

ALLEGED LIBEL ON THE ROMAN CATHOLIC CLERGY OF DUNEDIN.

From the 'Daily Times.'
(Before John Bathgate, Esq., B.M.)

THE Resident Magistrate's Court-house was crowded on Tuesday afternoon on the occasion of hearing the information which had been laid by Dr. Moran, Roman Catholic Bishop of the Diocese, against Mr. George Bell, of the 'Evening Star,' for an alleged libel of the Roman Catholic Clergy of Dunedin. There was also a large attendance of the legal profession and members of the Roman Catholic Church. The information was as follows:—"That the defendant wilfully caused to be printed and published in the 'Evening Star' newspaper a false, scandalous, and malicious libel of and concerning the Roman Catholic Clergy of Dunedin afore said, being office-bearers, branches, or organisations of the Roman Catholic Church, under the control and supervision of the Most Reverend Patrick Moran, Roman Catholic Bishop of Dunedin aforesaid, in the words following:—'The 'Tuapeka Times' says it is reported that a rev. father of the Roman Catholic Church has thrown off the trammels of the Church, and followed the example of Père Hyacinthe, of Parisian celebrity, by taking unto himself a wife. The fair one is reported to possess considerable personal charms, and at one time is said to have been numbered with the Dunedin Sisters of Mercy, to the scandal of the religious body known as the Roman Catholic Church, and against the peace of our Lady the Queen, her Crown and dignity, being an indictable offence.'"

On the charge being read over,
Mr. H. Howorth said: I appear for defendant, may it please your Worship, and plead Not Guilty.

Mr. Macassey: I appear for the informant, with my friend Mr. M'Keay.

Mr. Howorth: Before the case is proceeded with, I feel it my duty to draw attention to an article which appeared in the NEW ZEALAND TABLET, reflecting upon this case, and which is likely to prejudice the defendant.

Mr. Macassey: My learned friend is not in order in asking the Court to take judicial notice of any newspaper. He is drawing the attention of the Court to something beyond the range of the present enquiry.

Mr. Howorth: If the matter was in the Supreme Court, there would not be the slightest difficulty in bringing the proprietor of the TABLET before the Court. But, as far as I am aware, there is no process of this Court by which a similar course can be followed. It is but a matter of justice to my client that I should bring the matter under your Worship's notice, and that before the case proceeds. As counsel I draw your Worship's attention to this article as reflecting upon the case.

His Worship: Assuming, for the sake of argument, that you have grounds of complaint, can I give you any remedy? I apprehend that I am not sitting here strictly speaking as a Court, but as a Justice of the Peace or Magistrate, making an inquiry as to whether there is a *prima facie* case against the party accused. That confers upon me no power to call upon the publisher of the newspaper to appear before me for contempt, and can therefore give you no remedy. If you think that the article has any bearing upon the case you can adduce it in your defence; but I cannot take it into consideration at this stage.

Mr. Howorth: I felt it my duty to call your Worship's attention to the article. It is for your Worship to take such action in the defence of the Court as you may think fit.

His Worship: I am in the hands of the informant at present. Mr. Macassey, in opening the case for the prosecution, said that it was the first time that Bishop Moran felt bound to arraign the proprietor of any newspaper in a Court of justice for what he had written. If the alleged libel was a purely personal one, and affected the Bishop himself only, he could have afforded to treat it with the contempt which it deserved. But it would be seen that the imputation was one which effected the clergy, of which he was the head, in this diocese, and it also affected the character of a number of ladies in the Dominican Convent here. It was not on personal grounds that Bishop Moran had proceeded against Mr. Bell for the libellous statement which had appeared in the 'Evening Star' newspaper. Under ordinary circumstances, anyone feeling aggrieved in this manner should seek redress by an action in a civil Court of justice. But it was impossible for Bishop Moran to institute proceedings having for their object the recovery of damages, as the imputation contained in the paragraph complained of was most general, and it would be impossible for any person to point to that paragraph and say, "I am the person alluded to there." The paragraph was not an original one, inasmuch as it previously appeared in the 'Tuapeka Times,' from which it was copied into the 'Star.' It would possibly be urged on behalf of the defendant, that he was not the originator of the scandal. That might be a mitigation of the offence in some cases, but it was not so in the present one, as the 'Tuapeka Times,' circulating in a small district, might be allowed to publish a paragraph of this kind without attention being especially drawn to it. But when the libel was transferred from an insignificant local paper to one possessing the circulation of the 'Star,' the matter became very different. The locals and paragraphs appearing in the Dunedin papers were communicated to different parts of the Colony and the world. It was impossible, therefore, to have the scandal reproduced in the 'Star' without it very much enhancing its original importance. It was difficult to understand how a newspaper claiming the respectable pretensions of the 'Star' should deal with a scandal of the kind complained of in the paragraph. If it were true, it could do no good except to give offence to a large number of persons interested in the welfare of their clergy, but when it was false, the injury was ten times greater. He would place before His Worship the evidence of a number of the adherents of the Catholic Church

who had read the local, and who would put their construction upon it. The learned counsel then read the paragraph in question, and said that the case of Père Hyacinthe was well known. He had married a wife and dissolved his union with the Church. To make an imputation of this kind against a Catholic clergyman was to say that he had violated the vows of his Church, and rendered himself liable to suspension and excommunication. The same result would follow in regard to a Sister of Mercy who became involved in marriage. He then pointed out that there was no such order of nuns here as the Sisters of Mercy, and that the imputation therefore must be considered as implying that one of the ladies of the Dominican Convent had also violated her vows and engaged in marriage. Bishop Moran, as head of the Catholic Church here, would be put in the box, and prove that the paragraph was absolutely untrue. A question might be raised as to whether Bishop Moran, who was not directly pointed at, had any right to interpose. But it was held in the case of the General Government *re* Mr. G. B. Barton, when editor of the 'Daily Times,' that any stranger could lay the information, and in that instance it was done by Mr. Spencer Brent, who was a clerk in the office of the Crown Prosecutor. Bishop Moran had come forward for the purpose of protecting his clergy, and also the ladies of the Dominican Convent. It might be further said that as the imputation did not refer to any one particular clergyman, it could not be libellous. But to make general imputation upon a body of men was without doubt libellous. There was a celebrated case to that effect, in which Lord Brougham appeared. He meant the case of *Re v. Williams*, 5, B. and Al., 595, which was that of a libel against the clergy of Durham, in which they were charged with preventing the bells from being tolled on the decease of one of the Queens of England. In conclusion, he submitted that from the evidence he would adduce there could be no question but the case was one for further enquiry. He then proceeded to call the following witnesses:

James Cahill deposed: I am a clerk, in the employ of Mr. W. H. M'Keay. I know Mr. George Bell. I purchased the copy of the 'Evening Star' now produced on the evening of July 6, at the 'Star' office in Bond street. I am a member of the Roman Catholic Church, and have seen the local complained of.—[Paragraph read.] If any Catholic priest were guilty of taking to himself a wife, neither I nor any of my friends would associate with him. I infer from the paragraph that a clergyman of the Catholic Church had cast aside his vows and married one of the ladies of the convent. Besides Bishop Moran and Father Crowley, there are only two other Catholic clergymen in Dunedin.

To Mr. Howorth: I would shun a Catholic clergyman who married a wife, as I would a convict. There is no unchastity in members of the Church marrying. A priest could not be absolved from his vows of chastity. I respect all Christians, but I would not respect a priest who would treblely perjure himself. I would regard a priest who threw off the trammels of his Church, as stated in this paragraph, as a perjurer.

Colin M'Kenzie Gordon, Deputy Registrar of the Supreme Court, proved that the defendant had, in November last, filed an affidavit that he was the proprietor of the 'Evening Star.'

John Griffen deposed: I am a merchant, carrying on business in Dunedin, and a Justice of the Peace also. I am a Roman Catholic. I read the local in the 'Star' of the 3rd July. As a Roman Catholic and a colonist of 15 years' standing in New Zealand, I never read a paragraph in the whole course of my colonial career which gave me as much pain as the one alluded to. I interpret the local as meaning that a priest belonging to Dunedin had ceased to be a priest, and taken to himself a wife. From the local, it would appear that a Sister of Mercy had thrown off her vows, and become a wife. I am not aware that there is such a society of nuns in Dunedin as the Sisters of Mercy. There is a convent here of the Order of St. Dominic. I believe it contains eight nuns. In the absence of the order of the Sisters of Mercy, I would infer that it was one of the Dominican nuns who was referred to. I observe the reference in the local to Father Hyacinthe. His case occasioned scandal to the Church, and I would simply detest a Roman Catholic clergyman who had thrown off his vows and got married.

To Mr. Howorth: I do not know what happened to Father Hyacinthe. I believe that he was a Catholic priest. I do not know that he was absolved from his vows by the Church. Father Hyacinthe is reputed to have married a wife. I do not know it from my own knowledge, but from what I have read. I did not read that Father Hyacinthe was absolved from his vows as a priest, because that could not be. I have heard of Martin Luther, but never read much about him. I believe that he was a very naughty man. (Laughter) I do not know that celibacy was not practised in the early days of the Church. I do not claim to be an historian. I never heard of a Pope marrying.

Mr. Howorth: Do you know did any of the apostles marry? (Laughter.)

The Witness: That is too far back. I daresay his Lordship is better posted up in those matters than I am. I felt pained at the local, because it might be regarded as a domestic scandal, and come home to every Catholic in the place. I do not believe there is any such thing as the trammels of the Church. A person joining the Church is free to secede from it when he pleases. It is quite possible for a priest after ceasing to be a priest to secede from the Catholic Church. A priest must cease to be such before he becomes a believer in any other religion. There is no such word known in our Church as trammels. I cannot tell you whether a priest can be released from his vows or not.

F. W. Petre, architect, residing in Dunedin, deposed: I belong to the Catholic Church. I heard the local in the 'Star' read and discussed. I have now read the paragraph myself which appeared in the 'Evening Star.' I was in England at the time when the occurrence referred to in connection with Father Hyacinthe took place. It was considered to be a very great scandal. The impression created in my mind by the paragraph would be that the individual referred to had committed perjury, and of such nature that, looking at it in a