



CATHOLIC CHRONICLE.

VOL. I.

MONTREAL, FRIDAY, APRIL 18, 1851.

NO. 36.

THE CASE OF "MÉTAIRIE v. WISEMAN."

(From the Tablet.)

More than fifty years ago—in the year 1797—the French revolution drove a certain Mathurin Carre, in great destitution, to take refuge in England. He settled in London, and supported himself as a teacher of languages. In consequence of some services rendered to him by the father of the plaintiff Hamilton, he became intimate with the family of that individual, and took up his abode as a lodger in their house in Charlton-street, Somerstown, where he lived for a period of eighteen years, down to the time of his death. He occupied two rooms, miserably furnished with a few articles of his own; his mode of life was most penurious, and he devoted himself with the tenacity of a strong will to the sole object of amassing money. He was successful in this, and in the course of half a century he had got together no less than £10,000, which he invested in the funds. Of this sum, £7,000 was in the Three-and-a-Quarter per Cent. Annuities, and is the subject of this litigation, and the remaining £3,000 was in the Three per Cent. Annuities. The plaintiffs make it a point of some importance to show—or rather to assert—that he was indifferent to religious duties, and that he had a great antipathy to women, arising, it is said, from the rejection of an offer of marriage he had made to one Annette Delahe. Towards the end of February, 1847, Carre had reached the age of seventy-seven, and was still persisting in his scholastic toils; at that period, however, his health gave way—he undertook one of his walks from Somerstown to a school in Clerkenwell, but he was obliged from weakness to return when he had reached King's-cross. On reaching home his weakness increased, and within a few days it was evident the old miser was likely to die. He expressed, according to Matthew Hamilton, great uneasiness at not being able to go to the City to receive his January dividends, as he had scarcely any money in the house. He refused at first to have a medical man sent for, but at length allowed Hamilton to call one in. Hamilton selected a M. Gasquet, a French medical man in the neighborhood, on the ground that Carre was a Roman Catholic. He says, indeed, that Carre was utterly indifferent to religion, but nevertheless this is the reason stated for his choosing Gasquet. Gasquet called, found his patient very weak, and recommended wine and nutritious food, observing, however, says Hamilton, that "the poor creature" was not likely to be able to afford it. Hamilton says he told Gasquet that the poor creature was possessed of no less than £10,000, at which the doctor, he says, was greatly surprised, took his leave, and called immediately to inform the Rev. James Holdstock, Priest of St. Aloysius's Chapel, at Clarendon-square, that there was an old Roman Catholic possessed of that great sum, and in a dying state. Hamilton, in his affidavit, observe, tries to make us suppose that Gasquet knew nothing about Carre till that time; is silent as to any acquaintance Carre himself had with the Priest; and states that "he took no interest in Roman Catholic schools, or in any institutions connected with the Roman Catholic form of worship."

On Sunday, Feb. 28, the Rev. Mr. Holdstock called upon Carre, and had a private interview with him. Matthew Hamilton says that at this private interview the Priest talked to Carre about his temporal as well as spiritual affairs, that Carre told him of his difficulty about receiving his January dividends, that the Priest informed him that powers of attorney would be required for that purpose, and volunteered to bring a lawyer who would prepare such a document for him, to which Carre agreed. We are led to suppose by Hamilton that this was the business conversation that passed, and no other, except that the priest learned the names of Carre's relatives. If you ask why we are to believe this, the reply is that Matthew Hamilton told him so. Matthew Hamilton says Carre told him so, and also informed him of "the rest of the conversation," which the witness passes *sub silentio*.

Matthew Hamilton goes on to say that the Rev. Mr. Holdstock afterwards went to Mr. John Athanasius Cooke, a Roman Catholic barrister, and told him that Carre, a French Roman Catholic with £10,000, was dying, and that he (the Priest) wanted Cooke's advice about M. Carre's disposition of his property, and that Cooke prepared a will, by which Carre was made to leave a part of his money to Roman Catholic purposes (the Catholic girl's school of St. Aloysius, Somerstown). Hamilton's object is to show that whereas Carre only spoke to the Priest about the powers of attorney for the January dividends, the Priest, without Carre's instructions, caused a will to be made for purposes of his own. We shall soon see what value is to be attached to Matthew Hamilton's testimony, but we go on with the next part of the story in Hamilton's own words. He says:—

On Monday, (1st March, 1847, the day after the

Sunday on which M. Carre had first seen the Priest) the Priest and Mr. Cooke repaired together to the abode of M. Carre, and went into his room, and one or the other desired me to leave them, which I did, leaving them alone with M. Carre. Mr. Cooke produced a will which he had prepared, and the Priest strongly pressed M. Carre to execute a will, or some other paper, but M. Carre refused to do so, and he informed me that he told the Priest that all he had wanted a lawyer for was to prepare the powers of attorney, and the Priest then promised to have prepared the requisite powers of attorney; and the Priest or Mr. Cooke said it would require time to prepare such powers of attorney, and promised to have them ready by Thursday next, and to bring them to him to sign. [The witness goes to say that two persons well known to the Priest called at the house whilst this was going on, and that when he went up stairs to announce them] I found the door of the room imperfectly closed, and I heard either the Priest or Mr. Cooke say to M. Carre, "Well, Sir, but you had better sign this;" and I heard M. Carre answer, "No, I shall sign nothing, there is no necessity for it." I entered the room, and informed the Priest that two persons below wanted him, and that they said they had directions to come up to him; whereupon the Priest hesitated and reflected for a few seconds, and then requested me to say to the persons, "Never mind now, I do not require them;" and to tell them to go, and say that he would be with them directly. I conveyed the message to the two persons, and they went away. I have no doubt but that they had come to attest the execution of any will which the Priest might induce M. Carre to execute, and he dismissed them because M. Carre would not consent. The Priest and Mr. Cooke went away together, and immediately after I let them out I went to M. Carre's room, and he said to me, "Who the Devil could those people be? what the Devil could they want here?" I said I did not know, but I wished I had been present while the Priest and Mr. Cooke were with him, and he said, "I wish you had." He then told me all that passed, and that the Priest had pressed him to have his will made for him by Mr. Cooke, but that he had refused to do so, and said that he wished to sign nothing but the power of attorney; and M. Carre told me they had pressed him to make his will in a way to avoid legacy duty, but he had refused to do so. He then said, "I suppose you and I can make my will at any time without a lawyer." I answered I thought we could do so, and he replied, "Very well," that will do; then all I shall want of him (Mr. Cooke) is the power of attorney for you to fetch my money."

Hamilton goes on to say that Mr. Cooke, without instructions to do so, prepared a will, leaving the £3,000 to relations of Carre, and to other legatees, and also powers of attorney to transfer the sum of £7,000 stock to the names of M. Carre, Dr. Griffiths (the late Vicar-Apostolic), and J. A. Cooke, for the purposes of St. Aloysius' School, Somerstown. Hamilton wishes us in this statement, and what follows, to draw the inference, that as Mr. Holdstock and Mr. Cooke had been disappointed in getting Hamilton to sign the will the day before, they now proposed to make him sign the powers of attorney transferring the £7,000 into their hands, under the impression that he was only signing the powers of attorney which he himself wanted for the January dividends. A distinct and wicked fraud is thus laid to the charge of the defendants.

Next, Hamilton tells that Carre got weaker and weaker; that on Wednesday, the 3rd, he thought he had not much longer to live; and that he called Hamilton and made him take down various instructions for a letter to be written to his sister, Julie Carre, at Laval, in France, after his death. Hamilton was to tell her that she was to come to England and take possession of all his property, £10,000; that he would have made a will if he had been strong enough, and would have left Hamilton some considerable benefit in reward for his kindness. As he could not make a will, however, his sister was to fulfil his wishes in this respect, and he would die happy. Hamilton, moreover, says, that Carre ordered him not to admit the gentlemen to see him on Thursday, (the day they had arranged to call again) but to leave the documents with him, (Hamilton) as Carre was too ill to see them.

On Thursday afternoon, we are told that Mr. Holdstock called, accompanied by Mr. Cooke, a Miss Clarke, and a Mr. Hay, formerly a clerk in Wright's Bank, in Henrietta-street. Some friend of Hamilton's, a Mr. Brown, happened to be in the house at the time. Hamilton says that he gave the Priest Carre's message, that he became "fiercely angry" on hearing it, forced his way into the house, and rushed up to Carre's room; that he (Hamilton) along with Mr. Brown, followed the Priest shortly after, and found him talking "very earnestly and seriously," in a foreign language, to Carre, seeming to press him to do something he (Carre) was unwilling to do; that the Priest at length said, Carre would settle, and ordered the other parties to come up; that Carre then said decisively, he would sign nothing that day; that Mr. Cooke wished the matter to be deferred, but that Mr. Holdstock angrily ordered the business to be proceeded with, and that Mr. Cooke then began to read a deed, dated March 4th; that whilst Mr.

Cooke was reading the deed, Mr. Holdstock kept talking to Carre in a foreign language. Our Catholic readers will doubtless be surprised with what follows:

Mr. Cooke did not say the engrossment was a deed, nor explain it; and when he came to that part giving £50 to Mr. Holdstock, the Priest paused, so that M. Carre might hear it, and he read the words, "I give to the Rev. James Holdstock, my Priest, £50, to pray my soul out of purgatory." Mr. Cooke had read these words, the Priest resumed his reading, and did not pause till Mr. Cooke had finished. The Priest then took the engrossment from Cooke, and placed it on the bed, supported by a book under, and having lifted up M. Carre in bed, the Priest put a pen with ink in it in his hand, and directed M. Carre where to sign. M. Carre then said, "If I had known I should have had all this trouble, I would not have sent to you about the power of attorney. It will remain just the same. I can alter it any time I like. My money will not go from me, will it, till after my death?" and Mr. Cooke then answered and said, "it will remain the same—it will not be touched till after your death, and you can alter it any time, if you like;" and I believe the Priest said the same. M. Carre then signed the engrossment, as I believe because he thought it would not prevent his disposing of it by will; and also, because he was very weak, and hoped by signing to obtain freedom. I believe he did not know the effect of what he had signed. Mr. Cooke then handed to the Priest a power of attorney for the transfer of the £7,000 into the names of M. Carre, Mr. Cooke, Mr. Griffiths; and either Mr. Cooke or the Priest said at the same time, "this is a power of attorney," and the Priest then presented it to M. Carre for his signature, while the pen was in M. Carre's hand, and he signed it. I believe M. Carre thought the document was the one he wanted for transferring the dividends. While the Priest was presenting the power of attorney to M. Carre, Mr. Cooke was rapidly reading a paper, giving benefits to M. Carre's family, which I know now to be the will, and had finished it by the time the power of attorney was executed, and immediately afterwards presented the will to M. Carre, who signed it.

Miss Clarke then signed the paper, as also did Mr. Brown. Hamilton goes on to say that Carre then asked Mr. Cooke to leave the papers with him; that Mr. Cooke said the will might be left, but not the deed and power of attorney; that Carre demanded to have "the power of attorney he had ordered for Hamilton to fetch him money (the January dividend deeds) with;" that Mr. Cooke was confused, and said that he would call on Saturday morning to get Carre to sign them; that then he (Hamilton) expressed his surprise that there was no mention of himself in the will, as he thought he was to be the executor, and have all the money and goods in the house; that Carre assented to this, and said such was his wish; that he first said this might be added in a codicil; that then Mr. Cooke went away, carrying with him the papers; and that Mr. Holdstock then drew up a codicil, giving £50 to Mr. Cooke, which was signed by Carre, and attested by Miss Clarke; that the parties then went away, and that after they were gone, Carre said to him, (Hamilton) "all they wanted was to rob me of my money; they have done just as they liked, contrary to my will, but I shall make a new will;" and that he then said he would give him (Hamilton) £500, and the January and April dividends. Carre died on Saturday, March 6th, and shortly before his death the £7,000 stock had been transferred to the names of the trustees specified in the deed of gift.

Such is Matthew Hamilton's account of these transactions in March, 1851. Let us now hear the same Matthew Hamilton's account of them in a letter which he addressed to Carre's relations in April, 1847, which letter he gave to Francoise, an interpreter, who attended the relations to England, expecting him to translate it for nothing. We make no apology for giving this document *in extenso*, and we beg the impartial reader diligently to compare it with the details given above:—

"To Julien Carre, or brothers, 50, Charlton-street, Somerstown, April, 1847.

"Madam—I beg leave to explain the reason why I have not written to you before, since Mr. Cooke, the executor, by my request, wrote to inform you of the death of your beloved brother, that took place on the 6th of March, in his 77th year, from decay of nature, at my house, was from daily expecting to see some branch of the family in this country, as that would have afforded me a better opportunity of explaining all about his affairs, through a French gentleman, a countryman of his, that came to visit him; but as I now understand it is likely to be some considerable time before a settlement of his affairs is likely to be completed, I wish to communicate with you on the subject, by giving you a full statement, by his particular wish and desire. A short time before he departed this life, he instructed me to inform you of his last wish and desire, being too weak and exhausted to be raised from the bed to commit it to paper, but felt confident of your complying with his last desire, as he then could die happy, and very soon after expired, with his wish and desire in his mouth. I now give all the particulars relative to this affair. I have been acquainted with the deceased about forty years, and he has lived in my house nearly twenty upon the most friendly terms

with me and my family, enjoying good health up to Christmas last; but on returning to his professional duties after the holidays, he found himself incapable, and returned home, telling me he should decline going back, for he found himself very weak and poorly. I advised him to comfort himself at home, as he could do so without teaching, having plenty of money to live on. I offered him my society and services to wait upon him, also my wife; this he accepted, and took it as a great kindness, and I was with him from that time all through his illness, and at the moment of his death, as he would not allow any other person to wait on him. He became daily weaker, and I proposed his having medical advice, but he refused, saying it was of no use, as he was not in any kind of pain. I got him all kinds of nourishment to regain his strength, but I perceived it was of no use, and begged him to allow me to send for a doctor; and after my repeated advice, he consented. About a fortnight before he died, and by his wish, I called on Mr. Gasquet, a countryman of his. I also conversed with him about his affairs, telling him of the propriety of making his will. The doctor informed his Priest, Mr. Holdstock, of his illness, and he came to visit him, and arranged about his affairs, and on Monday, March the 1st, he brought a Mr. Cooke, a barrister-at-law, and they took his instructions about his property, and ordered me out of the room. After they went, he told me they had got the instructions, and Thursday was fixed for settlement, but he regretted the small sum therein mentioned for me; that he promised to give me the dividend of £112 that would become due on the 5th of April, of which circumstances I told the doctor the next morning, as well as what money and goods might be in the house at the time of his death; and further added, for my very great kindness and attention to him all through his illness; he should make a much greater provision, for he had the greatest confidence in me, and esteemed me his dearest friend, taking the part of those friends he had so many years been exiled from. From this time he took to his bed, and never got up again, he felt himself so ill and weak. On Wednesday he told me he ~~could not live till the following day~~ (the time fixed to settle his affairs) and in the event of dying before that time, he instructed me to inform his sister, Julie Carre, at Laval, in France, of all his affairs, which he made me fully acquainted with, and his last wish and desire for her to see me very handsomely provided for, as was his intention; but he rallied, and on Thursday settled his affairs, and while the documents were being read he expressed his regret at the small sum mentioned for me, but should alter it. This was in the presence of all parties. After they left he was very communicative with me and one of the witnesses to the will, and then proposed to add a codicil to the will in my favor to take a share in that which he had left his relations; which I named to Mr. Cooke, the executor, on Saturday morning, when he called on him by appointment, but could not stay to see him then, having urgent business to attend to; he advised me not to call any person to make the codicil; but when he called in the afternoon he was no more. Neither the doctor or myself considered him so near death; but, alas! Death took him to his arms before he could complete his last desire up to the moments of his death, and I have now to leave myself in the all-protecting hands of Providence, to influence you to do for me that which was his intention and order for you to do as he died, and that I may yet be considered worthy of your sympathy and generosity, in accordance with the last sacred wish and desire of your beloved brother. When you come to this country to settle the business, I shall be most happy to see any of the family, to introduce them to a French gentleman, his friend, who can speak of the deceased's attachment to me, and his intention of rewarding me as before described. I shall be most happy to hear from you on the receipt of this letter, and if you want any further information on the matter, I shall be most happy to give it.

"With every respect, I remain, madam, your most obedient servant,

"MATTHEW HAMILTON."

As was justly and forcibly observed by one of the counsel for the defence, this letter "affords the most perfect comment on the affidavit of Hamilton. "It evidently contains the truth of the case, so far as he was capable of telling the truth. If there had been any such a transaction—if he had suspected any such a transaction, as he now pretends, how ready would he have been to have disclosed his suspicions, and claimed the merit and reward of his disclosure. The letter displays the one low grovelling hope or expectation that he should be able to extract a few pounds from the charity of M. Carre's relations, at a time when the validity or invalidity of Popish gifts or endowments had not entered into the imagination."

In fact, we might safely leave any unprejudiced reader to characterise the whole affair after comparing this letter and the evidence concocted by this same Hamilton, since the rabid fear of Popery in the public mind has afforded scamps and sharpers of all kinds such an excellent capital.

We proceed, however, to give some details as to the transaction, derived from the affidavits of Mr. Holdstock, Mr. Cooke, M. Angier, and others. The question very much comes to this. Here is Matthew Hamilton, swears to one story—the defendants swear to another; which is to be believed—Matthew Hamilton, the greedy, disappointed, vulgar-minded man,