

99. It is an advertisement designed to accomplish the purpose mentioned in sub-sec. 1 of sec. 95, which I have read.

It is plain from the Act, I think, that it has in view the issue not of one but of several prospectuses, and the policy of the Act appears to be that upon every occasion upon which the company desire to issue a prospectus for the purpose of inviting persons to take stock or to lend money to or to take the debentures of the company, there shall be a prospectus filed, and that it shall contain the information which the Act requires to be inserted in a prospectus; and that what it requires is that the prospectus in every case in which a prospectus is necessary, is to be filed with the Secretary, and that the published prospectus shall state on its face that it has been so filed. It seems to me, therefore, that it follows that when the document in question was published it ought to have contained what the prospectus then on file in the Secretary's office contained; and—I would leave out of consideration any mere verbal difference—that any difference between the advertisement which was published and the prospectus filed made the publication of the advertisement a violation of the Act, and rendered a director who was a party to the issuing of it liable to the penalties mentioned in sec. 100.

It seems to me that the whole purpose of the Act would be defeated if it is practicable to do that which these defendants have done. I have nothing to do with the policy of the Act, It may be that it would sufficiently answer for the protection of the public if a shorter advertisement were permitted than would be necessary if the whole prospectus were inserted.

The case that Mr. Mulvey has cited, *Roussell v. Burnham*, [1909] 1 Ch. 127, is in accordance with the view which I have expressed, although the question there arose in a different way.

In the other case, I should have had no doubt, in determining upon the case as stated, that a conviction ought not to have been made. Where a company gives an option to a stranger to purchase shares, and that stranger, without authority and without any action upon the part of the company, publishes a prospectus not conforming to the provisions of the Act, I am clearly of opinion that there is no offence by the company under sec. 100; but I understood from counsel for the Crown that there was another question which was desired to be raised—as to whether there