

AN EXPOSURE

OF THE LAW PRACTICE, OF CANADA

To the Legislative Assembly of Canada, in Session at St. Thomas, C. W.

Marcus Gunn, (Ed. Observer, St. Thomas, C. W.)

Humbly Sheweth,

That in July and August 1847, Mr. Joseph Cowley, of London, C. W., late proprietor of a paper called the *London Times*, was pressing upon your Memorialist to rent or purchase of him a Printing Press and materials then belonging to him at St. Thomas: Being always addressed by him on the subject whenever he happened to meet your Memorialist on the street, at length, about the beginning of the month of September, your Memorialist wrote him a note offering to rent the establishment, and conditionally to purchase, and giving him a month, and no more, to decide the question; that on the expiry of this month Mr Cowley was from home, the way of Hamilton, Toronto, &c., and not attending to this matter, your Memorialist considered the treaty about the Press, &c. abandoned; and advised him of the same on his return, sometime in October following. That on the 11th November afterwards, Mr. Cowley having met Mr. Joseph Forsyth, late merchant of London, and knowing him to be in your Memorialist's special confidence, brought him to his house, and introduced the subject of the St. Thomas printing establishment and began *de novo* to negotiate about it. That your Memorialist announced to him, briefly, that he was disinclined, and resolved to have no more intercourse on that subject. That, meanwhile, Mr. Forsyth began to advise your Memorialist to listen to some new proposition which Mr. Cowley might then advance. After a good while, of hesitation, your Memorialist stated, [Mr. C. being then present,] that he would commit any new treaty on the subject to the care of Mr. Forsyth, as your Memorialist's agent in the matter, to which all parties agreed. That in the course of the same day, Mr. Forsyth informed your Memorialist that he had concluded a bargain with Mr. Cowley by the purchase of the St. Thomas printing establishment, on your Memorialist's account, for £115 at twelve months, upon a conjoint note, approved by Mr. Cowley. That in pursuance of this, on Saturday the 13th day of November, Messrs Cowley, Forsyth, and your Memorialist went to St. Thomas and perfected the purchase by Mr. Cowley delivering possession of the said Printing Office and Materials to your Memorialist in presence of Mr. Forsyth. By this act the transaction was completed in a regular and business like manner. That in May or June, 1848, Mr. Forsyth went to reside in the United States, whereupon Mr. Cowley being apprized thereof; and thinking thereby that Mr. Forsyth's evidence to prove his agency for your Memorialist in the purchase of the Printing Office aforesaid, would be impossible for your Memorialist to procure: he seemed, hence, to scheme and speculate upon these premises. Some day in June, of the year mentioned, your Memorialist was astonished by the receipt of a letter at the post office from Mr. Horton, Mr. Cowley's law agent, demanding rent for the said printing office, under the threat of expenses, &c., &c. On this occasion your Memorialist could not think that he was really in earnest. Could not imagine that even Mr. Cowley would venture the exposure of a suit on premises so ridiculous and unprincipled: To pay rent for a thing after having bought it. On the approaching maturity of the Note for £115 given as payment, Mr. Cowley was offered payment; but he always insisted that he would appropriate, out of the £115, £26 for a year's rent, (meaning interest,) and credit the balance on the Note which he refused to give up. To get rid of this annoyance, your Memorialist told him that he might have the rent mentioned and the Printing Press, &c. if he would return the Promissory Note mentioned. This he would not do, but in a treacherous, mean manner, put the Note, for £115, in suit before the expiry of the usual days of grace. Your Memorialist then sought advice of Mr. Daniels, Solicitor, in London, who becoming acquainted with the circumstances of the case advised a defence—which he undertook—and expressed his certainty of non-suiting him in consequence of his, Mr. Cowley's, demand for rent, which was evidently a virtual negation of the sale and purchase for which the said promissory note was given. But shortly thereafter, it so happened, that Mr. Cowley's Attorney, (Mr. Horton,) by some inflexible or absolute rule of court, obtained what is termed a "snap judgment" against your Memorialist. This was occasioned by Mr. Daniel's sudden and unexpected call to Toronto on the occasion of his Father's accidental death, by which a certain item in the process was neglected, and which virtually sacrificed Truth, right and justice to court formality. This is your Memorialist's indelible impression. It entailed upon him about £65 of expenses. This snap judgment against your Memorialist was followed, instantly, by an execution which he had to satisfy. That shortly afterwards Mr. Cowley sued your Memorialist again, in the London District Court for the rent mentioned, £26, upon the premises of an advisory note of September 1847, referred to, offering 10s c'y. per week of rent for the printing establishment in question, which proposition was superseded, as will afterwards appear; but upon which he obtained another judgment against your Memorialist, with costs, by the verdict of as incompetent, ill educated and stupid looking a jury as ever could appear impanneled, under the hasty advice, to say the least of it, of the late Mr. Givins, Judge of the London District inferior Courts, then laboring under the disturbing effects of a malady which soon thereafter issued in his dissolution: Your memorialist became an innocent sufferer in these matters, by Mr. Cowley and his Attorney, Mr. Horton, taking advantage of Mr. Forsyth's absence from the province, and the absurd and unreasonable law which invalidates an affidavit made before a Judge of one of the courts of the United States. Mr. Forsyth's Affidavit was received by Mr. Daniels just at the time when it was to be used; but found inadmissible because not made in Canada. Thus frustrating the administration of truth and justice, and favoring, in this case, injustice and oppression.

The following is a copy of the affidavit alluded to. The facts stated therein will evince the unrighteous treatment which your Memorialist experienced in this matter, entailing upon him, on the whole, a loss of about £100.

IN THE DISTRICT COURT OF THE DISTRICT OF LONDON.

JOSEPH COWLEY, Plaintiff,
vs.
MARCUS GUNN, Defendant,

Joseph Forsyth, of the City of Buffalo, in the State of New York, one of the United States of America, Gentleman, late of the town of London, in the District of London, maketh oath and saith, that he is personally acquainted with the

Signature of Joseph Forsyth, sworn to before me, the undersigned, a Justice of the Peace for the County of Middlesex, on the 11th day of November, 1847.

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