

shall remain unrestricted.' Nor does the view I have expressed restrict any rights, powers, or remedies given by the Horowhenua Act. The same observations apply to section 4 of 'The Public Trust Office Consolidation Act, 1894.' The words there used are 'have deprived,' 'have limited.' The section seems to have been passed to dispose of any suggestion that the Act of 1894 negatived or took away the powers or duties given to or imposed on the Public Trustee by any then-existing statute. I think, though with some hesitation, that the same reasoning governs the claims against the office furniture or other chattels of the Public Trust Office. I am not satisfied that property supplied to a public department can be said to be the property of the corporate officer, if I may use the expression, who controls and manages such department. The property is held for the purpose of the administration of the business of the Public Trust Office under the Public Trust Act, and must be taken to be necessary for such administration. If I were to hold that such property were available to discharge debts not payable in respect of such administration, I should either interfere with the proper administration of the office or make it possible by a series of executions to enable the debt to be paid indirectly out of funds which I have held not to be available directly. For these reasons I am of opinion that no *mandamus* should issue as asked by the defendant, and that there are no moneys available under the charging order for the payment of the costs. It was hardly contended that the officer for the time being holding the office of Public Trustee was personally liable for acts done by him in the discharge of an obligation imposed on him by statute, and I am satisfied there is no ground for the contention. In the view I take of the case it is unnecessary for me to answer specifically the questions submitted. I am of opinion that the Legislature must be taken to have relied on the Executive respecting the obligation imposed on a public officer by providing the necessary funds for all proper expenditure thereunder, including, of course, moneys directed by the Court to be paid to the successful defendants, and that, having so relied, it has not thought it necessary specifically to provide for such expenditure." That is the opinion of Mr. Justice Denniston, delivered on the argument before him as to whether costs had been specifically directed to be paid by the Public Trustee. You remember that?—Yes, I remember that. I was present.

107. *The Chairman.*] Have you made any other advances since the 15th February?—Yes. Major Kemp had an advance of £180 cash, and then there are divers accounts which I have undertaken to pay.

108. Amounting to what?—I could not say off-hand. There are law-costs, and a sum of £75 due to one of his agents. There is a considerable sum that I feel bound to pay whether I lose the money or not. I had his direction to pay these sums, and gave him my promise that I would pay them.

*Mr. Bell:* I would like to say that Sir Walter Buller has stayed in the colony now for three years, and been kept here entirely by this question. The matter is over now, and judgment has been given in his favour, and his petition for his costs is in your hands to decide. If the Committee are unable to decide this question now, I have to ask that Sir Walter Buller's evidence shall be taken as it has been given and put before the Public Petitions Committee next year when the case comes on. If they say they cannot decide now, surely they will take Sir Walter Buller's evidence as having been given, and we shall not be met next year with the objection that the petitioner is not here.

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