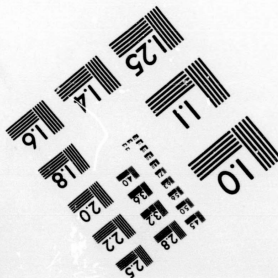
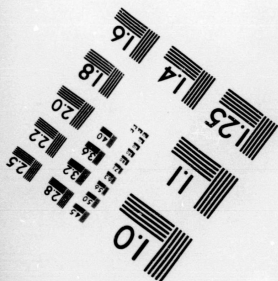
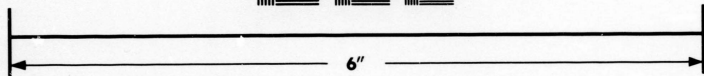
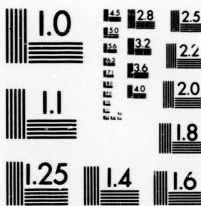


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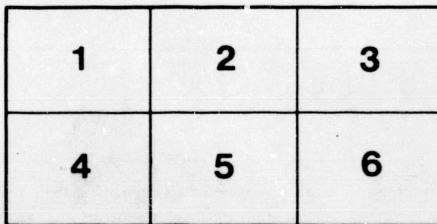
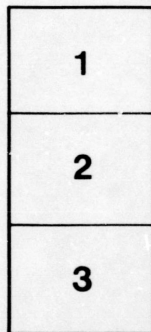
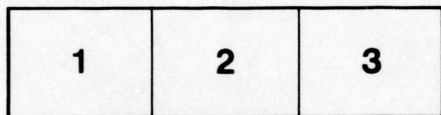
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IN THE
Supreme Court of Canada.

“The Dominion Controverted Elections Act, 1874.”

Appeal from the Superior Court for the Province of Quebec,
SITTING AT MURRAY BAY.

BETWEEN

O. BRASSARD *et al.*,

PETITIONERS IN COURT BELOW—(APPELLANTS.)

AND

HON. H. L. LANGEVIN,

RESPONDENT IN COURT BELOW—(RESPONDENT.)

APPELLANTS' FACTUM.

LANGELIER & LANGELIER,

For Appellants.

QUEBEC:
PRINTED BY AUGUSTIN COTÉ & CO.

1877.

Parish of St. Simeon

Charlevoix Commences Journals
from Quebec & returns to
Saguenay

11 Parishes

(1) Par St. Paul is Secord

(2) St. Simeon in rear of St.

3 Settlements

Argue Mais the Cure
of St. Simeon

St. Simeon a poor parish

Baye Duroches near Saguenay

There is not a word of proof
against the Priests Secord

Francisse Bouchard

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In the Supreme Court of Canada.

“ Dominion Controverted Elections Act 1874. ”

O. BRASSARD *et al.*,

PETITIONERS — (APPELLANTS);

AND

HON. H. L. LANGEVIN,

RESPONDENT — RESPONDENT.

APPELLANTS' FACTUM.

This appeal is brought before the Supreme Court under the following circumstances. In January 1876, an election for the House of Commons took place in the county of Charlevoix, to fill the vacancy caused by the unseating on petition of P. A. Tremblay, Esq., the member elected in 1874. There were two candidates in the field, Mr. Tremblay, whose election had been annulled, and the Respondent. After an extremely hot contest, the Defendant was declared elected. The petitioners contested his election on the grounds of bribery, treating, undue influence, and of the employment as agent and canvasser of a *scheduled briber*. Other grounds are also alleged in the petition, but, as they were not brought up during the trial, we will not notice them at present. After a trial which lasted more than two months, which was twice interrupted by the illness of the judge, and during which about 200 witnesses were heard, Mr. Justice Routhier dismissed the petition with costs. Hence the present appeal.

Judging of the case by the celebrity it has acquired, one would suppose that it presents serious legal difficulties, but such is not the case. It has become so widely known on account of the extraordinary pretensions set up by the Respondent, and which are so unheard of that all those who understand the free institutions which govern us could not believe that they have been raised, were they not written in the record. Its fame is also due to the conduct of the principal agent of the Respondent during the trial. Not content that the election had been forced by terror, he endeavoured to defend it in the same manner. The Court will find in the record three judgments for contempt against the agent of the Respondent, on account of editorials he published, by which he tried to intimidate the Petitioners, their witnesses, their counsel, and even the judge.

Eight cases of intimidation proved
while ~~the~~ ~~same~~ majority
of 211

Each side endeavoring to get
the influence of the clergy

The clergy were volunteers
were not agents many
sense

Pettibon

The first thing to be considered
is the good faith of the
Candidate

Strong proof of agency
is required

The candidate himself looked
after the election personally

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To make the case clearer, we will examine separately first, the principal cases of corrupt practices by the Respondent and by his agents, and afterwards the facts of a general character which affect the election, whoever may have been their authors.

I. CORRUPT PRACTICES BY THE RESPONDENT AND BY HIS AGENTS.

Before entering into the details of these facts, let us see what is meant by an Election Agent. An agent is any person who has authority from the candidate to promote his election. (O. & H., vol. 2, p. 199, vol. 1, p. 10, 70, 119, 120.) That authority may be expressed, but it may also be implied. Implied authority results from any act or word of the candidate which implies that he wants another person to work in order to secure votes to him, or that he knows that person to be so working and does not disallow his conduct, (O. & H., vol. 1, p. 55, 17, 183; vol. 2, p. 73, 74, 102, 193, 136, 137; Rogers, on elections, p. 506, 509, 511, 515, edition of 1865; Leigh & LeMarchant, p. 35, 42, 43, 44; Bushby, p. 117 to 121; Cox & Grady, p. 317. 10

1° *Promise by Mr. Onésime Gauthier to the electors of St. Urbain.*

The agency of Mr. Gauthier is clearly established by the Respondent himself in his testimony, and is of such an extensive character that Mr. Langevin is responsible for all Mr. Gauthier's acts. Mr. Gauthier was one of the Respondent's Chief Agents. He invited him first to come forward; Mr. Langevin replied that he would consent only if he could rely upon the support of the clergy. At the request of the Respondent Mr. Gauthier went to the county, consulted the *Curés*, and reported to Mr. Langevin, who, on his assurances of their support, accepted the candidature tendered by the same Mr. Gauthier. The latter gentleman returned to Baie St. Paul and to St. Urbain to accomplish his mission. 20

It is well known that the iron mines of St. Urbain were worked for several years by an English Company, of which Mr. Gauthier was an agent. The greater portion of the inhabitants of St. Urbain, and many of those of the neighbouring parishes of Baie St. Paul and St. Hilarion, had been employed at those mines. At the time of the election the works were stopped, the company having become bankrupt, and the creditors were trying to sell their claims against it to Rev. Mr. Fafard, Curé of St. Urbain, who was buying them at a considerable discount.

At the beginning of the election Mr. Gauthier came to announce the candidature of the Respondent, which he had already prepared, as before mentioned. Under the pretext that he had come to render an account of his conduct in parliament, he told the electors that the mines would soon again be worked; that the North Shore Railway would be continued below Quebec and would pass through Baie St. Paul and St. Urbain to Lake St. John: that he had obtained from the local government that the Engineers would visit the place. This fact was proved even by the Respondent's witnesses. It is easy to understand how much importance the inhabitants of St. Urbain attached to the re-opening of those mines, which afforded employment to so many persons. But what was more serious still was Mr. Gauthier's announcement that he had obtained \$600 for the construction of two bridges in the parish of St. Urbain, which the inhabitants were then obliged to build and keep in repair. 30
 "I cannot say more to you at present," said Mr. Gauthier, but after the election we will speak again "on this subject." Mr. Gauthier evidently wished the electors of St. Urbain to 40

West Layford case
20 Oct 17

Comments
after this

Remember that
the ^{union} ~~union~~ ^{is} ~~is~~ ^{well} ~~well~~ ^{Established}
must be ^{successful}

It is a disastrous thing
to hold that they are agents
of the candidate at a time preaching

It is unnecessary to argue that
the ^{clergy} are above the civil law

The immunity of the Priests need
not be discussed

The Priests claimed no immunity

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understand, and he was perfectly understood in the following sense: "If you, who hear me, behave well, and vote for the candidate I propose to you, you will have those \$600 from the local government, but if you oppose me, you may be sure that after the election, the local government, knowing your hostility, will give you nothing. I have those \$600 in my pocket, you will get them later. You see what you have to do." This was the sense of Mr. Gauthier's speech, and no one could be mistaken in the signification of his remarks. All the witnesses for the defense, without exception, acknowledged this portion of Mr. Gauthier's speech. Mr. Gauthier knew at the time, that no special sum of money had been voted for St. Urbain, and that those \$600 could only be taken from the gross amount voted for colonisation purposes. Shortly after the election, the \$600 were expended; and it is evident that St. Urbain would have had nothing, if they had voted against the well known wishes of the local government. 10

This case is similar to that of St. Catherine of Montmagny, decided at Quebec on May 29th, 1876, in which Mr. Landry was disqualified on account of a sum of money that he had promised for the opening of a road.

It is worthy of remark that, although Mr. Gauthier, who could so very easily have been brought by Respondent as a witness to explain his words if they were not intended to mean what they seem so clearly to convey, was not heard for the defence. The inference to be drawn from that fact is that Mr. Gauthier could not explain away the speech complained of. 20

2° Promises by Mr. Denis Gauthier to Thomas Tremblay.

Mr. Denis Gauthier's agency has been proved out of Mr. Langevin's own mouth.

From the latter's testimony it appears that Gauthier travelled and held meetings with him, and, to his knowledge, worked actively in his favor at the election.

Let us now consider the facts.

Mr. Price had decided that Mr. Tremblay would be beaten; he says so in his evidence. He had constituted himself the executor of the designs of Providence, and he explains this with most extraordinary modesty. Thomas Tremblay owes the sum of \$900 to Mr. Price: he acknowledges that this affair embarrasses him, and at Denis Gauthier's house, declares that he is not independant and will not vote. Gauthier tells him that he should vote, and adds "If Mr. Collard (from whom Thomas Tremblay purposes borrowing money) will not lend it to you, others will." It is scarcely possible to make a more direct offer at an election time; but he goes further still, and says to Tremblay that he will take effects from him in payment of the \$900, that Mr. Price told him he might do so, but that he, Thomas Tremblay, knows well, that he, Gauthier, is at liberty to take them or not. 30

Gauthier in his evidence, although he tries to contradict this fact, admits that Tremblay may very likely have understood his words in this sense. The Court will remark the pains which Gauthier has taken to confuse this affair, and how a portion of the truth escaped from him only when taken, as it were, by surprise.

It must also be observed in the appreciation of this fact, and of all the proofs we will have to examine, that the evidence of a party in the case or of an incriminated agent has not 40

Each policy had of course
who support him
must in the same way
be agents

If I have the promise of the
Manufacturers I will
run — because it is my
then own individual votes

make
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see March in the
Westbury case

2 Railway case
20 M & A 196

(personally)
Engagement of
Schedules taken
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When the lobby is small
Agency must be clearly
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Circumstances does not establish
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the weight of that of a disinterested person. This is so self-evident that it requires no other authority but common sense.

The factum produced in the first instance by the Respondent, contains an important error of fact, which will most likely be repeated before this Court: it says it was long before the election that Mr. Price promised to take Tremblay's effects. On the contrary, we find that it was only three or four days before the polling day that Tremblay became indebted to Price for the amount of \$900, consequently the promise cannot have been made long before. We see that the transfer, the promise to take the effects as payment, the threat by Gauthier not to take them, and the offer, to induce him to vote, of lending or of procuring the money for him, if Mr. Collard would not lend it to him, all took place two or three days before the polling day. 10

3° *Promise by Mr. J. S. Perreault to Séraphin Lajoie.*

Mr. Perreault's agency has been proved by Mr. Langevin and by Mr. Perreault himself. The act of bribery of which Mr. Perreault is guilty, is of the most serious nature. Séraphin Lajoie was sued by his mother, which caused him great anxiety, as he feared to be ruined. To avoid it he consents to sign a requisition in favor of Mr. Kane, and afterwards to support Mr. Langevin. "If you keep your word," said Mr. Perreault to him, "you will hear no more of this suit which your mother has against you." The evidence of Lajoie, and that of his wife, agree perfectly as to their substance. Lajoie made a first visit alone to Mr. Perreault, then a second visit accompanied by his wife, and his wife made alone another visit after the election. It was during this last visit that Mr. Perreault said to Mrs. Lajoie: *It is your fault if your husband is still at law, because you prevented him from voting for Mr. Langevin.* 20 This last fact was not contradicted, and no attempt has been made to contradict it.

This act of corruption is worse than the giving of a sum of money; for after the money has been received, the elector may vote as he pleases, without any fear; but in the present instance, the case being still pending, it was a constant threat standing over Lajoie.

Lajoie was heard a second time, two months after his first evidence, and his evidence on both occasions agree perfectly.

The defence tried to prove that Lajoie pretended to be for Mr. Langevin: this, if proved, is in favor of the Petitioners; it shows that Lajoie, who had always supported Mr. Tremblay, had made an agreement, and that it was only the fear to be ruined, as he says himself, which compelled him to make the sacrifice of his convictions. 30

Séraphin Villeneuve, brought to contradict Lajoie on a point of no importance, was half drunk when he went with Lajoie to Mr. Perreault's, and a few minutes after he was so intoxicated that Lajoie, fearing some accident, accompanied him some distance from the village.

The evidence of Mr. Perreault, who is himself incriminated, cannot destroy that of Lajoie and his wife.

The Respondent tried to prove that Lajoie and his wife were not credible under oath; but what sort of witnesses were brought to prove this? I do not think that any court ever witnessed such a scene. To discredit Mrs. Lajoie, the Respondent brought, not from Malbaie, 40

were agents of the Bishop

The agency must be an agency
to canvass votes.

not so
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Blackwood's

pages 16 & 17

The Civil law of 2nd Dec
makes a man responsible
for the illegal act as well
as the legal. Code 1054

The Ballot act has removed
the necessity for extending the
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but from a neighbouring parish, two witnesses, and such witnesses! One was a perjurer, named Joseph Guay, and the other, a quasi perjurer, named Alexandre Murray, commonly known by the name of *Brunoche*.

Guay was found guilty of perjury at Malbaie, two years ago, by twelve of his countrymen: it was through some informality that the judgment was reversed in appeal, but at any time this case may again be taken up, and in the meantime, the moral weight of the verdict remains the same.

A true bill for perjury has been found against *Brunoche*, and his trial is still pending before the Court of Queen's Bench, at Quebec. It was, therefore, impossible to find in the parish of Malbaie, where Mrs. Lajoie resides, a single witness to discredit her. There was found, it is true, in another parish, a man named Ouellet, a sort of fool, who kept the court in merriment for twenty minutes, who contradicted himself in the most ridiculous manner, and who ended by saying that he received his information from Mrs. Lajoie's mother-in-law, whom, he said, was a fool and a lunatic, and who was at law with her son. 10

If I wished to learn the truth about the character of a person, I would not address myself to his enemies nor to those who are at law with him, and it is to such people that the Respondent has applied to discredit Lajoie and his wife. He also brought up for this purpose witnesses from St. Urbain, one of the parishes at the greatest distance from the residence of Lajoie. Only one witness from Malbaie was brought up against Lajoie, and such a witness! A man named Amable Girard, who tried to defraud the church wardens of Malbaie. On the part of the petitioners, persons of irreproachable character, came and affirmed positively that Lajoie is credible under oath, and if he has a fault, it is that he is known as a clever horse dealer. 20

The Court will remark, that Mr. Perreault, counsel in this trial, (a fact which appears in his evidence) himself examined Lajoie. Without perceiving it, Mr. Perreault, in one of his questions, established the fact that there was an agreement, or an understanding between him and Lajoie as to the dropping of the suit in connection with the election. Here is the question. "*Is it not true that I said to you (addressing Lajoie) with regard to the suit: we will see to this later?*" By this question Mr. Perreault then affirmed what he subsequently denied. 30

Jules Trudelle's evidence corroborates that of Lajoie, in as much as it establishes the anxiety of Lajoie concerning this suit, and the connection of its discontinuance with the election.

On reading the evidence of Séraphin Villeneuve, the court will observe that Mr. Perreault treated him just before he appeared in court, and he was evidently under the influence of liquor when he was examined.

4° *Promise by the Honorable David Price to André Carré.*

Mr. Price's agency is clearly proved. The Respondent himself admitted that Mr. Price to his knowledge had been working to promote his election. Having decided on defeating Mr. Tremblay, as he modestly says, he took the means to attain his object. We would not complain of this if he had taken only the means allowed by law, but unfor- 40

Ally of all reasonable men
have the same right

Distinguishes this case
from the Bonaventure case

There was a threat of withholding
the rights of the Church

The Seminars were general
not pointed to a particular
Candidate

The Candidate adopted this =

There must be knowledge &
consent to establish agency

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Langevin says that he never
employed the Presb. as agents

Langevin had no authority to
dictate to the Presb. upon the

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unfortunately such was not his mode of action. During the election he stopped at André Carré's house to see a man named Louis Tremblay who had lost his sight. Mr. Price informed Carré that he intended setting nets at Tadousac next summer, and that if he (Carré) would act with him, he would give him these nets in charge. Carré thanked Mr. Price and said that under these conditions he could not accept the offer, and that he would not abandon his party. Mr. Price, who has been brought forward to contradict this evidence, says nothing against the veracity of this witness, who is well known to be a man of the highest respectability. If Mr. Price did not intend that Carré should understand his words in this sense, he should have explained himself more clearly when Carré refused his offer, and have made him understand that he had no intention to bribe him or influence his vote. But we find nothing of the kind in his evidence. Mr. Price says that he scarcely spoke about the election. His language is far from being clear, and he is an interested witness. On the contrary Carré has expressed himself with a great deal of precision, and he has no interest whatever to speak one way more than in the other. 10

The Respondent in the court below said: But why did you not bring before the Court Louis Tremblay, who was present at this conversation? Because we did not require him, Carré being an irreproachable and disinterested witness. But this should have been done by the Respondent to corroborate the evidence of Mr. Price, who was as much interested as the Defendant to have Louis Tremblay brought up as a witness.

5° Threat by Joseph Kane to Grégoire Jean. 20

No agency can be better proved than that of Mr. Kane. The Respondent, in his testimony acknowledged that Mr. Kane had resigned in his favor, and had to his knowledge canvassed for him. If this is not sufficient, I must confess I do not understand anything about election agency.

Now as to the fact reproached Mr. Kane. That gentleman was, during the election, and long before it, agent for Mrs. Nairne, the *Seigneuresse* of Murray Bay. Grégoire Jean had received employment from her for many years, and had been in her employ lately. He goes to Mr. Kane to settle his account. Kane gives him a *bon* to get wheat at the mill, and speaks to him about the election. He tries to persuade Grégoire Jean that Mr. Tremblay wishes to destroy religion, (*veut détruire la religion*). Jean answers that he is in favor of a resident of the county; that even if Langevin were "*rouge*" from head to foot he would not vote for him. Seeing that Jean cannot be won by religious terror, nor by political reasoning, Kane attacks him in what he hopes may be a more sensitive part, that of his pecuniary interest. Jean is poor, and earns his livelihood by day's work. On his saying he would vote for Mr. Tremblay, Kane observes to him "*This might embarrass you*" "*Cela, pourrait vous gêner*" "*I do not fear you*" immediately replies Jean, "*the Seigneuresse is with me*" "*la Seigneuresse est de mon bord.*" 30

This important evidence was not contradicted. Mr. Kane was in Court, when Jean gave his evidence; he also came to the Court almost every day afterwards, and he never dared to appear as a witness, no doubt being convinced of the truth of Jean's evidence, and being unwilling to perjure himself. Whenever an incriminated person can give evidence, and does not do so, he is presumed to be guilty. 40

The Court below said that Kane's words were too vague to have any meaning and to

Political Liberalism

as to after recess
Free trade & protection

A protectionist denounces his
opponents at a meeting
Says that ~~his~~ if they
vote for free trade ~~and~~ to
will close his shop

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produce any effect upon the election. This would be perfectly true if the words: *this might embarrass you*, were alone. But here, as everywhere else, and more perhaps than anywhere else, (because we have to deal with a fraud, and a fraud is never perpetrated with the same clearness and openness as a legal act) we must take those words in connection with those that preceded and followed them, with the tenor of the whole conversation between Kane and Jean. Kane was trying to influence Jean's vote. He must naturally be supposed to have that intent in saying the words complained of. If such was his intention, the only and clear meaning of his words is evidently a threat of dismissal or refusal of employ. No innocent meaning can be given to them.

6' *Threat by Denis Gauthier to Charles Bouchard.*

10

Bouchard, who is in Gauthier's employ, acknowledges to him in the house of his foreman, that he is a supporter of Mr. Tremblay and says he will vote for him. "You will hear from me on Monday," replies Gauthier; "*Tu auras connaissance de moi lundi.*"

The voting took place on the Saturday, and this took place on the eve.

Gauthier's threat was the cause of Bouchard not having voted. We see by the witnesses for the Defence that through fear he told Mr. Langevin's supporters that he was for Mr. Langevin; to Mr. Tremblay's friends he expressed his real convictions in saying he was for him. The Defence tried to establish that Bouchard did not vote because his father was sick. But, I ask, was the illness of the father a sufficient cause to prevent the son from voting? His father was able to vote and he did not require his son by his bed side. Will the Defence say that the father, fearing to die and being frightened by the cure's sermons, prevented him from voting? We here fall from Charybdis into Scylla; it is thus demonstrated that the intimidation practised on the father by the curé of St. Fidèle, operated on the son. Bouchard revealed what had passed in the room where Gauthier had shut him up, only because his conscience obliged him to tell the truth. It would have been his interest to have said the contrary, to avoid the misfortune which happened to Narcisse Bouchard, who was expelled from Gauthier's employ for having given evidence in the present trial against the Reverend Mr. Cinq-Mars. 20

Denis Gauthier endeavored to contradict Charles Bouchard; but his testimony is full of unlikelyhoods. Gauthier tries to pass for a Paragon of electoral virtue. Let us hear this incorruptible man. "If I had known, says he in his evidence, that Bouchard had voted for Mr. Langevin through fear of losing his place, I, who am for Mr. Langevin, would have expelled him from my lumber-yard." What scrupulous virtue! Virtue is necessary, but not too much. 30

This very scrupulous man does not dare to speak to Mr. Tremblay's supporters, no doubt through fear of being led into temptation. He does not speak of the election to any one, even to influence him legally. Nevertheless, hearing that Bouchard is for Mr. Langevin, he brings him to his bed-room, locks the door and asks him if it is really the case that he is for the Respondent. Let us imagine the scene: Gauthier brings in Bouchard, locks the door on him, and when he is quite alone with him says: "Well, it seems that you are going to vote for us." Gauthier does not relate Bouchard's answer. Why such a mystery? Did Gauthier bring all Mr. Langevin's partisans into his bed-room? If he did not do so to the others, 40

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too weak to require this

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one case of undue influence
will avoid an election

Where there is no proof of
agency undue influence
must be very extensive
to avoid election

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same result in 1874

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on acc^t of university vote

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party not the particular Candidate

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wherefore this preference to Bouchard? Really if Gauthier supposed that the Court would believe this story, he must have thought it possessed of more credulity than it will evince, I am sure.

7° Threat by the Respondent to Alfred Dufour.

Mr. Alfred Dufour is major in the volunteer militia. He owes his place to the Government of which Mr. Langevin was a member. Major Dufour brought up as witness gives proof of his intelligence and respectability. His position is worth \$120.00 a year, which remuneration costs him but little work; and consequently for a man who lives by daily work, for he is a blacksmith by trade, it is of great value to him.

Several persons who daily frequent Mr. Langevin's head-quarters at Théophile Simard's hotel warned Dufour, that he ran the risk of losing his place if he continued to work for Mr. Tremblay, of whom he was then a warm supporter. 10

He at first took but little notice of these warnings; but when his father came and repeated the same thing to him, he became alarmed. Maxime Dufour, the Major's father, was brought up as a witness by the defence, and corroborated his son's testimony on this point. Major Dufour then calls on Mr. Langevin, and relates to him what he has heard. Mr. Langevin replies that "if continues to work for Mr. Tremblay he will be almost certain to lose his place." (*Il perdra presque certainement sa place.*)

From this moment Dufour ceases to work for Mr. Tremblay; more than that, he pretended to work for Mr. Langevin, and he even attended his triumph. Astonished at such a conduct, his brother in law, Mr. Danais, reproached him "with having sold himself." "When I am without bread, answers Dufour, you will not give me any." 20

It is therefore evident that Dufour was alarmed by Mr. Langevin's threat. No one dared to attack Dufour's character; on the contrary, the witnesses for the defence declared him to be an honest man. That Dufour should have acted as he did, he must have been strongly impressed by Mr. Langevin's answer and by the threat it contained. The bet which Dufour's father offers to make three or four days before the polling day, that his son will vote for Mr. Langevin, also corroborates the Major's testimony and that of Mr. Danais. Another witness, Epiphane Guillemette, also declared that he had laid a bet or wanted to bet that Dufour had voted for Mr. Langevin. 30

Dufour's testimony is so clear, so conclusive, that there is no other means to deny the threat charged against the Respondent but saying that Dufour has committed a wilful perjury. Not to speak of the great improbability there is of a man of his position and character committing such a crime without any motive or interest, his testimony is corroborated by those of his father, of Elzéar Danais and of Epiphane Guillemette, as well as by the fact that Dufour's conduct in the election underwent a complete change after the time when he says he was threatened by Respondent, a change that nothing but that threat could explain.

It has been contended that the threat complained of could not have any effect upon Dufour, his situation being a federal one and Respondent being opposed to the government. 40 But that is, first, of no consequence: the law does not require that the threat shall have any

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Buckwood & Co. upon
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effect ; the attempt to intimidate is as much a corrupt practice as the intimidation itself ; secondly, Dufour, though he knew that Respondent was in opposition, was perfectly justified in thinking that a political man of Mr Langevin's position, who for many years had been a minister of the Crown, might be influential enough to have him dismissed. He was the more justified in being afraid of the Respondent that Mr. Langevin, in his speeches, tried to persuade the electors that the government would soon be defeated and replaced by his own friends.

As might have been expected, the Respondent has tried to contradict Dufour's evidence, but who is the witness that has been brought up for that purpose ? A man named Zéphirin Guillemette. This man had not prepared his plan sufficiently well that it would not be 10 defeated.

He had determined on saying that he had *remained from 5 till 7 o'clock in the door leading from the entrance room to the parlor* in Theophile Simard's house, so that he might be able to say that no one would have entered the parlor where Mr. Langevin was without his knowledge. He begins by saying that there were people in both apartments. Guillemette remains in the door way two hours, watching all that passes in both apartments, talking with about 25 or 30 persons concerning election news, but never stirs; he remains always in the door way as if he had been warned that Dufour was to pass through it. Seeing that the man would swear anything, we made him swear too much. Being surprised himself at the absurdity of his first 20 reply, he ended by saying that he had remained seated beside the door. Then, either not to be obliged to name his neighbours, or perhaps to prove that Dufour had not come to Simard's, or had not spoken to Mr. Langevin, he ends by saying that there were people only in one room. According to his last reply, he then remains two hours in a room where there was no other person. He therefore conversed alone for two long hours of election news, and he says that he did not find the time long.

Why did the Defence not bring up some of the persons, well known to Mr. Langevin, who were at Mr. Simard's that evening, Mr. Tarte for instance. Major Dufour says that the aristocracy were in the parlor. Guillemette mentioned in his testimony a man named Thomas Larouche who was at Simard's at the same time. We endeavored to bring up that witness at the beginning of our case; a subpoena was served on him, but he refused to 30 appear. The same man Larouche came to the Court at the same time as Guillemette, at the Respondent's request ; but for good reasons, no doubt, care was taken that he did not appear as a witness, not to put him in our hands to confirm Guillemette's testimony. Mr. Langevin is therefore alone to contradict Dufour's testimony, which we have seen is well supported. How does he contradict it ? He does not say that he did not speak to major Dufour; he says he did not speak to him knowing that he was speaking to major Dufour. This is evidently a confirmation of Dufour's testimony.

We now come to the question of clerical undue influence to which this affair owes 40 its celebrity. That question, when raised in this case, was not new either in Great Britain or in this country. In Great Britain, the law on the subject, which has never been doubtful, which has been applied by the committee of the House of Commons in the Mayo case, in 1857, in the Longford case by Mr. Justice Fitzgerald, in the Galway town case by Mr. Justice Keogh, has been finally settled by the Galway county case, in 1872. In Canada the

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Page 350 -

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same law, which had been applied in the Bagot case by the committee of the Canadian House of Commons in 1868, has been lately expounded and applied in the Bonaventure case by Justices Casault, Maguire and McCord.

The principles of our law on the question of undue influence by the clergy, were laid down for the first time by that great jurist Sir Samuel Romilly, in the celebrated case of *Huguenin vs. Basely*, where it was sought to have a will annulled for this same reason. Here are the words used by this eminent judge: "Undue influence will be used if ecclesiastics *make use of their powers to excite superstitious fears or pious hopes*; to inspire, as the object may be best promoted, despair or confidence; *to alarm the conscience* by the horrors of eternal misery, or support the drooping spirits by unfolding the prospect of eternal happiness, that good or evil which is never to end." 10

The law thus laid down was afterwards applied to elections, as above stated, by the Mayo committee in 1857, which unseated the sitting member for clerical undue influence. It was left for Mr. Justice Fitzgerald to expound that law in the Longford case. Speaking of what is allowed, and of what is forbidden to the clergy in election matters, he expresses himself in this manner: "*he may not appeal to the fears or horrors or superstition of those he addresses. He must not hold out hopes of reward here or hereafter, and he must not use threats of temporal injury, or of disadvantage or of punishment hereafter; he must not for instance, threaten to excommunicate or to withhold the sacraments, or to expose the party to any other religious disability, or denounce the voting for any particular candidate as a sin, or as an offence involving punishment here or hereafter. If he does so with a view to influence a voter or to affect an election, the law considers him guilty of undue influence.....*" As priestly influence is so great we must regard its exercise with extreme jealousy, and seek by the utmost vigilance to keep it within due and proper bounds." 20

What can be more conformable to good sense, than the interpretation given to the law in this matter?

If the threat of the loss of any place, if the giving of the smallest sum of money, even 25 cents, is sufficient to annul an election, with much more reason should this be the case as regards a man who believes in another world, with threats of the loss of the place which he hopes to occupy there. 30

The law does not say, nor do we claim, that the clergy should be deprived of their political rights; still less does the law prevent them from instructing the electors on their duty as to elections. They may then, as at all other times, and it is even their duty, to preach on morals, to inculcate virtue, to condemn vice and error, but they should not threaten nor intimidate any person.

Priests, in one word, have the right of voting, and of discussing all questions of public interest. What the law denies them is the right of doing what others are not allowed to do, of threatening and intimidating the electors, of depriving them of the free exercise of their electoral franchise. The legitimate influence of the Priest is not condemned by the law, and it is at the option of the Minister of religion to use it or not within the prescribed limits. Civil law reaches only the abuse of this influence. It does not condemn the existence of the influence of the Priest, no more than it does that of an extensive manufacturer, who employs, for instance, 600 or 700 men. The latter may declare himself in favor of a candidate, and give him the benefit of his influence. But he becomes guilty of *undue influence*, if he uses inti- 40

general subjects

No intervention within the
meaning of the Irish cases

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only 7 charged

4 of these Priests are entirely
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imidation with regard to his employees, or if he threatens them with the loss of employment, should they vote against his candidate. It is not legitimate influence which is condemned, nor the legal exercise of it; it is the abuse of this influence. It is not the use of this influence when appealing to the noble sentiments of respect or of gratitude which leaves full and complete liberty; it is its use in appealing to the miserable sentiment of fear and terror which deprives a man of his liberty, and makes a slave of him.

Who would condemn an influence which arises from virtue, talents, riches and social position? Nothing is more legitimate and useful than this influence, but it, as well as all good things, may be abused. It can be used to frighten, to intimidate and to deprive the electors of their liberty. It is this abuse which the law condemns, be it committed by a layman or by a Priest. A manufacturer is not allowed to say to his employer: I will discharge you from my employ if you do not vote for such a one, because it would be an abuse of his influence; nor does the law allow a Minister of religion to say to one whose conscience he directs; "If you vote for such a one, you will commit a sin, and consequently you will forfeit heaven, where I am deputed to lead you; I declare to you your place in heaven will be lost." This species of intimidation is more dangerous than the first, because it operates especially on the most respectable electors, on those who have the most profound religious convictions. Such an elector, who would be deaf to any menace of temporal loss will, when his conscience exacts it, sacrifice his political convictions, if he believes his salvation requires it, and if he is threatened with the loss of that eternal happiness, to the acquirement of which his whole life has been consecrated. On the contrary, the elector who has no conscience, no religious convictions, who can be bribed by a small sum, who can be induced to vote against his opinion by a threat of the slightest pecuniary loss, may be threatened with the greatest evils in the next life, and his vote will not be influenced.

The law on the question of the undue influence of the clergy is so clear, so well established by the authorities above quoted, that we do not deem it necessary to enter into any lengthy argument to show what it is. We shall content ourselves with answering a contention urged in the court below and adopted by that court; it is that the word intimidation, in clause 95 of our statute, means intimidation by threats of temporal pains only, and not intimidation by threats of spiritual penalties. The reason given is that the State has not that control over the Church, which it has in the mother country, and that the catholic church being free according to the Paris treaty of 1763, law courts can have no jurisdiction over catholic priests for acts done or words spoken by them when in the exercise of their ministry.

An answer to that reasoning has already been given in the Bonaventure case: The catholic church is as free in Great Britain by the emancipation act of 1829, as it is here by the treaty of 1763; that however, has not prevented the British Courts from annulling elections for undue clerical influence.

But there is another answer: when the very words of a statute have been copied literally from an English statute, the meaning of which had been before perfectly well established, by what rules of interpretation could another meaning be given to the same words in Canada than in Great Britain? It is for that reason that the American Courts have uniformly decided that, whenever an English statute is reenacted in the United States, it must there receive the well admitted interpretation that it had before received from the English Courts.

Under influence, must be
compared to physical & carnal
Under influence

Take "Marriage & Divorce"
for instance

I suppose we have a bill that passed
for creating a divorce court for
Catholics

This is a vital dogma of the
Church

we advocate for divorce bill
the other against it
Have the Priests not the freedom
to say to the Catholics that it
is a mortal sin to vote for
this?

We cannot 'engineer' into the masses
for the faith which is in them

The duty of the Priest is pointed
out in the Pastoral letter

This was written in Sept 1875

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Such being the law on the question of undue clerical influence, before coming to the individual cases of that kind relied upon by the Petitioners, we shall make a few remarks on the question of agency, on the manner in which such a connection may be established between a candidate and the clergy, as to render him liable for the consequences of their acts or words, in as far at least as regards his seat. We shall do that once for all, the relations of the Respondent with all the incriminated priests having been almost the same.

In the Limerick case, Baron Fitzgerald has expressed himself on this subject in the following manner: "As Mr. Coffey said, if this be essentially a Roman catholic city and if the influence of the Roman catholic clergy be enormous, if, more than that, from the position of the majority of the Roman catholic electors in the city, they naturally look to better educated men than themselves for the management of their temporal as well as spiritual affairs, if that be so, bearing in mind the organised condition of the Roman catholic clergy, and the fact that in every parish in this city there are at least two or three clergymen, so connected with the poor class of voters, a question arises in which as a body this clergy is interested. If they make the cause of the candidate their own, and give him the benefit of having what may be equivalent in its effects upon the election to a committee-room conducted by themselves in every parish, they being the canvassers, and if it then turns out, at the time of the election, that the candidate represents his cause as indetical with that of the clergy, and publicly gives out that the question between him and his adversary is, whether the clergy shall be put down or raised up, and is accompanied by them through the streets canvassing; if that be so, though the particular clergyman of the parish be not the party who accompanied the candidate in canvassing, I, for my part, will doubt long before I say that the candidate is not, so far as his sitting in parliament is concerned, responsible for the acts of those parties in their several districts and parishes."

One would think that Baron Fitzgerald was speaking of the Charlevoix election. Indeed, taking into account the differences resulting from the differences of places, the conduct of the clergy and of the candidate in the two elections appears to have been absolutely the same. According to the evidence, it is clear that Mr. Langevin had placed his election in the hands of the clergy. Without the assurance given him by Mr. Onésime Gauthier, that he would have the support of the clergy, and that he could most certainly rely on this powerful influence, he would never have come to the county of Charlevoix. He has made this acknowledgment in his evidence, and it was Mr. Gauthier who acted as his agent with the clergy.

At the public meetings Mr. Langevin declared he had the *support of the clergy and that the electors should hear the voice of their pastors*. At Eboulements, at a public meeting where Mr. Langevin was present and at which he announced his candidature, while the Honorable Mr. Cauchon was asserting that all the clergy had not declared themselves in favor of Mr. Langevin, the reverend Mr. Gosselin, *vicaire* of that parish, was called as a witness by Mr. Langevin's friends, and opening an attic window of the presbytery, declared publicly in a way that he could be heard by all the assembly, that *the clergy of the County had unanimously chosen Mr. Langevin, and had promised to support him*. This fact alone suffices to show that Mr. Langevin had constituted all the *curés* of the county his *agents*, and that he then accepted the responsibility of their acts. How can he, after that, deny the agency of the *curés*.

The subject of the
Section 5 page 8

~~My name~~
"subject to the Kings
Supremacy"

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for the British Parliament a
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It must be done by ~~very~~

clear language Section 95
This general language will not
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8° Intimidation by Reverend Mr. Cinq-Mars, upon the Roman catholic electors of St. Fidèle.

Let us now come to the first case of clerical undue influence we have to deal with, that of Reverend Mr. Cinq-Mars. That case is twofold: 1° Intimidation committed upon Narcisse Bouchard and Johnny Desbiens individually: 2° Intimidation upon all the Roman catholic electors of St. Siméon.

The facts with regard to Narcisse Bouchard are as follows: Bouchard was taking Mr. Cinq-Mars to his place to administer the sacraments to a sick person. On the way up to Bouchard's, Mr. Cinq-Mars commenced talking of the election, and said to Bouchard that voting for Mr. Tremblay was a grave sin (un cas de conscience). This was a few days before the polling, and it was Mr. Cinq-Mars who commenced talking on that subject. 10

On the same occasion, Johnny Desbiens, Bouchard's brother-in-law living in the same house, took Mr. Cinq-Mars back to the presbytery. When there, the *curé* commenced talking of the election, and said to Desbiens that voting for Mr. Tremblay was a mortal sin.

Great efforts were made by Respondent to show that Desbiens, made a statement in writing different from his testimony. But it is useless to examine that point, because Mr. Cinq-Mars himself heard as a witness by the defence proves that he said the words attributed to him, but with that aggravating circumstance that he said them not to Desbiens alone, but also to William Savard, and to François Bergeron. Later on he repeated the same words to Michel Tremblay and to one Dallaire.

Johnny Desbiens was brought up a second time by the defence, and this illiterate man repeated word for word, what he had said when first examined. 20

When we heard that Revd. Mr. Cinq-Mars was to be brought up, we expected that gentleman was coming to prove that he had not said it was a mortal sin to vote for Mr. Tremblay; but, to our great surprise, it was only to contradict an insignificant detail of Desbiens' testimony. Desbiens had declared that Savard and Bergeron were not present when the *curé* spoke to him of the election; Mr. Cinq-Mars came to say that they were present, which only aggravates the case. 30

And with respect to this detail, why did not the defence bring up François Bergeron and William Savard to corroborate Mr. Cinq-Mars' testimony? The Court will be astonished at the testimony given by this Reverend gentleman; several times, he, at first, declined to answer, he often took upon himself to indicate the manner in which he wished to be questioned, and two or three times, he even ordered the questions to put in writing, to have the time to prepare his answers. He admitted, almost by force, that he had read and commented upon the Bishops' pastoral letter, and that he had given to understand that Mr. Tremblay was a liberal catholic, that he was a dangerous man, and that one could not vote for him without committing a grave sin. When Mr. Cinq-Mars' interrogatory on the re-examination was continued, two days after having been heard on the cross-questions, he acknowledged having read his first testimony, and having spoken of it to Mr. Pelletier (counsel for the Respondent) to prepare himself for the re-examination, a fact contrary to all rules of evidence, and which renders this part of his testimony valueless. 40

William Savard was brought up by the defence, but he was not questioned with regard

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Electors —

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the law in preaching as they
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Articles of capitulation of Quebec
& Montreal

1759 to 1834

" Treaties & Imperial Acts
relating to Canada"

article 6. Relating to Quebec

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and Treaty was made

Page 14 article 27 —
Relating to Montreal

Debates in Parliament in
Canada Bill 1774

Reported by Sir H. Cavendish

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to the conversation held at the presbytery of St. Siméon; a fact which proves that this witness could not contradict Johnny Desbiens, even on the insignificant detail for which Mr. Cinq-Mars was brought up

9° *Intimidation by Rev. Mr. W. E. Tremblay, upon the Roman Catholic electors of St. Fidèle.*

Rev. Mr. Tremblay, curé of St. Fidèle, is guilty of spiritual intimidation, first, in regard to Johnny Tremblay, merchant, of that parish, a very intelligent man, and who gave a very exact account of his conversation with the curé. The real meaning of the curé's words is that it was a *sin* to vote for Mr. Tremblay. The curé exempted from *sin* only those who were ignorant and who did not understand the explanations he had given on the pastoral letter of the Bishops. Undoubtedly, a man sins only in as much as he knows 10 he does wrong. To Johnny Tremblay, as well as to his parishioners, the curé of St. Fidèle said it was a sin to vote for Mr. Tremblay, but added that those who did not know what Mr. Tremblay was, would not commit that sin. "As for me," said he, "knowing as I do, that party, I would believe I would commit a sin in voting for him." The Rev. curé gave an account to the Archbishop of this part of his sermon, and the expressions which he made use of in his letter to the Archbishop, were corroborated by the witnesses for the Defence.

Johnny Tremblay also established the fact that the curé said *there was no difference between catholic liberalism and political liberalism*, which has not been contradicted by any witness. 20

According to Denis Gauthier, the curé ended his sermon with a threat which would most effectually influence his congregation.

Alluding to the liberals whom he accused of wishing to confine the priest in the sacristy, he said that "*God would perhaps permit that they would die suddenly, and the priest would remain in the sacristy and could not go to administer the rights of the Church to them.*"

10° *Intimidation by Rev. Mr. Doucet upon Denis Harvey.*

Denis Harvey, a respectable farmer of the parish of Malbaie, declares that the Reverend Mr. Doucet, curé of that parish, said nothing in the pulpit against Mr. Tremblay: it was in private conversations that he spoke against him. Denis Harvey seemed pained at being obliged to tell what his curé, for whom he has great esteem, said to him. 30

He has heard reports of sermons preached by the curés of the other parishes of the county; he is alarmed on being told that if *Mr. Tremblay is elected, religion will be abolished before two years have elapsed*. He goes to his curé expressly to consult him. Mr. Doucet says to him that it is true Mr. Tremblay, his parishioner, is a perfectly honest man, capable of rendering great services to the country, but that he *supports a dangerous party*. "*I will read the pastoral letter of the bishops, next sunday,*" he adds: "*after that, those who wish to lose their souls may do so, (ceux qui voudront se perdre se perd out.)*" Denis Harvey declares he understood that these words were directed against Mr. Tremblay, and certainly he could not otherwise understand them.

This fact related by Denis Harvey is very important, not on account of its intrinsic value, 40 but as it establishes how unanimous the curés were against Mr. Tremblay. Mr. Doucet is

Other corroborates

pt. 4. pages 506 -

Line 133

Line 177

Part 4 pages 148-149

Mempl at Cabadiskar

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known to be a very moderate man, a priest of exemplary prudence; he never interfered in politics. So much so that in the preceding elections his opinions could not even be surmised. But in this election, the action of the clergy was so decided that he could not resist the movement, and was carried as it were against his will, by the force of the current.

11° *Intimidation by the Reverend Mr. Sirois, on the Roman Catholic electors of Bay St. Paul.*

I come to the most important fact of spiritual intimidation. The Reverend Mr. Sirois, curé of Bay St. Paul, was the soul of the organisation prepared by the clergy of the county to secure Mr. Langevin's election, the means employed being that of threatening the electors with eternal torments, if they had the misfortune of voting for Mr. Tremblay. We find nothing stronger in the Galway trial; we see the same violent and abusive expressions. From the preceding fall to the end of the election, in January, Mr. Sirois did not cease to preach against Mr. Tremblay and his party. 10

The priests of Galway were always speaking of Cromwell, well-known throughout all Ireland for his tyranny towards Catholics; to alarm the electors, Mr. Sirois made use of the names of Garibaldi and Victor Emmanuel, well-known throughout all our country parishes for having deprived the Sovereign Pontiff of his States. There are not in the province of Quebec many foreign personages so generally known as Victor Emmanuel and Garibaldi, in as much as every Sunday prayers are offered in our churches for the temporal reestablishment of the Pope. Petitioners brought up 17 witnesses from Bay St. Paul, who all agree as to the meaning of curé Sirois' words and as to the strongest expressions such as: "*Scaffold, the blood of priests, false prophets, false Christs, venomous serpents,*" expressions used against Mr. Tremblay and his friends. 20

After having heard the testimony of Mr. Pâquet, member of the local legislature, whose integrity and intelligence no one will question, and who, while Mr. Sirois' sermon was still fresh in his memory, made, with the assistance of two friends who had been present with him in the Church, a complete analysis of the sermon of the 16th of January, I was astonished to see the Respondent bringing up 40 or 50 witnesses to contradict the witnesses of the Petitioners.

He feigned not to understand that even 200 witnesses who do *not* recollect are not worth *one* witness who *does* recollect. 30

The system established for the witnesses of the Respondent, was not to remember, and to say that the Curé did not name Mr. Tremblay, as if in an election where only two candidates are in the field it was necessary to designate them by their names. Witnesses were made to say the most impossible things, enough to make one's hair stand on end. Although they had heard Mr. Curé Sirois thundering for one hour or an hour and a half, against Mr. Tremblay and his friends, call them *false prophets, false Christs, venomous serpents*, they swore positively that he did not show for whom he was. It was truly revolting to hear people perjure themselves in such a dreadful manner.

A witness for the defence, Wincelas Tremblay, put before the Court an analysis of Mr. Sirois' sermon of the 16th of January. This analysis had been prepared by Mr. Sirois himself to be sent to the Archbishop of Quebec. The Court will remark that the witness said it was only an analysis: Well we find in it exactly the substance of the sermon as 40

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X Intimidation of
Charles Bonchard -
by Dennis Gauthier
Agency Page 25 line 847 -
Asked me to vote

"You can't vote for Frembley
If you vote for him
You will remember me at the
'94 W."

Had business characters
Lower him -

He did not vote -
because of this -

X strengthened this - page 26 line 2
Dred Gauthier p 15

X Threat of duress
by Respondent
Put 3 pages 48 & 49

Line 1590 "By continue
at the bank certainly"

related by Mr. Pâquet. Mr. Moril Bouchard, a lawyer, and a supporter of Mr. Langevin, declared that Mr. Sirois' sermon lasted one hour or one hour and a half. We can imagine what a man so violent as Mr. Sirois can have said with such a ground work. It is easy to suppose the impression produced by such a discourse, in which the speaker recalls the horrors of the French Revolution, on such men as Octave Simard, for instance, this respectable citizen, a Churchwarden of Bay St. Paul, who related in Court, with so much precision and exactitude, what he had heard.

When questioned as to the effects of the sermon on him, he says he had always been in favor of Mr. Tremblay, that he continued to say he was for him during the election, but in the end the sermons of the curé had changed his convictions. It was painful to see the air of humiliation with which that honest man acknowledged that he had been alarmed by the sermon of the curé, and was obliged to say he had voted against his decided convictions. The object of the sermon was evidently to frighten Mr. Tremblay's supporters. It was only those who thought they knew more than the curé, or who were determined to risk their eternal salvation, who would after that sermon vote for Mr. Tremblay. A witness who communicated to us the anxiety he had experienced, said to us: "I was very much embarrassed, but finally I said to myself: I hope I shall not die suddenly, and after voting for Mr. Tremblay, I shall have time to go to confession and obtain the pardon of my sin." 10

The sermon preached on Christmas day, which several witnesses have mentioned, leaves no doubt as to the part which Mr. Sirois intended to play in the election. "A certain candidate came to see me, said he in this sermon; if I had been at home, I would have turned him out (je l'aurais chassé), do the same to him." It was well known that Mr. Tremblay was at that time the only candidate in the field, and the only one who was in the parish on Christmas eve. 20

I think it proper to cite to the Court this other passage of a sermon reported by Mr. Sirois himself to his Lordship, the Archbishop, and which Petitioners have proved by the witnesses for the Defence: "They (the liberals) will do so much that they will unmask themselves and will show themselves as they are, so as to leave no doubt as to their aim. There are some whose hearts are so black that if a religious persecution was to break out at this moment, they would be the first to hold the rope or the knife: that would give us the death blow. In blaming and criticizing as they do the word of God and of his ministers, in presence of their children certain parents assume a terrible responsibility before God. When they will be dead and reduced to ashes they will have left children who perhaps will be ready to steep their hands in the blood of the priests, if ever a religious persecution broke out." And all this because some persons said that the curé was too violent a partisan of Mr. Langevin. 30

Mr. Pâquet, member for Lévis, who had gone expressly from Quebec to Bay St. Paul, to address the electors of that parish, on the 16th of January, in Mr. Tremblay's interest, did not dare to do so, fearing a riot, as the curé's sermon had created so much excitement.

Flavien Côté, heard as witness, arrives home two days after the sermon; his daughter-in-law describes to him the terror of the people: "every one has turned over, said she; and if you had been at Church, she added, you would have been frightened as well as the others." 40

As in Galway it was the women who were the most impressed, and to have peace in their houses, the husbands were forced to vote for the Curé's candidate. The faint

Promise by Price to Andre
Carre' #

Agency established part
3 page 6 — line 221
Promise
part 3 pages 95 + 96

Promise of ~~his~~ employment
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96 at top of page

Intimidation
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pp 3 pages 89 + 90 —

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analysis produced in Court by Wincelas Tremblay, sufficiently indicates the wild remarks of the Curé, the scene must have been terrible and the terror created almost general.

An old man named Jean Larouche, a warm supporter of Mr. Tremblay, being too deaf to hear what the priest said in the Church, is so frightened by what he has heard of the sermon in the parish, that he votes against Mr. Tremblay, and also prevents his son, a warm partisan to vote for the liberal candidate.

Thomas Perron, a witness in this trial, and who remained at home on that Sunday, relates that the people returned home from Church in the greatest consternation. The report made to him of the sermon had so frightened him that he did not dare to vote.

Let us put ourselves in the place of these poor people, and let us imagine the effect 10 produced on them by the threat of the most terrible calamities, of *sickness, of the loss of their crops and of eternal punishments.*

The Defence tried to prove by means of witnesses drilled for the purpose, that the curé had spoken of misfortunes which might happen far in the future. Let use read the analysis made by the curé himself; it speaks in the present: the revolution which is to destroy religion is just going to break out.

Joseph Bouchard, a witness brought by the Respondent proved that, since the preceeding autumn, " Mr. Sirois did not cease to speak about elections in the pulpit, and that each sunday Mr. Tremblay lost some supporters." According to witnesses worthy of confidence and who were acquainted with the dispositions of the electors, Mr. Tremblay should have 20 had 150 of a majority at Bay St. Paul, and he was in a minority of 133 votes.

The Respondent could find witnesses like Wincelas Tremblay and Luc Simard to swear any thing, to say that the curé's sermons produced no effect: but it is not to Mr. Langevin's partisans we should go to ascertain this result, to people predisposed in his favor, and who must have chiefly met electors favorable to the same party; it is amongst Mr. Tremblay's friends we should inquire to know the impression produced by the sermons of the cure and the change produced on the electors.

12° *Intimidation by the Reverend Mr. Langlais, upon the Roman Catholic electors of St. Hilarion.*

For forcible and violent denunciations of Mr. Tremblay and of his party, for the desire to prevent by terror all the electors from voting for the liberal candidate, Mr. Sirois has had a 30 rival in Mr. Langlais, and it would be hard to say which must carry the price.

It is proved by Mr. Réul Asselin, Zéphirin Savard, Zéphirin Bergeron, and all the other witnesses of the Petitioners, that the curé distinctly said, that it was a mortal or a grave sin to vote for Mr. Tremblay, and that at the hour of death the electors would prefer having followed the banner of the Pope, than that of Victor Emmanuel and Garibaldi. Was it possible to tell them more clearly that if they voted for Mr. Tremblay, eternal damnation would be the consequence?

The Respondent, feeling the importance of that evidence, and seeing that if left uncontradicted, it would upset his election, has tried to destroy it by bringing as many as 18

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Amey by the dropping of a suit brought
against Lajoie by his mother
in law

Lajoie Pt 3 pages 71 line 2058
page 72 top of page

Arbitr Evidence Part 3 pages 172
line 5060 -

Lajoie not successfully
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Perrault not satisfactory

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Page 31 of 4th part
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witnesses from that small and distant parish, after having brought them together at the *presbytere*, and given them a good drilling to prepare them to give their evidence.

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The witnesses from St. Hilarion brought by the Respondent to contradict our witnesses often reminded one of the Italian brought up as a witness in the trial of Queen Charlotte, in England, and who invariably answered to all embarrassing questions: "*Non mi ricordo*," "*I do not remember*." Having been previously assembled at the curé's, they had agreed on a pass-word; to all questions put to them to obtain the words or the meaning of the words of the Reverend Mr. Langlais, they repeated the "*non mi ricordo*," "*I do not remember*." Unfortunately for them, but fortunately for the Petitioners, they had signed, at the request of the curé, a solemn declaration prepared by the curé himself, and containing an analysis of the sermon, preached in the Church of St. Hilarion, on the 16th of January. After having denied in answer to the questions of the Counsel for the Defence nearly everything contained in the declaration, they admitted immediately afterwards, in the cross-examination, having signed the declaration which I have just alluded to, that is to say, they swore for and against, without appearing to feel the least embarrassment. Without this declaration, the Petitioners would have been in the impossibility of knowing by the numerous witnesses for the Defence, what was the meaning of the curé's sermon. They were so decided to swear anything, that they positively denied the most striking expressions contained in the declaration that they had signed. Some of them went so far as to swear that it was impossible to find out, by the sermon, that the curé sympathized with one candidate more than with the other. The analysis alone of the sermon sent by the curé to His Lordship the Archbishop, and which was proved by the witnesses for the Defence, is sufficient to annul the election. The curé declares having said to his parishioners, "*it was a sin to vote for the liberal party, and that at the hour of death those who would have voted for that party, would regret having followed Garibaldi and Victor Emmanuel in preference to the Pope and the bishops*."

13^o *Intimidation by the Reverend Mr. Fafard on the Roman Catholic electors of St Urbain.*

The violent language of the Reverend Mr. Fafard, Curé of St. Urbain, shows that he was not less decided than his *confrères* to force the electors to vote for the Respondent.

Two witnesses, Pitre Gilbert and Dominique Duchesne, have related the sermon preached by the Reverend Mr. Fafard, on the 16th of January. Their testimony agrees perfectly with the solemn declaration sent, shortly after the election, to His Grace the Archbishop of Quebec, and proved by the witnesses for the defense. This declaration forms part of the record.

The defence tried to discredit Pitre Gilbert one of the witnesses for the Appellants, but on what do they found their assertions ?

On the fact that Gilbert had been condemned by the Court for having sold liquor without a license, and on the fact that he had become bankrupt. Amongst the numerous witnesses from St. Urbain, brought up by the defence, there was not one who could give a single reason why Gilbert should not be perfectly credible on oath.

Those witnesses, who had been previously well prepared for that purpose, swore that the Revd. Curé Fafard had made them sign a declaration, contradicting in every point, the

Amberly Dennis Gauthier =
promise to lend money to Thomas
Tremblay

Part 3 page 97 line 2979

" Gille Puce declined to lend money
others would "

Agency of Puce established part 3
page 5 line 180

He wished to borrow money.

Says that he is not independent

You do not get the money from
Colleen. Others will lend you the
money.

Promise denied but it is
possible that ~~Gao~~ Tremblay
may have understood this

Page 91 part 4 -

Gauthier was sent to Puce

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Richwood page 93 + 94

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one signed by Pitre Gilbert and Xavier Girard, and consequently, contradicting the testimony of Gilbert and Duchesne.

Being examined on each point in particular, they all made important admissions, which completely destroyed the first part of their evidence. There was also among them an honest man whose conscience could not be stifled, and who had the courage to admit the greater portion of the truth. We wish the Court had been enabled to notice the feeling of terror by which this man, Cleophas Thibault, was seized, when he was commanded to say all that he knew, and that which his conscience and the sanctity of his oath obliged him to reveal. Thibault confirmed in all their most important details the testimonies of Gilbert and Duchesne.

He alone had the frankness to acknowledge a grave fact, denied by all the other witnesses from St. Urbain, and which was so recent that it could not have escaped their memory. It is this : immediately before their coming to appear as witnesses in this trial, Mr. Onésime Gauthier, member of the local Legislature had assembled them at his house, to instruct them with regard to the testimony they were to give. All the other witnesses for the Defence, from St. Urbain, must then have perjured themselves on this point. What then is the remainder of their evidence worth ? Even if this proof of perjury did not exist against them, their testimony would still be of no value, for we made them admit they had denied all Pitre Gilbert's declaration, which was on the whole perfectly correct, merely because it made Rev. Mr. Fafard to say, "*lately escaped from prison*" instead of only "*escaped from prison*." What should we think of witnesses, who, to deceive His Grace the Archbishop had recourse to such shuffling. It is established even by the evidence for the Defence, that the Rev. Mr. Fafard spoke of Mr. Tremblay as a "stubborn headed man," and of his supporters, as "heartless people" (Gens sans cœur) that he ridiculed the residents of "la Décharge" who were supporters of Mr. Tremblay, for having held meetings in his favor. It is established that he said that those people ought to remember that if they had been able to sow their lands, in the preceding spring, it was *due to the assistance they had received from their curé and from the farmers in good circumstances*, giving clearly to understand that if they would vote in favor of Mr. Tremblay, the same assistance would be refused them in future.

There is one point on which all the witnesses, without exception, agreed ; it is this : that Rev. Mr. Fafard called Gilbert, Mr. Tremblay's chief supporter, *an escaped prisoner*, 30 "*échappé de prison*." We may take the liberty of remarking that Rev. Mr. Fafard has a singular manner of practising christian charity. Even if this had been true, it certainly should not have been mentioned in the pulpit, but what is still much more serious, is the fact that Mr. Fafard deliberately asserted against Gilbert what he knew to be an abominable calumny. Let us judge from this of the manner in which he must have dealt out spiritual threats.

The effect of such language with reference to one of Mr. Tremblay's principal supporters in a parish such as St. Urbain, where the Curé has always had great influence, may be easily understood.

If it can be said that Gilbert is "*an escaped prisoner*" (un échappé de prison) because he paid a fine instead of going to goal, the same epithet might be used in reference to Mr. Tarte, 40 Mr. Langevin's election agent, who also avoided going to goal in the same manner, by paying a fine of \$40.

House

as to \$600 of ~~unpaid~~
Budget page 2 of 4th pt

Judgment of my Markteasing case
Sitting member disqualified
pursue of money to his county

Minnesota
Case
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The testimony of Cléophas Thibault is overwhelming against Mr. Fafard and against the witnesses for the Defense who concealed an important portion of the truth.

In the Galway election trial, the Judge declared Rev. Mr. Loftus guilty of intimidation, merely on account of his having said of one of Captain Trench's canvassers that he was a *blackguard*.

14^a *Intimidation by the Reverend Mr. Roy, upon the Roman Catholic electors of St. Irénée.*

We find in the account given of the sermon preached by Reverend Mr. Roy, *curé* of the parish of St. Irénée, on 10th January, similar threats to those made by certain Priests of the county of Galway. Because there had been some disturbance at a meeting, held on the evening of the preceeding Sunday, the *curé* deprived the parishioners of High Mass. He also threatened them with going away, and leaving them without a Priest, if there should be any further disturbance. "You are strong here" said he in addressing Mr. Tremblay's supporters, but go to Eboulements, you will see you are not so strong there." 10

The Respondent, to contradict the irrefutable proof of the petitioners, brought up a dozen witnesses of the "*non mi recordo*," kind, "I do not remember," or "I do not understand."

These witnesses had the audacity to say that the *curé* did not speak of the election, that he did not make known his opinion, that they were not aware whether he was for Mr. Langevin or for Mr. Tremblay. Through respect for the Court, I will not cite the vulgar expressions used by the Rev. Mr. Roy on this occasion, according to the witnesses of the Respondent.

II. FACTS OF A GENERAL CHARACTER. 20

1^a *Insufficiency of Respondent's account of election expenses.*

To prevent any illegal expenses the law (37 Vict., ch. 9, sect. 121), enacts that no election expense shall be paid otherwise than by an agent whose name must be given to the returning officer and published by him. The law makes an exception only for personal expenses which may be paid by the candidate himself. More than this, the agent named by the candidate to pay his election expenses must, within the two months after the election, furnish the returning officer with a DETAILED account of all the election expenses of the candidate, comprising his personal expenses, sect. 123. Clause 125 explains what are the personal expenses that clause 121 allows the candidate himself to pay.

What are the consequences of the non-observance of that law? Some of them are indicated by the law itself, I mean penalties. We will not here mention them. But there is another which is very important, based upon numerous precedents, and which has a direct relation to this case; it is that the non production of the account required entails a presumption that corrupt practices have been employed, and the candidate is obliged to destroy that presumption if he wants to keep his seat. O. & H., vol. 1, p 20 and 33: 19 L. T. (N.S.) p. 718. In this case it is not for the Petitioners to prove the illegality of the expenses of the Respondent, it is for him to establish their legality. 30

The law requiring a detailed account, it is not enough to produce an account by heads of expenses; an account by items is necessary, except in cases where it would be practically impossible. *Ibid.* 40

page 35

Galway case 1872-1873

38 Cassidine

38 —

39 —

question

"Between faith & infidelity"

X40

Page 43 bottom of page

"Duty as his quest to see
that the voter did not
vote"

McKewen

page 46

Captain Nolan —

Mr. Aubrey

Osborne Faulstich

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part 3

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This is the law. Let us now see whether the Respondent has conformed to it. He should have conformed to it the more strictly, as the amount of his expenses was of a nature to excite suspicion. The sum is of \$1,088, not including the personal expenses. The total forms about \$1 a head for each elector who voted for the Respondent. What accounts did he furnish? Only one of those accounts by heads declared insufficient by the authorities. It contains items like the following: *Personal expenses*, \$155; carters for calling meetings, \$218; board and travelling expenses paid to Arsène Simard, Mrs. Riverin, Ismaël Lavoie, Lapierre, Alfred Filion, Théophile Simard, \$371.43.

If, as in the Quebec East case, a satisfactory explanation had been given of these three items, which form more than half of the expenses of the Respondent, no unfavorable presumption would be created against him by his not having produced a detailed account. Quebec Law Reports, vol. 1, page 305. But this was not done.

As to the item of \$218, carters for convening meetings, the Respondent has not given a satisfactory explanation of the same. The one given by Mr. Tarte, is that the money was expended from day to day and paid by him at once. This suggests several remarks: 1° Mr. Tarte having, as he says, kept an account of the sums, why did he not file that account with the Returning Officer? 2° Mr. Tarte having remained at Bay St. Paul during the whole time of the election, if, as he says, the expenses were paid as soon as incurred, they must have been incurred at Bay St. Paul. So that \$218 must have been spent *in that single parish*, under color of convening meetings, whereas in all the other parishes we only find an expenditure of \$2 for the same purpose. Mr. Tarte, the Respondent's election agent, in his testimony, says, that as many as five meetings were held in Bay St. Paul alone in a single evening. It is quite evident that there could be no use for so many meetings in a single evening, and that most of them were nothing but a blind to pay the services of a great many so called carters, and secure the support of those who always go to the side where there is money to be obtained. Bearing in mind the change, proved in the record, of the political opinions of that parish, one is compelled to come to the conclusion that the largest portion of that money was expended for bribery and other corrupt practices under cover of engaging carters.

There is more yet than a mere presumption. We have in the testimonies of J. B. Bolduc and Laurent Pilote a direct proof that some of that money was expended to pay carters for conveying the electors at the election, contrary to clause 96, which, combined with clauses 98, 102, 103, makes that act a corrupt practice fatal to the election.

No sufficient explanation has been given of the item of \$155.25 for personal expenses. That item would not call for any particular remarks and would not be noticed by us, if the amount was not more than we may suppose the legitimate expenses of Respondent to have been. But the amount is certainly out of all proportion with the sums which the Respondent must have paid for his board at hotels and his travelling expenses, which are, by clause 125, the only expenses that can be included under the head of personal expenses, and which may be paid by the candidate himself, and not through his expense agent. We must not forget that the work of the election only lasted one month, and that a large portion of the expenses of Respondent for board and travelling is already included under some other heads of the account, viz: expenses incurred for visiting the county \$8; board paid to Mde. Riverin (where Respondent was putting up during the canvass) and some other expenses \$371.43; paid Jos. Poitras for one trip to Baie St. Paul for Messrs. Langevin and Tarte \$20, etc.

Page 32 -

The priests returning to care
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During the witnesses at the
house of the cure

Page 31 Salway case

near end of page

Father Loftus
McGlocklen

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Page 34

Stanton

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As to the item of \$371.43, no satisfactory explanation has been given of the sum of \$305 included in the same and paid to Théophile Simard, an hotel-keeper of Bay St. Paul. The facts as stated by Mr. Tarte are as follows: Simard's hotel was the head-quarters of Respondent for the upper part of the county. It was open to all the electors at all hours, day and night. All those who happened to come to work for Respondent were there freely supplied with board and lodging for the asking. It is also in evidence that at times electors of the county took meals with the committee men and speakers of Respondent. Neither Simard, nor Tarte, nor any one else kept any account of the expenses. Some time after the election was over, Simard went to Quebec, saw Mr. Tarte and asked him for \$450 in a block sum for the use of his house, for the board of Respondent's friends, etc. Tarte cannot say at first whether the amount is too large or not. He then sits at a table and makes a rough calculation, taking as a basis a mere guess as to the number of speakers supplied with board and lodging. Even with that loose and easy way of making the account, he does not succeed in squaring up the amount paid Simard: he arrives at \$386 and only pays him \$305. 10

There is the whole explanation as given by Mr. Tarte. From his own showing, though he says the contrary, he could not have said, when he paid the account, that the amount was correct, since he admits that he could not give any details, could not single out any one item, but had to proceed by way of suppositions and mere guess. In view of those facts, how could he say that he had ascertained that nothing was paid for illegal purposes? He may have intended not to pay for any illegal expenses, but where is the proof that none were paid by those \$305? It requires a great deal of boldness on his part, not to use a harsher word, to say that he can swear that none of that money was for illegal expenses, that he knows that none were made, when he himself says he was absent four days from Bay St. Paul, and that every day he used to attend meetings held in that parish and elsewhere. 20

There was only one man who could give an explanation of that account, and that man is Simard himself. From his own showing, Mr. Tarte can only speak from what he has been told by Simard. Why then, did not the Respondent bring Simard as a witness, when he could much more easily than Mr. Tarte, have been produced? Evidently, because Simard could never have sworn that none of that money was for illegal expenses, because, under oath, he would have been compelled to admit that the amount paid included the price of the meals given by him to electors of the county, as proved by Tarte, and the sums paid to carters to convey electors at the election, as proved by J. B. Bolduc and Laurent Pilote. 30

The case of Benoit vs. Jodoin (19 L. C. Jurist., pp. 185 and 132) decided in Montreal by Mr. Justice Beaudry, whose judgment was afterwards unanimously affirmed by three judges in appeal, was quoted by the Petitioners in the Court below, and it is difficult to find a case more to the point. It is so similar to this one, that were the names left out, one could think that Mr. Justice MacKay's remarks were made in reference to the present case. The only difference there is between Simard's affair and that of Gibeau, is that Gibeau was brought up by Jodoin and tried to give an explanation of the amount paid to him, whereas here Simard was not produced. 40

It is contended that there is a difference between the two cases, in that Mr. Tarte swears that no part of the sum was for illegal expenses, whereas Gibeau swore that some of the liquor paid for, was given to electors. But Mr. Préfontaine, who in the Chambly case occupied the same position as Mr. Tarte here, had also sworn, as Mr. Tarte has done here,

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Miles Tremblay's testimony
important page 124
part 3.

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Galway case pages 21 + 26
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that none of the money had been paid for illegal expenses. Mr. Préfontaine was contradicted by Gibeau, because he could not speak by personal knowledge and only said what he had been told by Gibeau, as Mr. Tarte has been speaking from the information supplied by Simard. If the latter had been heard, we would have seen between him and Mr. Tarte the same contradiction that was found between Gibeau and Mr. Préfontaine.

The court cannot therefore, but follow the precedent established in the Chambly case, where the Respondent Jodoin was unseated and disqualified for the payment of a sum of \$362 of which no satisfactory explanation had been given.

2^d *General System of Spiritual Intimidation.*

Each of the facts of Spiritual intimidation that I have mentioned up to this is of itself sufficient to annul the Respondent's election, on the only condition that the agency of those who committed those acts be proved. But I go further, and I maintain that there is in the record sufficient proof to establish a general system of spiritual intimidation, as alleged in the petition, and even supposing that no agency was proved, this suffices to annul the election. 10

It is useless to discuss the question whether the proof that such a system has been put in practice for the benefit of a candidate is sufficient to annul an election. Our Statute does not mention it, it is true; but the English Statute does not mention it either, and in England, there has never been any hesitation in annulling elections for that reason, according to the common law, which requires that all elections be so made that it can be said they are the expression of the free will of the electors. If so many illegal practices have been committed that it may be believed that the electors have not been free, the election should be set aside. 20

The principles admitted in England on this point, were applied here in the Dorchester election trial, in which Mr. Rouleau's election was annulled in 1875 by a decision rendered by the Honorable Justices Casault, Taschereau and Meredith, on account of a general system of *treating*.

It is well to remark that for the voiding of an election on account of such a general system of illegal practices, it is not necessary to prove that the result of the election was actually changed by it, it is sufficient to prove that they were of such nature that they deprived many electors of their liberty, and were the cause that the election was not what it would have been. 30

It is according to that principle that the Court acted in the Dorchester case above cited, The Court annulled that election, not because the sitting member owed his seat to the *treating* practised in his favor, but because it was proved that there was so much treating that the election could not be considered as the result of the free choice of the electors. Judge Keogh had previously given this same interpretation of the law in the Galway case already cited. (O. & H., vol. 1, page 256, 257, Cox and Grady, p. 323, Warren election committees, p. 323.) In the Galway case, out of 150 priests who were in the county, 50 or 60 only were incriminated, and the judge found sufficient evidence against 35 only. Nevertheless he declared there had been a general system of spiritual intimidation. This is easily understood; the electors of the different parishes of a county having frequent intercourse between 40

"Woman frightened"

Adolphe ~~Suvar~~ Guari.

at Lewis pt 3. - 44

June 1448

Paul wished to walk in the
blood of priests

Odett. vs. Fauchem

Laughlin vs. The Bishop of Soda + Mann
d.R. 4 E + I appeals

Tipperary case (1870)

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each other, the sermon of a single priest will be reported throughout the whole county ; it will be generally spoken of, and the spiritual threats will have the same effects elsewhere as in his own parish, because the Catholic doctrine is known to be the same every where, and if it is a sin at Bay St. Paul and at St. Hilarion to vote for Mr. Tremblay, it is also a sin in the neighboring parishes.

The Court below has considered the law in a different light, which appears to me to be the result of two important errors. The judge appears to have maintained that to have the election set aside on account of intimidation practised by the clergy, it was necessary to prove that Respondent's majority was obtained through terror, and would not have been obtained otherwise. And perhaps through an excess of good will, finding evidence with regard to four electors only that fear had prevented them from voting, he concluded that the intimidation proved was not sufficient to void the election. 10

In this there are two errors. In the first place the Court seems to have taken no notice of the attempt at intimidation, which by the statute is assimilated to intimidation itself, inasmuch as the Court, without examining the attempt at intimidation, sought only to find out if electors had been intimidated and to ascertain their number. In the second place, entering, as the Court below did, into an examination of the votes influenced by the sermons of the Curés, is really entering into a scrutiny of the votes.

All the authorities agree, and it is also common sense, that there is an essential difference between a procedure which would have the effect of voiding an election on account of the number of illegal votes being sufficient to destroy the majority of the sitting member, and a procedure having for its object the voiding of an election on account of its not having been made with the liberty and the independence required. In the first case the Petitioners ought to have produced a list of the votes objected to, and to have given the reasons invoked to have them set aside. That list is what is called a *scrutiny list*. In the second case they did not require a *scrutiny list*, nor even *particulars*. In a case of *scrutiny*, there must be also an allegation in the petition showing that the majority of the sitting member is only *colorable*, because a certain number of votes given for him are illegal on account of the reasons given. On the contrary in the case of a general system of *corrupt practices*, there is no necessity of inquiring who had or who had not the majority of legal votes. 20 30

Such is the law. In reading the petition the Court will see that the question is not whether the Respondent had the majority of legal votes, but whether ; 1o he or his agents have been guilty of corrupt practices which annul an election ; 2o the election has been sufficiently free to be held legal, or has been so affected by corrupt practices or clerical intimidation that it cannot be said to have been the result of the free and independent will of the electors.

The question we shall now examine is this : was the present election made in such a manner that the electors made a free and independent choice ? I do not think that in view of the evidence in the record, it is possible to answer in the affirmative.

Let us see the facts. The number of incriminated priests is much larger in the present than in the Galway case. Out of the twelve priests and the two *vicaires* of the county of Charlevoix, eight curés and one *vicaire* are incriminated, and there is evidence against seven curés and one *vicaire*. It is evident that the system was much more general than in Galway. 40

Math Westside Election

11 L.J.N.S. 198

Read the word a page 199
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East Northumberland
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11 L.J.N.S. 328

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Let us now compare the evidence adduced in both cases. In Galway, the clergy, at a meeting held at Athenry, had passed resolutions in favor of Captain Nolan, who had requested the Reverend Mr. Lavelle to call that meeting. Later on, a great number of priests preached violent sermons in different parts of the county against Captain Trench. Not only did judge Keogh, see in this a general system of intimidation, but he was also of opinion that Captain Nolan, by his letter to Reverend Mr. Lavelle, was the instigator of that intimidation, that he should be held personally responsible for it, and in consequence disqualified him. What do we find in the present case? Mr. Onésimé Gauthier tenders the candidature to Mr. Langevin. Mr. Langevin says he will not come forward unless he has the assurance of the support of the clergy. Mr. Gauthier goes in to the county; a meeting of the *curés* takes place at Bay St. Paul, at the residence of Mr. Sirois, who was the presiding spirit of this plot against the liberty of the electors, and rightly so to, because he had sufficient violence of character to communicate the same to the most peaceable clergymen of the county. A resolution is there passed to the effect that they would support Mr. Langevin. Mr. Gauthier returns to Quebec, and informs Mr. Langevin of what has taken place. Mr. Langevin, now being certain of his election, through this organisation, accepts the candidature. He declares every where that he is the candidate of the clergy, that the electors must obey their clergy, and represents Mr. Tremblay and his party as dangerous to religion. To prove this he even goes so far as to read a letter which his brother, His Lordship the Bishop of Rimouski, has taken the trouble to write to him, denouncing Mr. Tremblay and the liberal party. The election was scarcely begun when violent denunciations of Mr. Tremblay and his party were spread broad cast in several parishes. They say everywhere that it is a sin to vote for Mr. Tremblay, and that all the liberals will be damned. In the second week before the end of a meeting held at Hyppolite Tremblay's house, at St. Hilario, he "clergy seem to be in his favor, but that it would be better if they would speak more clearly." Mr. Langevin answers Jules Tremblay, who has made this remark, that *les sermons, next Sunday it will be said more explicitly, ce sera plus clair, il l'espère, le dimanche suivant.* The following Sunday, which was the last before the polling, curé Sirois preached that terrible sermon to which we have referred, against Mr. Tremblay and his party, and after which, as Perron tells us, *the people returned to their homes in sadness.* Reverend Mr. Langlais, on that Sunday also asked his parishioners, "if they would side with Garibaldi and Victor Emmanuel, or with the Pope," and a riot took place at the church door, after his discourse. On that Sunday also, Reverend Mr. Fafard, of St. Urbain, insulted Mr. Tremblay's supporters and called their leader an *escaped prisoner*, (*un échappé de prison*). On this same Sunday, Reverend Mr. Roy, of St. Irénée, said only a low mass because Mr. Langevin had been ill received on the previous Sunday, and threatened to abandon the place and leave the parish without a priest if the like should occur again. On that day also, Reverend Messrs. W. Tremblay and Cinq-Mars told their parishioners that it was a sin to vote for Mr. Tremblay.

The electors were mad with fear, those only voted for Mr. Tremblay, who were sufficiently informed to know that the curés were wrong, or who were such determined partisans that they would vote for him even at the risk of committing a mortal sin, of endangering the existence of religion and the salvation of their souls. The organisation is so complete and so powerful, that Revd. Mr. Doucet, the curé of the parish where Mr. Tremblay resides, a prudent priest and up to that time entirely devoted to his ecclesiastical duties, who had never interfered in politics, who esteems Mr. Tremblay, and considers him a man worthy

page 7 line 258

It was generally known that
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Limerick case

10m + H 262

Galway case

20m + H 53 + 54

Pushy Manual of Electors
pages ~~117-118~~

119 + 120

Tamworth case

20m + H - 74

as the general nature of agency

Norwich case 10m + H 10

Lichfield case 10m + H 26

Tamworth case 10m + H 81

Tamworth case 10m + H 184-185

Crowell, Electors case

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of confidence in all respects, is carried away by the force of the current. The wild denunciations, the violent harangues of some of the Curés, their united efforts to oppose the liberal party, had the effect of making him believe that Mr. Tremblay's party must be very dangerous. If the impression was such on Reverend Mr. Doucet, what must it have been on the mass of the electors, who have generally but little education, who are accustomed to follow their clergy and to believe all that the Curés teach them from the pulpit?

In order the better to persuade the electors that their sermons against the liberal party were founded on the doctrine of the Church, the most violent among them read and re-read the Pastoral Letter of the 22nd of September, 1875, which condemns catholic liberalism, knowing well, that even without making any comment, the illiterate portion of the electors would take for an anathema against the liberal party the condemnation pronounced against catholic liberalism. Why these violent denunciations of catholic liberalism, in a county where perhaps not a single elector, not a single priest, knew the nature of that doctrine? It was for the purpose of making the people believe that Mr. Tremblay's party was condemned by the bishops, and of persuading the electors that in voting for Mr. Tremblay they would rebel against the Church.

As to the facts I have just mentioned, they have been fully proved by the witnesses of the Petitioners. These have proved that the incriminated priests made use of exactly the same expressions which caused Captain Nolan's election to be annulled in the Galway case. As in that case, the *curés recalled the horrors of the French revolution, the massacre of the priests, the destruction of the Church; they asked the electors to choose between the Pope and his persecutors; they predicted what would occur to them on their death beds; they threatened them with sudden death; they spoke of false prophets, of false Christs, of venomous serpents; they presented to their imagination terrible phantoms, frightful abysses open to receive them, and maledictions suspended over their heads.*

One would say that the curés of Charlevoix repeated the harangues of the curés of Galway; they changed only certain names for others better known. The dreaded name of Cromwell answered perfectly the purpose at Galway, where that celebrated man is well known on account of the horrors committed by him in Ireland. As this name would not have had the same effect in Charlevoix, that of Garibaldi was substituted, as being known, for the last twenty years, as a persecutor of the Catholic Church.

As to the effect those threats and denunciations had on the liberty of the electors, the mode of proof which we have adopted and which consists in establishing the promises of support received by Mr. Tremblay, and the non-fulfilment of those promises, is the same mode of proof which was followed in the Galway trial, as the court may see in reading the testimony of Captain Trench. (See also O. & H., vol. 2, p. 152, 153.)

The witnesses for the Respondent did not contradict this evidence, and had they even contradicted it, we submit that their testimony is of no value, considering the fact that the curés were not brought up to contradict our witnesses with regard to their violent discourses and their threats. They could easily have been brought before the court; there was no reason why the respondent should not have had them as witnesses. Seeing the zeal they had displayed for him during the election, he could not apprehend that they would object to come forward and try to uphold an election which they had made, nor that they would be ill-disposed witnesses.

I would suggest here

Assembly agent page 3 line 90

Red-Hy agent line 93
Page 4 .6 line from top

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Page 4 line 119 important
as to agency

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 If they were not brought up to give an account of their own sermons, the Respondent cannot give as an excuse that he feared to infringe on some *ecclesiastical immunity*, as care was taken to place in the record a letter from His Grace the Archbishop of Quebec, to the learned counsel of the Respondent, of which a duplicate was addressed to all the curés, fully authorising them to give evidence in this case, with regard to all they had done and said during the election. Why then were they not brought up to give an account of their sermons? If they considered the witnesses of the Petitionners had made them say things they had never said, why did they not come forward to contradict them and to give the authentic text of their sermons? Why instead of this did they send us dozens of witnesses whose testimony consisted in saying that they did not remember the curés had said this or that, and who could scarcely ever tell what their curés had said? It was because the curés could not contradict our witnesses. Which among them would have dared to say, on the holy Evangelists, that he had taken no part in the election, that he had never by his words given to understand for whom he was, as some of the witnesses for the Respondent had the audacity to tell us? Only one curé was brought up, Reverend Mr. Cinq-Mars: he was one against whom our witnesses had said very little; and nevertheless, his testimony against the Respondent was crushing. He proved more than even our own witnesses had said. 10

What then must have been expected from Reverend Mr. Sirois, if he had been brought before the court? What evidence would we not have had from Reverend Mr. Langlais and from Reverend Mr. Roy? 20

It cannot be said that we should have brought them up. Our evidence was complete without them, and it cannot be pretended that we should have put ourselves at the mercy of witnesses from whom we could not expect anything but hostility.

That is the manner in which judge Keogh considered the question in the Galway case. He took as established all that had been proved against the priests who did not appear, and he did not take into consideration the evidence of lay witnesses brought up by the defence. He declared that, in the absence of explanations from them, when there was no obstacle to their being examined, he would refuse to take into consideration any contradictory evidence, were there 200 witnesses of the "*non mi recordo*" kind. 30

The general system of intimidation remains then irrefutably established; and the Respondent having been its instigator and cooperator he should be held personally responsible for the same.

The Appellants, therefore, beg to ask hopefully that the judgment appealed from will be reversed with costs in both courts.

LANGELIER & LANGELIER,

For Appellants.

Ottawa, January 1877.

as to evidency agency

Part 3 page 69.

Line 2288

"Langdon says" he has been asked to
know by Presmie Gaultier & by the
clergy

Def's evidence ~~page~~ Pt 3 page 2

Line 57. "I reckoned upon the

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1978 } "Support of the clergy as one of the
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whole paragraph

See the question objected to
in page 3.

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Angus says deaf an agent
page 3 - line 74

Line 84. Gaultier told him
that the whole clergy

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