

the terms of the accusation, as they were ample and in excess of the finding.

"The Council found O'Farrell guilty in the terms following:—

"1st. Having about the 26th of May, 1874, been named and sworn as constable at St. Etienne de la Malbaie, which charge he accepted voluntarily, in a prosecution wherein he acted for the complainant in his quality of advocate and attorney, thus cumulating in the same proceedings the functions of advocate and constable, and having on the night of the 26th or 27th May, 1874, accompanied by a dozen of men, as a constable arrested one Joseph Guay in the parish of St. Agnes.

"2nd. Having on the night of the 22nd or 23rd June, 1874, accompanied the bailiff charged with the arrest of one Alexander Murray dit Brunoche, of St. Agnes, farmer, and having aided and assisted in making the arrest

"That he had thereby rendered himself guilty of infractions of the discipline and of actions derogatory to the honor of the Bar and to the dignity of the profession of advocate.

"Brassard, who was prosecutor, and now respondent, appears and supports the proceedings attacked by the prohibition and by the present appeal.

"The primary question raised is, Whether the Section of the Bar really possess the powers they have so assumed to exercise? In other words, Can they justify the assertion of these powers under the act of their incorporation and the amendments thereto?

"By Statute 29 Vic., cap. 27, sec. 3, the Corporation of the Bar are empowered to make by-laws, rules and orders for the interior discipline and honor of the members of the Bar.

"By Sec. 10, Sub-sec. 1, the Council of each Section have power for the maintenance of the discipline and honor of the body, and, as the importance of the case requires, to pronounce, through the Batonnier, a censure or reprimand against any member guilty of any breach of discipline or of any action derogatory to the honor of the Bar; and the Council may, according to the gravity of the offence, punish such member, by suspending him from his functions for any period whatsoever in the discretion of the said Council, not exceeding five years, subject only to appeal to the General Council, as thereinafter provided.

"3rdly. To prevent, hear, reconcile and determine all complaints and claims made by third parties against members of the Bar in the Section in matters connected with their professional duties.

"If the duty of the Court here required them to take cognizance of the evidence adduced before the Council, and to reform the finding, they would, in my opinion, be justified in re-stating it in a form more aggravated than it now appears of record, and it would then still be obnoxious to the same test that is now sought to be applied to its validity. The question that comes up to be solved by us is not whether the proof supports the finding, but whether, supposing the proof to be ample, the law authorises any such finding—whether, in fact, any offence whatsoever known to or prohibited by the law, is stated in the judgment, or even in the complaint itself made in this case, against O'Farrell. I entertain no doubt that judicial functions are conferred on the different Sections of the Council of the Bar. Courts are constituted, by their act of incorporation, with the forms and other essentials for the trial of offences, infractions of discipline, and actions derogatory to the honor of the Bar; but how was it to be ascertained what constituted such infractions or derogation? What was lawful before the granting of this charter remained unforbidden by any law after it came into force. The Legislature had no intention to substitute the new tribunal thus erected in the room of any of those existing, having jurisdiction over infractions of the existing laws. In the absence of any such intention, the ordinary existing tribunals are presumed to retain their functions and to be sufficient for their fulfillment. What, then, were to be the duties of the newly created Courts? That question, it seems to me, is answered by reference to Section 3, which gives power to the Corporation to make by-laws, rules and orders for the interior discipline and honor of the members of the Bar. This is a quasi legislative authority empowering, not each particular Section for itself but the general body, to define by by-law what should be considered infractions of discipline and actions derogatory of the honor of the Bar; and if they did so, within the bounds of reason and justice, their by-laws would be valid, and the different Sections, through their