

ary you will perceive that his Lordship had no animosity towards Mr. Carten—for, when Mr. Carten stated that he had been a pew holder for thirty years—he answered that he hoped Mr. Carten might continue a pew holder for thirty years longer. You will perceive, gentlemen, that no religious body can exist unless the right of excommunication rest somewhere within it—otherwise what control could be exercised for the suppression of the most turbulent and sacriligious conduct; it has existence in all Churches with which I am acquainted—it is the same in the Church of Scotland to which I belong myself, and in the Church of England.

(The learned Counsel here read a portion of a work by Doctor Buchannan, shewing that the power of excommunication had existence in the Church of Scotland.)

Now, gentlemen, I will put this case to you—suppose a member of the Congregation of St. Andrew's were to attend that Church, Sunday after Sunday, and mock at, and insult the officiating minister, as I shall prove has been done by Mr. Carten over and over again in his own Church. What would you or I do—bring him before the sessions and expel him. The same course has been followed in a hundred instances before; but were the party to attempt to force an entrance the Sunday after his expulsion, would he not be opposed force by force and thrust from the sacred building.

The legal right of possession in St. Mary's Cathedral was, as I have before stated, in order more thoroughly to convince your minds that such being the case His Lordship was justified in ordering the expulsion of Mr. Carten—I shall cite several analagous cases. The Town Hall of Gloucester, in England, owned by the Court of Sessions, was used by a number of gentlemen, who were stewards, for the purpose of a musical festival; a person insisted upon entering by a ticket which did not admit him and he was forcibly ejected. The ejected party brought an action of trespass against the stewards, who pleaded that they were lawfully possessed of the building, and therefore had a right to prevent the ingress of any party attempting to force his way in illegally, and the plea was sustained. Again, a number of persons assembling at a room in Hackney, hired it for the night for the purpose of holding a meeting. A party entered the room and made use of some ludicrous expressions which were meant to ridicule the

Chairman—he was expelled from the meeting—and the same principle was upheld here, that, the right of possession being in the holders of the meeting they were justified in putting out any party obnoxious to them. Now, gentlemen, if I prove to you, and prove it I will by evidence which you cannot doubt, that by the canons, rules, and discipline of the Catholic Church, the Bishop was the legal, sole, and absolute possessor of the Catholic Church—can you doubt for a moment, under the principles I have just laid down to you, his right to expel any party violating its rules, canons, or discipline. We cannot pretend to read the heart or mind of the Catholic Bishop—nor are we capable of judging of the equity of his decisions. It will be proved to you that the sentence of excommunication is valid, and I deny the power of any common law or equity Court to interfere its authority between the lawful exercise of power by the Bishop and an offending member of his Church.

[The learned Counsel quoted a case from third Douglas, in which the exercise of power by Trustees, in ejecting a Schoolmaster from his School, had been admitted; and also, a case from Cowper's Reports, page 315, in which the fact of expulsion having been proved upon the trial, the Judge refused to go into the grounds of the expulsion.]

There are multitudes of cases in Law all to the same effect, and proving the soundness of the principle that where sentence of expulsion or excommunication has passed against a party upon just grounds, such sentence is final and conclusive. And, gentlemen, this doctrine is inculcated so strongly, and urged so powerfully in every portion of the Catholic polity, that I cannot see upon what grounds the right can be denied to the Bishop.

His Lordship Mr. Justice Haliburton said, it could not be denied that the power of excommunication or expulsion resided within every body, civil or religious.

Mr. Young—Yes, your Lordship, but I go a step farther—I assert that a sentence of excommunication or expulsion, pronounced by a competent authority, is conclusive in a Court of Law, and should not be questioned. And, gentlemen, you will perceive that *that* is very different from the fact which his Lordship has just conceded. I before asserted that the plaintiff had grossly misled his counsel in many of the statements made by him, and I shall prove it to you. Would you for a moment believe that at the celebration of the communion—the test and turning point of the whole Catholic faith—at a moment when every true Catholic believes in the actual presence of the deity—of the virtual body and the blood of Christ—that a man, calling himself a Catholic,