

Court in New Zealand, or even to the intelligence of the Parliament. What has the Court to do with the Executive? Where there is a suit properly constituted and ripe for decision, why should justice be denied or delayed at the bidding of the Executive? Why should the Executive Government take upon itself to instruct the Court in the discharge of its proper functions? Surely it is for the Court, not for the Executive, to determine what is a breach of trust. Then, again, what has the Court to do with the prospective action of Parliament, as shadowed forth by the Executive? No one disputes the paramount authority of the Legislature. Within certain limits it is omnipotent. But why should it be suggested that Parliament will act better if it acts in the dark, and without allowing the Court to declare and define the rights with which it may be asked to deal? The present Chief Justice, who was not a party to the judgment of the Court of Appeal, took a truer view of the situation, when he said that the approval of a scheme could not "in any way hamper either the Government or the Parliament in dealing with this trust."

In the opinion of their Lordships the respondent has been wrong in every step from first to last. Their Lordships will therefore humbly advise His Majesty that the order of the Court of Appeal should be discharged, except as to the direction therein contained for payment of the costs of the trustees; that any costs paid under that order to the Solicitor-General should be returned; that this appeal should be allowed with costs, to be paid by the respondent, and that the trustees should be at liberty to retain any extra costs incurred by them as between solicitor and client, out of the trust funds in their hands.

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