

THE INFORMER CASE

"THE POST" McNAMEE LIBEL SUIT.

Continued from first page.

that particular time. Is that what you say? A. Yes.

The Court—You have no recollection of any meeting at your house or any assemblage there of these people at the time of your return from New York in 1862? A. No; I have no special recollection of any special meeting of that sort with these men whose names have been mentioned.

Q. Have you any recollection of any meeting since your return from New York in the fall of 1862 at which these people met? A. I say that frequently, on several occasions, friends came and saw me at my house; I gave them an account of my trip to New York and what I thought of O'Mahoney.

Q. Did you at any time invite these people to come to your house? A. I have had several parties at my house.

Q. At that time? A. Yes, social parties.

Q. You invited them to come there socially? A. Yes.

Q. You held no post in St. Patrick's Society then, did you? A. I was not President, but I think I was a committee-man long before 1862.

Q. Did you take part in the formation of a society called the Hibernian Society, about that time? A. I did.

Q. Do you remember who were the members of that Hibernian Society? A. I have a recollection of some of the members.

Q. Who were those that you recollect? A. I was a member myself.

Q. And the others were? A. Well, you see it was a Society that was in existence a very short time. We had several short-lived little clubs and societies at the time and during my time in Montreal. This Hibernian Society was a very small affair, and I don't know especially who were the members.

Q. Was Mr. O'Meara a member of it any length of time? A. Well, he is here; he will answer for himself.

Q. But I would like to know from you? A. Well, I cannot answer that.

Q. You do not remember, then, whether he was a member or not? A. He was mixed up in so many little things with us that I have no recollection now.

Q. Was he not Secretary of the Hibernians for a time? A. Well, I declare, I could not swear whether he was or not.

Q. Was not Mr. John Robinson the Treasurer of that Society? A. I have no recollection of it.

Q. Were you not the President of that Society? A. I was not President, I was at a meeting of the Hibernians Society, at the organization of it, and I was at a few of its subsequent meetings; but very few of them, for two or three months; not less than two months and not more than three, and I never belonged to them after. They disappeared in my opinion; I don't think we had any President.

Q. Were you chairman? A. I think I was chairman; if I remember correctly I was.

Q. Where was the Society organized? A. Well, I declare I don't know where the first meeting was held.

Q. Was it not at your house? A. Not so far as I recollect.

Q. Could it not have been that the first meeting for the organization of it was at your house and you have forgotten it? A. If it was, I have no knowledge of it.

Q. Will you swear it was not at your house? A. As far as I can recollect it was not at my house. It was such a trifling affair, that the whole thing has passed out of my mind.

Q. When was it organized? A. Some time in the winter of 1862, I think.

Q. And when was it that you saw O'Mahoney in New York? What month? A. September, 1862, or October.

The Court here took recess till 2 p. m.

AFTERNOON SESSION.

The Court re-assembled at 2.10, when the cross-examination of Mr. McNamee was resumed.

Q. What was the object of the Hibernian Society? A. To assist in ameliorating the condition of the people of Ireland, so far as I can remember.

I may state Your Honor that since I left the box at recess, Mr. John McGrath and I have had a conversation, and he has reminded me what I had no recollection of, that there was a meeting held at my house on Sunday afternoon or some afternoon, and I have only a vague recollection of it even after being reminded of it by him; it was so me time after I returned from New York in 1862; I have no recollection even at this present moment of being there; but John McGrath says he was at a meeting in my house for the purpose of forming the Hibernian Society.

thinking, assiduously working for the amelioration of the condition of the people of Ireland? A. I think he did.

Q. And was it to those people that these funds raised by the Hibernian Society were to be sent? A. I think so; I should judge so.

Q. Will you allow me to refresh your memory in reference to a draft or copy of a constitution either dictated to you or suggested to you by O'Mahoney on the occasion of your visit to New York? Was there not such a constitution furnished to you by O'Mahoney, and submitted by you to that meeting in your house for the Constitution of the Hibernian Society or some society of the same nature, or was it submitted at any other meeting? A. I do not remember.

Q. It is quite possible that that may have been done, though I don't recollect.

Q. In the Hibernian Society, after it was organized, was there any pledge administered to persons who joined it? A. I think there was a promise that we were to assist the people of Ireland.

Q. Was it recognized either by the constitution, by-laws or otherwise, that this Hibernian Society was in subjection to any other society, which would be looked upon as a species of mother society? A. Well, it might be looked upon in that way by some people, that it had some affinity with Irishmen in New York, or in Ireland. As I have stated before, I belonged to the Hibernian Society not less than two and not more than three months, and never belonged to it from that day to this; that was in the fall of 1862.

Q. You must have established it then almost immediately after your return from New York? A. No—Oh! well, yes, it was not long after.

Q. How many members were there of the Hibernian Society? A. To the best of my recollection there were ten.

Q. Did a number of the members retire from the Hibernian Society? A. I am not aware that a number retired or that it was dissolved altogether; I am not aware of any of its workings from my being a member of it; I am not aware of its working after the first few months; what it did afterwards I have no knowledge of.

Q. When did the Fenian Brotherhood arise? A. I really think it was in 1863 or 1864 that the first talk was heard of Fenianism. I have not been giving it thought and have not had time; I have been day and night at my business for the last four months; I have not even read up on the matter to post myself on this; if I had any chance of reading up, I could give you the day and date for everything of the sort.

Q. Was not the Fenian Brotherhood in existence in 1860 in Ireland, with branches in New York and the States generally? A. I have no knowledge of it.

Q. Is it not a fact that the money to be raised by the Hibernian Society was to be sent to Ireland in order to assist in the movement for making Ireland a Republic? A. I could not answer that.

Court—We must come to the point. You are accused of being a Fenian; and the real question is whether you are one or not. A person would not have a right to complain of being called a Fenian if he is one.

Q. Is it not a fact that this money was to be sent home to Ireland in order to assist parties agitating for the formation of a Republic of Ireland and for the severance of Ireland from Great Britain? A. Not to my knowledge. Any money that I sent, or was the means of sending, was for the benefit of the people as against the tyranny of the landlords.

Q. Did you ever send money to Ireland as President of the Hibernian Society? A. I have sent lots of money to Ireland. I really cannot say how the Hibernian Society's money went, but it was intended for Ireland.

Q. Have you no knowledge of its being sent? A. I have not.

Q. During the time you were President of the Hibernian Society was there any money expressly raised for being sent to Ireland? A. I dare say there was, but I have no knowledge of it at the present moment. If you give me some data I shall certainly tell all I know about it.

Q. Have you no knowledge of money being sent to Ireland by the Hibernians, or to New York? A. No.

Q. Or to O'Mahoney? A. Well, if it was sent to New York it would be sent to O'Mahoney.

Q. He might have received from there. Have you any knowledge of its being sent to O'Mahoney? A. I really have not at the present moment.

Q. Was not your withdrawal from the Hibernian Society owing to certain persons refusing to join it on account of your connection with it? A. Not to my knowledge. I retired from it of my own will, as far as I know.

Q. Did this Hibernian Society afterwards become a branch of the Fenian Brotherhood? A. Not to my knowledge; I left it. I have not the slightest doubt that like myself and most Irishmen the members of the Society would be in friendly accord with any movement that would be for the amelioration of the condition of the people of Ireland.

Q. Then you consider that Fenianism was a movement for the amelioration of the condition of the people of Ireland? A. There is a difference of opinion on that. A statesman in the House of Commons stated, I believe, that the Fenians had done some good in Ireland; I think he said they were the means of disestablishing the Church in Ireland which was one of the steps in the right direction; I think I read that in the public press.

Q. I am asking your own opinion of the Fenian Brotherhood; do you think it calculated to ameliorate the condition of the people of Ireland? A. I believe the Fenian movement helped to enlighten the people.

Q. And you consider it, therefore, a praiseworthy movement? A. In Ireland, yes; any movement that will tend to elevate the people, the manhood, has my sympathy, and it is the easiest thing in the world to get as much money as is wanted for assisting the people of Ireland; it is easy to get it from any Irishman that is worth a dollar; it is no matter talking.

The Court—The point is are you a Fenian or not? If you are you, need not be very much offended at being called one; you were asked if this Hibernian Society became merged in the Fenian Brotherhood; you said you supposed it would naturally sympathize with it; you rush off to say that whatever Irishman has money would contribute to the support of such a movement. Morally, you may think this right. But you are called a Fenian, and the question is whether you are one or not. The issue must be kept perfectly clear before the jury without any sort of confusion. Put your question again, Mr. Kerr.

Q. Do you approve of the Fenian organization, Mr. McNamee? A. As in Ireland, yes.

Q. You consider that it is justifiable and right in Ireland do you? A. I consider that every movement for the amelioration of the people of Ireland is right.

Court—A man may consider what he likes, if he does not act and break the law.

Q. Did you not aid and assist the Fenian organization during its existence? A. I think I did.—yes.

Q. What did you do? A. Well I really could not tell you more than I am a strong sympathizer, perhaps not so much with Fenianism as with any movement that would be going on for benefiting the Irish people.

Q. That is not aiding and assisting. Did you give Fenianism your moral support, or did you give it material support? A. I have no recollection of any material support whatsoever; but moral support, or sympathy, you may call it.

Court—You won't be punished for your sympathy. Did you go to any of its meetings or swear in members? A. I organized, or was, so far as I recollect at the organization of the Hibernians.

Court—And remained with them two months? A. Yes.

Court—And do you think it was a part of the Fenian organization? A. When I was a member of it the feeling and strong sympathy of myself and the others were in favor of it.

Q. And the money that was to be raised by that Society organized by you was to be applied to the purposes of Fenianism, was it not? A. I did not say it was organized by me.

Court—You said you were Chairman of the organization? A. As far as I recollect I was the Chairman. Since this trial commenced I have been told I was not, but I believe I was.

Court—You said you were not President, but you said you were Chairman? A. But since then I have been told that I was not Chairman.

Q. Was the money that that Association was to raise to be applied for Fenian purposes? Was that your intention and the intention of the rest of the members of that Society? A. I would not say that, but they were to go to the assistance of Ireland. I have no recollection that Fenianism was talked of then.

Q. Was it for the purpose of enabling the people of Ireland to raise an insurrection against the British nation? A. Oh, no; it was for the purpose of assisting the people of Ireland.

Q. To do what? A. To ameliorate their condition.

Q. How? A. By the means they have used since—agitation.

Q. Was not force one of the means? A. Well, I don't think I ever went for force, because I never thought there could be force enough to obtain their independence. I looked upon force as being too much to expect from people that had no money and no arms, and I never dreamt of force. But all this happened some 20 years ago. We were all more or less enthusiastic in our younger days over these questions.

Q. I think you have said you approved of the Fenian Association? A. As far as I recollect there were a great many things done in Ireland that I approved of.

Q. Were you acquainted with the objects of the Fenian organization? A. From what I have read in the newspapers; yes.

Q. What were those objects? A. The elevation and the improvement of the people of Ireland.

Q. Do you mean that you are not aware that the object of the Fenian Brotherhood was to separate Ireland from Great Britain? A. I have seen it put that way; I was not in favor of a separation.

Q. Were you at that time brought in connection with the Honorable Mr. Cartier? A. I was a political supporter of Sir George Cartier since I knew what it was to know what Canadian politics are; and I was a supporter of him from when I have any recollection of knowing him.

Q. Had you any conversation with Sir George then Mr. Cartier, with reference to the Hibernian Society? A. Never; nor with Sir John A. Macdonald or any member of the Canadian Government, either on Fenianism, Hibernianism, or any other subject connected with these societies.

Q. Or with Mr. Schiller, Clerk of the Crown? A. Never to my knowledge.

Q. Or Mr. Counsel, then Judge of Sessions here? A. Never.

Q. Or Mr. Arnold? A. Never.

Q. Or with Mr. Pomerville, Sir George Cartier's partner? A. Never; that is to say, outside of discussing the subject publicly, perhaps, but I never had a private conversation with any of these parties you have mentioned.

Court—You may have talked of the subject? A. Yes.

Court—But never made any secret communication to any of these parties? A. Never.

Q. Did you receive from the Government, or any of these officers mentioned, or any other official acting for the Government, any money for the purpose of employing it in the discovery of Fenianism, or any return for any information that may have been given to the Government? A. Never; the man that would propose such a thing to me would take the consequence in a short time.

Q. What kind of pledge was taken by members of the Hibernian Society? A. As far as I recollect, it was for the purpose of assisting the people of Ireland.

Q. What species of pledge or affirmation was it? A. There was no affirmation. So far as I can recollect there was a promise to keep the business of the Society within the members. It was not for outside purposes.

Q. And to work for the amelioration of the condition of the people of Ireland? A. Yes.

Q. Were members of the St. Patrick's Society members of the Hibernian Society? A. There were members of the St. Patrick's Society, and there were members of the Hibernian Society who were members of the St. Patrick's Society.

Q. Did you yourself administer the pledge to any of these parties who joined the Hibernian Society? A. I think the whole of us promised together that we would keep the business of the Society within itself. There was no oath whatsoever, and no signs nor passwords.

Q. Were you engaged in railroad-ing in the United States at all at any time? A. I thought I was.

Q. You thought you were? In what year was that? A. During the summer of 1863 A. P. Macdonald sent for me; I met him at the St. Lawrence Hall; I was then idle; not being of that turn of mind does me a great deal of good, I was anxious to get to work; he showed me a contract that he was to get from the Atlantic and Great Western Railway; he told me the prices he was getting, and that if we could supply the land, 70 miles, with men, he would give me an interest in the contract; he showed me the figures and I thought it an immense contract; the figures were immense from the prices we were receiving for such work in Canada; "Now," I says, "is this thing genuine; I went out to Ohio and saw the railroad authorities there, the managing superintendent; and he showed me the whole matter and that A. P. Macdonald would get the contract for the 70 miles of road provided he could stock it with men; I said, "there is not the slightest trouble in stocking it with men, if I go in with him, and if he gives me a half interest in the contract," but I said, "be sure of getting this contract; I came back home again; then I went with A. P. Macdonald to stock the line with men; I went down to Quebec and got all the men from my works that there had been on before, and sent them out to Ohio; I sent several of my own relations; I went out myself; came back again several times; we were about two months stocking the line with men; the pay was from two to five dollars a day; I received from A. P. Macdonald a telegram in Quebec to meet him in Toronto at once; I went and there he showed me, or told me that there was some misunderstanding between him and the directors; that they would not give him the contract, but that they would pay him for superintending the work and that if I would go and take a portion of the work they would pay my expenses up to date. I said, "I have not gone into this thing for days' pay; there is no pay going to pay me by the day; I pay my own expenses to date and "we part." But I felt terribly aggrieved at the time. For the two months I was stocking that line with men, or assisting A. P. Macdonald to do so, I never received one cent for my services, and never charged a cent; I felt so annoyed at not having received the contract, for I thought it would have been an immense fortune, and I think it yet. I went out after and saw the works going on and everything in working order, and the line was built and running.

Q. How many men did you send out there? A. I could not tell you well; there was a large number; there must have been, I suppose a couple of thousand men; there was only \$5 charged from Quebec to Akron, in Ohio, and for every ten men sent there was a free ticket for a man to accompany them.

Q. At the time you sent these men neither you nor A. P. Macdonald had the contract, had you? A. We had the promise of the contract, and I was as sure of it as that I am standing in this box; I sent my own brother-in-law and a dozen at least of my own first cousins, believing we had the biggest contract that I ever heard tell of.

Q. I don't suppose your idea was the same as Mark Twain's of sacrificing all his wife's relations; however, what became of these men? A. They worked on the road; I have seen several of them; I expect some of them here during this trial. [The learned counsel here proceeded to call over the names of some of the men who were sent to Ohio, and to ask the witness if he remembered them. Among these were Patrick Bennett, Alfred Ralph, Blanchet, Lepriere, William Cooper, Cannon, Thomas Graham, Nix, A. Doherty, Mahoney, James Mullens, the witness remembered some of these names; but had no recollection of most of them.]

Q. You had a number of agents in Quebec, had you not, for getting these men? A. No, not that I know of. I may have hired some men there to assist me, but I had no agents.

Q. Did you employ John Bennett? A. He may have assisted and I may have paid him for his time. A number of other names including John Green, Michael Dineen, James Fahy, Jeremiah Greenlow, were mentioned to the witness, who denied having any connection with some of them, while others he could not remember.

Q. Did you employ parties to get these men together to send to Ohio? A. I had no agents.

Q. Did you employ people as runners to go to the neighboring population to see after these men to work on the railway? A. It is more than likely I have.

Q. Do you remember their names. Was Jeremiah Greenlow one, or Frank Gulesham or Thomas Gulesham? A. You are mentioning respectable men's names in Quebec who you are not justified in doing.

Q. That is not the question. Did you employ these men to get working people together? A. No.

Q. Or a man named Haden, or Thomas Kirby, or James O'Brien, or John O'Leary, or Robert Smith, or James Ward? A. Not at all, they were not agents of mine.

Q. And in Montreal did you employ Eugene O'Rourke, or James Stanley, or Hugh Brennan, or Hugh O'Rourke to get men to go to the States? A. Never.

Q. You knew Mr. Brydges of the Grand Trunk Railway? A. Yes.

Q. Did you about 10 years ago offer \$500 to Michael O'Reilly on condition that he would put daylight, as it was expressed, through Mr. Brydges? A. No.

Q. Michael O'Reilly is a connection of yours? A. First cousin and brother-in-law.

Q. Had you any difficulty with Mr. Brydges in 1872? A. Our friendship together has been the same from 1863 to the present day.

Court—Then you never had a quarrel with Brydges? A. Never; I look upon him as one of my best friends in Canada; he has stood by me and befriended me, and perhaps sometimes I have been wrong.

Q. When did you first run for the Presidency of St. Patrick's Society? A. In 1869; and since then I have been elected four times; I was President when this libel was published on the 15th of March last.

Q. And you were a candidate for re-election? A. No; I do not think I would have run again only for that libel; I think I had it two years running and was perfectly satisfied to retire, and would have thanked anyone to take my place.

Q. Do you remember Michael Murphy was arrested in Cornwall? A. I do.

Q. For what was he arrested? A. Well, Fenianism.

Q. Were you at Cornwall while Murphy was under arrest? A. I was subpoenaed by the Crown; I was examined as a witness, and my evidence is published to the world.

Q. Did you give evidence against him? A. It is here; you can read it.

Q. Did you endeavor, while there, to make a person named Michael McNamee to join the Fenian Brotherhood? A. That's all *popocate*. That's old Whelan's talk.

RE-EXAMINED BY MR. OUBERT.

Q. Did you ever materially assist Fenianism in breaking the law? A. No, sir; not that

I know of. When the invasion of Canada was talked about I used every means in my power and disdained to talk against any such movement all I could. Fenianism in Ireland was all very well, but the invasion of Canada was talked against by me.

Q. Will you explain a little more what you mean by saying the Fenian movement, or any other society, was for elevating the people? Did you mean by any unlawful means? A. By agitation; by the usual ways that the prominent leaders in Ireland were taking for relieving Ireland; as to the wild schemes of relieving Ireland by force of arms, I have always discountenanced them.

Q. You never encouraged them? A. By force of arms, never.

This ended the case for the prosecution. Mr. Doherty then opened the defence by calling as the first witness

Patrick Mullen, laborer, of Quebec, deposed that he had known Mr. McNamee about 23 years; he had known him since the time he (McNamee) came to Quebec to gather men to go to Ohio; witness was one of the first to be picked up; he was engaged by Mr. McNamee himself, who told him to come along and he would be paid a dollar a day to work on this railroad in Ohio; he (witness) was in the first gang that went up to Ohio; there was about two hundred in that gang; two other gangs of about the same number followed at intervals of about a week; when witness went to Ohio he and the others made a bit of a kind of a road; he could not say whether it was a railroad or a switch; it was a kind of a switch in a swamp; there were no bars and no timber laid on it; and after working there about three weeks when the three gangs came they all turned out to work one morning and found the tool boxes and shanties all one, and they were left in the swamp, and a man named O'Donnell that was over them was seized by them; they held him, and they got paid for what they had worked; and then some of the men had to enlist in the American army; witness hired a substitute; this bit of a switch was off at the side of the back, on the right of the road; it was a broken up spot; they were not making a track at all; and as soon as the third gang came the work was stopped. There were about 600 men together in the three gangs.

Q. Do you know what became of the larger portion of these 600 men? (Question objected to by prosecuting Counsel.)

Court—Unless it can be shown that there was a conspiracy to put these men in that position, in such a position that they could do nothing else but enlist the charge of crimping and bounty looking will not be proved. There is a specific charge in the plea of justification, and it will have to be proved that the prosecution was engaged in this operation and violating the law. He is in reality accused of violating the Enlistment Act, and this must be proved specifically. If you can prove by A. P. Macdonald that this was not true about having a promise of a contract, and that there never was such a railroad contract, you may ask generally from this man what was done, but I will not allow it to go very far.

Q. Can you tell us what became of these men? A. Some came home and some—most of them—enlisted in the army there. We could get nothing to live on up there.

Court—Did a great many of the men who went out there enlist, having no means down there? A. Yes.

Court—You must bring forward some evidence of Mr. McNamee having done this. Bring forward a man who was engaged as a soldier for instance.

John McGrath was next called to the stand. The following is a *verbatim* report of his examination by Mr. O. J. Doherty:—

Q. You know Mr. McNamee? A. Yes.

Q. In 1862 were you a member of St. Patrick's Society, Montreal? A. No.

Q. Is it to your knowledge that Mr. McNamee was? A. Not being a member of the Society, I could not swear that he was.

Q. Do you remember that in the fall of 1862 Mr. McNamee made a journey to New York, or that he stated to you that he had? A. No, he did not tell me.

Q. Do you know whether or not there was a meeting held in the house of Mr. McNamee in the fall of '62? A. Yes.

Q. Were you present? A. Yes.

Q. Was Mr. McNamee there? A. Yes.

Q. Were you there by invitation? A. By invitation from Mr. McNamee.

Q. By invitation from anyone? A. There was something like a round-robin, like me asking you and you asking me to be there.

Q. Who asked you? A. To be positive I would not say, but I think it was Dan Lyons.

Q. At any rate you were asked to go, and you went? A. Yes, I was there.

Q. Were there many there? A. There were eight or ten.

Q. Did Mr. McNamee make any statement, and to what effect? A. He stated that he had been to New York on a pleasure excursion, or something like that.

Q. Did he mention any person whom he had seen in New York? A. Yes.

Q. Just tell us what he said about his journey to New York?

After some hesitation on witness' part the Judge put the question, "What was the object of the meeting? You were expected there?" A. I was.

Q. You found several persons there; what was the object? Was it to tell you what he had done in New York? A. Well, yes.

Judge RAINY—What did he tell you in pursuance of this object? A. Well, what was the object?

Court—You have told us he asked you to go there? A. No, your Honor, it was not him that asked me.

Court—Well, you were asked, and you were expected, and you found eight or ten people there and Mr. McNamee was there, and you have said that the object was to tell you what he had done in New York. Now what did he tell you he had done in New York? A. He told us that the St. Patrick's Society had invited John O'Mahoney to come here and give a lecture, and that some kind of dilatory answer had been received from him, and therefore, he (McNamee) was asked before going away to New York to call on O'Mahoney and see why he did not come here.

Q. Who did he say gave it to him? A. Mr. John O'Mahoney.

Q. Did he tell you the contents? A. He did not tell us what they were, because he passed the book around for us all to see.

Q. What was that book? A. It was the Constitution of the Fenian Brotherhood.

Q. Did he tell you for what purpose Mr. John O'Mahoney had given him this Constitution of the Fenian Brotherhood? A. He did not tell me.

Q. Did he tell the meeting? A. He told the meeting.