eight hundred and seventy-four. The subject—duly advertised—upon which we wished Mr. Underwood to lecture that evening in the Napanee Town Hall was "Evolution *versus* Creation"—a scientific subject—but as there was nothing to be found about this "Evolution" in Wesley's sermons or the Methodist Discipline they wanted none of it.

Determined, however, not to be foiled, especially as Mr. Underwood was on hand and anxious to serve us, we engaged another Hall—the Music Hall—for the ensuing three nights, for which we had to pay $125, as it was occupied at the time by a theatrical company. In this large hall—much more commodious than the one whose pious doors closed upon us—we had our lectures and were greeted by large audiences in spite of our opponents.

We then brought an action against the Corporation of Napanee, primarily to establish our rights and vindicate free speech, and secondarily to recover the large sum we had to pay for Music Hall in consequence of their violation of contract. From the commencement of legal proceedings in October, 1874, up to the recent adverse and final decision in the Queen's Bench, Toronto, the case has been in the courts, having had in all six or seven hearings. It is not necessary here for my present object to recount the judicial stages, and notice the decisions and counter-decisions in the history of the case, my present purpose being to give the circumstances in which the suit originated, which has already been done, and to make some strictures upon the final judgment, which I now proceed to do.

At the final hearing of the case in the Queen's Bench, Toronto, before Chief Justice Harrison and Justice Armour, the latter, during the argument, made the following remarks, as reported in the "Legal Intelligence" of the Toronto *Mail* of 3rd June: "In the course of the argument Armour, J., remarked that if Christianity were true there could no possible harm be done by discussing its doctrines, and in this age we were just standing upon the threshold of great discoveries in nature, and that it would never do to muzzle those people who were engaged in such investigations, because their discoveries did not agree exactly with the preconceived notions of some so-called religionists." These are indeed brave words, liberal, and as true as they are liberal; but why was the judgment, subsequently given, so divergent therefrom? Whence the most extraordinary change between the argument and delivery of judgment? It would seem that every judge before whom this case has come from the beginning has acknowledged the justice of our claim and the righteousness of our case, yet, in the end they seem not to have had the moral courage to face public opinion and popular prejudices and give a just verdict in an unpopular case. This may seem an uncharitable view, but I cannot resist the conviction that had we been on the popular side with the same amount of right and justice attaching to our case the verdict would have been for us, and not against us. We are the advocates of an unpopular cause, our case was unpopular, and hence the popular but unjust verdict. I do not wish to be unfair to the judges. There may be unconscious *bias* in the judicial mind, and of course not culpable because not conscious. But let us look at the matter squarely. Chief Justice Harrison and Justice Armour, though their sympathies were with us in the case, "felt compelled," we are told, as a strict matter of law to go against us. They felt bound by precedents created by other judges. Now, I would ask those learned gentlemen why they should "feel compelled" to follow old, obsolete statutes which were framed in England when there was no liberty of speech? Why should they, when they do not approve of such laws, feel compelled to follow them when they know they are practically dead-letters, and not enforced in other cases? Canadian as well as English judges are said in such cases to have large discretionary power—a wide range of judicial latitude—and why should they, then, in this case, have gone to the side of injustice and tyranny, and have followed an effete law when it is not enforced in other cases? Why should they "feel bound" by precedents if those precedents are bad, and not tolerable in these times? If, in an intolerant and persecuting age, bad precedents happen to be created by judges with less light and liberality than we possess, must judges always be bound by them? Under such a state of things progress in equity and jurisprudence would be simply impossible. If a legal precedent is *per se* bad or becomes bad through altered circumstances judges should have the moral courage to disregard it, and create new ones founded in justice and equity.

We are also told that "Christianity is a part of the common law" in this country, that the lectures proposed to be delivered by Mr. Underwood in the Town Hall were "against the interest of Christianity and therefore illegal." If this be true—that whatever is against the interests of Christianity is therefore illegal the law is violated on every hand with impunity. There are a thousand things against the interests of Christianity tolerated, the law taking no cognizance of them, and nobody thinks of suppressing them. And, that everything is illegal that is "against the interests" of what happens to be directly or indirectly "a part of the common law," may be good legal logic, but to a common mind not burthened with legal lore it seems very queer logic. The liquor traffic, for instance, is no doubt as much "a part of the common law" in this country as Christianity is; inasmuch as the law recognizes it, protects it, regulates it, controls it, and derives a revenue from it. But who would think, on legal grounds, of refusing a public hall to a prohibitionist lecturer, or of violating a contract made with him for its use, because he was about to attack the liquor traffic, and even denounce the government and the law which sanction it, and of which it forms a part? Who thinks of doing this? What judge would seriously entertain such prosecution; much less sanction the violation of the contract on the ground that the prohibitionist's lecture was "against the interests" of the liquor traffic which was "a part of the common law?" What judge could be found to do this? But it seems to make a great difference, judicially, whose ox is gored! The temperance lecturer may rail against the whole liquor traffic, legalized by law; he may utter his fierce diatribes and denunciations against both law and government which legalize and sanction it; his utterances may be temperate or intemperate, moderate or violent, yet who hinders him, or supposes he is doing an illegal act? *He* rails, ridicules, denounces, and the whole thing is legal enough (because popular); *we* simply argue, and do it temperately, we appeal to reason and the higher faculties, but it is all, forsooth, "illegal" (because unpopular). In proof of the contrast between the two styles of propagandism and public teaching, I will quote the following from the judgment of Justice Moss himself, who tried the Town Hall Case now under consideration at the fall assizes in Napanee last October:—

"If the lecturer used arguments which he in good faith believed to be legitimate and well-founded, if he indulged in no malicious attacks upon sacred persons or subjects, if there was no malicious or wilful attempts springing from pure wickedness to mislead the minds of hearers and lessen their reverence for God and Christianity, I should not, but for the expressions used by the learned Judge of the Exchequer, have thought that a lecturer was committing an act *per se* unlawful. However erroneous the opinions of Underwood may be, there is no ground upon the evidence of imputing to him any wicked or malicious motives. There is no reason to doubt that he was advocating doctrines which he himself, however mistakenly, believes. * * * The evidence satisfied me that the plaintiff made every reasonable exertion to get another hall, and that the only one suitable for his purpose which he could procure was Music Hall, and that he could not get it for a lower sum than $125. I find that he acted reasonably and fairly."

It is under such circumstances as these, in this free (*!*) country under British liberty (*!*) so much vaunted, that we are thus denied equal rights, and unjustly involved in heavy expense! And it is *such* legitimate discussion (temperate and sincere as above admitted) which is construed to be "illegal" by the learned judges of our Superior Courts! If Mr. Underwood's lectures are illegal because they are "against the interests of Christianity," whence comes it, then, that the publication of the *Fortnightly Review* in Toronto is not illegal? Or the *Canadian Monthly?* Or the Bel-