

The True Witness

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THE GREAT QUESTION.

EMINENT LEGAL OPINION

The Orange Association is Illegal.

The adjourned meeting of the St. Patrick's Society was held Wednesday at the hall on the corner of Alexander and Craig streets, Michael Mallin, Esq., Vice-President of the St. Patrick's Society, in the absence of the President, in the chair. The hall was crowded to its utmost capacity by the most prominent Irish Catholic citizens of Montreal, and the utmost calmness, good feeling and enthusiasm prevailed throughout. Among others present were Messrs. Devlin, M.P., J. Curran, Q.C., Aldermen Donovan, Mullin and Kennedy, Messrs. Barry, McNamee, McEveane, J. P. Whelan, S. J. Meany, O'Meara and Bury.

Mr. Devlin who acted as spokesman of the committee of fifteen, appointed the night before, to wait upon the Mayor, came forward and said, that in pursuance of the resolution passed, he and the fourteen other gentlemen waited upon His Worship the Mayor at ten o'clock in the morning, and stated to him the opinions of the meeting, and the stand taken by the Irish Catholics whom they represented in defence of the peace of the city. His Worship was very happy to hear of such an expression of opinion, coming from such a source, and in answer to the offer of service as special constables or otherwise sincerely thanked them and fully appreciated their motives, and honored them. The question, however, was a most serious one, and deserved mature and deliberate consideration. He (the Mayor) would like to hear the opinion of Father Dowd on the subject, knowing as he did, the great respect the Irish Catholics, as well as the citizens of Montreal in general entertained for him, and said he would see the deputation again at 2 o'clock p.m. The deputation accordingly departed, and shortly after waited upon Father Dowd, who entirely agreed with them in their view of the situation, that is to say, that the Orange body was an illegal one, that the Mayor in the matter of preserving the peace of the city was fully capable of doing his duty, and was the paramount power; and finally, that the calm stand the representative Irishmen had made in furtherance of law and order, met with his entire concurrence.

Punctually at the time appointed the deputation waited once more upon the Hon. Mr. Beaudry, who stated, in substance, as follows: According to instructions from Ottawa, General Selby Smith had assumed the military command of the City of Montreal, and that in consequence he washed his hands of the business and allowed others to resume the responsibility of maintaining peace on the 12th of July. Hence a proclamation to that effect was in the press and its contents would be known in a few hours. He had, however, empowered Mr. Devlin to state to the General that the Mayor of Montreal was prepared to act under his instructions as Civil Magistrate, and would do all in his power to assist in preserving the peace. His (Mr. Devlin's) next step was to go to the Windsor Hotel and see General Smyth, who received him courteously. The General was a magnificent specimen of a soldier, and one who would act strictly, justly and impartially at all hazards; that he was perfectly sure, even if he had not so expressed himself. He would be very happy to have the assistance of the Mayor and told him (Mr. Devlin) that it was not his way unless it were absolutely necessary (cheers), and at the same time expressed his regret that he was called upon to act in that capacity. The next proceeding of Mr. Devlin and his colleagues was to procure the advice of four of the most eminent lawyers in Montreal or perhaps in Canada, on the legality or illegality of the Orange procession. The lawyers are Messrs. Barnard, Edward Carter, Bethune and Ritchie, all Queen's Counsellors, and the legal opinion of those gentlemen is as appended hereunder: (Applause).

MONTREAL, July 9, 1878.

Sir,—The St. Patrick's Society of Montreal, placing full confidence in your eminent legal ability and impartial judgment as a lawyer requests you will favor them at the earliest possible moment with your opinion in the following case:—

CASE.

An Association exists in Montreal claiming to be an Orange Association or Lodge, and its chief officer, calling himself County Master, has directly, or through some subordinate officer, called upon the civic authorities for protection in connection with the intended procession of the Association through the streets of the city of Montreal on the 12th of July. The oath taken and subscribed by the members of the said Association is one not authorized by law, and, moreover, contains an engagement of secrecy not required by law. The opinion of counsel is requested upon the following questions:—

1. Is the said Association illegal under the tenth chapter of the Consolidated Statutes of Lower Canada, and, if so, would such procession, should it take place, constitute an unlawful meeting?
2. Are parties, residents of this Province or elsewhere, joining the procession in Montreal of such Association, although not members of the Association, equally liable as if they were members?
3. In case such assembly be unlawful, is it the right or duty of the conservators of the peace to disperse the same?

You may associate with you with other legal gentlemen as you may deem fit.
Your obedient servant,
M. WALSH,
Corresponding Secretary.
Edward Barnard, Esq., Q.C.

OPINION.

1. By the sixth section of chapter ten of the Consolidated Statutes of Lower Canada (1861) every society or association, the members whereof are, according to the rules thereof, or to any provision or any agreement for that purpose, required to keep secret the acts or proceedings of such society or association, or to take any oath or engagement not required or authorized by law; and every society or association, the members whereof, or any of them, take, or in any manner bind themselves by any such oath or engagement, or in consequence of being members of such society or association; and every society or association, the members whereof, or any of them, take, subscribe, or assent to any engagement of secrecy, test or declaration not required by law; and every society or association which is composed of different divisions or branches, or of different parts acting in any manner apparently or distinct from each other, or of which any part shall have any separate or distinct President, Secretary, Treasurer, Delegate, or other officer elected or appointed by or for such part, or to act as an officer for such part, shall be deemed and taken to be unlawful combinations and confederacies. And, by the seventh section, any person who, in breach of the provisions of the Act, shall be guilty of any such unlawful combination or confederacy, and shall be convicted thereof, shall be imprisoned in the Provincial Penitentiary for a term not exceeding seven years nor less than two years. And by the ninth section, Freemasons under any Grand Lodge in the United Kingdom are exempt from the operation of the Act, and by the 29th Vict. Ch. 46, (1865), the exemption is extended to Freemasons under the Grand Lodge of Canada. The Orange Association referred to being bound by an oath not authorized by law, and containing an engagement of secrecy not required by law, we are of opinion that it is an unlawful combination and confederacy within the meaning of the said Act, ch. 10 of the Consolidated Statutes of Lower Canada, and consequently, that any meeting of the Society, either in a building or in any of the streets of this city, or in any other place within this Province, is an unlawful meeting or assembly. The right thus to meet or assemble being illegal, it necessarily follows that the walking together of such society in procession in the streets of Montreal on the twelfth instant will be unlawful.

2. Applying the principles of the Common Law, and in view of the express provisions of the second sub-section of section six of the said Act, ch. 10, of the Cons. Statutes of Lower Canada, we are of opinion that any persons, whether residing in the Province of Quebec or not, joining in the procession, although not members of the said Orange Association, would be equally liable as if they were such members. The words of this sub-section are as follows:—And every person who becomes a member of any such society or association, or acts as a member thereof, or every person who, directly or indirectly maintains correspondence or intercourse with any such society or association, or with any division, branch, committee or other secret body, treasurer, secretary, delegate, or other officer or member of such society or association, whether within or without the Province, as such, or who, by contribution of money or otherwise, aids, abets or supports such society, or any member or officer thereof, as such, shall be deemed guilty of an unlawful combination or confederacy.

3. Holding, as we do, for the reasons above stated, that the contemplated meeting and procession are unlawful, we are further of opinion that it is not only the right, but the duty, of the conservators of the peace to suppress and disperse any such meeting and procession, should they be held. The law on this subject cannot, perhaps, be better stated than in the following remarks of the Court in the case of the Queen vs. Neale et al. 9 Carrington and Payne 431: "It is not only lawful for magistrates to disperse an unlawful assembly, even when no riot has occurred, but if they do not do so, are guilty of criminal negligence in not putting down any unlawful assembly, they are liable to be prosecuted for a breach of their duty."

STRACHAN BETHUNE, Q.C.
ED. CARTER, Q.C.
THOS. W. RITCHIE, Q.C.
EDWARD BARNARD, Q.C.

MONTREAL, 10th July, 1878.

Mr. Devlin resumed and said that he had just been informed that the proclamation though printed had not been issued; and he suggested that a committee be at once struck to wait on the Mayor and submit the legal opinion of such eminent counsel, where, perhaps, he might change his mind once more. "As all events, gentlemen," concluded Mr. Devlin with emotion, "it will be a great consolation to us, the Irish Catholic citizens of Montreal, to know, let what will happen, that we have right and justice on our side as the document I have just read goes fully to show." (Cheers).

The following committee was then struck, and proceeded at once to have a third inter-

view with the Mayor:—Messrs. Devlin, McNamee, Ald. Mullin and Donovan, J. J. Curran and G. Bury. After three-quarters of an hour the deputation returned and announced that Mr. Beaudry, after hearing the legal opinion read, could not give a decision as to the withdrawal or promulgation of his proclamation until 10 o'clock on Thursday morning (to-day). This announcement was received by the large audience with decided marks of disapproval.

Mr. S. J. MEANY expressed himself to the effect that in the present crisis the leaders of public opinion among the Irish Catholics should be very cautious, or except they acted as abettors and aids of the civil power, the combined strength of the Orange body and the military would overpower any resistance, and the consequence would be loss of life without any good result obtained.

Ald. MULLIN moved, seconded by Mr. McEveane, that this meeting stand adjourned till 12 at noon to-morrow, and then meet in the same place. Carried.

It was moved by Mr. MEANY, seconded by Mr. Barry, that the committee then acting (the deputation of 15) be and remain permanent until the crisis were passed. Carried.

Ald. MULLIN made a few brief remarks, in which he advised the utmost caution. If he said, the Mayor concluded to swear in special constables as proposed, the citizens would be able to prohibit the illegal procession of an illegal association, and if on the contrary His Worship adopted the opposite course, he for one would advise the absence from off the streets of Irish Catholics on the 12th of July, and meanwhile, he would recognize the justice of their cause and an outraged public

Mr. Bernard Devlin sincerely thanked His Worship for the prompt action taken, and the deputation withdrew after Mr. J. J. Curran, Aldermen Kennedy and Wilson, and a few other gentlemen, had expressed their thanks and approval of the action taken.

ORANGE AND GREEN.

Preparations are still going on for the new near-at-hand 12th of July. "A" Battery, from Kingston, commanded by Colonel Cotton, arrived last night by the mail steamer from Kingston. They at once proceeded to the Montreal Lacrosse Grounds, rented for the purpose by the authorities. "B" Battery, from Quebec, has arrived this morning, and will encamp on the same field. The city volunteers are to parade early to-morrow morning, and will be supplied with thirty rounds of ammunition per man and a day's rations. Of the volunteers, 600 will be located in the Skating Rink and 600 in the Crystal Palace, while others will be placed at important central points, ready to act at a moment's notice. Forty or fifty Orangemen, from Sandy Creek, arrived last night to reinforce the brethren, and by this evening most of the detachments coming here from outside will have arrived. Yesterday afternoon fifty-three employees of the Grand Trunk were sworn in as

SPECIAL CONSTABLES

by M. Dubrouil, Deputy Clerk of the Peace. The Police Committee held a meeting Thursday afternoon, but with closed doors. It is presumed the business was connected with the preservation of the peace on the 12th of July.

THE ORANGE ANNIVERSARY.

At half-past eight Friday morning the heart of Montreal began to beat, that is if we accept the district extending from Raedegonde street, to McGill and from the City Hall to Victoria square, including the great arteries of traffic between those points namely Craig, Notre Dame and St. James streets. At about eight o'clock these places were the scene of considerable excitement and the situation was something like the following:—A troop of cavalry, marched along Craig street, the special constables and a reserve of police were marching up and down St. James street keeping the sidewalk clear. Long lines of infantry were posted in Victoria square, on Raedegonde street and Dominion square, a battalion of rifles occupied McGill and all the squares and points of vantage in the vicinity, a company of red coated infantry being very conspicuous on Evans' woodpile. On St. James street, the central point of attraction everything was, comparatively quiet, but only ostensibly, for the face of almost every man in it wore a look of trouble and excitement. A number of Britons and Orangemen, in bright yellow sash, and purple regalia, including scarfs, ties and other badges, had assembled at their hall, but they were obliged to keep inside by the police. As often as they attempted to make a display they were quietly but firmly forced back, though it must be said that their efforts to emerge were not very strenuous, and their faces were very pale but determined. At 8:45 a grand marshal rode up the street and halted in front of the Hall. He was dressed something like a groom, wore a plug hat, and the mark of his only high rank besides a small badge, was an Orange cord round his hat. He seemed half pleased and half disgusted when the police told him, he should move on, and so like the Knights of old.

HE HOWED, AND HE RODE AWAY.

Towards nine o'clock numbers of young men essayed to gain St. James street from all the avenues leading to it, but they were met promptly by the squads of police patrolling in all directions and the supernumeraries sworn in some time ago for this particular purpose. At this time, too, the cry of

THE FIRE.

was heard, and smoke was seen issuing from the direction of Victoria Square. The alarm rang out quickly and sharply on the beautiful morning air; the reels from the Central Station thundered along, and the thought obtained that part of the day's programme had commenced, the fire had commenced his work, it was to be followed by the fiend of slaughter. Happily it proved to be one of the usual alarms, and the cause was soon disposed of by the firemen.

One important fact in our population, in fact the most important, the female element was conspicuous by its absence, not a woman was to be seen in any of the central streets in contradistinction to last years, when they were the more numerous of the idle spectators. At about half-past nine the crowds on the avenues descending on St. James street grew large, especially on Dollard Lane opposite the Orange Hall, but the street itself was kept perfectly clear for traffic and except from the faces of those on the sidewalks the intelligent stranger would not know that anything extraordinary was passing or perhaps he might happen to notice some of the windows presently covered with boards. During all this time the military kept constantly moving from street to street and from square to square, scouring the circle round the heart of the city in large detachments, but never crossing St. James street, which was entirely in the hands of the police.

ANOTHER REPORT.

Nine o'clock was the hour fixed by the proclamation of the District Master for the Orange procession to leave their hall on St. James street, but long before that time large crowds of people commenced to congregate in the vicinity. A number of police were in attendance, and rendered efficient service by causing every one to

KEEP MOVING.

A large number of Orange Young Britons, True Blues and Prentice Boys, with a sprinkling of full-fledged Orangemen, arrived and proceeded up stairs to the hall. About a quarter past nine o'clock the glistening of bayonets was observed in the distance, and on nearer approach the men of the city police under Deputy-Chief Nagle were seen making their way to the Orange assembly rooms. There were about one hundred and forty men all told, one-half being armed with breech-loading rifles, the remainder having batons. On the ground, among others, we noticed His Worship the Mayor, Ald. Donovan, Kennedy, Mullin, Mcroer, Hagar, Wilson, His Honor Judge Coursol and others. After the regular force had been

ON THE GROUND.

in a short time, the special police, numbering 500, were marched up in five squads of 100 each. The police, when halted, were drawn up in front of the Orange hall, in the centre of the street. While here,

STOCKS OF WOOD.

were thrown at them from one of the windows of the hall, but fortunately, no person was injured. To prevent a possible occurrence of this event, the men were marched to the other side of the road, where they were comparatively free from the vengeance of the

disappointed Orangemen. About ten o'clock a young man with a lily in his hat left the door of the Orange hall, and marched leisurely along the sidewalk towards St. Lambert's Hill. A number of men who had congregated on the opposite side of the road, considering the arrogant manner in which the Briton was conducting himself, fired a volley of stones at him, none of which, however, struck him. As he was wending his way hurriedly back to the hall, he commenced to tantalize the special constables, when one of them left the ranks and gave him a

BLOW ON THE HEAD.

which had the effect of causing him to make tracks with all possible speed for the hall, on arriving at the door of which he took off his hat and gave three cheers for King Billy. The excitement was intense throughout the morning. A young man, wearing a straw hat with a blue ribbon and a blue necktie, was endeavoring to pass through the crowd to the Orange hall, when the persons assembled refused to allow him to pass, and would, doubtless, have laid violent hands on him, had it not been for the timely arrival on the spot of

HIS HONOR JUDGE COURSOLO.

who prevailed on the crowd to remain quiet and allow the young man to pass unmolested. This they did, and he made his way to the Hall without any further mishap. In the morning, shortly after the hour named for the march out, Mayor Beaudry proceeded to the Hall and explained to the heads of the Orange body present the fact that he could

NOT LEGALLY RECOGNIZE

their organization in consequence of the opinions expressed by some of the most eminent jurists in the country.

The Orange leaders, it appears, however, declined to take the advice of the Chief Magistrate, whereupon the Mayor left the building. His Worship remained in the neighborhood a short time, and then departed, returning at about 10 o'clock, when he approached the officer commanding the police force, gave orders to arrest any person found on the street wearing regalia, or acknowledging to be a

MEMBER OF THE ORANGE BODY.

The police at once proceeded to make the arrests, and took the following into custody: County Master Grant, Grand Marshal John Hamilton and Thos. Inglis, all of whom were on horseback. Several other members of the order were arrested on making their appearance in the street, and marched to the Central Station, where they are all confined, but being refused in the case of all, except Inglis who was released on his own recognizance on leaving his regalia as security. An effort, it is said, will be made to induce some of the Protestant magistrates to release the accused on bail, but nothing definite has yet been done in that direction. In order to prevent the possibility of rescue or any

DAMAGE TO THE CITY HALL.

or police station, Ald. Laberge this morning swore in fifty special constables who are now on beat around the building.

ANECDOTES.

Around the French Square there is an imposing array of military, composed of the 53rd and 54th Regiments perfectly stationary, but ready for emergencies.

THE ORANGE LADY AND THE CATHOLIC FEMALE.

appeared once more on the scene. At ten o'clock, on Victoria Square, two women encountered one another, one wearing an Orange emblem. The other grew angry at this insult and making a hostile demonstration in force, a battle commenced in which the admirer of King William had her head-gear flattened out, and was worsted in the encounter.

On Jacques Cartier Square, at 8 a.m., a special constable struck a volunteer on the crown of the head for whistling a party tune. The 54th Richmond Battalion occupy Place d'Armes Square.

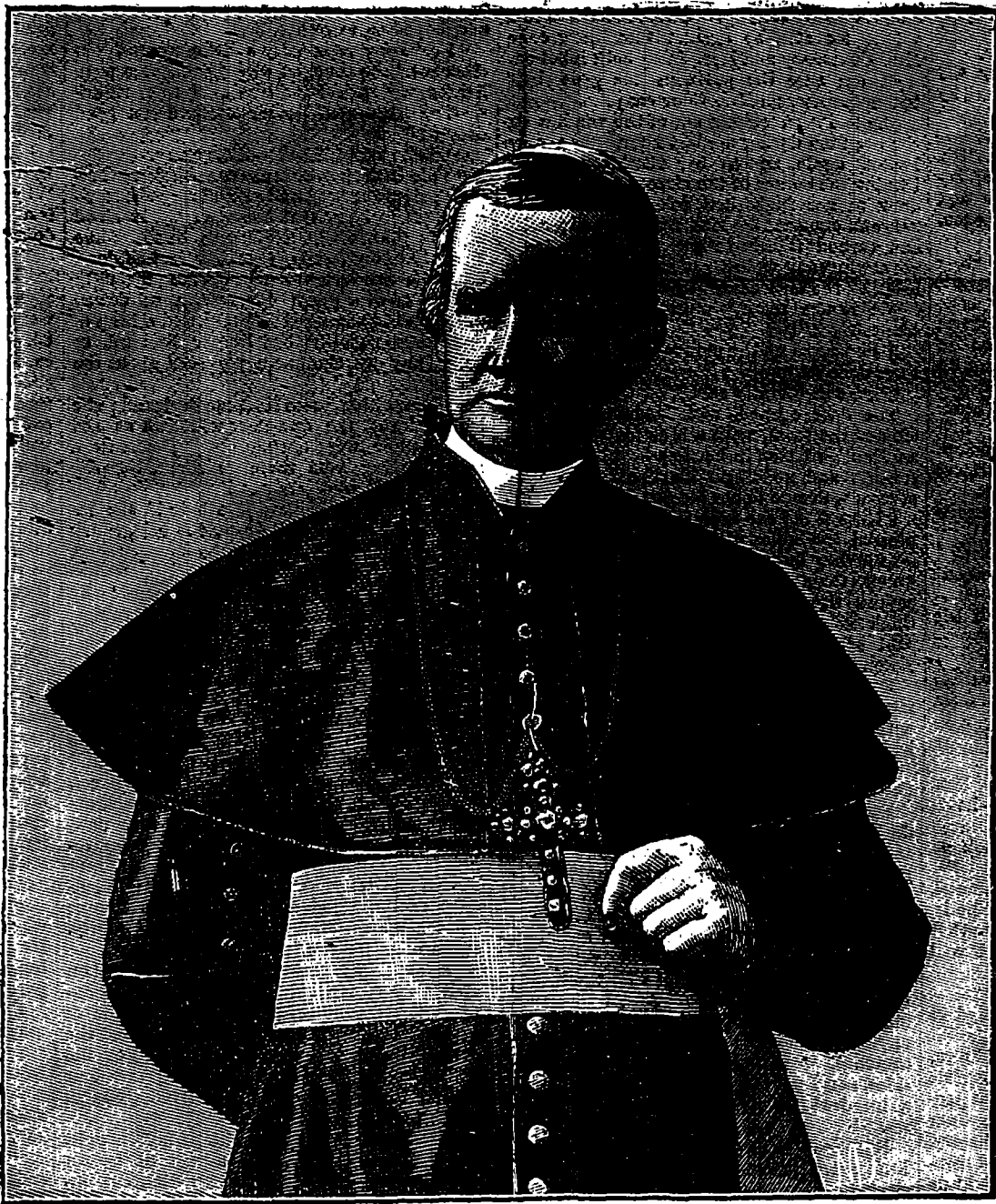
What is causing considerable comment is the fact of Colonel Smith being placed in command of the military on the French Square. The men under his command are mostly Orangemen, comprising the Huntingdon battalion. It may be stated that there are only four Catholics in this regiment. The propensity to the French Church of Col. Smith is remarkable, and the question is who—if any one—placed him there?

At twelve o'clock St. James street began to be crowded by workmen going to dinner and who pursued this route to their homes through curiosity. They were not, however, allowed to stand or form knots—the inextinguishable police kept them moving. At half-past twelve a crowd collected in front of the Ottawa, most of whom were Orangemen, and the spark of excitement was nearly being ignited, when the

INEVITABLE POSSE

came along and dispersed it. About this time a messenger, bearing despatches from outside lodges to the Orange Hall, was intercepted and arrested by John Gunning Bell, a special constable, and had the despatches taken from him.

Shortly before noon a well-known young Briton, named Hurst, and a companion, while endeavoring to pass towards the Hall, were stopped by the police and searched for arms, but nothing in that line was found upon them, and they were accordingly released. A number of persons in the crowd recognizing Hurst as being, in some way, connected with the shooting of John Gunning Bell last spring, followed him and his friend down St. Lambert hill, and, on reaching the corner of Craig street, overhauled the latter and knocked him down, inflicting some severe injuries about the head and body. In the meantime, Hurst managed to make his way into the grocery of Messrs. Gravel Freres, and the police arriving at the time, he was enabled to remain there in safety until the crowd was dispersed, when he made good his escape homeward, Detective Cing Mars, who endeavored to pursue him, (Continued on fifth page.)



CARDINAL McCLOSKEY.—