

British subject to the level of that of aliens, expatriated persons, and outlaws? But, before uttering this unblushing assertion, he had declared,—referring to the Act itself, “*that actual residence in the Province and the taking the oath of allegiance were the necessary qualifications which would exempt any person from the operation of the law.*” Even, here, the Report of Council falsifies, in substituting AND for OR. But, in no way, was Your Petitioner subject to the law:—for, he had not only taken the oath of allegiance, but had actually resided in the Province eighteen months before he was ordered to depart:—and, when he sued for liberation by Writ of *habeas corpus*, an affidavit was attached to the Writ, testifying that he had been domiciled, in one house, nine months, viz: in the house of Robert Hamilton, Esquire, of Queenston, who is still alive to confirm the same.

The Chief Justice of Upper Canada, when he remanded Your Petitioner to prison, after sight of that and other affidavits, most assuredly sinned against knowledge,—judged contrary to evidence; and, on the Bench, when Your Petitioner was tried before him, got out of the difficulty by telling the Jury that, *to be an Inhabitant of Upper Canada, a person must occupy a house of his own, in the Province*—a perversion, which was happily reduced to an absurdity by Doctor Dunlop when debating the question before Your Honorable House, in 1841.

Monstrous to think! Your Petitioner was banished, solely, on that perverted charge, while so weak with cruel treatment in prison, as to be unable to protest against proceedings; and, now, after the clearest evidence of all this,—obtained by the Committee of Your Honorable House,—even now, Your Petitioner still rests under the ban of banishment; and, for twenty-seven years, has been out of possession of his property, in England and Scotland, because of false imprisonments in Upper Canada:—aye, and after all, the writer of the Report of Council drives about “*commiseration*,” and says, that Your Petitioner, “*if he wishes it*,” may be “*granted a pardon, now!*” Could anything, more insulting, be penned?

Your Petitioner is told that, he cannot again be heard by Your Honorable House, unless he prays for compensation, in money. In reply, he has to say, that he never asked for money from the people of Upper Canada, or Canada. In no one of his Petitions, was there a prayer for that. He sought only for evidence to be laid before the Imperial Parliament, and had the Assembly, in the year 1839, granted his prayer, he would have been satisfied;—so too, in the year 1841, had not the Executive Council thrown a bar in his way. That year, Your Petitioner addressed a letter, to the Chairman of the Committee of Your Honorable House, stating what he wanted, and concluding thus: “*The opinion of the House being expressed to the Governor, I could return to Britain, regain my family, and be, there, compensated.*”

Your Honorable House did, in the year 1841, gratuitously recommend that, Your Petitioner “*should be compensated for losses; that, in the mean time, some allowance should be made to him, while defending the rights of a British subject;*” and, in conclusion, suggested that, “*What he did (for the Government) in the late rebellion, should neither be overlooked nor forgotten.*” With all this, Your Petitioner was well pleased; and, doubtless, all would have been allowed, but for the Report of the Committee of the Executive Council. At present, in the opinion of Your Petitioner, there is only one question for consideration, viz:—Are the opinions expressed in the Report of Your Honourable House, 1841, sound and true?—or, have they been proved to be otherwise, by the shewing of the Report of a Committee of the Executive Council?

Your Petitioner never had a doubt, in his own mind, that his imprisonment, in Niagara, in 1819, was, as Your Honourable House declared, “*illegal, unconstitutional, and without the possibility of excuse or palliation.*” But, as a dispute subsists between Your Honourable House and the Executive Council, he would have the final issue reached, in so very grave a matter, by the best means, and most constitutional steps. Sir Richard Jackson had, no doubt, forgotten his determination not to interfere in this business, as “*being only in the temporary administration of the Government,*” and, afterwards, been imposed upon by the very specious language of the Report of the Committee of the Executive Council, when submitted for approval. The Governor General is now otherwise situated; and, it would be proper that His Excellency should review the whole facts, and arguments, on both sides. Many points remain to be noticed, which the limits of a Petition preclude; and, Your Petitioner would humbly suggest, that Your Honourable House should appoint a Committee to prepare the whole to be laid, by Address, before His Excellency, the Governor General.

He now, therefore, entreats that he may be heard in person, or by Counsel, at the Bar of Your Honourable House; or, before such a Committee.

And, as in duty bound, he will ever pray.

ROBERT F. GOURLAY.

Montreal, May 1, 1846.