

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

*House of Representatives,
8th August, 1934.*

Right Hon. Mr. Coates.

COMPANIES (SPECIAL INVESTIGATIONS).

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A BILL INTITULED

AN ACT to give effect to certain Recommendations **Title.**
made by a Commission appointed under the Commissions of Inquiry Act, 1908, in relation to Companies
and other Corporations that seek to raise Capital
and Loan Funds in New Zealand.

WHEREAS pursuant to the powers in that behalf conferred on him by the Commissions of Inquiry Act, 1908, the Governor-General, by a warrant of appointment dated the seventeenth day of January, nineteen hundred and thirty-four, appointed certain persons therein named to be a Commission to inquire into and report upon tendencies and developments apparent in the Dominion in relation to the promotion, financial methods, control, and operations of companies and other corporations which seek to raise capital and loan funds in the **Preamble.**

Dominion, and particularly (1) (a) The methods of promotion and administration of such companies, including their subsidiary companies and syndicates; (b) the scheme of control of such companies and the relative powers and rights of promoters, subscribers of shares, and subscribers of debenture, bond, or security certificate issues; (c) the financial schemes of such companies with particular reference to the relative application of the companies' and bondholders' property and funds to (i) remuneration and profits to promoters and subsidiary companies, (ii) formation, working, and administration expenses, and (iii) protection and furtherance of the interests of holders of long-term debentures, bonds, security certificates, and like instruments or securities; (d) whether the benefits which may be found at present to accrue to promoters or shareholders in bond-issuing companies through the surrender or forfeiture of bonds should be applied and credited to bondholders' funds in the particular group or series of any such bonds surrendered or forfeited, or otherwise; (e) whether the provisions of the Companies Act, 1933, relating to prospectuses and otherwise requiring disclosure of material contracts and transactions and prospective contracts and transactions are reasonably adequate to protect intending investors in shares, debentures, bonds, security certificates, and other like instruments; (2) (a) the financial structure of financial investment and trust companies, and as to whether any additional legislative provision should be made to afford investors a greater measure of protection for their capital moneys and other interests in such companies; (b) the desirability of regulating in the public interest the formation and operation of trust companies and investment companies dealing in company shares, Government, local body, and other forms of security; (3) the operation of the present statute governing the constitution and registration of stock exchanges in New Zealand; and generally what steps, if any, should be taken by way of modifying existing statute law and regulations thereunder having regard to the present and prospective welfare of the investing public and the community generally: And whereas in an interim report dated the ninth day of June, nineteen hundred and thirty-four, the Commission appointed as aforesaid has, in respect of the several companies specified in the Schedule hereto, expressed the view that in the course of its

inquiries a case has been made for consideration of the advisability of appointing one or more Inspectors with power to inquire fully into certain matters referred to in the interim report aforesaid, to demand full disclosure of
5 books and documents, and to report as directed, with a view to such further action being taken as may be deemed necessary : And whereas having regard to the seriousness of the matters referred to in the interim report aforesaid
10 it is deemed essential in the public interest that an investigation should be made forthwith of the affairs of the said companies : And whereas it is advisable that authority be conferred on the Governor-General in Council to extend the Schedule to this Act in the event of recommendations in that behalf being made
15 by the Commission, in its final report or in any interim report that it may make after the passing of this Act, or in the event of a request that the said Schedule be extended being received by the Government of New Zealand from any other Government :

20 **BE IT THEREFORE 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 (Special Investigations) Act, 1934. Short Title.

25 **2. (1)** This Act applies to the companies specified in the Schedule hereto, being either existing companies, as that expression is defined in the Companies Act, 1933, or companies incorporated outside New Zealand and to which the provisions of Part XII of the Companies Act,
30 1933, are applicable. Application of this Act.

(2) The Governor-General may by Order in Council add to the Schedule hereto the name of any company (being in every case a company incorporated in New Zealand or a company to which Part XII of the
35 Companies Act, 1933, is applicable) in either or both of the following cases, namely :—

(a) If the Commission referred to in the Preamble to this Act, in any report made to the Governor-General after the passing of this
40 Act, recommends that an investigation be made of the affairs of such company ; or

(b) If a request that an investigation be made of the affairs of such company is at any time after the passing of this Act received by
45 the Government of New Zealand from the Government of any other part of His Majesty's dominions or from the Government of any foreign country.

(3) On the making of any Order in Council under the authority of the *last preceding* subsection, this Act shall apply to every company to which the Order in Council relates as if such company had been specified in the Schedule to this Act on the passing thereof. 5

(4) For the purposes of this section the expression "His Majesty's dominions" shall be construed as including any territories which are under His Majesty's protection and any territories in respect of which a mandate under the League of Nations has been accepted 10 by His Majesty.

Governor-General may direct special investigation of affairs of companies to which this Act applies.

3. (1) The Governor-General in Council may at any time and from time to time appoint one or more competent Inspectors to investigate the affairs of any company to which this Act applies, and to report thereon to 15 the Supreme Court, and in such other manner (if any) as he may direct.

(2) A copy of the Order in Council or other instrument of appointment, together with a copy of this Act, shall be filed in the office of the Supreme Court at 20 Wellington, and thereupon the said instrument of appointment shall in all respects be equivalent to an order made by the Court under the authority of section one hundred and forty-two of the Companies Act, 1933. There shall also be filed in the office of the Supreme 25 Court at Wellington, to be attached to the documents hereinbefore in this subsection referred to, a copy (as laid on the table of the House of Representatives) of the interim report hereinbefore referred to and of any subsequent report that may be made by the same 30 Commission if such last-mentioned report relates to the affairs of the company or any of the companies to which the aforesaid instrument of appointment relates.

(3) Notice of the appointment of any person as an Inspector for the purposes of this Act may be sent to 35 him by telegraph, and the production by any person of a telegram purporting to have been sent to him by or by direction of the Minister of Finance, informing him that he has been appointed as an Inspector under this Act in relation to the affairs of any specified company 40 or of any specified companies, shall be equivalent to the production of the instrument of appointment.

(4) For the purpose of carrying out an investigation of the affairs of any company under this Act any Inspector appointed under this section may employ such 45 assistance as he considers necessary, and may, by writing under his hand, authorize any person employed by him

to do, in relation to such investigation, any act or thing that he could himself do in his capacity as an Inspector, except to examine any person on oath. If any officer or agent of a company refuses to produce any book or
 5 document to any person who produces the written authority of the Inspector given in pursuance of the foregoing provisions of this subsection, or refuses to answer any question put to him by any such person, he shall be liable to the same penalties as if he had refused
 10 to produce such book or document to the Inspector or had refused to answer such question if put to him by the Inspector.

4. (1) In the application of subsections three, four, and five of section one hundred and forty-two of the
 15 Companies Act, 1933, to any investigation made for the purposes of this Act the expression "officers" in relation to any company shall be deemed to include former officers of the company, and the expression "agents" in relation to any company shall be deemed to include the bankers
 20 and solicitors of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company, and shall also be deemed to include persons who at any time have been or acted as bankers, solicitors, or auditors or otherwise
 25 as agents of the company.

(2) In the application of subsection three of section one hundred and forty-three of the Companies Act, 1933, to any investigation made for the purposes of this Act, paragraph (b) of that subsection shall be read as if all
 30 the words thereof after the words "they shall either be paid" were omitted, and the words "out of the Consolidated Fund or in part by the company and in part out of the Consolidated Fund" were substituted therefor.

(3) In the application of section one hundred and
 35 forty-five of the Companies Act, 1933, to any report made by Inspectors appointed in accordance with this Act, that section shall be read as if the words "authenticated by the seal of the company whose affairs they have investigated" were omitted, and the words "certified as
 40 correct by the Registrar of the Court in which the report has been filed" were substituted therefor.

5. Notwithstanding anything in the Companies Act, 1933, application to the Supreme Court for the winding-up of a company to which this Act applies (being a company
 45 incorporated in New Zealand) may be made on petition presented by the Attorney-General, at any time after a report has been made in respect of such company by an Inspector or Inspectors appointed in accordance with this Act, and thereupon the Court shall have the same

Application of certain provisions of Companies Act, 1933, to investigations made pursuant to this Act.

Company to which this Act applies may, on application by Attorney-General, be wound up by Court after receipt of Inspectors' report.

powers and the provisions of the Companies Act, 1933, shall apply as if a winding-up petition has been duly presented to the Court by the company.

Offence to
destroy or alter
records or to
send any
records or other
property out
of New
Zealand.

6. (1) If any director, officer, servant, or agent of any company to which this Act applies, or any other person, with intent to defeat the purposes of this Act, or with intent to delay or obstruct the carrying-out of an investigation of the affairs of any company under this Act, destroys or alters any book, document, or record of or relating to the company, or sends or attempts to send or conspires with any other person to send out of New Zealand any such book, document, or record, or any property of any description belonging to or in the disposition or under the control of such company, he shall be guilty of an indictable offence and shall be liable on conviction to imprisonment for a term of *two* years or to a fine of *five hundred* pounds.

(2) If in any prosecution for an offence alleged to have been committed against this section it is proved that the person charged with such offence has destroyed or altered any book, document, or record as aforesaid, or has sent or attempted to send or conspired to send out of New Zealand any such book, document, or record, or any other thing, the onus of proving that in so doing he had not acted in contravention of this section shall lie on him.

Schedule.

SCHEDULE.

COMPANIES INCORPORATED IN NEW ZEALAND.

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, Limited.
Alcorn Trower and Company, Limited.
Financial Publications, Limited.

COMPANIES INCORPORATED OUTSIDE NEW ZEALAND.

The Southern British National Trust, Limited.
The British National Trust, Limited.