty Motors, Ltd.—secured by three debentures of £1,000 each." The Inspector investigating the affairs of Liberty Motors Corporation, Ltd., under appointment made under the provisions of the Companies (Special Investigations) Act, 1934, has informed us that the Pacific Exploration Co., Ltd., does not appear in the books of Liberty Motors Corporation, Ltd., as a creditor for advances as at 31st July, 1934, and the debentures of £3,000 issued by Liberty Motors Corporation, Ltd., are held by Sterling Investments Co. (N.Z.), Ltd. He advises that the

books of Liberty Motors Corporation, Ltd., show the Pacific Exploration Co., Ltd., as a creditor for £500, being a half share of the goodwill of the Packard Agency purchased by Liberty Motors Corporation, Ltd. He further advises that in the Share Register of Liberty Motors Corporation, Ltd., Pacific Exploration Co., Ltd., shows as the holder of 499 shares, a transfer of these shares from G. A. Lewis having been registered on 24th July, 1934. On 10th August, 1934, the sum of £499 was shown in the books of Liberty Motors Corporation, Ltd., as having been received from Pacific Exploration Co., Ltd., in respect of these shares.

At the end of September, 1934, when we left Sydney, the books of the Pacific Exploration Co., Ltd., had not been written up beyond 31st July, 1934, so that we have not had an opportunity of verifying the payment of £499 on 10th August, 1934, to Liberty Motors Corporation, Ltd., or of ascertaining the manner in which it was treated in the books of the Pacific Exploration Co., Ltd.

From certain documents noted as being among the records in the Sydney office of the Investment Executive Trust of New Zealand, Ltd., however, it appears that some arrangement had been made whereby 499 shares in Liberty Motors Corporation, Ltd., were to be transferred to the Pacific Exploration Co., Ltd. This would presumably mean that there was a contingent liability of £499 on these shares at 31st July, 1934. This is, however, not noted in the balance-sheet at that date.

(13) RELATIONS WITH THE STERLING INVESTMENTS CO. (N.Z.), LTD.

In section 7 of this report it is stated that the Sterling Investments Co. (N.Z.), Ltd., provided funds wherewith the Pacific Exploration Co., Ltd., conducted its operations. The amount of £18,821 2s. 8d. shown by the books as advanced by the Sterling Investments Co. (N.Z.), Ltd., is disposed of by debits passed to that company's account as follows:—

(a) Transfer of debit balance in the Pacific Exploration Co., Ltd., books for	£	s.	d.
Ship Account (Launch "Morewa")	8,931	9	0
Transfer of debit balance in the Pacific Exploration Co., Ltd., books			
against J. W. S. McArthur	4,165	10	0
[There is no narration in the books regarding these entries.]			
(b) Transfer to cover calls due on shares in the Pacific Exploration Co., Ltd.,			
held by the Sterling Investments Co. (N.Z.), Ltd.	1,475	17	0
(c) Credit to J. W. S. McArthur described as "amount overpaid on purchase			
of assets from Sterling Investments Co."	3,248	6	8
	17,821	2	8
Balance carried down and appearing as a liability in the balance			
sheet as at 31st July, 1934	1,000	0	0
	£18,821	2	8

So far as we have been able to ascertain no security was given by the Pacific Exploration Co., Ltd., to cover the above advances.

Some of the entries relating to transactions with the Sterling Investments Co. (N.Z.), Ltd., are by no means clear, and as that company's books recording transactions prior to 28th February, 1934, have been lost, it is not possible to obtain any amplifying information from that source.

(14) NATIONAL BANK OF NEW ZEALAND, LTD., LONDON ACCOUNT.

On 4th July, 1932, the directors, by resolution, authorized the opening of a banking account in the company's name in London, to be operated on by J. W. S. McArthur as attorney.

A copy of the London bank statement has been supplied to us by the National Bank of New Zealand, Ltd. This shows that deposits were made by remittances from Auckland. From this statement and from information received from the Auckland branch of the bank we have ascertained that deposits of £2,000, £800, and £230 have been received from Investment Executive Trust of New Zealand, Ltd., while a deposit of £250 came from the Sterling Investments Co. (N.Z.), Ltd. The only other deposit, £5 7s. 1d., appears to be a refund by a British company of an overpayment in connection with the "Yacht Morewa" Account.

The payments made from the account may be summarized as follows:—

	£	s.	d.
Amounts paid on account of yacht "Morewa"	1,417	6	4
Investment Executive Trust of New Zealand, Ltd.	800	0	0
Telegraphic transfer to Auckland bank account Pacific Exploration			
Co., Ltd.	883	9	9
Expenses	6	2	11
	£3,106	19	0

According to the balance-sheet of the company as at 31st July, 1934, there was at that date a balance of £178 8s. 1d. still in the account. This balance corresponds with the amount shown in London bank statement previously mentioned.

(15) BALANCE-SHEET AND AUDIT.

A copy of the company's balance-sheet as at 31st July, 1934, is attached to this report as Exhibit "A." This balance-sheet was prepared for and presented to the Royal Commission in Sydney. It has not been audited, nor is it certified by any official of the company. It is in agreement with the company's books of account with which we compared it while in Sydney, except that in the statement which is appended to it giving details of the shareholding J. W. S. McArthur is shown as the holder of ten shares in the company, whereas the books show that these are held by his son, T. R. McArthur. Any items calling for explanation have been discussed in this report in the light of the information available to us. We believe this to be the only balance-sheet that has been prepared for this company.

There is no record of an auditor having been appointed.

A note appended to the balance-sheet states that there have been no transactions on Revenue Account.

(16) SUMMARY.

(a) Throughout its existence the company has been under the sole control of J. W. S. McArthur, who, as attorney, exercised all the powers of the directors. The directors, C. G. Alcorn and T. R. McArthur, were directors in name only.

(b) J. W. S. McArthur used the company for his personal convenience and benefit, and as a medium for obtaining cash advances without payment of interest, and (apparently) without the giving of security.

(c) The moneys so advanced were obtained by the Pacific Exploration Co., Ltd., apparently without security, principally from the Sterling Investments Co. (N.Z.), Ltd., which company obtained its funds principally from the Investment Executive Trust of New Zealand, Ltd. That company raised money from the public by the issue of debentures, and by the utilization of "subsidiary" companies J. W. S. McArthur was thus enabled to use these moneys in a manner and for purposes which could hardly have been contemplated by investors in an "Investment Trust Co."

(d) There were irregularities of administration, as, for example, in the failure to keep proper books of account, or to have the books audited, and in the neglect to record by minute the approval by the directors or by the attorney of many important transactions entered into by the company.

(17) RECOMMENDATIONS.

The only assets of any consequence now owned by the Pacific Exploration Co., Ltd., are the property at Parengarenga and the advances made to Liberty Motors Corporation, Ltd. The latter represent the only possible present source of revenue; the former is a source of expense.

If the company is wound up, the assets will be applied firstly in repayment of the advances made by the Sterling Investments Co. (N.Z.), Ltd., and of any other liabilities, and thereafter by way of return of capital to shareholders—the principal shareholder being the Sterling Investments Co. (N.Z.), Ltd. Any amounts received by that company will assist towards payment of the large debt owing by it to the British National Trust, Ltd., and so will indirectly assist the Investment Executive Trust of New Zealand, Ltd., which holds a large number of debentures issued by the British National Trust, Ltd.

We recommend that the Pacific Exploration Co., Ltd., be wound up.

J. M. ELLIFFE, }
J. L. GRIFFIN, } Inspectors.

Auckland, N.Z., 8th February, 1935.

EXHIBIT "A."

THE PACIFIC EXPLORATION CO., LTD.
BALANCE-SHEET AS AT 31ST JULY, 1934.

Liabilities.				Assets.			
	£	s.	d.		£	s.	d.
Authorized capital	10,000	0	0	Preliminary expenses, &c.	225	9	10
Less uncalled	3,513	13	0	Land, North Auckland, N.Z. (approximately 27,000 acres)	4,793	4	0
Paid-up capital				Sundry debtors—			
Sterling Investments Co., Ltd.—				Liberty Motors, Ltd., se- cured by three debentures of £1,000 each	2,070	0	0
On open Account			1,000	J. W. S. McArthur	179	5	10
							2,249 5 10
				National Bank of N.Z., Ltd.—			
				Auckland	39	19	3
				London (in sterling)	178	8	1
							218 7 4
			</				

N.B.—NO TRANSACTIONS ON REVENUE ACCOUNT.

LIST OF SHAREHOLDERS.

Number of Shares.					Subscribed.		Paid-up.	
					£	s. d.	£	s. d.
9,937	Sterling Investments Co., Ltd., paid to 13s.	..		..	9,937	0 0	6,459	1 0
42	Sterling Investments Co., Ltd., paid to 3s.	..		..	42	0 0	6	6 0
1	M. Gregory ..	..	..	..	1	0 0	1	0 0
10	C. G. Alcorn ..	..	..	..	10	0 0	10	0 0
10	J. W. S. McArthur ..	..	..	..	10	0 0	10	0 0
					£10,000	0 0	£6,486	7 0

NOTE BY INSPECTORS.—The ten shares shown above as held by J. W. S. McArthur appear in the books of the company in the name of his son, T. R. McArthur.

EXHIBIT "B."

COPY OF AFFIDAVIT BY GORDON HERBERT DONALDSON GRANT *re* PARENGARENGA PROPERTY.

IN THE MATTER of "The Royal Commissions Act 1923" and "The Royal Commissions Amendment Act 1934" and

IN THE MATTER of a certain Company duly incorporated under "The Companies Act 1908" New Zealand called THE PACIFIC EXPLORATION COMPANY LIMITED.

ON this twenty-fourth day of August One Thousand nine hundred and thirty-four GORDON HERBERT DONALDSON GRANT of Auckland in the Provincial District of Auckland and Dominion of New Zealand, Solicitor being duly sworn makes oath and says as follows:—

1. I am a Solicitor practicing at Auckland in the Dominion of New Zealand.
2. I have searched the relevant records at the Land Registry Office at Auckland and have perused and examined the relevant documents of transfer of title of certain lands hereinafter described situated in the Provincial District of Auckland.
3. The lands so referred to comprise FIRSTLY 10823 acres situated in the Parengarenga and North Cape Survey Districts called Mokaikai Number 3250, being all the land in Certificate of Title Volume 9 Folio 170 of the Land Registry Office at Auckland SECONDLY 16,101 acres being portion of the block in the Muriwhenua Survey District called Muriwhenua Block and being all the land in Certificate of Title Volume 325 Folio 118 of the Land Registry Office at Auckland THIRDLY 20 acres and 13·4 perches being portion of the blocks situated in the Muriwhenua Survey District called Paua and Paua No. 2 and being all the land in Certificate of Title Volume 325 Folio 119 of the Land Registry Office at Auckland.
4. All the said three parcels of land referred to in the last preceding paragraph are at present registered in the name of The Pacific Exploration Company Limited a Company duly incorporated and registered at Auckland.
5. I have perused the Memorandum of Transfer lodged in the Land Registry Office at Auckland from a Company named The Parenga Kauri Oils Limited to Pacific Exploration Company Limited. The said Memorandum of Transfer 260371 bears date the 11th October 1933 and was lodged for registration on the 30th October 1933.
6. The Transfer vests the fee simple unencumbered in Pacific Exploration Company Limited and shows a purchase price of £3,600.
7. The said Memorandum of Transfer is stamped at £39 12s. 0d. which represents the correct assessment of stamp duty for a consideration of £3,600.
8. On the same day at approximately the same time a Release of Mortgage from Parenga Kauri Oils Limited to the National Bank of New Zealand Limited of inter alia the above three parcels of land was registered against the said three titles.
9. The amount of the said Bank Mortgage so released does not appear from the document, as it is drawn in the usual form required to secure current account advances.
10. I searched the records of certain prior transactions in connection with the said three parcels of land and the said records show that Parenga Kauri Oils Limited purchased the said lands from a Company named Parenga Gumfields Limited (in liquidation) who held under Memorandum of Agreement from one Richard Keene. This appears from Memorandum of Transfer No. 135578 dated the 9th August 1920 and lodged for registration on the 8th November 1920 which is from one Richard Keene as transferor to Parenga Kauri Oils Limited at the direction of Parenga Gumfields Limited. The purchase price as set forth in the said Memorandum of Transfer paid by the Parenga Gumfields Limited to Richard Keene is £46,923 and paid by Parenga Kauri Oils Limited to Parenga Gumfields Limited £41,923.

(Signed) G. H. D. GRANT

SWORN by the abovenamed Deponent on the day and year first above mentioned at Auckland in the Dominion of New Zealand before me:

(Signed) H. L. REES

A Commissioner of the Supreme Court of New South Wales
for taking affidavits in New Zealand.

FARMS AND FARMLETS, LTD.

REPORT OF INSPECTORS.

IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of Farms and Farmlets, Ltd.

REPORT OF INSPECTORS.

INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule to the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and John Macfarlane Elliffe, two of the Inspectors so appointed, respectfully submit a report of their investigations into the affairs of Farms and Farmlets, Limited, one of the companies named in the Schedule to the said Warrants of Appointment.

1. This company was incorporated in New Zealand as a private company in August, 1928. Its present authorized capital is £25,000 in 25,000 shares of £1 each, of which 24,000 are unallotted. Its shareholders are W. C. Hewitt and Flo. Hewitt, holding 500 shares each.

2. The balance-sheet of Farms and Farmlets, Ltd., as at 30th June, 1934, and its revenue account for the year ended 30th June, 1934, are appended to this report as Exhibit "A." These accounts are as submitted by the company to the Royal Commission in Sydney investigating the affairs of this and other companies.

3. The principal asset of the company is 65,000 fully-paid shares of £1 each in the British National Trust, Ltd. These shares were acquired by transfer from J. W. S. McArthur and C. G. Alcorn.

4. The company has issued debentures to the extent of £65,000, charging the whole of its assets. These debentures are held as to £52,000 by J. W. S. McArthur and as to £13,000 by C. G. Alcorn.

5. The Sterling Investments Co. (New Zealand), Ltd., claims to hold an option from W. C. Hewitt and Flo. Hewitt over their shares in Farms and Farmlets, Ltd.

6. For the option referred to in the previous paragraph the Sterling Investments Co. (New Zealand), Ltd., paid to W. C. Hewitt and/or Flo. Hewitt the sum of £500.

7. The assets of Farms and Farmlets, Ltd., other than the shares in the British National Trust, Ltd., consist of certain freehold lands, book value £1,400, and of a mortgage of £1,250. These assets are subject to mortgages by the company amounting in all to £2,040 and accrued interest.

8. W. C. Hewitt was closely associated with J. W. S. McArthur in certain of the companies controlled by J. W. S. McArthur, but we have no reason whatever to consider that Farms and Farmlets, Ltd., was in any way at its inception connected with J. W. S. McArthur. We believe that J. W. S. McArthur and C. G. Alcorn wished their 65,000 shares in the British National Trust, Ltd., to remain under their control, but to be held in some name other than their own, and that J. W. S. McArthur accordingly arranged with W. C. Hewitt for this to be done through Farms and Farmlets, Ltd.

9. Farms and Farmlets, Ltd., was in July, 1933, indebted to the National Bank of New Zealand, Ltd., in the sum of approximately £500, and the sum of £500 paid by the Sterling Investments Co. (New Zealand), Ltd., to W. C. Hewitt and/or Flo. Hewitt for an option over their shares appears to have been utilized in paying off the indebtedness of Farms and Farmlets, Ltd., to the National Bank of New Zealand, Ltd.

10. If Farms and Farmlets, Ltd., is wound up it appears that the surplus of realizable assets over secured liabilities (other than debenture-creditors) will be small, if any. Any such surplus would be payable to the debenture-holders—viz., J. W. S. McArthur and C. G. Alcorn.

11. The surplus payable to J. W. S. McArthur and C. G. Alcorn cannot be large unless the shares in the British National Trust, Ltd., have some value. If the shares in the British National Trust, Ltd., have any value, then it must be assumed that the debentures issued by the British National Trust, Ltd., are worth face value.

12. We see no good purpose which is likely to be served by the continued existence of Farms and Farmlets, Ltd.; on the other hand, we see no benefit that would accrue to the debenture-holders of the British National Trust, Ltd., the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd., by its liquidation. We have, therefore, no recommendation to make in connection with this company.

J. L. GRIFFIN }
J. M. ELLIFFE } Inspectors.

Wellington, N.Z., January, 1935.

EXHIBIT "A."

FARMS AND FARMLETS, LTD.

BALANCE-SHEET AS AT 30TH JUNE, 1934.

Liabilities.				Assets.			
	£	s.	d.		£	s.	d.
Authorized capital	25,000	0	0	Freehold property—			
Less unallotted	24,000	0	0	(a) Part Clendon's Grant, Papa-			
Paid-up capital				kura (91 acres 0 roods			
Deduct balance on Revenue Account ..				12 perches, Lots 1 and 2,			
				D.P. 24279)	1,000	0	0
Shareholders' funds				(b) Patatere North Survey Dis-			
Debentures to bearer—				trict, Lot 7, D.P. 18021,			
Issued to J. W. S. McArthur				Section 97, Block VI ..	400	0	0
(£52,000) and C. G. Alcorn							1,400 0 0
(£13,000) in payment for B.N.T.				Shares in British National Trust,			
Ltd., shares, as per contra			65,000 0 0	Ltd.: 65,000 shares of £1 each,			
Secured creditors—				fully paid			65,000 0 0
E. F. Lingard—first mortgage				Mortgage due 9th May, 1937—			
over securities marked (a) and (c)				(c) W. I. and N. E. Thomas, Lot 3,			
as per contra	1,000	0	0	D.P. 24279—Part Clendon's			
Interest to 9th May, 1934	41	5	0	Grant (60 acres 0 roods			
			1,041 5 0	13 perches)	1,250	0	0
J. M. Bullock—second mortgage				Interest to 9th May, 1934 ..	46	17	6
over securities marked (a) and							1,296 17 6
(c), as per contra (guaranteed by			650 0 0				
W. C. and F. Hewitt)							
Freehold Securities Co., Ltd.—							
first mortgage over security							
marked (b), as per contra	390	0	0				
Interest to 30th June, 1934	34	15	0				
			424 15 0				
Sundry creditors: W. C. Hewitt ..			34 15 0				
			£67,696 17 6				£67,696 17 6

LIST OF SHAREHOLDERS.

Number of Shares.				Subscribed.		Paid up.	
				£	s. d.	£	s. d.
500	W. C. Hewitt	..	..	500	0 0	500	0 0
500	Mrs. F. Hewitt	..	..	500	0 0	500	0 0
				1,000	0 0	1,000	0 0

REVENUE ACCOUNT FOR THE YEAR ENDED 30TH JUNE, 1934.

1934.				1934.			
June 30	To Interest on mortgages	..	..	June 30	By Interest on mortgage, Thomas	..	..
			142 0 0		Balance carried down	..	..
			£142 0 0				63 17 6
							£142 0 0
1933.			£	s. d.			
June 30	To Balance at date	..	..	390	0 0		
1934.							
June 30	Balance brought down	..	..	63	17 6		
			£453 17 6				

THE BRITISH NATIONAL INVESTMENT TRUST, LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, the Companies Act, 1933,

and

IN THE MATTER of the British National Investment Trust, Ltd.

REPORT OF INSPECTORS.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General, dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed Inspectors to investigate the affairs of the companies specified in the schedules of the said Warrants of Appointment. Copies of the Warrants of Appointment have been filed in the Supreme Court at Wellington.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and Archibald Morris Seaman, two of the Inspectors so appointed, herewith respectfully submit the report of their investigation of the affairs of the British National Investment Trust, Ltd.

2. BOOKS AND RECORDS AND SOURCES OF INFORMATION.

When we commenced our investigation we were told that the books of this company had been lost in June, 1934, and that advertisements had been published in local newspapers in an endeavour to find them. On the following day the books were produced to us, having been found in a parcel in a cupboard behind other packages of papers.

These books were written up to January, 1934, though certain transactions affecting related companies had not been entered. Copies of the books were taken by J. L. Griffin (one of the Inspectors) to Australia, and whilst there a complete copy was made by the company's officers in Sydney, and additional entries passed completing the records to 30th June, 1934. The original books, which are still in New Zealand, and in the custody of the Public Trustee as Receiver, have not, so far as we are aware, been similarly adjusted.

We have also had reference to the printed transcript of the evidence given before Mr. Justice Halse Rogers, sitting as a Royal Commission in Sydney for the purpose of inquiring into the affairs of, *inter alia*, the company in respect of which we are now reporting.

3. CONSTITUTION.

This company was registered on the 2nd November, 1931, under the name of the Stock Exchange Corporation of New Zealand, Ltd.

The memorandum of association is dated 29th October, 1931.

The primary objects as set out in the memorandum of association are to engage in the purchase and sale of shares and debentures, to promote an association of shareholders for such purpose, and to carry on the business of a stock exchange. Additional powers are taken to engage in financial transactions over a wide range; the company has power to issue debentures and to hold real property.

The company was registered with a capital of £10,000, divided into 15,000 preference shares of 10s. each, and 25,000 ordinary shares of 2s. each.

On 20th October, 1932, the capital was increased to £100,000 by creating an additional 135,000 preference shares of 10s. each, and an additional 225,000 ordinary shares of 2s. each.

Articles of association were registered on 2nd November, 1931, and were amended by resolutions passed on 24th November, 1932, and 9th January, 1934.

By a resolution of shareholders passed on 14th November, 1932, and confirmed on 30th November, 1932, the name of the company was altered to "The British National Investment Trust, Ltd."

The intention on the formation of the company was that it should operate as an association of licensed sharebrokers, who were not members of an existing Stock Exchange; but owing to an official objection to an exchange operating in that form that function was abandoned. It was shortly after this that the Daily Telegraph Building in Sydney was purchased, and the name of the company changed as mentioned above.

4. DIRECTORS.

The first directors, appointed on 2nd November, 1931, were—

C. G. Alcorn (appointed Chairman, 7th November, 1931).
V. B. McInnes (appointed Chairman, 22nd February, 1932).
T. R. McArthur.
W. C. Hewitt.

Subsequent changes in the directorate were—

20th Feb., 1932, S. Grange appointed.
22nd Feb., 1932, C. G. Alcorn and W. C. Hewitt resigned.
4th Oct., 1932, O. A. Bridgewater, S. O. Clarke, and W. D. G. Hartley appointed.
15th Dec., 1932, C. G. Alcorn appointed.
9th June, 1933, Stanley Grange appointed managing director of the company with all the powers of the directors, including the power to approve of transfers of shares in the capital of the company.
16th June, 1933, V. B. McInnes, C. G. Alcorn, and T. R. McArthur resigned, as they ceased to hold any shares in the company.

Although C. G. Alcorn resigned as a director on 22nd February, 1932, and was not reappointed until 15th December, 1932, he is recorded in the minutes as having attended a meeting of directors held on 20th October, 1932, and as having moved a resolution at such meeting.

As the articles of association provide (Article 80) that the directors' qualification shall be the holding of 250 ordinary shares, and as Messrs. Bridgewater, Clarke, and Hartley at no time held this qualification, their appointment was irregular.

The articles as originally drawn required a minimum of three directors (Article 76). By resolution passed on 20th December, 1933, and confirmed on 9th January, 1934, this article was amended to provide that there need not be more than one director who shall be called the "managing director," and in whom should be vested all the powers of the directors under the articles. It will be noted that for seven months before the articles were amended Stanley Grange was acting as sole director, though the articles prescribed a minimum of three directors.

It is also to be noted that Stanley Grange had in fact parted with his qualification shares on the 15th June, 1933, as by transfer bearing that date he acknowledged the receipt from the British National Trust, Ltd., of £1,000 for 250 ordinary shares and five preference shares, and transferred his rights to that company. Approval of this transfer has not been minuted, nor was it recorded in the Share Register, it having apparently been held in abeyance so that he might still be recorded as the holder of the shares.

5. SHAREHOLDERS.

The signatories to the memorandum of association were—

Milford Larritt, clerk	..	..	..	..	..	1 share.
Cedric Rossall Hesketh, law clerk	..	..	..	..	..	1 share.
Joan Compton, clerk	..	..	..	..	..	1 share.
Robert Rex Fielder, clerk	..	..	..	..	..	1 share.
Stanley Grange, sharebroker	..	..	..	..	..	1 share.
James Thomas Mills, sharebroker	..	..	..	..	..	1 share.
Phyllis MacLoughlin, clerk	..	..	..	..	..	1 share.

At different dates lots of five preference shares were allotted to various sharebrokers, but most of these have since been the subject of transfer.

Lots of 250 ordinary shares were allotted to each of V. B. McInnes, C. G. Alcorn, T. R. McArthur, and W. C. Hewitt. W. C. Hewitt later transferred his shares to Stanley Grange. All four lots of 250 shares have since been transferred to the British National Trust, Ltd., though, as mentioned above, Stanley Grange's transfer has not been approved or recorded.

The Investment Securities Association, Ltd., was allotted 9,000 ordinary shares, which at a later date were transferred to J. W. S. McArthur, and by him to the British National Trust, Ltd.

On 3rd February, 1933, allotment was made of 49,598 ordinary shares to C. G. Alcorn and of 190,395 ordinary shares to J. W. S. McArthur; these shares, with the 9,000 acquired by J. W. S. McArthur from the Investment Securities Association, Ltd., were sold to the British National Trust, Ltd. This transaction is examined in detail in section 7 of this report,

On 15th January, 1934, an allotment was made of 110,000 preference shares of 10s. each to the Southern British National Trust, Ltd., the full amount of £55,000 being recorded as received by the British National Investment Trust, Ltd., on the same date. Actually, this amount did not pass in real cash, the transaction being one of a series of adjustments as between the British National Investment Trust, Ltd., the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd., explained in more detail in the report of the Inspectors relative to the affairs of the Investment Executive Trust of New Zealand, Ltd.

6. PURCHASE OF DAILY TELEGRAPH BUILDING, SYDNEY.

On the 26th October, 1932, the directors resolved to recommend to shareholders that the articles be amended to permit of the appointment of an attorney in any country abroad, to whom the directors could delegate all powers given by the articles of association to the directors. This amendment was sanctioned at extraordinary general meetings held on the 8th and 24th November, 1932.

On the 1st November, 1932, the directors resolved that—

“The agreement for the acquisition of the Daily Telegraph Building in Sydney for the price of £100,000, Australian currency, in terms of the agreement for sale and purchase as tabled be confirmed, and the company carry out the terms thereof to completion.”

It is apparent from these minutes that the agreement was entered into by J. W. S. McArthur on behalf of the company before power was conferred upon him to act in the matter, and on 22nd March, 1933, the following resolution was passed by the directors:—

“That the company hereby confirms the actions of its attorney for Australia, Mr. J. W. S. McArthur, in purchasing the property known as the Daily Telegraph Building at the corner of King and Castlereagh Streets, Sydney, for the sum of £100,000 and the raising of the sum of £50,000 by the giving of a first mortgage for that amount to the Australian Glass Manufacturing Company for one year from the 15th day of December, 1932, at 6 per cent., and also of his action in arranging with Stuart Bros., Ltd., for the carrying-out of improvements to the building on the said property in terms of the agreement dated the day of , 1933, and in paying commission costs and other charges in connection with the foregoing.”

The irregularity of the transaction is summed up in the following extract from the transcript of evidence, &c., given on 19th September, 1934, before the Royal Commission in Sydney:—

Commissioner : “I do not know why you bother to cross-examine about these details, because the position here is the same as in regard to some of the other companies—everything is out of order. Mr. Maloney signed the contract on behalf of the Stock Exchange Corporation, as it then was, without any authority from anybody at all to do it, and without any resolution of the company. Mr. McArthur, apparently, instructed him to do it, and Mr. McArthur was not appointed an attorney until after the contract had been entered into. The Investment Executive Trust issued debentures for the payment of the deposit before the necessary resolutions to issue debentures had been passed by British National Investment Trust, and when the transaction had gone through British National Investment Trust increased their capital and issued about a quarter-million shares to Mr. McArthur and Mr. Alcorn in order that they might be able to sell their 2½d. shares for about 23s. Is not that the transaction?”

The money required to pay the deposit was raised on debentures from the Investment Executive Trust of New Zealand, Ltd., and the purchase was made in the name of the British National Investment Trust, Ltd., but it is claimed by J. W. S. McArthur and C. G. Alcorn that it was a private transaction and that they were entitled to take the profit arising from it.

The purchase-price of the building was £100,000, of which £50,000 was paid off from moneys raised on debenture from the Investment Executive Trust of New Zealand, Ltd., the balance of £50,000 being arranged on mortgage to the Australian Glass Manufacturers Co., Ltd. Authority was taken on 21st October, 1932, for a total issue of £100,000 in debentures of £1,000 each, but only £53,000 was issued. This amount is recorded as repaid, with interest, on 10th January, 1934—a total payment of £54,956 12s. 7d., the transaction being one item in the series of cross-transactions between the British National Investment Trust, Ltd., the Investment Executive Trust of New Zealand, Ltd., and the Southern British National Trust, Ltd., already referred to.

It was resolved on 1st March, 1933, to lease the building to the British National Trust, Ltd., for £7,500 a year, the resolution of directors being—

“That the company lease the whole of the company's property at the corner of King and Castlereagh Streets in Sydney (formerly the Daily Telegraph property) to the British National Trust, Ltd., of Canberra, Australia, for a term of ninety-nine years from the date hereof, at an annual rental of £7,500, the lease to contain such covenants, conditions, and provisions as may be agreed upon between such company and this company's attorney, Mr. J. W. S. McArthur, including covenants by the lessee to carry out all this company's obligations under the contract arranged, and about to be entered into between this company and Stuart Brothers, Ltd., relative to the Building on the said property and to pay all moneys payable under such contract, and also to pay all rates and taxes (including lessor's land-tax) payable in respect of such property and the improvements thereon.”

At a later stage an additional £50,000 was raised on mortgage from the Australian Glass Manufacturers Co., Ltd., making the total charge £100,000.

The terms of the lease were varied to some extent from those set out in the resolution quoted above, the rental being increased to cover the British National Investment Trust, Ltd., for additional interest and for charges which it was found could not legally be passed on to the lessee.

This is illustrated by the following extract from evidence given before the Royal Commission in Sydney on 20th August, 1934, by W. C. Hewitt :—

1751. *Commissioner*.—" You stated that £7,500 was regarded as a totally inadequate rent ?"—" It was arranged in the first place as £7,500 but since the British National Investment Trust increased this mortgage, and also owing to the fact that under the arrangement the lessee was to pay the land-tax, and I found that was not allowed in New South Wales, the rent was increased to £11,000, and against that all the improvements had to be carried out at the expense of the lessees."

*1752. *Mr. Monahan* : " What I am trying to get at is : What assets has this National Investment Trust got ; it has given a lease of ninety-nine years of the property ; has a lease been executed yet ?"—" A lease has been executed."

1753. " And that produced a rent of £7,000 ?"—" £11,000."

1754. " Is that in the executed lease ?"—" Yes."

1755. " Who is going to pay any outgoing, rates, and taxes ?"—" The tenant ; the lessor pays the land-tax."

1756. " Who is to pay municipal rates and water and sewerage rates ?"—" The tenant."

1757. " What is the estimated net rent that will be available to the owner company ?"—" The estimated net rental to the company will be sufficient to meet its liabilities."

1758. " What are its liabilities ?"—" It has liabilities of £6,000 a year interest on the mortgage."

1759. " Did it pay that interest ; who paid the interest for the first year ?"—" That has been paid by the British National Trust and debited to them. £6,000 interest, £3,850 dividends on preference shares, £500 a year land-tax, that is £10,350."

In an entry passed in the books of the British National Investment Trust, Ltd., as at 30th June, 1934, the British National Trust, Ltd., is debited with rent as follows :—

	£	s.	d.
Period from 1/3/33 to 30/6/34—Sixteen months at £7,500 per annum	10,000	0	0
Extra rental to 30/6/34 to cover extra interest paid to Australian Glass Manufacturers' Co., Ltd., on £50,000 further advanced	1,109	4	10
	<u>£11,109</u>	<u>4</u>	<u>10</u>

* Mr. Monahan, K.C., was the senior counsel appearing on behalf of the Attorney-General of New South Wales to assist the Royal Commission sitting in Sydney.

The whole cost of the alterations was borne by the lessees, the British National Trust, Ltd., in which company the greater part of the value of the equity is vested by reason of the granting to it of a lease for a period of ninety-nine years at a rental that could do little more than cover interest and other unavoidable outgoing and the dividend on preference shares.

7. SHARE TRANSACTIONS.

It has already been stated in section 5 of this report that on 3rd February, 1933, allotments were made to C. G. Alcorn of 49,598 and to J. W. S. McArthur of 190,395 ordinary shares of 2s. each. They were required to pay to the company within one month one-tenth of the face value of the shares—i.e., two and two-fifths pence per share. Within the period of one month, the company resolved to acquire three debentures of £1,000 each in British National Trust, Ltd., paying for two in full and £400 on account of the third—i.e., £2,400 in all. An amount of £2,400 at once came back to the company in payment of the application money on J. W. S. McArthur's and C. G. Alcorn's shares.

By instruments of transfer dated 1st March, 1933, J. W. S. McArthur disposed of his holding of 199,395 shares to British National Trust, Ltd., for £229,600, C. G. Alcorn similarly disposing of his 49,598 shares for £57,400.

The following is extracted from evidence given by J. W. S. McArthur on 17th September, 1934, before the Royal Commission in Sydney :—

12491. *Mr. Monahan* : " I suggest to you that you paid nothing—that you bought shares from the British National Investment Trust on a month's terms ?"—" Yes."

12492. " You sold them and paid the price after by giving them back three of the debentures and taking credit to yourself for £600 at the same time ?"—" That is correct."

At the time the transfers were signed the British National Investment Trust, Ltd., had entered into an agreement to lease the building to the British National Trust, Ltd., on terms that conveyed virtually the whole of the alleged profit or equity in the building to the latter company, and which thereby limited the value of the British National Investment Trust shares to little, if anything, above par.

The holders (V. B. McInnes, C. G. Alcorn, T. R. McArthur, and S. Grange) of the earlier issue of shares held in lots of 250 each were compensated by a sale to British National Trust, Ltd., for £1,000 each. We quote the following from evidence given by Stanley Grange, managing director of the company, before the Royal Commission in Sydney on 6th September, 1934, as bearing on the building purchase and the share transactions :—

9559. *Mr. Monahan* : “What was the £10,000 for ?”—“It was the deposit on the building.”

9560. “Was the contract in the name of the British National Investment Trust ?”—“It was in the name of the Stock Exchange Corporation.”

9561. “Who gave you instructions to raise £10,000 on debentures and forward them to McElhone ?”—“The directors.” ..

9562. “Do you seriously say that the directors decided that, and that no one else gave instructions ?”—“Certainly not.”

9563. “Who told you to do it ?”—“Mr. McArthur.”

9564. “So I may take it that the act of the directors was simply to give effect to the directions of Mr. McArthur ?”—“Yes.”

9565. “But Mr. McArthur had nothing to do with your company at that time ?”—“No.”

9566. “He was neither a shareholder nor a director ?”—“No.”

9567. *Commissioner* : “Did you authorize him to buy the building in the name of the company ?”—“Verbally, we confirmed his action.”

9568. *Mr. Monahan* : “Before taking this step had he any authority from your company to pledge it to this enormous purchase ?”—“Nothing in writing.”

9569. “Did you give him any authority ?”—“I had agreed to it.”

9570. “Who put it up to you ?”—“McArthur.”

9571. “Did McArthur approach your company ?”—“The company was practically moribund, and he asked for our assistance in contracting for the purchase of the building.”

9572. “He made a tool of your company for his own ends ?”—“Yes.”

9573. “And you, as a director, were willing that he should do it ?”—“Yes.”

9574. “Did you get anything for accommodating him in that way ?”—“Not then.”

9575. “What have you had out of it ?”—“The sale of my shares in the company and director’s fees.”

9576. “Is that all ?”—“That is all.”

9577. “You got £1,000 for what cost you £27 ?”—“In fact, for what cost me nothing.”

9578. “In other words, that was a bonus paid to you for accommodating Mr. McArthur ?”—“That is the position.”

9579. “Have you still got the debenture ?”—“I have.”

9580. “Your co-directors were similarly treated in the same liberal way, and each of them got a bonus of £1,000 for accommodating Mr. McArthur ?”—“They got a debenture for £1,000.”

9581. “Is the debenture worth £1,000 ?”—“I hope so.”

9582. “Do you think it is worth £1,000 ?”—“I think so.”

9583. “Do you think it is a legitimate perquisite for the director of a company to allow his company to be used in this way in order to put £1,000 into his own pocket ?”—“No one was losing anything by it.”

Both J. W. S. McArthur and C. G. Alcorn claimed that they were entitled to the profits which this share transaction revealed, but that they have transferred for the benefit of related companies a substantial portion of the consideration they received, their stated intention being to retain an amount of a book value of some £105,000. In this connection we refer to the interim report dated 1st November, 1934, of Mr. Justice Halse Rogers wherein at page 7 he says : “I am entirely unable to accept the statement made by Mr. McArthur that it was the intention of Mr. Alcorn and himself that the greater proportion of the sum mentioned should ultimately go to the benefit of the companies.”

8. POSITION RELATIVE TO ASSOCIATED COMPANIES.

The position of the company in relation to associated companies is briefly :—

- (1) It is the owner of the “Trust Building.”
- (2) The building is under 99-year lease to the British National Trust, Ltd.
- (3) The British National Trust, Ltd., is registered as the owner of 249,743 out of 250,000 (2s.) ordinary shares, and is entitled to be registered as the holder of a further 250 shares—*i.e.*, it owns all save seven of the ordinary shares.
- (4) The Southern British National Trust, Ltd., is the holder of 110,000 preference shares out of an issued total of 110,080 10s. shares.

9. BALANCE-SHEET AS AT 30TH JUNE, 1934.

The balance-sheet of the company as at 30th June, 1934, together with revenue account as at 30th June, 1934, both as submitted to the Royal Commission in Sydney, are appended to this report as Exhibit No. 1.

10. RIGHTS OF PREFERENCE SHAREHOLDERS ON WINDING-UP.

Article 148 of the articles of association of the company reads as follows :—

“ If the company shall be wound up and the assets available for distribution among the members shall be insufficient to pay the whole of the paid-up capital such assets shall be distributed—firstly, among the preference shareholders in proportion to the capital paid up or which ought to have been paid up at the commencement of the winding-up on the preference shares held by them respectively, but no dividend shall be payable thereon ; and, secondly, the balance (if any) shall be distributed amongst the ordinary shareholders in like proportion so that as nearly as may be the losses shall be borne by the members in proportion to the capital paid up by them respectively. And if in a winding-up the assets available for distribution among the members shall be more than sufficient to repay the whole of the capital paid up at the commencement of the winding-up, after repayment of capital, the balance shall be paid cent. per cent. amongst the preferential and ordinary shareholders until they have received a payment equal to 10 per cent. on the amount paid by them respectively on their shares at the commencement of the winding-up, and the balance (if any) shall be distributed amongst the ordinary shareholders in like proportion.”

11. RECOMMENDATION.

The following companies have a very definite interest in the fate of the British National Investment Trust, Ltd. :—

The British National Trust, Ltd., as lessee of the “ Trust Building.”

The Southern British National Trust, Ltd., as preference shareholder and as debenture-holder in the British National Trust, Ltd.

The Investment Executive Trust of New Zealand, Ltd., through debenture holdings in the British National Trust, Ltd., and in the Southern British National Trust, Ltd.

The Inspectors reporting on the affairs of the Investment Executive Trust of New Zealand, Ltd., have expressed the opinion that it is desirable that that company should be wound up, although they do not think that pressure should be exerted to enforce a speedy realization of the “ Trust Building ” unless at a satisfactory price.

The Inspectors reporting on the affairs of the British National Trust, Ltd., and of the Southern British National Trust, Ltd., have been unable to make recommendations regarding those companies owing to the fact that they are incorporated and carrying on business beyond New Zealand. They have, however, in both cases expressed the opinion that should the Investment Executive Trust of New Zealand, Ltd., be wound up it would also be desirable in the interests of debenture-holders in the Investment Executive Trust of New Zealand, Ltd., that those companies should also be wound up.

We are of the opinion that the British National Investment Trust, Ltd., should also be wound up. We express the opinion, however, that the liquidator appointed should not endeavour to force an early sale of the property unless at a satisfactory price. In order to effect the best possible sale in the interest of debenture-holders of the three companies mentioned in the preceding paragraph, the liquidator appointed should act in co-operation and conjunction with the liquidators of such of those companies as may also be wound up.

Auckland, 28th January, 1935.

A. M. SEAMAN, }
J. L. GRIFFIN, } Inspectors.

EXHIBIT No. 1.

THE BRITISH NATIONAL INVESTMENT TRUST, LTD.

REVENUE ACCOUNT FOR THE YEAR ENDED 30TH JUNE, 1934.

1934.				1934.			
June 30 To				June 30 By			
Annual license fee ..	£	s. d.	£ s. d.	Interest B.N.T., Ltd., debentures ..	£	s. d.	£ s. d.
Interest on mortgage ..	4,234	4 10		Rents, Sydney Building from 1/3/33	191	5 0	
Federal land-tax ..	601	3 6		30/6/34	11,109	4 10	
General expenses ..	13	9 6					
Legal expenses ..	169	10 6					
Directors' fees ..	100	0 0					
			5,168 8 4				
Interest on repaid debentures ..	1,956	12 7					
Interest on repaid debentures paid by Sterling Investments ..	1,839	4 6					
			3,795 17 1				
Balance carried down ..			2,336 4 5				
			£11,300 9 10				£11,300 9 10
1933.				1934.			
June 30 To				June 30 By			
Balance at 30th June, 1933 ..	£	s. d.	£ s. d.	Balance brought down ..	£	s. d.	£ s. d.
Refund to British National Trust, Ltd.	3,321	17 6		Refund rates, 1/3/33 to 30/6/33 ..	2,336	4 5	
	650	12 9			639	6 9	
				Refund legal expenses ..	£	s. d.	
				Refund rent ..	87	0 6	
					7	16 1	
							94 16 7
				Balance carried down ..			902 2 6
			£3,972 10 3				£3,972 10 3
1934.							
June 30 To							
Balance brought down ..	£	s. d.	£ s. d.				
	902	2 6					

BALANCE-SHEET AS AT 30TH JUNE, 1934.

Liabilities.				Assets.			
£ s. d.				£ s. d.			
Authorized capital—				Preliminary expenses	354	6 3	
150,000 preference shares of 10s. each	75,000	0 0		Freehold property—Trust building at corner King and Castlereagh Streets, Sydney (subject to mortgage as <i>per contra</i>	100,848	14 10	
250,000 ordinary shares of 2s. each	25,000	0 0		Furniture and stationery	46	5 0	
			100,000 0 0	Debentures to bearer of British National Trust, Ltd.	£3,000		
Issued capital—				Interest accrued	75		
110,080 preference shares of 10s. each fully paid up			55,040 0 0			3,075 0 0	
250,000 ordinary shares of 2s. each	25,000	0 0		British National Trust, Ltd.—On open account ..	55,573	1 0	
Less uncalled on 249,743 ordinary shares	21,852	10 3		National Bank of N.Z., Ltd., at Auckland ..	232	17 6	
			3,147 9 9	Southern British National Trust, Ltd.—open account		17 11 2	
				Revenue account	902	2 6	
Shareholders' Funds			58,187 9 9				
Australian Glass Manufacturers Co., Ltd.	100,000	0 0					
Interest accrued thereon (secured by mortgage on freehold property as <i>per contra</i> ..	250	0 0					
			100,250 0 0				
Sundry creditors—							
Investment Executive Trust of N.Z., Ltd.	200	0 0					
Suspense Account	100	0 0					
Sterling Investments Co., N.Z., Ltd.	2,312	8 6					
			2,612 8 6				
			£161,049 18 3				£161,049 18 3

LIST OF SHAREHOLDERS.

Ordinary—				Subscribed.		Paid up.	
Number.				£	s. d.	£	s. d.
250 B.N.T., Ltd., paid to 2s. ..				25	0 0	25	0 0
249,743 B.N.T., Ltd., paid to 3d. ..				24,974	6 0	3,121	15 9
7 Signatory shares paid to 2s. ..				0	14 0	0	14 0
				£25,000	0 0	£3,147	9 9
Preference—							
Number.				£	s. d.	£	s. d.
30 B.N.T., Ltd., paid to 10s. ..				15	0 0	15	0 0
110,000 S.B.N.T., Ltd., paid to 10s. ..				55,000	0 0	55,000	0 0
50 Sundry shareholders				25	0 0	25	0 0
				£55,040	0 0	£55,040	0 0

THE FIRST MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT. }

IN THE MATTER of the Companies (Special Investigations) Act, 1934, the Companies Act, 1933,

and

IN THE MATTER of the First Mortgage Freehold Security Company of New Zealand, Ltd.

REPORT OF INSPECTORS.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedules of the said Warrants of Appointment. Copies of the Warrants of Appointment have been filed in the Supreme Court at Wellington.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and Archibald Morris Seaman, two of the Inspectors so appointed, herewith respectfully submit the report of their investigation of the affairs of the First Mortgage Freehold Security Co. of New Zealand, Ltd.

We commenced our investigation into the affairs of this company by attending at its office on the 9th day of August, 1934.

2. BOOKS AND RECORDS.

The financial books of the company have evidently been regularly written up and balanced yearly since 1927, and have been regularly audited.

The minutes were, for a period, written into the minute-book, but for the greater part of the company's life were typewritten and pasted into the minute-book. The last minutes submitted to us were dated 6th December, 1932.

3. CONSTITUTION OF COMPANY.

The First Mortgage Freehold Security Co. of New Zealand, Ltd., was registered as a private company on 5th November, 1924, the memorandum of association being dated 3rd November, 1924.

The minutes of 26th August, 1925, record the adoption of the articles of association "as registered." There were, in fact, no articles registered at this date. The minutes of a directors' meeting held on 15th December, 1930, also record the adoption of articles of association; these were registered on 16th December, 1930.

The company was registered with a capital of £1,000 in £1 shares. On 30th December, 1930, it was resolved to subdivide these £1 shares into shares of 1s. each, and to increase the capital to £10,000 by creating 5,000 shares of £1 each and 80,000 shares of 1s. each.

4. OBJECTS OF COMPANY.

These include—

- (a) To carry on the business of financiers, financial brokers
- (b) To borrow or raise money and to mortgage and charge the undertaking
of the company, including uncalled capital.
- (c) To create and issue debentures bonds and other securities payable
to bearer or otherwise
- (d) To invest all moneys raised under the borrowing-powers of the company upon the
security of first mortgage of freehold property in New Zealand

The articles of association contain the following special provisions relative to investments :—

“ The Directors shall invest all moneys obtained from the issue of First Mortgage Freehold Security Bonds and Debentures and all other moneys received by the Company for investment upon the security of—

“(a) First mortgages of freehold property in New Zealand, and in making any such investment the directors shall act only upon a report in writing as to the value of the property offered as security made by a competent valuer instructed and employed independently of any owner of the property. No such investment or advance shall exceed in amount two-thirds of the value of the property as expressed in such report, nor shall the directors make such investment or advance except under the advice of such valuer expressed in such report as provided by section 86, subsection (1) of the Trustee Act, 1908, or of—

“(b) Government bonds or debentures or of—

“(c) Local-body bonds or debentures or of—

“(d) First-mortgage company debentures secured by first mortgage of freehold property in New Zealand where the total amount of the debenture issue in respect of which funds are invested does not exceed two-thirds of the value of the freehold property mortgaged, such value to be ascertained in same manner as provided in the foregoing subparagraph (a) or of—

“(e) First-mortgage company debentures secured by first mortgage of freehold property in New Zealand where the total amount of the debenture issue in respect of which funds are invested does not exceed two-thirds of the actual cash price paid for the property of the company issuing such debentures.”

This article appears to authorize investments beyond the limit imposed by the memorandum of association.

A copy of a document which sets out, *inter alia*, the provisions of the memorandum and articles of association, is attached as Exhibit No. 1.

5. DIRECTORS.

Charles Graham Alcorn and Elizabeth Roberta Alcorn, then the only shareholders, acted as directors from the incorporation of the company until shortly after the issue of the additional shares. On 27th April, 1931, there were appointed as additional directors, William Andrew Pilkington (representing the Investment Securities Association, Ltd.), and Robert Samuel Abel.

6. SECRETARY.

Mr. Stanley Grange was appointed secretary on 18th December, 1929, and still occupies that position.

7. SHAREHOLDING.

The original capital of £1,000 in £1 shares was subscribed for by Charles Graham Alcorn as to 990 shares and by Elizabeth Roberta Alcorn as to 10 shares. Nothing was paid up at the time, but on 26th August, 1925, a call (the first and only one) of 6d. per share was made. The Call Account was cleared by transferring the debit (in respect to both C. G. and E. R. Alcorn's shares) to C. G. Alcorn's personal account, which did not at that time show a credit against which the charge could be made. These original £1 shares were subsequently subdivided into 1s. shares.

Other shares were later issued—on 20th January, 1931—to the Investment Securities Association, Ltd., and to Alcorn Trower, and Co., Ltd., 100 £1 shares to each; and on 27th April, 1931, 100 1s. shares to Robert Samuel Abel. Nothing has been paid up on any of these shares.

The present shareholdings are :—

Shareholder.	Number and Denomination of Shares.	Nominal Value.	Paid Up.
		£	£ s. d.
Alcorn, C. G.	19,800 of 1s.	990	24 15 0
Alcorn, E. R.	200 of 1s.	10	0 5 0
Investment Securities Association, Ltd.	100 of £1	100	..
Alcorn Trower, and Co., Ltd. . .	100 of £1	100	..
Abel, R. S.	100 of 1s.	5	..
		£1,205	£25 0 0

8. ISSUE OF DEBENTURES.

The whole of the funds used in the company's lending operations has been supplied by the proceeds of debentures issued to the public, as the paid-up share capital was at no stage more than £25.

On 2nd March, 1925, there was approved the issue of debentures to the value of £100,000 in 4,000 debentures of £25 each, bearing interest at 6½ per centum per annum. This issue was registered on 21st March, 1925.

A copy of the "debenture bond" is attached as Exhibit No. 2.

The greater part of the debentures was issued through the Investment Securities Association, Ltd., a commission or discount of £2 10s. per debenture being allowed to that company. A portion of this discount has been written off, the balance still appearing in the balance-sheet. In all, debentures of a face value of £19,100 have been issued. These debenture bonds are due for payment on 1st December, 1944.

The nature of the propaganda put forward in the disposal of the debenture bonds can be seen from the specimen booklets attached as Exhibits Nos. 3, 4, and 5.

9. SECURITY FOR ADVANCES.

From these booklets it will be seen that great stress is laid upon the security given to bondholders as being over all the assets and securities of the company, and also upon the "most stringent regulations governing the investment of funds" which are contained in the Articles of Association.

In point of fact, the subscribed capital was only £1,205, an amount very small in relation to the amount of £100,000 which the company was endeavouring to raise on debentures, while the paid-up capital was only £25; thus the security was not such as the literature would lead an investor to expect.

The articles of association, while prohibiting an advance of over two-thirds of the value placed on a property by an independent valuer, contained no provision that would ensure a spreading of risks, and it is found that all the securities are centred in or around Putaruru, a small country township, whose whole prospects seem to depend on the somewhat problematical future of the various forestry plantations in its vicinity.

A further provision in the articles authorizes investment in—

"First-mortgage company debentures secured by first mortgage of freehold property in New Zealand where the total amount of the debenture issue in respect of which funds are invested does not exceed two-thirds of the actual cash price paid for the property of the company issuing such debentures."

This provision, while apparently a stringent one, had permitted certain investments, which are far from being well secured, the properties concerned having been acquired by the borrowing companies from vendors who were either shareholders or intimately connected with shareholders of the purchasing companies, the purchases being made at figures which appear to have been far beyond the real values of the properties.

10. PARTICULARS REGARDING BORROWERS.

The borrowers from the company have been Alcorn Trower, and Co., Ltd., Auckland Provincial Town Properties, Ltd., Freeholds Ltd., New Zealand Freeholds and Buildings, Ltd., Farms and Farmlets, Ltd., Lucerne Ltd., Mrs. E. C. Alcorn, and Miss E. R. Alcorn. There are still standing debts for advances to all except the last three of these.

Following are particulars of the shareholdings, and directorates of the first four of the above companies and of the First Mortgage Freehold Security Co. of New Zealand, Ltd. :—

Company.	Shareholders.		Directors.
	Name.	Nominal Value of Shares held.	
		£	
Alcorn Trower, and Co., Ltd. ..	Alcorn, C. G.	1,500	Alcorn, C. G.
	Alcorn, E. R.	1,500	Alcorn, E. R.
Auckland Provincial Town Properties, Ltd.	Alcorn, C. G.	2,404	Alcorn, C. G.
	Alcorn, E. C.	3,400	Pilkington, W. A.
	Pilkington, W. A.	100	Abel, R. S.
	Abel, R. S.	100	
	Nine others	996	
	N.Z. Freeholds and Buildings, Ltd.	990	Alcorn, E. R.
Freeholds Ltd.	Alcorn, E. C.	6,000	Alcorn, C. G.
	Investment Securities Association, Ltd.	3,000	
N.Z. Freeholds and Buildings, Ltd.	Town Cash Stores, Ltd.	10	
	Alcorn, E. R.	2,990	Alcorn, E. R.
	O'Grady, J. L.	10	
First Mortgage Freehold Security Co. of N.Z., Ltd.	Alcorn, C. G.	990	Alcorn, C. G.
	Alcorn, E. R.	10	Alcorn, E. R.
	Investment Securities Association, Ltd.	100	Pilkington, W. A.
	Alcorn Trower, and Co., Ltd. ..	100	Abel, R. S.
	Abel, R. S.	5	

The directors of the Investment Securities Association, Ltd., are C. G. Alcorn, E. R. Alcorn, and W. A. Pilkington.

From the foregoing it is obvious that the four main borrowing companies are largely owned and definitely controlled by those who, as shareholders in the lending company, to which they have contributed only a very small amount as capital, have complete control of the moneys received from debenture-holders.

11. PARTICULARS REGARDING SECURITIES.

Alcorn, Trower, and Co., Ltd.—

In all £1,575 15s. 11d. is owing by this company on five mortgages. The applications for advances have in each case been supported by a valuer's certificate showing the requisite margin of security, but the Government valuation of the securities is only £1,195.

£600 has been advanced on debentures secured over land bought from Lucerne Ltd. (a company which included C. G. Alcorn, E. R. Alcorn, W. C. Hewitt, and Flo Hewitt among its larger shareholders) for £900; the Government valuation of this land is £170.

Auckland Provincial Town Properties, Ltd.—

The property over which the debentures are secured is an area of 50 acres bought from Mrs. E. C. Alcorn (wife of C. G. Alcorn) for £11,500. The Government valuation is £1,860 (unimproved, £710).

The debentures issued total £6,000, of which the First Mortgage Freehold Security Co. of New Zealand, Ltd., holds £5,200.

Freeholds Ltd.

The property over which the debentures are secured is an area of 73 acres 20 perches bought from Mrs. E. C. Alcorn for £12,000. The Government valuation is £700.

The debentures issued total £6,400, all of which are held by the First Mortgage Freehold Security Co. of New Zealand, Ltd.

The properties comprised in these last two securities are portions of an area of 414 acres acquired by Mrs. E. C. Alcorn in June, 1920, for £3,152 10s. 6d. All except a few acres of the block have been disposed of by her, the main sales being:—

	A.	R.	P.	£	
June, 1920	207	2	0	2,700	
September, 1922	5	3	14·7	1,000	
July, 1924	71	2	10	4,300	to Putaruru Residential Sites Syndicate, Ltd.
June, 1930	50	0	0	11,500	to Auckland Provincial Town Properties, Ltd.
November, 1932	73	0	20	12,000	to Freeholds Ltd.
	408	0	4·7	31,500	

N.Z. Freeholds and Buildings, Ltd.—

This company acquired its property for £6,000 from Miss E. R. Alcorn, who holds all except £10 out of the company's share capital of £3,000. The Government valuation is £1,830.

The debentures issued total £4,000, of which the First Mortgage Freehold Security Co. of New Zealand, Ltd., holds £3700.

Farms and Farmlets, Ltd.—

The balance owing is shown as £392 9s. 8d. for principal and £57 0s. 6d. for interest. The security is over a property of 1 rood 38 perches at Putaruru; Government valuation, £380. It is to be noted that the balance-sheet of Farms and Farmlets, Ltd., at 30th June, 1934, shows a debt of £390 for principal and £34 15s. for interest.

12. SUMMARY *RE* DEBENTURE CAPITAL AND INVESTMENTS.

	£	s.	d.
Debentures were issued for	19,100	0	0
Debenture discount still not written off amounts to	1,266	11	8
Leaving funds for investment	£17,833	8	4
Investments are—	£	s.	d.
Alcorn, Trower, and Co., Ltd.: Mortgages and debentures	2,175	15	11
Auckland Provincial Town Properties, Ltd. (portion of £6,000 debentures issued)	5,200	0	0
Freeholds Ltd.	6,400	0	0
N.Z. Freeholds and Buildings, Ltd. (portion of £4,000 debentures issued)	3,700	0	0
Farms and Farmlets, Ltd.	392	9	8
	£17,868	5	7

The Government capital valuations of the properties under charge are :—					£	s.	d.
Alcorn, Trower, and Co., Ltd.	..	..	..	..	1,365	0	0
Auckland Provincial Town Properties, Ltd.	..	..	..	..	1,860	0	0
Freeholds Ltd.	..	..	..	..	700	0	0
N.Z. Freeholds and Buildings, Ltd.	..	..	..	..	1,830	0	0
Farms and Farmlets, Ltd.	..	..	..	..	380	0	0
					£6,135	0	0

Even though the Government valuations may be low, the gross inadequacy of the securities is apparent, and grave doubt is cast upon the genuineness of the sales which provided the basis for financing within the apparently stringent limitations of the Articles of Association.

13. INTEREST ON ADVANCES.

All interest due on advances and debentures up to 30th June, 1934, had been received, with the exception of £100 13s. 1d. from Freeholds Ltd., and £57 0s. 6d. owing by Farms and Farmlets, Ltd. These interest payments to the First Mortgage Freehold Security Co. of New Zealand, Ltd., were made on behalf of debtor companies by the Investment Securities Association, Ltd., whose ability to continue making the payments appears to have been due to the retention by it of the proceeds of £4,400 worth of debentures in Freeholds, Ltd., taken up by the First Mortgage Freehold Security Co. of New Zealand, Ltd. In other words, interest received has come out of capital advanced.

It is to be noted that the debtor companies have paid interest to the First Mortgage Freehold Security Co. of New Zealand, Ltd., at the full rate provided in the mortgages and debentures without taking advantage of the statutory reduction, and this despite the high rates charged, ranging from $7\frac{1}{2}$ per cent. to 9 per cent. per annum.

14. POSITION OF THE COMPANY.

The position of the company is effectively summarized in the paragraph above comparing the debentures with the securities, but is set out in more detail in the last audited balance-sheet as at 31st December, 1933, and in the draft statement of position made up from the books as at 30th June, 1934, these being attached as Exhibits Nos. 6 and 7 respectively.

15. RECOMMENDATION.

In the reports of the Inspector and/or Inspectors on the affairs of the four companies which are the principal debtors of the First Mortgage Freehold Security Co. of New Zealand, Ltd., recommendations are made that the companies should be wound up. If orders are made to this effect it is probable that the result would be to throw into the hands of the First Mortgage Freehold Security Co. of New Zealand, Ltd., the various properties which have been pledged as security for advances. The company would then be in the position of possessing property on which there were continued out-goings for rates and taxes, and from which there could be only a small revenue. It would be impossible for it to continue to pay interest to its debenture-holders. Liquidation would then probably be the wisest course, but the wishes of debenture-holders should be ascertained after a full statement of the position has been laid before them, and if they desire the properties to be held a satisfactory system of control will have to be devised.

Auckland, 28th January, 1935.

A. M. SEAMAN, }
J. L. GRIFFIN, } Inspectors.

EXHIBIT No. 1.

THE FIRST MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LTD.

Registered Office: 17 National Bank Buildings, Fort Street, Auckland.

Share capital: 100,000 shares of 1s. each and 5,000 shares of £1 each.

Authorized debenture capital issue: £100,000 in 4,000 first mortgage 6½ per cent. debentures of £25 each.

Directors: C. G. Alcorn, managing director; R. S. Abel, director, Abel, Dykes, Ltd.; W. A. Pilkington, director, the Investment Securities Association, Ltd.; E. R. Alcorn, director, Alcorn, Trower, and Co., Ltd.*Secretary:* S. Grange, National Bank Buildings, Auckland.*Bankers:* The National Bank of New Zealand, Ltd., Auckland.

THE FIRST MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LTD.

MEMORANDUM OF ASSOCIATION.

1. The name of the company is "The First Mortgage Freehold Security Company of New Zealand, Limited."
2. The registered office of the company will be in New Zealand.
3. The company is a private company.
4. The objects of the company are:—
 - (a) To carry on the business of financiers, financial brokers, and any other business or undertaking which in the opinion of the company may advantageously be carried on in conjunction therewith.
 - (b) To borrow or raise money for the purpose of the company's business and to mortgage and charge the undertaking and all or any of the real and personal present and (or) future property of the company, including uncalled capital.
 - (c) To create and issue at par or at a premium or discount, debentures, mortgage-debentures, debenture stock, bonds, and other securities payable to bearer or otherwise and either permanent or redeemable or repayable and to secure the same by charging the undertaking and all or any of the real and personal property present or future and all or any of the uncalled capital for the time being of the company and to secure any securities of the company by trust deed or otherwise.
 - (d) To issue and deposit any securities which the company has power to issue by way of mortgage to secure any sum less than the nominal amount of such securities and also by way of security for the performance of any obligations of the company.
 - (e) To invest all moneys raised by the company under the borrowing powers of the company upon the security of first mortgage of freehold property in New Zealand upon such terms as to payment of premium and (or) interest and repayment of the principal as may in the opinion of the company be advantageous.
 - (f) To receive moneys for investment from any person or persons and to invest the same in the name of such person or persons on the security of first mortgage of freehold property in New Zealand upon such terms as the company may deem advisable.
 - (g) To guarantee the due and punctual payment of any moneys invested in pursuance of paragraph (f) hereof and the interest thereon upon such terms as to payment of premium or otherwise as the company may think fit.
 - (h) To act as agent or attorney for any person from whom moneys are received by the company for investment as provided for in paragraph (f) hereof upon such terms as to payment of commission or otherwise as the company may think fit.
 - (i) To exercise all and singular the powers conferred on the company as mortgagee by any mortgagor or by law and to do all acts and things and take all steps necessary and expedient for the proper safeguarding of the security and interest of the company.
 - (j) To sell lease let or otherwise dispose of all real or personal property belonging to the company or of which it may become possessed either by purchase as mortgagee buying in at a sale by the company of mortgaged property or as a mortgagee in possession or otherwise.

- (k) To purchase, take on lease or in exchange, hire or otherwise acquire real or personal property or any estate or interest therein respectively which the company may consider desirable in the interests of the company.
 - (l) To remunerate any person or company for services rendered or to be rendered in placing or assisting to place any debentures or other securities of the company or in or about the formation of the company or the conduct of its business and to pay the preliminary expenses of the company.
 - (m) To do all or any of the matters aforesaid either in the name of the company or of any person firm or company as trustee or agent for the company and either alone or in concurrence with any person firm company government body or authority.
 - (n) Generally to do all such other things as are incidental or as the company may deem conducive to the above objects or any of them.
5. The liability of the members is limited.

ARTICLES OF ASSOCIATION.

RESOLVED that the regulations set forth in Table A of the Second Schedule to "The Companies Act, 1908," are hereby adopted as the regulations of the company with the following exceptions variations modifications and additions, namely:—

- (1) The regulations numbered 1, 2, 3, 47, 117, and 118 in the said Table shall not apply to the company.
- (2) The following words shall be added to regulation number 31, namely:—
"and no transfer of any share or shares shall be accepted for registration unless and until such share or shares and all other shares held by the proposed transferor in the capital of the Company shall have been fully paid up."
- (3) The following sub-clause shall be added to Regulation 36, namely:—
"(c) Without giving any reason for such refusal."
- (4) Regulation 48 shall be amended by striking out the word "subsequent" in both cases where it occurs in such regulation.
- (5) The following regulations shall apply in lieu of Regulations 74 and 75 in the said table, namely:—
"74. The signatories to the memorandum of association shall be the first directors of the company."
"75. The number of directors shall be determined from time to time by the directors and shall not be less than two or more than five and the chairman of directors shall be termed 'The Managing Director.'"
- (6) Regulation 76 shall be modified by striking out the words "before the first ordinary general meeting of the company."
- (7) Regulation 100 shall be modified by striking out the words "at least two directors" in paragraph (o) and substituting therefor the words "the Managing Director."
- (8) The following regulations shall be added after Regulation 104:—
"104A. The directors shall invest all moneys obtained from the issue of first-mortgage freehold security bonds and debentures and all other moneys received by the company for investment upon the security of—

- (a) First mortgages of freehold property in New Zealand and in making any such investment the directors shall act only upon a report in writing as to the value of the property offered as security made by a competent valuer instructed and employed independently of any owner of the property. No such investment or advance shall exceed in amount two-thirds of the value of the property as expressed in such report nor shall the directors make such investment or advance except under the advice of such valuer expressed in such report as provided by section 86, subsection (1), of "The Trustee Act 1908" or of—
- (b) Government bonds or debentures or of—
- (c) Local-body bonds or debentures or of—
- (d) First-mortgage company debentures secured by first mortgage of freehold property in New Zealand where the total amount of the debenture issue in respect of which funds are invested does not exceed two-thirds of the value of the freehold property mortgaged such value to be ascertained in same manner as provided in the foregoing subparagraph (a) or of—
- (e) First-mortgage company debentures secured by first mortgage of freehold pro-

erty in New Zealand where the total amount of the debenture issue in respect of which funds are invested does not exceed two-thirds of the actual cash price paid for the property of the company issuing such debentures.

- (9) The following provisos shall be added to Regulation 106 (relating to dividends), namely :—

"Provided always that no dividend shall be declared nor paid to any shareholder so long as any bond or debenture issued by the company shall be outstanding. And also that any profits which but for the foregoing proviso would be divided amongst the shareholders shall be carried to a reserve fund which fund shall be invested as aforesaid or in the securities referred to in sub-clauses (a), (c), and (d) of subsection (1) of section 95 of "The Trustee Act 1908."

- (10) The following regulation shall be added after Regulation 119 of the said table, namely :—

"119A. No person shall be eligible as an auditor unless he is classified as a public accountant under 'The New Zealand Public Accountants Act 1908.'"

These regulations shall take effect or shall be deemed to have taken effect as from the incorporation of the company.

Date of certificate of incorporation under the Companies Act, 1908," Part V : The fifth day of November, 1924.

SECURITY.

SOME ADVANTAGES OF THE FIRST-MORTGAGE FREEHOLD SECURITY $6\frac{1}{2}$ PER CENT. DEBENTURES.

Issued by the First-mortgage Freehold Security Company of New Zealand, Ltd.

1. ALL investments on which the debentures are secured are made by the company on first-mortgage freehold security only, on an ample and safe margin.

2. The funds of the company are let out in medium-sized loans on revenue-producing freehold properties on first mortgage, so that the debenture-holder has as security a number of well-secured first mortgages, instead of being dependent on any single mortgage.

3. The majority of loans are granted under what is known as table mortgages, which provide, in addition to the regular payment of interest, regular payments at stated intervals in reduction of the principal moneys under the loans, so that the margin of security to the debenture-holders, although ample in the first instance, is continually increasing.

4. As an additional security, the constitution of the company provides that all profits of the company shall be placed into a reserve fund, over which debenture-holders hold security, as well as on the first mortgages above referred to.

5. The debentures are transferable securities, and being payable to bearer may be realized by the debenture-holder at any time should funds be required, while in the meantime securing regularly a definite rate of interest of $6\frac{1}{2}$ per cent. free of exchange in any part of New Zealand.

6. The debenture bonds have interest coupons attached to cover the whole period, and each half-year payment is made free of exchange simply by presentation of these interest coupons to any branch of the National Bank of New Zealand, Limited, throughout the Dominion.

7. The present issue of first-mortgage freehold security debenture bonds is for the sum of £100,000 in denominations of £25 each. Any sum desired can be invested, and commence earning interest at the rate of $6\frac{1}{2}$ per cent. immediately.

EXHIBIT No. 2.

FIRST-MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LTD.

First-mortgage Freehold Security 6½ per Cent. Debenture Bond.

No. Series "A" Issue of 4,000 Debenture Bonds of £25 each.

1. THE First-mortgage Freehold Security Company of New Zealand, Limited (hereinafter called "the company") will on the first day of December, 1944, unless the same shall have been sooner redeemed, pay to the bearer of this debenture bond, free of inland exchange, the sum of Twenty-five Pounds (£25).

2. The company will during the continuance of this security pay interest on the said sum of twenty-five pounds at the rate of six and a half per cent. per annum by equal half-yearly payments on the first day of June and December in each year in accordance with the coupons hereto annexed.

3. The company hereby charges with such payments its undertaking and all its property and assets whatsoever and wheresoever both present and future.

4. This debenture bond is issued subject to the conditions endorsed hereon which are deemed to be part hereof.

Given under the common seal of the company this day of, 19

The common seal of the company was hereto affixed in the presence of—

., Managing director.
., Secretary to the Company.

Endorsement.

THE CONDITIONS WITHIN REFERRED TO.

1. THIS debenture bond is one of a series of like debenture bonds, numbered 1 to 4,000 (both inclusive), issued or about to be issued by the company. All debenture bonds of this series are payable *pari passu* and will rank equally as a first charge upon the property and assets of the company without any preference or priority one over another.

2. The said charge shall constitute a floating security, and the company shall be at liberty to create and issue from time to time further series of debenture bonds ranking *pari passu* as a first charge upon the property and assets of the company with this series, but the company shall not be at liberty to create any mortgage or charge in priority to the charge hereby created.

3. The principal moneys hereby secured shall become immediately payable in any of the following events:—

- (a) If the company makes default for six months in the payment of any interest hereby secured and the holder before such interest is paid by notice in writing to the company calls in the principal moneys.
- (b) If a distress or execution either by writ or appointment of receiver is levied on any part of the property or assets of the company and the debt for which such levy is made is not paid within seven days.
- (c) If the company shall become insolvent.
- (d) If the company shall cease to carry on business.

4. This debenture bond is by mercantile usage a negotiable instrument with all the incidents of negotiability.

5. The principal moneys secured by this debenture bond will be paid at the National Bank of New Zealand, Limited, at Auckland in New Zealand, or at other the company's bankers for the time being at Auckland aforesaid. Inland exchange shall be paid by the company. On application for payment this debenture bond must be produced and surrendered together with any coupons for future interest.

EXHIBIT NO. 3.

6½ PER CENT. DEBENTURE BONDS.

SOUND SECURITY FOR SAVINGS.

THE FIRST-MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LIMITED.

FIRST-MORTGAGE FREEHOLD SECURITY FOR SMALL OR LARGE AMOUNTS.

THE FIRST-MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LTD.

SIX AND A-HALF PER CENT. FIRST-MORTGAGE FREEHOLD SECURITY DEBENTURE BONDS.

Their Purpose and Advantages.

THE purpose and advantages of the first-mortgage freehold security debenture bonds issued by The First-mortgage Freehold Security Company of New Zealand, Ltd., may be said to be two-fold.

Firstly :—

They give to small investors an opportunity for placing out at interest small sums of money on the same advantageous terms in regard to security and rate of interest as is now enjoyed by large capitalists with substantial sums who are able to put their money out on safe first-mortgage security at the ruling rate of interest—6½ per cent. per annum—instead of the low interest rates commonly paid by Post-office Savings Banks.

First-mortgage freehold security is regarded the world over, and rightly so, as the soundest security available, and it is for this reason that the Trustees Act insists that trustees shall invest the surplus funds of the estates they are handling only in such securities as these.

The memorandum of association of the First Mortgage Freehold Security Company of New Zealand, Ltd., provides that all money received by the issue of the debenture bonds shall be applied solely and only in advancing amounts on first mortgage over freehold property, all such advances being made on conservative valuations only.

Secondly :—

These first-mortgage freehold security debenture bonds provide in the aggregate, in various sums, suitable funds required by borrowers who from time to time may have the necessary first-class freehold security to offer, and who are in a position to pay a reasonable rate of interest for the amounts advanced on such securities.

Rate of Interest 6¼ per cent. per Annum.

Interest on the debenture bonds issued is payable half-yearly at the rate of 6½ per cent. per annum, at all branches of the National Bank of New Zealand throughout the Dominion, free of exchange, on presentation of interest certificates when due.

These first-mortgage freehold security debenture bonds are issued in denominations of £25 each, and have interest coupons attached which are payable half-yearly on due dates free of exchange in New Zealand.

Nature of Security.

Debenture-bond holders are secured by a floating charge on all the assets of the company, including its first-mortgage freehold securities on which advances are made under the aforementioned conditions.

A feature of these first-mortgage freehold security debenture bonds is that they are of readily negotiable character, and can be transferred like bank notes from one to another without expense or delay being payable to bearer.

The debenture bonds are redeemable at par on maturity, but the company may purchase bonds in the open market when available if desired.

The First-mortgage Freehold Security Company of New Zealand, Limited, 36-38 National Bank Chambers, Fort Street, Auckland.

The above details are stated for the information of debenture-bond holders, and further copies of this brochure will be supplied personally or by post to any bond-holder desiring same on application to the secretary of the company.

EXHIBIT No. 4.

GILT-EDGED DEBENTURES AS INVESTMENTS.

Information issued by the Investment Securities Association, Ltd., National Bank Buildings, Fort Street, Auckland, N.Z.

FOREWORD.

IN presenting the 6½% gilt-edged debentures of THE FIRST-MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND LIMITED, we are setting forth a few facts in connection with these Debentures, for the guidance of Investors.

The Investment in gilt-edged Securities that offer security of capital and definite rates of interest, is the only safe way to make provision for the future, while providing meantime a regular and satisfactory income.

The money will grow quickly enough if the interest is invested every year as it is received.

PROPERTY MORTGAGES AS INVESTMENTS, by CLAUDE F. GODDARD.

Extract from "The Financial Review of Reviews," London.

THERE are few matters of more absorbing interest to a large section of the community than the investment of capital. It matters not whether the sum available represents the enormous accumulations of Great Insurance Companies, Friendly Societies, or other large concerns, whether it be substantial proceeds from the realization of a deceased's estate, a legacy, money saved out of income, or any other form of fund, the same burning question arises—how can this money be invested promptly to the best possible advantage compatible with due regard to safety and security?

There are many opportunities. There is that great institution, the London Stock Exchange, where so-called gilt-edged investments in Government Securities and Shares in Railways, Banks, Industrial Concerns, Mines, and many hundreds of other forms of investment are daily available.

These are mostly good of their kind and the yield is favourable, but, in almost every instance, of a varying degree and generally attended with an unpleasant element of speculation and anxiety as to what the exact annual income will amount to upon the sum invested, and whether the capital has diminished and shrunk.

Surely, the ideal form of investment must be where the income produced is absolutely regular and never varies, and where the risk of the capital depreciating, even to the smallest extent, is reduced to such a degree as to be almost guaranteed against.

It is surprising how few people appreciate that such forms of investment are available. They are to be found in a First Mortgage upon good class freehold or long leasehold (held for over 60 years) property.

There are many forms of property suitable for mortgages, including residential country estates, houses in town and country, blocks of business premises consisting of shops with suites of offices over, and buildings of modern flats, preferably of the type occupied at moderate rentals by professional men and the great upper middle class.

The security is good, the interest is safe, fixed, and unvarying, and the investment is unattended by anxiety.

It is within the writer's knowledge that from 1914 to 1918, the years of the Great War, in the case of a busy office having the collection of enormous amounts each year representing payment of interest arising out of mortgages of properties for upwards of five millions sterling, not a single penny piece in interest remained unpaid. There can be very few, if any, other investments of which the same can be said.

OFFER FOR SALE OF 6½% FIRST-MORTGAGE FREEHOLD SECURITY DEBENTURES BY THE INVESTMENT SECURITIES ASSOCIATION, LTD.

Founded 1924. Incorporated 1930.]

National Bank Buildings Fort Street, Auckland.

THIS Association specializes in the purchase and sale of First-mortgage Debentures, investing only in Securities with which it is thoroughly conversant.

Its practice is to purchase First-mortgage Debenture issues, being first satisfied that:—

1. The issuing institution is in a sound position, and competently managed.
2. The Security for the Debentures is sound, and provides an ample margin.
3. Interest payment on Debentures is assured.
4. The Debenture-holders have first claim on the whole of the assets of the issuing institution, and in no circumstances can any claim be made prior to, or equal with, that of the Debenture-holders.
5. Continuous knowledge of the conduct of the business, and supervision of Securities, is assured by its representation on the Boards of Directors of Companies issuing Debentures which it purchases.

These requirements as set out above being fully covered, the Association has purchased a Debenture Issue, full particulars of which are set out in the following report, and now as principals offer same for sale, at par, free of all charges to purchasers.

These gilt-edged Securities can be confidently recommended to Investors.

REPORT: THE FIRST-MORTGAGE FREEHOLD SECURITY CO. OF NEW ZEALAND, LTD.

[Incorporated 5th November, 1924.]

Registered Office: 17 National Bank Buildings, Fort Street, Auckland.

Share Capital, £10,000. Debenture Issue, £100,000.

in First-mortgage 6½% Debentures of £25 each maturing 1st December, 1944, of which £62,000 is now available subject to sale.

Interest on debentures is at the rate of 6½% per annum paid on 1st June and 1st December. The Debentures have interest coupons attached, which are payable free of exchange throughout the Dominion, on presentation at any Branch of The National Bank of New Zealand, Ltd.

Directors:

C. G. ALCORN, Managing Director.

W. A. PILKINGTON, Director, The Investment Securities Association, Ltd.

R. S. ABEL, Director, Abel, Dykes, Ltd.

E. R. ALCORN, Director, Alcorn, Trower, & Co., Ltd.

Secretary.

S. GRANGE, National Bank Buildings, Fort Street, Auckland.

Bankers.

The National Bank of New Zealand, Ltd.

Business.

This Company is based upon English practice, and has now been successfully operating for (8) eight years. Its business is the investment of all its funds upon First Mortgage on freehold property and other gilt-edged Securities, as provided in the stringent provisions of the Articles of Association in relation thereto, as set out hereunder.

Policy.

The Directors have applied conservative business methods in the management of the Company, and before completing the full Debenture issue, adopted the sound policy of proving the principle upon which the Company was founded and set out above. The Table Mortgage has been made the basis of its investments, and this factor has contributed largely to its success.

Management.

The Company has been economically and capably managed and no losses have been made on its investments. During its eight (8) years of operation, the full rate of interest—6½ per cent.—has been paid on all Debentures issued.

Sound Position.

The Company is in a sound financial position, and shows a profit over the period of its operations. It has no liabilities, apart from its Debenture issue, and from its earnings is able to meet its interest payments as, and when, they become due, at the full rate of 6½ per cent. The Company's Securities for the Debenture issue are deposited for safe keeping in its private locker in the vault of its Bankers.

Security.

The Debentures rank with the highest class of gilt-edged Securities, and the investor has proper legal security in the form of First-mortgage Debentures, being a floating charge over the whole of the Assets and Securities of the Company. As no profits can be taken by Shareholders until the Debenture issue is satisfied, and the running-expenses are very small and to a large extent are covered by fees earned, the Security improves annually. The Securities held by the Company are sound, and all mortgages supported by the necessary valuations. The relevant provisions in the Articles of Association of the Company, ensuring the soundness of the investments, are as follows:—

104A. The Directors shall invest all moneys obtained from the issue of First-mortgage Freehold Security Bonds and Debentures and all other moneys received by the Company for investment upon the security of:—

- (a) First mortgages of freehold property in New Zealand, and in making any such investment the Directors shall act only upon a report in writing as to the value of the property offered as security made by a competent valuer instructed and employed independently of any owner of the property. No such investment or advance shall exceed in amount two-thirds of the value of the property as expressed in such report nor shall the Directors make such investment or advance except under the advice of such valuer expressed in such report as provided by section 86, sub-section (1) of "The Trustee Act, 1908," or of—
 - (b) Government Bonds or Debentures, or of—
 - (c) Local Body Bonds or Debentures, or of—
 - (d) First-mortgage Company Debentures secured by first mortgage of freehold property in New Zealand where the total amount of the Debenture issue in respect of which funds are invested does not exceed two-thirds of the value of the freehold property mortgaged, such value to be ascertained in same manner as provided in the foregoing sub-paragraph (a), or of—
 - (e) First-mortgage Company Debentures secured by first mortgage of freehold property in New Zealand where the total amount of the Debenture issue in respect of which funds are invested does not exceed two-thirds of the actual cash price paid for the property by the company issuing such debentures.
9. The following provisos shall be added to regulation 106 (relating to dividends), namely:—
 PROVIDED ALWAYS that no dividend shall be declared nor paid to any shareholder so long as any bond or debenture issued by the Company shall be outstanding: AND ALSO that any profits which but for the foregoing proviso would be divided amongst the shareholders shall be carried to a reserve fund which fund shall be invested as aforesaid or in the securities referred to in sub-clauses (a), (c), and (d) of sub-section (1) of Section 95 of "The Trustee Act, 1908."

Memorandum and Articles of Association.

The Articles, together with the Memorandum of Association of "The First-mortgage Freehold Security Company of New Zealand, Ltd.," constitute probably the most stringent regulations governing the investment of funds of any financial institution in the Dominion.

Some Advantages of the Table Mortgage System.

By investing their money in Debentures issued by Institutions specializing in this class of Security, investors can avail themselves of the advantages of Table Mortgages, which would not otherwise be available to them.

To the Borrower.

1. Regular payments, weekly, monthly, or quarterly, are made on account of interest and reduction of principal which, in the course of time, eliminate the loan altogether, and leave the borrower holding the freehold title to his property unencumbered.

2. The above regular payments to be made by the borrower, spread over a period of years calculated at a reasonable rate of interest, are arranged in such a way as to be convenient and within his capacity to pay and do not exceed the amount that the average house-holder would pay in the ordinary way as rent. The difference, so far as he is concerned, is that at the end of the term, instead of holding a number of receipts for rent, he finds his property free, as above stated.

3. Once the money is granted under the Table Mortgage system, it runs on until it is wiped off by the periodical repayments of principal and interest, and the borrower is not under the necessity of re-arranging a mortgage, as is necessary every few years under the fixed mortgage system, with the attendant necessary legal expenses, stamp duties, procuration fees, &c., It is estimated these cost the borrower, under the old-style fixed mortgage, an additional 1 per cent. per annum, which must be added to his interest.

To the Lender.

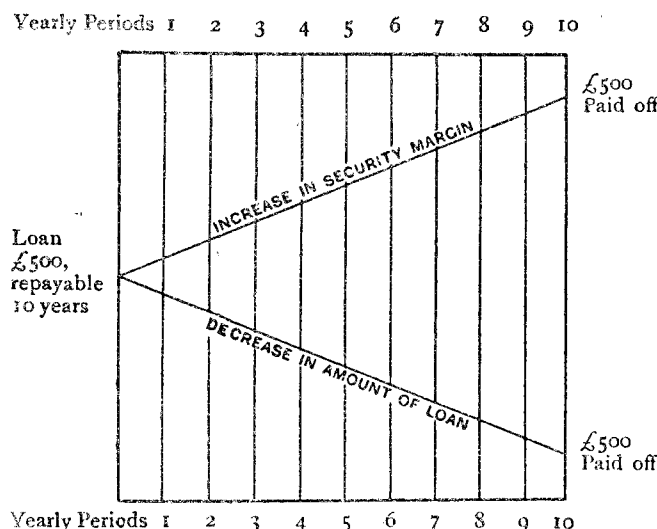
1. The periodical repayment of principal, together with interest, continually increases the margin of security, thus reinforcing the ample margin of security insisted upon when loans are first granted.

2. On account of large-scale operations, large lending institutions are enabled to re-invest the repayments of principal and interest, and thus secure from other borrowers a second interest on these amounts. From this it will be seen that these lending institutions are able to make profits while paying a satisfactory rate of interest to their Debenture-holders. This is best illustrated from the following example, which is compiled from the Standard Actuarial Tables compiled by J. Watkin Kinniburgh, the noted Actuary and recognized authority on Table Mortgages.

ILLUSTRATIONS.

Interest on £100,000 invested on Table Mortgages with instalments re-invested calculated	£	s.	d.
on a basis adopted by Building Societies	9,000	0	0
Interest on £100,000 at 6½ per cent. flat rate	6,500	0	0
Credit balance	£2,500	0	0

The graph below illustrates a Table Mortgage of £500 redeemed by payments extending over 10 years, showing gradual improvement in financial position of both lender and borrower, and final extinction of loan.



English Experience.

English Companies founded on the same principle as "The First-mortgage Freehold Security Company of New Zealand, Ltd.," are universally successful, and in England investments in Debentures amount to many millions—the annual investments in Debentures according to "The Financial Review of Reviews" (London) being £30,000,000.

Some successful English Companies investing in the same class of Securities, which, in spite of lower interest rates prevailing in England, pay interest at the rate of 6¼ per cent. to 7 per cent. per annum, are :—

- Associated London Properties, Ltd.
- The Duchess Property Co., Ltd.
- Haymarket Estates, Ltd.
- Kenilworth Court Estates, Ltd.
- Leicester Square Estates, Ltd.
- Odhams Properties, Ltd.

EXHIBIT NO. 5.

[*Facsimile of Securities' Seal.*]

THE SEAL OF SECURITY.

INVESTMENT INFORMATION IN REFERENCE TO THE FIRST MORTGAGE DEBENTURES OF THE FIRST MORTGAGE FREEHOLD SECURITY COMPANY OF NEW ZEALAND, LIMITED.

6½ PER CENT. INVESTMENT SECURITIES.

System in Saving.

AN important statement of Leyland Standford—the great railroad president—recently appeared in *System* magazine. It is as follows:—

“There is only one class of men who come to wealth. They are those who always save something out of what they earn. Most men who have the ability to save die rich.”

There is an old proverb to the effect that every man is the architect of his own fortune. And it is quite true. For, unless you inherit a fortune or “strike it rich” by some other unusual means, the only way you can secure an independent income is to build it for yourself.

Building an independent income is made simple and practicable by adopting a definite system of saving something regularly, and steadily investing such savings in gilt-edged securities which provide as high an income return as is possible consistent with the complete safety of the principal invested.

Information regarding securities of this nature will be found herein.

Security.

Security is the foundation stone of successful investment, and the soundest security on earth is the earth itself—freehold property.

Through all time money has been lent on mortgage, the oldest mortgages dating back to the ancient Babylonians of some three thousand years ago. The principle of lending less than the value of the property mortgaged is as old as the mortgages themselves, but with the evolution of business methods, extra safeguards have been devised for the protection of the investor, so that it is possible to-day in modern mortgages to completely insure the safety of the principal invested.

Undoubtedly the most important advance in mortgage methods is the system which is known as “The Table Mortgage.” By this method loans are granted on first mortgage which provide for the regular repayments at stated intervals of portions of the principal moneys advanced under the loans, so that the margin of security, though ample in the first instance, is continually increasing as these periodical payments in reduction of the principal are made.

The advantage of this system as compared with the usual stationary mortgage for a period of years will be obvious to the thoughtful investor.

FIRST-MORTGAGE FREEHOLD SECURITY DEBENTURE BONDS.

£100,000 in Bonds of £25 each.

Interest 6½ per Cent. per Annum, payable Half-yearly free of Exchange throughout the Dominion.

THESE first-mortgage 6½-per-cent. debenture bonds of the First Mortgage Freehold Security Company of New Zealand, Limited, provide a means whereby the investor of either small or large amounts may have the advantages of the protection afforded in first mortgages advanced on freehold property under the table-mortgage system and in accordance with the stringent provisions of the company's articles of association.

The First Mortgage Freehold Security Company of New Zealand, Ltd., was founded some years ago for this purpose, and its present issue of £100,000 worth of 6½ per cent. first-mortgage debenture bonds of £25 each makes possible the investment of almost any sum desired, thus giving an opportunity for placing out at interest small sums of money on the same advantageous terms as larger amounts, while providing first mortgage security at the satisfactory rate of 6½ per cent. per annum instead of the low interest rates commonly obtainable on such sums.

A portion of the above issue is now offered for sale by the Investment Securities Association, as principals, either for cash or on terms to suit the requirements of investors.

These debenture bonds are secured by a floating charge on all the assets of the issuing institution, including its first mortgage freehold securities on which advances are made as above stated under the provisions of its articles of association.

The rate of interest payable on these securities is definitely fixed at 6½ per cent. per annum for the whole period of the debentures till the date of redemption (December 1st, 1944), and is not affected by market fluctuations that may occur from time to time in the current interest rate.

The debenture bonds are redeemable at par, and free of exchange throughout the Dominion at maturity.

[NOTE.—The Articles of Association of the First Mortgage Freehold Security Company of New Zealand, Ltd., provide, *inter alia*, that all funds of the Company shall be invested on first mortgage on freehold property on the same margin of security as provided in respect to mortgages in “The Trustee Act, 1908” (N.Z.), or in Government or Municipal Debentures or First Mortgage Debentures secured on first mortgage on freehold property only.]

Convenient Form of Security.

These first-mortgage freehold security debenture bonds, in addition to their gilt-edged nature, constitute a most convenient form of investment for the following reasons:—

- (1) The debenture bonds may be purchased at par and without charge or expense to the investor.
- (2) They are transferable securities, being payable to bearer as are bank-notes, and may be realized by the debenture-bond holder at any time should funds be required, without expense or trouble with regard to transfer.
- (3) The debenture bonds have interest coupons attached for each half-yearly interest period, which need only be detached on due dates (June first and December first in each year) and cashed at any branch of the National Bank of New Zealand, Limited, throughout the Dominion, free of exchange.

As illustrating the satisfactory nature of these securities, it may be mentioned that of the investors throughout New Zealand already holding debenture bonds of this issue, over 60 per cent. have invested further sums in these $6\frac{1}{2}$ per cent. securities as they became available from time to time.

Investment Saving Plan.

The investment saving plan for buying first-mortgage debentures of the First Mortgage Freehold Security Company of New Zealand, Limited, offered for sale by the Investment Securities Association is a simple, practical plan designed to meet the needs of both large and small investors in New Zealand, and is already regularly used by conservative investors throughout the Dominion.

At one time it was considered that only the rich could make profitable investments, but this attitude has changed as a result of the financial facilities provided for the safe investment of smaller sums by modern methods.

Quite a large proportion of our population are now investors, because the small investor enjoys the same opportunity as the large investor, and small savings may earn the same attractive rate of interest as large sums.

It is no longer necessary for either the small or larger investor to be satisfied with such a small return as 3 or 4 per cent., since a safe, convenient, and profitable way is now provided to secure $6\frac{1}{2}$ per cent. per annum in these gilt-edged securities now offered for sale, either for cash or on the easiest of terms to suit the requirements of any investor.

This saving plan presents the opportunity to build up an independent income by a method of systematic saving, limited only by the amount that can conveniently be saved and invested. Even a preliminary payment of £1 per £25 bond with subsequent payments of £1 per month will provide the nucleus of a regular income, which may be increased as circumstances permit. As each payment of £25 is reached, interest at the rate of $6\frac{1}{2}$ per cent. per annum is paid on such sum, whether such amount be in complete payment of one bond ordered or partial payment of any greater number of bonds ordered.

Method of Ordering the Debenture Bonds.

These first-mortgage freehold security $6\frac{1}{2}$ per cent. debenture bonds may be ordered on the following terms of payment:—

- (1) For cash—that is, by making a payment of £5 per bond with the order, the balance being payable within thirty days at your convenience, interest at the rate of $6\frac{1}{2}$ per cent. per annum commencing from the date on which the purchase money is paid in full.
- (2) By quarterly payments—that is, by paying £5 per bond with the order, and making four subsequent payments of £5 each per bond at quarterly intervals thereafter, interest at the rate of $6\frac{1}{2}$ per cent. per annum being paid on each complete £25 received.
- (3) By easy payments—that is, by paying any convenient sum from £1 per bond with the order, and monthly payments of a similar sum spread over two years if desired. In this case also interest at the rate of $6\frac{1}{2}$ per cent. per annum will be paid on each complete £25 received.

All bonds will be delivered by insured registered mail upon the completion of payment for same.
All deposits and subsequent payments on account of debentures ordered by South Island investors should be paid to the South Island brokers for the

INVESTMENT SECURITIES ASSOCIATION,

Messrs. Bridgewater & McInnes,

Investment Brokers, Christchurch and Dunedin.

Correspondence to the Dunedin Office should be addressed to P.O. Box 379, Dunedin, and to the Christchurch Office addressed to P.O. Box 479, Christchurch.

ORDER FORM.

The Investment Securities Association, Ltd., National Bank Buildings, Auckland, N.Z., P.O. Box 1073.

PLEASE accept my order for debenture bonds of £25 each, bearing interest at the rate of $6\frac{1}{2}$ per cent. per annum, issued by the First Mortgage Freehold Security Company of New Zealand, Limited, on the terms and conditions of the offer for sale attached hereto. I hereby agree to purchase and pay for the above bonds on the following basis :—

Cash.

£5 per bond with this order, and the balance of £20 per bond within days.

Purchaser's Initials : .

Or Quarterly Payments.

£5 per bond with this order, and four payments of £5 each per bond on the first days of next.

Purchaser's Initials : .

Or Easy Payments.

(Not less than £1 per bond with order, and 24 monthly payments of £1 each per bond.)

Purchaser's Initials : .

N.B.—Payments may be made at earlier dates if desired.

Name in full [state whether Mr., Mrs., or Miss] : . Address : . Occupation :

I enclose a deposit of £ . Date : .

Signature of Purchaser : .

[Fill in and initial the terms required. Strike out the other two.]

EXHIBIT No. 6.

THE FIRST MORTGAGE FREEHOLD SECURITY CO. OF NEW ZEALAND, LTD.

PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST DECEMBER, 1933.

	£	s.	d.		£	s.	d.
To Salaries	139	10	0	By Interest	1,509	13	3
Rent	58	8	4	Commission	130	0	0
General charges	36	1	4				
Debenture interest	1,220	6	8				
Debenture discount amount written off..	126	13	2				
Balance (net profit) carried to Appropriation Account	58	13	9				
	<u>£1,639</u>	<u>13</u>	<u>3</u>		<u>£1,639</u>	<u>13</u>	<u>3</u>

BALANCE-SHEET AS AT 31ST DECEMBER, 1933.

<i>Liabilities.</i>				<i>Assets.</i>			
	£	s.	d.		£	s.	d.
Authorized capital—				Mortgages on freehold property	1,972	1	1
5,000 shares of £1 each	5,000	0	0	Accrued interest	12	10	2
100,000 shares of 1s. each	5,000	0	0				
	<u>£10,000</u>	<u>0</u>	<u>0</u>		<u>1,984</u>	<u>11</u>	<u>3</u>
Issued capital—				Investments at Cost—			
200 shares of £1 each	200	0	0	Alcorn Trower and Co., Ltd.: 9 per cent. debentures	600	0	0
20,100 shares of 1s. each	1,005	0	0	Auckland Provincial Town Properties, Ltd.: 7½ per cent. debentures	5,200	0	0
	<u>1,205</u>	<u>0</u>	<u>0</u>	New Zealand Freeholds and Buildings, Ltd.: 9 per cent. debentures	3,700	0	0
Less Unpaid	1,180	0	0	Freeholds Ltd.: 9 per cent. debentures	6,400	0	0
					<u>15,900</u>	<u>0</u>	<u>0</u>
6½ per cent. freehold mortgage debentures	19,100	0	0	Accrued interest on investments	140	10	0
Sundry creditors	266	2	2	Debenture discount	1,266	11	8
Profit and Loss Appropriation Account—				Office furniture and fittings	37	19	8
Balance at credit, 1st January, 1933	120	11	11	Sundry debtors	55	0	4
Add profit for year to date	58	13	9	Cash at bank—			
				Current account	17	12	2
	<u>179</u>	<u>5</u>	<u>8</u>	Debenture Interest Account..	168	2	9
					<u>185</u>	<u>14</u>	<u>11</u>
	<u>£19,570</u>	<u>7</u>	<u>10</u>		<u>£19,570</u>	<u>7</u>	<u>10</u>

In accordance with the provisions of the Companies Act, 1908, I certify that all my requirements as auditor have been complied with and report to the shareholders that I have examined the books, accounts, and securities of the company, and in my opinion the above balance-sheet correctly sets out the state of the company's affairs as at 31st December, 1933, according to the books of the company and the information supplied to me.

(Signed) S. LEAH, A.C.A. (Eng.), A.P.A. N.Z.

15th March, 1934.

EXHIBIT No. 7.

THE FIRST MORTGAGE FREEHOLD SECURITY CO. OF NEW ZEALAND, LTD.

STATEMENT OF POSITION AT 30TH JUNE, 1934.

<i>Liabilities.</i>				<i>Assets.</i>			
	£	s. d.	£	s. d.		£	s. d.
Authorized capital—					Mortgages of freehold pro-		
5,000 shares of £1 each ..	..		5,000	0 0	erty—		
100,000 shares of 1s. each	..		5,000	0 0	Alcorn Trower and Co., Ltd.	1,575	15 11
					Farm and Farm-		
			£10,000	0 0	lets, Ltd.—	£	s. d.
					Principal ..	392	9 8
					Interest ..	57	0 6
Issued capital—						449	10 2
200 shares of £1 each ..	200	0 0					2,025 6 1
20,100 shares of 1s. each	1,005	0 0			Debentures—		
					Alcorn Trower and Co., Ltd.	600	0 0
					Auckland Provincial Town		
					Properties, Ltd.	5,200	0 0
Less unpaid	1,180	0 0	25	0 0	N.Z. Freeholds and Build-		
					ings, Ltd.	3,700	0 0
6½ per cent. freehold mortgage					Freeholds Ltd.	6,400	0 0
debentures			19,100	0 0	Freeholds Ltd.: Interest		
Sundry creditors—					unpaid	100	13 1
Accrued salary	170	0 0					16,000 13 1
Investment Securities As-					Office furniture and fittings ..		37 19 8
sociation, Ltd.	9	7 2	179	7 2	Cash in bank		146 19 1
					Debenture discount		1,266 11 8
Profit and Loss Account—							
Balance at 31st December,							
1933	179	5 8					
Less excess of expenses							
over income for six							
months	6	3 3	173	2 5			
			£19,477	9 7			£19,477 9 7

THE TRANSPORT MUTUAL AND GENERAL INSURANCE CO., LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of the Transport Mutual and General Insurance Co., Ltd.

REPORT OF INSPECTORS.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John McFarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, Public Accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule of the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, Archibald Morris Seaman and Herbert Douglas Vickery, two of the Inspectors so appointed, herewith respectfully submit the report of their investigations of the affairs of the Transport Mutual and General Insurance Co., Ltd.

We commenced our investigation into the affairs of this company by attending at its office, Yorkshire House, Auckland, on the 9th day of August, 1934, having previously received telegraphic notice of our appointments.

2. PERSONS FURNISHING INFORMATION.

Evidence and information regarding the affairs of the company were obtained from Maurice Vincent Bates, secretary of the company; Thomas Hugh Macky, chairman of directors; Leonard Knight, auditor; Malcolm Gordon McArthur, of Reyburn; McArthur and Boyes, the solicitors who registered the company; and Archibald Henry Anthony, solicitor, Christchurch.

3. BOOKS AND RECORDS AVAILABLE.

The books and records made available to us comprised the minute-book, Share Register, ledger, cash-book and journal, the certificate of incorporation, memorandum and articles of association, cash vouchers, correspondence, and various documents.

4. CONSTITUTION OF COMPANY.

The Transport Mutual and General Insurance Co., Ltd., was registered as a public company under the provisions of the Companies Act, 1908. No prospectus inviting public subscription for shares was issued. The memorandum and articles of association are date 28th October, 1933; they were filed with the Registrar of Companies in Auckland on the 13th November, 1933, and the certificate of incorporation was issued on 13th November, 1933.

The memorandum sets out that the objects for which the company is established are to undertake all kinds of insurance business (except life insurance)—the various kinds of insurance in which the company can engage being detailed at length in the “objects” clauses. Ancillary powers include the right to invest and to purchase and hold shares in any other company. The registered capital of the company is £100,000 in 100,000 shares of £1 each of which 25,000 are preference shares—preferential as to a cumulative dividend of 6 per cent.—and 75,000 are ordinary shares.

The signatories to the memorandum and articles of association were—

	Shares.
Margaret Muriel Dunn, Clerk, Auckland .. .. .	.. 1
Marjorie Hawley, Clerk, Auckland .. .. .	.. 1
Henry Davenport Williamson, Agent, Auckland .. .. .	.. 1
Alfred Ernest Parker, Company Manager, Auckland .. .. .	.. 1
Llewellyn Etherington, Journalist, Auckland .. .. .	.. 1
Maxie Josephine Glover, Private Secretary, Auckland .. .. .	.. 1
Violet Sylvia MacLean de Lange, Clerk, Auckland .. .. .	.. 1

The articles provide (*inter alia*) that—

Calls may be made at discretion of directors and shall be payable at such times and places and by instalments or otherwise as the directors may appoint :

The directors have absolute discretion not controllable by any court of law or equity to accept or reject a proposed transferee, and shall not be bound to give any reason for rejecting him :

Voting may be (1) personally, (2) by proxy, (3) by attorney.

A corporation being a member may appoint any one of its officers to be its proxy :

Unless otherwise determined the number of directors shall not be less than three nor more than seven, and the first directors shall be the first three signatories to the memorandum and articles of association.

The qualification of a director is one share.

5. STATUTORY REQUIREMENTS OF COMPANY.

In accordance with Article 86, Misses M. M. Dunn and M. Hawley and Mr. H. D. Williamson (the first three signatories to the memorandum and articles of association) became the directors of the company. These directors made on the 8th December, 1933, the statutory declaration required under section 99 (7) of the Companies Act, 1908, before commencing business, declaring (*inter alia*) that the share capital paid up and intact was £30,007. The cash-book of the company records this sum (being 10s. per share on 60,000 shares and £1 per share on 7 shares) as being received on the 19th December, 1933, and the bank current account shows a deposit of £30,007 as lodged on the 19th December, 1933. Under date 20th December, 1933, the auditor of the company (Mr. Leonard Knight) furnished a certificate to the Assistant Registrar of Companies at Auckland certifying that on 20th December, 1933, "60,007 shares of £1 each have been allotted and fully called up and £30,007 has been paid in respect of them." The statutory declaration was filed with the Registrar of Companies on 21st December, 1933.

The statutory report in terms of section 87 of the Companies Act, 1908, was dated 21st February, 1934, was signed by M. M. Dunn and M. Hawley, directors, and had the certificate of Leonard Knight, auditor, thereon. The report was filed with the Registrar of Companies on the 23rd February, 1934—the statutory meeting of shareholders was minuted as held on the 2nd March, 1934.

6. OFFICERS OF THE COMPANY.

The minute-book records that at the first meeting of directors held on the 8th December, 1933, at which were present Misses Dunn and Hawley and Mr. H. D. Williamson, directors, H. C. Glasson was appointed interim secretary and Leonard Knight, auditor. At the statutory meeting held on 2nd March, 1934, Thomas Hugh Macky, Charles Graham Alcorn, and Richard Glover-Clark were appointed directors to hold office until the first ordinary general meeting of the company, and were to be paid £100 each for their services. The three directors appointed in terms of the articles of association retired and were granted three guineas each for their services. At the directors' meeting held on the 2nd March, 1934, T. H. Macky was elected chairman of directors, and at the directors' meeting held on the 17th May, 1934, the resignation of H. Glasson, interim secretary, was recorded, and M. V. Bates was appointed secretary, leave of absence being granted to C. G. Alcorn.

7. PROCEEDINGS RECORDED IN MINUTE-BOOK.

At the first meeting of directors held on 8th December, 1933, the following shares were allotted :—

				Ordinary Shares.	
Investment Executive Trust of N.Z., Ltd.	..	..	..	..	60,000
M. M. Dunn	..	..	..	Subscribers to the memorandum and articles of association	1
M. Hawley	..	..	..		1
H. D. Williamson	..	..	..		1
A. E. Parker	..	..	..		1
L. Etherington	..	..	..		1
M. J. Glover	..	..	..		1
V. S. M. de Lange	..	..	..		1
					60,007

It was resolved that the money in hand, £30,007, be paid into the bank to credit of the company, and that M. M. Dunn and the interim secretary operate on the bank account.

A call of a further 10s. per share was made on all contributing shares payable on 10th May, 1934. It was resolved that application be made to the Registrar for a certificate that the company is entitled to commence business, and that the sum of £29,500 be utilized to purchase investments on behalf of the company. At the directors' meeting held on 15th December, 1933, the due date of payment of call made on 8th December, 1933, was extended to 31st December, 1934, and the common seal submitted was adopted.

At the directors' meeting held on *28th February, 1934*, at which Misses Dunn and Hawley (directors) were present, it was resolved that the seal of the company be affixed to the agreement submitted to this meeting and expressed to be made between A. H. Anthony, solicitor, of Christchurch, of the one part, and the company of the other part providing for the purchase of securities by A. H. Anthony and the manner in which they shall be held on behalf of the company. At the statutory meeting of shareholders held on *2nd March, 1934*, the following shares were allotted :—

				Shares.
R. Glover-Clark	..	..	..	100
C. G. Alcorn	..	..	..	100
T. H. Macky	..	..	..	100

At the directors' meeting held on *4th July, 1934*, it was resolved that the directors meet on Wednesday in each week or at such other times as the chairman shall direct.

8. BOOKS OF ACCOUNT AND STATEMENTS OF ACCOUNT.

Appropriate books of account are kept by the secretary, and at the request of the inspectors he wrote up the books to the 15th August, 1934, and prepared a trial balance as at that date. We have prepared from the books and records of the company a statement of assets and liabilities as at 15th August, 1934, and an interim revenue account for the period from the date of incorporation to the 15th August, 1934. We attach these statements to our report (Appendices "A" and "B" respectively).

9. REVIEW OF STATEMENTS OF ACCOUNT.

LIABILITIES.

I and II.—*Share Capital.*

The seven shares subscribed for in the memorandum of association were paid up in full. The amount of £51,000 comprises 10s. per share paid on 60,000 shares by the Investment Executive Trust of New Zealand, Ltd., on the 19th December, 1933, and payments made by that company on account of the call of 10s. per share made on the 8th December, 1933. The call was paid in instalments varying in amount—the first (£1,500) being received on 8th February, 1934, and the latest (£6,000) on 13th August, 1934. The amount of £100 received in respect of 200 shares represents calls paid by T. H. Macky (£50) and R. Glover-Clark (£50) being directors' fees to 2nd September, 1934, repaid into the company to credit of their respective shareholding accounts.

ASSETS.

I.—*Preliminary Expenses, £360 18s.*

This sum comprises legal expenses of formation and registration of company, £260 18s., and two amounts of £50 each shown in the cash-book as paid to D. Hyde. The receipt for one of these payments of £50 made on 1st June, 1934, was from Sterling Investments Co. (New Zealand), Ltd.

II.—*Investments at Cost, £29,455 12s. 6d.*

The investments as detailed in the statement were purchased from the Investment Executive Trust of New Zealand, Ltd., the purchase having been authorized at the first meeting of directors held on the 8th December, 1933. Investigation shows that the shares included under the item "Investments at Cost" were purchased at full market prices and in some instances above market prices. Share certificates for the shares purchased were produced to us, but we did not inspect the twenty Kemball Theatres, Ltd., debentures nor the twenty-one British National Trust, Ltd., debentures. We were informed by the secretary of the company that these securities had been removed to Sydney. Mr. Leonard Knight, auditor of the company, stated that both parcels of debentures were inspected by him in conducting the audit for the report to be submitted to the statutory meeting.

III.—*Share Purchase Account, £20,665 10s. 5d.*

This sum comprises four items :—				£	s.	d.
(a) Share purchases through A. H. Anthony	..	..	..	14,779	1	6
(b) London purchases : Perpetual Trustees, and Trustees and Exccutors shares	..	..	..	2,810	6	7
(c) New Zealand Government stock	..	..	..	3,006	14	0
(d) Insurance premium on A.M.P. life policy	..	..	..	69	8	4
				£20,665	10	5

(a) *Share Purchases through A. H. Anthony, £14,779 1s. 6d.*—This amount represents the cost of purchasing shares in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., and the Perpetual Trustees, Estate, and Agency Co. of New Zealand, Ltd., and the expenses connected therewith. (This transaction is reported on in paragraph 10.)

(b) *London Purchases : Perpetual Trustees and Trustees and Executors Shares, £2,810 6s. 7d.*—This amount represents the cost of 463 Trustees and Executors shares and 200 Perpetual Trustees shares purchased in London through the Investment Executive Trust of New Zealand, Ltd. Stamped transfers completed by transferor and transferees, with relevant scrip attached, were produced to us. The transferees are nominees of the Transport Mutual and General Insurance Co., Ltd.

(c) *New Zealand Government Stock, £3,006 14s.*—This sum is the cost of New Zealand Government stock (£2,810) held in trust by A. H. Anthony and another solicitor (the latter representing the seller of certain shares in the Trustees, Executors, and Agency Co.). The stock is held in this manner to meet any liability or contingent liability of the transferor of the shares, the Trustees, Executors, and Agency Co. having refused to register the transfers, and there being both an uncalled liability and a reserve liability on the shares.

(d) *Insurance Premium on A.M.P. Life Policy, £69 8s. 4d.*—This amount is the first annual premium on a ten-years endowment life policy for £700 in the Australian Mutual Provident Society on the life of Mrs. I. S. McArthur. There is no record of any description regarding this transaction in the minutes of the company. The secretary (Mr. M. V. Bates) states that to the best of his recollection Mrs. McArthur had signed the endorsement on the policy when in Auckland, but that her signature had not been witnessed, and that the policy had been forwarded to Sydney for the purpose of completing the assignment to the Transport Mutual and General Insurance Co., Ltd.

V.—Interim Revenue Account, £369 9s. 5d.

The balance in this account has little significance: it is subject to adjustment, as no accrued income has been brought to account.

10. SHARE PURCHASES THROUGH A. H. ANTHONY.

The Trustees, Executors, and Agency Co. of New Zealand, Ltd., is a company with its head office in Dunedin, and by virtue of a private Act—the Trustees, Executors, and Agency Company Act, 1882 (and amendments)—is empowered to act as executor and obtain probate and is granted other powers. The company is also subject under the Act to certain restrictions and obligations including a liability on shareholders in the event of winding up to contribute £5 per share over and above the uncalled liability on the shares. There is a further provision in the private Act that two-thirds of the shareholders holding more than half of the whole number of shares must be domiciled in New Zealand.

The authorized capital of this company is £50,000 in 10,000 shares of £5 each—all of which is subscribed—the paid-up capital being £20,000. The amount paid up is £2 per share, and uncalled £3 per share, with a reserve liability in the event of winding up of £5 per share.

The Perpetual Trustees, Estate, and Agency Co. of New Zealand, Ltd., has an empowering Act, 1884 (and amendment), granting powers and imposing restrictions similar to the Trustees, Executors, and Agency Co. of New Zealand, Ltd. The head office of this company is also located in Dunedin. Its authorized capital is £106,250 in 25,000 shares of £4 5s. each—all of which is subscribed—the paid-up capital being £22,500. The amount paid up is 18s. per share, and uncalled £3 7s. per share, with a reserve liability of £5 per share in the event of winding up.

It was part of the policy of *the Transport Mutual and General Insurance Co., Ltd.*, to endeavour by the purchase of sufficient shares of the Trustees, Executors, and Agency Co. of New Zealand, Ltd., to gain control of that company. We obtained information on this matter from Mr. T. H. Macky, the chairman of directors, and from Mr. M. V. Bates, the secretary of the company. Mr. Macky stated that he had been asked by Mr. J. W. S. McArthur, the managing director of the *Investment Executive Trust of New Zealand, Ltd.*, to take up a directorship in the Transport Mutual and General Insurance Co., Ltd. Mr. Macky stated that the company had made and was making an endeavour to purchase sufficient shares in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., with a view ultimately of gaining control, and that the shares were being purchased through Mr. A. H. Anthony, of Christchurch, not in the name of the company, but in the names of nominees. He further stated that the Transport Mutual and General Insurance Co., Ltd., had not so far engaged in the business of insurance, and that the object in endeavouring to acquire a controlling interest in the Trustees, Executors, and Agency Co. was for the purpose of controlling the insurance likely to be influenced through the large trust, agency, and estate business of the Trustees, Executors, and Agency Co. He stated that the company could afford to pay higher than market price for the shares, as, with a considerable volume of business assured, this would be an economical way of establishing the insurance business of the Transport Mutual and General Insurance Co., Ltd. The secretary of the company (Mr. M. V. Bates) corroborated the statement of Mr. Macky that it was the object of the Transport Mutual and General Insurance Co., Ltd., to endeavour to obtain control of the Trustees, Executors, and Agency Co., of New Zealand, Ltd., by the purchase of shares of the latter company. Mr. A. H. Anthony, solicitor, Christchurch, was interviewed, and on request furnished information regarding his supervision of the organized effort to purchase shares.

In the course of a statement made before the Royal Commission in Sydney, inquiring into matters concerning the Investment Executive Trust of New Zealand, Ltd., and other companies, Mr. J. W. S.

McArthur, managing director of the Investment Executive Trust of New Zealand, Ltd., gave the following information relative to the Transport Mutual and General Insurance Co., Ltd. (*vide* page 250 of printed evidence of proceedings):—

“I desire now to make a brief reference to the position and activities of the Transport Mutual and General Insurance Co., Ltd. This company was formed originally for purposes for which it was afterwards found impracticable to use it to any extent. At the present time it is owned by the Investment Executive Trust, which, apart from nominal holders, is the sole shareholder.

“The chief work it has been carrying out during the past twelve months is that of acquiring for the Investment Executive Trust shares in two large companies, which have so far been referred to in these proceedings as ‘X’ and ‘Y.’

“The reason why the Transport Mutual and General Insurance Co. is being utilized for this purpose is because the Investment Executive Trust is having to compete with the New Zealand Insurance Co. for the acquisition of these shares, and, owing to the circumstances that exist, it would not be possible for the main company to acquire shares through its own agents directly.

“The plan to obtain a controlling interest in these companies is one which is conceived primarily in the interests of the Investment Executive Trust debenture-holders, and its success will have the effect of adding to the Investment Trust capital a large amount of funds without thereby appreciably increasing the costs of management and administration.

“But while the primary object is that of securing a benefit to the investors in the Investment Executive Trust, there is no question of working any prejudice or oppression on the minority of shareholders in the companies over which control is sought.

“The ‘X’ company has at the present moment a board of directors of an average age of over eighty years, and from information in my possession, to which it is neither relevant nor proper that I should refer in detail here, it appears that the interests of the shareholders in the ‘X’ company at all events are being very badly served under its present management. I am fully confident that the change of control will be for the benefit of these shareholders as well as a gain to the debenture-holders in Investment Executive Trust.”

We found the following documentary evidence in support of the above statements of policy,—

- (a) In the minute-book of the company there are minutes of a directors’ meeting held on the 28th February, 1934, at which Misses Dunn and Hawley (directors) were present:—

“Resolved that the seal of the company be affixed to the agreement submitted to this meeting and expressed to be made between A. H. Anthony, solicitor, of Christchurch, of the one part, and the company of the other part, providing for the purchase of securities by A. H. Anthony, and the manner in which they shall be held on behalf of the company.”

- (b) Copies of the following documents were produced to us (some of these are copies of original documents produced to us, and others copies of copies of documents, the originals we were given to understand being in Sydney):—

(1) Authority to A. H. Anthony to purchase shares in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., and the Perpetual Trustees, Estate, and Agency Co. of New Zealand, Ltd., dated 28th February, 1934, and signed by the Transport Mutual and General Insurance Co., Ltd., as principal, and by the Investment Executive Trust of New Zealand, Ltd., and W. McArthur as sureties.

[Copy attached hereto as Appendix “C.”]

(C. G. Alcorn purports to sign this document dated 28th February, 1934, as director of the Transport Mutual and General Insurance Co., Ltd. He was first appointed a director at the statutory meeting held on 2nd March, 1934.)

(2) Power of Attorney: The Transport Mutual and General Insurance Co., Ltd., to A. H. Anthony, dated 6th March, 1934.

[Copy attached hereto as Appendix “D.”]

(3) Undertaking by A. H. Anthony dated 8th March, 1934, to hold scrip and documents, &c., as trust property.

[Copy attached hereto as Appendix “E.”]

(4) Appointment by A. H. Anthony of the Transport Mutual and General Insurance Co., Ltd., as substitute under power of attorney and renunciation of beneficial interests dated 8th March, 1934.

[Copy attached hereto as Appendix “F.”]

Acting under the authority given him by the Transport Mutual and General Insurance Co., Ltd., Mr. A. H. Anthony, controlled the purchases of shares in the Trustees, Executors, and Agency Co., Ltd., and in the Perpetual Trustees, Estate, and Agency Co. of New Zealand, Ltd. C. E. R. Webber and S. Grange were engaged by the company to interview holders of shares, who were paid in cash on signing transfer and on surrender of relevant scrip. Mr. A. H. Anthony on being interviewed furnished a copy of his trust account setting out moneys received from the Transport Mutual and General Insurance Co., Ltd., and advances made to Webber to effect purchases of shares, and particulars of other disbursements made. He also presented for inspection completed share transfers duly stamped with scrip attached for approximately thirty parcels

of shares in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., included in some fifty transfers. Inspection of these transfers disclosed the names of varying transferees—at least twenty persons had consented to lend their names for the purpose of becoming transferees. We were informed that difficulty was experienced with the Trustees, Executors, and Agency Co. of New Zealand, Ltd., in obtaining registration of transfers. As a measure of protection, signatures were obtained to the following documents:—

- (1) Receipt for purchase-money for shares signed by the transferor with undertaking to treat the shares and dividends, &c., as trust property.

[Copy of form attached hereto as Appendix "G."]

- (2) Letter from transferee of shares addressed to A. H. Anthony undertaking to forward scrip and renouncing beneficial interest.

[Copy of form attached hereto as Appendix "H."]

- (3) Irrevocable power of attorney to A. H. Anthony signed by transferee of shares.

[Copy of form attached hereto as Appendix "I."]

(Printed copies of the above-mentioned forms were supplied by A. H. Anthony.)

We find that as at 17th August, 1934, the Transport Mutual and General Insurance Co., Ltd., held in the names of nominees 3,845 shares out of a total issue of 10,000 shares of the Trustees, Executors, and Agency Co. of New Zealand, Ltd. These were purchased at prices varying from £3 5s. to £4 per share. At the date of our inspection there were not available to us details of the expenses of purchase, which, spread over the number of shares purchased, would, we consider, make the average cost per share approximately £4.

As at 17th August, 1934, the company held in the names of nominees 470 shares in the Perpetual Trustees, Estate, and Agency Co. of New Zealand, Ltd.

11. LATER PROCEEDINGS OF DIRECTORS REGARDING TRUSTEES, EXECUTORS, AND AGENCY CO. SHARES.

Since our appointment as Inspectors, and after 17th August, 1934, evidence of further transactions regarding shares in the two trustee companies is contained in minutes of directors' meetings, at all of which were present Mr. T. H. Macky (in the chair), Mr. R. Glover-Clark, and the secretary. At a meeting held on 24th September, 1934, the secretary was authorized to approach the Cambridge Clothing Factory, Ltd., for a temporary advance of £3,000 on the security of the 5,000 preference shares held by the Transport Mutual and General Insurance Co., Ltd., in the Cambridge Clothing Factory, Ltd.

At a meeting held on 26th September, 1934, it was resolved to agree to an arrangement whereby C. E. R. Webber be given an advance of £1,000, "and such further advances as might be desired but not exceeding £4,000 for the purpose of acquiring further shares in the share capital of the Trustees, Executors, and Agency Co. of New Zealand, Ltd." It was further resolved that the Investment Executive Trust of New Zealand, Ltd., be requested to pay a sum of £1,000 in reduction of calls already made, and that as soon as funds were available the sum of £4,000 be remitted to Mr. A. H. Anthony to complete the advances.

At a meeting on 16th October, 1934, the seal was affixed to an agreement whereby the Cambridge Clothing Factory, Ltd., agreed to make an advance of £3,000 at 7 per cent., and the Transport Mutual and General Insurance Co., Ltd., agreed to a reduction of $\frac{1}{2}$ per cent. in the rate of "interest" on 5,000 preference shares held by it in Cambridge Clothing Factory, Ltd., and further agreed that "interest" due on the shares should be applied in reduction of the advance.

At a meeting held on 1st November, 1934, the secretary reported having received £1,300 from the Cambridge Clothing Factory, Ltd., and having "handed over the scrip for the 5,000 shares to be lodged as security against the advance." The minutes state that Mr. Macky handed in a cheque for £1,700, the balance of the advance, and the secretary was instructed to forward the cheque to A. H. Anthony.

An option to purchase the shares held by the Transport Mutual and General Insurance Co., Ltd., in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., has been given to F. D. Graham. The minutes of a directors' meeting held on 25th October, 1934, and relative to this option, are as follows:—

"The secretary reported that he had received from Mr. Alcorn a letter dated 19th October, 1934 (produced), stating that he had been approached by Mr. F. D. Graham with a request for an option to acquire the shares purchased by the company in the Trustees, Executors, and Agency Co. of New Zealand, Ltd. The price offered was £50 for a six-months option, with the right to renew for a further six months on payment of a further £250. The purchase price of the shares was stated to be the total cost incurred by the company in the acquisition, plus 5 per cent. on the total amount, and, in addition, the purchaser was to indemnify the company against any calls or other amounts payable on the shares.

"The secretary had communicated this offer to the directors, and, at their request, had cabled for confirmation and as to whether or not the dealing was in the interests of the company. He had also instructed Messrs. Hampson and Wiseman to prepare a deed of option in anticipation of the dealing being entertained, and a telegram of confirmation had come to hand.

"It was resolved: That the deed of option be executed and be handed to the solicitors mentioned to be held by them in escrow pending receipt of the £50."

12. GENERAL REVIEW.

(a) The Transport Mutual and General Insurance Co., Ltd., is a subsidiary of the Investment Executive Trust of New Zealand, Ltd., the latter company, as the holder of £60,000 shares of the total of 60,307 shares subscribed, being in a position to exercise complete and effective control. It is evident from inspection of the company's correspondence files that a large measure of control has been exercised by Mr. J. W. S. McArthur, managing director of the Investment Executive Trust of New Zealand, Ltd.

(b) The directors who were appointed under the articles of association of the company and who acted from the date of incorporation of the company until the 2nd March, 1934, were nominal directors.

(c) The company has not so far engaged in the business outlined in the primary objects clause of its memorandum of association—viz., the transaction of insurance business.

(d) Debenture securities (included in the balance-sheet as costing £22,565) representing a substantial proportion of the investments of the company were not in the possession of officials of the company. We were informed that these securities had been removed from New Zealand and are now in Sydney. Included in the debenture securities above-mentioned are twenty-one debentures of the British National Trust, Ltd., of £1,000 each purchased from the Investment Executive Trust of New Zealand, Ltd., for the sum of £21,525. The Investment Executive Trust of New Zealand, Ltd., and the British National Trust, Ltd., are companies included in the Schedule of the Companies (Special Investigations) Act, 1934, and in the Schedule of our Warrants of Appointment, and are the subject of separate reports.

(e) The activities of the company have been almost entirely confined to the purchase of investments from the Investment Executive Trust of New Zealand, Ltd., and to the purchase of shares in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., and in the Perpetual Trustees, Estate, and Agency Co. of New Zealand, Ltd.

(f) The company has acquired by way of purchase from shareholders in the Trustees, Executors, and Agency Co. of New Zealand, Ltd., 3,845 shares in the latter company. The majority of these share transfers have not been registered in the books of the Trustees, Executors, and Agency Co. of New Zealand, Ltd., but under normal circumstances, and subject to any restrictions in the articles of association or the regulations of the company the shares of which are the subject of transfer, a holding of nearly forty per cent. of the total shares issued would give the holders potential control. The Inspectors would draw attention to the facts that the companies concerned administer trust and other funds amounting in the aggregate to several millions of pounds, that these companies have been granted special privileges by private legislative enactments, and also are subject to certain restrictions with obligations on shareholders and on directors in regard to reserve liability in the event of winding up and in respect of domicile of shareholders. The activities of the Transport Mutual and General Insurance Co., Ltd., in the organized purchase of shares illustrates that it is practicable for the directorate of such a trust company to be superseded and the administration devolve on others who would have been unknown to the persons who had confided the management of their affairs to the Trustee Co.

In making these comments we realize that change of control following the acquisition of a block of shares may be effected in any public company the shares of which are freely dealt with in the share market.

(g) An option has been given to Mr. F. D. Graham to purchase the shares acquired by the company in the Trustees, Executors, and Agency Co. of New Zealand, Ltd. The purchase price of the shares was stated to be the total cost incurred by the company in the acquisition plus 5 per cent. on the total amount. We have no knowledge of the circumstances which led to the granting of this option, nor do we know if the purchase is likely to be completed.

H. D. VICKERY, }
A. M. SEAMAN, } Inspectors.

Wellington, N.Z., 28th January, 1935.

APPENDIX "C."

Auckland, 28th February, 1934.

To A. H. Anthony, Esq., Solicitor, Christchurch.

DEAR SIR,—

We hereby authorize you as our agent, but in your own name and/or that of your nominees and/or of nominees whom we may from time to time appoint, to purchase and acquire from time to time and either privately or on exchange as may seem to you best, and without restrictions as to registration of transfers by the companies concerned, any of the shares in the following companies:—

- (a) The Trustees, Executors, and Agency Co. of N.Z., Ltd., up to any number at a cash price not exceeding £4 each.
- (b) The Perpetual Trustees, Estate, and Agency Co. of N.Z., Ltd., up to any number at a cash price not exceeding £3 each.
- (c) Such other shares, stock, debentures, and/or securities of and in such companies, corporations, banks, societies, associations, or concerns and within such maximum prices as we or any one or more of us may by letter, telegraphic communication, or other writing from time to time authorize and direct.

And we authorize you to pay out of any moneys you may from time to time receive on our account all moneys required for the above purchases including brokerage, commission, stamp duties, and other out-of-pocket expenses in connection with the said purchases. Upon completion of the purchases and transfers you are to hold the scrip received by you on our account and subject to our directions, it being our intention that the title documents to the shares, stock, debentures and/or securities purchased as aforesaid are to be held by you pending our instructions and not by any nominee unless otherwise specially authorized by any one of us.

And in consideration of your acting on this authority, we the Transport Mutual and General Insurance Co., Ltd., of Auckland, as principals, and we the Investment Executive Trust of New Zealand, Ltd., of Auckland aforesaid, and John William Shaw McArthur, of Auckland aforesaid, company director, as guarantors and sureties for the due performance by the said principals of their obligations hereunder do and each of us doth hereby jointly and severally agree and undertake at all times to indemnify and hold harmless you and your estate and effects and all persons, firms, and corporations (and their respective estates and effects acting at the request on the representations and authority or under the direction of yourself and/or your agent or deputy in relation to the purchasing, acquiring, and/or holding of the shares, stocks, debentures, and/or securities aforesaid, or any of them, from and against all costs, charges, expenses, and losses, or liabilities whatsoever, without restriction, including liability for all uncalled and reserve capital or other liability whatsoever in respect of the said shares, stock, debentures, and/or securities aforesaid, or any of them, that may be occasioned by or arise out of the foregoing authority and instructions being acted upon by you and/or your agent or deputy aforesaid, it being our intention that neither you nor any person, firm, or corporation aforesaid, nor your and their estates and effects respectively, shall in any way be damaged, injured, and adversely affected as a result of acting as our or your agent, deputy, and/or nominees as aforesaid in relation to the premises.

Yours faithfully,

THE TRANSPORT MUTUAL AND GENERAL INSURANCE CO., LTD., Principal.
C. G. ALCORN, Director.
H. GLASSON, Secretary.

THE INVESTMENT EXECUTIVE TRUST OF N.Z., LTD., Surety.
W. McARTHUR, Director.
H. GLASSON, Secretary.

Surety: W. McARTHUR.

Witness to all the above signatures.

Above authority and instructions accepted.

A. H. ANTHONY.

APPENDIX "D."

KNOW ALL MEN BY THESE PRESENTS that THE TRANSPORT MUTUAL AND GENERAL INSURANCE COMPANY LIMITED a Company duly incorporated and having its registered office in the City of Auckland in the Dominion of New Zealand hereinafter referred to as the said Company in exercise of its powers in this behalf contained in its Memorandum and Articles of Association and of all other powers it hereunto enabling doth hereby nominate constitute and appoint ARCHIBALD HENRY ANTHONY of Christchurch in the Dominion aforesaid Solicitor hereinafter called the said Attorney the true and lawful attorney for it at its own cost and expense in all things and on its behalf but in his own name or in the name of any person or persons whom he or the said Company may nominate and appoint as the nominal purchasers thereof to purchase and acquire either on exchange or by private treaty any shares stock debentures and/or securities of and in such companies, banks, corporations, societies, associations, or concerns whatsoever as the Company may from time to time by letter telegram or other writing addressed to the said Attorney authorise and direct and within such maximum prices and to such number and otherwise upon such terms and conditions if any as the said Company may by such letter telegram or writing direct and stipulate And the said Company doth hereby authorise and empower the said Attorney in relation to the premises and at the cost and expense of the Company in all things to do all or any of the things following from time to time and in such manner as he in his discretion may determine :—

- (a) To have the said shares stock debentures and/or securities purchased and acquired in his own and/or in the name of nominees as aforesaid.
- (b) To issue in such form as he shall think fit to all or any of the said nominees Letters of Indemnity whereby such nominees and their respective estates and effect shall be indemnified against all costs charges expenses and liabilities whatsoever including uncalled and/or reserve capital liability and excess income tax by reason of such nominees acquiring such shares stock debentures or securities aforesaid.
- (c) In such form and upon such terms as he shall think fit to take from all or any of the nominees aforesaid powers of Attorney in relation to the said shares stock debentures or securities aforesaid conferring upon the said Attorney such rights powers and privileges as the said Attorney shall think fit.
- (d) To act and in respect of such powers of Attorney either personally or by substitute or substitutes in such manner as he shall think fit and for such purpose from time to time to attend at any meetings of the Companies concerned and to vote and act thereat as the said Attorney shall think in the best interests of the said Company.
- (e) To issue Letters of Credit to any Agent or Agents whom he or the said Company may appoint for the purpose of acquiring and purchasing the said shares stock debentures and/or securities aforesaid.
- (f) To purchase and acquire any shares stock debentures and/or securities aforesaid by taking but not registering transfers in respect thereof so as to permit the Vendor so long as he is the registered owner of the said shares stock debentures and/or securities to hold the same upon trust for the said attorney or as he may direct and to vote and to act in relation thereto as the said Attorney may direct or authorise.
- (g) At the request and by the direction of the Company or of any persons firm or corporation on its behalf to sell exchange or otherwise dispose of the said shares stock debentures and securities or any of them in such manner and upon such terms and conditions as to price and otherwise and to account for the proceeds thereof in accordance with the request and directions aforesaid.
- (h) To have any of the shares stock debentures and/or securities aforesaid taken in the name of nominees or appointees approved by the Company and to permit such nominee or appointee to become the registered holder of such shares provided that such nominee or appointee shall surrender the scrip for the said shares to the said Attorney or other representative or agent of the Company and shall undertake to hold all benefits and moneys arising from the holding of the said shares as trust property to be paid or dealt with to the said Attorney or as he shall direct and shall also undertake to vote in respect of the said shares and to appoint proxies or attorneys in relation thereto as the said Attorney shall request and authorize.
- (i) To do all such acts matters and things in relation to the premises as the said Attorney shall think fit and in particular to carry out all and any instructions that he may from time to time receive in writing from the Company or any persons firm or corporation on its behalf.

And in consideration of the said Attorney acting for the Company in relation to the matters aforesaid the Company hereby covenants and agrees with the said Attorney and his Executors Administrators and Assigns to indemnify and hold harmless the said Attorney and his estate and effects of from and against all costs charges expenses and liabilities whatsoever without restriction that may be incurred by the said Attorney whilst acting or purporting to act under these presents. And all and whatsoever the said Attorney shall do or cause to be done whilst acting or purporting to act under these presents the Company hereby covenants with the said Attorney and all persons firms and corporations with whom he may deal in relation to the matters aforesaid to adopt allow ratify and confirm.

IN WITNESS whereof these presents have been executed this sixth day of March 1934.

The Common Seal of the Transport Mutual and
General Insurance Company Limited was here-
unto affixed by order of the Directors in the
presence of :—

— CLARK, Director
C. G. ALCORN, Director
H. GLASSON, Secretary.

APPENDIX "E."

Christchurch, 8th March, 1934.

To the Transport Mutual and General Insurance Co., Ltd.,
Colonial Mutual Buildings, Queen Street, Auckland.

DEAR SIRS,—

Referring to the shares, stock, debentures, and/or securities which by letter of authority and indemnity dated 28th February, 1934, from you as principal and others as sureties to myself you have authorized me to purchase on your account, I hereby undertake to hold all relative scrip and documents that I may receive in relation thereto and all dividends, moneys, and benefits arising therefrom as trust property on your behalf and account, and will from time to time deal with same as you and/or the said sureties or either of them may from time to time direct and authorize.

Yours faithfully,

A. H. ANTHONY.

APPENDIX "F."

TO ALL TO WHOM THESE PRESENTS SHALL COME I Archibald Henry Anthony of Christchurch in the Dominion of New Zealand Solicitor send greeting :

Whereas I am at present acting as purchasing agent for the Transport Mutual and General Insurance Company Limited of Auckland in the Dominion aforesaid in the purchase of shares, stocks debentures and securities in various Companies, Bank Corporations Societies and Associations And whereas the said purchases are made principally in the names of nominees from whom I am taking irrevocable powers of Attorney whereunder I am empowered to act as attorney and proxy of the said respective nominees and generally to act as absolute owner of the shares stocks debentures and/or securities thereby affected with power to appoint a substitute or substitutes to act on my behalf Now THEREFORE in consideration of the premises I for myself my executors administrators and assigns do hereby irrevocably nominate constitute and appoint the said the Transport Mutual and General Insurance Company Limited aforesaid hereinafter referred to as "the said Company" as my substitute under all and every such power of Attorney aforesaid with full and unrestricted power to exercise all such rights powers and privileges thereunder as and when the said Company shall think fit as I myself could do if acting personally but nevertheless reserving to myself power to act personally until such time as the said Company may by notice in writing to me elect to act and operate hereunder And for myself and my said executors administrators and assigns I hereby renounce in favour of the said Company all and every interest right title claim and demand of to and in the said shares stock debentures and/or securities which I shall from time to time by letter or notice in writing under my hand declare to be referred to in or affected by these presents or any of them other than any lien that may be available in respect of unpaid purchase money if any or upon any other account AND ALL AND WHATSOEVER the said Company may do as my substitute as aforesaid in relation to the premises I hereby covenant with the said the Transport Mutual and General Insurance Company Limited and with all persons with whom the said Company may deal in relation to the matters aforesaid to allow adopt ratify and confirm.

IN WITNESS whereof I have set my hand hereunto this eighth day of March 1934.

A. H. ANTHONY.

SIGNED SEALED AND DELIVERED by the said Archibald Henry Anthony in the presence of :—

P. G. RITCHIE, Law Clerk, Christchurch.

APPENDIX "G."

....., 1934.

RECEIVED from Mr. , the sum of , being purchase-money for shares in , numbered to ; inclusive, in respect of which I have this day executed a transfer in favour of as transferee. Pending registration of the said transfer by the company I undertake to treat and hold the said shares and all dividends and other moneys or benefits arising therefrom as trust property, and immediately upon receipt thereof to hand same over to the above-named transferee or as he may direct, and also, pending such registration, to vote in respect of such shares and/or to issue proxies and/or appoint attorneys from time to time in relation thereto as the said transferee may from time to time authorize and direct; and in the meantime I hand herewith proxy forms duly signed by me to be held in escrow pending completion of proxy's name and filling-in of date of completion, which I hereby authorize, and upon such completion the said proxies shall become operative and in force and effect.

£.....

Transferor.

APPENDIX "H."

....., 1934.

To A. H. Anthony, Esq., Solicitor, Christchurch.

DEAR SIR,—

Referring to the shares in numbered to , inclusive, which I have agreed to take up on your behalf, and which have been or are being paid for out of funds furnished by you, I undertake upon registration of the shares in my name to send you the scrip therefor, and I hereby renounce all beneficial rights and interests therein, but will hold the said shares and all dividends and other moneys and benefits arising therefrom as trust property on your behalf and account, and will upon receipt of same immediately remit forward or hand to you or your agent the scrip for the said shares and all dividends and other moneys and benefits arising therefrom as aforesaid.

So long as I am the registered holder of the said shares or any of them I undertake at any meeting of the company at which I may attend to vote in respect of the said shares in such manner as you may request and direct and also to appoint such proxy and/or attorney in relation to the said shares as you may from time to time request and authorize; and in the meantime I hand to you herewith proxy forms duly signed by me to be held in escrow pending completion of proxy's name and filling-in of date of completion, which I hereby authorize, and upon such completion the said proxies shall become operative and in force and effect.

Yours faithfully,

Transferee.

APPENDIX "I."

KNOW ALL MEN BY THESE PRESENTS that I _____ of _____ being the holder of the shares mentioned in the schedule hereunder written in THE TRUSTEES, EXECUTORS, AND AGENCY COMPANY OF NEW ZEALAND (LIMITED) (hereinafter referred to as "the said company") for valuable consideration received do hereby for myself and my executors administrators and assigns IRREVOCABLY NOMINATE CONSTITUTE AND APPOINT Archibald Henry Anthony of Christchurch, Solicitor, or whomsoever he shall in writing appoint as his substitute or substitutes (all hereinafter referred to as "my said attorney") to do all or any of the things following either in my name or in the name of my said attorney as he shall think fit but at his own cost and expense in all things so long as I am the registered holder of the said shares or any of them:—

- (a) From time to time to demand collect receive and recover and give valid receipts and discharges therefor all dividends bonuses profits and shares payable or issuable in respect of the said shares or any of them.
- (b) From time to time to vote at all or any meetings of the said company in respect of the said shares or any of them in such manner as he shall think fit.
- (c) To transfer the said shares or any of them to any person or persons whomsoever for such consideration and upon such terms and conditions and to use and apply the proceeds therefrom as he shall think fit.
- (d) From time to time to appoint himself or any other person or persons whomsoever to act as my proxy at any or all meetings of shareholders of the said company in respect of the said shares or any of them.
- (e) From time to time to take all such steps and do all such things as in the opinion of my said attorney may be necessary or desirable for the purpose of obtaining the full benefit in every respect of the holding of the said shares or any of them.
- (f) Generally and from time to time to act and to do all such acts and things and exercise all such rights and privileges whatsoever and without restriction in relation to the said shares and/or any of them as the absolute owner thereof.

And I hereby exonerate and discharge any purchaser or purchasers of the said shares or any of them from any obligation to inquire into the regularity or propriety of any sale by my said attorney and I also authorize the said Company and its Directors and Officers to accept and act upon any transfer or proxy aforesaid executed by my said attorney as aforesaid in respect of or in relation to the said shares or any of them. And I hereby expressly declare that the said company and its Directors and Officers shall in no wise be concerned as to or affected by the revocation or cancellation of these presents by death or otherwise until the actual receipt by them of a joint notice by me or my executors administrators and assigns and my said Attorney of such revocation or cancellation it being my intention that these presents shall be irrevocable without the consent and concurrence in writing of my said Attorney AND ALL AND WHATSOEVER my said Attorney shall do or purport to do whilst acting under these presents I hereby covenant with all persons dealing with my said Attorney in relation to the premises to adopt allow ratify and confirm.

IN WITNESS whereof I have hereunto set my hand this _____ day of _____ 1934.

Signed Sealed and Delivered by the said }
 in the presence of— }
 }
 }
 }

The Schedule hereinbefore referred to.

.....Shares numbered.....

V. B. McINNES AND CO., LTD.

REPORT OF INSPECTOR.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of V. B. McInnes and Co., Ltd.

REPORT OF INSPECTOR.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John McFarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule of the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, Herbert Douglas Vickery, one of the Inspectors so appointed, herewith respectfully submits the report of his investigation of the affairs of V. B. McInnes and Co., Ltd.

I commenced my investigation of the affairs of V. B. McInnes and Co., Ltd., by attending at its office on the 9th day of August, 1934, having previously received telegraphic notice of appointment.

2. BOOKS AND RECORDS INSPECTED.

I have had access to the books and records of the company in Auckland, Wellington, and Dunedin, and have obtained from officials of the company such information as I have required. I have also been given access to the books and records of the Christchurch Agent, O. A. Bridgewater and Co., Ltd. The officers and agents of the company answered all questions asked of them and willingly gave me such information as I required.

Copies of various forms and documents obtained in the course of the investigation are submitted as appendices to this report.

3. CONSTITUTION OF COMPANY.

V. B. McInnes and Co., Ltd., was registered as a private company on 30th May, 1932, with a capital of £1,000, divided into 1,000 ordinary shares of £1 each. The memorandum and articles of association were subscribed as follows:—

Victor Benbow McInnes	..	..	..	..	..	990 shares,
Investment Securities Association, Ltd.	..	..	..	..	..	10 shares.

The shareholders as at the date of the investigation were:—

McInnes and Co., Ltd.	..	..	..	..	..	990 shares.
Investment Securities Association, Ltd.	..	..	..	..	..	10 shares,

V. B. McInnes having transferred his holding to a new company, McInnes and Co., Ltd., for a consideration of £20,000, in accordance with an option agreement dated 12th March, 1934. This agreement is referred to in paragraph 4 below.

The memorandum and articles of association are dated 26th May, 1932, and were filed with the Registrar of Companies in Auckland on 30th May, 1932. The certificate of incorporation was issued on 30th May, 1932.

The memorandum of association sets out that the objects for which the company is established are to carry on the business of sharebrokers, stockbrokers, financial agents, &c., to engage in all kinds of financial operations and to acquire stocks, bonds, &c., for the purpose of resale.

The articles of association comprise Table A to the Companies Act, 1908, with modifications providing (*inter alia*) that—

Quorum for a general meeting shall be three-quarters of the members holding three-quarters of the capital and present in person or by proxy.

V. B. McInnes during his life or until he resigns office shall be sole director and be styled managing director. While holding office he is entitled to appoint one or more members of the company to act with him as directors and to remove any such directors, or to appoint an acting managing director in his absence.

After the death or retirement of V. B. McInnes the company may elect managing director and directors.

Managing director is empowered to exercise all the powers given to directors.

A director is not disqualified from accepting nor is he personally liable to account for any profits under contracts made with the company or through work done on behalf of the company.

According to the books of account the company commenced operations as from 1st July, 1932.

4. V. B. McINNES AND CO., LTD., AND McINNES AND CO., LTD.

Before considering the company's operations it is necessary to explain the relationship between V. B. McInnes and Co., Ltd., and McInnes and Co., Ltd.

McInnes and Co., Ltd., is a new company registered under the Companies Ordinance, 1931, of the Territory for the seat of Government of the Commonwealth of Australia. According to a prospectus dated 27th March, 1934, copy of which is submitted in Appendix XVI*, the company was formed "for the purpose of securing the goodwill and assets of V. B. McInnes and Co., Ltd., of New Zealand and V. B. McInnes and Co. (Australia), Ltd., and of carrying on the business of Investment Consultants, Stock and Sharebrokers, carried on by these companies," and extending such business.

An option dated 12th March, 1934, was given by V. B. McInnes to the new company to acquire for the sum of £20,000, and within six months from date, the 990 shares held by V. B. McInnes in the capital of V. B. McInnes and Co., Ltd. The option reads as follows :—

"IN CONSIDERATION of the sum of ONE SHILLING paid to me by McINNES AND COMPANY LIMITED a Company incorporated in the Territory for the Seat of Government of the Commonwealth of Australia (the receipt of which sum I do hereby acknowledge) I, VICTOR BENBOW McINNES of 32-38 Yorkshire House, Shortland Street, AUCKLAND N.Z. HEREBY GRANT to the said Company an option to be exercised within six (6) months from the date hereof to purchase the nine-hundred and ninety (990) Ordinary Shares held by me in the capital of V. B. McInnes and Company Limited a Company incorporated in New Zealand and having its registered office at Auckland (the total capital of such Company being one-thousand pounds (£1,000) divided into one-thousand (1,000) shares of one-pound (£1) each) at and for the price or sum of TWENTY THOUSAND POUNDS (£20,000) to be payable as follows namely two-thousand pounds (£2,000) on the first-mentioned Company exercising such option and the balance of eighteen-thousand pounds (£18,000) within three months from that date AND I AGREE that if I am able to purchase the remaining ten (10) shares in the capital of V. B. McInnes and Company Limited at a price not exceeding two-hundred pounds (£200) within one month after the exercise of such option I will include such shares with the shares sold without any increase in the purchase price AND ALSO that if such option is exercised and the contract duly completed I will undertake that I will not either alone or in partnership with any person or as a Director of a Company carry on the business of a stock and sharebroker or allow my name to be used in connection with any such business in New Zealand for a period of five (5) years from the date of completion of such purchase otherwise than as a Director or officer of the said McInnes and Company Limited without the consent of such last-mentioned Company.

"Dated this twelfth day of March, 1934.

"(Signed) V. B. McINNES.

"Witness :—

"(Signed) G. G. CAYLEY-ALEXANDER."

According to the balance-sheet of V. B. McInnes and Co., Ltd., as at 31st March, 1934, the payment for goodwill on the basis of this consideration of £20,000 would have been approximately £13,000, while the amount to be paid for the goodwill of V. B. McInnes (Australia), Ltd., was stated in the prospectus to be £10,000, and such sums were to be paid out of the proceeds of the public subscription of shares.

V. B. McInnes transferred his shares to the new company on 13th July, 1934, and the transfer was approved at a meeting of directors held in Sydney on 22nd July, 1934. An undertaking dated 13th July, 1934, was given by V. B. McInnes to the new company that he would not carry on business apart from the company for a period of five years.

A deed was entered into between C. G. Alcorn and McInnes and Co., Ltd., dated 2nd August, 1934, and purporting to assign all the interest of C. G. Alcorn in V. B. McInnes and Co., Ltd., to the new company for a consideration of £200. This deed apparently was made in error on the assumption that C. G. Alcorn was a shareholder in V. B. McInnes and Co., Ltd. The shareholder, however, is

* Not printed.

the Investment Securities Association, Ltd. C. G. Alcorn is a director of V. B. McInnes and Co., Ltd., but his financial interest in the company is through the Investment Securities Association, Ltd.

The intention was to liquidate V. B. McInnes and Co., Ltd., as from 31st July, 1934. A resolution to wind up was entered in the minute-book on 31st July, 1934, and signed by McInnes and Co., Ltd., and C. G. Alcorn. The resolution was invalidated, however, by C. G. Alcorn's signing as shareholder, whereas the signatory should have been the Investment Securities Association, Ltd. The proceedings were further invalidated through the failure of the secretary to file the declaration of solvency required under the Companies Act, 1933, *before* the date of the resolution to liquidate. The result is that V. B. McInnes and Co., Ltd., and the new company, McInnes and Co., Ltd., are both in existence, while McInnes and Co., Ltd., has replaced V. B. McInnes as the principal shareholder in V. B. McInnes and Co., Ltd.

As far as the operations of the two companies are concerned, McInnes and Co., Ltd., was considered by the directors and officials as having taken over V. B. McInnes and Co., Ltd.'s business as from some date in July, 1934. Bank accounts were transferred into the name of McInnes and Co., Ltd., and operations generally were conducted under that company's name. As regards the books of account the transactions of the two companies were not dissociated until November, 1934, when the secretary and auditor dissected the entries in the composite books of account, and produced statements of account embodying the operations of each company. These accounts, together with relative auditors' reports and comments, were produced to me, and Appendices I and IV* have been prepared from them. Books of account for McInnes and Co., Ltd.'s operations in New Zealand for the period from 1st July to 31st October, 1934, were thus not written up until November, 1934. From inspection of the books I cannot agree with certain of the allocations between the two companies as shown in these accounts, but any such errors do not seem materially to affect the position, as amounts realized on sale of the assets of V. B. McInnes and Co., Ltd., will, after payment of creditors, presumably belong to McInnes and Co., Ltd., in terms of the arrangement set out above.

In view of the continued joint existence of both companies it will be realized that an investigation of V. B. McInnes and Co., Ltd., necessarily involved an investigation of the operations in New Zealand of McInnes and Co., Ltd., although the latter company was not included in the list of companies which were made the subject of investigation under the Companies (Special Investigations) Act, 1934. Members of the staff of V. B. McInnes and Co., Ltd., became members of the staff of McInnes and Co., Ltd., as soon as that company commenced operations in New Zealand, so that in interrogating the staff of V. B. McInnes and Co., Ltd., I have also been interrogating the staff of McInnes and Co., Ltd., in New Zealand. Similarly the books and records produced to me have embraced both companies. I have submitted statements of account for McInnes and Co., Ltd., New Zealand Section, in the appendices to this report.

5. FUNCTION OF COMPANY.

V. B. McInnes and Co., Ltd.'s chief function has been that of organizing broker for the Investment Executive Trust of New Zealand, Ltd. Prior to the formation of the company this position was held by Mr. V. B. McInnes, operating under the name of V. B. McInnes and Co. In addition, Mr. McInnes, and later the company, carried on a general sharebroking business.

The company's activities in connection with the Investment Executive Trust of New Zealand, Ltd., can best be reviewed by considering the connection of that company with V. B. McInnes's organization from prior to the formation of the company up to date as disclosed by the correspondence and documentary evidence obtained in the course of the investigation.

On 14th March, 1931, the first prospectus of the Investment Executive Trust of New Zealand, Ltd., was issued. On 4th May, 1931, V. B. McInnes wrote from Dunedin to J. W. S. McArthur, managing director of the Investment Executive Trust of New Zealand, Ltd., as follows :—

“ On account of internal organization, I am desirous of taking up the contract with your company under V. B. McInnes and Co. As Mr. Bridgewater is not a licensed sharebroker, I consider it advisable to trade under my license, seeing your proposition will bring us so much in touch with other stockbrokers. Also, all salesmen under this name are salaried men, whereas, with the other concern, are employed by commission only, and I am desirous of keeping up as much tone and appearance with your proposition as possible. Also, I am able to obtain the assistance of other brokers, which would not be allowed by my agreement with Mr. Bridgewater. This will not affect the representation in Christchurch, as I have made arrangements with Mr. Bridgewater to take a subcontract for the whole of Canterbury. Also, it will enable me to keep the terms of the contract as confidential as you desire.

“ Before receiving the full supply of literature, I went out a couple of evenings with the prospectuses I obtained from you in Wellington, and interviewed three or four clients just to find out the appeal it had from the buyer's point of view, and I received two orders (to be paid for this week), and I must say that I have never handled anything that has such good appeal as your proposition. I will now be spending practically full time in the organizing of this concern, and with all representatives appointed by me, I will take full responsibility and have also stipulated with the Christchurch branch that their returns must be forwarded through this office. Therefore you have only to look to our Dunedin office for full responsibility. Our Mr. Trevellyn will be putting full time on your proposition as from Monday, May 11th. Therefore, we would appreciate further lists of investors, also Southland and Christchurch lists as promised by you in Wellington.

* Not printed.

“ *Re* COMMISSION AND TRAVELLING-EXPENSES.

“ We will deduct these amounts from our returns each week, and forward you receipt for same, as this has been our usual procedure.

“ *Re* ADVERTISING.

“ We would be pleased to have authority and particulars to advertise in the Dunedin papers, also Christchurch and Invercargill when necessary. If you so desire, we will pay the advertising here, and you can reimburse us at your convenience.

“ *Re* COLLECTIONS OF DEFERRED PAYMENTS.

“ We would be pleased if you would consider the question of allowing us to send out deferred-payment notices, and also make collections payable at our offices. We are quite prepared to do this at a nominal fee which will cover the cost of doing same.

“ The reason I throw out this suggestion is because I realize the benefit of having clients paying in at our offices, as we then keep in touch with them, and you can hardly realize the large percentage of people that we are able to induce to further invest when paying in their instalments.

“ *Re* REPRINTS OF VARIOUS FINANCIAL CRITICS.

“ I trust that you have not overlooked the question of having a plentiful supply of reprints, especially those of the *Stock Exchange Gazette* and *Financial Times*.

“ RETURN STATEMENTS.

“ These we will forward on Saturday of each week, and if at any time the volume of business is sufficient to warrant an extra return we will post same on Wednesday of each week.

“ I have received from the Sterling Investments Co. of New Zealand, Ltd., a letter giving me full particulars of any clients who have replied to their circular. I would be pleased if you could arrange for copies of the circular to be forwarded to us, also the names of all the people in the South Island to whom these circulars were sent.

“ I trust that this will clear all matters necessary for us to make a satisfactory start with your proposition, and I am sure that we will give you every satisfaction, both in the volume of business obtained, but also in the manner in which it is conducted.

“ I think it would be advisable, when advertising is being done, to ask applicants to make their replies addressed to the Investment Executive Trust of New Zealand, Ltd., but using our box-numbers. Adopting this attitude, we would have no fear of it clashing with our other advertisements which appear from time to time.”

On 8th May, 1931, J. W. S. McArthur wrote to V. B. McInnes as follows :—

“ I am forwarding a letter of appointment setting out terms and conditions, which I trust will be satisfactory to you and should be glad of your confirmation.

“ Accompanying this letter is a copy of the telegram which I sent you to-day in answer to your letter-telegram of yesterday. Should you be able to exchange our debentures for the securities and investments set out in your telegram it will certainly form an excellent start, and I trust you will be successful.

“ Referring to your suggestions as to advertising : we are now in process of preparing an advertising programme, but in the meantime should be glad to have further details from you as to the papers you would suggest inserting our advertisements, the frequency with which these should be inserted, and the space to be occupied.

“ *Re* COLLECTIONS OF DEFERRED PAYMENTS.

“ Naturally we are anxious to keep the cost of our selling and collections as low as possible, and should be glad to know, before making any definite commitments on this point, what rate of commission you would charge for the collection of deferred payments.

“ *Re* LITERATURE, REPRINTS, ETC.

“ We are having a number of reprints taken from the *Stock Exchange Gazette*, *Financial Times*, and *Exporter*, articles dealing with investment trusts. A number of each of these will be forwarded to you as soon as they are off the press.

“ We are to-day sending you a further fifty copies of our booklet ‘ Insuring Investments ’ as requested.

“ LISTS OF SHAREHOLDERS.

“ We hope to be able to forward with this letter to-day a further list of Canterbury investors and a partial list of Southland investors. Other lists will be prepared as early as possible and forwarded to you.

“ I much appreciate your comments on the merits of our proposition. From all quarters the company’s debentures are receiving a very favourable reception.

“ With best wishes for your success and assurances of my desire to assist you in any way possible.”

“ We wish to confirm your appointment as our broker for the South Island of New Zealand in accordance with the verbal arrangements made between your good self and the subscriber and in compliance with the wishes expressed in your letter of the 4th inst., as follows :—

- “(1) A brokerage of 5 % (five per centum) is to be paid to you on the sales of debentures in either ‘A’ or ‘B’ Series which you may make on our account.
- “(2) An expense allowance of $2\frac{1}{2}$ % shall also be paid in respect of sales mentioned in paragraph (1).
- “(3) An over-riding commission of 1 per cent. is to be paid to you on debentures in either series sold on our account by Stock Exchange brokers in the South Island.
- “(4) Returns of all sales and transactions accompanied by cheque for the proceeds of such sales and transactions, less brokerage and expense allowance mentioned in paragraphs (1) and (2), to be forwarded weekly.
- “(5) The company will accept, subject to approval, bonds, debentures, or shares in exchange for debentures in either ‘A’ or ‘B’ Series at current market prices on the day of exchange.
- “(6) The company will supply all necessary prospectuses and literature free of charge, and will make such reasonable allocations for advertising as you may consider necessary.”

On 27th October, 1931, J. W. S. McArthur wrote to V. B. McInnes as follows :—

“ Referring to commission rates on sales of debentures in the Trust, we hereby confirm the agreement arrived at in Wellington last week :—

- “(1) Should you effect a sale of preference shares and debentures to the nominal value of £12,500 (twelve thousand five hundred pounds) from October 22nd, 1931, to May 31st, 1932, we will pay you a bonus of £410 (four hundred and ten pounds).
- “(2) If you effect a sale of preference shares and debentures in the Trust amounting to £25,000 (twenty-five thousand pounds) between the above dates we will pay a bonus of £1,000 (one thousand pounds).

“ It is understood that sales will include debentures of the ‘A’ and ‘B’ Series, also preference shares in the Trust.

“ As pointed out in the course of conversation with your Mr. McInnes by the subscriber, we are enabled to pay the bonuses mentioned because of the volume of sales. There are special opportunities for acquiring investments at attractive prices during the next six to nine months, and we feel assured of your assistance in helping us to meet these opportunities.

“ With best wishes.”

On 27th October, 1931, V. B. McInnes wrote to the Investment Executive Trust of New Zealand, Ltd., as follows :—

“ We have pleasure in accepting the arrangement of £2 per week for office allowance, for which we thank you, and we will leave it to yourself as to when and how this will be paid.

“ In connection with the writer’s announcement to the *Press* in connection with the formation of the Stock Exchange of New Zealand, Ltd., he will await a wire advising that the company has been duly registered before doing so.

“ The subscriber has already interviewed Mr. Russell Morrison, who had written, stating that he was not prepared to continue selling Trust debentures on the present rate of remuneration. Therefore, it has been necessary for us to allow him the full amount of commission and travelling expenses (5 per cent. and $2\frac{1}{2}$ per cent. respectively) that is received by us. This will be necessary in other cases for us to hope of getting the volume of business required, so that, under the bonus agreement, it means that we will be without any margin whatsoever. However, we are quite prepared to experiment meanwhile on the understanding that on the £12,500 turnover by May 30th, 1932, that we receive a bonus of £410, or on a £25,000 turnover by the same date, we shall receive a bonus of £1,000. By the time the writer arrives in Auckland at Christmas time, he will have a fair idea how this experiment is going to benefit us, and although it is very much against our principle to work on a bonus system, on a stipulated turnover, on account of the personal relations, which we value, we are quite prepared to do so meanwhile.

“ For your information, we are appointing a secretary as from November 2nd.

“ We trust that this will be sufficient to confirm our verbal arrangement.”

These letters cover the arrangements ruling during the period prior to the formation of the company when V. B. McInnes was operating as V. B. McInnes and Co. in Dunedin. V. B. McInnes and Co. continued to operate up to 30th June, 1932, from which date V. B. McInnes and Co., Ltd., commenced operations. The bonus referred to in the letters dated 27th October, 1931, was received by V. B. McInnes and Co., in June, 1932, and amounted to £1,000. On 14th May, 1932, J. W. S. McArthur, in a personal letter to V. B. McInnes, requested him to hold, in part payment of the bonus, the proceeds of certain Dominion Fertilizer Co., Ltd., debentures, which had been sent to V. B. McInnes and Co. by the Investment Executive Trust of New Zealand, Ltd. These debentures realized £874 and the balance of bonus—£126—was received from the Investment Executive Trust of New Zealand, Ltd., on 18th June, 1932.

On 1st June, 1932, an agreement was entered into between the Investment Executive Trust of New Zealand, Ltd., and V. B. McInnes and Co., Ltd., the company which is the subject of this report. The effect of the agreement was for the company to take the place of Mr. V. B. McInnes as the organizing broker of the Investment Executive Trust of New Zealand, Ltd. The agreement reads as follows :—

MEMORANDUM OF AGREEMENT made this First day of June One thousand nine hundred and thirty-two Between THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND LIMITED (hereinafter called "The Principal") and V. B. McINNES AND COMPANY LIMITED (hereinafter called "The Organizing Broker") WHEREBY IT IS AGREED as follows :—

1. THE Broker agrees to sell the Preference Shares and "A" and "B" Series Debentures of the Principal.
2. THE Broker undertakes to establish Sales Offices in Dunedin, Christchurch, Wellington and Auckland, in New Zealand.
3. SHOULD the Principal decide to sell its Debentures or Preference Shares overseas, the Broker shall be given the option of selling such Shares and Debentures on behalf of the Trust on similar terms to those set out in this Agreement.
4. SHOULD the Principal make any sales of Preference Shares or Debentures through other Agencies, advertising mediums or Brokerage firms, the Principal will pay to the Broker the difference between the brokerage or commission paid to such Agencies and the total amount payable to the Broker in terms of this Agreement as set out in Clause 12.
5. SHOULD any sales of Debentures or Shares be made by any Director or Shareholder of the Principal, no commission or allowance will be payable to the Broker in respect of such sales.
6. THE Principal will not, so long as this Agreement remains in force, employ canvassers for the sale of its Preference Shares or Debentures.
7. SHOULD the Principal issue any further series of Debentures, Preference Shares or other units, the Broker shall have the first option of selling such further series on terms to be mutually agreed upon.
8. THE Broker shall not, in New Zealand or any other country in which the Principal may be selling its Shares or Debentures, without authority in writing from the Principal, sell the Shares, Debentures or other units of any other Investment Trust or any other Company carrying on the business of an Investment Trust.
9. THE Broker shall direct all its officers and servants to promote the best interests of the Principal and to instruct such officers and servants that no statements are to be made which are not in accordance with the Principal's Prospectus and authorized literature.
10. THE Broker will supply to the Principal a statement once at least in every week giving particulars of each sale of Debentures or Shares, such statement to be accompanied by all proceeds received in respect of such sales, including Scrip and/or Certificates for Shares, Debentures or other units which may be exchanged for the Debentures or Shares of the Principal.
11. THE Principal shall supply all literature, prospectuses and stationery which may be requisitioned by the Broker.
12. THE Principal shall pay to the Broker :—
 - (a) A brokerage of five per centum on the nominal value of Shares or Debentures sold ; such brokerage shall be payable weekly on receipt of statement of sales in accordance with Clause 10.
 - (b) A Salaries and General Administration Allowance equal to five per centum of the nominal value of Shares or Debentures sold, such allowance to be paid at the end of each calendar month.

13. THE term of this Agreement shall be for five years from date hereof provided that it shall be optional on the part of the Principal to cancel this Agreement if the Broker shall fail to sell Shares or Debentures in the Trust of the nominal value of £50,000 during the first calendar year or £75,000 during the second calendar year or £100,000 per calendar year thereafter.

SIGNED by the said THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND LIMITED— } (Signed) W. McARTHUR, Managing Director.
 in the presence of :—
Signature of Witness : (Signed) H. GLASSON.
Occupation : Accountant.
Address : Auckland.

SIGNED by the said V. B. McINNES & COMPANY LIMITED } (Signed) V. B. McINNES, Managing Director.
 in the presence of :—
Signature of Witness : (Signed) W. M. TURKINGTON.
Occupation : Secretary.
Address : 55 Princes Street, Dunedin.

Further information regarding the allowance for administrative work paid to V. B. McInnes and Co. and V. B. McInnes and Co., Ltd., is contained in two letters dated 28th April, 1933, from the Investment Executive Trust of New Zealand, Ltd. The first letter was addressed to V. B. McInnes, and was as follows :—

"We wish to place on record and to secure your confirmation of the terms of your engagement by this company for the period from the 8th day of May, 1931, to the first day of June, 1932, for the purpose of carrying out administrative work in the Dominion on behalf of this company.

"Your engagement provided that this company was at liberty to terminate your engagement if you failed to devote the whole of your time and attention to the business of this company.

"It was also agreed that your engagement for the above-mentioned purpose was to be in no way affected by the terms of any brokerage contract between you and this company and that such engagement was to remain in full force and effect notwithstanding that this company should revoke or cancel your appointment as its broker or appoint any further or other broker or brokers to this company.

"Your duties under such engagement were as follows :—

- "(1) At your own cost in all things to establish and maintain throughout the term of this engagement suitable offices in the main centres of the Dominion and to furnish and equip such offices in a substantial manner and to display on such offices a suitable sign disclosing that such offices are branch offices of this company and to maintain an adequate staff to carry out your duties as herein set forth.

- “(2) To do all in your power to educate public opinion in the principles of the company's system of investment.
 - “(3) To distribute and circulate the literature and propaganda of the company and to do all in your power to ensure a proper understanding thereof.
 - “(4) To do all in your power to establish and maintain public confidence in this company, its management and undertaking and to take all proper means to acquire information regarding any action proposed or likely to be taken by opposing interests to prejudice this company in any way and to take all lawful means to circumvent and combat the efforts of opposing interests to prejudice damage or adversely affect this company or its undertaking.
 - “(5) To keep in touch with debenture-holders of the company and to do all in your power to maintain the confidence of such debenture-holders in their investment and to obtain from the company and convey to such debenture-holders all such information regarding the company and its operations as they may reasonably require.
 - “(6) To get in touch with persons holding investments desired by this company and to endeavour to purchase such investments at the best possible prices such prices not to be in excess of the prices quoted by this company for the same *and* no brokerage was to be charged by you for such services either against this company or the sellers of such investments.
 - “(7) Generally to manage the affairs of this company in the centres of the Dominion other than Auckland.
- “The total remuneration to be paid to you for the performance of the above-mentioned duties and obligations was to be a sum equal to 5 per cent. of the nominal value of the debentures of this company subscribed for during the term of this engagement.
- “Kindly let us have your early confirmation of the terms of your engagement as herein set forth.”

The second letter was addressed to V. B. McInnes and Co., *Limited*, and was as follows :—

“We wish to place on record and to secure your confirmation of the terms of the engagement of you by this company for the purpose of carrying out administrative work for this company in New Zealand in continuation of the services in this behalf previously rendered by your Mr. V. B. McInnes.

“The engagement is for a term of 5 years from the first day of June, 1932, provided however that at any time during such term the company may forthwith terminate the engagement if your Mr. V. B. McInnes shall cease to be a director of your company or if he shall fail to devote his time and attention to your business or if your company should engage in any other business of any sort or nature save that of brokers to this company.

“The engagement is to be in no way affected by the terms of any brokerage contract entered into between you and this company and this engagement will remain in full force and effect notwithstanding that this company should revoke or cancel the present appointment of you as broker to this company or appoint any further or other broker or brokers to this company.

“Your duties under such engagement are as follows :—

- “(1) At your own cost in all things to establish and maintain throughout the term of this engagement suitable offices in the main centres of the Dominion and to furnish and equip such offices in a substantial manner and to display on such offices a suitable sign disclosing that such offices are branch offices of this company and to maintain an adequate staff to carry out your duties as herein set forth.
- “(2) To do all in your power to educate public opinion in the principles of the company's system of investment.
- “(3) To distribute and circulate the literature and propaganda of the company and to do all in your power to ensure a proper understanding thereof.
- “(4) To do all in your power to establish and maintain public confidence in this company, its management and undertaking and to take all proper means to acquire information regarding any action proposed or likely to be taken by opposing interests to prejudice this company in any way and to take all lawful means to circumvent and combat the efforts of opposing interests to prejudice damage or adversely affect this company or its undertaking.
- “(5) To keep in touch with debenture-holders of the company and to do all in your power to maintain the confidence of such debenture-holders in their investment and to obtain from the company and convey to such debenture-holders all such information regarding the company and its operations as they may reasonably require.
- “(6) To get in touch with persons holding investments desired by this company and to endeavour to purchase such investments at the best possible prices such prices not to be in excess of the prices quoted by this company for the same *and* no brokerage shall be charged by you for such services either against this company or the sellers of such investments.
- “(7) Generally to manage the affairs of this company in the centres of the Dominion other than Auckland.

“The total remuneration to be paid to you for the performance of the above-mentioned duties and obligations is a sum equal to 5 per cent. of the nominal value of the debentures of this company subscribed for during the term of this engagement.

“Kindly let us have your early confirmation of the terms of your engagement as herein set forth.”

These letters were respectively confirmed by Mr. V. B. McInnes in a letter dated 29th May, 1933, and by the secretary of V. B. McInnes and Co., Ltd., in a letter dated 28th April, 1933.

As from 1st July, 1934, McInnes and Co., Ltd., the new company, has been treated as having replaced V. B. McInnes and Co., Ltd., as organizing brokers for the Investment Executive Trust of New Zealand, Ltd.

In addition to this principal function, V. B. McInnes and Co., Ltd., performed certain other duties in connection with the Investment Executive Trust of New Zealand, Ltd. If a debenture-holder in the Investment Executive Trust of New Zealand, Ltd., was desirous of raising money on the security of his debentures a loan would be negotiated by V. B. McInnes and Co., Ltd., from the Sterling Investments Co. (New Zealand), Ltd. This is referred to in paragraph 8 (c) below. Another important duty was the arrangement of the conversion of First Series Investment Executive Trust debentures into Second Series debentures. This is referred to in paragraph 11 (d) below. On the sharebroking side the company disposed of and acquired stocks and shares for the Investment Executive Trust of New Zealand, Ltd., though this business was performed only to a limited extent.

Since McInnes and Co., Ltd., commenced operations in New Zealand it had endeavoured to keep the market clear of Investment Executive Trust debentures by purchasing on its own account any Investment Executive Trust debentures that were for sale. These debentures were then disposed of by transferring at par to applicants for debentures, instead of passing the applications on to the Investment Executive Trust of New Zealand, Ltd. To a lesser degree this had been done in the past through nominees of V. B. McInnes and Co., Ltd.

6. PERSONNEL.

(a) *Directors.*—The directors of V. B. McInnes and Co., Ltd., are V. B. McInnes and C. G. Alcorn. Under the articles of association V. B. McInnes is a permanent director subject to certain stipulated conditions. In minutes dated 30th May, 1932, C. G. Alcorn was appointed a director, but his powers were limited to signing and endorsing cheques. In minutes dated 30th July, 1932, his powers were further extended to signing “together with Mr. V. B. McInnes, transfer of shares and debentures or other stocks on behalf of the company and to attach the seal thereto with or without the signature of the secretary.”

Mr. V. B. McInnes during the period from 1st July, 1932, to 31st March, 1933, drew a weekly salary amount of £20. In addition to this weekly amount Mr. McInnes drew in one cheque a sum of £1,250, which was allotted to him as an increase in salary by resolution dated 21st January, 1933. For the year ended 31st March, 1934, Mr. McInnes's salary was increased from £1,040 to £1,750. I was informed by the secretary that Mr. McInnes had not drawn any director's fees in addition to salary.

During the period January–April, 1933, C. G. Alcorn drew director's fees totalling £65 at the rate of £5 per week. I understand that these fees were paid to Mr. Alcorn while acting as managing director during the absence from New Zealand of Mr. McInnes.

(b) *Managers.*—The following were the managers of McInnes and Co., Ltd., in New Zealand as at the date of the investigation :—

General manager, Auckland	..	..	..	H. R. Hallard (also a director).
Branch manager, Auckland	..	..	..	N. Dunningham.
Branch manager, Wellington	..	..	..	H. E. Dowdy (also a director).
Branch manager, Dunedin	..	..	..	H. Calvert.

The following persons previously held positions as managers of V. B. McInnes and Co., Ltd. :—

General manager, Auckland	..	..	..	..	R. Emanuel.
Branch manager, Auckland	..	..	..	..	H. A. G. Foster.
Branch manager, Wellington	..	..	..	..	{ S. O. Clarke. R. Emanuel. H. R. Hallard.
Branch manager, Dunedin	..	..	..	..	F. S. B. Farmar.

The managers have been paid salaries with, in most cases, an over-riding commission of $\frac{1}{2}$ per cent. on business secured.

(c) *Agent.*—Both companies are represented in Christchurch by O. A. Bridgewater and Co., Ltd. The agency arrangement with V. B. McInnes and Co., Ltd., was contained in the following agreement :—

MEMORANDUM OF AGREEMENT this first day of November one thousand nine hundred and thirty two between V. B. McInnes & Company Limited (hereinafter called the principal) and O. A. Bridgewater & Company (hereinafter called the broker) WHEREBY it is agreed as follows :—

1. The broker agrees to sell the Preference shares and A and B Series Debentures of the Investment Executive Trust of New Zealand Limited in the Christchurch territory which shall include from Marlborough, North Canterbury, Mid-Canterbury, South Canterbury and Westland, providing, however, that Marlborough and Westland shall be producing business within six months from the date of this Agreement, otherwise such territories (Marlborough and Westland) to be excluded from the contract.

2. Should a principal make any sales of Preference shares or Debentures through other agencies, advertising mediums or brokerage firms the principal will pay to the broker the difference between the brokerage or commission paid to such agencies and the total amount payable to the broker in terms of this agreement as set out below, providing however, that the difference shall be at least one percent.

3. Should any sale debenture or shares be made by any Director or shareholder of the Investment Executive Trust of New Zealand Limited no commission or allowance will be paid to the broker in respect of such sales.

4. The principal will not so long as this agreement remains in force employ Investment Officers in the said territory for the sale of the Preference shares or Debentures as aforesaid.

5. Should the principal be selling any further series of Debentures or preference shares the broker shall have the first option of selling such further series on terms to be mutually agreed upon.

6. The broker shall not in New Zealand or any other country in which the principal may be sell Investment Executive Trust of New Zealand Limited shares or Debentures without authority in writing from the principal to sell such shares debentures or other units of any other Investment Trust or any other company carrying on the business of Investment Trust.

7. The broker shall direct all its officers and servants to promote the best interests of the principal and to instruct such officers and servants that no statements are to be made which are not in accordance with the prospectus and authorised literature.

8. The broker will supply to the principal a statement at least once in every week giving particulars of each sale and Debentures or shares such statement to be accompanied by all proceeds received in respect of such sales including scrip certificates for shares debentures or other units which may be exchanged for the debentures or shares of the Investment Executive Trust of New Zealand Limited.

9. The principal shall supply all literature prospectus and stationery which may be requisitioned by the broker.

10. The principal shall pay to the broker:

- (a) A brokerage of five per centum on the nominal value of shares or debentures sold such brokerage shall be paid at least weekly on receipt of statement of sales in accordance with clause.
- (b) An office allowance of ten pounds per calendar month will be paid during the existence of this agreement.

11. The terms of this agreement shall be until the first day of June one thousand nine hundred and thirty seven provided that it shall be optional on the part of the principal to cancel this agreement if the broker shall fail to sell shares or debentures in the Investment Executive Trust of New Zealand Limited of the nominal value of thirty-five thousand pounds per annum.

Signed by the said
V. B. McINNES & COMPANY LTD.
Witness: (Signed) A. HILL.
Occupation: Accountant.
Address: 129 Pitt Street, Sydney.

} (Signed) V. B. McINNES, Managing Director.

Signed by the said
O. A. BRIDGEWATER & COMPANY
Witness: (Signed) G. M. HOBBS.
Occupation: Stenographer.
Address: Box 479, Christchurch.

} (Signed) O. A. BRIDGEWATER.

(d) *Secretary*.—The secretary of V. B. McInnes and Co., Ltd., at the date of the investigation was G. G. Cayley-Alexander, who was appointed on 21st January, 1933. Prior to this the position was occupied by W. M. Turkington. Mr. Alexander is also New Zealand secretary of McInnes and Co., Ltd.

(e) *Auditor*.—The auditor of both companies is F. S. Battley, M.Com., F.P.A.N.Z.

(f) *Solicitors*.—V. B. McInnes and Co., Ltd.'s solicitors are Parr and Blomfield; W. C. Hewitt also having acted in the past.

7. ORGANIZATION OF V. B. McINNES AND CO., LTD., AND OF McINNES AND CO., LTD., IN NEW ZEALAND.

The head office is in Auckland, with branches in Auckland, Wellington, and Dunedin. In Christchurch, as mentioned above, there is an agent, O. A. Bridgewater and Co., Ltd. Each branch is organized in two departments—one dealing with the sale of Investment Executive Trust debentures and the other, known as the "Transfer Department," conducting a sharebroking business.

The head office controls the branch finances except as regards the "Transfer Department." Each branch keeps a bank account and books of account in respect of its "transfer" department, but the branch general bank accounts and the ordinary branch books are controlled from head office. Returns of all business done on behalf of the Investment Executive Trust of New Zealand, Ltd., are made by branches to head office, where they are incorporated in one general statement before transmission to the Investment Executive Trust of New Zealand, Ltd. A specimen of the statement submitted to the Investment Executive Trust is given in Appendix XVII*.

No alteration, except in name, was made in the organization following on the assumption of the business by McInnes and Co., Ltd.

8. METHODS OF RECORDING TRANSACTIONS IN INVESTMENT EXECUTIVE TRUST DEBENTURES.

The following remarks apply to business as carried on by both V. B. McInnes and Co., Ltd., and McInnes and Co., Ltd.

The system of records kept in respect of the company's operations as organizing broker for the Investment Executive Trust of New Zealand, Ltd., can best be followed by consideration in conjunction with the various forms, &c., in use. Specimens of these forms are submitted as appendices to this memorandum*.

(a) *Debenture Sales*.—The Investment Executive Trust of New Zealand, Ltd., supplied the company with the bulk of the various forms, &c., and with selling literature for the debenture salesmen.

* NOTE.—Appendices not printed.

Salesmen were supplied with lists furnished by the Investment Executive Trust of New Zealand, Ltd., of investments and securities held by persons on whom the salesmen were calling. The salesman was thus enabled to suggest to the person interviewed that he should exchange his individual investments at current market prices for Investment Executive Trust debentures. Applications for debentures were received in three different ways:—

- (i) The applicant might pay up in full with the application the amount payable on the debentures applied for. In this case the salesmen obtained an application on the form submitted as Appendix IX*.
- (ii) The applicant might wish to pay by instalments, in which case the application was obtained on the form submitted as Appendix X*.
- (iii) The applicant might wish to transfer to the Investment Executive Trust of New Zealand, Ltd., stocks, shares, or other securities as consideration for the debentures applied for. In this case the application was obtained on form submitted as Appendix XI*, and was accompanied by a transfer form (Appendix XII*) transferring the securities from the applicant to the Investment Executive Trust of New Zealand, Ltd. The broker was informed from time to time of the securities which the Investment Executive Trust of New Zealand, Ltd., was prepared to accept as consideration for debentures, and the salesmen accepted such securities at current market prices. In most cases the value of securities taken over did not agree with the amount of debentures applied for, and the difference was adjusted by cash payment to or from the Investment Executive Trust of New Zealand, Ltd., according as to whether the value of the securities was less or more than the value of the debentures applied for. Amounts so refunded by the Investment Executive Trust of New Zealand, Ltd., to applicants were paid through the broker, and were termed in the books and records "capital adjustments." In some cases where shares in companies were taken over from applicants, the companies refused to register transfers to the Investment Executive Trust of New Zealand, Ltd. In these cases an "Interim Attorneyship" (Appendix XIII*) was obtained from the transferor in favour of the Investment Executive Trust of New Zealand, Ltd., and its managing director, to enable the shares to be dealt with.

As applications were obtained by salesmen they were forwarded to the branch office concerned, together with the relevant forms as outlined above. Each branch banked all cash received on applications to be placed to the credit of the Investment Executive Trust of New Zealand, Ltd., at Auckland. Each branch made up a statement at regular intervals setting out the applications received and detailing the accompanying cash and securities. This statement, accompanied by the various forms as outlined above, scrip, &c., for shares and other securities taken over and bank lodgment-slips for cash banked to the credit of the Investment Executive Trust of New Zealand, Ltd., was forwarded to head office at Auckland. At head office all the branch statements were amalgamated, and a complete statement in respect of all the business done in New Zealand was handed over with the appropriate documents to the Investment Executive Trust of New Zealand, Ltd. A specimen statement showing the method in which these final statements were drawn up is submitted as Appendix XVII*.

On allotment of debentures the Investment Executive Trust of New Zealand, Ltd., forwarded the debenture certificates to the broker, who distributed them to the debenture-holders. Instalments on debentures applied for on deferred terms were collected by the broker.

(b) *Conversions.*—The broker negotiated with debenture-holders the "conversion" of First Series Investment Executive Trust debentures to Second Series. This "conversion" scheme is referred to in paragraph 11 (d) below. Under the arrangement made for the "conversion" fresh applications were received from debenture-holders for Second Series debentures, the consideration for allotment being supplied through the medium of New Zealand Shareholders Trust, Ltd. The procedure, as far as the broker was concerned, was to obtain a fresh application for debentures on the usual form, Appendix IX*, accompanied by a transfer of the old debentures on the form submitted in Appendix XV*, to the New Zealand Shareholders Trust, Ltd. The consideration for the transfer of First "B" Series debentures was at the rate of £110 for every £100 of debentures, but the transfer of First "A" Series debentures was at par. A letter of authority (Appendix XIV*) was obtained from the debenture-holder empowering the broker to uplift the consideration from the New Zealand Shareholders Trust, Ltd., and apply it to payment of the application money on the fresh application made to the Investment Executive Trust of New Zealand, Ltd., for Second Series debentures.

(c) *Loans.*—If a debenture-holder wished to raise a loan on the security of Investment Executive Trust debentures, this was generally effected through the broker, who arranged the loan from the Sterling Investments Co. (New Zealand), Ltd. This company advanced up to 75 per cent. of the amount of the debentures, and where the loan was arranged through the broker it was the usual practice to put the loan transaction through the broker's bank account.

9. BOOKS AND RECORDS.

Complete double entry accounts have been kept at Auckland in respect of the head office and branches. Each branch, in addition, has kept its transfer department books, which form part of the double-entry system. I have inspected the books in the head office and the branches. The books have been audited up to 31st October, 1934, and copies of the audited accounts have been produced to me. As mentioned above, transactions of V. B. McInnes and Co., Ltd., and McInnes and Co., Ltd., were

* NOTE.—Appendices not printed.

not separated until November, 1934, when books of account were written up for McInnes and Co., Ltd., New Zealand Section, embodying the entries relative to McInnes and Co., Ltd., hitherto contained in the books of V. B. McInnes and Co., Ltd.

No entries were made in the books in respect of applications received for Investment Executive Trust debentures. Copies of the statements, described above in paragraph 8 (a), formed the record in this respect. In the early days of the company's existence the practice was to pay application moneys from debenture sales into the company's bank account, but this was altered to the system described in paragraph 8 (a).

The records in respect of "conversions" were not incorporated in the books of account, but a statement was rendered to the Investment Executive Trust of New Zealand, Ltd., and a letter of authority and request for payment forwarded to the New Zealand Shareholders Trust, Ltd. Specimen statement and letter are submitted in Appendix XVIII*.

Commission, in accordance with the agreements between the company and the Investment Executive Trust of New Zealand, Ltd., was paid on the business done as shown by the above-mentioned statements.

10. STATEMENTS OF ACCOUNT.

Audited statements of account of V. B. McInnes and Co., Ltd., for the periods ended 31st March, 1933, 31st December, 1933, 31st March, 1934, and 31st October, 1934, and of McInnes and Co., Ltd., New Zealand Section, for the period ended 31st October, 1934, have been furnished to me. I have not reproduced these statements as Appendices to this report as they are very detailed. I have prepared more concise statements, which are submitted in Appendices I-IV*.

Appendices I-III* embody statements of account covering the operations of V. B. McInnes and Co., Ltd., from 1st July, 1932, to 31st October, 1934.

Appendix I* is a balance-sheet of the company as at 31st October, 1934. Details are given regarding each item so that the statement is largely self-explanatory. I have verified the existence of the "Investments" (Assets Item III) and "Stocks and Shares" (Assets Item IV) either by inspection of the relative scrip or by ascertaining that the scrip or relative transfers are held by the Public Trustee, as Receiver of the company's assets.

The amount of £1,109 2s. shown as owing by McInnes and Co., Ltd. (Item V (a) (1)), agrees with the liability shown in McInnes and Co., Ltd.'s books (*vide* Appendix IV, Liabilities Item II (k)).

I have no means of verifying that the amount of £1,483 9s. 1d. shown as owing by V. B. McInnes and Co. (Australia), Ltd., is acknowledged by that company. A statement showing how this balance of £1,483 9s. 1d. is made up is submitted in Appendix XIX*. I have been furnished by Messrs. J. M. Elliffe and J. L. Griffin, who were also appointed inspectors of V. B. McInnes and Co., Ltd., with copies of statements of account of V. B. McInnes and Co. (Aus.), Ltd., obtained in Australia, and made up to 31st May, 1934. In these accounts V. B. McInnes and Co., Ltd., is shown as owing £172 10s. 5d. to V. B. McInnes and Co. (Australia), Ltd.

The amount of £943 0s. 11d. owing by H. A. G. Foster (Item V (c) (6)) is an amount due by a defaulting salesman, and is considered irrecoverable, but is reserved against.

On the liabilities side the provision for income-tax (Item III (e)) appears sufficient to cover the income-tax liability of the company in respect of the profit for the year ended 31st March, 1934.

I have referred, in paragraph 4 above, to my inability to agree with certain of the allocations made between the two companies by the secretary when opening books of account for McInnes and Co., Ltd. The most serious difference appears to lie in the apportionment of the profits made on realization of investments, but the effect of any possible errors seems immaterial inasmuch as adjustment of the errors would mean increasing or decreasing the balance owing by McInnes and Co., Ltd., and conversely adjusting the balance of Profit and Loss Appropriation Account. I have, therefore, accepted the accounts as certified by the auditor as correct for the purposes of this report.

Appendix II* is a comparative statement of assets and liabilities compiled from the books of the company and from the audited statements of account produced to me. The figures given us at 31st March, 1933, do not agree with the audited balance-sheet as at that date as certain adjustments for bad debts, loss on investments, and accrued liability were embodied in the audited accounts but not put through the books at that date. As these adjustments affected the continuity of the balances carried forward from one set of accounts to the next, I have adopted the figures as shown in the books for the purpose of compiling this comparative statement.

Statements of account were also drawn up and audited for the period of nine months ended 31st December, 1933, and used for the purposes of the prospectus of McInnes and Co., Ltd. These accounts embodied the above-mentioned adjustments for bad debts, &c., and also a transfer from Appropriation Account to General Reserve, which was not made in the books either at 31st December, 1933, or later, although shown in the audited Statements of Account.

Appendix III* is a comparative statement of summarized Revenue Accounts for the period 1932-34. The figures given for the nine months ended 31st March, 1933, are taken from the books and differ from the audited accounts in respect of the adjustments of bad debts, &c., mentioned above in connection with the balance-sheet. The individual items in the statement are largely self-explanatory and do not call for particular comment. It will be noticed that V. B. McInnes and Co., Ltd., has been credited with brokerage £295 on sales of shares in the capital of McInnes and Co., Ltd. In the composite accounts brokerage had been taken into account on all sales of shares in McInnes and Co., Ltd., but brokerage on shares sold after 1st July, 1934—*i.e.*, by McInnes and Co., Ltd., itself—was later written back.

* NOTE.—Appendices not printed.

Appendix IV* is a balance-sheet of McInnes and Co., Ltd., New Zealand Section, as at 31st October, 1934. As mentioned above, the composite accounts of V. B. McInnes and Co., Ltd., and McInnes and Co., Ltd., were analysed by the secretary and auditor in November, 1934, and separate books opened for McInnes and Co., Ltd., embodying its transactions from 1st July, 1934, to 31st October, 1934. Audited accounts for this period were submitted to me, and this balance-sheet is a restatement of the audited balance-sheet so as to give full details of assets and liabilities. Supporting statements (Appendix V and VI*) give details of sundry creditors, Items II (a) and II (d).

Appendix VIII* is a copy of the statement of accounts of Mr. V. B. McInnes, operating as V. B. McInnes and Co., for the period of three months ended 30th June, 1932. V. B. McInnes and Co., Ltd., commenced to operate as from 1st July, 1932, although the agency agreement with the Investment Executive Trust of New Zealand, Ltd., reproduced in paragraph 5 above, was dated 1st June, 1932.

11. RELATIONS WITH OTHER COMPANIES IN THE INVESTMENT EXECUTIVE TRUST GROUP.

In the course of this investigation I have endeavoured to trace the relationship between V. B. McInnes and Co., Ltd., and any of the other companies which are the subject of investigation under the Companies (Special Investigations) Act, 1934, and set out below such evidence as was disclosed:—

(a) *Investment Executive Trust of New Zealand, Ltd.*—

The general relationship with this company—viz., of principal broker—has been explained above in paragraph 5. The manner in which the market has been kept clear of Investment Executive Trust debentures, first by V. B. McInnes and Co., Ltd., and later by McInnes and Co., Ltd., has been referred to. The arrangement whereby the conversion of debentures from First to Second Series was effected is explained in paragraphs 8 (b) and 11 (d).

Through the transfer departments of the various branches the company has done some purchasing and selling of securities for the Investment Executive Trust of New Zealand, Ltd.

Transactions with the Investment Executive Trust of New Zealand, Ltd., on behalf of V. B. McInnes and Co. (Australia), Ltd., is dealt with in paragraph 12 (a) below.

In August–September, 1932, V. B. McInnes was debited with £367 18s., purchase consideration for 125 shares in Perpetual Trustees Estate and Agency Co., Ltd. These shares were later transferred to the Investment Executive Trust of New Zealand, Ltd., there being a note on the records to the effect that the shares were held by V. B. McInnes in trust for that company.

(b) *Sterling Investments Co. (New Zealand), Ltd.*—

As mentioned above in paragraph 8 (c), loans from this company on the security of Investment Executive Trust debentures were negotiated by V. B. McInnes and Co., Ltd., on behalf of debenture-holders.

V. B. McInnes and Co., Ltd., acting as sharebrokers, made purchases of investments from time to time on the Sterling Investments Co. (New Zealand), Ltd.'s account.

On 18th September, 1933, a loan to V. B. McInnes and Co., Ltd., of £975, free of interest, was arranged through the Investment Executive Trust of New Zealand, Ltd., from the Sterling Investments Co. (New Zealand), Ltd. This loan was utilized to buy 100 First Series "B" Investment Trust debentures from G. H. Buchanan, and was duly repaid.

In February, 1934, an amount of £1,001 was paid by the Sterling Investments Co. (New Zealand), Ltd., to V. B. McInnes and Co., Ltd., for the purchase of 110 "B" Investment Trust debentures from Dr. Elliott. These debentures appear to have been transferred direct to the Sterling Investments Co. (New Zealand), Ltd.

(c) *Investment Securities Association, Ltd.*—

From correspondence on the files in the Dunedin office of V. B. McInnes and Co., Ltd., it appears that V. B. McInnes was associated with the Investment Securities Association (not a limited company) as far back as 1929. In a letter dated 8th October, 1929, addressed to Bridgewater and McInnes, Dunedin, the Investment Securities Association, per C. G. Alcorn, gave particulars of debentures and shares in the Auckland Provincial Town Properties, Ltd., and offered the selling rights for the South Island.

When V. B. McInnes and Co., Ltd., was formed the Investment Securities Association, Ltd., was a signatory to the memorandum for ten shares as described in paragraph 3 above.

V. B. McInnes and Co., Ltd., has acted as broker for the Investment Securities Association, Ltd., earning commissions as set out in Appendix III*. An amount of £84 7s. 6d. owing to V. B. McInnes and Co., Ltd., at 31st October, 1934, has been written off as irrecoverable.

A further connection between the two companies was evidenced in 1933, when V. B. McInnes and Co., Ltd., purchased from time to time Investment Executive Trust debentures, which were transferred to the Investment Securities Association, Ltd., and held by them on V. B. McInnes and Co., Ltd.'s behalf pending resale.

* NOTE.—Appendices not printed.

(d) New Zealand Shareholders Trust, Ltd.—

The principal relation with this company lay in the arrangements regarding the “conversion” from First to Second Series of Investment Executive Trust debentures. This was effected by V. B. McInnes and Co., Ltd., obtaining from debenture-holders a transfer to the New Zealand Shareholders Trust, Ltd., of the First Series debentures held by them and a fresh application to the Investment Executive Trust of New Zealand, Ltd., for Second Series debentures. The debenture-holder was entitled to a premium of 10 per cent. on conversion of “B” debentures, and this was obtained either in cash or in allotment of additional Second Series debentures. As debentures were allotted only in multiples of £10, a debenture-holder could pay in additional cash to make up his premium to a multiple of £10 if he wished to receive debentures for the full amount. All these “conversion” transactions were handled by V. B. McInnes and Co., Ltd., who received the transfer and fresh application and paid or received the capital adjustment on the “conversion,” accounting therefore to the New Zealand Shareholders Trust, Ltd. For this work the company received from the New Zealand Shareholders Trust, Ltd., a commission of 2½ per cent. on the value of the new debentures subscribed.

Statements of the “conversion” transactions were rendered the New Zealand Shareholders Trust, Ltd., by V. B. McInnes and Co., Ltd., at regular intervals. A specimen statement and accompanying letter is submitted in Appendix XVIII*.

(e) British National Trust, Ltd.—

The following letter was the only evidence of any relations with this company disclosed in the course of the investigation :—

V. B. McINNES AND CO., LTD.

Memo. from Dunedin Office.

To The Secretary, V. B. McInnes & Co., Ltd.,
G.P.O. Box 1862, Auckland.

Ref. MD/99 VBM/RT Date : 1/6/33.

STRICTLY CONFIDENTIAL.

DEAR SIR,—

I have been instructed to buy on behalf of the British National Trust (not the Southern British National Trust) any shares available in the Trustees, Executors and Agency Co. of N.Z., Ltd., same to be taken out in my own name and to be held on behalf of the Company in question. It was also arranged between Mr. McArthur and myself that we would receive a buying commission of 5 per cent. on all transactions placed through. Therefore I want to make you familiar with the procedure so that you can deal with same without showing my hand upstairs, and I do not want them to know that I am working this through another Broker. As you will see by the Contract Note herewith that McInnes & Co., Ltd., will then make a profit on the Brokerage fees, as we are paying 1¼ % and receiving 5 %. Instead of enclosing the Contract Note herewith upstairs same will be kept for our own private reference, and you will take up to Mr. Glasson with your verbal explanation only, a Contract Note (and kindly have it signed by Mr. Dunningham, as he is a Share-broker, which is necessary) as follows :—

Bought on behalf of V. B. McInnes, Dunedin, 15 Trustees Executors & Agency Co., Ltd., Shares @ £3 5s.—

							£	s.	d.	£	s.	d.	
Stamp duty	0	3	6	=	0	3	6
Transfer fee	0	2	6	=	0	2	6
Brokerage @ 5 %	2	8	9	=	2	8	9
											£51	8	9

Kindly use our Official Contract Notes. It will then be necessary for you to forward a cheque to W. D. G. Hartley of the Securities Corporation Box 100, Dunedin, for the amount due as per his Contract Note. This procedure must be adopted in all cases and as stated before, the method in which we are obtaining these shares must be kept strictly to yourself.

Yours faithfully,

(Signed) V. B. McINNES, Managing Director,
V. B. McINNES & COMPANY LIMITED.

12. OTHER COMPANIES ASSOCIATED WITH V. B. McINNES AND CO., LTD, AND McINNES AND CO., LTD.

In the course of the investigation it was found that the following companies were more or less closely related to the activities of V. B. McInnes and Co., Ltd., and McInnes and Co., Ltd. :—

(a) V. B. McInnes and Co (Australia), Ltd.—

V. B. McInnes and Co., Ltd., was allotted 8,880 ordinary shares of 2s. 6d. each in V. B. McInnes and Co. (Australia), Ltd., but these shares were subsequently transferred to nominees under instructions from Mr. V. B. McInnes.

This company was apparently the counterpart in Australia of V. B. McInnes and Co., Ltd. The New Zealand company has acted as agent for the Australian company and has conducted share transactions on its behalf and made on its account receipts from and payments to the Investment Executive Trust of New Zealand, Ltd. A detailed statement of the account of the Australian company, as it appears in the books of V. B. McInnes and Co., Ltd., at 31st October, 1934, is submitted in Appendix XIX*. I was given no particulars of the payment of £2,000 made on 13th December, 1932, to the Investment Executive Trust of New Zealand, Ltd. The receipt given by the Investment Executive Trust of New Zealand, Ltd., read : “Payment as per Mr. McInnes instructions from Sydney.”

* NOTE.—Appendices not printed.

(b) Business and Technical Education, Limited (in Liquidation)—

This company was formed on 28th September, 1932, with a capital of £8,000 in 8,000 shares of £1. Its objects were to carry on an educational business, and V. B. McInnes was a subscriber to the memorandum of association for 250 shares. His capital contribution of £250 was furnished by the company. Other shareholders in the company were O. A. Bridgewater, H. A. Foster, A. R. I. Morrison, and H. F. Burley, all of whom were associated with V. B. McInnes and Co., Ltd. W. C. Hewitt was secretary of the company.

The company went into liquidation on 28th September, 1933, on the grounds that the company could not continue by reason of its liabilities, and the investment of £250 has been written off in the books of V. B. McInnes and Co., Ltd.

(c) Amalgamated Buildings, Ltd.—

This company was formed in March, 1934, to build a theatre at Devonport, Auckland, to be leased to Amalgamated Theatres, Ltd., for twenty years. The capital of the company is £12,000 in shares of £1 each; 2,500 shares have been taken up by McInnes and Co., Ltd., and 2,200 shares by British Medical Investment Trust, Ltd. A further five shares were subscribed by members of the staff of McInnes and Co., Ltd., on behalf of the company, while 100 fully-paid shares have been acquired from a holder for the sum of £80. The shares are shown in Appendix IV*, balance-sheet of McInnes and Co., Ltd., New Zealand Section, at a value of £1,959 5s., made up as follows:—

	£	s.	d.
Application allotment 10s. per share paid on 2,505 shares	1,252	10	0
Amount paid on account of first call of 5s. per share	300	5	0
Balance due on account of first call of 5s. per share as per sundry			
creditors, Item II (j)	326	10	0
Amount paid for 100 fully-paid shares	80	0	0
	<u>£1,959</u>	<u>5</u>	<u>0</u>

McInnes and Co., Ltd., is broker to the company, and has obtained £200 brokerage on the shares it has subscribed.

(d) British Medical Investment Trust, Ltd.—

V. B. McInnes and Co., Ltd., received on 26th June, 1934, an amount of £1,500 from the Sterling Investments Co. (New Zealand), Ltd. This amount was paid over by the latter company on cabled instructions received from Sydney, and was placed to the credit of British Medical Investment Trust, Ltd., in the books of V. B. McInnes and Co., Ltd. According to correspondence with V. B. McInnes and Co. (Australia), Ltd., V. B. McInnes was given authority by the directors of British Medical Investment Trust, Ltd., for sole responsibility for investment of funds.

As mentioned in the preceding paragraph, this company subscribed for 2,200 shares in Amalgamated Buildings, Ltd., calls on which have been met from the amount held at credit by V. B. McInnes and Co., Ltd. McInnes and Co., Ltd., has not included in its earnings £200 brokerage earned on the sale of these 2,200 shares, but has credited it to the account of the British Medical Investment Trust, Ltd. The balance remaining on the account is £50, as shown in Appendix I, Liabilities item III (b).

13. EVIDENCE OF OFFICIAL ADVICES RECEIVED BY V. B. McINNES AND CO., LTD., FROM THE INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

In the course of the investigation I inspected correspondence files of the company with a view of ascertaining what apparent official knowledge the company had of the activities and operations of the Investment Executive Trust of New Zealand, Ltd., and its associated companies. In Appendices XX (a)–(l)* are reproduced copies of some correspondence of interest in this connection. Appendices XX (a)–(c)* are relative to the profits and investments of the Investment Executive Trust of New Zealand, Ltd., XX (d)* to the question of appointment of trustees for debenture-holders, XX (e)–(h)* to the relationship of the Investment Executive Trust of New Zealand, Ltd., with associated companies, XX (i)* to the conversion of debentures from First to Second Series, XX (j)–(l)* to the resignation of officers of the Investment Executive Trust of New Zealand, Ltd.

14. NEW ZEALAND SHAREHOLDERS IN McINNES AND CO., LTD.

According to the New Zealand Register of Shareholders in McInnes and Co., Ltd., 12,654 preference shares of £1 each and 8,195 ordinary shares of 2s. 6d. each have been subscribed in New Zealand, and there has been paid on these shares a total of £6,555 4s. 7d.

I have submitted in Appendix VII* an abstract of the register prepared at my request by the New Zealand secretary of McInnes and Co., Ltd.

* NOTE.—Appendices not printed.

15. GENERAL REVIEW.

The position disclosed by the investigation may be summarized as follows :—

- (a) There are two companies operating in New Zealand in what may be termed the McInnes organization—V. B. McInnes and Co., Ltd., incorporated in New Zealand, and McInnes and Co., Ltd., incorporated in Australia.
- (b) It seems desirable that the liquidation of V. B. McInnes and Co., Ltd., as originally intended, should be proceeded with. By virtue of its holding in V. B. McInnes and Co., Ltd., of 990 shares out of a total of 1,000 shares, McInnes and Co., Ltd., will receive the greater part of any surplus in the liquidation of V. B. McInnes and Co., Ltd., after payment of creditors.
- (c) The main business of V. B. McInnes and Co., Ltd., has been that of organizing broker to the Investment Executive Trust of New Zealand, Ltd. Considerable profits were made prior to 1934, but latterly, and particularly since July, 1934, when McInnes and Co., Ltd., commenced operations in New Zealand, commissions received from the Investment Executive Trust of New Zealand, Ltd., have not been sufficient to cover the heavy overhead expense entailed through carrying on three establishments in New Zealand.
- (d) Since the appointment of Mr. G. G. Cayley Alexander as secretary to V. B. McInnes and Co., Ltd., the books of account have been methodically kept.
- (e) As regards McInnes and Co., Ltd., the total capital subscribed by the New Zealand public totals £13,678 7s. 6d. in 12,654 preference shares of £1 each and 8,195 ordinary shares of 2s. 6d. each. There have been paid on these shares amounts totalling £6,555 4s. 7d. It appears likely that portion, at any rate, of the unpaid liability on the shares will be called up. This company is domiciled in Canberra, so that, presumably, if the company is wound up, liquidation proceedings will be conducted in Australia.
- (f) The major part of the business transacted by V. B. McInnes and Co., Ltd., and by McInnes and Co., Ltd., in New Zealand has been in sales of debentures of the Investment Executive Trust of New Zealand, Ltd. In view of the disclosures made in the evidence given before the Royal Commission of inquiry in Australia it appears unlikely that the Investment Executive Trust of New Zealand, Ltd., will be able to continue the sale of its debentures to the public. McInnes and Co., Ltd., will accordingly need to seek other avenues of employment if it is to continue in business. In view of the relatively large amount of share capital of McInnes and Co., Ltd., subscribed by persons resident in New Zealand it seems appropriate that the New Zealand shareholders should be consulted as regards the company's future activities or continued existence.

I have endeavoured to set out in this report the methods adopted by the companies in conducting their business.

H. D. VICKERY, Public Accountant.

Hamilton Chambers, Wellington, N.Z., 5th December, 1934.

APPENDICES.

[Not printed.]

ALCORN, TROWER, AND CO., LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT. }

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of Alcorn, Trower, and Co., Ltd.

REPORT OF INSPECTORS.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the schedules of the said Warrants of Appointment. Copies of the Warrants of Appointment have been filed in the Supreme Court at Wellington.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and Archibald Morris Seaman, two of the Inspectors so appointed, herewith respectfully submit the report of their investigations of the affairs of Alcorn, Trower, and Co., Ltd.

We commenced our investigation into the affairs of this company by attending at its office on the 9th day of August, 1934.

2. BOOKS AND RECORDS.

There were produced to us some old books of the company containing entries up to 1916. There were no financial records available from that time up to 1st April, 1931, as at which date new books were opened by W. C. Hewitt, on the basis of a balance-sheet as at 31st March, 1931. We have not been able to ascertain whether books had ever been kept for this intervening period, or if they had been lost. The present books had been written up to January, 1934, and since our appointment have been completed, as far as possible from the information available, up to 30th June, 1934. The books as now submitted to us are not complete, in that they certainly do not contain a record of all the assets of the company, while we believe the records to be incomplete in other minor respects also, as is evidenced by disagreements between the accounts of this and related companies. In the absence from New Zealand of C. G. Alcorn, explanations of matters still in question are not obtainable.

The minutes are mainly on typewritten sheets, of which some were pasted into the minute-book, while several sheets were loose.

3. PERSONS SUPPLYING INFORMATION.

We have obtained fairly full information from Miss E. R. Alcorn, one of the Directors. The other Director, C. G. Alcorn, is not available to us owing to his absence in Sydney, and W. C. Hewitt is similarly absent. We understand from Miss E. R. Alcorn that these two could supply information on certain matters outside her knowledge.

4. CONSTITUTION OF COMPANY.

The memorandum of association is dated 22nd June, 1914, registration having been effected on 24th June, 1914.

The registered capital is £3,000 in £1 shares. The company was registered in Wellington, but since its formation has changed its sphere of operations, its activities having been transferred from Wellington to Putaruru, where all its property interests are centred.

The shareholders, who are also the directors, are—

Charles Graham Alcorn, holding 1,500 shares ;
Elizabeth Roberta Alcorn, holding 1,500 shares.

5. TRANSACTIONS OF COMPANY.

Since 1923 the activities of the company have been mainly in connection with lands in and about Putaruru. The absence of financial records prior to April, 1931, makes it impossible to follow these dealings properly ; and little can be done beyond ascertaining the present holdings of the company and its liabilities.

The company holds one small unencumbered property, all other properties being subject to mortgage—in nearly every instance the mortgagee is the First Mortgage Freehold Security Co. of New Zealand, Ltd. It has issued three debentures of £200 each, these being held by the same company.

The trustee for debenture-holders is the Investment Securities Association, Ltd., security being given by way of mortgage over a freehold property.

Interest due to the mortgagees and to debenture-holders has been paid on behalf of Alcorn, Trower, and Co., Ltd., by the Investment Securities Association, Ltd., which is a substantial creditor. The company itself does not appear to have had a banking account for years past, if at all, and has neither paid nor received cash on its own account, both the Investment Securities Association, Ltd., and Miss E. R. Alcorn having acted as intermediaries.

6. SHARES IN INVESTMENT EXECUTIVE TRUST OF NEW ZEALAND, LTD.

In or about October, 1931, the company acquired from J. W. S. McArthur, for £500, 16,750 shares in the Investment Executive Trust of New Zealand, Ltd., these being taken over in part payment of a debt due by J. W. S. McArthur to the company. In April, 1934, 16,250 of these shares were transferred to C. G. Alcorn, the consideration being stated in the transfer at £1,625—*i.e.*, 2s. per share. The entry recording this sale has been put through the books in C. G. Alcorn's absence, and he now shows as a debtor for the above amount. Three weeks later he sold the same shares to the Southern British National Trust, Ltd., at 8s. per share. Alcorn, Trower, and Co., Ltd., still hold 500 shares in the Investment Executive Trust of New Zealand, Ltd.

7. POSITION OF THE COMPANY.

In view of some uncertainty as to the true position of the share transaction just referred to, and in respect to some minor matters, it is impracticable at present to draw up a true balance-sheet, but the assets and liabilities as ascertained by us, and the position generally, at 30th June, 1934, are indicated in the following statement:—

Land and Mortgages.	Assets.		Liabilities.
	Government. Valuation.	Book Value.	
	£ s. d.	£ s. d.	£ s. d.
Sections 1–12, Block VIII, Lichfield }	60 0 0	568 17 0	..
Sections 1–10, Block IX, Lichfield }	(with other sections included later)		
Section 2, Block V, Puketurua }	5 0 0	..	..
Sections 4–5, Block IV, Puketurua }	55 0 0	..	..
Section 5, Block VII, Puketurua }	(with other sections included later)		
Mortgage No. 162564 to First Mortgage Freehold Security Co. of N.Z., Ltd.	..	..	300 0 0
Part Lot 7, part Section 97, Block VI, Patetere North S.D. ..	630 0 0	675 0 0	..
Mortgage No. 215799 to First Mortgage Freehold Security Co. of N.Z., Ltd.	..	..	441 11 1
Section 5, Block II, Putaruru	350 0 0	600 0 0	..
Mortgage No. 198420 to First Mortgage Freehold Security Co. of N.Z., Ltd.; subject also to second mortgage of £200 to E. R. Alcorn, included in liability to her shown below	..	..	392 9 8
Sections 8–10 and 18–20, Block IV, Puketurua (part of £55 above)	..	150 0 0	..
Sections 1–9, Block X, Lichfield (part of £60 above) .. ..	..	225 0 0	..
Mortgage No. 203699 to First Mortgage Freehold Security Co. of N.Z., Ltd.	..	..	245 5 6
Section 23, Block II, Putaruru	65 0 0	100 0 0	..
Lot 78, part Section 97, Block VI, Patetere North S.D. ..	30 0 0	125 0 0	..
Mortgage No. 216864 to First Mortgage Freehold Security Co. of N.Z., Ltd.	..	..	196 9 8
Part Lot 3, Pokaiwhenua and Huihuitaha No. 1 Block ..	170 0 0	900 0 0	..
Mortgaged as security for debentures held by First Mortgage Freehold Security Co. of N.Z., Ltd.	..	..	600 0 0
Total under mortgage to First Mortgage Freehold Security Co. of N.Z., Ltd.	1,365 0 0	3,343 17 0	2,175 15 11
Lot 5, part Section 97, Block VI, Patetere	85 0 0	175 0 0	..
Section 12, Block IV, Putaruru Village	80 0 0	Not entered in books	..
Mortgage No. 166523 to Mrs. Lockett .. .. .	..	..	200 0 0
Section 5, Block III, Putaruru	200 0 0	130 0 0	..
Mortgage to Crown .. .. .	..	..	119 2 8
Lot 11, Block IV, Putaruru (unencumbered)	80 0 0	Not entered in books	..
Total properties (carried forward)	£1,810 0 0	£3,648 17 0	£2,494 18 7

	Assets.						Liabilities.					
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Brought forward .. .. .	..			..			3,648	17	0	2,494	18	7
Shares—												
Putaruru Pine Forests : 3 shares of £25 each (now merged in N.Z. Perpetual Forests, Ltd.)	..			..			75	0	0	..		
Investment Executive Trust of N.Z., Ltd. : 500 shares	..			..			15	0	0	..		
Sterling Investments Co. (N.Z.), Ltd. : 200 shares ..	..			..			20	0	0	..		
(The books of Alcorn, Trower, and Co., Ltd., show a holding of 200 shares, paid to 2s. per share, in the Sterling Investments Co. (N.Z.), Ltd. The records of the Sterling Investments Co. (N.Z.), Ltd., show that the shares were transferred to the Investment Executive Trust of N.Z., Ltd., in March, 1932. The consideration received for this transfer has not been accounted for in the books of Alcorn, Trower, and Co., Ltd.)												
The Investment Securities Association, Ltd. : 725 fully paid £1 shares	..			..			Not recorded in books			..		
(The records of the Investment Securities Association, Ltd., show these shares as held by C. G. Alcorn, but Alcorn, Trower, and Co., Ltd., hold a transfer from C. G. Alcorn to the company. We consider the shares to be valueless.)												
First Mortgage Freehold Security Co., Ltd. : 100 shares of £1 each	..			..			Nothing paid			..		
Debtors—												
Beattie, S. E. (value doubtful) .. .. .	..			..			164	0	0	..		
N.Z. Freeholds and Buildings, Ltd. .. .. .	..			..			35	17	0	..		
C. G. Alcorn, for 16,250 shares in Investment Executive Trust of N.Z., Ltd., sold to him	..			..			1,625	0	0	..		
Creditors—												
Alcorn, E. R. .. .. .	..			..			..			650	11	10
The Investment Securities Association, Ltd. (the books of the Investment Securities Association, Ltd., show a debt of only £943 18s. 6d.)	..			..			..			1,162	5	3
Total of assets and of liabilities .. .. .	..			..			5,583	14	0	4,307	15	8
Profit and Loss Account—												
Accumulated loss to December, 1933 .. .. .	..			2,320	8	1	..			..
Add Expenses recorded to 30th June, 1934—												
Interest .. .. .	..			305	9	11	..			..
Rates .. .. .	..			46	1	6	..			..
License fees .. .. .	..			2	0	0	..			..
General expenses .. .. .	..			130	12	2	..			..
				2,804	11	8						
Less Rents	40	10	0	..			..			..
Less Apparent profit on Investment Executive Trust shares sold to C. G. Alcorn	1,040	0	0	1,080	10	0						
							1,724	1	8			
Paid-up capital .. .. .	..			..			..			3,000	0	0
							£7,307	15	8	£7,307	15	8

Though these figures show an apparent excess of assets over liabilities of £1,276 18s. 4d., it should be noted that the Government valuation of the properties is £1,838 17s. below the book value, and that there is some doubt whether the position between C. G. Alcorn and the company is correctly recorded in relation to the purchase by him of 16,250 shares in the Investment Executive Trust of New Zealand, Ltd.

The company has no funds with which to meet its current liabilities for rates, interest, and other expenses, nor is its income from rents sufficient to cover these payments.

8. RECOMMENDATION.

In view of the position of the company as disclosed in the last preceding paragraph it is difficult to see what good purpose can be served by its continued existence.

We therefore recommend that it be wound up.

Auckland, 28th January, 1935.

A. M. SEAMAN, }
J. L. GRIFFIN, } Inspectors.

FINANCIAL PUBLICATIONS LTD.

REPORT OF INSPECTORS.

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IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT. }

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of Financial Publications, Ltd.

REPORT OF INSPECTORS.

1. INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule of the said Warrants of Appointment. Copies of the Warrants of Appointment have been filed in the Supreme Court at Wellington.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and Archibald Morris Seaman, two of the Inspectors so appointed, herewith respectfully submit the report of their investigation of the affairs of Financial Publications, Ltd.

We commenced our investigation into the affairs of this company by attending at its office on the 9th day of August, 1934.

2. BOOKS AND RECORDS.

The books of this company were satisfactorily kept, and full information was available to us.

3. CONSTITUTION OF COMPANY.

The company was registered on 18th May, 1933, the memorandum of association being dated 15th May, 1933.

The primary object of the company is to carry on the business of financial publishers.

The signatories to the memorandum of association were :—

	Shares.
Thelma Muriel Saunders, clerk.. .. .	1
Isabella Irving, clerk	1
Wallace Bevan Sutherland, law clerk	1
Claude James Lovegrove, solicitor	100
Richard Glover-Clark, company manager	296
Robert Samuel Abel, printer	100
Henry Davenport Williamson, agent	1
	<hr/> 500

The company was registered with a capital of £5,000 in £1 shares, of which only the above 500 shares have been issued.

On 1st August, 1934, it was resolved to increase the capital to £10,000, and this increase was registered on 15th August, 1934. We are informed by the managing director that the passing of the Companies (Special Investigations) Act, 1934, caused the abandonment of plans for the placing of further shares.

4. DIRECTORS.

By appointment in the articles of association, the first directors were :—

R. Glover-Clark.
C. J. Lovegrove.
R. S. Abel.

At a directors' meeting held on 19th May, 1933, R. Glover-Clark was appointed managing director. There has been no change in the directorate. At the first annual general meeting held on 26th March, 1934, £345 was voted for directors' honoraria.

5. SHAREHOLDING.

There are no shareholders other than the signatories to the memorandum as set out above.

The payment of application money on all shares coincided with the payments of similar amounts to C. J. Lovegrove, R. Glover-Clark, R. S. Abel, and H. D. Williamson for various services to the company. Amounts of £90 paid by each director on 6th April, 1934, on account of share capital, were coincident with the payment to the directors of fees voted at the annual meeting. A further amount of £176 paid in by R. Glover-Clark was, on his own statement, provided by the Sterling Investments Co. (N.Z.), Ltd.

6. DEBENTURES.

On 19th May, 1933, authority was taken for an issue of £25,000 in debentures of £100 each, but this was not proceeded with.

7. POLICY AND FINANCING OF THE COMPANY.

From a statement handed to us by R. Glover-Clark, the following extracts are taken:—

“It was the intention of the directors at this time—i.e., May, 1933—to establish a financial publication in New Zealand which would achieve a sufficiently high standard to warrant the ultimate extension of its activities to Australia. The proposals embraced a debenture issue which would provide sufficient capital to establish the paper both here and ultimately in Australia.

“In pursuance of this policy a debenture issue was authorized on the 19th May, 1933, and a specimen debenture was prepared. Subsequent developments made the directors decide not to proceed with this debenture issue. Aware of the fact that it would take a considerable amount of money to establish a journal of the type of *The Investment Review*—the company's publication—the directors decided to utilize the money at their disposal in sending a complimentary copy to each of twenty-five thousand investors for a period of twelve months. It was considered that many recipients of the journal would become paying subscribers during the twelve months and a large percentage of the remainder would take up subscriptions when a ‘drive’ was made at the end of the period. Advances were made to the company from the Sterling Investment Co. (N.Z.), Ltd., for the first issues of the *Investment Review* on the understanding of the aforementioned debenture issue being made to cover such advances.

“The statutory meeting of the company was held on the 11th August, 1933, in compliance with section 87 of the Companies Act, 1908. At a meeting of directors on the 18th August, C. J. Lovegrove stated that he considered that the preparation of debentures covering advances made to the company should be expedited. The other directors were in agreement, but considered that some recognition should be forthcoming for the indirect advertising carried out by the journal. This should offset the advances made and establish *The Investment Review*. It should be noted here that in the first issues of the *Review* the advantages of Investment Trust practice were featured, together with the opposition which this type of investment had met all over the world from vested interests and stock-exchange brokers. At no time did the *Review* ‘boost’ any particular investment trust, nor did it indicate that investors should place their funds with any particular trust.

“The managing director in August of 1933 was asked to endeavour to come to some arrangement whereby Financial Publications should be paid on a circulation basis for the indirect advertising given to Investments Trust's. The directors understood that some arrangement would be finalized in this direction and on that basis continued to receive advances and maintain the circulation in excess of twenty-two thousand copies each month.

“At the end of the company's publishing year it was considered a matter of urgency that some arrangement should be finalized regarding the financial position of the company, and the managing director was requested by his co-directors to approach the company making the advances, with a view to coming to some definite arrangement. No finality could be reached upon the matter of a *contra* account by Financial Publications, Ltd., in respect of advertising for the advancing company, and the directors of the company were thrown back upon the alternative of increasing the capital of Financial Publications, Ltd.

“An ordinary meeting of shareholders of the company resolved, on the 1st August, 1934, to increase the capital of the company to £10,000, arrangements having been previously made for this to be subscribed in full and the liability of the company in respect of advances made wiped out.”

The statements made in these extracts are substantiated by the company's records.

As the company at no time had a paid-up capital in excess of £500, the greater part of which had been covered by payments from the company itself, funds had to be provided from other sources, and these came to the company in the form of advances from Sterling Investments Co. (N.Z.), Ltd. The first advance was made on 30th May, 1933, and the last on 12th June, 1934, the total of advances being £8,280 3s. 3d.

Following on the increase of capital already noted, R. Glover-Clark, at a meeting of directors held on 3rd August, 1934, informed the directors of his intention to take up the balance of the shares—i.e., 9,500. He has explained to us that these shares were to be taken up by him on behalf of the Sterling Investments Co. (N.Z.), Ltd., which was to provide the necessary funds.

With reference to the very large free distribution of *The Financial Review* he stated that though he (Glover-Clark) wished to reduce this considerably after a short trial, J. W. S. McArthur insisted on its continuance, and the directors had to give way on this point as the Sterling Investments Co. (N.Z.), Ltd., was financing the company. This involved Financial Publications, Ltd., in considerable expense above what would otherwise have been incurred, and the costs were added to by the requisitioning by V. B. McInnes and Co., Ltd., of the company's services in furnishing financial reports on many companies in which investment was contemplated. The only substantial payment received by the company on account of these additional services was £379 17s. 4d. from the Investment Executive Trust of New Zealand, Ltd., for copies of *The Investment Review* supplied to their debenture-holders or clients.

The extent to which the company was dominated by J. W. S. McArthur is indicated by the fact that on the 20th July, 1934, he wrote to C. J. Lovegrove, the chairman of directors of Financial Publications, Ltd., suggesting that R. Glover-Clark's salary be increased by £300 a year, to be made retrospective to the beginning of the financial year. On 1st August, 1934, this was given effect to by the directors, the rate of salary being thus brought up to £19 5s. per week. Acting on a suggestion from R. Glover-Clark, this salary was reduced by 50 per cent. at a directors' meeting on 26th September, 1934.

The existence of any control by, or any undue bias in favour of, the Investment Executive Trust of New Zealand, Ltd., was nevertheless denied by the company, as is evidenced by the following copies of correspondence found on the company's files:—

A. Letter to Mr. R. Emmanuel, of the staff of V. B. McInnes and Co., Ltd.—

18th April, 1934.

DEAR MR. EMMANUEL,—

I have heard it persistently stated that the *Investment Review*, published in Auckland by Abel Dykes and Co., is owned, run, and issued to the public by the Investment Executive Trust in order that they might have the benefit of favourable mention in editorial paragraphs, &c. Kindly inform me if this is true or not.

Circumstances have arisen to detain me in Auckland for a few days longer. The above address will find me until Monday, 23rd instant. I leave on Tuesday.

With kind regards,

Yours truly,

(Signed).

B. Letter in reply from Financial Publications, Ltd.—

20th April, 1934.

DEAR SIR,—

The general manager of Messrs. V. B. McInnes and Co. has requested us to answer an inquiry which was put to him by your good self.

We have thanked Mr. Emmanuel for giving us an opportunity to answer this direct as unfortunately we have few chances of directly combating the propaganda of our opponents. Rumours along the lines mentioned by you have been circulated by members of the Stock Exchange and in some cases the representatives of journals in opposition to the *Review*.

Should you again come in contact with any individual making the assertion which you have brought to Mr. Emmanuel's notice you may answer them in no uncertain terms.

The *Investment Review* is owned by Financial Publications, Limited, a company which consists of seven shareholders—namely, C. J. Lovegrove (chairman of directors), of Messrs. Lovegrove and George, solicitors, Power Board Buildings, Queen Street, Auckland; R. S. Abel, director, of Messrs. Abel Dykes, printers, Auckland; R. Glover-Clark, managing director and editor; W. B. Sutherland, of Auckland; H. D. Williamson, of Auckland; Miss T. Saunders and Miss I. Irving, both of Auckland.

The company has issued no debentures and no share warrants. Instead of spending a large amount of money in newspaper advertising for the *Review*, the proprietors have sent complimentary copies of their journal to a selected list of individuals of standing throughout the Dominion, in the past twelve months. This system has given the readers an opportunity to judge the merit of the *Review* and has proved a wise policy from the point of view of the company in that it has obtained a considerable number of subscribers to the *Review*.

The *Review* has been fearless in its comments and while it has never advocated any particular Trust it has occasionally stressed the benefits of the Investment Trust principle.

Yours faithfully,

FINANCIAL PUBLICATIONS, LTD.

8. SUBSCRIBERS TO FINANCIAL REVIEW.

The Profit and Loss Account of the company from 1st June, 1933, to 6th March, 1934, attached to this Report as Exhibit No. 1, shows that the subscription revenue to that date was only £95 8s. 4d.

Early in June, 1934, a definite effort was made by the company to secure a larger number of subscribers, and to that end circulars were sent out, the broadcast of free copies being largely discontinued. A fair response was received, and up to 31st October, 1934, the books record a total of £482 17s. 2d. as received from subscribers since 6th March, 1934. The passing of the Companies (Special Investigations) Act, 1934, and the publicity given thereby, caused an almost complete cessation in the inflow of subscriptions.

9. FINANCIAL POSITION OF THE COMPANY.

The balance-sheet at 6th March, 1934, attached as Exhibit No. 1, shows that the company was then insolvent.

The heavy operating expenses, when compared with the small revenue from advertisements and subscriptions (even though the latter was largely increased by the subscription campaign) indicate that the company would have great difficulty in carrying on with financial success, even if relieved of its liability to the Sterling Investments Co. (N.Z.), Ltd.

Actually, the company's funds are now almost exhausted, and it is not in a position to carry out its obligations to subscribers in respect to uncompleted subscriptions, or to pay its debts. This position is recognized by the directors, and on 19th November, 1934, the managing director was instructed to proceed to Australia with a view to entering into negotiations to ensure the continuation of the *Review* and/or the sale of the company's assets. He was to report by cable, and it was resolved at the same meeting to call an extraordinary general meeting of shareholders for 3rd December, 1934—

- (a) To consider the managing director's cabled report, and to decide what action should be taken regarding the future of the company.
- (b) If necessary, to pass resolutions providing for the dismissal of the staff, the voluntary winding-up of the company, and the appointment of a liquidator.

The meeting called for 3rd December, 1934, was adjourned until 10th December, 1934, and at the adjourned meeting a winding-up resolution was passed, Mr. E. D. Wilkinson, public accountant, of Auckland, being appointed liquidator.

10. RECOMMENDATION.

The company being now in liquidation, we have no recommendation to make.

A. M. SEAMAN }
J. L. GRIFFIN } Inspectors.

Auckland, 28th January, 1935.

THE SOUTHERN BRITISH NATIONAL TRUST, LTD.

REPORT OF INSPECTORS.

IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of the Southern British National Trust, Ltd.

REPORT OF INSPECTORS.

INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Seaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule to the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and John Macfarlane Elliffe, two of the Inspectors so appointed, respectfully submit a report of their investigations into the affairs of the Southern British National Trust, Ltd., one of the companies named in the Schedule to the said Warrants of Appointment.

1. This company is incorporated outside New Zealand, and does not carry on business in New Zealand. Its association with certain other companies named in the Schedule to our Warrants of Appointment mentioned in the preceding paragraph, is referred to in the reports of the Inspectors on the affairs of such companies. Our formal report on this company is accordingly brief.

SOURCES OF INFORMATION.

2. The whole of the books and records of this company and all of the officers able to supply information regarding the company are in Sydney.

3. We have mentioned in paragraphs 4 to 9 of our report on the affairs of the Investment Executive Trust of New Zealand, Ltd., the Royal Commission of Mr. Justice Halse Rogers in Sydney, and the access which we were given to books, papers, and documents, and the opportunities we had of hearing evidence given before the Royal Commission in Sydney.

CONSTITUTION OF THE SOUTHERN BRITISH NATIONAL TRUST LIMITED.

4. The company was incorporated in Sydney, New South Wales, in January, 1933, with an authorized capital of £500,000, divided into 400,000 ordinary shares of 5s. each and 400,000 preference shares of £1 each.

5. The subscribed share capital is set out in the balance-sheet of the company as at 30th June, 1934, as follows :—

	£
15 8-per-cent. cumulative preference shares fully paid	15
390,000 ordinary shares fully paid	97,500
	<hr/>
	£97,515
	<hr/>

6. The balance-sheet of the company as at 30th June, 1934, together with Revenue Account and debenture-holders' Appropriation Account and Shareholders' Appropriation Account for the period from 16th January, 1933, to 30th June, 1934, are appended to this report as Exhibits "A" and "B." These accounts are as submitted by the company to the Royal Commission in Sydney.

7. We have mentioned in our report on the Investment Executive Trust of New Zealand, Ltd., that the Southern British National Trust, Ltd., issued debentures to the public in Australia in much the same way as the Investment Executive Trust of New Zealand, Ltd., did in New Zealand. We have also referred in various parts of our report on the Investment Executive Trust of New Zealand, Ltd., to transactions affecting the Southern British National Trust, Ltd.

8. As the Southern British National Trust, Ltd., was incorporated in Sydney and carried on its business in Australia, we do not consider it necessary to report separately in any detail on its affairs. We submit, however, the following information :—

- (a) The subscribed ordinary share capital of £97,500 in 390,000 shares of 5s. each is held as follows :—

J. W. S. McArthur	..	..	..	..	..	307,600
C. G. Alcorn	..	..	..	..	..	76,400
W. A. Pilkington	..	..	..	..	..	2,000
H. H. Pollard	..	..	..	..	..	2,000
H. C. Glasson	..	..	..	..	..	1,000
M. Gregory	..	..	..	..	..	500
R. G. Clark	..	..	..	..	..	500
						390,000

- (b) Of the shares acquired by J. W. S. McArthur and C. G. Alcorn, 382,000 (nominal value, £95,500) were in part paid for by transferring to the Southern British National Trust, Ltd., £95,000 debentures of the British National Trust, Ltd.
- (c) The Southern British National Trust, Ltd., is the owner of 110,000 preference shares of 10s. each in the British National Investment Trust, Ltd., the owner of the "trust building," Sydney.
- (d) The Investment Executive Trust of New Zealand, Ltd., is the holder of £55,000 debentures of the Southern British National Trust, Ltd. An estimate of the value of these debentures is set out in paras. 123 to 128 of our report on the affairs of the Investment Executive Trust of New Zealand, Ltd.
- (e) The Southern British National Trust, Ltd., had as its authorized brokers V. B. McInnes and Co. (Australia), Ltd. In the balance-sheet of the Southern British National Trust, Ltd., as at 30th June, 1934, the amount of debenture capital paid up is set out as £184,536, and the brokerage paid to "McInnes and Co. (Australia), Ltd." is shown as £22,753 11s. 5d.; approximately 12½ per cent. of the amount paid up. The amount of brokerage authorized under the prospectus of the Southern British National Trust, Ltd., was, as in the case of the Investment Executive Trust of New Zealand, Ltd., 5 per cent.
- (f) The policy of the Southern British National Trust, Ltd., was controlled by J. W. S. McArthur either directly or through his domination of the officers of the Southern British National Trust, Ltd.
- (g) A prospectus issued by the Southern British National Trust, Ltd., dated 18th January, 1933, sets out the following as the directors of the company: W. A. Pilkington (chairman), J. W. S. McArthur (managing director), O. M. Hope, and H. H. Pollard. W. A. Pilkington and J. W. S. McArthur were also respectively chairman of directors and managing director of the Investment Executive Trust of New Zealand, Ltd., and O. M. Hope and H. H. Pollard were at one time also directors of that company.
- (h) The following is extracted from page 7 of the interim report dated 1st November, 1934, of Mr. Justice Halse Rogers :—

"On a consideration of the whole of the evidence that has been put before me, and the documents which existed before the commencement of the sittings of the Commission, I am definitely of the opinion that Mr. Monahan's charge that the object of the formation of the Southern British Company was to enable Mr. McArthur and Mr. Alcorn to get the necessary ready cash for the alterations of the Daily Telegraph building, and so ultimately to turn a profit on paper of £287,000 into an actual profit to themselves has been established."

(NOTE.—Mr. Monahan was the senior counsel appearing on behalf of the Attorney-General of New South Wales to assist the Commission.)

9. As the company is incorporated outside New Zealand and is not carrying on business within New Zealand, and as its affairs are being investigated by a Royal Commission in Sydney, we have no recommendations to make regarding this company. In our report on the Investment Executive Trust of New Zealand, Ltd., however, we have expressed in para. 257 (u) the opinion that that company should be wound up. If it is so wound up it would, in our opinion, be desirable in the interests of debenture-holders in the Investment Executive Trust of New Zealand, Ltd., that the Southern British National Trust, Ltd., also should be wound up.

J. L. GRIFFIN, }
J. M. ELLIFFE, } Inspectors.

Wellington, N.Z., January, 1935.

EXHIBIT "A."

THE SOUTHERN BRITISH NATIONAL TRUST, LTD.

BALANCE-SHEET AS AT 30TH JUNE, 1934.

<i>Liabilities.</i>				<i>Assets.</i>									
Authorized capital—	£	s.	d.	£	s.	d.	Establishment Account—	£	s.	d.	£	s.	d.
400,000 8-per-cent. cumulative preference shares of £1 each	400,000	0	0				Brokerage Account: Paid to McInnes and Co. (Aust.), Ltd.	22,753	11	5			
400,000 ordinary shares of 5s. each	100,000	0	0				List of investors (other companies)	1,419	12	2			
				500,000	0	0	75 per cent. of office and management expenses	3,707	10	7			
Share capital issued and paid-up—											27,880	14	2
15 8-per-cent. cumulative preference shares (fully paid)	15	0	0				Office furniture				3,287	8	0
390,000 ordinary shares (fully paid)	97,500	0	0				Sundry debtors: McInnes and Co., Ltd.				4,334	4	6
				97,515	0	0	Investments—						
Appropriation Account				4,590	8	5	Australian Securities, Ltd.: Shares	60	0	0			
C. G. Alcorn in respect of shares to be subscribed	5,290	0	0				I.E.T., Ltd.: Shares	77,600	0	0			
J. W. S. McArthur in respect of shares to be subscribed	19,182	0	0				B.N.T., Ltd.— £ s. d. Debentures 16,000 0 0 Less Unpaid 835 3 4				15,164	16	8
				24,472	0	0	Plus Interest accrued	525	0	0			
Sundry creditors	221	15	1								93,349	16	8
W. C. Hewitt	53	5	0				Debtore holders (disbursements their account)				992	15	8
B.N.I.T., Ltd.	17	11	2				Cash in bank				16	15	2
Sterling Investments Co., Ltd.	73	10	7										
I.E.T., Ltd.	1,844	17	11										
J. W. S. McArthur	1,073	6	0										
				3,284	5	9							
				£129,861	14	2					£129,861	14	2

DEBENTURE-HOLDERS' SECTION.

Debentures of £10	£	s. d.	£	s. d.	Investments—	£	s. d.	£	s. d.
each—					“ A ” Series Schedule	..	2,168 3 11		
“ A ” Series issued	..		3,380 0 0		“ B ” Series—	£ s. d.			
“ B ” Series, total					Sundries	.. 29,205 2 8			
subscribed	238,020 0 0				B.N.I.T., Ltd.	55,000 0 0			
<i>Deduct</i> amounts					B.N.T., Ltd.	99,000 0 0			
due thereon	56,863 6 7						183,205 2 8		
			181,156 13 5						
Debtenture capital paid up	..			184,536 13 5			185,373 6 7		
Appropriation Account	..			975 13 9	<i>Less</i> Owing on B.N.T. de-				
Sundry creditors—					bentures	.. ..	1,448 16 6		
Mr. Broomfield	.. ..		498 12 10						
Shareholders for disbursements					<i>Add</i> Interest accrued on				
on debenture-holders' ac-					B.N.T. debentures	..	1,673 16 4		
count	.. ..		992 15 8					185,598 6 5	
Sundries	.. ..		15 10 3		Sundry debtors: I.E.T., Ltd.	..		322 10 0	
				1,506 18 9	Cash in bank	.. ..		1,098 9 6	
				£187,019 5 11				£187,019 5 11	

EXHIBIT "B."

THE SOUTHERN BRITISH NATIONAL TRUST, LTD.

REVENUE ACCOUNT FROM 16TH JANUARY, 1933 (INCEPTION OF THE COMPANY) TO 30TH JUNE, 1934

1934.				1934.			
June 30.				June 30.			
To Rent	..	..	£ s. d. 335 16 0	By Interest and dividends	..	..	£ s. d. 6,802 7 5
Advertising	..	..	657 15 9	Profit on sales	..	..	1,058 12 7
Salaries	..	..	1,349 3 10				
Travelling-expenses	..	..	753 19 5				
Printing and stationery	..	..	707 19 11				
Postages and general expenses	..	..	246 16 4				
Telephones	..	..	39 5 0				
Stamp duty and exchange	..	..	322 3 2				
Cheque-books and bank fees	..	..	6 3 4				
Legal expenses	..	..	524 4 8				
			4,943 7 5				
25 per cent. of above charged to revenue	..	..	1,235 16 10				
Balance, being net profit carried down to Appropriation Account—							
Shareholders	..	..	4,590 8 5				
Debenture-holders..	..	..	2,034 14 9				
			6,625 3 2				
			£7,861 0 0				£7,861 0 0

DEBENTURE-HOLDERS' APPROPRIATION ACCOUNT.

1934.				1934.			
June 30.				June 30.			
To Debenture interest	..	..	£ s. d. 1,059 1 0	By Balance brought down	..	..	£ s. d. 2,034 14 9
Balance carried down	..	..	975 13 9				£2,034 14 9
			£2,034 14 9				
				By Balance brought down	..	..	£975 13 9

SHAREHOLDERS' APPROPRIATION ACCOUNT.

1934.				1934.			
June 30.				June 30.			
To Balance	..	..	£4,590 8 5	By Net revenue brought down	..	..	£4,590 8 5
				By Balance down	..	..	£4,590 8 5

THE BRITISH NATIONAL TRUST, LTD.

REPORT OF INSPECTORS.

IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT.

IN THE MATTER of the Companies (Special Investigations) Act, 1934, and the Companies Act, 1933,

and

IN THE MATTER of the British National Trust, Ltd.

REPORT OF INSPECTORS.

INSTRUCTIONS.

By Warrants of Appointment from His Excellency the Governor-General dated the 8th day of August, 1934, made in pursuance of the Companies (Special Investigations) Act, 1934, John Macfarlane Elliffe, John Leslie Griffin, Archibald Morris Scaman, and Herbert Douglas Vickery, public accountants, were appointed Inspectors to investigate the affairs of the companies specified in the Schedule to the said Warrants of Appointment. Copies of the Warrants of Appointment were filed in the Supreme Court at Wellington at 10 a.m. on the 9th day of August, 1934.

In terms of section 3 (1) of the Companies (Special Investigations) Act, 1934, John Leslie Griffin and John Macfarlane Elliffe, two of the Inspectors so appointed, respectfully submit a report of their investigations into the affairs of the British National Trust, Ltd., one of the companies named in the Schedule to the said Warrants of Appointment.

1. This company is incorporated outside New Zealand and does not carry on business within New Zealand. Its association with certain other companies named in the Schedule to our Warrants of Appointment mentioned in the preceding paragraph is referred to in the reports of the Inspectors on the affairs of such companies. Our formal report on this company is accordingly brief.

SOURCES OF INFORMATION.

2. The whole of the books and records of this company and all of the officers able to supply information regarding the company are in Sydney.

3. We have mentioned in paragraphs 4 to 9 of our report on the affairs of the Investment Executive Trust of New Zealand, Ltd., the Royal Commission of Mr. Justice Halse Rogers and the access which we were given to books, papers, and documents, and the opportunities we had of hearing evidence given before the Royal Commission in Sydney.

CONSTITUTION OF THE BRITISH NATIONAL TRUST, LTD.

4. The British National Trust, Ltd., was incorporated at Canberra, Australia, in January, 1933. It has a nominal capital of £1,000,000 in 1,000,000 shares of £1 each. Of the 1,000,000 shares, 65,007 are allotted, and of these 65,000 are held as fully paid up by Farms and Farmlets, Ltd.

5. The 65,000 shares held by Farms and Farmlets, Ltd., were originally issued to J. W. S. McArthur and C. G. Alcorn as part payment of the sum of £287,000 payable to them for shares in the British National Investment Trust, Ltd. This transaction is referred to in paragraphs 62 to 65 of our report on the affairs of the Investment Executive Trust of New Zealand, Ltd.

6. The balance-sheet of the British National Trust, Ltd., as at 30th June, 1934, together with Property Establishment Account to 30th June, 1934, and Revenue Account for period from 1st June, 1934, to 30th June, 1934, are appended to this report as Exhibits "A" and "B." These accounts are as submitted by the company to the Royal Commission in Sydney.

7. The policy of the British National Trust, Ltd., was controlled by J. W. S. McArthur, either directly or through his domination of the officers of the British National Trust, Ltd.

8. The balance-sheet of the British National Trust, Ltd., as at 30th June, 1934, shows that at that date there was owing on debentures issued by the company, including accrued interest, the sum of £415,583 2s. 8d. An estimate of the value of these debentures is set out in paragraphs 113 to 122 of our report on the affairs of the Investment Executive Trust of New Zealand, Ltd.

9. The affairs of the British National Trust, Ltd., in so far as they affect the Investment Executive Trust of New Zealand, Ltd., are referred to in several parts of our report on that company.

10. The British National Trust, Ltd., has a ninety-nine years' lease of the building situated at the corner of Castlereagh and King Streets, Sydney, and known as the trust building, and is registered as the owner of 249,743 out of 250,000 2s. ordinary shares in the British National Investment Trust, Ltd., the owner of the trust building. It is further entitled to be registered as the holder of a further 250 ordinary shares—i.e., it is the owner of all save seven of the ordinary shares.

11. As the British National Trust, Ltd., is incorporated outside New Zealand and is not carrying on business within New Zealand, and as its affairs are being investigated by a Royal Commission in Sydney, we have no recommendations to make regarding this company. In our report on the Investment Executive Trust of New Zealand, Ltd., however, we have expressed, in paragraph 257 (u), the opinion that that company should be wound up. If it is so wound up, it would, in our opinion, be desirable in the interests of the debenture-holders of the Investment Executive Trust of New Zealand, Ltd., that the British National Trust, Ltd., also should be wound up.

12. We consider it desirable to add that in the event of liquidation of the British National Trust, Ltd., the value of the debentures issued by that company is very directly connected with the value of the trust building and we do not consider that on a liquidation that building should be sold at a low value merely in order to effect a speedy realization of the assets of the British National Investment Trust, Ltd.

Wellington, N.Z., January, 1935.

J. L. GRIFFIN } Inspectors.
J. M. ELLIFFE }

EXHIBIT "B."

THE BRITISH NATIONAL TRUST, LTD.

REVENUE ACCOUNT FROM 1ST JUNE, 1934, TO 30TH JUNE, 1934.

June 30, 1934.	£	s.	d.	June 30, 1934.	£	s.	d.
To Debenture interest for June, 1934 ..	1,686	19	5	By Rent from sundry tenants	724	12	5
Rent to British National Investment Trust, Ltd.	875	0	0	Balance, carried down	2,285	6	4
Rates for June, 1934	175	3	10				
Letting commission	14	4	2				
Wages: Caretaker, cleaners, &c... ..	176	14	4				
Insurance for June, 1934	48	4	4				
Printing and stationery	17	9	8				
General expenses	16	3	0				
	<u>£3,009</u>	<u>18</u>	<u>9</u>		<u>£3,009</u>	<u>18</u>	<u>9</u>
June 30, 1934.							
To Balance, brought down	£2,285	6	4				

PROPERTY ESTABLISHMENT ACCOUNT.

(N.B.—Virtually all expenses incurred prior to 1st June, 1934, have been charged to this account.)

June 30, 1934.	£	s.	d.	June 30, 1934.	£	s.	d.
To Legal expenses.. ..	138	8	6	By Rents from sundry tenants	486	0	9
Rent, British National Investment Trust, Ltd.	10,234	4	10	Profit on exchange prior to 30th June, 1933	60	6	0
Rates.. ..	2,566	9	4	Balance carried down	30,753	4	2
Wages	361	11	9				
Cleaning equipment	84	0	1				
Insurances	261	14	11				
Debenture interest	17,301	18	9				
General expenses, survey fees	23	5	0				
Opening day expenses	327	17	9				
	<u>£31,299</u>	<u>10</u>	<u>11</u>		<u>£31,299</u>	<u>10</u>	<u>11</u>
June 30, 1934.							
To Balance, brought down	£30,753	4	2				

INTERIM REPORT

ON

Matters concerning the Promotion and Operations of
Certain Companies in New South Wales,

BY

Mr. JUSTICE HALSE ROGERS

(Judge of the Supreme Court of New South Wales).

Royal Commission Appointed to Inquire into Matters Concerning the Investment Executive Trust of New Zealand Limited and other Companies.

INTERIM REPORT.

TO HIS EXCELLENCY, SIR PHILIP WOOLCOTT GAME, Knight Grand Cross of the Most Excellent Order of the British Empire, Knight Commander of the Most Honourable Order of the Bath, Companion of the Distinguished Service Order, Air Vice-Marshal on the retired list of the Royal Air Force, Governor of the State of New South Wales, and Its Dependencies in the Commonwealth of Australia.

MAY IT PLEASE YOUR EXCELLENCY :

By Commission under the hand of His Excellency the Lieutenant-Governor, dated the 8th day of August, 1934, I was appointed to inquire into and report upon the following matters :—

- (1) The promotion, financial methods, control, management, operations, activities, and intended operations and activities of the companies mentioned in the schedule hereto, and each of them, and in particular and without in any way limiting the generality of the foregoing (a) the operation and activities and intended operations and activities of persons, firms, and companies, in connection with any of such companies, or with the employment or disposal of the share or debenture capital, or any other assets or income of any of such companies. (b) The respective powers, rights and liabilities of promoters, shareholders, and subscribers of money borrowed or raised in any way by any of such companies. (c) The relations or intended relations of such companies, or any of them, *inter se*.
- (2) Whether a recommendation should be made by me that steps should be taken to wind up any of such companies.
- (3) Whether in connection with any of the foregoing matters or your investigation thereof you consider that any, and, if so, what alterations should be made in the law relating to companies with respect to their formation, management, operations, capital, control, or otherwise.

The companies mentioned in the schedule were :—

The Investment Executive Trust of New Zealand Limited.
 The Sterling Investments Company (New Zealand) Limited.
 The Investment Securities Association Limited.
 The British National Investment Trust Limited.
 The New Zealand Shareholders' Trust Limited.
 Wynwood Investments Limited.
 The Pacific Exploration Company Limited.
 Farms and Farmlets Limited.
 The First Mortgage Freehold Security Company of New Zealand Limited.
 The Transport Mutual and General Insurance Company Limited.
 V. B. McInnes and Company (New Zealand) Limited.
 Alcorn, Trower and Company Limited.
 Financial Publications Limited.
 The Southern British National Trust Limited.
 The British National Trust Limited.
 V. B. McInnes and Company (Australia) Limited.
 McInnes and Company Limited.

Subsequently on the thirteenth day of August, the British Medical Investment Trust Limited and British Consolidated Investments Limited were added to the schedule of companies, and on the twenty-second day of September the New Zealand Redwood Forests Ltd., the Selwyn Timber Company Limited, the Wynsell Timber Company Limited, the Bulah Land Company Limited, the Edgecombe Forest Limited, the Kotahi Lands Limited, the Overana Land Company Limited, the Modern Homes Limited, the Liberty Motors Corporation Limited, the Auckland Provincial Town Properties Limited, the New Zealand Freeholds and Buildings Limited, and Freeholds Limited, were also added to the schedule.

Before the conclusion of the evidence, it became apparent that before I could properly make any report with regard to the second matter submitted, that is to say, as to whether any recommendation should be made that steps should be taken to wind up any such companies, it was desirable that the

wishes of the debenture-holders in the two main companies concerned, that is to say, Investment Executive Trust of New Zealand Limited and the Southern British National Trust Limited, should be ascertained. Accordingly I invited Mr. Monahan, K.C., who appeared on behalf of the Crown to assist the Commission, to formulate any submissions or charges which he might desire to put before the Commission, and thereupon heard him and the various counsel appearing as to what findings of fact I should make on the evidence which had been adduced. Mr. Monahan's charges in regard to the activities of the four main companies and the persons controlling them, that is to say, the Investment Executive Trust of New Zealand Limited, the Southern British National Trust Limited, the British National Trust Limited, and the British National Investment Trust Limited were as follows :—

- (1) That the establishment of the main companies which are the subject of inquiry was a plan devised by McArthur, and carried out with the aid of his satellites to salvage his personal assets which were in jeopardy, and to enrich himself by the manipulation of capital subscribed by the public for trust investment.
- (2) That the methods adopted by McArthur were invariably crooked, and, in many instances, fraudulent and dishonest.
- (3) That the methods adopted by McArthur constitute a gross abuse of the Companies Act.
- (4) Balance-sheets were filed which were known to be false and misleading.
- (5) That no books or records were kept which would enable a skilled accountant or auditor to form an opinion as to the affairs of the company.
- (6) That the system of getting debenture capital from the public was a ruthless exploitation of methods which are immoral and which seem to have been declared criminally illegal under recent British company legislation.
- (7) That out of a total debenture capital of £648,000 subscribed by the public a sum of at least £285,000 has been spent and is not represented by tangible assets.
- (8) That the present control of the companies constitutes a grave menace to the safety of the remaining debenture capital.
- (9) That all the directors and officers of the companies which were called before the Commission were actuated by a desire to stifle the truth as to the companies' dealings, and were guilty of gross prevarication if not actual false swearing.

1. (a) In dealing with the charges at this stage, I do not propose to traverse the history of the various companies. My main purpose is to deal with the affairs of the two companies into which public money has been put, namely, the Investment Executive Trust of New Zealand Limited and the Southern British National Trust. In all the companies mentioned in the schedule except what may be called the McInnes group of companies, Mr. McArthur is the outstanding figure; and the main matter of inquiry has been into his activities and operations as they affect the position of the Investment Executive Trust of New Zealand Limited and the Southern British National Trust Limited.

Going back to the end of the year 1930 it is found that Mr. McArthur, who has for many years been connected with and practically in control of various timber companies of New Zealand, found himself embarrassed financially, and with his assets in such a condition that he was unable to meet the calls which were made upon him. At this time the Investment Executive Trust of New Zealand Limited had been in existence for about two years and had not operated; the Southern British National Trust Limited had not yet been formed. In January of 1931 the Investment Executive Trust of New Zealand Limited obtained the necessary certificate to enable it to start business, and operations thereupon commenced. Practically no money was subscribed as share capital, but Mr. McArthur having been voted £1,675 by the directors of the company "for services rendered since the formation of the company," returned the cheque which he received and was allotted 16,750 fully paid-up shares of 2s. each. This made him by far the largest shareholder in the company, and he continued as principal shareholder to have the dominant voice in the company, and as managing director he actually exercised complete control. During the next two years or a little more over £400,000 was subscribed by the public as debenture capital. The debenture-holders had no voice in the control of the company. They put their money into the company on the terms of a debenture, which gave power to the directors of the company to invest the money so subscribed in various classes of security including shares and debentures in public companies. The very name of Investment Trust would probably indicate to the members of the public generally that the money subscribed was to be invested in a number of companies, and that security would be obtained by the spreading of investments. This was actually a statement made by Mr. McArthur in letters to the agents who were selling the debentures of the Investment Executive Trust of New Zealand Limited, and there is no doubt that a promise that investments would be spread was made by the salesmen employed by McInnes and Company Limited, who were the principal selling brokers engaged in obtaining the public capital.

Whatever may have been Mr. McArthur's intention in establishing the Investment Executive Trust of New Zealand Limited or in commencing the active operations of that company there is no doubt that it was in its early stages used by Mr. McArthur entirely for his own purposes. Practically the whole of the first £60,000 subscribed by the public for debentures in the Investment Executive Trust of New Zealand Limited was applied for the salvage of Mr. McArthur's assets through the medium of a company called the Sterling Investments Company (New Zealand) Limited. This company was nominally controlled at that time by another company in which Mr. Alcorn was practically the only shareholder, but it is scarcely disputed, and I find as a fact that in all the dealings of Mr. McArthur with the various companies, wherever Mr. Alcorn did anything he did it at the bidding of Mr. McArthur. The Sterling Investments Company (New Zealand) Limited issued

£60,000 worth of debentures, and these were taken up from time to time as money became available by the Investment Executive Trust of New Zealand Limited. The only assets which the Sterling Investments Company (New Zealand) Limited had at the time were the assets in which Mr. McArthur was interested, and actually the debentures were issued before the various assets were acquired; in other words, at the time of purchase by the Investment Executive Trust of New Zealand Limited the Sterling Investments Company (New Zealand) debentures had nothing to back them except the money paid for their purchase; but as the money became available the assets were acquired which did become a backing for the debentures. It has been claimed on behalf of Mr. McArthur that he was being attacked by strong financial interests in New Zealand, who were making an endeavour to crush him, and it has been put forward as a justification for his dealing with the money of the Investment Executive Trust of New Zealand Limited that the preservation of his assets was of interest and importance to debenture-holders of that company. If the Investment Executive Trust of New Zealand Limited had been an established concern when these transactions took place, and if Mr. McArthur's financial standing had then been a matter of importance to the debenture-holders, there might be some basis for the argument addressed to me, but there is no doubt that in the early stages of the Investment Executive Trust of New Zealand Limited the principles which should govern the management of such a company were entirely abandoned in order that the affairs of the managing director might be straightened out and without the consideration of the interests of the subscribing public.

Ultimately the debentures of the Sterling Investments Company (New Zealand) were redeemed and replaced by £60,000 worth of debentures in the British National Trust Limited, and it has been boldly argued that no loss has resulted to the members of the public who subscribed the debentures in the Investment Executive Trust of New Zealand Limited, but that in fact a profit has been made because for the £54,000 in cash of the money of the Investment Executive Trust of New Zealand Limited which was invested, £60,000 worth of British National Trust Limited debentures are now held. Whether or not a profit has been made, of course, depends upon the value of the British National Trust Limited debentures, which will be discussed later; *but the matter of profit or no profit is really immaterial to the main question which I have to consider, which is whether or not there was an exploitation of the public through the Investment Executive Trust of New Zealand Limited for the benefit of Mr. McArthur.* Unless one is to accept the view that the end justifies the means, the ultimate result is comparatively unimportant. *In my opinion it is established that Mr. McArthur exploited the investing public for the purpose of saving his assets, and used the money which had come into his hands for trust purposes entirely for his private ends.* It is unnecessary in view of this finding to determine whether his motive in starting the operations of the Investment Executive Trust of New Zealand Limited was, as suggested by Mr. Monahan, entirely personal. But in view of the immediate transference of the funds of the Investment Executive Trust of New Zealand Limited to the Sterling Investment Company (New Zealand) Limited for Mr. McArthur's purposes as soon as public moneys commenced to be available, it is difficult to believe that the galvanising into life of the Investment Executive Trust of New Zealand Limited after two years of inactivity was not, at the beginning, solely for the purpose suggested.

(b) *The Southern British National Trust, Limited*, a company which is registered in New South Wales, and whose operations are entirely confined to Australia, came into existence early in 1933, and carried on the same sort of business as the Investment Executive Trust of New Zealand, Limited, and was similarly constituted, that is to say the real capital is debenture capital, and the debenture-holders have no voice in the management of the company. *The history of this company is very largely bound up with the history of the transactions connected with the purchase by McArthur of the old Daily Telegraph building, in Sydney.* In October, 1932, this building was advertised for sale by the liquidator of the company which had purchased it for the purpose of turning it into an hotel. Mr. McArthur says that he saw an opportunity of making an extremely advantageous purchase, and he seized that opportunity with a view to making personal gain for himself and Mr. Alcorn, who was a partner with him in the venture, and also for the purpose of strengthening the Investment Executive Trust of New Zealand, Limited, and the Southern British National Trust, Limited, which he had in mind to form. The short history of the purchase is as follows:—There was a company in New Zealand called The Stock Exchange Corporation of New Zealand, which had not commenced to carry on the business for which it was formed, registration as a stock exchange having been refused. Although Mr. McArthur was not in any way connected with the company, it was apparently entirely under his control through the directors who were subservient to his wishes. He had no authority from the company to act for it in any way, and yet he purchased the building on its behalf. About this time the company changed its name to the British National Investment Trust, Limited. It had no money to finance the purchase, and in fact it had no assets at all, but it obtained the necessary money for the payment of the deposit from the Investment Executive Trust of New Zealand, Limited, which received in return debentures of the British National Investment Trust, Limited. The purchase price of the building was £100,000, of which £50,000 was to be provided for by mortgage. The other £50,000 was obtained by the British National Investment Trust, Limited, from the Investment Executive Trust of New Zealand, Limited, in return for £50,000 worth of debentures. The purchase price was paid, and the British National Investment Trust, Limited, then being the owner of the building, *Mr. McArthur, and Mr. Alcorn proceeded to make arrangements to obtain a profit of £287,000 as a result of their speculation in which they ventured no money of their own.* They worked out a scheme. A company called the British National Trust, Limited, was to be formed, and subsequently was formed; a company called the Southern British National Trust Limited was to be formed, and this also was subsequently

formed. The ordinary share capital of the British National Investment Trust Limited was increased from 25,000 ordinary shares of 2s. each to 250,000 ordinary shares of 2s. each on 20th October, 1932, the date of the purchase of the building. On 3rd February, 1933, ordinary shares to the number of 239,993 were allotted as follows:—49,598 to Mr. Alcorn, and 190,395 to Mr. McArthur. The terms of allotment were that the said persons be required to pay 10 per cent. of the face value of the shares, *i.e.*, 2½d. per share within one month. The shares so allotted together with 9,000 then controlled by Mr. McArthur, totalling in all 248,993, were on 1st March, 1933, sold by McArthur and Alcorn to the British National Trust, Limited, of which they were directors, for £287,000. The cheque was paid to them for that amount, and they then purchased approximately £95,000 worth of shares in the Southern British National Trust Limited, £65,000 worth of shares in the British National Trust Limited, and 127 debentures of £1,000 each in the British National Trust, Limited. It is unnecessary at this stage to follow the various and devious transactions which subsequently took place in regard to the British National Trust, Limited, shares, and the British National Trust, Limited, debentures. The question which I have to consider at the moment is whether this transaction was carried out for the enrichment of Mr. McArthur, and Mr. Alcorn. They have said that they intended to make personal profit out of it; and have stated that the amount which they intended to put in their own pockets was £105,000, and that it was intended to use the remainder of the £287,000 for the benefit of debenture-holders in the Investment Executive Trust of New Zealand, Limited, and Southern British National Trust, Limited. As has been pointed out by Mr. Monahan, at the time the British National Trust, Limited, debentures were issued, the only asset of the company was the ninety-nine years' lease which it had obtained from the British National Investment Trust, Limited, of a building which had been sold at auction for £100,000, and which was as yet unaltered. In order to make the building a profit-earning property, and to realise any substantial profit on the purchase, it was necessary to have money for the alterations. Neither Mr. McArthur, nor Mr. Alcorn, provided any money, but they saw to it that money was found. As the funds of the Investment Executive Trust, Limited, were used for the purchase, so public money invested in the Southern British National Trust was used for the alterations. The firm of McInnes and Company, Limited, which had been the main agency for the selling of debentures in the Investment Executive Trust of New Zealand, Limited, commenced active operations in Australia, and between March, 1933, and August, 1934, obtained some £200,000 of public money by the sale of debentures in the Southern British National Trust. With this money the building was altered at a cost of about £115,000, and a very large portion of the moneys subscribed by the public was invested in the British National Trust, Limited, debentures. At the time of the appointment of the Commission, 412 of its debentures of £1,000 each had been issued. There was £100,000 on mortgage of the building, so that the asset which was standing behind the British National Trust, Limited, debentures, was a building purchased for £100,000 and now carrying a burden of something over half a million. I do not propose at this stage to follow the various dealings made by McArthur and Alcorn with the shares and debentures which they obtained in exchange for a cheque for £287,000 which was handed to them. I am of opinion that it was their intention through a series of transactions with the various companies which McArthur controlled to turn practically the whole of that sum into cash, as occasion offered, and further money came in through the Southern British National Trust, Limited, and to apply the proceeds for their own personal enrichment. I am entirely unable to accept the statement made by Mr. McArthur that it was the intention of Mr. Alcorn and himself that the greater proportion of the sum mentioned should ultimately go to the benefit of the companies. Since the commencement of this Commission certain transfers have been directed by Mr. McArthur, and certain declarations made, which have had the effect of cutting down the profit which would ultimately come to them to about £175,000. *On a consideration of the whole of the evidence that has been put before me, and the documents which existed before the commencement of the sittings of the Commission, I am definitely of the opinion that Mr. Monahan's charge that the object of the formation of the Southern British Company was to enable Mr. McArthur and Mr. Alcorn to get the necessary ready cash for the alterations of the Daily Telegraph building, and so ultimately to turn a profit on paper of £287,000 into an actual profit to themselves has been established.*

(2) Mr. Monahan has charged that the methods adopted by McArthur were invariably crooked and were in many instances fraudulent and dishonest. It is not necessary for me in this report to particularise the many transactions by Mr. McArthur which have been examined before the Commission, but I think that it can be said that practically every one of them was intended in some way or other to cloak what was really being done. The series of operations of the various New Zealand companies in which Mr. McArthur had the control seems to have been mainly intended to cover up Mr. McArthur's real position, and nominally to vest his assets in other hands. At one stage his object undoubtedly was to prevent his creditors, and those who were opposed to him, from knowing anything at all about his financial position, and to make it very difficult, if not impossible, for them to follow the position of the companies in which he was concerned. I think that his methods of obtaining money from the public for the companies which he controlled were rightly improper, and the statements which he published, or for which he was responsible, were calculated to mislead. I asked counsel who appeared before the Commission for the companies in which he is interested to name one transaction which had been investigated which was honest and straightforward, and they were unable to satisfy me as to any single transaction out of those which had been criticised.

(3) It is charged that the methods adopted by Mr. McArthur were a gross abuse of the Companies Act. *I think it will be apparent from what has already been set out that Mr. McArthur's methods of*

collecting moneys for his own purposes amount to an exploitation of the public, under guise of legality. It has been urged before me time and time again during the proceedings of the Commission that what is allowed by law cannot be criticised, or called illegitimate. Without going into the question as to whether or not any particular transaction could be set aside in equity as constituting a breach of trust, I am very definitely of the opinion that there has been an abuse of the public confidence in the matter of the transaction of the Investments Executive Trust of New Zealand, Limited, and the Southern British National Trust. It appears to me that a scheme was very cunningly worked out with the very definite object of benefiting Mr. McArthur and his friends, and at the same time making it possible for them to say that nothing was done which was not permitted by law. Neither Mr. McArthur nor Mr. Alcorn has contributed one penny to the capital of the various companies which Mr. McArthur controls, and yet they have been able, without any risk to themselves, and entirely at the risk of the subscribing public, to obtain very considerable financial gains, which I am certain would have been very much greater had not this Commission been appointed. Whether or not various transactions are just within, or just outside the law, may be a matter of argument; but there is no doubt that they have really abused the positions in which they were placed, and which must be regarded as positions of trust, for their own advancement.

(4) The fourth charge is that balance-sheets were issued and filed which were known to be false and misleading. As far as the Sterling Investments Company (New Zealand), Limited, balance-sheet is concerned, it is admitted that it was entirely misleading, and very little effort was made to defend the action of those who were responsible for having it certified and filed. As the company was registering as a foreign company, it is necessary to file a balance-sheet, but apparently the view taken was that anything would do as the public were not directly concerned with the transactions of the company; so a balance-sheet, which is now admitted to be false and misleading, was filed. So far as the Investment Executive Trust of New Zealand, Limited, is concerned, the main matters of criticism are (1) that the balance-sheet did not disclose that interest was being paid out of capital, and (2) the statement in the annual report dated 12th September, 1933, which accompanied the balance-sheet, that "the Investment Executive Trust of New Zealand, Limited, was responsible for the introduction to the Dominion of the British Investment Trust method of spreading capital over a large number of investments, a system enabling the small investor to obtain a share in a large number of sound securities, which the individual investor would find himself impossible."

As to the first matter, I think that Mr. Monahan's criticism is well founded, and that the balance-sheet as presented was likely to misrepresent the true position of the company. As to the second matter, I think that the statement is also calculated to convey a false impression. Taken in conjunction with an analysis of investments which shows that 46 per cent. of the money obtained from the first B series was invested in Government stocks, local authority debentures, company and corporation debentures, and that 51 per cent. of the second B series was invested in similar securities, without disclosing any of the transactions of the company in connection with the Sterling Investments Company (New Zealand), Limited and without disclosing the fact that the bulk of the investments there referred to were invested in the British National Trust, Limited, debentures, which really amounted in effect to this, that these moneys were invested in a real estate venture, which was outside the declared scope of the company's business, *I think that the document shows that there was an intention to conceal from the debenture-holders the real nature of the investments made by the company, and to produce a false impression that the policy of spreading investments which had been pointed to in the company's literature as an element of strength, was being carried out by the directors.*

(5) The fifth charge is that proper books and records were not kept. So far as the Investment Executive Trust of New Zealand Limited is concerned, the evidence shows that the principal books of this company were properly kept. Some of the records and books were not in order, but, speaking generally, the charge is not established in connection with this company; but so far as all the other companies are concerned, the books were admittedly in an extraordinary state. The very greatest difficulty was experienced in finding what was the true position of any one of the companies, and various adjournments were asked for and granted in order that the accountants might bring the books into such a state that balance-sheets could be prepared. After the Commission had been sitting for about three weeks, Mr. Wolfenden, a well-known accountant, was called as a witness on behalf of the companies to explain why it was not possible to have balance-sheets of the companies ready for the use of the Commission. The following extract from the evidence explains the position as he found it at that time:—

6566. *Mr. Monahan.*—I take it from what you say that even you, as an expert, would be totally unable at the present time to form any opinion as to the affairs of these companies?—Quite so.

6567. That is the position of affairs right up to the present moment?—That is so.

6568. *Commissioner.*—Has any preparation been made to balance the books; what is the end of their financial year?—Most of the books are written up to the 30th June, 1934. The only case that I am definite upon is an account that was shown to me of the Investments Executive Trust to the 30th June, 1933, from which I conclude the 30th June is the end of their year. I have seen no previous account of any other company, and it may be it is not yet determined what their financial year really is.

6569. *Mr. Monahan.*—For a company dealing with public funds, that state of affairs is amazing, is it not?—It certainly is rather amazing. They should be written up, and should know where they are.

6570. From what you have seen, until they compile their books, none of the people themselves are able to tell you where the public money has gone?—I must say that whatever inquiry I have made, they seem to have a knowledge of the transactions, whether it is an accurate one I am not able to judge.

6571. But their knowledge is mainly in their heads, is it not; it is not in records that you can check?—It is not written up and proven by the books.

6572. It is not recorded in any way that you can check at the present time?—That I cannot say. I have not examined all their records.

6573. *Commissioner*.—It seems to me, from what you have said, the writing up of the books depends very largely on the evidence produced to the person writing them up?—Not altogether. May I put it in this way, the records may be there in detail; they are not written up in the books, but evidence of the records may be there in various documents, and I think, frankly, these gentlemen have had more difficulty in getting those documents because the Auditor-General's staff have taken those documents and filed them in accordance with their methods, which means that these gentlemen find them rather difficult of access.

6574. Can you see any possible excuse or explanation why transactions are apparently not being recorded; some of them are eighteen months old, are they not?—

6575. *Dr. Louat*.—I object. As a later stage Mr. Wolfenden will be tendered to give evidence of the general system of book-keeping.

6576. *Commissioner*.—Lack of system, I gather.

6577. *Dr. Louat*.—At the moment I am merely putting him in the box to show the present position of the books, and not for general cross-examination.

6578. *Commissioner*.—I do not know that you need pursue the subject further along those lines, Mr. Monahan. From what Mr. Wolfenden says it is perfectly apparent what inference should be drawn. All these questions can be asked later on.

6579. *Mr. Monahan*.—Yes, but very often it is much better to ask them at the outset.

6580. *Commissioner*.—There is nothing unfair in asking Mr. Wolfenden, as an expert, as to the state of affairs he finds in a public company when he comes in.

6581. You do not find any difficulty in answering that, do you?—I am diffident about expressing an opinion, because I have not had very much experience of what they have got. I should prefer to be asked later when I have sighted what they have got, and have a greater knowledge of the whole subject. I say definitely, unless these books are completely written up, no matter whether the first records were proven or otherwise—as a matter of fact, I gave the company this advice in the very earliest stages—that unless these books are completely written up it is impossible to view the position, because these companies dovetail one into the other.

6582. *Mr. Monahan*.—When you say at a very early stage, what date would that be; do you mean since the Commission started?—Yes.

6583. When was it they invoked your help?—It was somewhere more than a week ago. It was before the cross-examination of Mr. Hewitt took place.

6584. That is what you mean by the very earliest stage?—I was speaking of the early stage as far as I was concerned—when I was first called in.

6585. Apparently your help was invoked by these companies between a week and a fortnight ago, to guide them in the preparation of the books; is that it?—They called me in to advise them generally.

6586. On what?—In the matter of their accountancy position.

6587. At that stage their accountancy position was that there was no position at all, was there?—That is what I advised them.

6588. That is what you found when you went there, that they had no position at all?—No position that could be demonstrated or proven.

6589. Or that would afford any information to a professional gentleman such as yourself or Mr. Hill, if you were trying to find out really what the position of these companies was?—That is so.

6590. *Commissioner*.—We know that Investments Executive Trust has an auditor, Mr. O'Neill?—Yes.

6591. Had Southern British an auditor?—I could not tell you that. I have not made that inquiry.

6592. You have not met him in consultation?—No.

On that evidence I do not think that any comment from me is necessary. In regard to minute books an extraordinary state of affairs was disclosed. The method adopted was to type a record of meetings on loose sheets of paper which were subsequently pasted into the minute book. In some instances these sheets were still found loose, although many months had elapsed since the meetings which they purported to record; in many instances the minutes were not signed, and in very many cases there was good ground for believing that they did not record any actual meeting at all, but merely recorded a resolution which was necessary for certain of the transactions which were being carried on, and which those in control of the company's affairs desired to have recorded as though the meeting had taken place, and the resolution had been passed. As to the keeping of the financial books of many of the companies, the officers concerned worked entirely under the direction of Mr. McArthur, and recorded what they were told to record; in very many instances without understanding the nature of the transaction or the reason for the entry which they were directed to make. The conclusion that I came to was that Mr. McArthur regarded these companies as being so entirely his own that he did

not bother to have various transactions properly recorded. It was sufficient for him to do a thing without making a record of it, and when a record became necessary, it was sufficient for him to direct an entry to be made.

(6) Mr. Monahan's sixth charge concerns the methods of getting debenture capital from the public. I have already pointed out the principal agency used in this connection was what has been called the McInnes Organization. It is admitted the employees of this organization were trained in methods of persuasion or over-persuasion, and there is very strong ground for believing that their attention was directed very largely to spinsters and widows. The evidence before me concerns only a limited number of transactions, but certain inter-office communications which were put before the Commission lead to the belief that any method would be regarded as permissible provided the money was obtained. The remuneration paid to the company was 10 per cent. of the capital obtained, plus an additional $2\frac{1}{2}$ per cent. in certain cases for doing work which I should think involves very little if anything more than the ordinary business of a share selling organisation. Apparently in the case of the Southern British National Trust, all the actual money provided by the public went into the hands of McInnes, who paid himself by deduction and accounted to the company for the balance due, and so lax was the control that apparently in some cases he sold securities which had been exchanged by members of the public for debentures in the Southern British National Trust in order that he might obtain his remuneration immediately. The representations made to the public are well illustrated by a chart which was used in connection with getting business for the Southern British National Trust, and which clearly indicated to those to whom it was shown that by means of an investment in the Southern British National Trust, they would be obtaining a share in investments in some of the best known and well-established companies; and the statement of investments shown on this chart indicates in unmistakable terms that the company actually had a shareholding in certain named companies. As a matter of fact the total shareholding in British companies was less than £2,000 in the case of the Investment Executive Trust of New Zealand, and practically nil in the case of the Southern British National Trust. The idea conveyed to prospective investors seems to me well set out in a letter which I have received from a debenture-holder in the Southern British National Trust. He said:

"The principles of investment trusts have been clearly set out in the brochure dealing with the Southern British National Trust, and naturally appeal to all classes of investors on the ground of safety, insurance against loss on account of the spread, and reasonable dividends and the appreciation of capital."

That seems to me to sum up the position as it would be conveyed to any member of the public who was shown the chart which was used. *Undoubtedly these trusts were put before the public as genuine investment trusts which were to work on well accepted principles, and the success of British companies which had adopted those principles was used as an argument to induce people to put their money into the debentures of these companies.* If the actual facts concerning the investments of these companies were known to Mr. McInnes, or those directing his organisation, then the use of the methods which were adopted fell little, if anything, short of fraud; and if Mr. McArthur knew that these methods were being adopted, he was a party to the exploitation of the public by fraudulent methods. I have no doubt that Mr. McArthur intended that the McInnes organisation should call the attention of prospective investors to the guiding principles of a proper trust system, and should invite subscription upon the basis that those principles were being and would be put into operation and that success similar to that of British companies might be expected. The report of the Investment Executive Trust of New Zealand, already referred to, and Mr. McArthur's own letter to the agents engaged in selling debentures, clearly show what representations were being made, or were intended to be made. Whether Mr. McInnes himself was guilty of fraud in this matter depends entirely upon what knowledge he had as to the actual investments being made by the company. In his case ignorance would not be an excuse if he chose to take Mr. McArthur's word on the matter, especially as is almost certain that he must have known that Mr. McArthur consistently refused to publish or disclose any schedule of investments made by either of the companies. *Apparently practically the whole of the money subscribed for debentures was obtained by means of house to house canvass, and indications are that all the worst evils associated with the business of hawking shares are to be found in connection with the canvass to obtain public money for the Investment Executive Trust Limited, and the Southern British National Trust.* I should point out that a very considerable portion of the debenture capital of the Southern British National Trust was obtained by taking transfers of deposit in the Primary Producers' Bank which was in liquidation. In order to obtain lists of the depositors unknown to the liquidator employees of the bank were induced by bribery to break their pledge of secrecy and place the information at the disposal of the McInnes organisation.

(7) Mr. Monahan claims that out of the total debenture capital £648,000 subscribed by the public, the sum of at least £285,000 has been spent and is not represented by tangible assets. The consideration of this charge involves an investigation as to the present position of the companies. It is clear that over £60,000 has been paid to McInnes and Company Limited. It is also clear that £54,000 was paid out of the funds of the Investment Executive Trust, to the Sterling Investments Company. Of the establishment charges of the Investment Executive Trust, the sum of £22,000 was covered by debentures in the British National Trust lodged with the company before the commencement of the proceedings of this Commission. On 12th August, a further £39,000 in debentures in the British National Trust, was transferred by McArthur and Alcorn to the Investment Executive Trust, so that the position now is that that company now holds £61,000 worth of debentures against establishment charges. It was proved that for the £54,000 of public money which was paid to the Sterling Investment Company from the Investment Executive Trust there is now held by the Investment Executive Trust £60,000 worth of debentures in the British National

Trust. It is not easy to determine what is the exact position of either of these companies because of the difficulty of putting a value upon the British National Trust debentures. The Investment Executive Trust holds 228 of these, and if they are worth their face-value there has been no loss of public money. A very large percentage of the money subscribed by the public for Southern British National Trust debentures has gone either to McInnes by way of commission, or to finance the alterations to the building, and in return British National Trust debentures have been received, and are now held at a face value of £115,000. *It appears to me that to say that certain moneys have been spent and are not now represented by tangible assets is not the best way of putting the position.* One must attempt to find what is the value of the holding of British National Trust debentures by these companies, and then it will be possible to estimate what loss, if any, has been suffered through their funds becoming involved in this real estate transaction which was entered into by McArthur and Alcorn. Mr. Robert Hill, one of the accountants appointed to assist the Commission, worked out a series of calculations in order to determine the value of the British National Trust debentures. These calculations were criticised by counsel appearing for the companies, but no accountant was called to challenge them, and no evidence was put before me to support any other view. The whole question turns on the value to be placed on the building. Mr. Hill has taken three valuations for the building, namely, £250,000, £300,000, and £400,000. I do not think I need trouble about the £250,000 valuation, because I am of the opinion that the building in its present state is worth more than that. The evidence of value called before me was not very satisfactory, and I certainly think that £300,000 is probably below the true value, and that £400,000 is too high a figure; but taking the basis of £300,000 Mr. Hill finds that the value of the British National Trust debentures is 12s. in the £, and on the basis of £400,000 it is 16s. 10d. in the £. Accepting those figures, the holding of the Investment Executive Trust is about £90,000 less than the face-value of the debentures on the one basis and £34,000 on the other; and those are the limits between which must lie the loss actually sustained by the Investment Executive Trust of New Zealand through their moneys having been embarked in this real estate venture. On the same basis of calculation, the loss of the Southern British National Trust lies between £18,000 and £46,000, so that through this investment of capital in the Daily Telegraph building each of the companies has suffered very substantial losses. Mr. Hill further worked out the value of the debentures in the Investment Executive Trust, and the Southern British National Trust, and adopting the two figures of £300,000 and £400,000 as being the value of the building for the basis of calculation, he estimated that the present value of debentures in the Investment Executive Trust of New Zealand was 16s. 1d. in the £ on the £300,000 basis, and 19s. 5d. in the £ on the £400,000 basis; and for the debentures in the Southern British National Trust he found the respective values to be 16s. 6d. in the £ on the £300,000 basis, and 19s. 1d. in the £ on the figure of £400,000. I think, in view of the fact that Mr. Hill's were the only figures put before the Commission, and that he was not in any way shaken on cross-examination, that I should adopt his figures; and to my mind they present a more accurate picture of the whole position than is to be obtained by looking at the matter merely from a consideration of the amount of money replaced by intangible assets as Mr. Monahan has striven to do. On the evidence before me I do not think it proper to attempt to put a definite value on the building; but I am of opinion that £300,000 is nearer to the value than £400,000, so that the losses sustained approximate more nearly to the larger than to the smaller amounts mentioned by me.

(8) I now propose to take the ninth charge made by Mr. Monahan, that all the directors and officers of the company who were called before the Commission were actuated by a desire to stifle the truth as to the company's dealings, and were guilty of gross prevarication if not actual false swearing. I think this charge is too sweeping. In my view some of the officers who were called were doing the best they could to help the Commission, and were not actuated by any desire to stifle the truth. In many instances they were in a very difficult position because they were called to give evidence on matters of which they might have been expected to have knowledge, but as to which the whole knowledge lay with Mr. McArthur. Mr. Glasson, for instance, had been keeping the books of these companies entirely under the directions of Mr. McArthur, and the fault which may be attributed to him is that he did so, and made entries in the books without understanding them; but I do not think that he was in any way attempting to mislead the Commission. Mr. Hewitt appeared to me to be endeavouring to help during the whole of the proceedings. The other directors of the company who gave evidence were merely lay figures, or shall I say persons who merely registered Mr. McArthur's determinations and resolutions. They apparently had no independent initiative, and, although in some instances they had nominally been in control of the companies' affairs for a very long time, they had been content to do as they were directed by Mr. McArthur. Very little help was obtained from them towards unravelling the tangled skeins, but I am not satisfied that very much help could have been obtained.

(9) *I now come to the eighth charge, which is that the present control of the companies constitutes a grave menace to the safety of the remaining debenture capital.* In my view this is the most important matter of all, and during the course of the proceedings I have given the gravest consideration to it. As must appear from the short statement of facts which I have made, the money subscribed by the public has unwarrantably been invested in a speculation by Mr. McArthur and Mr. Alcorn. The manner in which this was done shows that those two gentlemen were actuated primarily by a desire for personal gain, and seeing that they used the moneys which had been entrusted to their care in the way which I have indicated, there is the very strongest ground for saying that they should no longer be allowed to control the affairs of these companies in which the public have invested their money. During the whole of the proceedings I have been at pains to point out that one of the main things to be kept in view all through is the preservation to the debenture-holders of the existing assets. To make clear to the public the policy of the people controlling these companies and to warn them of the

danger of investing money in them while under this control have been shown to be very necessary; but it would be disastrous to people who have actually invested their money if it should ultimately turn out that the investigation conducted by this Commission and the adoption of any recommendation which I may make should have the result of causing further loss to them. *Having now arrived at conclusions respecting the past operations and activities of those in charge of the companies, the important matter is to decide what are the best steps to take for the preservation of the existing assets of the companies* which have obtained money from the public for debentures. This is a matter which I desire to reserve for further consideration, and before making a definite recommendation I desire to hear suggestions from those who have been engaged before the Commission, and also to give to the debenture-holders an opportunity to put their views before me. As I have already indicated, the real share capital in these companies is almost negligible because very little public money has been subscribed for shares. *The future of the companies is a matter which really concerns the debenture-holders alone.* So much depends on the value of the Daily Telegraph building that it is obvious that it would be disastrous to take any course which would force a sale of that building at any price which might possibly be obtained at perhaps an unfavourable moment at an auction sale. It appears that the proper course would be to try to evolve some scheme which will ensure that if the building comes to be sold it will realize its full value. This will probably take a considerable time. Mr. McArthur has put before the Commission a scheme of reconstruction of the various companies providing for the elimination of some of them, and for a consolidation of interests, but it is a scheme which leaves him still in control of the companies with checks which may or may not be sufficient. Having heard all the evidence that has been adduced, the main points of which I have referred to briefly, I find myself *entirely unable to recommend any scheme which leaves the control of these companies, or the possible control of them, in the hands of Mr. McArthur.* *My view is that it is necessary for the protection of the debenture-holders that he should cease to hold any executive position.* Probably this will necessitate legislation, because to leave individuals or even the Attorney-General to move to have the company wound up or for any other relief by process of the Court would be to open the way to litigation which might be long and expensive and during its course the assets might be dissipated. I am fully aware of the dangers which are involved in special legislation for special circumstances, and for the purpose of affecting the position of particular individuals or companies; but it must be remembered that in these companies not a penny of the capital of Mr. McArthur or Mr. Alcorn is involved, and that the whole of the effective capital is public money, and I think that in the circumstances which exist it would be more disadvantageous to leave the matter to the ordinary processes of the law than to make special provision by legislation for the future of the companies. I am strongly influenced towards this view by a recognition of the very great difficulties which lie in the way of any litigant owing to the very great number of companies and parties involved, and what appears to me to be a deliberate attempt on the part of the principals to render themselves secure against any legal action.

To obtain the views of the debenture-holders and to consider schemes which may be put forward may take some considerable time, and the reason for making an interim report instead of proceeding to deal with the whole of the matters which have been submitted to me as Commissioner is that I realise that it may be deemed to be advisable in view of the position which has been disclosed to make special provision for the appointment of a receiver and manager of the assets of these companies within the jurisdiction for the time being and *until the wishes of the debenture-holders as to future policy, or as to future control can be ascertained.*

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 those 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.

The original McInnes company which operated in Australia is in process of voluntary liquidation. I think that steps should be taken for a compulsory winding-up. The new McInnes company which has been referred to as the Canberra Company is unable to pay its debts and has left a large number of employees without wages for a considerable time, and I recommend that steps should be taken immediately for the compulsory winding-up of this company.

By Your Excellency's Command,

(Sgd.) P. HALSE ROGERS,

A Judge of the Supreme Court of New South Wales,
Sole Commissioner.

1st November, 1934.

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FINAL REPORT

OF

NEW SOUTH WALES COMMISSION.

[Reprinted in New Zealand.]

REPORT ON MATTERS CONCERNING THE PROMOTION AND OPERATIONS OF CERTAIN COMPANIES IN NEW SOUTH WALES.

TO HIS EXCELLENCY SIR PHILIP WOOLCOTT GAME, Knight Grand Cross of the Most Excellent Order of the British Empire, Knight Commander of the Most Honourable Order of the Bath, Companion of the Distinguished Service Order, Air Vice-Marshal on the Retired List of the Royal Air Force, Governor of the State of New South Wales and its Dependencies in the Commonwealth of Australia.

MAY IT PLEASE YOUR EXCELLENCY :

Immediately on the conclusion of the Sittings of the Commission for the Investigation of the affairs of the companies named in the schedule to the instrument of my appointment as Royal Commissioner, I presented to Your Excellency an interim report embodying certain findings as to the control, management, and activities of what may be called the principal companies, being the companies in which the money subscribed by the public had been for the most part invested. The reason for the making of that interim report was therein set out, viz., that the conservation of the assets of the companies concerned was a matter of urgency and that it might be deemed necessary by Your Excellency's advisers that immediate Legislative action should be taken to prevent the dissipation of those assets. Following upon the presentation of my report, steps were taken to invest the control of the companies in the hands of the Public Trustee until such time as it was possible to make final recommendations as to the future of the companies. Since the passing of the Companies (Receiver and Manager) Act, 1934, several sittings of the Commission have been held, schemes have been propounded, counsel have been heard, and a vote of the debenture-holders in the Southern British National Trust has been taken. As a result of these deliberations and proceedings I am now in a position to make certain recommendations, but before doing so I deem it proper that I should report briefly on the operations of certain companies which are mentioned in the schedule and which were not dealt with in any detail previously because of the urgency which was felt to be called for in connection with the affairs of the principal companies and because no harm could arise from the postponement of a report on the companies whose affairs were not regarded as being of such vital interest to the investing public.

INTERLOCKING COMPANIES.

In order that the affairs of the Investment Executive Trust of New Zealand Limited and the Southern British National Trust Limited might be properly investigated, it was deemed necessary that power should be given to inquire into the affairs of a large number of other companies which were controlled directly or indirectly by Mr. McArthur and Mr. Alcorn or those intimately connected with them. As the evidence was adduced before the Commission it soon became apparent that Mr. McArthur and his associates had so manipulated the finances of the principal companies that it was impossible to disentangle their transactions without an investigation of the affairs of many companies which had been used by them. A great deal of the time of the Commission was consequently taken up in this work of disentanglement, and in ascertaining the history of the various companies which had been so used. It appears to me that no useful purpose would be served if I were now to report on these in detail.

Since the publication of the interim report counsel for Mr. McArthur has submitted a scheme which involves the winding up of most of these companies, and even if that scheme is not adopted there still exists, in my opinion, no reason for their continued existence.

Most of such companies are purely New Zealand companies, and any steps which are to be taken in connection with them must be taken in New Zealand. Their operations have been investigated so far as was possible in the absence of the companies' books by a Commission in New Zealand whose report came into my hands just about the time of the publication of my interim report. That Commission had not the advantage of having before it the books of many of the companies concerned, for just about the time of its appointment, or, at any rate, at a stage when the opportunity of examining them in New Zealand was important for the purpose of a thorough investigation, they were removed to this State. However, during the great part of the time in which I was sitting as Commissioner one of the inspectors appointed to report to the New Zealand Government was present, and since the sittings of the Commission closed I have authorised the return to New Zealand of the books of most of these companies. Accordingly it seems to me that with a transcript of the evidence before them and the books of the companies which were not previously available the advisers of the Government in New Zealand will be fully informed and will be in a position to advise that Government as they deem fit.

The investigation before me revealed quite clearly that Mr. McArthur had used several of the companies named in the schedule presumably for the purpose of covering up his own transactions and also for the purpose of diverting for his own ends the capital subscribed by the public from the companies to which it had been subscribed.

It was pressed upon me during the hearing that he had done nothing which could be characterised as illegal in that all his actions were entirely within the provisions of the Companies Act. In view of this contention it is probably advisable that I should detail as an illustration one of the methods of diverting the capital subscribed by the public. The debenture-holders of the Investment Executive Trust of New Zealand Limited were invited to subscribe for debentures in an Investment Trust. The original prospectus set out that the company undertook that—

“upon the completion of this issue of debentures in each series not more than 10 per cent. of the total debenture capital received shall be invested in any one security.”

The class of stocks indicated as investments for the money subscribed were Government stocks, local authority debentures, company and corporation debentures; preference and ordinary shares of banks, insurance, investment and finance companies; preference and ordinary shares in public utility, shipping and industrial companies.

Mr. McArthur then needed money to save his personal assets. He had control of a company called the Sterling Investment Company New Zealand Limited—a company with no assets. But there was nothing to prevent it issuing debentures; so debentures were issued—and these being debentures of a public company were permissible investments for the funds of the Investment Executive Trust Limited. So practically the whole of the first £60,000 of the debenture capital subscribed for the Investment Executive Trust Limited, was invested in debentures of the Sterling Investment Company and was then used for the purpose of financing or salvaging other companies in which Mr. McArthur had been the dominant interest.

It was naively or cynically argued before me that there was no breach of faith with the subscribing public because—

- (1) The issue of the particular series of debentures in the Investment Executive Trust Limited had not been completed and there was no promise to have the subscribed money spread in investments until the completion of the series; and
- (2) the investments that were actually being made, being in debentures of a public company, were authorised and perfectly proper.

Of course, no answer is really needed to such an argument. The whole of the transaction amounted to a fraud on the subscribing public, but a fraud under the guise of legality, and the basis of the argument advanced really is no more than this, that those responsible had hood-winked the debenture-holders because they were entitled to hoodwink them. The series is not complete, it is said. It need never be completed, and the protection offered to investors by a spread of investments was a mere sham. I repeat that I am not sure whether the argument is naive or cynical, but the whole transaction is an illustration of what may happen when the public invest in such companies as these without trustees to safeguard their interests and the companies are controlled by a person or group of persons who have control of the interests in other companies which exist only for their purposes and whose directors are merely puppets to register the decisions and carry out the directions of the dominant parties.

I shall consider later whether there is any feasible method of dealing with this evil of the interlocking control of companies. The history of the McArthur transactions makes it apparent that the machinery of the Companies Acts can be misused and has been misused to the detriment of the public, but in such a way that it is extremely difficult for any individual to obtain redress.

I have pointed out in my interim report how by their control over the British National Trust, Ltd., and the British National Investment Trust, Ltd., Messrs. McArthur and Alcorn hoped to turn a paper profit of £287,000 on the purchase of the Daily Telegraph Building into an actual profit to themselves of that amount, and how despite the promise of the spread of investments, over £220,000 of Investment Executive Trust, Ltd., money, and £115,000 of Southern British National Trust Ltd., money is now represented by debentures in the British National Trust Ltd., and how the fortunes of the debenture-holders in these latter companies depend in the main on the success of a venture in real estate. That the machinery of the Companies Acts can be used in such a way by two speculators for their own enrichment, without the risk of any of their own moneys, shows to what extent that machinery can be manipulated; and the prevention of such manipulation under the Acts as they now stand presents a problem of extreme difficulty.

OTHER COMPANIES NAMED IN THE SCHEDULE.

The terms of my Commission are so wide that it would be open to me to report at length on the promotion, financial methods, control, management, operations, activities, and intended operations of each of the companies mentioned in the schedule; but I have always taken the view that the main objects which I should set before myself were to inquire to the fullest possible extent into matters concerning the companies to which the public subscribed, and to take such steps as I could and to make recommendations, with a view to preserving the assets of those companies for the benefit of the people who have subscribed money.

In the course of the inquiry it has been necessary to examine more or less minutely the operations of almost every company mentioned in the original schedule in order that the dealings of Mr. McArthur and those associated with him in the Investment Executive Trust Ltd. and the Southern British National Trust Ltd. might be fully understood. The evidence concerning those matters extends over more than 500 closely printed pages. In my view it would serve no useful purpose for me to attempt to summarise that evidence in this report.

The history of most of the companies is the history of the manoeuvres of Mr. McArthur. Companies were called into existence when he needed them either to hold some assets or to act as a conduit for money from one holder to another; they ceased to function when he had no further need for them. Many of them had no assets, yet they

issued debentures for thousands of pounds and made purchases of real assets with those debentures. Directors, secretaries, and company officials were the mere puppets of Mr. McArthur; they recorded his wishes, or perhaps it would be more correct to say that in many cases they carried out his wishes without even recording them—his word was sufficient; his power was absolute. These various minor companies were so many manifestations of Mr. McArthur, and enabled him, as it were, to have so many different entities, each of those entities being used when thought necessary by him for the furtherance of his purposes. That was their sole purpose and their sole interest. Some of them are dead and have ceased to function for some time past. By general consent the others, apart from the main companies, have now no reason for existence, and nothing remains but to put an end to them; none of them are New South Wales companies, and no action in this State in connection with them would be useful or competent. In the circumstances a detailed report would appear to be out of place. The important matter is to know that they did function at the will of one man, and the possibility of their creation and operation under the Companies Acts, or rather the fact that they were so created and operated reveals clearly how machinery designed for the use of the community for its legitimate purposes in its every-day business can be used for extraordinary and illegitimate ends. Not all of the companies named in the expanded schedule fall into this category of subsidiary companies. Some of them have only a remote connection with the companies mainly under review, and appear to have been added to the schedule in order that it might be open to me to investigate their affairs if it were thought that such investigation would in any way assist in tracing the history of the various transactions which affected the interests of the principal companies. Mr. Monahan announced that as to a number of them he did not propose to offer any evidence, and as to those there is nothing for me to report; the affairs of some other companies were examined only because of the holding which Mr. McArthur had in them, and in order to understand his subsequent dealings with British National Trust debentures and his operations for the purpose of safeguarding or salvaging his assets.

I think, however, that I should make an exception by mentioning the case of some companies. The first is the *Overana Land Company Limited*. That was one of the companies added to the list by the instrument dated 22nd September, 1934. Immediately after the publication of the fact that it had been so added Mr. Hampson, a barrister and solicitor of Auckland, cabled asking that I should give him an opportunity of being heard. He also forwarded an affidavit for filing before the Commission. It appeared that the company in question was a private company in which he and his wife had been shareholders, and which several years ago had some transactions with a company or companies in which Mr. McArthur was interested. I directed that he should be informed that Mr. Monahan, who appeared for the Crown, made no suggestion that he was in any way involved in any doubtful transactions, and that the affairs of the company were apparently in no way connected with matters under investigation by the Commission. Notwithstanding this assurance Mr. Hampson desired to give evidence, and came over from New Zealand for that purpose. Before he entered the witness-box I again stated that there was no suggestion of anything improper on his part. However, he was anxious to give evidence, and, having been sworn, gave an account of the history of the Overana Company. He wished to go on to give evidence as to his attitude towards the Commission appointed by the New Zealand Government, and as to his reasons for not appearing before that Commission, but I explained to him that such matters were entirely irrelevant to my inquiry, and that it would be improper for me to hear a controversial statement from him or criticism regarding the New Zealand Commission, and declined to receive the further

evidence which he wished to tender. I make this reference to the matter only because he deemed it of sufficient importance to him personally to make a journey from New Zealand ; and I merely report that there was no evidence before the Commission even suggesting any improper dealings by the company in which he was interested.

Most of the companies mentioned in the schedule to the Companies (Receiver and Manager) Act, 1934, do not in any sense belong to this State, and there seems to be no call for any recommendation by me as to future legislative action. I would point out, however, that, in the scheme of reconstruction to which reference will be made later, it is suggested that the New Zealand Shareholders Trust Limited, Transport Mutual and General Insurance Company Limited, Sterling Investments Company Limited, Pacific Exploration Company Limited, Farms and Farmlets Limited, Financial Publications Limited, and Liberty Motors Corporation Limited should be wound up as soon as practicable and convenient. Those are companies which served the purpose to which I have already referred, and now, by general consent, having no further function to perform, should go out of existence.

There are, however, two companies whose affairs have a local interest as to which it is relevant and important that I should report in some detail: *British Medical Investment Trust Limited* and the *British Consolidated Investments Limited*. These are two companies in which Mr. McInnes was interested. The British Medical Investment Trust Limited was registered in Canberra in 1933, but did not commence operations until about April, 1934. It differed from the other Investment Trusts which were the subject of inquiry in that the public were invited to subscribe for shares and not for debentures; its operations were not extensive, and the main matter of interest in connection with the investigation into its affairs was the question which was raised as to the use of its name and the association of Mr. Jarvie with the directorate.

As to the name adopted by the company, I have no hesitation in saying that there was no justification whatever for its use. The company was not British, and it had no connection with the medical profession. It was explained that it was hoped to interest members of the British Medical Association, or rather, medical men generally, in a vocational trust which was to be conducted on the lines of a similar trust in England. In my opinion the name was merely used as a catch for the investing public, medical or otherwise. If there had been a genuine desire to establish a vocational trust for medical men it is inconceivable to me that proper steps would not have been taken to ascertain from the Council of the British Medical Association whether they were willing to be identified with such a venture. The combination of the words "British" and "Medical" has undoubtedly acquired a certain definite significance and the use of the term "British Medical" must convey a definite meaning to the public. The words in conjunction would certainly lead a "prospect" or investor to believe that the company had at least some connection with other British Medical interests—or with the only body in this country whose name is connected with those words, and as the company was in no ordinary sense within the term "British" I cannot take any other view than that the name was chosen with the purpose of inducing such belief.

According to the evidence of Mr. Jarvie no application was made to the British Medical Association for approval of the use of the name, but he said that as soon as it was brought to the knowledge of the directors that some members of the Association were complaining steps were taken to change the name. There is some conflict of testimony as to this, as Mr. McInnes said definitely he understood that Mr. Jarvie had applied for and obtained approval, but Dr. Hunter, the secretary of the British Medical Association, agreed with Mr. Jarvie on the matter of there being no request for approval.

The really important matter in connection with this company is, as already indicated, what was it intended that the public should believe? Or what advantage did the promoters and directors expect from the use of the name? I think it can be gathered from the evidence of Dr. Colvin that I am correct in my view as to what was the inference which one would naturally draw. The doctor is a very well known medical man who practises at Orange and who has been a friend of Mr. Jarvie for many years. Mr. Jarvie was very anxious that the doctor should become a director, and as he was ill at the time he saw him at Orange and subsequently telephoned to him. Dr. Colvin's account of the conversation is as follows:—

“Major Jarvie was on the telephone, and he said that the British Medical Investment Trust was being formed in Sydney and that this company were deciding as to the personnel of its Board of Directors, and they wanted one member of the medical profession to be on the Board of Directors, and it was suggested that either the President of the British Medical Association or I should be the medical representative. Mr. Jarvie said he was doing his best to see whether the position could be given to me if I were willing to accept it. I told Mr. Jarvie that I had been seriously ill, and was still very ill, and that my medical advisers—and as I also knew myself—told me that rather than take on extra duties I should give up a number of duties that I then held. Mr. Jarvie said there would not be very much for me to do, and that they would be pleased if I came on the Board. He said that the company would be looking after the interests of medical men and would be working in co-operation with the British Medical Association. I then said to Mr. Jarvie: ‘Well, I cannot possibly make any inquiries myself as I am too ill, but you go to the British Medical Association and ask them whether it would be quite all right for me to be associated with the company in the position of a director.’ Mr. Jarvie said he would do so, and then I think we rang off.

Mr. FLANNERY: Did he at that conversation say anything with regard to a British company?—A. Oh, yes. I asked Jarvie just as quickly as I could what the company was, and he said it was the same as the British Medical Investment Trust in England, and that the British Medical Investment Trust in England worked in conjunction with the British Medical Association, and naturally, as that linked up with the British Medical Association, this one would be linked up with the British Medical Association here; and that is why I referred him to the British Medical Association.

Q. Did Mr. Jarvie call to see you some time later?—A. Yes, two or three days later. I cannot remember the date, because there was no reason why I should put the dates down, but it was two or three days later that Mr. Jarvie came to Orange. I think it was on 8th May that he came to Orange, and he said that everything was quite all right; that he had interviewed Dr. Hunter, the secretary of the British Medical Association, who said it was a very good thing that such a company was being formed to safeguard the interests of medical men, who were recognised as very bad investors, and that the British Medical Association were glad such a company was being formed; that they were delighted at the forming of the company and me being on the Board. Mr. Jarvie also said that Dr. Hunter was so keen on the formation of the company that he (Dr. Hunter) expressed the opinion that he would have liked to go on the Board himself, except for the fact that he was a paid member of the British Medical Association, and therefore he could not go on. Mr. Jarvie then handed me the prospectus.”

If Dr. Colvin's recollection of the conversation is accurate (and in my view it was substantially accurate), he was certainly told things that according to Dr. Hunter had not occurred, and Mr. Jarvie's account in the witness-box of his conversation with Dr. Hunter is substantially different from that which was given to Dr. Colvin. Mr. Jarvie did not contradict any statement of Dr. Colvin's, and I am satisfied that the latter's account of what took place between him and Mr. Jarvie is substantially correct. The importance of this is that what Mr. Jarvie told Dr. Colvin is what one would expect he had been told by his fellow director, Mr. McInnes, and it is exactly the sort of thing which one would expect to be told to the investing public, and is the story which the name apparently was intended to support.

I think it is clear that Mr. Jarvie did not take proper steps to inform himself that everything was in order before allowing himself to become associated with the company. When the prospectus appeared he was associated in the directorate with Mr. McInnes and Mr. Alcorn,

neither of whom was at that time known in New South Wales, so that he, being the only local public man, was in a sense a sponsor for his co-directors. The name of a public man on a prospectus is intended to be a guarantee to prospective investors. In such a case as this where the name of the company obviously might have an especial significance it was of importance that full investigation as to the true position should be made; and it should have been obvious to a man of affairs that the only proper authorisation for the use of the name must come from the Council of the Association and not from any more or less casual conversation with an officer. As matters stand I am satisfied that Dr. Colvin was at first misled as to the true position and others might and probably would be misled at least as easily.

I have considered the connection of Mr. Jarvie with this company in some detail because the whole matter illustrates the methods which were employed by Mr. McArthur and Mr. McInnes. The latter met Mr. Jarvie about April, 1934. Almost immediately he was persuaded to become a director of the British Medical Investment Trust and he accompanied Mr. McInnes on country tours to make speeches on trust principles. About the end of April or the beginning of May Mr. Jarvie met Mr. McArthur who, however, left a few days after for New Zealand. From that time Mr. Jarvie became in some indefinite way connected with the trust companies. On Mr. McArthur's return in June he appointed Mr. Jarvie—by word of mouth—an officer at a salary of £500 per annum and dated the appointment back to the beginning of April. Mr. Jarvie did not know what authority Mr. McArthur had to appoint him; he was vague as to what his duties were to be and he was a little in the dark as to which company he was actually to serve. He was surprised to know that his salary was being charged to the Southern British National Trust Company. He resigned on the day the Commission was appointed—again by word of mouth—and received the balance of his salary, for four months in all, due to that date. It was obviously the intention of Mr. McArthur and Mr. McInnes to attach a public man to their organization and Mr. Jarvie according to his own evidence took those gentlemen at their own valuation and associated himself with their projects without any inquiry at all.

BRITISH CONSOLIDATED INVESTMENTS LIMITED.

This is a share-selling organisation. The foundation of this business was an agreement with the British Medical Investment Trust Limited under which it was to receive 10 per cent. of the value of shares applied for in that company. Mr. McInnes was a considerable shareholder in this company and I draw the inference that it was in some manner under his domination. It scarcely functioned at all. It is interesting to note that after the publication of my interim report Mr. Josephson who was a director of this company endeavoured to induce the debenture-holders in the Southern British National Trust Limited to entrust their interests to this company and give it power to manage their affairs. Considering what had been disclosed at the sittings of the Commission, the impudence of some of the statements which were apparently made in support of this scheme is astonishing.

THE FUTURE OF THE SOUTHERN BRITISH NATIONAL TRUST LIMITED.

In my interim report I stated that the future of the companies to which the public had subscribed money was really the concern of the debenture-holders alone; and I suggested that it might be deemed advisable by Your Excellency's advisers that special provision should be made for the appointment of a Receiver and Manager of the assets within the jurisdiction of these companies until the wishes of the debenture-holders as to future policy or as to future control could be ascertained. Following that report an Act was passed which vested the assets in the Public Trustee and thereafter the sittings of the Commission

were devoted to considering suggested methods of ascertaining the wishes of the debenture-holders. Dr. Louat, who then appeared for Mr. McArthur and Mr. Alcorn, put forward suggestions from time to time which were ultimately crystallised into a scheme which was submitted to the debenture-holders as an alternative to the winding-up of the Southern British National Trust Limited or to the continuation of the control of the Public Trustee. Mr. Pitt, K.C., with Mr. Selwyn Betts, appeared to watch the interests of certain debenture-holders and they approved of the scheme in the final form in which it was submitted. Mr. Hill, one of the accountants who assisted the Commission throughout, after examination of the proposals stated that he thought that the scheme set out was "workable," but it was not one he could recommend and that his view was that the best course was for the Southern British National Trust Limited to be put into liquidation concurrently with the other main companies, power being reserved to the Liquidator to postpone the realisation of the Trust Building until a favourable moment for its disposal.

Following on the discussion in Court I prepared a memorandum which I asked the Public Trustee to forward to debenture-holders of the Southern British National Trust Limited together with the plan submitted by Dr. Louat. I set out in full the text of that plan.

PLAN OF RECONSTRUCTION.

The scheme submitted herewith represents the result of lengthy discussions between counsel for debenture-holders represented before the Royal Commission and counsel for shareholders, following upon the suggestion made by His Honor the Royal Commission on November 7, that the most fruitful way of settling a plan was the method of round-table conference.

The central idea of this reconstruction plan is the admission of debenture-holders to complete and effective control at every point of the Trust organisation, in place of the present control of the shareholders.

SECTION ONE.

METHOD OF RECONSTRUCTION.

1. The Investment Executive Trust Limited and the Southern British National Trust Limited.

It is proposed that new Articles of Association of each of these companies shall contain the following provisions:—

- (a) The number of directors to be six, of whom four are to be elected by the debenture holders. Two others will be nominees, to be chosen in a manner to be determined by the Royal Commissioner.
- (b) The four debentureholders' directors to be elected by postal vote. The first ballot is to be conducted under the supervision of the Public Trustee or other approved authority.
- (c) The suggestion for the appointment of two nominee directors is included to ensure that the new board will contain at least two thoroughly competent and impartial men, a result which, it has been urged, might not necessarily be achieved by a ballot.
- (d) All directors, including the two nominee directors, to hold office till June 30, 1936, when the nominee system will be abolished. Six directors will then be elected by debenture holders in the same manner as that provided in this plan for the election of the four.
- (e) Power to appoint alternative directors with the approval of the board, save in the case of nominee directors, who are to have an uncontrolled right to appoint their alternative directors.
- (f) Directors to have power to fill casual vacancies save in the case of nominee directors, in which case the remaining nominee director shall have the right to fill the vacancy.
- (g) Chairman of directors to be elected by the whole of the directors, and to have a deliberate vote but no casting vote.
- (h) Quorum for directors' meeting to be four.
- (i) Any debenture-holder to be eligible for election as debenture-holders' director.
- (j) Present agreements with and appointment of managing director to be cancelled.

- (k) Auditors for the companies to be, for the Investment Executive Trust Limited, T. W. Maben, Esq., of Auckland, public accountant, and for the Southern British National Trust Limited, R. Sands, Esq., public accountant, of Sydney.

These gentlemen are recommended by counsel for debenture-holders represented before the Commission.

- (l) The articles of both companies to be amended to vest full authority in the new board, including the power at present possessed by the shareholders to alter the articles, provided that no alteration of the articles affecting the constitution of the new board of directors shall be made except by unanimous vote of all the directors.

2. The British National Trust Limited.

It is proposed that the articles of this company should be altered to provide as follows :—

- (a) The number of directors to be four. One each to be appointed by the new board of directors of the Southern British National Trust Limited, and the Investment Executive Trust Limited, one of whom from each company shall be a director appointed by the nominee directors of that company.
- (b) Chairman of directors to be appointed by the whole of the directors of the British National Trust Limited.
- (c) Quorum for directors' meeting to be four.
- (d) No share qualification required for directors appointed by the board of the South British National Trust Limited and the Investment Executive Trust Limited, respectively.

SECTION TWO.

SUBSIDIARY COMPANIES.

The recommendation with regard to the number of subsidiary companies forming part of the organisations is that they should give a power of attorney to one or another of the principal companies with power to liquidate. This will avoid the expense and confusion involved in any immediate attempt to wind up these companies, and will give the new board an opportunity to become fully conversant with their financial position.

It is proposed that a power of attorney to the Investment Executive Trust Limited should be given by the following companies :—

New Zealand Shareholders Trust Limited,
Transport Mutual and General Insurance Company Limited,

and that a power of attorney to the British National Trust Limited should be given by the following companies :—

Sterling Investments Company Limited.
Pacific Exploration Company Limited.
Farms and Farmlets Limited.
Financial Publications Limited.
Liberty Motors Corporation Limited.

The powers of attorney have been allocated in this way after a careful consideration of the nature of the assets and activities of each subsidiary company.

SECTION THREE.

VOTING PROVISIONS.

Subsidiary companies holding debentures in the Investment Executive Trust Limited or the Southern British National Trust Limited to have no vote in respect of such debentures.

All other debenture-holders to have a vote for each £10 debenture held by them.

SECTION FOUR.

SHAREHOLDERS' ASSETS.

(1) All debts due by any of the companies mentioned in this plan except the British National Trust Limited to Messrs. McArthur and Alcorn to be cancelled.

(2) It is to be understood that the Royal Commissioner will not in any event recommend to the Government of New South Wales the release of control by the Public Trustee of the assets of this company unless and until Messrs. McArthur and Alcorn respectively have put at the disposal of the board of directors of the Southern British National Trust Limited, to be formed in accordance with this plan, the £21,000 credit to Mr. J. W. S. McArthur in the British National Trust Limited, and the 16 debentures of the nominal value of £1,000 each held by Mr. Alcorn in that company, such board of directors to be at liberty to deal with these amounts equitably as regards the interests of debenture-holders in this company and the Investment Executive Trust of New Zealand Limited.

I approve of the above scheme and undertake on behalf of the shareholders that on the obtaining of all other necessary acceptances all steps will be taken and rights foregone necessary to give effect to the plan.

FRANK LOUAT.

NOTE by counsel for represented debenture-holders :—

The above scheme, which is the joint work of counsel for debenture-holders on the one hand and counsel for shareholders on the other, is approved by us as being the soundest plan that can be found for the reorganisation of the companies for the benefit of debenture-holders.

ARTHUR G. M. PITT.
SELWYN F. BETTS.

7th December, 1934.

My memorandum was in these terms :—

To the Debenture-holders of
The Southern British National Trust Limited

MEMORANDUM BY THE ROYAL COMMISSIONER.

In accordance with a promise made during the course of the sittings of the Commission appointed by the New South Wales Government to enquire into the affairs of certain trust companies, including the Southern British National Trust Limited, debenture-holders in the latter company are now being asked through the Public Trustee to express their wishes as to the steps which should be taken for the preservation of the assets which remain. Three possible courses are open :—

1. To leave decision as to the future in the hands of the Public Trustee, who has been appointed Receiver by legislative action following on the publication of my interim report. This course would involve the liquidation of the company at such time as the Public Trustee in the exercise of his discretion should deem advisable.
2. To reconstruct this company along with other companies belonging to what may be called the McArthur Group, in accordance with a plan submitted by Counsel for Mr. McArthur and Mr. Alcorn, and approved by Counsel representing certain of the debenture-holders in this company and in the Investment Executive Trust of New Zealand Limited.
3. To have the company put into liquidation immediately—the suggestion being that the liquidator should have power to postpone realisation until such time as the best price for the assets can be obtained.

It is realised that debenture-holders who have not had an opportunity of reading all the evidence which was brought before the Commission may have difficulty in making up their minds as to which course is likely to be most advantageous to them, and consequently I deem it proper to ask the Public Trustee to send to them this memorandum containing a short statement of my views in the hope that it will help them in arriving at a decision.

I summarise the position in this way :—

- (a) There is no prospect of the company obtaining further capital by the sale of debentures. Consequently its operations as a trust company, the basis of its establishment, would be limited to the investment and re-investment of the small amount of liquid capital amounting to about £15,000 which it now has.
- (b) There has been a loss of debenture-holders' capital by operations up to the present date, and such loss is irretrievable. Debenture-holders are recommended to read my interim report, and particularly page 12 thereof, which sets out the value which in my opinion should be placed upon their debentures.

- (c) Owing to the transactions which are outlined in my interim report, the prospects of this company are inextricably bound up with the fortunes of the old Daily Telegraph building, which is now called The Trust Building.

If this building can be let at the most favourable rates and to the maximum extent of regular letting, which I consider possible, the debenture-holders may obtain a return of some 3 per cent. as interest on the money which they have invested.

If present conditions are maintained, the interest return to debenture-holders will be negligible, and there is a prospect of further depletion of their capital.

- (d) The amount of capital to be returned to debenture-holders on liquidation depends on the price which can be obtained on a sale of the Trust Building. It is obvious that what is sometimes termed a "forced sale" would be disadvantageous to the debenture-holders, and that the proper course is to "nurse" this asset until a favourable moment for disposal.
- (e) In favour of the plan which has been propounded by Counsel, it is urged that the debenture-holders should have an opportunity of allowing the company to continue to function for a period of, say, eighteen months in order that they may find from practical experience what are the prospects of the Company. It is also suggested that there are valuable assets in New Zealand available to the British National Trust Limited, and that it may be found that these will produce sufficient revenue to increase considerably the value of debentures in the British National Trust Limited, and, consequently, to improve the position of debenture-holders in the Southern British National Trust Limited.

Against the adoption of the plan it is urged that:—

- (i) As the Company cannot hope to secure more capital, there is no reason for keeping it in existence.
 - (ii) The prospect of improvement in the value of British National Trust debentures is remote.
 - (iii) There is a possibility of further loss of capital to debenture-holders in the Southern British National Trust Limited.
 - (iv) It would be difficult in the circumstances to obtain, by the means suggested, a satisfactory Board of Directors.
- (f) Having heard counsel and considered the plan proposed in the light of the evidence which was brought before the Commission, I am of opinion that I should not recommend its adoption to the debenture-holders. In my view the prospects of advantage to the debenture-holders are small, and I think that the best course would be for the company to be put into liquidation, power being given to the liquidator to postpone realization. This will mean, of course, that debenture-holders will not obtain any return of capital for a considerable time, but that seems to me to be inevitable, whichever course is adopted.

I draw attention to the fact that at the last sitting of the Commission Mr. Robert Hill, a well-known accountant, who has assisted the Commission throughout, stated in evidence that his considered opinion was that the proposed plan is "workable," but that it is one which should not be recommended. In that opinion I concur.

It is felt that it would be confusing to most of the debenture-holders to be asked to peruse a mass of figures, but I have asked the Public Trustee to forward the fullest possible information to any debenture-holder who may wish to have before him details of the financial position of this company and associated companies.

I should recommend to debenture holders that in coming to a conclusion they should act only on such material as they may obtain through the Public Trustee, and that they should pay no attention to any unsought advice or propaganda whether written or verbal that may come to them from any other source.

P. HALSE ROGERS,

A Judge of the Supreme Court,
Sole Commissioner.

11/12/34.

The voting paper was in the form set out :—

To.....

A Debenture Holder in The Southern British National Trust Limited.

VOTING PAPER.

Question 1 : Are you in favour of the immediate winding up of The Southern British National Trust Limited (concurrently, if possible, with the winding up of the British National Trust Limited, and the British National Investment Trust Limited), power being given to the liquidator to postpone realization of the assets ?

(Answer).....

or

Question 2 : Are you in favour of allowing the assets to remain in the control of the Public Trustee as Receiver and Manager ?

(Answer).....

or

Question 3 : Are you in favour of re-construction in accordance with the plan submitted ?

(Answer).....

You are requested to write " Yes " or " No " in the dotted spaces.

(Signed).....

Holder of.....Debentures in The Southern British National Trust Limited.

My memorandum was submitted to counsel who appeared before the Commission, and its final form was the result of amendments made after criticism by them. The voting paper was also settled after discussion in open Court.

The voting paper and accompanying documents were sent out to the debenture-holders of the Southern British National Trust Limited, 522 in number. I have received a report from the Public Trustee dated the 3rd January setting out the details of the voting. The results were as shown in the following schedule.

RESULTS OF BALLOT OF DEBENTURE HOLDERS IN THE SOUTHERN BRITISH NATIONAL TRUST LIMITED.

P. P. Bank.				Ordinary.				Total.		
Question.	No. of Voters.	Nominal.	Paid Up.	No. of Voters.	Nominal.	Paid Up.	No. of Voters.	Nominal.	Total Paid Up.	
		£	£ s. d.		£	£ s. d.		£	£ s. d.	
1	101	16,260	5,307 7 9	59	24,140	24,140 0 0	160	40,400	29,447 7 9	
2	34	2,920	972 14 10	21	4,840	4,840 0 0	55	7,760	5,812 14 10	
3	85	11,110	4,449 17 2	148	69,490	64,209 2 0	233	80,600	68,658 19 2	
1 and 2 Informal, etc. ..	91	16,080	4,610 3 10	28	12,900	10,940 9 3	119	28,980	15,550 13 1	
	10	960	304 11 3	12	2,160	2,142 0 0	22	3,120	2,446 11 3	
Total ..	321	47,330	15,644 14 10	268	113,530	106,271 11 3	589	160,860	121,916 6 1	

BALLOT PAPERS SENT OUT

..	522	66,200	21,748 15 8	400	139,960	129,718 4 7	922	206,160	151,467 0 3	
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In view of the fact that the opinions of the debenture-holders are so divided, it devolves upon me to examine the position and make a recommendation. If there had been anything like unanimity in favour of the " plan " I should probably have recommended that the wishes of the majority should be regarded, and whatever my own opinion, should have recommended that the scheme of reconstruction should be allowed to proceed, but in the circumstances I think it necessary to point out :—

(1) The " plan " is really inspired by Mr. McArthur. It is a compromise, but the essentials come from him. His counsel impressed on me over and over again that Mr. McArthur had

faith in the future of the company, and wanted it to have an opportunity of making good. Although on the face of it Mr. McArthur is to have no position of control, it was suggested that he might be employed as manager or financial adviser. Apparently some of the debenture-holders whom Mr. Pitt represented are anxious to employ the services of Mr. McArthur, and have the advantages, as it was put, of his great experience in trust matters. Mr. Monahan pointed out, in my opinion quite rightly, that there was no evidence before the Commission of any ability in Mr. McArthur in the matter of trust administration, as the whole of his connection with trust companies had been marked by maladministration. There is no doubt that he is extremely anxious that the "plan" should operate. In view of the evidence before the Commission, and of the devious ways of the principal parties, one is naturally apt to suspect a hidden motive in such anxiety. But, apart from any question of motive, the matter of real importance is, has it been shown that the company has any possible future?

- (2) In my opinion it has not been shown that the company has any prospects. Its debenture capital was obtained by the McInnes organisation, and I have no doubt largely by misrepresentation as to policy, and by promises that were not capable of fulfilment. Since the methods of this organisation have been exposed, and the present value of the debentures of the company has been appraised, there is little likelihood of further debenture capital being raised. If the company continues to function it can be nothing more than a holding company, as it has little liquid capital. For practical purposes it will depend for its revenue on the rents of the Trust Building, because the main source of its income will be from debentures in the British National Trust Limited. It cannot hope to better its position, but there is a possibility that the assets may be further depleted.
- (3) So far as the people who complain that their investments were induced by misrepresentation are concerned, their position will be no worse on liquidation than if the company continues in existence.
- (4) As already stated, the opinion of Mr. Robert Hall, accountant, is that the best course is to put the company into liquidation. This is the opinion of an expert familiar with all the evidence which was given before the Commission. Whilst many arguments were addressed to me on the matter, no man of financial standing was called to support the scheme, and in these circumstances I think that the greatest weight must be given to the opinion of the expert.

It will be noted that an expression of opinion has been asked only from the debenture-holders of the Southern British National Trust Limited. It is perhaps unnecessary to state that the reason is that it is the only company over which the Legislature of the State has any effective control. The holdings in the Investment Executive Trust Limited are almost exclusively in New Zealand, and any decision in regard to the company must come from New Zealand. I do not think that it would be proper for me to ask the Public Trustee of this State to obtain the views of the New Zealand debenture-holders, because there is no means here of giving effect to such views whatever they may be.

The "plan" which was put forward involved the reconstruction of the two principal companies and the British National Trust Limited, and it is obvious that the interests of all three are very intimately connected. As already pointed out, the essential thing in the interests of everybody is to obtain the best possible price for the Trust Building, and that may involve postponing the realisation for a period of years.

Perhaps the best course would be to put the three companies mentioned and the British National Investment Trust Limited into liquidation at the same time, and have the affairs of each subject in the winding up to the same—or co-ordinated—control. That, however, would involve legislative action outside New South Wales, and could only be done with the help of other Governments. To some extent the Investment Executive Trust Limited stands in a different position from the Southern British National Trust Limited, and it may be that the debenture-holders may wish to carry on and that the New Zealand authorities will sanction such a course. In that case the position of the Southern British National Trust Limited must be considered from another angle.

There is no doubt that many problems will arise on liquidation. If the Southern British National Trust Limited alone is wound up there may be considerable difficulty owing to the way in which the affairs of the trust companies have become involved with one another under the management which has existed. It is not possible here in any way in this State to pass legislation which will of itself secure the unified or co-ordinated control to which I have referred. The one real merit which I see in the plan which was proposed is that it might secure such control. I have not considered the position or the possibilities of the Investment Executive Trust Limited in any detail, and I do not know what course will be adopted by the New Zealand Government as to the future of this company. At present its assets in New Zealand are held by the Public Trustee there in accordance with the provisions of the special legislation just as other assets in New South Wales are held by the Public Trustee of this State. It would seem that the whole question as to whether these companies should be put into liquidation is a matter for the consideration of the two Governments acting together. In my opinion the New South Wales Government cannot dispose of the matter simply by deciding to put the Southern British National Trust Limited into liquidation. I have already indicated that I think liquidation is the best for the company, but this opinion is subject to the qualification that the position may be quite different if the other companies named are not wound up concurrently. The details of any legislation which may be necessary for the purpose of liquidation are matters for careful consideration in order that the scheme may fit in with the schemes for the other connected companies. If that course is taken there will be co-ordination which, in my opinion, is essential. If the Southern British National Trust is treated entirely as a separate unit conflicts of interest may arise and the difficulties which may occur during liquidation may cause as much trouble as the carrying on of the company. As I have already indicated, the position of the Investment Executive Trust Limited may be different from that of the Southern British National Trust Limited. There is very much more capital in a more or less liquid state, and there may be a reasonable prospect of its carrying on business successfully. Mr. Pitt represented before the Commission the interests of certain debenture-holders in this company, and strongly pressed that I should not recommend that it be put into liquidation, and “the plan” which was submitted to the debenture-holders of the Southern British National Trust Limited is intended also for submission to debenture-holders in the Investment Executive Trust Limited. In my memorandum to debenture-holders of the former company I stated that I could not recommend the scheme to them. If I were directing a memorandum to the debenture-holders in the Investment Executive Trust Limited I should possibly refrain from any such expression of opinion. I think that the decision as to the future of that company must be made by the proper authorities in New Zealand in the light of such advice as may be given to them by their investigating officers and financial experts. If a vote is taken, as in

the case of the Southern British National Trust Limited, it may be that, if a large majority of the debenture-holders is against liquidation, the company will be allowed to continue to operate either in accordance with "the plan" which has been submitted or in accordance with some other scheme. If the Government of this State were to take steps to put the Southern British National Trust into liquidation immediately, it might amount to a forcing of the hands of the New Zealand authorities. It seems to me that if one company is to go into liquidation, the other company should also be liquidated; if one is to continue to operate, the other should do likewise.

I have stated that for the Southern British National Trust Limited the advantages of liquidation outweigh the disadvantages, but that does not hold good in the case of an isolated liquidation. Unless the Investment Executive Trust Limited and the British National Trust Limited are to be put into liquidation concurrently, I think that the danger of depletion of the assets of the Southern British National Trust Limited by its continued existence is not so important as to counterbalance the difficulties which will probably arise from its liquidation alone.

My view is that the Government of this State should act only after consultation with and in conjunction with the Government in New Zealand; that it is essential that some scheme should be evolved by which the affairs of the principal companies may have co-ordinated control either in carrying on or in liquidation. As already indicated I think that the interests of the debenture-holders in the Southern British National Trust Limited will be best served if liquidation is decided upon, provided that it is a concurrent liquidation. But I do not think that this expression of opinion should be used as by any means a determining argument for putting into liquidation the Investment Executive Trust Limited, my view being that the future of that company should be decided by the proper authorities on consideration of what will be best for the debenture-holders according to the best financial advice, or alternatively in accordance with the wishes of a very considerable majority of the debenture-holders themselves.

My recommendation, therefore, is that the Southern British National Trust Limited should be put into liquidation if it is decided in New Zealand that the Investment Executive Trust Limited should be liquidated; but that if liquidation is not decided upon for the latter company steps should be taken, whether by the adoption of "the plan" or otherwise, for the carrying on of the Southern British National Trust Limited for a period as has been suggested.

Mr. McArthur and Mr. Alcorn undertook to give their aid to "the plan" which was put forward by their counsel. "The plan" itself involved the surrender by them of some of the profits they had made as the result of their transactions in connection with the purchase of the *Daily Telegraph* building. It must be realized that this surrender will not be voluntarily made if the companies are put into liquidation and it will be a matter for consideration by the proper authorities whether legislative action should be taken to make their profits available for the debenture-holders through the employment of whose money they were able to make them.

Legislation depriving individuals of money and shares is a matter which involves serious consideration. In ordinary circumstances there are very strong reasons for leaving where it is what cannot be recovered through process of law, and the dangers of creating a precedent by legislating against the individual are apparent. But this is not an ordinary case; already legislative action has been taken in the interests of the debenture-holders and my recommendation involves the consideration of the desirability of further legislation, so that the question really is whether as part of such suggested legislation there should be

provision made that profits arising out of the improper use of moneys subscribed by the public should be held for the benefit of those who subscribed. That is a matter which really concerns authorities outside this State, as it does not appear to me to be competent for the legislature of this State in view of the location of the assets to take any effective steps. I shall not presume to offer advice as to what steps should be taken if action is determined upon, but I think that it is within my province to state that the whole matter is one which needs very careful consideration; and owing to the way in which Mr. McArthur's assets which were salvaged are involved with the profits which were made it will probably be found necessary if legislation is to be passed, to settle its terms in consultation with financial advisers if all parties are to be dealt with in an equitable manner.

In my interim report I recommended that the McInnes Company should be wound-up. The position is that the original New Zealand and Australian companies were then in course of liquidation for the purpose of consolidating their business in a new company, which had been registered in Canberra. This latter company has now gone into liquidation. In my opinion the liquidation of all these companies should be under the control of the Court, and steps should be taken to see that this is done. The British Medical Investment Trust has scarcely functioned at all. The obtaining of share capital in a company such as this would depend upon the selling of shares on commission, or share-hawking. Even if that system were to continue, there would be little likelihood that the company could raise capital to enable it to operate, and there is no practical course open except liquidation.

The British Consolidated Securities Limited was established as a share-selling company, and its principal asset was an agreement with the British Medical Investment Trust, under which it was to obtain 10 per cent. on the face value of all shares applied for. In view of the likelihood of a ban on share-hawking, there is no reason for the continuance of the existence of this company, as there is no likelihood of its operating successfully.

RECOMMENDATIONS AS TO COMPANY LEGISLATION.

Under the instructions contained in my Commission, I am asked to report whether, as a result of the investigation into the affairs of the companies named in the schedule, any alterations in the law relating to companies are desirable. The terms of the Commission in this respect are so wide that it was left open to me to consider, if I thought fit, practically the whole range of company law, and to suggest amendments in any and every branch; for, as will be seen, the investigation revealed many aspects of company law in which there were weaknesses, of which advantage had been taken. However, I have taken the view that what was particularly required of me was that I should briefly indicate in what respects the law relating to companies appeared to be deficient in its protection of the investing public, and in general outline what was necessary by way of amendment. During the time in which the investigation was proceeding a Commission was investigating company matters in New Zealand, a Committee was engaged in similar work in Victoria, and in South Australia an Amending Bill, which has since become law, was tabled in Parliament. In New South Wales, since the publication of my interim report, a Bill to amend the law relating to companies has been tabled. In view of the introduction of this legislation, it may be that recommendations upon matters arising out of the investigation will not be of any great value, but, as consideration was given to the question of amendments during the sitting of the Commission, and as I heard the evidence of representatives of the Incorporated Law Institute and Chamber of Commerce, and received communications from many persons who were interested in the matter offering suggestions, I think it is proper to indicate the lines on which the discussion proceeded before the Commission, and the conclusion at which I arrived.

It is well to remember that the law relating to companies originated and has been developed in England, and that it has been revised as late as 1929. In view of the conditions there prevailing and the very great experience which courts and practitioners and others have in company matters, it is apparent that the English Companies Act of 1929 should be the basis of any local company legislation. Mr. J. E. Clarke, Crown Solicitor, writing in a private capacity said: "I think this would operate both affirmatively and negatively; affirmatively as to what is contained in the Act, and negatively as to what has been left out. That is better not legislated upon—that is, of course, speaking generally and liable to alteration on account of local conditions." With that expression of opinion I entirely agree, and it will be found that the representatives both of the legal profession and of the Chamber of Commerce who appeared before the Commission adopted the same view. I think that the general discussion which took place is worth referring to in detail. Mr. Gosling, the President of the Incorporated Law Institute, said that his members were very strongly of opinion that the Companies Act required amendment and that it should be brought up into line with the English Act. He referred particularly to the prospectus and the "go-getter" sections. He said that his members thought that the method of selling shares by house-to-house canvass was very wrong indeed, and that even greater restrictions than were contained in the English Act should be placed upon it. Otherwise, he thought that amending legislation should keep as closely as possible to the English Act.

During the evidence of Mr. Spencer Watts a discussion took place, the notes of which I think should be incorporated in detail in this Report.

"Mr. MONAHAN: Are you associated with the Chamber of Commerce?"

—Yes, I am Chairman of its Parliamentary Sub-committee of the Council.

Did your Association receive a communication from the Crown Solicitor inviting suggestions or opinions as to the improvements of the Companies Act?—Yes.

Has the matter received consideration by your Association?—Yes, we have had several meetings of the special committee appointed for the purpose, and that committee has made a report to council which council adopted.

Will you tell His Honor what, as a result of your deliberations, your Association thinks might be suggested as improvements of the Act?—If it please Your Honor, perhaps I might read the statement, and if you wish it, it could be put in as evidence. Then you could perhaps ask any questions for the purpose of amplification that you may desire.

COMMISSIONER: Yes, you might read it on to the notes?—Yes; it reads as follows:—

"Your letter dated 7th September, 1934, has received careful consideration by this Chamber and we will be pleased to arranged for a representative to give evidence before the Royal Commission if so desired.

Meanwhile we would like to point out that this Chamber has for a number of years consistently advocated the passing of a comprehensive Companies Act, as it is felt that the existing law does not adequately deal with many of the modern everyday conditions.

The Chamber is of opinion that no time should be lost in bringing down a complete Act dealing with company law.

It is understood that a draft Act is now in preparation by the State Government, and the Chamber would appreciate an opportunity of considering and commenting on it before it is introduced.

It is also felt that the time is opportune for the legislation of the Commonwealth and States relating to companies to be brought into line, and it is suggested that the proposed Commonwealth Ordinance dealing with companies should be taken as a basis for this particular legislation.

If the Government will favour the Chamber with an opportunity of considering the draft bill, we will confer with kindred bodies such as the Institute of Chartered Accountants, the Sydney Stock Exchange, and the Law Institute, before submitting our comments and suggestions thereon.

We are quoting hereunder a few of the matters we consider would be of the greatest importance for consideration in the drafting of a bill."

I might perhaps mention to Your Honor that the Presidents of the Institute of Chartered Accountants and of the Sydney Stock Exchange are members of the Council of the Chamber of Commerce, and as such were represented on the special committee which considered these matters. The recommendations read on :—

“ SALE OF SHARES BY SHARE SALESMEN.

“ The sale of shares, bonds, and debentures by means of share salesmen from door to door and otherwise by canvassing should be prohibited, and the law should provide—

1. “ That a person shall not go from house to house offering shares, debentures, bonds, or securities of or any interest in a company for subscription, exchange, or purchase to the public or any members of the public.
2. “ A person shall not offer in the course of his business for sale, exchange, or purchase, any shares, bonds, debentures, securities, or interests of any kind other than in an office used continuously for business purposes.”

In this respect it should be made clear that a room in a house in which, e.g., a farmer or suchlike makes up accounts, is not an office.

It is thought that this provision is necessary, as appointments by telephone to private houses may easily be made, and an attendance at a house by telephone appointment would not be going from house to house offering shares for subscription, nor would casual attendance at selected houses possibly come within the provision.

PROSPECTUSES.

“ The present Companies Act of New South Wales makes practically no provision governing prospectuses other than that dates and names of the parties to all contracts entered into should be set out therein.

The Common Law provides the only other safeguards and such have been found quite inadequate.

Provision should be made that any prospectus issued by or on behalf of a company or in relation to an intended company should be dated, and that the date unless the contrary is proved is to be taken as the date of publication.

A prospectus should be signed by those responsible for the same and by the directors therein named, and should be registered and should state that it has been filed.

A prospectus should state who the directors are at the time of the issue and a prospectus should set out all matters relating to the formation of the company and who the promoters are and, if property (whether under option or not) is to be acquired by the company, who the owners of the property are and have been within six months prior to the registration of the company.

It should set out how the shares are to be sold and the basis of the remuneration for selling shares, the maximum rate of underwriting commission and the terms and conditions on which the company may proceed to allotment.

CAPITAL.

In view of disclosures from time to time in connection with the flotation of companies and the fact that many companies go to allotment without having reasonable prospects of securing the capital to carry on business, and, with a view to preventing the exploitation of the public by companies with insufficient capital, the Chamber recommends that provision be made that a determined minimum percentage of the nominal capital shall be paid up before going to allotment, and that before any increase of the capital of a company is permitted, there shall be actually paid up similar percentages of any proposed increase of capital.

UNDERWRITING.

Provision should be made for underwriting.

The underwriting of a share would be tantamount to issuing it at a discount and issuing shares at a discount is prohibited under the Companies Act of New South Wales. I submit that that is the reason why, instead of proper issuing houses being in existence, we have the so-called brokerage companies and so-called underwriting companies which do not underwrite, but are formed for the purposes of share selling on commission.

THE COMMISSIONER: Do you mean that instead of getting an underwriting commission they get a brokerage commission, and what they actually do is not underwriting at all?—They do not underwrite at all, but merely form a company which is to get a commission for selling shares. But if they do subscribe for shares it is frequently found that a company has been merely formed for selling the shares and that were it called upon to take up the shares it could not do so. But the underwriting principle, if legalized, would mean that new shares would be underwritten by proper issuing houses of people responsible, who, if the public did not buy the shares, would be able to take them up when they were left on their hands.

That would mean that the underwriting house presumably would have clients to whom it would offer lots of the shares and so on?—It usually has a list of sub-underwriters to whom they issue the shares. The underwriter has been well-described as the man who finds a temporary lodging for an issue until it is provided with a permanent home. The underwriter guarantees that the shares will be taken up, and if the public does not subscribe for them, then he must take them.

It is very like the underwriting on a loan?—Quite. Then he must sell them on the stock exchange or in any other way that he is able to. If he cannot do so he must retain the shares and carry the liability, if such there be. I consider that the fact of there being no provision in the Companies Act for underwriting is one of the most serious weaknesses, and one of the causes of the abuses we have heard so much about.

In other words, your view is that if this selling of shares by share salesmen were to be abolished, this would be a proper means of enabling new companies to obtain their capital?—Yes, whether the share selling be abolished or not, I think we should follow the time-honoured London practice of underwriting being a legal and legitimate practice. There is, of course, a limit to the underwriting commission to be made.

What is that usually; because that is of importance I think. We have had instances of five per cent. brokerage and seven and a half per cent. for what are called establishment charges, and when you are selling shares or debentures in an investment company that seems to me to be a very high charge. It means that 90 per cent. only of the capital subscribed for the shares or debentures goes into investments. Surely that is a very high charge?—It is indeed. We suggest here that the underwriting commission should be mentioned in the prospectus. In London, where there is anything like a large issue and the commission charged for underwriting were more than $2\frac{1}{2}$ per cent. that the company was compelled to charge for underwriting, the public would not want to take up the issue. It is only on the rarest occasions that the charge is more than $2\frac{1}{2}$ per cent., because it is felt that where it is worth more than $2\frac{1}{2}$ per cent. to underwrite, the investment is not worth touching.

That is to say, if underwriting, to the extent of $2\frac{1}{2}$ per cent. is not profitable to the underwriter, it looks as if he does not want it?—That is so, and if the public see that more than $2\frac{1}{2}$ per cent. is paid for underwriting they feel that it is not very sound or desirable stock.

That puts them on inquiry, so to speak?—Of course, where you get very large issues, say, of a million or two millions, $2\frac{1}{2}$ per cent. would pay overhead expenses, whereas the same percentage on an issue of twenty thousand or thirty thousand might not be adequate.

One has to remember always, too, that the operations in regard to getting capital for companies are comparatively small in a place like Sydney as compared with London, and it might well be that the percentage that would be sufficient where large issues are being made would not be anything like sufficient here. But I suppose the matter would adjust itself in time?—If I remember rightly, the English Act provides for a maximum charge of 10 per cent.

But you say that in practice it does not reach anything like that figure?—That is so, and in the case of well-known underwriters the very fact that an issuing house underwrites the issue means that it is applied for immediately, and probably goes to a premium straight away.

Of course, we are not interested in those questions? Except that if issuing houses were formed, as they could be if underwriting were legalised, they would have such names on them that the public would have an assurance that if they underwrote the issue that in itself would guarantee it to be a sound issue.

I think that is a matter of some considerable importance. The names appearing on prospectuses are of considerable importance as a guarantee to the public of the soundness of the undertaking, and, of course, if there were such things in general practice as the underwriting of new issues, I have no doubt that the name of the underwriter would be of almost equal weight to the names of the proposed directors?—And, indeed, of more weight. Of course, the underwriting is largely done by the great investment trust companies. These companies are frequently underwriters and sometimes issuing houses.

Do you say that investment business is combined with underwriting on the other side of the world?—Yes, underwriting is one of the main sources of revenue of some of the investment trust companies. I might suggest that I think it would be a great pity if, as a result of this Commission, the public were to get the idea that investment companies that are really investment companies are not sound.

As a matter of fact, I have been trying to stress all through this inquiry that as far as I know the principle of investment trust companies is an excellent principle. Do you not agree that the question involved is not one of the principle of these investment trust companies but one of management?—That is so.

The idea that is involved in the investment trust companies of spreading the investments over a large number of varied securities seems to me to be an excellent plan for the small investor?—Yes. The principle originated in Scotland, and I might say that the great investment companies in Scotland and England stood the shock of the war-time stress and strain, and subsequently of the depression more than any other group of companies, not perhaps excluding the great banks and the great insurance companies. I remember fourteen of the British Investment Trust companies paid their dividends right through the war without any deduction or without drawing on their reserves for that purpose.

It is easily understandable that if you have your securities well spread the conditions which may affect one company adversely may be the very conditions that will lead to a greater profit for another company. So that the spreading of securities or the spreading of the holdings might make for greater security?—Yes, and then, too, they are handled by experts and men of unquestioned standing.

The next matter is “meetings,” and the Chamber recommends that company meetings should be held at intervals of not more than 15 months?—Yes, the fact is now that the Act provides that a meeting must be held once in each financial year. That could mean an interval of 23 months and 30 days between two meetings, which is not desirable. Clearly the intention of the Act was that there should be meetings at an interval of not more than a year. They could not make them exactly a year, as it would not always be possible to meet on exactly the same date. We think that a “come and go,” of three months is ample, and that that should be the maximum allowed. I read on:—

PUBLICATION OF ACCOUNTS.

It is recommended that a company with subsidiary companies be required to publish the accounts of such subsidiaries, unless such subsidiary companies publish their own accounts.

WINDING UP.

Liquidators of companies are frequently unsatisfactory, and provision should be made for tightening up their obligations. For such purpose the following provisions are recommended:—

Where the company is being wound up voluntarily because it cannot by reason of its liabilities continue its business, no director, manager, or promoter who has occupied such office within 24 months prior to winding up shall act as liquidator unless so determined by a resolution of a majority of creditors, in value and number, represented at a meeting of which seven days notice has been given to every creditor, stating its object—any appointment made before this Act not to be affected.

The liquidator shall, within 7 days of his appointment, call a meeting of the creditors, to be held not less than 14 days nor more than 21 days from his appointment; notice of the meeting to be sent by post to all persons who appear to him to be creditors of the company, and advertised once in the Government Gazette and two local papers.

The creditors may at this meeting determine whether an application shall be made to the court to appoint a liquidator to act alone, or with the liquidator appointed by the company, or for the appointment of a committee of inspection, and any creditor duly authorised by the meeting may make the application within fourteen days from date of meeting.

The Court shall make such an order as, in the interests of the creditors and the contributories, may seem just, and such order may not be appealed against.

The Court shall make such order as to costs as it thinks fit, and, provided that it is satisfied that the application by creditors is reasonable, may order the costs to be paid out of the assets of the company, even if the application be not granted.

Those are the vital principles that we think would overcome any of the abuses which have been stated. I might state that in connection with the issuing of debentures the New Zealand Act, for example, has failed to overcome the abuses we have heard a good deal about, notwithstanding that it is an up-to-date Act. It is difficult, of course, to protect the fool from his folly. The New Zealand Act provides that a certain proportion of the share capital shall be subscribed before a company can go to allotment. That does not prevent a company being formed for the purpose of making specific application in an allotment. Such a company might have only £5 capital, and yet might make application for 50,000 or 100,000 shares, in which case the selling agents can tell the public that 50,000 or 100,000 shares have been subscribed, whereas if that company were called upon to take up more than £5 worth of shares, they would have to go into liquidation. So we suggest that before going to allotment the law should fix a minimum percentage of the nominal capital to be paid up, and that the prospectus should state what will require to be paid before going to allotment.

That would really mean that the application money must be some fair fixed proportion of the face value of the shares?—Yes.

At present, of course, it may be 3d. in the £?—We do not necessarily say that the application money should be so much; but that there should be so much paid on application and so much on allotment.

If they cannot go to allotment until you have a certain amount paid up, you will have to alter the application money so that it will form a larger proportion?—Yes, or make the allotment money receivable before allotment is actually proceeded with.

Yes, but it would really be the same thing?—It would give a little more time; that is all.

That would ensure, at any rate to a certain extent, that real money was going to the company?—That the actual cash was subscribed, and that the people who were going to subscribe nominally would find the cash somehow, and that is where the legitimate underwriter would come in.

It would also be some guarantee that the figures which appeared in connection with the proposed capital of the company are not inflated, but bear some relation to reality?—Yes.

I think that is a very sound suggestion?—I think, too, that provision might be made in the Companies Act in the same direction in regard to debentures. In most Companies Acts no provision is made in regard to the issue of debentures. A debenture being purely a mortgage, one would naturally presuppose the possession of some property to mortgage before a debenture can be given.

That is undoubtedly the theory of it. It does not always work out in practice apparently?—It is a mortgage over fresh air, if there is not some property behind it. If the Act provided that no debenture should be issued unless covered by some property, and that there should be some margin, then it would be quite impossible for any company to issue so-called debentures when they had no property.

COMMISSIONER: I thank you very much for coming here, and expressing your own views and the views of the Chamber of Commerce."

I have incorporated this evidence as part of my report, both because Mr. Spencer Watts spoke as mouth-piece of the commercial community and because his replies to the questions which I addressed to him showed that he had given the matter earnest consideration as a practical man of business.

There are some matters dealt with in that discussion as to which I wish to make some further observations.

SHARE HAWKING.

This is one of the most important matters which came up for discussion before the Commission. As will be observed, both Mr. Gosling and Mr. Spencer Watts condemned it unreservedly. The cross-examination of those witnesses proceeded on the basis that without the selling of shares on commission, some, or many, companies would not be able to obtain the necessary capital. Alternatively, it was suggested that the abolition of share hawking would create a monopoly of share selling in the hands of the members of the Stock Exchange.

I have very grave doubts as to whether either of these objections to the abolition of the system is well founded. But even if there were, in my opinion any disadvantage which might arise from the abolition of the system, is of small moment in comparison with the grave evils which exist where it is in operation. The cases of the Investment Executive Trust and the Southern British National Trust afford ample illustration. There can be no doubt that the majority of people who subscribed money as debenture-holders in those companies did not understand the terms on which they were contracting. They actually entered into a contract which involved them in handing over their money to the directors of companies with no real capital, and without any control over those directors. They had no voice in the management of the companies and the contracts contained tricky clauses which were difficult of interpretation and which have been the foundation of argument addressed to me by counsel for the companies to the effect that the directors have done no wrong.

Admittedly the method adopted by the agents of the McInnes organisation which sold the shares was to persuade or over-persuade the "prospect," as he was called, until by the force of much importunity he yielded and signed the document which was put before him.

It was by no means a case of the fool and his money being soon parted in most instances. The fact was that the uninitiated in business affairs fell to the wiles of the super-salesman and the plan of campaign seems to have been to select spinsters and widows and others who might be persuaded not to seek independent advice.

From the letters which have been received both by me as Commissioner and by the Public Trustee, I think it is fair to draw the inference—although I recognise that the testimony is not sworn and has not been subjected to cross-examination—that very many of the people who parted with their money did so in reliance on false representations or false promises, or both. If they wished to seek redress, there was always the difficulty of proof of the representations or promises, and the cost of the litigation to be faced.

Another matter to which I should refer is the inveigling of the depositors of the Primary Producers Bank, which is in liquidation, to assign their deposits for debentures in the Southern British National Trust Limited.

Lists of those depositors in the various States were obtained without the sanction of the liquidator and probably, I should say certainly, by bribing officials or former officials of the bank. Then the share salesman, either alone or in company with a former official of the bank, would tour the district and lead the depositors to believe that in some way the Southern British National Trust was taking over the affairs of the bank and that the only course open to them was to sign the documents which were put before them. Those matters were not revealed to the liquidator, and on receiving certain complaints he protested but in vain against the procedure.

Most of these depositors are apparently people of somewhat humble means, and, as already indicated, their chance of obtaining redress is remote.

It was undoubtedly the personal touch which was responsible for the sale of very many debentures in these companies. It is hard to resist the persuasiveness of a trained agent who holds out alluring prospects—whether his persuasiveness relates to a bonanza mine, or a gold brick, or an investment company—and it is harder still to nail down the lie which finally succeeded in achieving the desired object.

But we have the fact that £600,000 was subscribed by debenture-holders in the Investment Executive Trust and the Southern British National Trust, and in the subsequent history of the companies there is something extraordinarily cynical in the action of the apostle of trust principles in concentrating investments in the shares and debentures of puppet companies in order that in the end practically the whole of the subscribed money might be involved in a real estate, speculation in which the profit was to belong to him and his friend.

Without the system of share hawking, this could scarcely have come about, and to prevent a recurrence of similar happenings in future appears to me to be a matter of major importance.

It was strongly urged upon me that I should not recommend any further curtailment of the activities of share salesmen than that contained in the English Act; in other words, that the prohibition of going from house to house offering shares for public subscription is sufficient, and that there is no necessity to make the prohibition more stringent by prohibiting such share hawking "from house to house or from place to place."

In my opinion the addition of the words which I have italicised will have the effect of closing a loophole and in view of what has been disclosed as to the methods in use in the past I think that the closing of that loophole is advisable.

It has been objected that the total prohibition of share-hawking will involve a hardship on some people who wish to promote genuine companies such as co-operative companies in country districts and who cannot expect to obtain the necessary capital without some form of personal canvass. In my opinion this objection can be met by a provision in the amending Act making an exception of the cases of persons raising capital for such co-operative companies, but if such an exception is to be made it is obvious that very careful drafting will be necessary.

DEBENTURE CAPITAL.

As already indicated, one of the surprising features of the inquiry was the disclosure of the fact that so much public capital had been subscribed for debentures in companies which had little real share capital, and that the subscribers of the real capital of the companies have no control over the actions of directors and no voice in the management. Such a state of affairs would surely never have arisen if the subscribers had any business acumen or had attempted to consider the terms of the contract into which they were asked to enter. But such people need protection.

In view of what was disclosed before the Commission, I recommend:—

1. That no investment trust should be allowed to issue debentures except in some fixed proportion to the paid-up capital.

The New Zealand Commission recommended that “In no case shall investment trusts be permitted to issue debentures whether at a fixed rate of dividend or at a rate of dividend expressed as a percentage of any profits of a nominal value exceeding twice the sum of the ordinary and preference share capital of the company which has been allotted and paid up in cash, or three times the amount of ordinary share capital allotted and paid up in cash, whichever is the lesser.”

I have not had any evidence put before me as to what would be a fair ratio to fix between debenture capital and share capital, but that is a matter on which the advice of those who are familiar with the ordinary operations of companies should be followed.

2. That every investment company issuing debentures or contracts in series should be required to appoint a trustee for debenture-holders, and that such trustee should have imposed upon him the duty of exercising all diligence in ascertaining whether or not the business of the company is being properly conducted, and whether or not the assets of the company which constitute the security are sufficient to discharge the principal debt and any interest charges thereon.

3. That provision be made in the case of such companies for the summoning and holding of meetings of debenture-holders.

4. That debenture-holders of such companies have the power to appoint at least one director.

5. That debenture-holders in such companies should have power at a general meeting of debenture-holders to appoint an auditor or auditors, and that provision should be made for the proper discharge by such auditor or auditors of their duties.

6. That the security of the debenture or series should always be enforceable in case of the Court finding (a) that the security, if realised under existing conditions, would not be likely to bring more than 75 per cent. of the principal sum on moneys outstanding; (b) that on a fair valuation of the security on the basis of a going concern, it is worth less than the principal sum, and that the company is not earning the interest thereon (or where no definite rate of interest is payable, then such rate as the Court deems would be fair to expect from a similar investment), after allowing for depreciation.

Recommendation No. 6 is adopted in its entirety from the report of the Victorian Committee, to which I have already referred.

PROSPECTUSES.

I refer to the memorandum submitted by Mr. Spencer Watts, as representative of the Chamber of Commerce, and think it sufficient to state that generally I agree with the recommendations of that body. In effect, they are that the provisions of the English Act should be adopted. So far as regards the disclosure of matters affecting the formation of a company, I think that it would be preferable to provide for a disclosure of all transactions in regard to any property to be acquired by the proposed company over a period of five years prior to the registration of the company instead of over a period of six months as suggested in the memorandum.

Generally, I am in agreement with the other suggestions made in the memorandum. I think it desirable to make proper provision for underwriting, and that in cases where brokerage is to be paid the maximum charges for brokerage, administrative and other charges in connection with the sale of shares or debentures should be clearly stated in every prospectus.

DISQUALIFICATION FROM ACTING AS DIRECTORS.

In the report of the Victorian Committee there is a recommendation that appears to me well worth consideration, and which the circumstances which have been disclosed before me as a Commissioner certainly justify me in adopting. Accordingly, I recommend that it should be provided that, in the case of a company being wound up compulsorily by the Court, the Court may make an order prohibiting any person who was a director of such company within one year of the winding-up from acting as a director or directly or indirectly taking part in the management of any other company for such term as it may determine.

ALLOTMENT.

I desire to draw attention to another suggestion contained in the Chamber of Commerce memorandum to the effect that a company should not be allowed to proceed to allotment until a fixed minimum percentage of the nominal capital has been paid up; and that the prospectus should state what minimum is so required. In my opinion this is a very valuable suggestion, and should be adopted; but there are other matters in connection with the allotment of shares to which I find it necessary to refer. It is apparent from the evidence before the Commission that there has been considerable misleading of the public in the matter of statements as to allotment and as to the capital which has been subscribed before allotment. Applications for shares which were really bogus have been counted, and fictitious payments have been regarded as genuine in order that it might be represented to the public, which was being asked to subscribe money for further shares, that a certain amount of actual capital had already been received. I think that it should be made an offence for any officer of a company or anybody selling shares on behalf of a company to represent that the company has gone to allotment with the required minimum subscriptions unless the actual amount specified in cash subscriptions has been received by the company.

The Victorian committee recommended that the amount payable on application should be not less than 10 per cent. of the face value of the shares.

It should be noted that in the recent South Australian Act provision is made for the protection of allotment moneys. Section 55 is in these terms:

(1) Where any shares or debentures have been offered to the public for subscription, all application and other moneys paid by any applicant on account of shares or debentures prior to the allotment thereof shall, until the allotment of

such shares or debentures, be held by the company, or, in the case of an intended company, by the persons named in the prospectus as provisional directors and the promoters upon trust for the applicant: Provided that nothing contained in this section shall place any obligation or duty upon any bank or third person with whom any such moneys may have been deposited to inquire into or see to the proper application of such moneys so long as such bank or third person acts in good faith.

(2) If default is made in complying with any of the provisions of this section, in the case of a company every officer of the company in default, and in the case of an intended company, every person named in the prospectus as a proposed director and every promoter who knowingly and wilfully authorises or permits the default shall, in addition to the liability imposed by the next following section, be guilty of an offence and liable to a penalty not exceeding £100.

I recommend that similar provision should be made by the Legislature in this State.

SUPERVISION OVER COMPANY MANAGEMENT.

It will probably be generally conceded that in passing legislation for the protection of those who subscribe for debentures and shares in public companies there should be an endeavour to interfere as little as possible with the internal management of companies and with the conduct of the ordinary business affairs of the community. The New Zealand Commission has recommended the creation of a body to be called "The Corporate Investments Bureau," whose general functions are set out as under:—

"Supervising prospectuses; investigating complaints; demand candid disclosure; prosecute breaches of the Act; apply for injunction against unconscionable and specious schemes and representations; power within statutory limits to relax rigid provisions of the Act; registration of promoters, directors, brokers, salesmen, and valuers with power to strike off register, none to operate save when registered, full powers of search and inquiry such as those given by the Companies (Special Investigations) Act, 1934."

With all respect to the gentlemen who made the recommendation, I must say that in my view the reasons against the establishment of such a body are very strong. I say nothing as to the wisdom or otherwise of creating another Government Department with very extensive powers. It appears to me, however, that all the desired results can be obtained by legislative provisions such as I have suggested without the creation of another department to operate in a business world in which already complaints are often heard of over much departmental interference. I am in entire agreement with the passage in the report of the Victorian Committee:—

"We very definitely do not recommend the establishment of an office or body with power to supervise prospectuses, investigate complaints regarding company promotion and conduct after their establishment or to vest any such powers in the Registrar of Companies or any other official, though such a form of specific approval is advocated by some writers and has to a greater or less extent been adopted in several States of America. In some of those States the heights of paternal financial control reached are such as to become intolerable, while in others the strict observance of all the requirements is found to be so difficult and productive of so much delay that the system has practically broken down. We feel that it is undesirable to go further in the matter of official supervision over the issue of prospectuses than to place such statutory obligations upon directors and promoters as would inculcate into their minds the necessity for a larger measure of cautionary reserve and practical responsibility than at present prevails."

In concluding this part of my report I desire to say that I have been very considerably assisted by the report of the Victorian Committee to which I have made several references.

Generally the recommendations which I have made are in accord with the recommendations of that Committee. As the document may not be generally available I propose to conclude by including in this report a brief summary of some of the objects aimed at, which is to be found in an Appendix to the report.

Those objects are :—

(1) To ensure that companies incorporated outside the State comply with the same requirements in regard to the issue of prospectuses as companies incorporated in the State and broadly to make the provisions uniform with English law.

(2) To ensure that prospectuses inviting subscriptions for debentures comply with the same requirements as prospectuses inviting subscriptions for shares and to make the requirements in this respect uniform with English law.

(3) To place civil liability upon directors and others for the truth and fairness of statements made in a prospectus.

(4) To place civil liability upon experts for the truth and fairness of statements made in reports appearing in a prospectus.

(5) To prevent the inclusion in a prospectus of any report by an expert without his knowledge of the use that is intended to make of such report and to prevent stale reports being used without the fact being made apparent to persons perusing the prospectus.

(6) To ensure that the requirements of the law with regard to information to be stated in a prospectus are not evaded by issuing fractions of shares or fractions of debentures, or by terming as "bonds" the securities offered.

To ensure by the insertion in a prospectus of a short summary of the principal provisions of all material contracts so that intending investors are placed in a position to obtain a broad understanding of their nature.

To ensure that a prospectus makes clear to intending investors the position of all directors who hold or who it is contemplated will hold their qualification shares as nominees of some other persons or companies and disclose the identity of those persons or companies. To provide that there shall not be non-disclosure of material facts (which may influence the minds of intending investors) by omitting from a prospectus information as to the price at which any property purchased or to be purchased has changed hands in recent years and as to the direct or indirect interest of any of the directors or promoters.

(7) To ensure that the same liability for mis-statements appearing in a prospectus shall be imposed upon the directors of a company which sells the shares of another company as upon the directors of the company which allots the shares.

(8) To ensure that the information contained in a prospectus forming the basis of an offer for subscription to shares or debentures should be brought up to date if the subscription list remains open for a period of more than six months.

(9) To provide protection of application moneys paid by applicants for shares and debentures in the event of the company not proceeding to allotment, and to prevent commission or other charges being deducted therefrom before being returned to the applicants.

(10) To make it an offence to mislead the public into believing that an issue of shares or debentures was well regarded by making false statements or intimations as to the extent to which such shares or debentures have been subscribed.

(11) To provide that the present requirements of the law in regard to the registration of the ownership of shares and the filing with the Registrar-General of annual lists should be made applicable to issues of debentures or bonds.

(12) To ensure that all companies, whether incorporated in or out of the State, and proposing to issue for public subscription in the State debentures or bonds, should be required to provide for the appointment of trustees for the debenture holders. It is recommended that except where a trustee company is appointed as trustee for debenture holders there should be not less than two trustees, and that any additional trustees not named in the prospectus and whom it is proposed to appoint should be elected by the debenture holders.

(13) To ensure that every debenture bond or trust deed should contain or be deemed to contain covenants which will permit the trustees reasonably to exercise the functions of their office.

(14) To provide that without the sanction of the Court, no person or company (except a trustee company) shall be appointed trustee for any debentures of a company where his or its other interest may conflict with his or its duty as trustee.

(15) To confer upon debenture or bond holders rights similar to those possessed by shareholders in the appointment of inspectors to investigate the company's affairs.

(16) To give power to the Court to permit enforcement of the security of the debentures or bonds of any series in the event of its finding that the debenture or bond capital is in substantial jeopardy.

(17) To ensure that copies of material contracts referred to in a prospectus which might affect the mind of an intending investor are permanently placed on record, and are available to those interested after subscription lists have closed.

(18) Broadly, that the prohibition in English law against persons with unsatisfactory financial records acting as directors are incorporated in the laws of this State, and that such prohibition should be extended to disqualify directors of companies compulsorily wound up from acting in a like capacity for some specified period if the Court deems such prohibition desirable.

Before bringing this report to a conclusion I wish to thank counsel who appeared before me, and in particular Mr. Monahan, K.C., leading counsel for the Crown, for the assistance which they have given in the course of the investigations. Mr. Monahan's care and industry have very greatly assisted in enabling me to understand the very intricate transactions which it has fallen to my lot to investigate. I desire also to thank Mr. Robert Hill, and Mr. Kelynack, the accountants who were appointed to assist the Commission, for the very great assistance which they have given me throughout. My thanks are also due to Mr. L. G. W. Baker, A.I.C.A., and Mr. E. W. Linder, A.F.I.A., of the Auditor-General's Department, who, from the date of my appointment as Commissioner until the date on which legislation was passed vesting the assets of the company in the Public Trustee, had under their control all the books and documents of the companies, and who by their continuous and unremitting labours very efficiently assisted the work of the Commission.

In conclusion, I have to acknowledge my indebtedness to the members of the Court Reporting Staff for the way in which they have lightened my labours in the preparation of my interim report and this report.

By Your Excellency's command,

(Sgd.) P. HALSE ROGERS,

A Judge of the Supreme Court, Commissioner.

Chambers,

10th January, 1935.

