

having been lodged as aforesaid defendants have been prevented from dealing with their said lands so as to carry on successful mining operations thereon, and have been put to great loss, damage, and expense thereby and in defending their titles against the said trespassers and claimants.

13. The said cautions afforded the said parties mentioned in the preceding paragraph hereof a pretext for entering upon the said lands and prospecting for mineral thereon, and enabled them to make claim thereto on a pretended discovery of valuable mineral, and to mislead and induce the plaintiff to grant and allow them a hearing to dispute the defendants' title and to institute this action, which is a direct result of the said cautions and not in the public interest, nor is the plaintiff the real plaintiff, nor the solicitor on the record the real solicitor in the action, which is brought solely in the interests, for the benefit, and at the instigation of the said parties, whose personal solicitors are carrying on and conducting the proceedings herein, all of which has occasioned the defendants great loss, damage, and expense.

Except so far as the first of these paragraphs denies the existence of any good reason for filing the cautions in question, both of them are irrelevant and embarrassing and should therefore be struck out. The issues which they seek to raise could not be gone into at the trial, and no evidence could be given to support them.

If a plaintiff is asserting a legal right, his motives for so doing cannot be inquired into.

In *Pender v. Lushington*, 6 Ch. D. at p. 75, it was said by Jessel, M.R.: "Those who have the rights of property are entitled to exercise them, whatever their motive may be for such exercise, that is, as regards a court of law as distinguished from a court of morality or conscience, if such a court exists . . . I cannot deprive him of his property, although he may not make use of that right of property in a way I might altogether approve of."

In *Allen v. Flood*, [1898] A. C. at p. 93, Lord Watson said that it was useless to contend that "an act in itself lawful is converted into a legal wrong if it was done from a bad motive;" and at p. 94: "It is alike consistent with reason and common sense that when the act done is, apart from the feelings which prompted it, legal, the civil law ought to take no cognizance of its motive." If further authority is required, it can be found in the similar case of *Chaffers v. Goldsmith*, [1894] 1 Q. B. 186.