

82. Now, your reason for saying you were entitled to the caveat and to keep the caveat on was that you considered you had a good cause of action for the redemption of your mortgage, and you intended to bring that action shortly; meanwhile, you wanted the caveat kept on to protect your rights?—That is so.

83. When considering the question as to whether you should be allowed to keep the caveat on until you brought your action for redemption, they would want to know the cause of your action for redemption, to see whether it was frivolous or not?—Mr. Treadwell had Lord Justice Parker's order on his hand. I brought the order out with me, I think, and we thought the order of the English Court was sufficient ground to enable us to come to this Court and ask for the trial of the action.

84. Well, you know that the Full Court refused to allow you to keep your full caveat on because they did not consider you had a reasonable cause of action against Flower's executors for redemption, and therefore it was not fair to let you interfere with a title to protect your rights when you had not a reasonable chance of succeeding with your action?—What the English Judges held to be good ground to go on with my action the Judges here said was frivolous, and kicked it out.

85. What the Judges here said was this: "We think your action for redemption is going to be a frivolous one, and therefore we do not see why you should be allowed to keep your caveat on to protect your rights"?—That is so, but—

86. I do not say whether they were right or wrong?—I do not think we can say whether they were right or wrong; it would need another Court to decide that.

87. What they said was, "The action is frivolous"?—Yes, "Your application is frivolous," and they were against the English Judge.

88. The Judges did have to consider whether it was frivolous or not. You say they came to a wrong conclusion?—They came to a conclusion opposite to that of the English Judge, who said it was not a frivolous action by any means, and that was cabled out.

89. When your counsel was urging before the Supreme Court Judges that your action was not going to be a frivolous one, he never suggested anything about the circulation of this damaging report?—But that is a matter of evidence. It was not in the London pleadings, and we knew it. We were going to bring that forward at the trial.

90. I am just pointing that out because I am going to suggest that we get Mr. Treadwell to explain why he took that particular line of action—why he did not put before the Judges the ground on which he was going to rely?—We only had to wait until we filed the plaint notes. He filled in the caveat for me and was given the statement of claim.

91. Mr. Treadwell did not tell the Supreme Court Judges that your action was going to be based on the fact that the compact in London was void by reason of the publication of the damaging report?—There was a decision of the English Judges—he was standing on that. We had no reason to think the Judges here were going to run counter to the English Judge.

92. The point I am on is this: that the Judges, when they were considering whether or not your action was going to be frivolous, each one of them said an arrangement was made in England, and nothing has been suggested to this Court as a reason for disregarding that compromise. They all seemed to agree in the case for the removal of the caveat that had you said to them, "I propose to show that that compromise made in England is null and void by reason of the circulation of the damaging report," each one of the Judges seems to have implied that had anything of that nature been placed before them the caveat would have been kept on?—You are putting me in an awkward position. I had the utmost confidence in what the English Judge said, and I do not see why the Judges here should have acted differently.

93. You told us that your counsel in England, you thought, explained to Lord Justice Parker that he was going to rely on the publication of this damaging report?—Yes; he said, "We shall have ample evidence that they have damned the compact made with Jones."

94. But Mr. Treadwell did not say that to the Supreme Court Judges, because each one in his judgment says nothing of the sort had been said to him. It does not appear to have been put before them that you would rely upon the damaging report?—It was not put before the Judge in London.

95. But you say it was referred to by your counsel there?—Yes.

96. That was not done by Mr. Treadwell here?—The same documents were thumped by Mr. Ashton and another counsel. The same documents were before the Court in England as were here.

97. I know you say the Supreme Court Judges were wrong—I am not saying whether they were or not—but I am pointing out that whereas in England Lord Justice Parker was informed by your counsel the Judges here were not informed?—We were going to bring forward evidence to show that this compact was damned.

98. It is quite clear from the judgments given in New Zealand that Mr. Treadwell did not put before the New Zealand Judges the fact that you were going to complain about this damaging report, and I am only saying that the case does not seem to have been put before the New Zealand Court the same as it was in England. I want to know whether Mr. Treadwell did tell the Judges that he was going to rely on this damaging report?—We did not put it in the pleadings in London.

99. But you told the Judge of it?—Mr. Buckley and Mr. Jellicoe state so. It is in the pleadings.

100. What pleadings?—In the letter of the 28th of last May it is stated here that they violated the compact.

101. It is pleaded there, of course; but whereas it was a most important point for Lord Justice Parker to know, and a most important point for the Supreme Court Judges here to know, that you were going to rely on this damaging report, it was not in the pleadings before Lord