

or private transactions, I shall be happy indeed to undergo the scrutiny; and, in the meantime, I content myself with affirming, that His Majesty has no officer in his service, civil or military, in any part of his dominions, who has kept himself more entirely free from any pecuniary or private transaction that could interfere with his public duty, or bring in question his character as a man, than I have done to the present hour, and I shall be surprised if an individual can be found in the province of ordinary good character, whatever may be his political bias, who will assert the contrary.

I have, &c.

(signed) *J^{no} B. Robinson.*

Captain *Phillpotts'* STATEMENT respecting the removal of the Fences, &c. put up on the Military Reserve, near the Falls of Niagara, by Mr. *William Forsyth*.

MR. FORSYTH, who purchased the farm immediately adjoining the Falls of Niagara some years since, on which he erected a large hotel, &c. having, without any permission or authority whatever, taken upon himself to enclose the strip of land, originally reserved by the Government for the purpose of securing a convenient access to the river at all times, and having wilfully destroyed a wooden causeway made on this Reserve by a neighbouring innkeeper, Mr. J. Brown, for the accommodation of persons visiting the Falls, so that the only convenient approach to this great natural curiosity was through his (Forsyth's) own house, an affidavit was made by the said Mr. J. Brown, stating the injury he had received; and all the most respectable inhabitants in the neighbourhood signed a petition to the Lieutenant-governor, Major-general Sir Peregrine Maitland, requesting that the said Reserve might be thrown open to the public.

In consequence of this application, his Excellency directed Captain Phillpotts, at that time commanding Royal Engineers in that district, and therefore in charge of these Reserves, to make a survey of the Government ground near the Falls, and remove any fences, &c. which had been placed thereon.

In compliance with these directions, Captain Phillpotts went to the spot, with a serjeant and four soldiers, in *fatigue jackets without arms*; having previously visited the Falls for the purpose of calling on Mr. Forsyth, and explaining to him that he had placed his fences, &c. on the Government Reserve; and having communicated to him the orders he had received on the subject, he informed him that he should be obliged to carry them into execution, unless Mr. Forsyth would remove the fences himself; which he not only refused to do, but threatened to prosecute Captain Phillpotts if he touched them. In order to prevent the possibility of mistake, Captain Phillpotts had obtained Sir Peregrine Maitland's authority for availing himself of the assistance of Mr. Jones (a sworn surveyor, who originally laid out that part of the province, when the country was first settled), who on this occasion made a survey of this Reserve, and pointed out its limits by pickets, for the guidance of the persons employed to remove Mr. Forsyth's fences. This took place on about the 18th of May 1827, and about four days afterwards, Captain Phillpotts, having occasion to visit the Falls, saw that these pickets had been taken away and Forsyth's fence replaced on the Reserve, which Captain Phillpotts caused to be again removed, and the Reserve to be marked out with pickets, as before.

Major Lennard, the sheriff of the district, who resides near the Falls, having accompanied Captain Phillpotts to the ground, at his request, Mr. Forsyth brought a civil action against both of them for the alleged trespass, which was tried at Niagara, and a verdict was given for the defendants.

In consequence of his having again placed his fence on the Government Reserve, the Attorney-general was directed by the Lieutenant-governor to institute legal proceedings against Mr. Forsyth; a writ of Intrusion was filed against him accordingly; and on a subsequent trial, a verdict was given for the Crown; and thus on two different occasions it has been proved by juries, composed of respectable yeomen of the country, that Mr. Forsyth had no cause of complaint whatever against Captain Phillpotts, or the military persons employed under him on this occasion.

George Phillpotts,

Captain Royal Engineers, York, Upper Canada.

9th January 1833.

REPORT of the SELECT COMMITTEE on the Petition of *William Forsyth*.

To the Commons House of Assembly.

Your Committee, to whom was referred the Petition of William Forsyth, with power to send for persons and papers, and report thereon, have taken the same into consideration, and submit the following Report:—

YOUR Committee have annexed to this Report a certified extract from the original grant to Francis Ellsworth, from which will be seen the abutments of the lot upon which the trespass was committed. The same lot with the same description appears to have passed from Francis Ellsworth, through different conveyances, to the Petitioner, and has been occupied by the successive owners for thirty years past; the distance from the chain, of which he was dispossessed, to the river is estimated at above 100 yards.

George