

The Legal News.

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POWERS OF BAR COUNCILS.

A case was decided during the December Term of the Court of Queen's Bench at Quebec, which, although disagreeable in its personal aspect, raised an interesting and important question as to the authority of Councils of the Bar in the Province of Quebec over the members of the profession, and also as to the power of the ordinary Civil Courts to interfere with the decisions of Bar Councils. The respondent, Mr. Brassard, had charged Mr. O'Farrell, a member of the Bar of the Quebec Section, before the Council of the Section, with conduct unbecoming the honor and dignity of the profession, in acting on a certain occasion as a constable in a case in which he, Mr. O'Farrell, had been engaged as attorney. The Council of the Bar of Quebec having found Mr. O'Farrell guilty, he obtained a writ of prohibition to restrain their proceedings, and the Superior Court maintained the writ. The case was carried to the Court of Review, and this tribunal, holding that the decision of the Council was subject only to an appeal to the General Council of the Bar, and not to the law courts, decided that the writ of prohibition had issued illegally.

It is a singular feature of this judgment that it apparently assumes to review and reverse not only the judgment of the Superior Court, but also that of the Court of Queen's Bench, the highest provincial tribunal, which had ordered the proceedings in prohibition. The decision of the Court of Review will be found reported in the Quebec Law Reports, vol. 3, p. 33. Mr. Justice Stuart remarked (p. 56): "The law in the clearest manner denies to any Court the right to interfere with the judgment of the Council touching the discipline and honor of that body. The principal features of the act of incorporation are taken from the practice in France, including that main and principal feature that the Bar shall exercise the powers of self-government untrammelled by Courts and with a right of appeal to the General Council from the Council of Sections, as the sole and

only remedy. There is then a remedy provided by the law for the members aggrieved by the Council of the Sections which is exclusive of all others, and while that exists the extraordinary remedy by prohibition does not lie. The scope and purpose of the prohibition is to keep inferior Courts within the limits of their own jurisdiction, and to prevent them from encroaching upon other tribunals. The Superior Court itself cannot practice an encroachment upon the tribunal of the General Council, under plea of restraining the Council of Sections."

It was this judgment which was brought under the notice of the Court of Queen's Bench. The judgment of the full Court was rendered last month by Mr. Justice Cross, and in view of the interest which the case possesses for the profession it is worth while to quote the remarks of the Judge *in extenso*, which we do from his Honor's notes. Mr. Justice Cross said:—

"The questions raised in this case are on a writ of prohibition issued out of the Superior Court at Quebec on the petition of O'Farrell, appellant, asking that certain proceedings against him taken at the instance of Brassard, the respondent, as prosecutor before the Council of the Bar, Section of the District of Quebec, be restrained.

"The writ was at first refused, but on an appeal to this tribunal was directed to be issued, did issue accordingly, and on trial and hearing before His Honor Mr. Justice Dorion was maintained by judgment rendered on the 6th of May, 1876. This judgment was afterwards, on the 7th December, 1876, reversed in Review by a Court composed of three Judges. The present appeal seeks to set aside the judgment in Review and to restore the judgment of His Honor Mr. Justice Dorion of the 6th May, 1876.

"The proceedings sought to be restrained were on an accusation framed by the Syndic of the Bar upon a complaint preferred by the now respondent, Brassard, on which he, O'Farrell, was cited before the Council of the Bar to answer to the charge which it contained, accusing him of conduct derogatory to the honor and dignity of the Bar.

"The judgment rendered on this complaint was within the terms of the accusation. It is unnecessary at present to refer particularly to