

the agreement for the sale of the lands in question, and one of the terms upon which it was signed, that it was not to be binding on the defendant Newton, unless he could procure a release of Mrs. Gore's claim for dower for the sum of \$100, or make title without her concurrence, and that the words "if in his power to do so" were written into the agreement for the purpose of expressing that understanding.

The plaintiff's testimony at the trial leaves little doubt as to this. For some time before the "option" or agreement of 16th May, 1905, on which the plaintiff is now suing, was signed by Cummins, there had been negotiations between him and the plaintiff for the purchase of the premises, in the course of which there had been discussions about Mrs. Gore's claim. An attempt had been made, through McGillivray, who was acting as solicitor for her as well as for the plaintiff, to get her to release her claim on payment of \$100, but she had refused, and claimed \$500. . . .

The following is the letter written by Cummins to defendant Newton:—

"Rat Portage, Ont., May 15th, 1905.

"Chas. H. Newton, Esq.,
"Winnipeg.

"Dear Sir: Re Queen's Hotel Site. Solicitor for purchaser of above refuses to pass title owing to a Mrs. Gore, wife of a former owner, not having barred her dower. The Master of Titles in Toronto, to whom the question was referred, seems to have a doubt about it, and will not, at present, allow the property to be registered under the Land Titles Act. The solicitor here who was acting for Mrs. Gore in the matter, knowing that she had no moral right, and that her legal claim might be overthrown, tried to bluff for \$500 to-day, but at last agreed to write and advise her to accept \$100 for a quit claim deed. He agreed to send a quit claim deed for \$1 away to-night to Seattle, where she lives, and advise her that he would endeavour to collect the \$100. I, on my part, said I would advise you to accept this, for the reason that, even if you go ahead with your proceedings and in time made title, your law costs between Ferguson, his solicitor here, and at Toronto, will probably cost more than \$100, and should you succeed in wiping out her claim for