

The Legal News.

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CLERICAL INFLUENCE IN ELECTIONS.

The judgment delivered by Mr. Justice Johnson, and concurred in by the two colleagues who sat with him in the Berthier election case, forms no inconsiderable contribution to the law of this country with reference to undue influence in elections. The learned Judge was required to deal with a case where Roman Catholic clergymen, actuated by a strong sense of duty, and possessing the courage of their convictions, warmly espoused the cause of one of the candidates in an election. They sought to influence the votes of their flock, not only by argument and counsel and exhortation, but also, unhappily, by letting it be plainly understood that they would refuse the sacraments of the Church to those who voted for the opposite side. The line is clearly laid down in the judgment between what may, and what may not, be done without producing civil consequences. A clergyman loses none of his rights as a citizen. He may hug the cause of one candidate or the other. He may, if he thinks proper, counsel his flock, privately or even from the pulpit, to vote as he would have them vote. But in taking this part in the election, and supporting the candidature of the man of his choice, he becomes an agent of such candidate within the meaning of the election law, (which is something quite distinct from an agent under the common law); and if he does or says anything which offends against the election law, the candidate cannot be relieved from the civil consequences, though the priest may be acting solely as he believes his religion commands him to act. In the present case the clergymen refused the sacraments to those who were going to vote for the obnoxious candidate. That was an act of intimidation and undue influence within the meaning of the election law, and as these clergymen had been openly working for the cause of the candidate whom they favored, and were therefore legally his agents, he could not escape the consequences of the act of intimidation. The privileges of the Roman

Catholic clergy in this country do not affect the decision of such cases at all; for, as the learned judge observed, "supposing any privilege from the operation of the election law to exist in such a case at all, it can only exist for the priest individually in the exercise of his sacred office; and he cannot give the benefit of it to a candidate, so as to shield him from the ordinary consequences of the acts of that candidate's agents; he cannot effectually assert his own individual privilege as the privilege of the candidate."

CHIEF JUSTICE MOSS.

Of the old firm of Harrison, Osler & Moss, of Toronto, two members became Chief Justices at a very early age. Mr. R. A. Harrison, when only 42, succeeded Sir William Richards as Chief Justice of Ontario, and Mr. Thomas Moss, at the earlier age of 41, was appointed, on the death of Chief Justice Draper, to the still higher office of Chief Justice of the Court of Appeal, in which Court he had already served two years as a Judge. We regret to add that the career of these two eminent men, alike in rapidity of advancement, is also alike in brevity of judicial service. A cable message was received in Toronto on the 5th instant, stating that Chief Justice Moss had succumbed to the malady which, a short time ago, forced him to visit the south of France in the hope of relief.

Chief Justice Moss was born at Cobourg, Ont., 20th August, 1836. He was educated at the Toronto Academy, Upper Canada College, and at Toronto University, at which he was Gold Medallist in Classics, Mathematics and Modern Languages. He was called to the Bar in 1861; elected a Bencher of the Law Society in 1871, and created a Q.C. in 1872. He represented West Toronto in the House of Commons, from December, 1873, to 8th October, 1875, when he was appointed a Justice of the Court of Error and Appeal. On the 30th November, 1877, he was promoted to be Chief Justice of the Court of Appeal of Ontario. His judgments during his brief judicial career have evinced an intimate knowledge of the law, and have generally been received with great respect. The number of appeals from the Court in which he presided has been small. The Chief Justice was also much beloved for his social qualities, and his premature removal from a position for