

COMPANIES AMENDMENT BILL.

MEMORANDUM.

DECISIONS of the English Court of Appeal in *In re Tasker and Sons, Limited* (1905) 2 Ch. 587, and *In re Russian Petroleum Company, Limited* (1907) 2 Ch. 540, have established the rule that a company has no power to reissue debentures after having redeemed them or deposited them with a bank as temporary security for an overdraft. These decisions invalidated transactions of such number and magnitude that the Imperial Parliament in 1907 passed retrospective legislation validating all such reissues of debentures and altering the law for the future. The present Bill adopts the English provisions on this subject, as now contained in section 104 of the Imperial "Companies Consolidation Act, 1908."

No. 96—2.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,

6th September, 1910.

Hon. Dr. Findlay.

COMPANIES AMENDMENT.

ANALYSIS.

Title.
1. Short Title.

2. A company may reissue redeemed debentures in certain cases.

A BILL INTITLED

AN ACT to amend the Companies Act, 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Companies Amendment Act, 1910, and it shall be read together with and deemed part of the Companies Act, 1908.

Short Title.

2. (1.) Where, either before or after the passing of this Act, a company has redeemed any debentures previously issued, the company, unless the articles of association of the company or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the person to whom the redeemed debentures were issued, or his assigns), shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of reissue; and where a company has purported to exercise such a power, the company shall have power, and shall be deemed always to have had power, to reissue the debentures either by reissuing the same debentures or by issuing other debentures in their place; and upon such a reissue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

A company may reissue redeemed debentures in certain cases.
8 Edw. VII, c. 69, sec. 104.

(2.) Where with the object of keeping debentures alive for the purpose of reissue they have, either before or after the passing of this Act, been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a reissue for the purposes of this section.

(3.) Where a company has, either before or after the passing of this Act, deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4.) The reissue of a debenture or the issue of another debenture in its place under the power by this section given to or deemed to have been possessed by a company, whether the issue or reissue was made before or after the passing of this Act, shall be treated as the issue of a new debenture for the purposes of stamp duty (if any), but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued : 5

Provided that any person lending money on the security of a debenture reissued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security, without payment of the stamp duty or any penalty in respect thereof, unless he had notice that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty. 10

(5.) Nothing in this section shall prejudice— 15

(a.) The operation of any judgment or order of a Court of competent jurisdiction pronounced or made before the passing of this Act, as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this Act had not been passed ; or 20

(b.) Any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same. 25