

The effect of all this is that the respective portfolios of investments allotted to the different series of debenture-holders is the result of a number of arbitrary and fortuitous decisions and investments. The result is so obviously unjust to some of the series in relation to some of the others that acceptance of the records of the company as showing the respective claims of holders of the different series on the assets in hand cannot be considered. When, however, a scheme of adjusting matters between the different series is taken in hand, many serious difficulties are apparent. It is unfortunately true that any attempt to make adjustments between the classes can only result in increasing the loss of one class to reduce the losses of another class. The shortages in some of the classes are due to the transfer of their funds to the general funds of the company represented in the books at the present time as a claim on the shareholders. This claim will certainly prove to be worth little. There is in these facts very little hope of a simple and amicable adjustment of these conflicting rights and plenty of scope for misunderstanding and litigation, and, in any event, it cannot be said that such questions should properly be included in suggested terms of reconstruction.

We come now to the second complication which affects the respective rights of the different series of debenture-holders. This arises out of the so-called conversion of the first B Series debentures into second B Series debentures. This transaction is described in paragraphs 96 to 112 inclusive of the Inspectors' report on the Investment Executive Trust of New Zealand. The money received by the Investment Executive Trust Co. for the sale of its second B Series debentures must, according to the conditions of the issue, be invested in investments which become the security of those second B debenture-holders. This money was used, as will be seen by the Inspectors' report, to buy up the debentures of the first B Series. The conversion, however, was not complete, and an appreciable number of the first B Series debentures are still held by the original holders. These debentures, according to their terms, are entitled to a charge on all the securities of the debentures purchased with funds of the B Series. The first B Series debentures which were purchased have not been cancelled, but are still treated as issued debentures in the hands of the New Zealand Shareholders Trust, Ltd., and they form part of the security for the second B Series debenture-holders.

The legal tangle which is created by these transactions is a most complicated one, and it is the considered opinion of the advisers of the Government that these complications cannot be cleared away but by legislation. The Government proposes to legislate in this matter. Any debenture-holder who seems inclined to favour the idea of the adoption of the so-called reconstruction scheme would be well advised to study the passages above referred to in the Inspectors' report relating to this conversion scheme, and picture the possible trouble and expense of trying, either by treaty amongst the debenture-holders, or by a recourse to the existing law, to straighten out this tangle.

10. It must be noted further that the devious and often apparently purposeless transactions and transfers of property referred to above affect not only the rights of the trust companies as between themselves and the relative rights of the holders of different series within those trust companies, but they affect the relative rights of debenture-holders and shareholders. The present shareholdings in the trust companies and in the British National Trust and the British National Investment Trust are largely the result of transfers of shares and debentures in which Messrs. McArthur and Alcorn have been personally interested. There have been transactions, other than those detailed above, which have directly affected the relationships between the trust companies and their debenture-holders. The funds of the debenture-holders have been withdrawn from their separate bank accounts and paid into the general account of the Investment Executive Trust, for instance, to meet general expenses and commitments sanctioned by the directors. All that the debenture-holders have to show for these transactions is the debit balance in the books of the trust showing the shareholders as owing the amount to the debenture-holders. The only principle that can be found as dictating these transfers is that when the cash was wanted it was withdrawn from the bank account that was best able to supply it.