

ment as herein shown he was troubled with kidney disease which was augmented by reason of that imprisonment and exposure incident thereto; that prior to his imprisonment he never was troubled with rheumatism, but during his imprisonment as herein set forth and exposure to the intense cold and dampness of the cell, he was afflicted with stiffness of the limbs and pains in his side and shoulders, and after his release, on or about the 15th day of May A. D. 1885, he was attacked with a well defined case of rheumatism which lasted for about two and one-half months, and was directly traceable to that imprisonment, and exposure incident thereto. Attacks of rheumatism have recurred from time to time ever since, in periods varying from one to two months, and he has been under medical treatment for a period aggregating in all, since his imprisonment, not less than nine months on account of rheumatism contracted in that cell during his imprisonment. His physician, Dr. A. C. Bishop, of Butte City, Montana Territory, who treated him, died on or about the 18th day of April, 1888, but he has used the remedies prescribed by Dr. Bishop since to alleviate his sufferings from said disease. (See affidavit of Claimant marked Ex. K hereto attached.)

It is further shown by the affidavit of Helen S. Hatheway, the mother of Claimant, that he was gently nurtured and cared for in his minority; that he had been subject to kidney disease; that he had attained his majority but about eight months prior to his illegal arrest and imprisonment; that he had never belonged to or drilled with any military company whatever, so that there was an utter absence of those drill marks by which soldiers are at once recognized as such; that he knew nothing at all about military matters; that he had raised about \$2,000.00 on his property in Canada, of which he had become possessed on attaining his majority, and taken a portion of these funds to Big Horn City, Wyoming Territory; that she was informed of the arrest of her son about Feb. 26, 1885, and on that date she telegraphed the identity and citizenship of her son, which information was, as she has been informed, at once communicated to Col. Compton; that counsel was employed at St. John. N. B., and in Boston, and evidence of her son's identity prepared and quickly forwarded by mail; that no time was lost in fully acquainting the military authorities as to her son's identity, and with means of satisfying themselves as to his identity; that her anxiety was intense and her suffering great, during the period of his incarceration, but she was not informed of his cruel treatment in having been confined in an unheated, wholly unfurnished cell, and refused bedding or blankets, or permission to approach a fire, and that she did all possible to secure the release of her son.

It is a fact that the thermometer not infrequently marks 30 degrees below zero, Fahrenheit, at Fort McKinney, Wyoming, during the months of February and March.

The law and precedent governing Memorialist's case are well settled both in Great Britain and the United States.

It is not disputed to be a clear case of false imprisonment, which is defined by Sir William Blackstone to be: "any confinement or detention of the person without sufficient authority." (3rd Blackstone's Com. p. 127.)

It is true that both in the British Empire and the United States, the only available remedy which the law can give for such a wrong is an award of money estimated as an equivalent for the damage suffered.

The measure of damages in cases of false imprisonment was very ably considered and fully settled by the Lord Chief Justice of England, in 1763, in the case of *Huckle vs. Money*, reported in 2nd Wilson, p. 205, Michaelmas Term 4 Geo. 3. An award of three hundred pounds sterling had been made by the jury in the case of each of several printer's devils for six hours' false imprisonment, and the Lord Chief Justice on reviewing the case on motion for a new trial said: "I shall now state the nature of the case as it appeared upon the evidence "at the trial; a warrant was granted by Lord Halifax, Secretary of State, directed to four "messengers to apprehend and seize the printers and publishers of a paper called the "North Briton, number 45, without any information or charge laid before the Secretary "of State previous to the granting thereof and without naming any person whomsoever in the "warrant. Carrington, the first of the messengers to whom the warrant was directed, from "some private intelligence he had got that Leech was the printer of the 'North Briton, number "45,' directed the defendant to execute the warrant upon the plaintiff, (one of Leech's "journeymen) and took him into custody for about six hours, and during the time treated him "well; the personal injury done to him was very small, so that if the jury had been confined "by their oaths to consider the personal injury only, perhaps twenty pounds damages would "have been thought sufficient; but the small injury done to the plaintiff or the inconsiderable-