

It is provided by section 30 of the Act that all public moneys become moneys as provided by section 31 of this Act?—Yes.

Where is this account kept?—In the Bank of New Zealand, Wellington.

By whom is that account operated upon?—By cheque drawn by myself, or in my absence by the Deputy Public Trustee, countersigned by the Chief Clerk, and in his absence by the accountant in the Public Trust Office.

Are there moneys lying to the credit of that account?—Yes.

How much?—Last night at closing time it was £17,595 3s. 7d. in cash.

You are required by statute to keep a Profit and Loss Account?—Yes.

Will you indicate generally what that Profit and Loss Account shows?

*Mr. Stafford*: Are these questions relevant?—The rule says as to what debts are due or accruing due. That is not the question here. That is what paragraph 1 says.

*The Chief Justice*: Go a little further down than that?

*Mr. Stafford*: It is simply limited to debts alone.

*Mr. Skerrett*: Money to the credit in the bank is frequently charged under the rule.

*The Chief Justice*: Where the opposite party is liable (rule read).

*Mr. Skerrett*: That has reference to property, your Honour.

*The Chief Justice*: If there is money liable it is money owing to the Public Trustee.

*Mr. Skerrett* (to witness): Will you indicate the general character of what the Profit and Loss Account shows? It shows profits made by the working of the office?—Yes. It scarcely shows the profits. It shows there is a balance to the credit of the Profit and Loss Account. It is an account into which everything that comes to the credit of the office goes, and out of which all disbursements are made.

So that the balance standing to the credit of the account would show the net earnings of the office?—Yes.

Have you the Profit and Loss Account?—Yes.

Is that account in credit?—Yes.

To what amount?—I cannot give you the exact figures up to to-day, because it varies from day to day. We balance by law on the 31st March; but I had a balance made for my own information on the 30th September, to see what the office was doing, and that shows a credit of £8,117 15s. 3d. That is including the balance carried forward from the previous year.

That balance to the credit of the Profit and Loss Account is represented by the funds in the hands of the banker to the credit of the Public Trust Office Account?—Yes, that is part of the money lying in the bank at the present moment.

Is that balance at all likely to be reduced by deficiencies arising from the investment of moneys in the Public Trust Office? I understand by the statute that that is payable directly from the Consolidated Fund—that deficiency?—No. I am bound at the annual statutory balance on the 31st March to take a fourth of this account, and it is passed to the Reserve and Assurance Fund Account, and that has to answer for any deficiencies there may be on securities; and then if that Reserve and Assurance Fund Account is not sufficient, the Consolidated Fund is answerable for the balance. The remaining three-fourths of the account I am bound to pay over to the Colonial Treasurer on demand.

Can you tell me the amount lying to the credit of the Reserve and Assurance Fund Account?—Speaking as on the 30th of September, £1,169 0s. 9d.

Have any payments been made to the Consolidated Fund under the provisions which require you to pay three fourths of the credit balance of the Profit and Loss Account to the Crown?—£18,000 has been paid to them, but that was prior to the Act of 1894. Nothing has been paid since. I have never been asked for it.

If this judgment is properly payable out of the Reserve and Assurance Fund Account, that fund has sufficient to pay the judgment?—It has over £1,100. It is more than sufficient.

Also there are more than sufficient funds in the hands of the banker to the credit of the Profit and Loss Account to pay this judgment?—Do not let me mislead you. The banker knows nothing about that Profit and Loss Account. My account is one common general fund. The Profit and Loss Account is kept in our books only.

Has the Public Trustee any properties—is he the beneficial owner of any property?—I do not know of any. It is all part of the common fund. There is no separation in the bank-books of the actual account.

The Reserve and Assurance Fund Account is invested as part of the common fund?—Yes.

In point of fact, you can, with few exceptions, earmark no security on which either the moneys of the Public Trust Office or the moneys of clients of the Public Trust Office are invested?—With very few exceptions I cannot earmark any, except in cases where moneys are not to form part of the common fund.

That is under section 31?—Yes. In those cases we have separate security.

Has the Public Trustee got any interest in property for the purpose of carrying on his business—such as freehold or leasehold interests in offices?—No. Messrs. Buller and Anderson asked me to produce my lease. There is no lease. There was a lease for two years, which expired in February last. I have that here. And then there was a twelve months' tenancy, which was arranged originally by letter but which was verbally altered. I hold the office on a verbal and letter tenancy at a rental of £475 a year. It is the same with regard to offices in other centres. Some are not even yearly tenancies, except in Dunedin, where there is an unexpired lease to run out. I should think it has about two years to run.

The expired lease of the office in Wellington was from Her Majesty the Queen to the Public Trustee?—Yes; the Queen to the Public Trustee.

So the tenancy that now subsists is also a tenancy from the Queen to yourself?—Yes, substantially that must be so. There is a letter from the Commissioner of the Life Insurance Department and one from myself.

I suppose you have a quantity of personal property belonging to you as Public Trustee—office furniture and so on?—Yes, I presume it belongs to me; but that is a matter of law. If we want furniture or stationery in the office, or anything necessary to carry on our business, I requisition the property department, and subsequently a voucher is sent to us by that department, which I pay out of the ordinary common account.

That applies to the furniture both in Wellington and the other offices in the colony?—Yes, the principal offices. In some cases the agents find their own furniture where they carry on business also on their own account. What I have said applies to my own staff.

I ask you this question—you can object to answer it if you like—Have you any objection to facilitate the settlement of the legal question as to whether you have power to pay the judgment in this action out of any fund under your control?—Not the slightest. I should be very glad to facilitate it in any way. It is nothing to me personally. As I have said, I have tried my best to get the money. My solicitor, and I believe the Solicitor-General, have advised that the funds or the property of the Public Trustee are not liable and cannot be used, and the Audit Office has declined to pass the matter for payment. I should be very glad to facilitate the payment in any way I can.

There is no other property you know of?—I do not know of any. Of course the bulk of the property I have is trust property. I do not know of anything else.

(At this stage it was agreed between Mr. Stafford and Mr. Skerrett that a special case should be stated on the facts.)

5. The defendants have issued a writ of sale in the words and figures following:—

In the Supreme Court of New Zealand, Wellington District, No. 6147, between the PUBLIC TRUSTEE, Plaintiff, and Sir WALTER LAWRY BULLER, K.C.M.G., and MEIHA KEEPA TE RANGIHWINUI, Defendants.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen Defender of the Faith.

To the Sheriff of Wellington District. Greeting:

We command you that of the real and personal estate of the above-named Public Trustee in your district you cause to be made the sum of three hundred and thirty-five pounds eight shillings and fivepence (£335 8s. 5d.), which the