

instructions on a very delicate and important question, and not for the purpose of giving a full detail of transactions, nor of justifying my measures, the propriety of which had not been called in question, circumstances were naturally omitted by me that would have been necessary for the latter objects, but not for that which I had principally in view.

I shall therefore avail myself of the opportunity you have afforded me, to supply, as well as my memory will enable me at this distant period of time, a few circumstances that seem to have been omitted, and that may tend to place those matters which have been commented on in a truer light.

Mr. Forsyth, an innkeeper, having taken upon himself to enclose with a high fence a Government reserve, consisting of a chain in width along the bank of the river Niagara, and which afforded the public free access to the principal Fall of the river, I was repeatedly solicited, by Petition and otherwise, to cause the obstruction to be removed. In consequence of those solicitations, I directed the officer of engineers who had charge of the reserved lands, to survey the Government property near the Falls, and remove any obstruction that had been placed on it. These objects were carried by him into effect, with the assistance of three or four of his men, without arms, in their working dress, and with the temper and caution he was enjoined to observe.

In the suits instituted by Mr. Forsyth against the officer of engineers, it was incumbent on the plaintiff to establish one or two points to entitle him to a verdict, namely, that the defendant had done that which, by law, he was not authorized to do; or that, in doing that which, by law, he was authorized to do, he had done unnecessary injury to the plaintiff's property or possession. Both these points were distinctly submitted to the jury, and both were determined against the plaintiff. Mr. Forsyth, therefore, no doubt regretted, as well as Sir George Murray, the manner in which this intrusion on the public property had been removed, of course, for reasons which did not lie in the same direction.

Can it be seriously believed, that had any other course been taken, Mr. Forsyth, or his counsel, would have found in it less cause for complaint, or have been less industrious in endeavouring to excite clamour about it? It is certain, however, that their efforts could not have been less successful.

After a verdict had been obtained for the Crown, and while the civil suit was pending against the officer of engineers, every attempt was made to prejudice the public mind. Mr. Forsyth petitioned the Assembly, complaining of what he termed a grievous outrage, describing the act as a lawless, high-handed exercise of military power. This Petition was referred to a Select Committee, of which his counsel in the proceedings at law was appointed member and elected chairman, and, on the *ex parte* statement of his client, and other witnesses, not on oath, framed a Report in direct opposition to the verdict that had been rendered and intended, as it must be supposed to influence that which was yet to be given.

This Report when made became a public document, and found its way into the public papers; and thus, upon a question of right, which had yet to be tried, the party had to encounter whatever weight a prejudice, so excited, could throw into the scale. The jury, however, gave their verdict for the defendant, as I have already stated.

It is rather singular that nearly at the same time an intrusion on the public property in the town of Washington, in the neighbouring Republic, had attracted attention. The obstruction in that case was removed by a party of the military, escorted by a company of soldiers, fully armed. A circumstantial narrative of the occurrence was given in the papers of that country; but in no instance, I believe, accompanied by any expression of disapproval.

To proceed to Sir George Murray's observation, that I should have exercised a sounder discretion had I permitted Colonels Givens and Coffin to attend the Select Committee, I concur entirely with Sir George Murray in thinking that it would have been advisable to do so had the Committee, as was usual, applied to me to direct their attendance. It was very well known that they could give no more information respecting the alleged outrage complained of by Mr. Forsyth, than any military officer selected at random from any part of the province. It was no wish to withhold information, therefore, that influenced me in this matter, and I did not fail to take care that the Committee should have reason to be assured that, in the event of the usual application being made to me, the officers would be desired to attend.