

be set aside ; but it is not that—neither is it a proceeding for a penalty against a returning or deputy-returning officer. I am asked to look at this matter as one that may avoid the election, and dispose of the rights of the electors ; and unless I can find that what was done amounted to undue influence and intimidation calculated to prevent the votes being given, I cannot say that there has been no election on account of the steps taken with respect to these persons supposed to have been disqualified. Now what was done by the agents in their speeches was to contend that these men could not vote validly : not to contend that they could not vote at all ; on the contrary, the express words sworn to by Mr. Cornellier were : “ Vous pouvez voter, mais seulement nous nous prévaudrons de notre droit pour vous en punir, et pour mettre de côté les votes que vous donnerez.” He warned. He did not threaten. He gave notice that he would exercise his right under the law of the land ; not to prevent the vote being given ; but to prevent the effect of it afterwards. As a general thing I should say that a threat must be of something within the power of the party threatening, of something that he could do or effect of himself ; and that to say you will abide by the law or by the judgment of the courts upon the law is not of itself unlawful. I do not deny that there may be cases where a threat that you will put the law in force against a person if he votes one way or another, or if he votes at all, may be unlawful. Where the warning conveyed is a mere pretence to affect the vote would be an instance ; and there are others that will occur to every one ; but there is nothing of that kind here. The notice makes it plain that what the party wanted to do was to prevent the effect of votes that he considered illegal, and to take steps to preserve his right in case of a scrutiny. The same notice in substance was given, on behalf of the candidate not returned, to one of the voters (Jules Leblanc), and it was accompanied by the same objectionable (as I think) requirement to note the protest on the back of the ballot. This, of course, would prove nothing, except that at the time the thing was being done, Mr. Champagne, who was the agent who did

it, did not look upon the proceeding as an improper one. In my opinion the great object of the law is to provide for freedom of election—not for freedom of voting merely, but for freedom to all the electors to assert their rights and pretensions in a legal manner ; and I cannot see that anything more than that was done in connection with this charge. It should be said also that not one of these persons was prevented from voting, but on the contrary they voted, every one of them. The law which is invoked is directed against the exercise of *force, violence or restraint, or threats of inflicting injury, damage, harm or loss, or in any manner practising intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or interfering with the free exercise of the franchise.* I do not find that the exercise of the franchise was interfered with at all, but means were taken to preserve the right of questioning the validity of the votes, after the franchise should have been exercised. I therefore do not extend my examination of this charge to ascertain if this was one of the cases where a threat to resort to the law may have been made in an abusive manner. I say that, as a general thing, to threaten persons with the legal consequences of an act is to tell them to keep within the law ; and to tell them of the consequences of their act, with a view merely of announcing your dissent from their right, and your determination to raise the question properly after the vote is given, is not to infringe the law with a view to prevent the vote being given. These observations are intended to apply not only to the announcement by Mr. Cornellier at St. Zotique, and to the printed notices to the voters, but to all the other instances, of which there are several, where the supporters of Mr. Bain told any of these men that their votes would be objected to. Upon the whole of this subject, considering the technical difficulties in their way, and there being only one list of voters, both for federal and for provincial elections, I do think upon the whole, apart from the marking of the ballots, which was objectionable, but was not an impediment to the vote being given, that the respondent's agents took reasonable measures to raise a question of