

Mr. Justice Williams took the same view. The Court could not go, he said, behind the mortgage to determine the rights of the parties. In order that a caveat might be extended there must be something which would lead the Court to believe that the person making the application had some chance of succeeding. Apart, therefore, from the proceedings which took place for redemption in England, he was perfectly satisfied that there was no ground for extending the caveat. The matter did not rest there, for a suit for redemption had been brought in England, and dismissed for want of prosecution. He was of opinion that the Court had some reason to complain about the way in which the affidavit of Jones was framed. From any point of view there was no reason why the caveat should be extended. The motion ought to be refused, for the only effect of allowing the caveat to be extended would be to encourage fruitless and perfectly unjustifiable litigation.

Mr. Justice Edwards was also of the same opinion. It was, he thought, idle to suggest that Jones could in the present or any other proceeding resort to any grievance or alleged grievance which took place or was alleged to have taken place prior to the execution of the mortgage in question or the subsequent agreement. The suggested action would be a frivolous one, and the Court could not encourage any such proceeding. He thought, therefore, that the caveat ought not to be extended.

Mr. Justice Cooper held that it would be hopeless to contend that the compromise in question could be reopened. Jones was, he said, under the impression that he had a grievance, and nothing that the Court could say would satisfy him that that was not the case. Whatever grievance he might have had was compromised in 1904. There had been no conduct on the part of Mr. Flower and subsequently by his executors which could raise any want of equity in them.

Mr. Justice Chapman thought that it would be very unfortunate if the Court were to do anything which would in any way reopen the matters settled by the compromise, which was made not only by consent and with the advice of eminent counsel, but acted on and confirmed by Jones when he took a title and indulgences pursuant to what was arrived at in the compromise, and gave a mortgage to Flower. He could imagine nothing more complete, solemn, and binding than the successive acts subsequent to the compromise. Was it really conceivable that, put at its best, Jones could make out a case for redeeming the property as against Mr. Flower's executors and the purchasers, or against the executors alone? In his opinion the answer must be in the negative, and therefore the caveat could not be extended.

The order was therefore discharged, and costs were allowed against Jones as follow: Fifteen guineas to the registered proprietors, fifteen guineas to the purchaser, and ten guineas to the District Land Registrar.

Mr. Treadwell, on behalf of Jones, asked for leave to appeal to the Privy Council, and for an order extending the caveat until the appeal was determined.

The Chief Justice: Can you give us an instance where an appeal has been allowed in a case which the Court has held to be frivolous?

Mr. Justice Edwards: You are asking us to prevent these people from dealing with their own properties for two years at least.

Counsel: My client is willing to submit to any terms which the Court might deem fit to stipulate. If necessary, we are willing to bring into Court within a month an amount sufficient to pay off the mortgage.

The Court refused the application.

I went to Sir Joseph Ward with Mr. Jennings, and Sir Joseph said, "I cannot interfere with the Court, Jones, but your proper course is to petition Parliament." In that connection I refer you to *Hansard* of the 26th August, 1908, for the Premier's reply.

*The Chairman:* Yes, I remember that.

*Mr. Jones:* He very kindly said to me after that that, whatever report might be brought up by the Committee, he would do all he could to further it. I have no doubt that he was honest, and I still think so. The Committee reported on the 7th October, 1908, Petition No. 50, Joshua Jones, "The Public Petitions Committee, to which was referred the petition, has the honour to report that it has given the subject-matter much consideration, and has taken a considerable amount of evidence thereon, and recommends that the Government should refer the case to a Royal Commission or other competent tribunal to inquire into its merits, and that, pending such investigation, steps should be taken to prevent further dealing with the land in question." Prior to this a motion had been brought forward in the Upper Chamber by Mr. McCardle to see if legislation could be introduced for my relief. He made a speech, and Dr. Findlay made a long speech condemning my action entirely, although he said subsequently that he never did. That was on the 21st August, 1908. He wound up his speech, after condemning me all through, by saying, "The Courts were open to those who wished to defend their property, and these had been invoked by Jones, who had been defeated, and it was unconstitutional to come to Parliament and ask it to interfere in a case of the kind. For that reason the motion should not be passed."

*The Chairman:* What was adopted?

*Mr. Jones:* Mr. McCardle withdrew his motion on the members saying, "Let the man have an inquiry," and the inquiry came before the Public Petitions Committee.

*The Chairman:* When the Committee reported, was the report adopted by the Council or thrown out?

*Mr. Jones:* Mr. Thomson moved that the petition should be agreed to, and referred to the Government for consideration. This was carried without discussion. That was on the 9th October, 1908. Now, sir, on the 7th October, immediately I heard that the Committee had reported, I went to Treadwell and said, "Ask Dr. Findlay to set up this Commission at once." Treadwell