

service. The prayer was ordinary, but the collect for the peace was not. I should have used the prayer, whether or not, at the proper time. Defendant and his party were in the south aisle, and I went out by the north. I went out to my own house as quick as I could. I would have proceeded further with the service, had I not been so interrupted. I always found that Elders were appointed by the Clergyman; in some places they may follow the Canadian rule of appointment by the people. I think it was in the same Chapel, that something was said about the Canadian rule: was a dispute about a seat. I don't think I could have said anything to sanction the Canadian rule here. I had formerly appointed Defendant an Elder, which he resigned when he became a Member of Assembly.

*Hugh Macdonald, Esq.*—I am a member of Roman Catholic Church. The practice as to Church-wardens is here always, as far as I know; upwards of 40 years, for the priest to appoint them. I never knew it deviated from. It is seldom or ever allowed to address the clergyman at the altar upon any subject, but to wait until service is over.

Here the Counsel for the prosecution closed their case.

MR. BINNS here addressed the Court, contending against the effect of so much of the evidence as related to the Defendant's conduct at the Chapel door, and when the Priest was proceeding thence to his dwelling house. He stated that this part of the offence did not come within the Indictment, all the counts of which alleged the act to have been done *during divine service*; and submitted that he should not be expected to give any evidence to rebut this; all of which, he continued, should be withdrawn from the consideration of the Jury.

The *Attorney General* and Mr. Palmer, in reply, contended that such evidence was directly relevant to the issue, and could not justly be severed from the rest. If additional proof was wanting, it served to shew the animosity with which the defendant acted