OUTER HOUSE, COURT OF SESSION

[2023] CSOH 18

CA95/21

OPINION OF LORD HARROWER

In the cause

ASHTENNE CALEDONIA LIMITED

Pursuer

against

MAHMOOD SALEEM

Defender

Pursuer: A Jones KC (sol adv); Brodies LLP
Defender: M Steel; Harper Macleod LLP

8 March 2023

The issues

[1] This is one of three dilapidations claims raised by the landlord of certain warehouses at Nethermains Industrial Estate in Kilwinning. The present action concerns Unit 2, Kelvin Avenue, where the defender was the tenant. The other two actions concern Unit 4, Kelvin Avenue (CA96/21), and Units 6-8, Simpson Place (CA97/21), where, in both cases, Denny Enterprises Int'l Limited was the tenant. The missives of let for the premises at both Unit 2, Kelvin Avenue and Units 6-8, Simpson Place were exchanged in April 2015, while those for Unit 4, Kelvin Avenue were exchanged in January 2016. In the case of all three properties, however, the lease expired on 30 April 2020, the tenant having been served, towards the end

of December 2019, with a schedule of dilapidations. In each case, the landlord now sues for damages in respect of losses incurred as a result of the tenant's breach of the repairing obligation in the lease.

[2] The parties in all three actions having renounced probation, the court acceded to their request to remit the pursuer's claims to a Mr Jon Rowling, being a chartered surveyor with considerable experience in dilapidations, and identified by them as willing to investigate and report, in accordance with the parties' agreed joint remit. On 6 June 2022, having inspected the relevant premises, and discussed matters with the parties' surveyors, the reporter issued draft reports, as required by the terms of his remit. By letters dated 24 June 2020, the pursuer having raised objections to each draft report, the reporter applied to the court for directions, as he was required to do in terms of the joint remit, whilst making brief comments on the objections themselves. At the request of parties, the court then fixed a single diet of debate to discuss the pursuer's notes of objections in all three cases, and appointed parties to lodge notes of argument.

[3] In the course of the debate, it became apparent that there were a number of discrete issues particular to each of the three claims, which were of relatively low value, and which might be capable of being resolved by way of further discussion. However, it was equally clear that there would remain certain fundamental objections in relation to the reporter's understanding of the repairing obligation which were common to all three cases, and which would require judicial resolution (objections 1 and 2 in the pursuer's notes of objections for each case: the "common objections"). In this opinion, I shall firstly summarise the relevant terms of the draft reports (section 1), then summarise the common objections (section 2), before setting out my decision on these matters (section 3). Finally, I will deal with the

pursuer's remaining objections (section 4) and my disposal (section 5) in relation to CA95/21. CA96/21 and CA97/21 are the subject of separate opinions.

1. The draft reports

[4] Having set out, in section 1 of each draft report, his experience and qualifications, in section 2, the reporter summarised the terms of his remit, which were to address, insofar as not agreed between parties: (i) whether the individual wants of repair and condition identified in the relevant Scott Schedule existed at 30 April 2020; (ii) whether, and to what extent, those wants of repair and condition had been remedied; (iii) what works were necessary to remedy those wants of repair as had been identified in response to (i), and that were still extant, in order to put the premises into such state of repair and condition as required by the lease; (iv) whether, and to what extent, works undertaken by the pursuer were necessary to put the premises into such state of repair and condition as required by the lease; and (v) in light of the answers to (iii) and (iv), (a) whether the costs of effecting works claimed by the pursuer were reasonable, and (b) if not, what would be a reasonable cost. As the reporter went on to explain at paragraph 3.3.2, his answers to these questions were expanded over the course of six further columns added to the parties' Scott Schedules and appended to each draft report.

[5] In section 2, the reporter further elaborated on the documents and other evidence to which he had regard when producing his draft reports. In addition to the Scott Schedules, the documents included the lease, the pleadings and productions, and written submissions. In accordance with his remit, the reporter also inspected the premises, in the company of the surveyors for both parties, with whom he discussed matters in general and who assisted in identifying the locations of specific issues in dispute.

[6] As the reporter mentioned at paragraph 2.3.3, in the draft report for the present action, CA95/21, a new tenant had entered into occupation of the premises, although it had not carried out any works, other than fitting out works to the warehouse area to allow it to be occupied as a gym and ancillary accommodation. The warehouse floor had been almost entirely covered in matting, and he recorded that the tenant described the quality of the internal paintwork as low, with "chalking" occurring when the walls were leant against. A new tenant had also entered into occupation of the premises in CA96/21, as distributors of goods, but they had not completed any works to the premises. The premises in CA97/21 remained vacant at the time of inspection.

[7] In section 3 of each draft report, the reporter provided a general commentary on the key issues in dispute between the parties regarding the correct interpretation of the lease. In order properly to understand this section of the draft reports, it is necessary to set out the repairing obligation, which was in the same terms for each lease. It was headed "REPAIR AND MAINTENANCE", and was in the following terms:

> **"**The Tenant accepts the Property and the Common Parts as being in good and substantial condition and repair notwithstanding all (if any) defects therein whether latent and/or inherent or otherwise and is held to have satisfied itself in all respects that the Property is fit for its purposes. The Tenant will keep, maintain and repair, renew, rebuild and reinstate the Property and every and any part thereof and all additions thereto and the Landlord's fittings and fixtures therein and thereon in good and substantial condition and repair …".

[8] The reporter noted, firstly, at paragraph 3.1.2, that the parties were in disagreement over the extent to which wants of repair present at or before the start of the lease became the defender's responsibility during the term of the lease. In agreement with the pursuer's submissions, the reporter concluded that, in terms of the lease, the defender "took on responsibility for remedying pre-existing disrepair".

[9] The reporter then made certain observations on the standard of repair, which I will set out in full.

> "3.1.1 The second point I wish to comment on is the standard of repair. I note the Pursuer's representations refer to the age, character and location of the premises *at the start of the lease term* as being relevant to the extent of the Defender's obligation to repair. I also note that this principle is referred to in the English case of *Proudfoot* v *Hart* [(1890) 25 QBD 42]. I further note that this case is referred to positively by Garrity and Richardson in their book 'Dilapidations and Service Charge' at paragraph 4.4.2 [footnote citation omitted].
>
> 3.1.2 The principle identified in *Proudfoot* v *Hart* has (as I understand the law here) the implication that the standard of repair can vary as between different properties where the age, character and location of those different properties varies. The result is that issues which might represent disrepair in a property with a high standard of disrepair, might not represent disrepair in a property with a low standard of repair.
>
> 3.1.3 I therefore have to consider what the standard of repair for this property was *at the start of the lease term* (*and therefore throughout the lease term*).
>
> 3.1.4 The property appears to have been constructed in perhaps the 1980s so (if I am correct) would have been approximately 30 years of age *at the start of the lease term*. I regard this age as being relatively old for a building of this type which will tend to lower the standard of repair.
>
> 3.1.5 The property forms part of a terrace of similar warehouse units but is of a slightly unusual architectural design. Because of that architectural effort I would regard the character of the property to be slightly elevated above a normal warehouse. However, ultimately, this was a warehouse building and not an office. The standard of repair would therefore be reasonably low based on this measure.
>
> 3.1.6 The property is located in Kilwinning. This is not central Edinburgh or central Glasgow.
>
> 3.1.7 My assessment of the standard of repair to be applied to the property *throughout the lease term* is therefore 'low'. As a result, issues which might represent disrepair at other buildings with a higher standard of repair would not be a breach of the lease here. *That is not to say that the Defender has no obligation to repair*" (emphasis supplied).

[10] The reporter continued, at paragraph 3.2, to address the issue of decoration. He noted the absence of any specific obligation, of the sort that would be common in

commercial leases, to decorate at set intervals or within a set period before the end of the lease term. He emphasised that this did not mean there was no obligation to decorate, but rather that the question of whether redecoration was required was one of whether or not the decorative finish was in disrepair.

[11] At paragraph 3.2.2, he explained that the tenant had redecorated, at least in part, prior to the end of the lease term. He was therefore required to consider whether that redecoration was below the standard of repair, as already set out by him. He did not believe he was required to consider whether decoration had been completed within a certain period prior to the end of the lease, or, if that decoration had been completed, "whether it was completed to a particular standard of workmanship".

[12] At paragraph 3.2.3, he explained that, in general, he found that the internal decorative condition of the premises at lease expiry was "not below the standard of repair (whether recently decorated or not)". The exception, in each action, was the warehouse slab, which he found to be in disrepair, despite having recently been painted by the tenant. He found the quality of the preparation and the type of paint used were inappropriate.

[13] In section 4 of the draft reports, the reporter referred the parties, for his conclusions, to the additional columns in the respective Scott Schedules for each action.

2. The common objections

[14] Objection 1 was made in relation to paragraph 3.1.3 of the draft reports. The reporter was said to have erred in two ways: firstly, in referring to two resources not included in the joint remit, namely, the case of *Proudfoot* v *Hart*, and a Scottish textbook; and secondly, in "deciding" a point of law, when he should have sought directions from the court. As was noted by the reporter, the pursuer had made submissions regarding the correct

interpretation of the repairing obligation in the lease. However, because the reporter's interpretation was at odds with that put forward in its submissions, the pursuer submitted that he should be understood as having "impliedly decided" that the pursuer was wrong.

[15] Objection 2 was made in relation to paragraphs 3.2.1 and 3.2.2 of the draft reports. The reporter was said to have "conflated" the obligation to "keep, maintain and repair, renew, rebuilt and reinstate" the premises "in good and substantial condition and repair" with an obligation "which exclusively requires repair". Reference was made to *Taylor Woodrow Property Co Ltd* v *Strathclyde Regional Council,* an unreported, but frequently cited, decision of Lord Penrose (15 December, 1995). In addition, the reporter was said to have erred in deciding that "the standard of workmanship for decoration is irrelevant when considering if the premises are in good and substantial condition and repair".

3. Decision on the common objections

[16] I address each of the pursuer's objections in turn, taking into account also the extent to which they were elaborated upon by the pursuer in its supplementary notes of argument and submissions. (References to "SNOA" in what follows are to the pursuer's supplementary note of argument in CA95/21, the relevant paragraphs of which, in respect of the common objections, were adopted in the pursuer's supplementary notes of argument for the other two actions.)

Objection 1 – the reporter acting outwith his remit

[17] In *Newbigin* v *S&J Monk* [2015] 1 WLR 4817, Lewison LJ cited *Proudfoot*, stating that,

> "Whether property is in a state of reasonable repair is traditionally described as such repair as, having regard to the age, character, and locality of the property, would make it reasonably fit for the occupation of a reasonably minded tenant of the class

> who would be likely to take it" (at para 24, a point that was unaffected on appeal [2017] 1 WLR 851).

As Lewison, LJ, went on to say in *Newbigin,* the *Proudfoot* formula was "well-known to lawyers, surveyors and valuers". In my view, the reporter, when citing *Proudfoot,* was merely providing his understanding, as a surveyor, of the legal context in which he wished his draft reports to be understood. He may not have provided a full description of the *Proudfoot* formula. In particular, he may not have made express reference to the notional reasonably minded tenant. I consider below whether any such failure amounted to a material error of law. For present purposes, it is sufficient to reject the submission that, merely by citing a well-known authority, the reporter had misdirected himself.

[18] Nor do I see any force in the criticism levelled at the reporter for citing a Scottish textbook, in order to confirm his understanding that the *Proudfoot* formula would be applicable as a matter of Scots dilapidations law. No doubt the pursuer was correct to observe that English cases require to be cited with caution in a Scottish context (SNOA, paras 3.28, 3.29). But to a large extent this has to do with the historically different approach of the common law of Scotland to repairing obligations in leases, and in particular to the distinction between ordinary and extraordinary repairs. The wording of the lease in this case is typical of the form of repairing covenant generally adopted in commercial leases throughout the United Kingdom, and is apt to cover what the older Scottish cases would have treated as extraordinary repairs. In these circumstances, neither the distinction between ordinary and extraordinary repairs, nor the older Scottish authorities, is relevant for present purposes (cf *Westbury Estates Ltd* v *The Royal Bank of Scotland Plc* 2006 SLT 1143, Lord Reed, at para 18). Indeed, the situation appears now to have been reached where the authors of a leading English textbook can cite dicta in Scottish cases, which have themselves

cited *Proudfoot* with approval, as representing a correct statement of the position under English law (*Dowding and Reynolds*, para 9-17, citing *West Castle Properties Ltd* v *Scottish Ministers* 2004 SCLR 899).

[19] Nor is there any substance to the second limb of the pursuer's first objection, namely, that the reporter must be taken to have "impliedly decided" a point of law contrary to the submissions made by the pursuer, when he ought to have sought directions from the court. Paragraph 12 of the remit empowered the reporter to seek directions from the court on any specific question of law, including the correct interpretation of the lease. It only required the reporter to apply to the court for directions where a party had intimated objections to his draft report.

[20] In any event, the reporter's interpretation of the repairing obligation is to my mind quite consistent with that put forward by the pursuer. At paragraph 5.2 of its submissions to the reporter, the pursuer stated that the repairing obligation,

> "amount[ed] to an obligation to secure that the Premises [were] in such condition as one would expect to find them had they been managed by a reasonably–minded owner, having regard to their age, character and locality, so as to render them reasonably fit for occupation by a reasonably-minded tenant of the sort likely to have taken them on at the time of the commencement of the lease containing the repair obligation in question".

The pursuer's formulation, unlike the *Proudfoot* formula, proceeds by reference to how the "reasonably-minded owner" would have managed the premises. As such it is similar to the formula preferred by the arbitrator in the case of *Anstruther-Gough-Calthorpe* v *McOscar* [1924] 1 KB 716, a case relied upon by the pursuer in its SNOA. However, I prefer the view of the editors of *Dowding and Reynolds,* that there is no difference in substance between the two formulations, the emphasis being on "what is reasonable measured by reference to the age, character and locality of the premises at the date of the lease"

(para 9-10). While, in *Anstruther-Gough-Calthorpe* Atkin, LJ, was clearly not content with the standard of repair being measured by reference to the notional tenant, both Bankes and Scrutton, LJJ, in the same case, appear to have proceeded on the basis that, so long as the *Proudfoot* formula was applied at the date of the lease, the two approaches were practically the same.

[21] The reporter's understanding of the relevant standard of repair being consistent with that advanced by the pursuer, I am unable to conclude that the reporter "impliedly" rejected the pursuer's submission, or that he erred by not seeking directions from the court. In any event, unlike the arbitrator's preferred formulation in *Anstruther-Gough-Calthorpe*, the pursuer's submission to the reporter proceeded by reference to *both* the reasonably minded owner and the reasonably minded tenant. On any view, this is to introduce an unnecessary level of complexity into the formula.

Objection 2 – the reporter applying the wrong test

[22] As already noted, the focus of this objection, so far as the notes of objections were concerned, was on the reporter's supposed misunderstanding of the lease as providing only for a "simple" repairing obligation, rather than an obligation to keep the premises in a good and substantial condition and repair. In support of that contention, the pursuer referred to paragraphs 3.2.1 and 3.2.2 of the draft reports. However, in these paragraphs, the reporter is dealing with a quite distinct issue, namely, the absence of any specific obligation to decorate at set intervals, or within a set period before the expiry of the term of the lease. In these circumstances, the reporter concluded, the obligation to decorate becomes subsumed within the general repairing obligation. To read these paragraphs, as the pursuer appeared to do, as evidence that the reporter misunderstood the repairing obligation as "simple" is itself

simply a misunderstanding of his draft reports. In any event, it also ignores paragraph 3.1 of the draft reports, where the reporter stated that he was in agreement with the pursuer's position regarding the defender having responsibility for "wants of repair *at or before* the start of the lease" (emphasis supplied). Standing that acknowledgement, it is not obvious why the pursuer insisted that the reporter misunderstood the repairing obligation, as being "simple", as distinct from an obligation to keep, and to put, the premises in a good and substantial condition and repair.

[23] The pursuer expanded on this argument at length in its SNOA. I mean no disrespect to the pursuer's submissions if I attempt to summarise them in the following three principal criticisms. Firstly, the reporter is said to have looked at the "age, character and location" of the premises "in isolation from other material factors" (SNOA, para 3.24) including the terms of the lease (SNOA, para 3.36). Secondly, he used age, character and location to "read down" the scope of the repairing clause (SNOA, para 3.24), thereby conflating "good and substantial condition and repair" with a "low" standard of repair (SNOA, para 3.7). Finally, the pursuer says that the reporter "assumed" – and the pursuer goes so far as to say that this was his "folly" – that "the age, character and location of the premises relieved the tenant of the covenant to keep, which included to put, the premises in good and substantial condition and repair" (SNOA, para 3.45).

Age, character and location looked at in isolation

[24] While I accept that the reporter may not have stated the *Proudfoot* formula as comprehensively as a lawyer might wish for, I would not go so far as to say that he had either misunderstood or misapplied the law to any material extent. In particular, the reporter expressly acknowledged that, in terms of the lease, the defender "took on

responsibility for remedying pre-existing disrepair" (para 3.1 of his draft reports). As a result, although what the lease required may be said to vary with the age, character and location of the premises, the reporter made it quite clear - stating it no fewer than four times throughout para 3.1 of the draft reports - that this must be assessed at the start of the lease and cannot vary throughout the lease term.

[25] It is true that the reporter nowhere made reference to the notional reasonably minded tenant, or the class of such tenants who would be likely to take the premises, but in my view, this is implicit in his adoption of *Proudfoot* as providing the appropriate legal test. Moreover, the principal function of the reference to the notional reasonably minded tenant is to signify that what is being applied is an objective test. As such, it is not properly regarded, as the pursuer would have it, as merely another "material factor" that requires to be considered, along with age, character and location. Rather, its function is to define the perspective from which the relevant factors of age, character and location require to be assessed. In that regard, it is significant that even *Dowding and Reynolds* place the emphasis on "what is *reasonable* measured by reference to the age, character and locality of the premises at the date of the lease" (para 9-10, emphasis supplied).

"Low" standard of repair

[26] Again, the reporter may not have expressed himself as a lawyer would have done when concluding that the standard of repair to be applied to the property throughout the lease term is "low" (para 3.1.9). As the pursuer says, "Good and substantial repair and condition does not mean low repair" (SNOA, para 3.46a). However, the reporter made it clear in his draft reports that "low" should be understood as a relative concept: the building was "relatively" old; being a warehouse rather than an office, the standard of repair would

be "reasonably" low; and in observing that Kilwinning was not central Edinburgh or Glasgow, he was merely drawing attention to the relative location of the premises. One might quibble with the reporter when he says that "the standard" of repair will vary with the age, character and location of the property. But it would be difficult to argue with his central point, which is that, in terms of the *Proudfoot* formula, disrepair in one context may not represent disrepair in another.

[27] If the pursuer intended to set up some more fundamental contrast between the terms of the lease and the *Proudfoot* formula, then I would reject any such argument. As Seymour KC, HHJ, said in *Simmons* v *Dresden* [2004] EWHC 993 (TCC), 97 Con LR 81 (para 48), 'What was required [by the repairing obligation in that case] was that the tenants "well and substantially repair", and so forth, and keep in "good and substantial repair". The force of "substantially" and "substantial" … was to require that in its essentials, but not necessarily in each and every minute detail, the premises were to be repaired, renewed, cleansed and kept"'. Further, it was not a standard which 'in practical terms [was] different from the standard of "such repair as, having regard to the age, character, and locality of the house, would make it reasonably fit for the occupation of a reasonably minded tenant of the class who would be likely to take it"…. What that standard requires in any given case must be a question of fact and degree'. And although the obligation in *Simmons* was a mere repairing obligation, it has been held that much the same could be said of an obligation, such as the repairing obligation in this case, to keep in good and substantial repair and condition: *Coldunell Ltd* v *Hotel Management International Ltd* [2022] EWHC 1290 (TCC) (paras 13, 14).

Relieving the tenant of all responsibility for repair

[28] Finally, the reporter, by focussing on the age, character and location of the premises, is accused of having "relieved" the tenant of the covenant to keep, which included to put, the premises in good and substantial condition and repair. However, this argument ignores what the reporter actually says. Having concluded that there was no breach of the lease in this case, by items that might represent disrepair in another context, the reporter said this: "That is not to say that the Defender has no obligation to repair".

Lack of reasons

[29] At times during the debate, the pursuer presented its criticism of the reporter in terms of an absence of reasons. However, nowhere in the pursuer's notes of objections did the pursuer object to any failure by the reporter to give reasons. Even the SNOA made this complaint only in the most generalised terms. It was said there that the reporter excluded "many items" without giving any reasons (para 3.57).

[30] In an attempt to remedy this, as it were, mid-debate, Mr Jones, who appeared for the pursuer, presented a copy of the Scott Schedules, in which the allegedly offending entries had been highlighted. Certainly, from these documents, it would appear that in the column headed, "Did the breach exist on 20.4.20?", the reporter had in many places simply recorded, "Yes" or "No". In other places, he had recorded, "Not below the standard of repair" or "No evidence". However, these are very different phrases, and the pursuer offered no further commentary on these entries. If this objection were to have been insisted upon, I would have required the alleged inadequacy of the reporter's reasons to be analysed in detail, item by item.

[31] In any event, I remind myself of the purpose of the Scott Schedule, being to identify precisely the individual items in dispute, and to present the parties' respective positions on these items in tabular form, the last column or columns being reserved for the decision-maker. As it was helpfully put in the "Scott Schedule Note", dated 7 February 2018, in the context of the English Civil Procedure Rules,

> "Brevity is essential in a Scott Schedule. Usually the complaints and the responses involve quite detailed explanation, but in the schedule there should be the shortest possible summary".

That advice applies to the decision-maker as much as it does to parties. In my judgment, when read in connection with the main body of the report, the reporter's reasons appear adequate.

Decoration

[32] One final matter included in Objection 2 in the pursuer's notes of objections, but not actually discussed at the debate, was the pursuer's complaint that the reporter considered the standard of workmanship for decoration to be "irrelevant when considering if the premises are in good and substantial condition and repair".

[33] This is simply a misreading of what the reporter says at paragraph 3.2 of his draft reports. It will be recalled that his general point was that there was no specific contractual requirement for redecoration, and that, as a result, the obligation to decorate had to be considered within the context of the general obligation to repair. As such, he was not required to consider whether decoration had been completed within a certain period prior to the end of the lease. Nor was he required to consider, if decoration had been completed, "whether it was completed to a particular standard of workmanship". Nowhere does the reporter suggest that the standard of workmanship in the repairs carried out by the tenant

was irrelevant. He is simply making it clear that these particular leases, unlike others with which he was familiar, did not stipulate any specific standard of workmanship. The result was not that he ignored workmanship, but that workmanship had to be considered within the context of the obligation to repair, which, in point of fact, is what he proceeded to do.

[34] To conclude this section, I am not persuaded that the draft reports disclose any error of law. Having renounced probation, the parties elected to remit their dispute to a man of skill. The pursuer may not have liked the draft conclusions the reporter reached, but that is no reason to direct him to carry the exercise out all over again.

4. The remaining objections

Objection 5

[35] Objection 5, which is common to this case and to CA96/21, relates to item 1.1.2 in the respective Scott Schedules for these actions, which was in the following terms:

> "Existing corrugated cement inner roof liner panel in disrepair with mould and water damage apparent. Missing and loose hook bolts noted. Water ingress internally. Strip and dispose of in accordance with HSE guidance."

In respect of this item, the reporter commented,

> "The original claim: No, this is not considered to be below the standard of repair. The revised claim relating to exposed asbestos fibres: Yes to the extent they exist. However, the work does not appear to have been competed [sic], *and I have seen no evidence of the breach*" (emphasis supplied).

[36] The pursuer referred to the reporter's letter seeking directions where he explained that, in the revised claim, the pursuer's surveyor had stated that there were loose fibres present, and that encapsulation would be required. However, the reporter went on to explain that neither party presented him with any documentary evidence, for example, in

the form of asbestos surveys, to identify the alleged issue. It is now being argued by the pursuer that, by not asking for this evidence, the reporter erred in law.

[37] However, the reporter was not required to ask for directions just because he was empowered to do so. The reporter had carried out an inspection under the guidance of the surveyors for each party. He received submissions. There is no complaint that the reporter failed adequately to investigate. The pursuer had already taken the opportunity, it would appear, to revise its original claim At some point, the reporter was required to decide the individual items in dispute based on the information given to him. Once again, I am not persuaded that the draft report discloses any error of law.

Objections 3, 4, 6 and 7

[38] So far as the pursuer's remaining objections 3, 4, 6 and 7 are concerned, the parties have agreed these items in the sum of £3,696.46, and that the reporter should be directed to apportion that sum among the items that are the subject of these objections as he sees fit.

5. Disposal

[39] I shall repel the pursuer's objections 1, 2 and 5. I shall direct the reporter to apportion the sum of £3,696.46 among the items that are the subject of objections 3, 4, 6 and 7 as he sees fit. Meantime, I shall reserve all question of expenses.