THE "HOLY WAR" IN QUEBEC 1860-1890
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B.A., University of British Columbia, 1954.

A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in the Department of History.

We accept this thesis as conforming to the standard required from candidates for the degree of Master of Arts

Members of the Department of History

The University of British Columbia
April 1956
ABSTRACT

In the second half of the nineteenth century the province of Quebec was the centre of a series of politico-religious controversies. Some of these clashes were the result of friction within the Roman Catholic Church, others resulted from conflicts between Church and State. Basically, however, all of them stemmed from one common root - a conflict of two ideologies. In one camp were the traditionalists, the upholders of the status quo, in the other the liberals and progressives. Each camp had its extreme and moderate factions.

In this thesis three of the most characteristic clashes between the two ideologies have been described and analyzed. An attempt has been made to trace all three of them to one common denominator.

In the controversy around the Institut Canadien and in the Guibord case, it has been shown how an originally unimportant controversy over the religious orthodoxy of a literary institution gradually developed into a major conflict between Church and State. The rise and fall of the Institut Canadien have been described and so have been the court proceedings in all four instances in the famous Guibord case. Conclusions as to the definition of relationship
between Church and State have been drawn from the verdicts by the courts.

The second case of friction has been presented as one of a conflict within the Church. The quarrel between the Laval University and the Ecole de Médecine et de chirurgie de Montréal has been chosen as being characteristic of internal dissension within the Quebec hierarchy. The episcopate, while united in its struggle against the authority of the State, was in itself divided into an extreme and a moderate faction. The role of Rome in the conflict has been emphasized and the attitude of the extremists has been criticized.

The third and last chapter of the thesis involves a description and analysis of a series of electoral contests. It has been attempted to present these contests as a desperate but ultimately successful struggle of the Liberals to escape clerical control in Roman Catholic constituencies. The participation of numerous priests in the electoral campaigns has been brought out and the question has been posed whether or not their activities constituted "undue influence". A series of court decisions have been invoked in answer to the problem. It has been seen that, by appealing to the civil courts, the Liberals finally escaped clerical proscription.
In the conclusion it has been shown that in all three cases of conflict, the moderate faction ultimately was victorious. The possibility has been hinted that a victory for the extreme camp might have brought about the formation of a Catholic party in both Quebec and Ottawa with the necessary result of the formation of a Protestant counterpart.
OUTLINE

I. INTRODUCTORY p. I

II. L'INSTITUT CANADIEN AND THE GUIBORD CASE
   1. L'Institut Canadien p. 4
   2. The Guibord case 34

III. THE LAVAL-ECOLE DISPUTE
   1. Early difficulties 73
   2. Mission of Dom Henri Smeulders 106
   3. Final settlement - abbé Jean-Baptiste Proulx 111

IV. "UNDUE" CLERICAL INFLUENCE
   1. Charlevoix 127
   2. Bonaventure 138
   3. Berthier 143

V. CONCLUSION 162

VI. BIBLIOGRAPHICAL NOTE 165

VII. BIBLIOGRAPHY 169
INTRODUCTION

In the second half of the nineteenth century, three politico-religious conflicts stirred the relatively calm surface of Quebec public life. Although the names under which these quarrels entered into history seem to have little connection between them, all three of them may easily be traced to one common root, for they all stemmed from one basic conflict of two opposing schools of thought. In one camp were the traditionalists, the conservatives, all those people who stubbornly fought new ideas and feverishly upheld the status quo. The other camp was composed of men who believed in progress and evolution and actively supported the influx of new liberalizing currents of thought.

This division of Catholic society into two ideological groups was by no means exclusive to the province of Quebec. What happened there during the sixties, seventies and eighties of the past century, was but an echo of events which, in the first half of the nineteenth century, had agitated the public opinion of France. In both France and Quebec the conflict was centered around one and the same issue - the Roman Catholic Church.
In France, even prior to the revolutionary days of 1848, men like Dupanloup and Montalembert were fervent advocates of a more modern conception of Catholicism. Bishop Dupanloup of Orléans, devoted a lifetime of activity to his fight against the dogma of papal infallibility and constantly attempted the adoption, by the Church, of a more flexible attitude towards a changing society. Dupanloup's disciple, Count Montalembert, a member of the Upper House during the July Monarchy and one of the few Liberal deputies of the Second Republic, proposed more liberal forms of Catholicism and, together with Lamennais, the famous advocate of separation of Church and State, tried to bring about an understanding between the teachings of the Church and the ideas and ideals of a modern world. The movement spearheaded by these men commonly became referred to as Catholic Liberalism.

It was mostly due to the efforts of Louis-Joseph Papineau that the advanced teachings of these men were introduced to Quebec. There they soon fell upon fertile ground. Among such Rouges as Dessaulles, Laflamme and the Dorions, the ideas of Catholic Liberalism were received with great enthusiasm. For some time already these extreme radicals had speculated on the abrogation of clerical
III

dominance, in the province. Catholic Liberalism now was to be their weapon. They soon espoused its teachings and declared an all-out war on reaction and clerical domination.

The Church was not alone in its struggle against these Catholic Liberals whose fundamental doctrines included such principles as absolute freedom of thought, speech, politics, conscience and religion. A stern reaction to all these new currents soon emerged, a movement commonly referred to as Ultramontanism. Although the term proper goes back to the times of the Reformation, it will suffice for the purpose of this paper, to define it as a movement asserting the rights and principles of the Catholic Church. At least it was in this context that the expression had been used in early nineteenth-century France. Like Catholic Liberalism, Ultramontanism also had its high priests, with the Frenchmen Louis Veuillot and de Maistre as the most prominent among them. In his newspaper L'Univers, Veuillot advocated supremacy of Church over State and declared the teachings of the Church the one and only kind of certain knowledge.

In the province of Quebec, bishops Bourget and Laflèche were the two main protagonists of
IV

Ultramontanism. While, among the hierarchy, the supporters of the movement were in a minority, the overwhelming majority of the lower clergy were its staunch followers. Finally, the Ultramontanes drew much support from a considerable lay following.

While Catholic Liberals and Ultramontanes represented the extreme factions on both sides, political Liberals and so-called Gallicans\(^1\) were their moderate counterparts. Sooner or later the opposing camps were bound to clash. The teachings of Catholic Liberalism according to which the Pope had no right to impose upon Catholics any other doctrinal declarations or disciplinary rules except in matters of faith and morals, were bound to conflict with the ultramontane belief that the Church could not subsist without the maxim of absolute papal infallibility.

In the latter half of the nineteenth century, these clashes between the different ideological camps were all too frequent. The three issues of conflict dealt with in this paper were some of the most representative of their time.

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\(^1\) The term "Gallican" is used as an antidote to Ultramontane and describes the more moderate faction within the Church as compared with the extreme Ultramontanes.
CHAPTER I

L'INSTITUT CANADIEN and the GUIBORD CASE.

In French Canada, prior to 1837, there had been few opportunities to cultivate and refine mind and spirit. Long constitutional struggles, and constant fear of loss of identity left little time to French Canadians for cultural and intellectual activities. Thus it was not until the early forties of the last century that the province of Quebec underwent a marked cultural revival. When, in 1838, Lord Durham came to Canada, he described the French Canadians as an "uninstructed, unactive, unprogressive people".¹ It must have been accusations such as these that caused some of the young intellectuals of French Canada to realize their actual lack of higher institutions of learning and the complete absence of cultural and intellectual centres. F.-X. Garneau, a young clerk in a Montreal lawyer's office, prompted by provocative statements of some of his colleagues who accused French Canadians of having no history, in his Histoire du Canada, laid the foundations of French Canadian historical writing. Octave Crémazie, who with his brothers Jacques and Joseph, owned a bookshop in Quebec, was one of the founders of the École de Québec,

a literary circle frequented, among others by the poet Louis Fréchette and Antoine Gérin-Lajoie, one of French Canada’s first literary critics. The abbe Casgrain, another member of the École de Québec who abandoned his medical studies to enter the priesthood, soon spent most of his time as a historical writer and literary critic.

While this circle of literates was rather selective, there was a genuine trend among a number of intellectuals to make higher learning accessible to the broad masses of the public. This desire on the part of a group of men to educate the public by means of public lectures and mutual instruction manifested itself in the opening, on December 17th, 1844, of the Institut Canadien.

The Institut Canadien was at first a strictly literary society. At its outset no particular political trend could be detected among its members. Gradually, however, the Rouge faction gained the upper hand and membership, at first limited to French Canadians, was thrown open to both French and English, Catholics and Protestants. This step, together with the composition of the Institute's library which contained a series of books forbidden by the
Index\textsuperscript{2}, aroused the attention and censure of Mgr. Ignace Bourget, the ultramontane bishop of Montreal. In numerous pastorals he called upon the Institute's officers to have the undesirable books removed from the library's open shelves. The steering committee, meanwhile firmly in the hands of the Rouges, refused. The refusal led to a split within the Institute and the resignation of a considerable number of its members. When bishop Bourget imposed refusal of the sacraments upon all those who, despite his warnings, remained in association with the Institute, some of the remaining members appealed to Rome. Rome upheld the bishop.

In 1869, at the height of the controversy between the bishop and the Institute, a certain Joseph Guibord of Montreal died. Since, at the time of his death, Guibord had been a member of the Institut Canadien, the priest charged with the spiritual supervision of his funeral, in accordance with the bishop's orders,

\textsuperscript{2} \textit{Index librorum prohibitorum}, issued, since 1571, by the Congregatio Indicis of the papacy. The Index is a list, published at irregular intervals (latest publication 1940) and contains books proscribed by the Roman-Catholic Church, such as editions of the bible by non-Catholics, books dealing with heresies, sorcery, immoral books etc. The reading and distributing of such works is prohibited by Rome under stiff ecclesiastical penalties. However, for purposes of serious study, permission for reading of such books may be obtained by application to the bishop.
refused to administer the last rites of the Church. Madame Guibord and some Rouge members of the Institute who had espoused the widow's case, contested bishop Bourget's judgement before the civil courts. In so doing they transferred a relatively unimportant question of the religious orthodoxy of a private corporation into a fundamental question of supremacy of Church and State. Eventually the Judicial Committee of the Privy Council upheld the supremacy of State over Church but while the triumphant Rouges laid Guibord to his last rest, bishop Bourget achieved moral victory by pronouncing the grounds in which Guibord had been buried as desecrated and spiritually separated from the rest of the cemetery. It was a Pyrrhic victory for the Institute; even the imperial balsam could not heal the wounds inflicted by episcopal darts. With Guibord's death, the Institute began to decline in numbers and, soon after his final burial, fell into virtual oblivion.

... ... ...

On a December evening of the year 1844 a group of young men gathered at the building of the Historical Society at the Rue St.-Jacques, in Montreal. That evening a literary institution called L'Institut Canadien came into being. The constitution of the
Institut best explains its aim and purpose: to provide union and mutual instruction for its members. In their petition for incorporation the officers of the newly founded institution explained that to further this aim they proposed "the establishing of a Library and Reading Room, and the organizing of a system of mutual and public instruction by means of lectures and courses of instruction" ... to procure for the members "generally extending instruction in the various branches of sciences, arts and useful knowledge which are necessary and advantageous in the different positions of life."4

The Montreal public and clergy alike acclaimed the foundation of the new institution. The ranks of the Institute's members swelled rapidly - the best proof of the appeal which such an institution held out to the Montrealers. For almost twenty years, membership in the Institute showed a continuous increase. The original figure of some 200 members in 18455 had by

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1853 risen to 499° while, in the middle sixties, at the height of its existence, the Institute registered more than 700 members. Although during this time occasional resignations had occurred on account of political and religious differences, the number of new members not only equalled but by many times surpassed the number of the resigning.

As the constitution had provided for a library and public reading room, the same was made available for the convenience of both members and the public at large. From modest beginnings, this library soon rose to respectable proportions and, in spite of its nearly complete destruction by fire, in 1850, the collection, only three years later, comprised 2701 volumes and 66 newspapers. The latest statistics for the year 1868, indicated 7,724 books and 75 periodicals, a considerable number for that time.

At the Institute's meetings distinguished speakers addressed the members on literary topics and other subjects of common interest. For the first few years everything went well. The Institute's aim remained

\[6 \text{ ibid., p. 20.} \]
\[7 \text{ ibid., p. 20.} \]
\[8 \text{ ibid., p. 17.} \]
\[9 \text{ Hudon, op. cit., p. 56.} \]
essentially intellectual. Then, mostly under the influence of the European events of the year 1848, certain revolutionary elements crept into the so far apolitical atmosphere where gradually they gained the upper hand. Eventually, discussions on faith and religion, subjects not previously treated in public lectures, became the topics of some of the speakers. Such trends became manifest in a speech of L. A. Dessaulles, one of the leading spirits of the Parti Rouge and editor-in-chief of the radical Le Pays who, in 1851 in one of the addresses to the Institute, took little pains to hide his advanced ideas by openly accusing the clergy of being narrow-minded and reactionary. His exhortations were most vehement towards the Inquisition which he called

ce tribunal terrible dont la mission et la tâche ont été de tout temps de blâmer tout changement, de repousser toute amélioration, d'enrayer tout progrès, d'anéantir toute découverte, de comprimer toute intelligence, de tuer toute liberté, de détruire toute indépendance d'esprit, de prohiber toute manifestation de raison et de génie, de proscrire toute expression libre de la pensée humaine.10

Another instance of the propagation of advanced

10 Hudon, op. cit., p. 56.
Ideas through the Institute was an address given by Eric Dorion, one of the founders of the radical L'Avenir, commonly referred to as "l'enfant terrible". His speech dealt with commercial education and openly advanced the liberal ideas of free trade.

This occurred at a time when a faction composed of freethinkers and radicals gained the upper hand in the Institute's governing body. Dorion held the presidency from 1851-52 while Joseph Doutre, the lawyer of Guibord case fame, was president from 1853 to 1854. By 1858, the Institute which so far had been a strictly literary society, became a forum for the spreading of radical ideas such as freedom of thought and religious toleration.

It is not surprising that Mgr. Ignace Bourget, the Roman-Catholic bishop of Montreal, viewed with considerable misgivings the growth of a body which spread among his flock the Rouge doctrines of liberalism and radicalism. Ignace Bourget, second

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11 Joseph Doutre, Q.C., was in his youth the author of several novels. He contributed to most of the newspapers of his time and, in 1851, won the Boucherville literary prize offered by the Institute. He is best known for his part in the process between the widow Guibord and the Fabrique de Notre Dame in which he was the counsel for Mme. Guibord and, after her death, for the Institute.
bishop of Montreal, was one of the most colourful personages of his time. An extremely pious man, he had been known, all over the province, for his great devotion to the Holy See and his admiration of Pope Pius IX of whom he was a faithful disciple. A founder of a great number of charitable institutions, he was instrumental in facilitating the admission to Canada of the Oblates and the Jesuits who, together with numerous other religious orders, founded a great number of schools and hospitals. More popish than the Pope, he had been referred to as "un des plus grands de ses (Canadiens français) évêques depuis Montmorency-Laval" and even as "un candidat possible pour la canonisation".

To Bishop Bourget the indoctrination of the faithful with radical and rationalist doctrines meant revolution and disaster. Ideas such as freedom of thought and speech, freedom of the press and, above all, religious tolerance were anathema to this ultramontane prelate who missed no occasion to warn his flock against their pernicious influence. He soon declared an all-out fight against such ideas spread by the Institute since he believed that similar

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teachings were in their substance nothing else than the advanced democratic doctrines which Papineau had imbibed from Lamennais and Lacordaire and brought back with him from his exile in France. Men who propagated such doctrines were the enemies of Catholic society and bishop Bourget spared no effort to combat them at every possible occasion.

Apart from the Institute's general line of orientation, two more issues caused friction between the bishop and the Institute. The first one centered around the Institute's library. It was a foregone conclusion that a society upholding advanced political views would have on its shelves literature of similar orientation. In the catalogue of the Institute's library for 1852 could be found works of such authors as Montesquieu, Rousseau and Voltaire, Lamartine's *Voyages en Orient*, Pascal's *Lettres Provinciales*, Florente's *History of the Inquisition*, Lamennais' *Paroles d'un Croquant*, and many others, all proscribed.

14 H.F.R. de Lamennais (1782-1854), French priest and philosophical and political writer, was at first an ardent ultramontane but later, mainly due to the disavowal of his teachings by the Holy See, turned radical and espoused the case of the Revolutionists of 1848.

15 Lacordaire, disciple of Lamennais, of similar politico-religious orientation as his teacher Lamennais, but later submitted to the Church.

by the Index of Rome. To tolerate the free access of Catholics to such literature was incompatible with Bishop Bourget's responsibility as a guardian of Catholic souls.

The second cause of friction was the question of non-Catholic membership. Article IV of the original constitution of the Institute, in 1845, had stipulated as follows:

Pourra être membre actif tout Canadien français de père ou de mère, ou tout individu qui aura épousé une Canadienne française, sans distinction de classe, de profession ou de métier, pourvu qu'il parle la langue française.  

The same article had later been amended and, in 1852, read as follows: "Peut-être membre actif toute personne admise sur motion régulière". French-Canadian descent or marriage to a French Canadian was no longer a prerequisite for membership.

To see his flock in mixed society with English Protestants, to see them exposed to pernicious literature, to have them listen to public lectures of radicals or of freethinkers, all this Bishop Bourget, by virtue of his office, could not tolerate. Sooner or later he had to act and to warn the Catholics

17 Hudon, op. cit., p. 154.
18 loc. cit.
of his diocese of the danger of the Institute. Such was his pastoral duty, such were his obligations as a Roman-Catholic bishop.

The first official censure of the Institute's activities came in 1858. Previously, the bishop had attempted to neutralize the Institute's influence by means of personal interventions by laymen and priests. When this had failed, Mgr. Bourget came forward with direct action. In his pastoral of March 10th, 1858, commenting on a papal speech pronounced some four years earlier, the bishop issued specific directions for the conduct of Catholic members of literary institutes. He advised all members to ascertain whether the libraries of literary societies of which they formed a part contained any objectionable literature. If this was the case it was the members' duty to purge such books. Should they be unable to succeed in the removal of the offensive volumes, there was but one course to take for them: resignation under protest and public announcement of the reasons for resignation.

The bishop continued with a warning against books not approved by the Church and said:

20 Dandurand, op. cit., p. 277.
Je m'attache pour cette fois a faire comprendre au peuple tout le danger des mauvais livres, des mauvais journaux et des mauvais discours, et par consequent celui des instituts dans lesquels seraient deposes les livres et journaux irreligieux, et ou l'en ferait des lectures entachees des erreurs du temps.21

And Mgr. Bourget concluded: "Faites bien attention, en particulier, au lectures qui peuvent se faire dans les instituts litteraires."22 While not specifically mentioning any literary society in particular, the faithful understood whom their bishop meant under "instituts litteraires".

While, under the pressure of such episcopal warnings some members of the Institute, as loyal Catholics, were willing to yield to the bishop, others, more independent refused. A special general meeting had been called for April 13th, 1858,23 for the purpose of finding ways and means by which some method for sorting out of the offensive books could be found.24 At the meeting, some members charged that the Institute spread "les idees les plus absurdes en fait de morale, de religion et de nationalite,25 because of the

22 Ibid., p. 370.
23 Hudon, op. cit., p. 58.
24 Hudon, op. cit., p. 58.
25 Ibid., p. 59.
accessibility of its library to both members and the public at large. Others objected to the presence of proscribed literature on the Institute's shelves. A general motion for the revision of the library was defeated while the majority of the membership pronounced itself against any kind of inquiry and, on the contrary, declared "l'institut seul compétent pour apprécier la moralité des livres de sa bibliothèque".

Mgr. Bourget lost little time in answering. On the 30th April of that same year he issued another pastoral directed against what he called "bad newspapers". In enumerating some five kinds of bad newspapers, Mgr. Bourget put liberal papers on the same footing with irreligious, heretical, immoral or impious literature. Defining their character, the bishop accused the liberal newspapers of aiming at separation of Church and State and refusing to the Church the right of interfering in politics wherever the interests of creed and morality were concerned. In Mgr. Bourget's view, it was a crime

26 110 voted against and only 88 for the motion; Hudon, op. cit., p. 59.

27 Hudon, op. cit., p. 59.

28 Mandements, III, p. 38.

against Church and religion to be free and independent in one's own political and religious views; on the contrary, it was the right of the Church to bring up each individual as a good citizen and to teach him the true principles of creed and morality of which it was the only repository.\(^{30}\)

Now that the Institute had formally refused episcopal censure, the gap between bishop and Institute was wide open. For more than a decade the Institut Canadien had attempted to introduce new ideas among the French Canadian intelligentsia. For more than a decade the Institute had sought an existence independent from clerical interference and, at times, openly hostile to the clergy. To submit to episcopal supervision would have been against its very principles of independent speech and thought. It would, indeed, have nullified, the very raison d'\'être of the Institute.

That which at first might have appeared to be little more than a difference of opinion on the contents of the Institute's library, soon developed into an ideological conflict on a major scale. The issue was no longer a simple act of disobedience towards the bishop but an open clash of two schools of

\(^{30}\) Mandements, III, p. 393.
thought diametrically opposed to each other. On one side stood those who favoured the influx of new ideas and fresh blood into a society which for a long time had been stagnant; on the other were those who stubbornly clung to everything old and traditional and were horrified by the very thought that the status quo might be disturbed. When, later on, other points of friction developed on the same ideological lines, a serious controversy broke out between the two factions. Eventually the two leading political parties were to espouse the case of the opponents, the Conservatives generally siding with the ultramontanes, the Liberals, in their majority, with the moderates.

The immediate result of the controversy between bishop and Institute and the latter's refusal to submit to episcopal censure, was the establishment, under clerical auspices, of a series of rival organizations. On May 10th, 1858, the Institut Canadien français came into being, which was followed shortly after by the Institut National. Both, however, were of ephemeral existence and only a few years after their foundation had to close their doors. The most

31 Dandurand, op. cit., p. 281.
successful of the rival organizations was undoubtedly the Sulpician Cabinets de Lecture and their Œuvre des bons livres. Particularly the clergy-controlled Cabinets were, for some time, a potential threat to the Institut Canadien but even they - mainly due to the dispersion of the pro-Bourget forces into too many societies - never seriously endangered the Institute's existence. The Jesuits, on their part, founded the Union Catholique and later converted the Union's reading room into a public library. An English library was added to it sometime later but soon disappeared.\(^{32}\) It goes without saying that all these institutions were the mouthpieces of the Montreal bishopric and that the local cures, acting under Bishop Bourget's instructions, closely watched their line of conduct and the composition of their libraries.

In June of that year, Mgr. Bourget made a further step to undermine the position of the Institute. He addressed a letter to the officers of the Saint-Jean-Baptiste society\(^{33}\) to warn them that he would refuse both mass and sermon on the day of their patron saint should the Institute, as this had been the case,

\(^{32}\) Hudon, \emph{op. cit.}, p. 22.

\(^{33}\) Saint-Jean-Baptiste was the Institute's patron saint and his day, the 24th of June, observed as a holiday.
in previous years, be invited to take part in the procession.\textsuperscript{34} When the usual invitation did not come forward, the surprised Institute, in an article in the anti-clerical \textit{Le Pays}\textsuperscript{35} asked for reasons for such action. The ultramontane \textit{La Minerve} answered:

"Cette raison se trouve dans l'attitude qu'a prise cette institution vis-à-vis de la religion et des autorités religieuses."\textsuperscript{36} And the \textit{Minerve}'s columnist continued, calling the Institute "une mauvaise institution distribuant les mauvais livres, permettant des discours et des discussions impies dans son enceinte".\textsuperscript{37}

The next five years were characterized by continuously increasing attacks and counterattacks. Two of bishop Bourget's pastorals, one of May 31st, 1860,\textsuperscript{38} the second of February 26th, 1862,\textsuperscript{39} censured the newspaper \textit{Le Pays} which, in its editorial columns,

\begin{itemize}
\item \textsuperscript{34} \textit{La Minerve}, June 23, 1858, p. 2., col. 4, ex Dandurand, \textit{op. cit.}, p. 284.
\item \textsuperscript{35} \textit{Le Pays}, 22 June 1858, p. 2., col. 5, ex Dandurand, \textit{op. cit.}, p. 284.
\item \textsuperscript{36} \textit{La Minerve}, 23 June 1858, p. 2., col. 3, ex Dandurand, \textit{op. cit.}, p. 284.
\item \textsuperscript{37} Loc. cit.
\item \textsuperscript{38} \textit{Mandements, lettres pastorales, circulaires et autres documents}, Montreal, Plinguet, 1887, vol. IV, pp. 111 ff.
\item \textsuperscript{39} \textit{Ibid}, pp. 313 ff.
\end{itemize}
spread anti-religious and anti-clerical doctrines. L. A. Dessaulles, editor-in-chief of the attacked newspaper, answered in a series of three articles of March 1st, 11th, and 13th, 1862, entitled "Aux detracteurs de l'Institut Canadien". In defence of the Institute, he rejected the charges and claimed that no facts had been produced to prove even one single accusation. On the contrary, he went himself over to the attack and accused traditionally Catholic France, Spain and Italy of having the greatest number of illiterates due to the attempts of the Church to keep the people of these countries in ignorance. He deplored the fact that the Institute had been condemned by the bishop without a fair hearing and promised that in future the Institute would defend itself against any such attack.

In December 1862, the Institute celebrated the 18th anniversary of its foundation. Dessaulles used this occasion in a speech given on the 23rd of that month to renew his accusations against the injustice

40 Dandurand, op. cit., p. 288.
42 L. A. Dessaulles, Discours sur L'Institut Canadien, Montreal, Le Pays, 1863, pp. 3-14.
with which the Institute had been treated by Mgr. Bourget. He asserted that the bishop had treated the Institute in an arbitrary manner and he regretted that the Institute's library alone had been singled out for its composition while, for example, the Provincial Library, ten times larger and certainly containing more objectionable books not only escaped episcopal censure but, on the contrary, was an object of public admiration.43 Dessaulles further protested against Mgr. Bourget's reproaches to the Institute for having given a reception to Prince Louis Napoleon at the occasion of his visit to Montreal. The coadjutator of the archdiocese of Quebec himself had found it proper to do so and so had Laval University, why then should the Institute be reprimanded?44 This last statement of Dessaulles was, of course, nothing more than a rhetorical question. There was a marked difference between the reactionary atmosphere of Montreal and the liberal-minded archdiocese of Quebec whose Archbishop (later Cardinal) E.-A. Tascherau had little sympathy for Bishop Bourget's extreme views. Yet, in spite of all these accusations brought forward against the bishop,

43 Dessaulles, op. cit., pp. 18-19.
44 Ibid, p. 20.
Dessaulles concluded his speech with a cheerful note hoping that the existing difficulties would soon subside and that sound reason would ultimately triumph over the animosity of both parties.45

Battle-weary, and perhaps anticipating future episcopal thunders, the Institute now seriously attempted reconciliation. In October 1863, a committee had been set up with the purpose of bringing about an understanding with the bishop. An audience was granted to the Institute's delegation composed of Emery Coderre, Joseph Doutre, Wilfrid Laurier, J.-C. Papineau and C.-G. Dessaulles46 but, in spite of the friendly atmosphere prevailing during the conversation, the negotiations ended in a deadlock. Nevertheless, a complete catalogue of the book-list of the Institute's library was handed to Mgr. Bourget with the request to indicate the reprehensible books. The bishop accepted the catalogue. When, however, some six months later, he returned it to Dessaulles, not one single book had been pointed out as offensive. This action of Mgr. Bourget has ever since been a matter of ardent dispute between both parties. The followers of the bishop

46 Hudon, op. cit., p. 63.
claimed that the catalogue had been deposited by individuals and not in the name of the Institute. They further stated that it would have been beneath Mgr. Bourget's dignity to enter into any sort of negotiation or compromise until the Institute had formally submitted to him. To this the officers and sympathizers of the Institute replied that such a claim was irrelevant and insisted that had Mgr. Bourget really desired to come to an understanding with the Institute, he would have shown his goodwill and granted the request for revision of the catalogue.

Bishop Bourget's attitude, strange as it might have appeared at first glance, might be understood from his subsequent pastoral. In a mandement of December 25th, 1863, he dealt at length with the "dangers des temps dans lesquels nous vivons", "dangers des hommes avec lesquels nous vivons" and the "dangers des erreurs au milieu desquelles nous vivons". In this last section, in particular, he launched a straight-forward attack against modern philosophism, rationalism and religious indifference, all three of which he called errors and compared them to monstrous serpents which sneak into all parts of the world. And to leave little doubt

47 Mandements, IV., p. 420 ff.
48 Ibid, p. 430.
that he had no interest whatsoever in compromise with people who upheld and stood for such errors, he said:

Mais il est bien à remarquer, N.T.C.F., que ces horribles monstres ne serpentent, dans les sociétés humaines, qu'en se deguisant et en se couvrant des plus belles protestations d'attachement à Dieu et a sa divine Religion.49

No compromise was possible as long as the Institute had, amongst its members, men harbouring such errors.

It was at this stage of the controversy that the scene of events shifted to Rome. Appealing to a higher authority against bishop Bourget's decision, the Institute resolved to seek justice before the Congregation of the Index.50 Yet, previous to this step, the Institute made one last attempt at reconciliation declaring itself, in March 1864, to be devoid of doctrine and promising at the same time, to abstain from any pronouncements which might affect the religious feelings of any part of its members.51 When this move failed to pacify the bishop, a delegation of seventeen of the Institute's members, in November 1865, left Montreal for Rome. There their petition had been received and it had been promised that the matter would

49 Mandements, IV., p. 431.

50 Father Hudon, in his work, states that the Institute declined any responsibility for the actions of the members of the delegation in order not to be compromised in case of defeat.

51 M. Wade., op. cit., p. 345.
be taken up with Mgr. Bourget. The bishop, on his part, did not remain inactive. Convinced that a collection of the Institute's "heretic" literature would be his best defence, he despatched a whole series of its pamphlets to the Congregation of the Index.

Rome took time to decide. While the congregations of the Holy Office were absorbed in nearly four years of meditation, agitation in Montreal grew steadily. Dessaulles and Papineau, the famous tribune of 1837, made speeches in which they upheld man's fundamental right to free examination and independence of thought. The ultramontanes replied, in May 1868, with the decisions of the Fourth Provincial Council of the Quebec hierarchy which, once again, denounced immoral and impious books and the libraries containing such books.

However, when finally, in July 1869, the Holy Office made public its verdict, it meant a severe blow to the Institute. It condemned in bold and unequivocal terms the Institute's yearbook for 1868 and placed it on the Index.\textsuperscript{52} It instructed Bishop Bourget to encourage all Catholics and, above all, the Catholic youth, to keep away from the Institute as long as it

\textsuperscript{52} \textit{Mandements, lettres pastorales, circulaires et autres documents publiés dans le diocèse de Montréal depuis son érection}, (12th July 1869), Montréal, Plinguet, 1887, vol. VI, p. 23.

\textsuperscript{53} \textit{Ibid}, p. 47.
continued to teach pernicious doctrines. Once again, it exhorted the bishop to encourage rival organizations, such as the *Institut Canadien français* in order to remedy the damage caused by the *Institut Canadien*.

The Holy See, although strongly condemning the Institute's activities had, nevertheless, abstained from the official order of excommunication and limited itself to the prohibition of the Institute's yearbook. Bishop Bourget, in his explanation of the Roman decree, went farther. Summarizing the essence of the instruction which he had received from Cardinal Simeoni, secretary of the Congregation of the Propaganda, he stated that both membership in the Institute as long as the latter should teach pernicious doctrines and the keeping, reading or propagating of the Institute's yearbook, constituted a "matière grave" and that it was a sin to violate them conscientiously. Consequently, the bishop concluded, that anyone who persisted in his membership of the Institute or who read, or even merely kept the mentioned yearbook, without authorization of the Church, would deprive himself of the sacraments "même à l'article de la mort".\(^54\) Vicar-General Truteau, who during Mgr. Bourget's absence in Rome, published his pastoral

\[54\] *Mandements*, VI., p. 48.
on July 16, 1869, left no loophole for those who tried to combine Catholicism with rationalism and liberal ideas.

The Institute replied on September 23rd, 1869 with a declaration in which it was formally stated:

le que L'Institut Canadien, fondé dans un but purement littéraire et scientifique, n'a aucune espèce d'enseignement doctrinal et exclut avec soin tout enseignement de doctrines pernicieuses dans son sein,

2e que les membres de l'Institut Canadien, ayant appris la condamnation de l'Annuaire de 1868 de l'Institut Canadien, par décret de l'autorité romaine, déclarent purement et simplement se soumettre à ce décret.

Although the simple and straightforward language of the declaration might at first sight have appeared to be a frank submission, it soon became evident that it was little more than an evasion of the episcopal decree. While asserting their submission, no actual steps were taken by any of the Institute's responsible members to execute the bishop's instructions.

Mgr. Bourget, still in Rome, in a letter to Vicar-General Truteau, qualified this statement of the

Institute as hypocritical and concluded his letter as follows:

Tous comprendront qu'en matière si grave il n'y a pas d'absolution à donner, pas même à l'article de la mort, à ceux qui ne voudraient pas renoncer à l'Institut qui n'a fait qu'un acte d'hypocrisie en feignant de se soumettre au Saint-Siège"."56

This final pronouncement of Bishop Bourget spelt the beginning of the Institute's end. Membership declined rapidly and by 1875, a mere six years after the culmination of the controversy, the Institute was left with some 150 members only, half of which were English.57

By 1881, the once so ardently disputed library of the Institut Canadien had been loaned for a period of ten years to the Club Canadien which had succeeded in a compromise with Mgr. Fabre, Bishop Bourget's successor to the See of Montreal, in the matter of the prohibited books. The collection, some 8,000 volumes, was finally acquired by the Fraser Institute of Montreal.58 The Institut Canadien continued to exist in name into the early years of this century, although it met only once

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56 Ch. Bourgeois, op. cit., p. 169.


every year for the election of officers. One of its last meetings had been attended by three members only.\textsuperscript{59}

As for the building, which once had housed the Institut Canadien, it had been abandoned around 1880 and later had been converted into a theater and dancehall.\textsuperscript{60}

Bishop Bourget had succeeded in destroying the Institut Canadien but in so doing he brought about another controversy, a dispute which by its nature by far surpassed the relatively limited bounds of the previous one, since it involved a question of relationship between Church and State. In the "Guibord case", under which name this second struggle of the bishop against the rising tide of radicalism and religious indifferentism has been known in the annals of Canadian history, twenty years of hostilities between Bishop Bourget and the Institut Canadien came to a climax only to result in a theoretical defeat but undoubtedly a moral victory for the ultramontane cause. The famous trial was a final showdown between two forces which had opposed each other ever since the bishop for the first time challenged the doctrines preached by the Institute. The trial was an encounter between the

\textsuperscript{59} Willison, \textit{op. cit.}, p. 76.

most prominent lawyers of their time with the result that not only the Quebec intelligentsia but all strata of society took part in it. Tempers rose high on both sides and press campaign centering around the conflict was marked by violence seldom before seen.

Joseph Guibord, Roman-Catholic and member of the *Institut Canadien*, died on November 18th, 1869. As a member of that Institute at the time of his death, he was, according to ecclesiastical authorities, under the sentence of excommunication; that is, in case of his death he was deprived of the last rites of the Church. When, consequently, the day after his death, a request for Catholic burial was presented by the representatives of his widow, curé Victor Rousselot, parish priest of Notre-Dame and priest in charge of the Côte-des-Neiges cemetery, refused to grant Catholic burial to Guibord's remains. His widow and the *Institut Canadien*, which espoused her case, brought the curé and the church wardens (marguilliers) to trial for neglect to grant Catholic burial to one who, in their opinion, had been entitled to it. The Church authorities, under whose jurisdiction the cemetery had been, offered burial in the non-consecrated part of the cemetery but this was refused by the appellants as being derogatory to Guibord's memory. The Superior Court, in first instance,
upheld the justice of the widow's claims and ordered Catholic burial for Guibord. The defendants appealed to the Court of Revision which reversed the verdict. The Court of the Queen's Bench, in third instance, upheld the verdict of the Court of Revision. The appellants then decided to bring the case before the Judicial Committee of H. M. Privy Council, which in turn upheld the original verdict, ordered Guibord's burial in consecrated ground and condemned the Fabrique to pay some $6,000 expenses. The final word, however, belonged to Mgr. Bourget who, although bowing to the Privy Council's decision, consented to Guibord's burial in consecrated ground, only to pronounce an interdict over his grave declaring it spiritually separated from the rest of the cemetery.

Yet, there was more than a mere court case behind the unimaginative title of "Dame Henriette Brown vs. Les cure et marguillers de la paroisse Notre-Dame de Montréal" under which the fate of Guibord's remains had been disputed. Behind the Guibord case lay hidden the whole controversy between Ultramontanes and Gallicans, the whole question of interrelationship between Church and State. In all the four courts in which the case had been heard, the lawyers of both sides debated not merely the issue of whether or not a certain Guibord should find his last place of rest in consecrated or
non-consecrated ground of a Montreal cemetery, but they exchanged ideas on such subjects as the interpretation of the Capitulations of 1763, the Quebec Act, the public rights of Church and State, the excess of the spiritual power of the Church, the interference of state authority into spiritual matters and others. The case of the Gallicans was in the hands of two of the ablest lawyers of their time, Rodolphe Laflamme and Joseph Doutre, both ardent radicals and Rouges of the old type. They pleaded nothing less than complete supremacy of State over Church, complete subordination of the spiritual power to the temporal, for these were the two fundamental theses of Gallicanism.

Louis-Amable Jette, Francis Cassidy, and

61 Toussaint Antoine Rodolphe Laflamme (1827-1893), noted Montreal lawyer and politician, was one of the founders and most ardent spirits of the Institut Canadien. Elected to Parliament in 1872 as a Liberal for Jacques-Cartier, he held the portfolio of inland revenue and justice in the Mackenzie administration. After Mackenzie's defeat in 1878, Laflamme returned to his legal profession.

62 Joseph Doutre (1825-86) was another leading spirit of the Institut Canadien and the Parti Rouge. However, unlike Laflamme, Doutre never ran for Parliament although he took a vivid interest in the political activities of his day.

63 Sir Louis-Amable Jette (1836-1920) a prominent Montreal lawyer, was professor of law at Laval University, later lieutenant-governor of Quebec. Jette was a member of the infamous Alaska Boundary Commission.

64 Francis Cassidy, one-time mayor of Montreal and a prominent criminal lawyer of his time.
F.-X.-A. Trudel were the lawyers of the defendants. Among them Trudel was the staunchest defender of the rights of the Church and as such was nicknamed by his adversaries "Le grand Vicaire". A disciple of Louis Veuillot, he was a through and through ultramontane, a true knight of the Church. Jette was liberal and Catholic but by no means a Catholic liberal, while Cassidy, of Irish origin, shared Jette's views. All three championed the freedom of the Church and its immunity - in spiritual matters - from state interference and, like their opponents, based their claims on ancient treaties and franchises.

The trial created an immense interest in the whole province of Quebec and public agitation as well as the impetuosity of the press polemics reached an unprecedented height. In the later phases of the process, its importance

65 F.-X.-A. Trudel (1838-1890) devoted himself mainly to journalism and politics. Editor of L'Etandard, member of the House of Commons 1871-1873. From then on until his death he was a federal senator.


67 Louis Veuillot (1813-1883), a prominent French writer of his time. As a young man, Veuillot travelled to Rome where he turned into a militant political Catholic and became one of the main defendants of the dogma of papal infallibility. Editor of the ultramontane L'Univers (Paris). For Veuillot's politico-religious philosophies see: Mélanges religieux, historiques, politiques et littéraires, 18 vols., (1856-75).

68 Ch. Bourgeois, op. cit., p. 175.
and the principles involved in it exceeded the boundaries of the province and such men as Gladstone and Prince Bismarck expressed their interest in a movement which then was the vortex of politico-religious difficulties in several European countries.

Joseph Guibord, alias Archambault, was born in 1809; he married, in 1828, Miss Henriette Brown. A printer by trade, he had been employed by the Montreal printing house of Perrault where he soon distinguished himself through his able artisanship. He was highly esteemed by his employers and had repeatedly been entrusted by them with the execution of orders for the Montreal bishopric. It is said of him that he was the first Canadian ever to use the stereotype printing process.69

By nature, Guibord was a humble man, a practising Catholic without any pronounced political or religious convictions. He was neither the radical described by some ultramontane writers, nor the devout and pious Catholic depicted by their opponents. It seemed that his original association with the Institut Canadien was a result of his sincere desire to acquire some

69 The entire paragraph dealing with Joseph Guibord is based on information supplied by T. Hudon, op. cit., p. 82.
knowledge and an education of which his humble origin had deprived him but towards which he had felt a strong urge, likely as a result of his vocation.

On November 18th, 1869, Joseph Guibord suddenly died. The day after Guibord's death, the Fabrique of Notre-Dame, the administrator of the Roman-Catholic cemetery of Côte-des-Neiges, received a request on behalf of Mme. Guibord to grant burial, on November the 21st, to the remains of her late husband. Cure Victor Rousselot, in charge of the cemetery, refused the request on the grounds that Guibord in his capacity as a member of the Institut Canadien had not been entitled to the last rites of the Church. The cure, nevertheless, declared his willingness to proceed with civil internment in the non-consecrated part of the cemetery in which case he would assist in his capacity as civil officer. Another request, tendered this time through the offices of notary public C. F. Papineau, had

70 Usually a Roman-Catholic cemetery is divided into two parts; one part is called the "consecrated" and all Roman-Catholics are buried there who died with the last rites of their Church. The other or "unconsecrated" part serves as last resting place to unbaptized children, criminals, heretics etc., i.e. to all those who for any reason have been deprived of the sacraments. In Roman-Catholic society a burial in the unconsecrated part of a cemetery is considered derogatory to the memory of the deceased.

71 Affaire Guibord, Rapport de la cause avec le texte du jugement de Son Honneur le Juge Mondelet, Montreal, M.nerve, 1870, p. 1. (hereafter referred to as Affaire Guibord)
been turned down for the same reason. In spite of these two refusals, on Sunday, November 21st, Guibord's body, accompanied by a group of friends, had been brought to the cemetery. When the guardian refused entrance to the funeral procession, it turned towards the Protestant cemetery of Mount-Royal where Guibord's coffin found a provisional place of rest.

The following Wednesday, Nov. 24th, 1869, Rodolphe Laflamme, counsel for the widow Guibord, introduced the case into the Superior Court of Montreal and, on this same day, Judge Mondelet ordered the issuing of a writ of mandamus according to which he compelled the defenders to grant burial to the remains of Guibord "conformément aux usages et à la loi".

The appellants based their claim on Guibord's uninterrupted adherence to the Catholic faith and on the fact that the Cote-des-Neiges cemetery was the only possible place for burial of Roman-Catholics in Montreal. They further argued that all formalities, such as request in due time and notification in proper form of Guibord's death, had been complied with and that the

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72 Charles-Joseph-Elzear Mondelet, (1801-1876), a known Montreal lawyer and judge. His Letters on Elementary and Practical Education are said to have formed the basis for the first school law voted, in 1841, by the Parliament of Canada.

73 Affaire Guibord, p. 2.
customary legal fee had been tendered. The defence, through its counsel, L. -A. Jette, opposed the issuance of the writ on several technicalities, calling it irregular, insufficient and illegal, since it showed neither reason nor law which would compel the Fabrique to proceed as requested by the petitioner. Jette's request was accompanied by an explanatory letter in which he stated that it had always been the habit in both Lower Canada and Montreal to proceed with burials in the morning hours, that neither the curé nor any of the wardens had been notified in advance about the desired burial on Sunday afternoon and, consequently, none of them had been present.

Jette categorically denied that curé Rousselot had refused burial and asserted that merely the last rites of the Church had been denied to Guibord in conformity with orders which the curé had received from Vicar-General Truteau who, in Bishop Bourget's absence, administered the diocese of Montreal. In a long series of explanations, Jette went on to justify the attitude taken by his clients until, at

74 Affaire Guibord, p. 2.
75 Ibid, p. 7.
76 Ibid, p. 10.
last, he arrived at the fundamental problem of the whole case, the free exercise of religious ceremonies of all kinds of the Roman-Catholic Church in Canada, without interference from civil authority.\textsuperscript{77}

Both appellants and defence introduced contradictory evidence in connection with a personal interview between Mme. Guibord and curé Rousselot. Madame Guibord's deposition accused the cure of having tried to intimidate her\textsuperscript{78} while Rev. V. Rousselot not only denied such charges but openly quoted Mme. Guibord as having stated that it was not she who wished to prosecute him and the Fabrique but a group of her late husband's friends who had persuaded her to take action.\textsuperscript{79}

On December 13th, Laflamme replied. According to him and

\begin{quote}
d'après le droit public de ce pays, il n'existe aucune autorité indépendante de l'État et des tribunaux qui représentent le souverain, dans toute matière affectant les droits et privilèges des citoyens ...
\end{quote}\textsuperscript{80}

\begin{footnotes}
\item[77] \textit{Affaire Guibord}, p. 9.
\item[78] \textit{Ibid}, pp. 5-6.
\item[79] \textit{Ibid}, p. 6.
\item[80] \textit{Ibid}, p. 16.
\end{footnotes}
Laflamme's statement did not remain unchallenged and Jetté, on December 31st, replied:

prétendre, comme l'a fait la demanderesse, qu'il n'existe d'après le droit public du pays, aucune autorité indépendante de l'État, et que le pouvoir judiciaire a toujours eu et a encore pleine et entière juridiction pour garantir et protéger le citoyen dans la jouissance de tous ses droits et privilèges, dans tous les cas et toutes les matières religieuses et civiles; c'est tenter de faire reconnaître et consacrer, à l'aide d'une dangereuse confusion d'idées, le principe tyrannique d'assujettir l'église à l'État, et nier même à l'Eglise sa liberté et son autorité. 81

At last both parties had pronounced their fundamental principle; the Gallicans their firm belief of supremacy of State over Church, the Ultramontanes the exact opposite, the necessity of absolute non-interference of the State into spiritual matters. And Jetté went on, coming to the logical conclusion of his theory: the Institut Canadien, and Guibord in particular, were under a strictly canonical and spiritual sentence which was not under the jurisdiction of this court. 82

By now, the trial was no longer centered around the question of regularity of the writ of mandamus, its proper form and other technicalities, but step by

81 Affaire Guibord, p. 23 - editor's italics.
step turned to be a conflict of ideas between two philosophies, between two schools of thought incompatible with each other. Guibord, so far the star of the trial, gradually had to relinquish his position in favour of more important issues, in favour of the very principles on which his case had come into being.

As for the actual arguments in court, Laflamme was the first to take the stand. Already in the opening sentence of his exposé, he proclaimed his belief, the principle of subordination of the Church to the State. "Il doit en être ainsi", he said, "dans notre siècle car le système contraire ne serait rien autre chose que le théocratie". He accused the priests of being incapable of dissociating themselves from their ideas of domination and, referring in particular to the Guibord case, he claimed that the priest had inspired the conduct of the civil officer, something that should not have happened. He accused the curé of having neglected his duties of a civil officer by refusing civil burial.

Aussi, si l'on sanctionnait le principe du droit de refus tel que celui réclame, he continued, ce serait anéantir toute autorité. Les lois britanniques seraient mis de côté, et on verrait

83 Affaire Guibord, p. 65.
84 Ibid, p. 65.
revenir le temps de la theocratie, repoussé par tous les eguples comme la pire des tyrannies.

And he went on to attack the Church which, as he said, "a toujours eu la pretention de vouloir tout accaparer et il n'y aurait alors plus rien a repondre que c'est l'autorite religieuse qui l'a declare". 86

He considered ridiculous the acceptance of papal bulls in civilized societies of the 19th century and accused his adversaries of aiming at the introduction of the laws of Rome into a British possession. 87 He claimed that Canadian public law was the result of ancient statutes of Henry VIII and Elizabeth I, statutes which were yet in force and which affirmed the supremacy of the sovereign over the Church. 88 In his view, the Quebec Act of 1774 subjected the Catholics to Royal supremacy, i.e. to the statutes of Henry VIII and Elizabeth.

Coming to the issue of Guibord's condemnation, he bluntly denied the validity of any sentence of excommunication passed against the Institute since

85 Affaire Guibord, p. 65.
86 Loc. cit.
87 Loc. cit.
88 Loc. cit.
"l'institut comme corps ne pouvait être excommunié". From this he concluded that "l'individu ne peut pêcher pour la corporation, et être tenu responsable pour des livres qui sont la propriété du corps et non les siens". Furthermore, Laflamme continued, an excommunication in corporatione would be decidedly unjust since, the suffering minority would be punished together with the commanding majority.

Laflamme's able plea left little doubt that he not merely aimed at having Guibord buried in consecrated ground but that he intended nothing less than a serious challenge to the established authority of the Roman-Catholic Church. In the Guibord case he saw an opportunity to proclaim his radical views and to ventilate his rouge anti-clericalism. To him the whole question was a matter of principle, a life and death struggle between two opposed philosophies. He was convinced that the time of clerical domination was a by-gone era and that the needs of a liberal 19th century society were incompatible with clerical rule. Finally, he believed that in any case of conflict between

89 Affaire Guibord, p. 67.
90 Loc. cit.
91 Loc. cit.
ecclesiastical and civil authority, the laws of the Church ought to be subordinated to those of the State.

In this thesis, Laflamme was ably supported by his colleague Doutre who, however, with the exception of one or two statements of principle seemed more concerned with the technical aspects of the case. He particularly referred to article 1022 of the Civil Code of Lower Canada according to which each corporation, civil or religious, was subjected to the laws of the country. In accordance with these laws, the Fabrique had to grant Catholic burial to Guibord since, according to them, each citizen in possession of his civil rights, was fully entitled to demand burial in his denomination.92 Doutre went on to define both types of excommunication and called a minor excommunication a sentence which excluded the member from participation of the sacraments. Only the major excommunication expelled the victim from the midst of the Church and deprived him of all his rights as a Catholic.93 He further insisted that the very word "excommunication" had never been mentioned by Rome and, consequently, no excommunication had ever been pronounced. Finally, he accused Bishop Bourget of having

92 Affaire Guibord, p. 68.
93 Ibid, p. 69.
introduced the Index into Quebec although its authority had never been recognized in France.\textsuperscript{94}

Although Doutre's speech may have sounded less radical in tone than the pleadings of Laflamme, its substance differed little from the beliefs of his colleague. Thus, after an initial exposition of the merits of their cause, the lawyers of the prosecution and, particularly Laflamme, made use of the process to make a major statement of policy, to pronounce without any scruples their anti-clerical doctrines.

As for the defence, its counsels were equally divided into two groups. While Francis Cassidy, in his plea, adhered more or less to the technical aspects of the case, L.-A. Jette and F.-X.-A. Trudel proved to be the great ultramontane doctrinarians. The latter, in particular, was "the knight in shining armour" of the Roman-Catholic Church. Charles Bourgeois perhaps best characterized the personalities of the defence lawyers when he called Jette "catholique sincère et libéral convaincu"\textsuperscript{95} and Trudel "plus catholique que le pape".\textsuperscript{96}

L.-A. Jette was the first to address the court. He reaffirmed Judge Mondelet's statement that "la question que nous avons à discuter est peut-être

\begin{footnotes}
\item[94]\textit{Affaire Guibord}, p. 70.
\item[95]Ch. Bourgeois, \textit{op. cit.}, p. 175.
\item[96]\textit{Ibid.}, p. 177.
\end{footnotes}
la, plus importante qui se soit présentée devant nos tribunaux depuis la cession du pays à l'Angleterre"97 and divided his expose into three principal questions. First, he proposed to determine whether the Gallican liberties which, in 1760, had been in force in France, were still valid in Canada, secondly, if should not be the case, whether Canada was bound by English public law, that is, the spiritual supremacy of the English sovereign and, thirdly, if neither of these laws be in force, what was the valid right of the country and what were the rules and laws to be applied in the present case.98 He dismissed his first question on the grounds that Gallican laws, in their extreme radicalism, were incompatible with English political institutions99 and he equally denied the applicability, in Quebec, of English laws basing his argument on the fact that depuis plus d'un siècle, nous jouissons, sans conteste de la liberté de notre culte, de l'indépendance de notre Eglise et non seulement nous n'avons jamais été forçés pendant ce temps de reconnaître la suprématie spirituelle des rois anglais, mais il nous a été permis au contraire de reconnaître ouvertement la seule suprématie spirituelle que reconnaissent les catholiques, celle du Pape.100

97 Affaire Guibord, p. 74.
98 Loc. cit.
99 Affaire Guibord, p. 77.
100 Ibid, p. 79.
As to his third point, which then was Canada's civil legislation, if neither Gallican nor English law were applicable to the country, Jette elaborated the hypothesis that, in comparison with some four different kinds of relation between Church and State in modern societies, Canadian public law was even more favourable to an independent Church than modern French law, the most favourable of the four categories mentioned. 101 "Le culte de la Religion Catholique Romaine est libre en Canada" 102, he exclaimed and from this sentence, contained in the Capitulations and in the Constitutional Act, he derived his conclusion on the position of the Catholic Church in Canada. Having thus established the rights of the Church, he went on to analyze the so ardently disputed passage "Guibord doit etre inhumé conformément aux usages ..." and concluded that, since ecclesiastical burial had been refused to him, the cure had by no means violated the law in offering burial in the reserved part of the cemetery in which case he undoubtedly would have performed his duties as a civil officer and entered Guibord's name in the death register.

In his plea, Jette had categorically denied

101 Affaire Guibord, p. 80.
102 Ibid, p. 81.
the conclusions of Laflamme and Doutre as to the position of the Catholic Church in Canada. Based on a galaxy of theological and legal sources, sometimes on the very same as used by his opponents, he had elaborated the hypothesis that the free exercise of the Catholic cult meant nothing else than a proclamation of the independence of the Church, a recognition and acceptance of spiritual authority.\(^{103}\)

Francis Cassidy, the second counsel of the defence, seemed mainly concerned to prove that ecclesiastical courts alone were competent to grant or to refuse Christian burial.\(^{104}\) Declaring quite openly the non-competence of the Superior Court to judge on the merits of the present case, he claimed that it was within the jurisdiction of higher ecclesiastical courts and not of civil courts to reverse an ecclesiastical sentence.\(^{105}\)

Cassidy denied Laflamme's statement that Canadian law was based on the statutes of Henry VIII and Elizabeth\(^{106}\) and quoted two famous precedents\(^ {107}\) in

\(^{103}\) Affaire Guibord, p. 81.
\(^{104}\) Ibid, p. 85.
\(^{105}\) Ibid, p. 88.
\(^{106}\) Ibid, p. 92.
\(^{107}\) Nau vs. Mgr. Lartigue and Lussier vs. Archambault
which civil courts declared themselves incompetent in a case, which by its nature, belonged under ecclesiastical jurisdiction. He concluded with the hope that also the Guibord case would be decided by a judge who was guided by a similar spirit.

The third and last lawyer of the defence to take the stand was the F.-X.-A. Trudel, the doctrinaire ultramontane. Without losing too much time on lengthy introductions, Trudel at once approached the root of the problem and in clear and unmistakeable language presented the two conflicting theses. Against the point of view of the prosecution, which advocated submission of Church to State as the only logical outcome of ancient Gallican liberties, and as the direct result of constant abuse of authority on the part of the Church, he opposed the ultramontane doctrines of the defence already stated by his colleague Jette:

le que le droit gallican ne pouvait avoir été conservé en Canada après la cession, vu l'incompatibilité complète de ce droit avec les institutions anglaises,

2e que le droit ecclésiastique anglais ne pouvait avoir été introduit en Canada, les capitulations, la traite de Paris et l'Acte de Québec ayant des dispositions formelles au contraire,

108 Affaire Guibord, p. 93.
109 Ibid., p. 99.
3e que de ceux deux faits resultant
l'indépendance complète de l'Eglise
catholique en Canada; que la consequence
nécessaire de la séparation de l'Eglise
du Canada avec l'Eglise gallicane avait
été de mettre la première en rapport
direct avec l'Eglise Romaine ou l'Eglise
Universelle et que c'est de Rome que
l'on doit recevoir directement les lois
et régles qui doivent régir l'Eglise en
ce pays sans avoir nullement égard aux
traditions particulières de l'ancienne
Eglise Gallicane.110

Trudel could hardly have been more frank in
his views and from his statement it was quite evident
that the Fabrique could have secured no other lawyer
so equally convinced of the justice of his cause.
Roman laws and regulations, unimpaired and unmodified
by the intervention of civil authority, were to govern
the Roman Catholic Church of Canada and, to leave no
doubt that his ideas meant nothing else than the
existence of the Catholic Church as a state within the
state, Trudel attempted to establish that the Church
was a society of divine institution the formal rights
of which were vested in it by its divine founder;
that, consequently, these rights were superior to the
rights of man and that, as a result of this the Church
alone, and no civil authority, could define the limits

110 Affaire Guibord, p. 99.
of its jurisdiction. From this resulted *ipso facto* the non-competence of the civil courts in the Guibord case. When asked by Judge Mondelet who was to decide the competence in any case, of civil or ecclesiastic authority, Trudel declared the Church alone competent to draw the line since "le pouvoir civil a, dans l'autorité ecclésiastique elle-même, la meilleure garantie de voir la plénitude de ses droits sauvegardés, puisque c'est un des principes que lui a légué son divin fondateur, de respecter les droits de l'autorité civile". In addition, and to strengthen his statement, Trudel added that any judgement of ecclesiastical authority was infallible. Consequently, according to Trudel, if Bishop Bourget, in sentencing Guibord, had transgressed his authority, the only court competent and capable to reverse his judgement was a higher ecclesiastical court.

Trudel once again summed up his argument and was succeeded by Laflamme who denied that Gallican law had ceased to exist in Canada and argued that even if this had been the case, it was hardly likely that a Protestant sovereign would have granted greater

111 *Affaire Guibord*, p. 102.
privileges to the Catholic clergy than to the Anglican.114 And for one last time he reaffirmed the fundamental doctrine of his argument, when he referred to the supremacy of civil over ecclesiastical authority in all civilized countries since only such a state of affairs could remedy an injustice committed by the Church.115

With eloquence characteristic of the high standards and the best traditions of their profession in French Canada, both lawyers of defence and prosecution had pleaded their cases. Neither of them spared labours or time to prepare painstakingly even the minutest details of his pleadings. Neither was merely a legal counsel for his party; each one of them had a partisan interest in the conflict which was the climax of a clash of two schools of idioiogies which, for the past twenty years had attempted to destroy each other.

There remains to be dealt with the decision of the court. Reviewing Judge Mondelet's verdict, one may but conclude that the judge had avoided the real issue. He had limited his judgement strictly to the technical

114 Affaire Guibord, p. 158.
115 Loc. cit.
aspects of the case without any consideration for the intrinsic issues involved. He had, by accident or design, bypassed the underlying problems of the whole dispute and avoided any pronouncement outside the strictly legal boundaries of the trial. He had rendered a verdict which might have satisfied the petitioner by its practical value but which, however, did not deal with the real causes of the dispute. In so doing, the judge had failed to draw the line of demarcation between authority of Church and State since his verdict contained no official statement on the position of the Roman-Catholic Church in Canada.

In short, Judge Mondelet, who pronounced his verdict on May 2nd, 1870, had been confronted with the following issue:

The petitioners had obtained from the court a writ of mandamus which compelled the Fabrique of Notre-Dame, of which the cure was part, to grant burial on the Catholic cemetery of Côte-des-Neiges to the remains of Joseph Guibord "conformément aux usages et à la loi", to which "en possession de son état de catholique romain" he had been entitled. The defence

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116 Affaire Guibord, Jugement rendu par Son Honneur le Juge Mondelet inre Guibord, Montréal, Minerve, 1870, p. 2, (hereafter referred to as JUGEMENT)

117 Loc. cit.

118 Loc. cit.
opposed this request on a series of technicalities but, above all, on the grounds that the cult of the Roman-Catholic religion had been free without interference from civil authorities and that Guibord's membership in the Institut Canadien, an institution which, at the time of death, was under canonical sentences, had deprived him of ecclesiastical burial. To this allegation the petitioner objected on the grounds that "l'autorité judiciaire représentant le Souverain a droit d'empêcher, corriger et reprimer les abus de l'autorité religieuse." 119

Judge Mondelet first established the competence of the court, basing his opinion on the Royal Edict of 1663 which created the Sovereign Council, predecessor of the Court of the King's Bench, and which had been endowed with the jurisdiction in all civil and criminal matters. 120 The Superior Court was, according to 12 Vict. ch. 38, the legal successor to the Court of the King's Bench and had the same jurisdiction as its predecessor. 121 He then proceeded to prove the legitimacy of the writ of mandamus by means of a précédent claiming that under present legislation,

119 Jugement, p. 2.
120 Ibid., p. 3.
121 Loc. cit.
the prosecution had adopted the only admissible procedure. Then, having formally declared that the common French ecclesiastical law was also the law for Canada before the British conquest and having denied that either Capitulations, or the Peace Treaty of 1763, or the Quebec Act or any other legislation, had in any way affected its validity up to the present day, he concluded that since there was no valid obstacle, the request for burial "conformément aux usages et à la loi" had been justified.

As a result of this conclusion, he decided the case in Madame Guibord's favour and ordered the Fabrique to grant Catholic burial to Guibord's remains and to enter his death into the parish register. He also sentenced the Fabrique to the expenses of the trial.

Dissatisfied, the defendants took their case to the Court of Revision which, in September of

122 Jugement, p. 3.
123 Loc. cit.
124 Ibid., p. 15.
125 It seems irrelevant to this paper to enumerate at length the legal reasons of Judge Mondelet's decision; for details see Ibid., pp. 4-15.
126 Ibid., p. 17
127 Composed of Judges Berthelot, Mackay and Torrance.
that year, reversed the verdict of the Superior Court on a series of technicalities, such as the improper form of the writ of mandamus, the non-competence of the defendants to make entries into the death registers etc. However, this reversal of the verdict by the Court of Revision should not be interpreted as any pronouncement of the court on the ideological issues involved. Rather, the technicalities on which the verdict had been based might be considered as loopholes for the three judges by means of which they merely evaded the real problem.

This reversal of the original judgement provoked the plaintiffs to take the case before the Court of the Queen's Bench. This court was composed of judges Duval, Caron, Monk, Drummond and Badgley.128 Joseph Doutre, counsel for the plaintiffs, challenged all of them with the exception of Judge Badgley on behalf of their adherence to the Roman-Catholic faith. He believed that

by means of a strong pressure on public opinion in this Province, many persons are not sure whether our judges are the representatives of Her Majesty and the laws made under her authority and that of her predecessors, or whether, in certain matters, they are governed by a religious authority the seat of which is at Rome.129

129 _Ibid._, p. 25.
On December 9th, his petition in recusation was turned down on the grounds that it was insulting to both judges and the Bench "and regarded by the Court as amounting simply to charges of treason and perjury against the judges recused." After the Court had sat the reversal of Judge Mondelet's original verdict by the Court of Revision was upheld but, although all five judges concurred, their reasons differed widely.

Yet, like their colleagues in the two previous instances, none of the judges of the Court of the Queen's Bench had deviated from the strictly legal aspect of the trial and committed himself to any pronouncement on the ideological part of the case. It thus remained to the Judicial Committee of the Privy Council, then the highest Canadian lawcourt, to render the final verdict and, in so doing, to define the position of the Roman-Catholic Church in Canada.

Once again, it was Joseph Doutre, who, on behalf of the plaintiffs, moved for permission to appeal to the Privy Council. His request was granted, but before the case had come up for decision, Mme. Guibord had died. By her testament she had bequeathed all


131 Mr. Justice Monk's explanation of the verdict appeared in La Minerve of Sept. 8, 1871. Some comments on the motivations of the other judges may be found in History of the Guibord Case, pp. 24-28.

132 on March 24, 1873.
her property to the Institut Canadien which she also had appointed her legatee. It thus became necessary for the corporation to apply for permission to continue the appeal. This permission was granted by the Privy Council but it specified that it was given without prejudice as to the question of the Institute's future competence to continue the appeal.

As to the right of ecclesiastical burial for the remains of Joseph Guibord, their Lordships agreed that Guibord had possessed that right unless he had been, at the time of his death, under any ecclesiastic sentence pronounced against him by either bishop or any other competent ecclesiastical authority. This did not, however, imply that the courts were not entitled to enquire into such an ecclesiastical sentence in order to determine whether it had been pronounced in accordance with the laws and the discipline of the Roman-Catholic Church prevailing in Lower Canada. Since no legislative authority had, since the conquest, modified the then prevailing French law for Quebec, the court had to consider it as a basis for its decisions. This law, better known as the Quebec Ritual, and agreed upon by both appellants and defence, classified persons to whom ecclesiastical burial might be refused under eight categories. Five of them were completely irrelevant to the case of Joseph Guibord, since they dealt with
such problems as persons of different denominations, or infants who had died without having been baptized. The crucial points were sections 3, 6, and 8.

Section 3 read:

On doit refuser la sépulture ecclésiastique à ceux qui auraient été nommément excommuniés ou interdits, si ce n'est qu'avant de mourir ils aient donné des marques de douleur, auquel cas on pourra leur accorder la sépulture ecclésiastique, après que la censure aura été levé par nos ordres.  

While recognizing Mgr. Bourget's quality to act, in the absence of regular ecclesiastical tribunals, as judex ordinarius, their Lordships would not consider Guibord as belonging to that category, since neither bishop nor any other ecclesiastical authority had ever, in name, passed ecclesiastical sentence against him.

As to section 6 of the Rituel, dealing with the excommunication of persons who, without plausible excuse, had failed to communicate at Easter, the court turned the argument down on the grounds that this had not been the original reason for denial of ecclesiastical burial to Guibord. Section 8, their Lordships continued, was

133 author's italics

equally not applicable to Guibord's case since the term "pécheur public" did not apply to Guibord.

To justify their decision, they invoked a series of ecclesiastical writers, among others Hericourt,\footnote{Jugement, (Conseil Privé), p. 9.} who in his "Lois Ecclésiastiques" (p. 147) decreed that before anyone who had encountered an excommunication \textit{lata sententia}, could be labelled excommunicated, he had to be brought before an ecclesiastical judge "afin de justifier le crime qui a donné lieu à la censure et d'examiner s'il n'y aurait pas quelque moyen de défense légitime à proposer".\footnote{Loc. cit.}

The above mentioned reasons brought the court to believe that no personal sentence had ever been passed against Guibord and led their Lordships to the conclusion that, at the time of his death, Guibord had been under no kind of sentence which would justify refusal of ecclesiastical burial to his remains.

Finally, as to the defendants' claim that ecclesiastical burial had been denied by the explicit order of the Vicar-General, the curé's superior, an order which the cure should not question, the Judicial
Committee of the Privy Council held that "there was no evidence before their Lordships that the Roman Catholics of Lower Canada had consented to be placed in such a position."\textsuperscript{137}

Yet, the most important aspect of the judgement of the Privy Council, the position of the Roman Catholic Church in Canada, was carefully couched in the following pronouncements. Defining its status, their Lordships said:

From these documents it would follow that, although the Roman-Catholic Church in Canada may on the Conquest have ceased to be an Established Church in the full sense of the term, it, nevertheless, continued to be a Church recognized by the State; retaining its endowments, and continuing to have certain rights (e.g. the perception of "dimes" from its members) enforceable at law.\textsuperscript{138}

And they continued their definition:

It has, on the one hand, undoubtedly, since the cession, wanted some of the characteristics of an Established Church; whilst, on the other hand,

\textsuperscript{137} Judgement of the Lords of the Judicial Committee of the Privy Council on the Appeal of Dame Henriette Brown v. Les Cure et Marguilliers de l'oeuvre et Fabrique de Notre-Dame de Montréal, from Canada, delivered 21st November, 1874, in History of the Guibord Case, p. 54.

\textsuperscript{138} Ibid., p. 43.
it differs materially in several important particulars from such voluntary religious societies as the Anglican Church in the Colonies, or the Roman-Catholic Church in England ...... It seems, however, to their Lordships to be unnecessary to pursue this question, because even if this Church were to be regarded merely as a private and voluntary religious society resting only upon a consensual basis, Courts of Justice are still bound, when due complaint is made that a member of the society has been injured as to his rights, in any matter of a mixed spiritual and temporal character, to enquire into the laws or rules of the tribunal or authority which has inflicted the alleged injury.139

In other words, the Roman-Catholic Church in Canada, being not established by law, was, in spite of some formal defects, just another public society and as such subjected to the jurisdiction of the civil courts. At last, the crucial pronouncement had been made and, through the highest judicial authority of the Empire, the status of the Roman-Catholic Church in Canada had been defined. A formal interpretation of the respective clauses of the Capitulations, the Treaty of Paris and the Quebec Act had set a new precedent for the handling of cases of mixed spiritual and temporal nature. In matters of colliding ecclesiastical and

139 Judgement of the Lords of the Judicial Committee .... p. 44.
civil jurisdiction, the civil courts alone were competent to judge the case; in other words, in matters of conflict between Church and State the former had to bow to the latter.

Having thus neatly established the supremacy of State over Church in all matters of mixed character, the Privy Counsellors, on Nov. 21st, 1874 advised Queen Victoria to reverse the decrees of the Court of the Queen's Bench and of the Court of Revision and to uphold the original verdict of the Superior Court modified by a series of technicalities. Their Lordships concluded by expressing the hope that the Church authorities themselves would see to it that no further obstacles would be raised against Guibord's burial in consecrated ground and that the necessary permission for such action would be granted by them. With the Queen's approval of the report and its suggestions, on November 28th, 1874, the judicial proceedings, which had lasted for over five years, came to an end.

Not so "le cause célèbre". Guibord's remains had yet to wait for their place of eternal rest. On September 2nd, 1875, Guibord's corpse was exhumed from the Protestant cemetery of Mount Royal and
transported to the Catholic cemetery of Côte-des-Neiges. There, meanwhile, a crowd had gathered and blocked the gates. When the coffin had arrived, covered, rather undiplomatically, with the Union Jack, it was greeted with stones and boos. Under these conditions, Doutre, the organizer of the funeral arrangements, thought it better to return to the Protestant cemetery, after the Côte-des-Neiges caretaker, summoned by the bailiff, refused to open the gates in view of the public agitation.

Bishop Bourget, caught in the dilemma between opposing a decision of the Privy Council and upholding the authority of the Church as well as the dignity of his high office, found a truly Machiavellian solution to his problem. In a pastoral of September 8th, 1875, he formally declared that he would not oppose the burial of Guibord's remains in consecrated ground, as decreed by the Privy Council; that, however, in order to safeguard the sanctity of the cemetery, he would spiritually separate the grave from the rest of the cemetery. The bishop praised the populace for their calm and dignified behaviour and advised the Catholic public

140 Mandements, VII, pp. 196 ff.
141 Ibid., p.
not to oppose any future attempts of the burial. A second pastoral soon followed on October 17th\(^{142}\), once again reassuring the population of the spiritual separation of Guibord's tomb. Mgr. Bourget took pains not to criticize the verdict. Nevertheless, he insisted that one was at liberty to form an opinion about it. He finally expressed his sorrow over the Privy Council's unfortunate decision and stated that the noble Lords never would have rendered such a verdict had they known what grief they had caused to the bishops of the province, whose loyalty to the Crown had never been denied.

On November 16th, 1875, after one last and vehement protest by curé Rousselot, Guibord was finally buried under the assistance of police and the military with the curé assisting as a civil officer. A lonely prayer by one of his relatives was the only Christian rite performed over his grave.

In the seventies and eighties of the last century, the province of Quebec was not the only part of the world where politico-religious conflicts stirred up public opinion. France, and, above all Bismarck's Germany, were deeply entrenched in schemes of

\(^{142}\) Mandements, VII, pp. 234 ff.
anti-Catholic legislation. The Iron Chancellor undoubtedly had already speculated on what later became known as his *Kulturkampf* when he received a report on the Guibord case from one of the secretaries of the German embassy in London. The embassy official, who had made the acquaintance of Joseph Doutre during one of the latter's visits to the English capital, asked to be informed about the substance of the whole case in order that he could inform the Prince-Chancellor. Bismarck, seemingly pleased with Doutre's gallant anti-Catholic fight, expressed his admiration and presented him with a copy of *The History of Prussia*.143

M. Lefaivre, the French consul in Montreal, thought it wise to inform his anti-clerical government and, in a memorandum dated September 8th, 1875144 and addressed to the Duc Decazes, the French Foreign minister, reported on the latest events. He called Guibord "un homme inoffensif et nullement hostile à la religion" and referred to the bishop's sentence as "cette sentence d'une rigueur inouie pour notre siècle". On the other hand, as to the decision of the Privy

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143 Ch. Bourgeois, *op. cit.*, p. 175.

144 Report of Consul Lefaivre to the Duc Decazes, of Sept. 8, 1875. This report also contains a reference to the interest shown by Bismarck. The writer is indebted for a private copy to Dr. Gerard Tougas.
Council, he thought that London would have done better to preserve strict neutrality in such a case, be it by means of a succession of adjournments or a simple declaration of incompetence.

The consul also mentioned the British Prime Minister, Gladstone, as being interested in the affair. The British statesman, who had made the acquaintance of Senator Brown from Ottawa, then visiting in London, had asked him: "Have you buried Guibord?" It is to be presumed, however, that Gladstone's interest was strictly personal and that it originated from his strong Christian convictions rather than from any political reason. Great Britain faced no such problems at that time.

For his stern and uncompromising attitude, Bishop Bourget has often been criticized. To understand fully his point of view, one cannot approach the problem as a simple conflict in which both sides tried to reach a compromise trying to gain as much as possible for themselves. Convinced of his divine mission, he could only be satisfied with an unconditional surrender of his opponents, a full submission to his authority. Only on such a basis he would negotiate.

The Institute, at first apparently victorious, found death when it tried to upset the Roman-Catholic
Church. Its leaders had committed the fatal mistake of trying to undermine and practically to destroy the authority of an institution most precious to every French-Canadian. They had forgotten that Catholicism meant something different to French Canada than it did to France or most of the other European countries. There it stood for reaction, here it spelt survival.

At the time when Guibord found his final place of rest, other issues on the same ideological lines were already in the making. No greater truth had ever been said than Rumilly's statement: "... la catholique province de Québec donnait à la Cour de Rome plus de mal que tout le reste de la chrétienté" 145

145 Rumilly, Laflèche, p. 222.
CHAPTER II

THE LAVAL - ECOLE DISPUTE

The dispute between the École de Médecine et de Chirurgie de Montréal and the Laval University of Quebec was but another chapter in the great politico-religious rivalries in the province. Already the issue of the Institut Canadien and the Guibord case had created two camps of opposing ideologies. The Laval-Ecole controversy, intimately connected with the question of "undue clerical influence" only served to deepen the previously existing divisions. On one side was traditional Montreal with such ultramontane veterans as bishops Bourget and Laflèche, of Three Rivers, on the other was modernist Quebec, led by its liberal-minded archbishop E.-A. Taschereau.

1 see chapter III.

2 Louis-François Laflèche (1818-98), second bishop of Three Rivers, had distinguished himself in his early years as a zealous missionary in the Red River country. From 1856-1860, he was professor (later Superior) of the seminary at Nicolet. In 1870, he succeeded Mgr. Cooke to the bishopric of Three Rivers. A founder of numerous cultural and charitable institutions, Mgr. Laflèche, after Bishop Bourget's retirement (1876), became the key figure of the ultramontane camp. For his philosophical thought see: Laflèche, Quelques considérations sur les rapports entre l'Eglise et l'Etat.

3 Elzéar-Alexandre Taschereau (1820-98), D.D., began his career as professor (later Superior) of the Quebec seminary. From 1860-1871 he was the rector of Laval university. In that year he succeeded Mgr. Baillargeon as archbishop of Quebec only to become, 15 years later, the first Canadian cardinal. In contrast to bishops Bourget and Laflèche, Mgr. Taschereau was a staunch opponent of ultramontanism.
Once again the Conservatives generally espoused the case of the Ecole, while the Liberal party supported Laval. Besides bishops Bourget and Laflèche, the brilliant Montreal lawyer Simeon Pagnuelo, the young Quebec journalist J.-P. Tardivel, and senators Trudel and Bellerose, were the lay leaders of the ultramontane camp, while Grand-Vicar Hamel, Laval's ex-rector, Mgr. Racine, the bishop of Chicoutimi and the abbé Benjamin Paquet headed the Quebec camp. To solve the dispute between Laval and the Ecole, to restore unity among the Quebec episcopate and to calm down the agitation among the population, three apostolic legates had been sent by Rome to Quebec. When, in 1876, the liberal Mgr. Ch.-E. Fabre succeeded the aging Mgr. Bourget to the see of Montreal, Mgr. Laflèche became the central figure of the ultramontane resistance. Alone, against a hostile, or, at best, an indifferent episcopate and an anti-ultramontane Pope, left with only a handful of faithful supporters, he carried on the struggle to the bitter end.

4 For S. Pagnuelo's political and religious credo see: Etudes historiques et légales sur la liberté religieuse en Canada, Montréal, Beauchemin, 1872.

5 Mgr. Charles-Edouard Fabre, (1827-1896), third bishop and first archbishop of Montreal, was best known for his activities in the field of education. Like his predecessor, Mgr. Bourget, he brought a considerable number of religious orders into his diocese in an attempt to improve educational and hospital facilities in the province. Mgr. Fabre was instrumental in the erection of the episcopal See of Valleyfield.
Back in 1840, at the time when Ignace Bourget succeeded to the Montreal bishopric vacated by his predecessor, Mgr. Lartigue, the newly founded McGill university was in the midst of establishing itself in Mgr. Bourget's episcopal city. In this rising Protestant institution bishop Bourget saw a menace to the youth fearing that the doctrines taught by this university were dangerous to the Catholic faith. He therefore began to think of some means by which he could neutralize the growing influence of McGill. With the foundation, in 1843, of the Ecole de Médecine et de Chirurgie de Montréal his opportunity had come.

Although the Ecole possessed a great number of facilities for the training of physicians and surgeons, it lacked the official status for the granting of academic degrees. To overcome this handicap, the Ecole affiliated itself to the Protestant Victoria College of Coburg, Ont. Although Victoria's suzerainty over the Ecole was merely a nominal one, bishop Bourget tried to use the occasion to create in Montreal an independent Catholic university.

There was yet one major obstacle to the designs of bishop Bourget. The province already had one Catholic university, the Université Laval of Quebec.
Not only did liberal Laval fear material competition from a rival institution but it mainly objected to the ideologies of Mgr. Bourget, ideologies which necessarily would form the doctrinal background of the new university. Repeated demands by Mgr. Bourget for the establishment of a Catholic university in Montreal were rejected by Rome. Repeated demands of the Ecole for affiliation with Laval met with no response. An uneasy agreement was finally reached between the two institutions under the auspices of Mgr. Conroy, then apostolic legate to Quebec, and with the active co-operation of bishop Fabre. The agreement was of short duration. In 1877, soon after Mgr. Conroy's departure from Canada, new difficulties arose between the Ecole and Laval. When the local episcopate proved unable to solve the issue, both parties appealed to Rome. The Holy See repeatedly decided in favour of Laval, however, the ultramontanes found one last stronghold in the wording of the Royal charter of 1852 which limited the activities of Laval to the city of Quebec. But even this hope soon vanished when Laval had its charter amended by the provincial legislature. Renewed appeals of the Ecole to Rome met with the same negative response. Two more apostolic legates came and went without solving anything. In 1884, a major Roman decision established a modus vivendi between the two rival institutions but
it was not until 1890 that a definite settlement had been reached. Apart from some minor material concessions, the moral victory in the dispute which lasted for nearly thirty years, belonged to Laval. The fate of the Ecole had been sealed, liberal Quebec had triumphed over ultramontane Montreal.

The Ecole de Médecine et de Chirurgie de Montréal, founded in 1843 and incorporated two years later, owed its existence to a group of English physicians of Protestant denomination. Soon after its foundation most of the Protestant professors had died or had retired from teaching for reasons of age or ill health. One by one, Catholic professors took over their chairs until, by 1848, the Ecole's teaching staff had become entirely Catholic. The institution, however, had one great disadvantage; it did not possess the required authority for the granting of academic degrees. Every year, this handicap forced the students of the graduating class to present themselves to a board of professors of other universities where they had to undergo a series of strict examinations in order to obtain the proper diplomas for the practice of the medical profession. Partly because of the rigidity of these examinations, partly because of their degrading character, a certain number of Catholic
students preferred to attend Protestant universities.

Mgr. Bourget, the protector and great friend of the Ecole — two of its leading professors, Drs. d'Odet d'Orsonnens and Edouard Desjardins, were old acquaintances of the bishop — was greatly disturbed over the increasing number of Catholic students registering at Protestant institutions. Apart from the decrease in the Ecole's enrolment which such a state of affairs brought about, the concern of the bishop was with the students' morals and the purity of their beliefs. For, as the first pastor of his diocese, he feared that their faith might be exposed to dangerous and heretical influences in strictly Protestant surroundings.

It was mainly due to this concern for the faith and the morals of the student body that, as early as 1860, the Ecole, upon Mgr. Bourget's advice, sought affiliation with some Catholic institution authorized to grant medical diplomas. Its choice, quite naturally, fell upon Laval University of Quebec, the only Catholic university in the province. Therefore, on November 3rd, 1860, Dr. P. Beaubien, president of the Ecole, approached E.-A. Taschereau, then Lavel's rector, and asked the conditions for the Ecole's affiliation
to Laval. The request was turned down on the grounds "...que les exigences académiques des deux écoles de médecine, celle de Québec et celle de Montréal, sont incompatibles." Laval was unwilling to grant its protection to the Ecole as long as the latter had inadequate academic standards. While the prescribed length of medical instruction at Quebec comprised four years of nine and one half months lectures each, the Montreal school contented itself with two academic sessions of six months each. Two examinations only were compulsory at Montreal as compared with twelve at Quebec. These were some of the main reasons of Laval's refusal. Rector Taschereau, in a letter of January 9th, 1861, thus replied to Dr. Beaubien:

Comme vous le voyez, les conditions auxquelles nous accordons des diplômes à nos propres élèves sont assez rigoureuses. ....... Vous concevez qu'après ces réflexions, il nous semble assez difficile d'accorder des diplômes à vos élèves, à des conditions toutes différentes de celles que nous exigeons des nôtres.

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7 Archives du Séminaire de Québec, 101-CX, ex Boissonnault, p. 214.

8 Loc. cit.

9 Loc. cit.

10 Letter of rector Taschereau to Dr. Beaubien (Jan. 9, 1861), ASQ 101-CF, quoted (ex footnote) from Boissonnault, op. cit., p. 216.
Two years later, in December 1862, the Ecole's professors approached Mgr. Bourget with a request to use all his influence for the establishment of a Catholic university in Montreal. Once again, and principally on the same grounds, the Ecole's request was turned down.

Laval had good reason to refuse affiliation to an institution which intended to enjoy its prestige and privileges without, however, coming up to its academic standard. Not only would such a step mean a certain profanation of Laval's authority but it necessarily would lead to rivalries between the two student bodies, the Quebeckers resenting the more rigorous curriculum to which they were subjected.

Yet, more than a mere incompatibility between the academic standards of the two schools stood in the way of affiliation. As the Montrealers understood it, the term "affiliation" meant nothing more than the protection of their school by the name of Laval with all the prestige and advantages resulting from such an association, without, however, the sacrifice of their own complete autonomy. And herein lay the main problem. An autonomous faculty at Montreal, under the doctrinal supervision of bishop Bourget,  

11 Boissonault, op. cit., p. 216.

12 this was one of the Ecole's conditions of affiliation.
was unacceptable to the Laval University Council. Eventually, Laval might have granted a certain measure of local self-government to the Ecole; it would, however, never have consented to its spiritual guidance by the ultramontane bishop Bourget. The deadlock seemed complete.

In despair, the Ecole approached Victoria College of Coburg, Ont. This institution, although in the hands of Methodists, soon came to terms with the Ecole. An agreement was reached which stipulated that the proposed affiliation would be for degree-granting purposes only. The agreement specified that in matters of religion, faith, science and morals, Mgr. Bourget would continue to exercise his supervision over the Ecole. Thus the payment of the customary fees for the diplomas remained the Ecole's only obligation towards Victoria and the latter's suzerainty over the Montreal institution was a strictly nominal one.

Despite the difficulties the Ecole had encountered in the administrative field, in the academic domain its success was beyond question. Since its foundation, in 1843, more than 700 of its former students were practising the medical profession all over the province of Quebec as compared with a mere
110 graduates of Laval.  

Bishop Bourget, always keenly interested in the prosperity of the École, viewed with great satisfaction the professional success of an institution which was under his personal patronage. To show the confidence, he had in its medical personnel, Mgr. Bourget confined three of Montreal's most prominent hospitals, the Hôtel Dieu, the Hospice de la Maternité and the Hôpital Général Catholique, to the medical care of the École's professors. This arrangement, needless to say, provided an excellent opportunity for the students' practical and clinical instruction. Yet, apart from the École's academic achievements, there was another reason for the bishop to rejoice. The spirit of the École was through and through ultramontane. Dr. Edouard Desjardins, a senior member of its teaching staff, was one of the instigators of the "Programme Catholique" in which such ultramontanes as F.-X.-A. Trudel, Bishop Bourget's lawyer in the Guibord case, Testard de Montigny, dean of the Canadian Papal Zouaves, and Siméon Pagnuelo, the prominent ultramontane theoretician

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15 For a detailed account on the "Programme Catholique" see: Rumilly, Laflèche, pp. 54-87.
and the Ecole's legal counsel, provided the nucleus of lay ultramontanism.

Herein then lay the ideological reasons for the conflict between Laval and the Ecole. Laval, imbued with the liberal atmosphere of Quebec, did not merely desire an administrative affiliation of the Ecole but, above all, a thorough merger by means of which, during a relatively short span of time, the ultramontane spirit of the Ecole would be extinguished. This indoctrination with liberal and, what Montreal considered, heretical ideas was one of the great fears of the Ecole and its spiritual supervisor, Mgr. Bourget. Thus, it was above all for this reason that the bishop looked towards the Ecole as his one great hope not only in his struggle against the two already existing Protestant colleges of Montreal but, above all as a spiritual center of les bons principes.

At Laval, Mgr. Bourget's point of view was well known. With the same determination with which the aging bishop fought for the establishment of a second university in the province, independent of Quebec, Laval opposed his demands. Laval had good reasons for its opposition. The creation of a rival institution, would constitute a great financial burden, an expenditure
which would be a considerable risk in view of the limited number of students, still not sufficient to warrant the upkeep of two universities. In addition to the financial insecurity of the project, Laval, quite naturally, feared professional competition. But, above all, Laval's opposition stemmed from an inherent antipathy to everything ultramontane. For contrary to the atmosphere of Montreal, where Mgr. Bourget's spirit reigned supreme, the See of Quebec, under archbishop E.-A. Taschereau, was manifestly liberal in spirit and had no understanding of the reactionary ultramontanism of its Montreal counterpart. Similarly, the Laval University was in open opposition to everything traditional and ultramontane and as such vehemently opposed the establishment of an institution where such ideas would form the basis of doctrine.

While financial considerations undoubtedly played their part in bishop Bourget's determination, it would be a complete misunderstanding of his personality to assume that they were the decisive factor in the bishop's decisions. What really mattered to him were the faith and religion of the Montreal youth. Under no conditions could the bishop tolerate that Catholic students should have to be humiliated by attending Protestant universities which not only did
not contribute to their political and religious formation but openly exposed their souls to non-Catholic teachings. As for the only other alternative, that is the education of the Montreal youth at Laval, Mgr. Bourget was equally opposed. Apart from his distrust of Laval's liberalism and doctrinal skepticism, the bishop was of the opinion that the maintenance of their sons at Quebec would prove too costly an enterprise for many Montreal families, otherwise favourably disposed to grant university education to their children.

Repeatedly, Mgr. Bourget approached Mgr. Baillargeon, then archbishop of Quebec, asking his support in the École's effort for affiliation. Mgr. Baillargeon, as strong a supporter of Laval, as Mgr. Bourget was the supporter of the École, refused. Both prelates finally agreed to invoke the decision of the Holy See. On May 31st, 1862, Mgr. Bourget, in a letter from Rome, informed the superiors of the colleges of his diocese, that his demand for an independent Catholic university in Montreal had been rejected.16 Three years later, two similar attempts on the part of Mgr. Bourget were turned down by the

Congregation of the Propaganda. From then on, up to 1870, the bishop abstained from further petitions.

The introduction, in 1872, into the Provincial Legislature, of a bill sponsored by the Jesuit order, which demanded authorization to create a Jesuit university was the fourth attempt at foundation of an independent Catholic university in Mgr. Bourget's episcopal city. In the Collège Sainte-Marie de Montréal, the Jesuits already had their own Law School. Mgr. Bourget, supporting wholeheartedly the Jesuit bill, stated that most of the prospective Montreal students, rather than attending distant Laval, preferred to enrol at Protestant McGill. Thus, he argued, the establishment of a university in Montreal would in no way interfere with Laval which would always be assured of its usual attendance. While bishop Bourget supported the request of the Jesuits, rector (later archbishop) Taschereau argued Laval's case before the Congregation of the Propaganda.

The issue, so far confided to a few intimates, soon became common knowledge. Quebec espoused the case of Laval, while Montreal, traditionally ultramontane, upheld Mgr. Bourget and supported the Jesuit bill. The usual press polemic followed and the parties accused each other of Gallicanism and insubmission. The case
finally seemed decided by archbishop Taschereau's permission for publication of a Roman telegram which he had received from the Propaganda to his request of whether the Roman decrees, refusing the establishment of a university in Montreal, were still valid, and, whether bishop Bourget, having been refused by Rome, was entitled to appeal to Parliament. The simple answer "Négativement aux deux demandes. Explication par lettre. Barnabo." dealt a severe blow to Mgr. Bourget and the ultramontane cause. Humiliated, the bishop had to ask the Jesuits to withdraw their bill. Laval had won the first round of the struggle. The storm was yet to come.

To bishop Bourget's constant demands for the creation of an independent university in Montreal, Laval proposed one simple remedy - the fusion of the Ecole with Laval and its erection into a faculty of Laval. The Ecole's professors were not opposed to a certain degree of affiliation with Laval but they resisted energetically any attempt at annexation. What they wished was a mere affiliation, with the widest possible autonomy, similar to the contract

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17 Plaidoyers de MM. Hamel et Lacoste devant le Comité des Bills privés en faveur de l'Université Laval, les 20, 21, 27 et 28 Mai 1881, Québec, Côté, 1881, p. 26.
they had concluded with Victoria. They had good reasons to defend their independent status. For nearly three decades they had worked hard and spared no sacrifice to assure the success of the Ecole and they categorically opposed any attempt which would deprive them of the fruits of their labours. Apart from this, they harboured a traditional distrust against the atmosphere of Quebec and, in particular, of Laval in whose liberalism they detected elements of heresy and free-masonry.

Yet, the Roman decree of February 1st, 1876, announcing the establishment of a branch of Laval in Montreal and the papal bull, following shortly after and erecting Laval canonically, left no doubts in the minds of the Ecole's professors as to the intentions of the Holy See. From the text of both documents it appeared quite clearly that the petitioners and emissaries of Quebec had scored a victory over those of Montreal in convincing the Propaganda of the justice of their cause. In bold and unequivocal language Rome decreed

Que ... l'on reconnaît la nécessité de pourvoir en quelque manière à l'instruction supérieure de ces jeunes gens de Montréal qui ne peuvent fréquenter l'Université Laval, comme aussi d'empêcher que les écoles de droit et de médecine, existant dans ladite ville, ne continuent d'être affiliées à des Universités protestantes, et beaucoup plus encore que les étudiants catholiques ne fréquentent de
telles Universités. Que de reste, comme il est evidentement impossible de la part de Laval d'accorder l'affiliation aux dites écoles, laquelle equivaudrait à l'érection d'une Université, pour ainsi dire distincte et indépendante à Montréal, afin de pourvoir cependant à la nécessité enoncee plus haut, il ne se présente pas d'autre expedient que celui d'établir à Montréal une succursale de l'Université Laval.18

Then, in ten points, Cardinal Franchi, the Prefect of the Propaganda and the signatory of the papal decree, laid down the basis upon which the Laval branch at Montreal should be established. All costs in connection with the upkeep of the branch were to be borne by Montreal, there was to be uniformity of courses at both institutions, the Montreal professors were to become members of the respective Laval faculties and, like their colleagues from Quebec, were to be appointed by the University Council, after previous consultation with Montreal. All degrees were to be granted by Laval and that institution alone had the right to collect the respective fees.19 Merely one aspect of the papal decree held out some hope for the

18 Lettre de S.E. le cardinal Franchi du 9 mars 1876 transmettant à Mgr. l'Archevêque de Québec la décision de la S.C. de la Propagande du 1 février 1876, in Annuaire de l'Université Laval pour l'année académique 1877-78, Québec, Côté, 1877, pp. 56-57.

19 Ibid., pp. 57-58.
ultramontanes - the Quebec archbishop no longer was to be the sole supervisor of the university but, from now on, the whole Quebec episcopate, under the archbishop's presidency, was charged with the supervision of Laval's doctrine and discipline.

However, to those ultramontanes who, on account of this modification of Laval's supervision, hoped for a brighter future of the Ecole, the papal bull Inter varias sollicitudines of May 15th, 1876, dealt a severe blow. For, as if to strengthen Quebec's supremacy over Montreal even more, it granted canonical erection to the Université Laval. Ironically enough, its careful but ambiguous wording gave new hope to the defendants of the Ecole. Praising at great length the distinguished accomplishments of the university, it stated, among other things that the Holy Father, in granting canonical status to Laval, did not wish in any way to interfere with Queen Victoria's Royal Charter of 1852 on the basis of which Laval had come into being. It was in the wording of this Royal Charter that the ultramontanes detected new arguments in their favour. The legal counsels of the Ecole held that Laval's Charter

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20 Papal bull "Inter varias sollicitudines ..." published in Annuaire de l'Université Laval pour l'année académique 1877-78, Québec, Côté, 1877, pp. 47-54. "... cui in nulla re derogatium volumus..."
was limited to the city of Quebec and that any establishment of the university outside its bounds was therefore illegal. J.-L. Archambault, a prominent lawyer and sympathizer of the ultramontanes, espoused the case of the Ecole. In defence of the ultramontane cause, he published the details of his correspondence on the subject of the validity of the Charter with Sir Alexander Campbell, the federal minister of justice, and Sir Farrer Herschell, solicitor-general of Great Britain and one of the two advocates of the Crown. Sir Alexander declared himself incompetent in a matter upon which, in his view, the courts alone were to decide, but in the reply of Sir Farrer the shrewd lawyer found confirmation of his point of view - the limitation of the Charter to the city of Quebec.

Laval meanwhile, proceeding in accordance with the papal bull, opened its medical faculty in Montreal. After long and uneasy negotiations and with the assistance of Mgr. Conroy, the apostolic legate to Canada, and bishop Fabre, Laval's rector and the professors of the Ecole, in December 15, 1877, reached

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21 Rumilly, Lafleche, p. 151.

22 Letter of Sir Farrer Herschell to Dr. d'Odet d'Orsonnens (July 20, 1880) ex. Savaète, op. cit., vol. IV, pp. 130-132.
an agreement according to which the Ecole was erected into Laval's medical faculty at Montreal. The agreement which guaranteed to the professors of the Ecole the maintenance of their internal status and organization, was of short duration. Differences of opinion soon arose as to the promotion of certain professors and, by 1879, the treaty, so laboriously concluded, was nothing more than a dead letter. While the Ecole, accusing Laval of breach of contract, sought remedial action in Rome, Laval lost no time to establish its own medical school in Montreal. When most of the Montreal hospitals refused access to the professors and students of the new institution, Laval first sent its students to a Protestant hospital while proceeding with the erection of its own. The breach between the two rival institutions was wide open.

After Sir Farrer Herschell's unfavourable legal opinion, Laval first attempted to complete its charter in London. When this attempt failed, the university appealed to the provincial legislature. Charles-Louis Champagne, deputy for Deux-Montagnes, on May 3rd, 1881, presented the provincial parliament with a bill, in which, on behalf of Laval, he asked the legislature to grant permission to the university to expand all over
the province of Quebec. 23

Archbishop Taschereau missed no occasion to give the bill his full backing. He sent personal letters to a number of his friends, members of the legislature, asking them to support the bill of Laval. 24 He addressed a request, to the deputies, signed by the entire Quebec episcopate except for Mgr. Lafleche, asking them to vote in favour of the bill. 25 Finally, he enlisted the support of the Comité Catholique du Conseil de l'Instruction Publique which, on May 18th, upon his instigation, voted a resolution of support of the bill. 26 Before a parliamentary committee, Laval's rector Hamel and the Montreal lawyer Alexandre Lacoste pleaded the case of Laval while Senator Trudel and Siméon Pagnuelo expounded the case of the École. Hamel demanded respect and submission to the Roman decision 27 while Lacoste asked de jure recognition of a state of affairs already existent in practice. 28

23 Quebec, Journals of the Legislative Assembly, session 1881, Quebec, Côte, 1881, p. 17.


25 Ibid., p. 51.

26 Ibid., p. 77.

27 Plaidoyers de MM. Hamel et Lacoste devant la Chambre des Bills Privés en faveur de l'Université Laval. Plaidoyer de M. Hamel, pp. 3-51.

28 Ibid., pp. 82-132.
The spokesmen of the École, the known ultramontane theoretician Siméon Pagnuelo and Dr. E.-H. Trudel, president of the École, accused Laval of monopolizing all the higher education of the province and of unfair competition\(^{29}\) and charged that the passing of a bill as demanded by Laval would impose on the population of Montreal an institution against its will.\(^{30}\) The deputies took their part in the discussion with MM. Mathieu and Taillon upholding the École while Charles Langelier and Israel Tarte defended Laval.\(^{31}\) The committee, which was swamped with petitions and counterpetitions, finished its enquiries on June 3rd. On this day also, under the presidency of the Rev. Louis Wurtele, it recommended by a vote of 16 to 6 the adoption of the bill. Ten days later, in spite of Taillon's renewed pleading in the provincial assembly, the bill was adopted by a handsome majority of 31 to 20.\(^{32}\) The affirmative vote was composed of all the Liberals as well as a few Conservatives, among them Sir Adolphe Chapleau, the Prime Minister.

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\(^{29}\) To attract more students, the Montreal branch of Laval had decreased its fees below the level charged by the École.


\(^{31}\) Ibid., p. 80.

\(^{32}\) Province of Quebec, *Journals of the Legislative Assembly*, session 1881, Quebec, Côté, 1881, pp. 199-200.
The bill was next introduced into the Legislative Council where, upon recommendation of a special committee, it was upheld by a majority of 6 votes. The adversaries of Laval, in desperation, announced that they would seek federal disallowance and the Liberal L'ELECTEUR protested against French Canadians who would seek federal intervention in "our" provincial affairs.

Having been let down by the politicians, the Ecole's supporters, once again, turned to Rome. They entrusted to Dr. Trudel the pleading of their cause before the Propaganda, where already bishop Bourget had made representations in the Ecole's favour. Received in audience by Pope Leo XIII, he presented the Holy Father with two separate petitions. One of them, submitted on behalf of the clergy of Montreal, (i.e. its overwhelming majority), asked the Pope for refusal of canonical sanction of the newly-created status of Laval, i.e., the non-recognition, by the Holy See, of Laval's right to expand all over the province. The other petition, signed by most of the influential Montreal Catholics accused Laval of being under the influence of freemasons and freethinkers and once again, demanded the establishment of an independent university in Montreal.

33 Rumilly, Histoire, III, p. 89.
34 Loc. cit.
At the time when Dr. Trudel and bishop Bourget arrived in Rome, ex-rector Hamel, now Vicar-General of the Quebec archdiocese, and Mgr. Racine, bishop of Chicoutimi, were already there to explain the point of view of Laval. After having heard both parties, the Pope entrusted Cardinal Simeoni, the prefect of the Congregation of the Propaganda, and two other cardinals, to enquire into the merits of the case. After a few days of deliberations, Leon XIII, advised by his counsellors, upheld his previous decision and reiterated the execution of his previous decree.  

Archbishop Taschereau, on whose behalf Mgr. Racine and Vicar-General Hamel had pleaded, was quick to exploit the favourable decision of the Holy See and, in a pastoral of October 7th, 1881, expressed the hope that every good Catholic would contribute his share to the execution of the decree.

In spite of the clear-cut defeat which the ultramontane cause had suffered by this latest of the Roman decisions, the abbé Dumesnil, bishop Bourget's co-traveller and assistant on his trip to Rome, sent word

35 H. Tétu & C.-O. Gagnon, Mandements, lettres pastorales et circulaires des Évêques de Québec, vol. II., Québec, Côte, 1890, pp. 273-274. (hereafter referred to as Mandements (Quebec)

36 Ibid., pp. 265-266.
to Montreal that the papal decision was by no means final. Disturbed over such news, Laval enquired in Rome and sought confirmation. Cardinal Simeoni himself sent the following telegraphic answer to Quebec: "La nouvelle donnée par Dumesnil est denuée de fondement." The confirmation of this good news by no lesser a personage than the prefect of the Propaganda, caused a jubilant reaction in the liberal camp. Among all the liberal and radical papers which engaged into a chant of victory, L'Evénement of Quebec, in particular, excelled with the following comment on "grand-vicaire" Trudel:

As to the Honorable M. Trudel, his religious mission seems to be ended. Rome decidedly does not wish a lay prelate among us. She does not desire that beside the orthodox Church a Church more orthodox still should establish itself. We must content ourselves with the religion of our fathers.

With the fervor so characteristic of religious fanatics, the ultramontanes carried on the seemingly hopeless struggle. Mgr. Bourget, senator Trudel and the abbé Dumesnil, all three of whom remained in Rome after their Laval counterparts had left the Holy City,

succeeded in another audience with the cardinals of the Propaganda and obtained from them the formal declaration which on October 10th, 1881, they despatched to the Ecole.

... que le Saint-Siège est resté complètement étranger au côté légal de la succursale de Laval à Montréal; que ni le Saint-Siège ni la Congrégation de la Propagande n'ont jamais donné d'ordre ou formule le désir pour amener les membres du Parlement à voter la loi de Québec, et que le Saint-Père et la Congrégation entendent toujours demeurer neutre dans cette question légale qui regarde le pouvoir civil, et dans laquelle, par conséquent les membres des différentes chambres conservent toute liberté d'action.39

Archbishop Taschereau, on his part, called a special session of the Supervisory Council of Laval University. Using both his prestige as president of the Council and the favourable situation created for Laval by the latest Roman decisions, he obtained from the episcopate a joint declaration signed by all its members which condemned journalists and other writers who attacked Laval University. Labelling all such writers as being disrespectful towards the Holy See,

39 Derniers documents relatifs aux difficultés survenues entre l'Université Laval et l'Ecole de Médecine et de Chirurgie de Montréal, Presse de l'Ecole de la Médecine, 1883, ex Rumilly, Histoire, III, pp. 104-105.
the declaration stated that only the joint tribunal of the Quebec hierarchy was competent to consider complaints against Laval and to enquire into their merit. 40

Mgr. Laflèche, who had originally signed the declaration, withdrew his signature a few days later and, in the company of abbé Moreau, the curé of Saint-Barthélemy, 41 left for Rome to explain there the reasons for his change of attitude. But by now Rome seemed more than saturated by the steady influx of visitors from Quebec, distinguished as these might have been, and Leo XIII, in polite but firm language, informed the bishop of Three Rivers, that Rome had spoken and considered the case terminated once and for all. In addition, it had been indicated to the venerable prelates that their presence in the Holy City was no longer necessary. Trudel alone seemed to have understood this gentle hint and, early in 1882, had left Rome. The Propaganda, visibly annoyed that its advice had been disregarded, complained to Quebec "que les individus qui se disent défenseurs de Montréal et qui restent encore à Rome le font contre la volonté du Saint Père, et abusent ainsi des circonstances

40 Mandements (Quebec) II, pp. 275-277.
41 Rumilly, Histoire, III, p. 105.
politiques actuelles."

The press polemics, in spite of the archbishop's and bishop Fabre's repeated warnings, continued with growing animosity. The ultramontane Le Monde accused Mgr. Taschereau of having misinformed the Propaganda and complained bitterly about Cardinal Simeoni's insult to "a bishop and priests whom the good Catholics of Canada have learned to venerate for their piety and devotion to the Holy See." Bishop Fabre at once requested Le Monde's editor to retract this statement but the proud Frédéric Houde, in answer to the bishop's request, preferred to resign rather than to act against his conscience. This stubborness on the part of the ultramontanes only produced a new outburst from the radical L'Electeur.

Ah, (its editor wrote), si le pape à la demande de l'archevêque et sur les conseils du cardinal Simeoni, avait condamné le parti libéral, on ne verrait pas Le Monde et nos soi-disant catholiques par excellence prétendre que le Saint-Siège s'est trompé ou qu'il a été trompé.  

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44 Rumilly, Leflèche, p. 186.

45 Loc. cit.
In an important pastoral of February 2nd, 1882, archbishop Taschereau dealt at length with the respect due to the decisions of Rome and reaffirmed that Laval would be regarded by Rome as the one and only Catholic university. The archbishop concluded:

C'è serait une désobéissance flagrante au décret et à la bulle de Pie IX que de chercher à detourner les jeunes catholiques d'aller soit à l'Université de Québec, soit à la succursale de Montréal.46

It was at this stage that some of the ultramontane doctrinaires completely forgot their own teachings - the infallibility of the Pope. In their fanaticism and in their despair they went as far as to question this doctrine, which only a few short years before, in the famous Guibord case, was the sine qua non of their whole philosophy.

They had good reasons to be desperate. Already Pius IX, "their" Pope, had, in 1876, twice decided against them. When, two years later, he had been succeeded by Leo XIII, there remained little hope for the ultramontane cause. For, in marked contrast to his orthodox predecessor, Leo XIII had a more flexible conception of Catholicism. He recognized in time that

46 Mandements, (Quebec), II., p. 292.
the world, since 1848, had made a bold step forward. In England, in France, in Italy, all over Europe, new liberal ideas were on the march. And Leo XIII, the Pope of the ralliement, realized that Catholicism had to acknowledge this progress and had to find ways and means by which the Catholic religion and the liberal philosophies of the time could co-exist, side by side.

But while the Pope was seeking a solution of how to reconcile the papacy with the loss of its temporal power and how, to regain at least part of its lost political prestige, the ultramontane laymen of Quebec had little understanding for compromise. More Catholic than the archbishop of Quebec and more papal than the Pope himself, they launched a real crusade against Laval and bombarded both the university and the Quebec archbishopric with charges of heresy and free-masonry. The young journalist Jules-Paul Tardivel, who, after 1881, published his ultramontane La Vérité in Quebec, went as far as to admit than even the Pope could err in a question of fact. In this respect he said:

La question de l'Université Laval est une question de fait et sans être

hérétique ou même mauvais catholique, on peut dire que le pape a été trompé sur cette question....Sur la doctrine, le pape est infaillible, il ne peut pas se tromper, mais c'est exposer notre sainte religion à la risée des impies que de prétendre que les papes ne peuvent être induits en erreur lorsqu'il s'agit des faits particuliers.43

Mgr. Lafleche meanwhile had left for Rome where he submitted to the cardinals of the Propaganda a memorandum in which, in three distinct parts, --the political situation, undue influence and the university question-- he traced the ideological conflict underlying the whole struggle and blamed the infiltration of liberalism into French-Canadian society and the split among the hierarchy for all the religious difficulties of the time.49 He accused Mgr. Taschereau and the priests from his archbishopric of a lukewarm attitude towards Catholic liberalism and blamed Laval for the toleration of masonic influence within its ranks. Mgr. Taché, of St.-Boniface, elevated to the rank of archbishop, and the retired Mgr. Bourget, congratulated their colleague for the courage with which he had defended les bons principes. On the other hand,


archbishop Taschereau and his grand-vicar, Cyrille Légare, refuted what they considered to be the calumnies of Mgr. Laflèche. The latter, in particular, seemed to resent Mgr. Laflèche's straight-forward accusations and he asked the bishop to name the priests of the archbishopric which were suspected of liberalism, so that they might be given a possibility of defence. Mgr. Laflèche refused. This, in turn, aroused the anger of the archbishop who ordered him to appear before the Superior Council of the University. Once again, the proud Mgr. Laflèche refused on the grounds that he did not have to account for his dispatches to anyone except the Pope. The vicar-general complained to Rome and got some satisfaction in the reply of the Propaganda. Cardinal Simeoni wrote, on January 10th 1883, that the Propaganda considered the accusations brought forward by the bishop of Three Rivers "vagues et sans preuves". And shortly after, on February 27th, 1883, a new decree of the Congregation of the Propaganda was read in all the churches of the Quebec archdiocese, accompanied by a pastoral of the archbishop.

50 Rumilly, Histoire, IV., p. 53.
51 Loc. cit.
52 Rumilly, op. cit., p. 54.
The decree of the Propaganda, once again, reminded the Catholics of Quebec that no change of attitude had been taken by the Holy See towards the decree of February 1st, 1876, the papal bull "Inter varias sollicitudines" and all the other Roman decrees referring to the Laval University. The archbishop, on his part, warned his diocesans that the Roman decree expressly forbade:

... d'oser à l'avenir tramer quelque projet contre l'Université et sa Succursale; l'attaquer de quelque manière que ce soit, par soi-même ou par d'autres, par des actes ou par des écrits, surtout s'ils sont rendus publics, d'où il faut inférer que même des écrits non publics sont défendus.

And he concluded:

Ce serait désobéir gravement à ces ordres si précis et si généraux, que de chercher directement ou indirectement à diminuer le prestige d'une Institution que le Souverain Pontife prend si solennellement sous sa protection.

Mgr. Fabre and Mgr. Taschereau, once again, demanded fusion of the Ecole with Laval and the latter threatened the professors of the Ecole that in case of

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53 Decree of the S.C. of the Propaganda of February 27, 1883 ex Mandements (Quebec), II, pp. 355-356.
54 Ibid., pp. 351-352.
55 Ibid., p. 352.
refusal "ils seraient considérés comme rebelles au Saint-Siège, exclus de la communauté catholique".  

At the same time, both bishop and archbishop, instructed the nuns of the Hôtel-Dieu to close their doors "au personnel d'une école affiliée à une université protestante."  

The professors of the Ecole understood the gravity of the situation and renewed their attempts at negotiation. In an interview with Mgr. Fabre, Dr. d'Orsonnens, the Ecole's president, obtained the verbal assurance from the bishop that, once separated from Protestant Victoria College, the Ecole would continue in its control of the Hôtel-Dieu. Soon after, however, the bishop changed his mind and, in a letter addressed to Dr. d'Orsonnens, pointed out that since the Holy Father had expressly decreed that Laval must be supported wherever possible, some complications in connection with the Hôtel-Dieu would have to be expected.  

In spite of this ambiguity on the part of  

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56 Rumilly, Histoire, IV., p. 56.  
57 Loc. cit.  
58 Derniers documents relatifs aux difficultés survenus entre l'Université Laval et l'Ecole de Médecine et de Chirurgie de Montréal; par les Drs. d'Orsonnens et Emery Coderre, au nom et sur décision de l'Ecole (1883), ex Rumilly, IV, p. 57.
Bishop Fabre, the professors of the École gradually came to admit that a rupture of their relationship with Victoria College was merely a question of time. Turned down in their petitions by both ecclesiastical and civil authorities, and under the constant thunders of NN. SS. Taschereau, Fabre and cardinal Simeoni, they approached, on April 6th, 1883, Mgr. Fabre and submitted to the bishop their views on a discontinuation of their relationship with Victoria and affiliation to Laval. Yet, mostly due to the bishop's maladröit treatment of the École's negotiators, the pourparlers, broke down once again, and the professors now decided to take their proposals to the bishops of the province, whose council, according to the papal decree of 1876, constituted the proper instance of appeal. The Council of the Quebec episcopate entrusted three of its members, Mgr. Taschereau, Mgr. Moreau, the bishop of St.-Hyacinthe and Mgr. Lorrain, the apostolic vicar of Pontiac, to negotiate with the representatives of the École. From the very beginning of the negotiations, Mgr. Taschereau demanded as conditio sine qua non the École's rupture with Victoria. The professors, in their turn,

60 Rumilly, *op. cit.*, p. 60.
declared their unwillingness to deal with this question until they had been re-admitted to the Hôtel-Dieu and all the other Montreal hospitals from which, by order of Mgr. Fabre, they had been barred. Later, when the discussion centered around the École's affiliation to Laval, the bishops declared bluntly that they did not wish an affiliation in which the École would subsist in its entity, but a straightforward fusion of the two institutions.61

When another meeting of the bishops with the representatives of the École failed to bring an understanding, Mgr. Taschereau closed the negotiations with a letter to Dr. d'Orsonnens in which he stated that since the École was in revolt against the decrees of the Holy See, none of its professors or students could in future be admitted to the sacraments.62

One would imagine that this extreme step on the part of the archbishop would have definitely broken up whatever was left of the ultramontane resistance. Some fifteen years before, when bishop Bourget threatened the members of the Institut Canadien with the same stiff penalty a considerable number of them resigned rather than face expulsion from the midst of their Church. A mere episcopal threat had then sufficed to weaken

61 Rumilly, Histoire IV, p. 77.
62 Ibid., p. 79.
considerably the Institute's position and, after the sentence of excommunication had actually been pronounced, it meant the beginning of the end of a powerful organization which for the past twenty-five years had dominated the intellectual scene of Montreal.

Now, hardly ten years after bishop Bourget's final desecration of Guibord's last resting place, episcopal excommunication seemed to have preserved little of its former vigour. The ultramontanes themselves, these same ultramontanes who so staunchly and consistently reasserted the infallibility of papal decisions, the supremacy of Church over State, not only disregarded ecclesiastical decrees but openly defied episcopal thunders. It seemed indeed that, in their defeat, obedience to papal and episcopal authority was little more than a dead letter to them.

But meanwhile events had taken a radical turn for the worse for the ultramontane cause. For some months already, rumours had been circulated all over the province that the Holy Father was earnestly considering the division of the See of Three Rivers into two separate dioceses with Nicolet as the seat of the newly created bishopric. Ever since Mgr. Laflèche had erected a seminary in Three Rivers, rivalry

63 on March 19th, 1874.
between Nicolet and Three Rivers grew steadily. The bishop, a great believer in strong and centralized administration, wished to have the séminaire right in his episcopal city where he could personally supervise its activities and its doctrine. Nicolet, on the other hand, prided itself with a glorious past, a fine tradition and excellent scholarship. Most of the prominent clerics and laymen of the diocese, among them Mgr. Laflèche himself, were its alumni and the directors of the séminaire knew that the creation of a rival institution in the episcopal city, under the personal auspices of the bishop, would greatly diminish Nicolet's prestige. Yet, apart from these moral considerations, other factors came into the picture. Owing to the absence of a bridge across the St. Lawrence and no other suitable communications, the diocese, during the winter months, was practically split into two. This, in addition to the vast area and the growing population, were strong arguments in favour of division. On the other hand, the extreme poverty of the northern part - nobody, at that time, could yet foresee the enormous industrial expansion which was to come in the twentieth century - would make the subsistence of two separate bishoprics extremely precarious.

The séminaire of Nicolet, jealous of the growing rival institution in Three Rivers, led the campaign for
division in which it was supported by all the doctrinal adversaries of Mgr. Laflèche. The Quebec archbishopric, with Mgr. Taschereau at its head, was among the leading supporters of the project of dismemberment. Rumours spread to the effect that one of the priests of the archbishopric would himself be chosen as future bishop of Nicolet.64

The Laval-Victoria dispute, the dismemberment of the Three Rivers diocese and the question of the "undue influence", together with a series of minor conflicts on the same ideological lines, continued to stimulate public agitation. As in the Guibord case, the province of Quebec, once again, was neatly split into two camps. Archbishop Taschereau, Grand-Vicar Hamel, and most of the episcopate, with the exception of Bishops Laflèche and Taché, upheld the cause of Laval and favoured the division of the Three Rivers diocese. The ultramontane camp, grouped around the veteran fighter Laflèche and a few of his faithful lieutenants, signatories of the "Programme Catholique"65 and the Papal Zouaves,66 fought for the École and

64 Rumilly, Histoire, IV, p. 61.
65 see p. 76.
66 namely Testard de Montigny, Siméon Pagnuelo, A. Prendergast and others.
the conservation of a unified bishopric of Three Rivers. Petitions and counterpetitions were despatched to Rome, delegations from both camps came and went until the Propaganda, tired and weary of Quebec affairs, once again resorted to its usual practice - the despatch of an apostolic legate to Canada.

Dom Henri Smeulders, a Belgian abbott of the Cistercian Order, had been entrusted by the Pope with the honourable but definitely ungrateful task of enquiring into the various issues of dispute, of restoring unity among the Quebec episcopate and of calming the agitation in the ecclesiastical province of Quebec. Dom Smeulders arrived in Quebec on October 22nd, 1883, equipped with ample powers. By virtue of his apostolic commission, he superseded - during the entire period of his mission - the whole Quebec episcopate, archbishop Taschereau included. As soon as the ceremonies, staged in his honour, were over, both parties presented their respective case. The ultramontanes came forward with such charges as misinterpretation of the Roman decrees by Laval and categorically denied

67 Question Laval-Victoria, procédés officiels devant Son Excellence Dom Henri Smeulders, Commissaire apostolique au Canada, (Confidentiel), no author, no publisher, no date, p. 7.
... que Sa Sainteté et la Sacré Congrégation de la Propagande n'ont jamais entendu détruire par le décret du premier février mil huit cent soixante-seize, l'Ecole de Médecine alors existant à Montréal, mais plutôt lui venir en aide; 68

They asked the apostolic legate to recognize the continuous future existence of the École and to declare that the Roman decrees of 1876 and 1883 did not order its annihilation. 69 To those charges Laval replied that it never intended to destroy the École 70 but, on the contrary, that the École itself demanded the erection of an independent university in Montreal on the pretense that this was necessary from the Catholic point of view 71 and that the Holy See had decreed the unity of a Catholic university, the necessity of a branch in Montreal and the evident impossibility of affiliation of the École. 72

After some six months of negotiations with both parties, Dom Smeulders transmitted the case to Rome,

68 Question Laval-Victoria, procédés officiels devant Son Excellence Dom Henri Smeulders, Commissaire apostolique au Canada, (Confidentiel), no author, no publisher, no date, p. 7.
69 Ibid., p. 9.
70 Ibid., p. 28.
71 Loc. cit.; editor's italics.
72 Loc. cit.; editor's italics.
from where, on August 23rd, 1884, Cardinal Simeoni rendered the verdict. According to his decision, Rome recognized the Laval University and its Montreal branch as the one and only Catholic university and exhorted the bishops not to neglect anything for its support. The Holy See regretted that neither the Union between the École and the Laval Branch of Montreal nor the rupture between the École and Victoria had taken place that, however, it directed that for the time being, the École should remain in statu quo. Finally, the Roman decision entitled Laval to the benefit of a special ecclesiastical tax.

Certain difficulties in interpretation arose when the parties disputed whether the term "status quo" meant readmission of the École to the Montreal hospitals from which it had been expelled. In a circular of September 28, 1884, Mgr. Fabre explained that the disciplinary provisions which he had issued in his pastoral of July 23rd, 1883 were no longer valid and that the École's professors and students were free to re-enter the hospitals.

73 Rumilly, Laflèche, p. 257.
74 Loc. cit.
75 Loc. cit.
76 Loc. cit.
77 Circulaire de Mgr. l'Evêque de Montréal, Sept. 28, 1884 ex Question Laval-Victoria, p. 68.
Reviewing Rome's decision, it cannot be denied that it meant a certain material gain for the Ecole. It had been allowed to reopen its doors and had even regained access to all the hospitals from which it had been expelled. Furthermore, the canonical sentences passed by Mgr. Fabre against both, professors and students, had been lifted. Yet, apart from these gains for the Ecole, the moral victory belonged to Laval. It alone, and its Montreal branch had been recognized as the only Catholic university of the province, it had been exonerated from all the blame of having failed to grant affiliation to the Ecole, it alone was to be the object of episcopal support and the sole beneficiary of a special church tax. Her moral victory was complete and although her opponent, having been repeatedly reprimanded, had finally been allowed to continue its existence by special privilege on the part of the Holy See, it was Laval which was presented to the public as the real champion of the doctrine of Rome.

While Dom Smeulders had still been negotiating with the representatives of both factions, archbishop Taschereau had left for Rome. There he seemed to have put the final nail into bishop Laflèche's coffin for, on October 5th, 1884, the Holy See confirmed in principle the division of the Three Rivers diocese.
Already in May of that year\textsuperscript{78}, Dom Smeulders had been informed by the Propaganda that Rome itself wished to retain ultimate jurisdiction in the question of the Three Rivers bishopric. In view of the original authority vested in the apostolic legate, it seems difficult not to regard this latest Roman announcement as anything else but a complete repudiation by the Holy See of its own legate.

From then on, events took a fast turn for the worse for the ultramontane cause. In the papal consistory of June 7th, 1886, archbishop Taschereau was elevated to the rank of cardinal while, one week later, bishops Fabre and Duhamel of Ottawa, were made archbishops. Mgr. Laflèche, many years their senior, was passed over.\textsuperscript{79}

It was left to Honoré Mercier, Premier of the province of Quebec from 1886 to 1892, to bring a final solution to the conflict between Leval and the École, a dispute which neither the Quebec episcopate nor the papacy itself had been able to solve. In his efforts, Mercier was greatly aided by the newly issued apostolic constitution \textit{Iam dudum},

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\textsuperscript{78} Telegram of Cardinal Simeoni to Dom Smeulders (May 31st, 1884), ex Rumilly, \textit{Laflec̆he}, p. 250. \\
\textsuperscript{79} Rumilly, \textit{Laflec̆he}, p. 302.
\end{flushright}
of February 2nd, 1889, in which Rome granted a relatively large amount of autonomy to the Montreal branch of Laval. Above all, the constitution stipulated, that, in future, the three bishops of the ecclesiastical province of Montreal alone should decide upon the choice of a vice-rector. This decision meant that both extreme elements, Quebec and Three Rivers, were eliminated; a step which considerably eased the previously existing tension. When, on July 23rd, 1889, archbishop Fabre and bishops Moreau and Racine met in order to designate the new vice-rector at Montreal, they found little difficulty in deciding unanimously on the person of abbé Proulx.

More than any other person, the abbé Jean-Baptiste Proulx possessed all the qualities necessary for this difficult task. Apart from his high erudition he had, above all, the most desirable prerequisites of an able diplomat and a shrewd negotiator, two invaluable qualifications for the delicate task he was to undertake. Perhaps the greatest of his talents was his easy way of

80 The archbishop of Montreal and the bishops of St.-Hyacinthe and Sherbrooke.
81 Rumilly, op. cit., p. 326.
making friends and important political acquaintances. Yet, it would be wrong to assume that abbé Proulx was a party-man. Both the Conservative Chapleau and the Liberal Mercier esteemed him highly. While Proulx was still curé of Saint-Lin, the future Prime Minister of the Dominion, had often accepted the curé's invitation for lunch in his presbytery. At last it seemed that a man had been found who could at least make both parties meet at the conference table. Vice-rector Proulx did more than that.

The great dream of Proulx was the attainment of a quasi independent status of Laval's Montreal branch. To strengthen his position, he tried at first to come to terms with the École. In his scheme of fusion of the two institutions, he was fully supported by the clergy of the Montreal diocese who, at the occasion of their annual retreat of 1889, expressed themselves in favour of the project. Although the proportion of students at that time was about 4 to 1 in favour of the École, both partners appointed negotiating

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82 Rumilly, Laflèche, p. 326.
83 Ibid., p. 326.
84 Ibid., p. 327.
85 Rumilly gives the figures as 225 (for the École) against 65 (for Laval). Laflèche, p. 327.
committees of three members each. Soon, however, it became evident that the feud between the two institutions had lasted too long to be overcome overnight. No definite solution could be reached although a temporary agreement of two years' duration had been concluded. Vice-rector Proulx held out; he was determined to complete his project of fusion at all costs. In January 1890, he left for Rome.

There he presented Cardinal Simeoni, the prefect of the Propaganda, with a series of memoranda in which he exposed at great length his projects at fusion. His first brief, of February 1st, 1890, deplored the fratricidal strife of the two schools and the damages for both religion and medical instruction, which such rivalry had brought about. In consent with Dr. Desjardins, the chief negotiator of the Ecole, abbé Proulx demanded permission for the Ecole, to have its charter amended in order to meet all apostolic prescriptions, a move which would greatly facilitate the desired fusion. Finally, in his last memorandum,

86 J.B. Proulx, Mémoire sur l'union de la faculté de médecine de l'Université Laval à Montréal et de l'Ecole de médecine et de chirurgie de Montréal, Rome Befani, 1890, p. 9.

87 Ibid., p. 20.
abbé Proulx suggested that the three bishops of the ecclesiastical province of Montreal, adhering to neither of the radical factions, were the best medium for the successful conclusion of the negotiations. 88

At last, in the person of abbé Proulx, a man had been found, who could elevate himself above the galaxy of petty issues, analyze the roots of the conflict and, in terms lacking neither foresight nor largess of spirit, propose a lasting solution. On one hand, the vice-rector, himself a Montrealer, was determined not to sacrifice any of the legitimate interests of the École, on the other, he realized that only a major amendment of the École's charter - the main obstacle in the project for union - could bring the desired remedy. Yet, the charter, even after its amendment, had to guarantee a substantial amount of autonomy to the École.

Cardinal Simeoni gave every possible support to the vice-rector's project. He equipped him with a personal letter addressed to the Montreal episcopate in which he urged the bishops to give every possible

88 J.B. Proulx, Memoire sur la nécessité de l'influence épiscopale dans le règlement des nos difficultés universitaires à Montréal, Rome, Befani, 1890, pp. 199-204.
support to the scheme. The bishops played their part well. Under their influence, the parties finally reached an agreement according to which the Ecole's charter was to constitute the basis of the new faculty which would be the faculty of medicine of the Laval university at Montreal, relatively autonomous according to the apostolic constitution Iam Dudum.89 Both parties or, at least their moderate majorities, in two sessions, held under the auspices of the three bishops, on October 28th and November 8th, 1890, agreed on the form of the amendment. The representatives of the Ecole then presented their project of a bill which, for this purpose, they would submit to the provincial legislature. Abbé Proulx, on his part, once again appealed to Cardinal Simeoni for support. In spite of some last-minute resistance on the part of some diehards on both sides, the provincial Prime Minister, Honore Mercier, himself, on November 21st, 1890, introduced the bill into the provincial legislature.90 On November 28th Mercier's bill passed nemine contradicente,91 and, six days later, the Legislative Council gave its unanimous consent.92

89 Rumilly, Laflèche, p. 329.
90 Province of Quebec, Journals of the Legislative Assembly, session 1890, Quebec, Belleau, 1890, p. 67.
91 Ibid., p. 90.
92 Rumilly, Laflèche, p. 334.
In contrast to the Guibord case, where ultra-montanism, although legally defeated, emerged as the moral victor in the dispute, the Laval-Victoria conflict meant a crushing defeat to the ultramontane cause. Reviewing, from a distance, the dispute between the Ecole de Médecine et de Chirurgie de Montréal and the Laval University, three distinct points of friction may be detected. There was, first of all, the traditional rivalry between Montreal and Quebec. Montreal had grown considerably during the past decades and had surpassed its rival both in population and importance as a commercial centre. A considerable influx of capital had aided the development of the city; the coming of the steamship, the growing grain trade, the favourable location, all these factors combined have given Montreal a distinct advantage over Quebec. There were, however, other things in which the Quebeckers took pride. Montreal might have become the commercial metropolis of the province, but Quebec still remained its capital, the seat of the government and of the primate of the Roman Catholic Church. Against Montreal's wealth, Quebec offered distinction and culture. It had its own circle of intellectuals, particularly the "Ecole de Quebec" which, up to about 1900, produced men as Garneau, Crémazie, Fréchette and others.
Against the material prosperity of Montreal, Quebec held out its wealth of culture. It had lost out in the race for commercial supremacy but it was determined to hold its own in the domain of intellect. Herein then may be found an explanation for Laval's professional jealousy. The university was determined to prevent any move which would result in the lowering of its high standard of scholarship. Advantageous, from many points of view, as an association with the Ecole might have been\(^\text{94}\), it necessarily, at least for the time of transition, would have brought about an abasement in Laval's academic standards. And this Laval was decided to prevent.

Unlike in the Guibord case, where the controversy was one between Church and State, the Laval-Ecole dispute was the result of differences within the Church. Yet, it would seem certain that men of goodwill on both sides could have overcome even such differences of opinion, had it not been for the third, the intrinsic element of the dispute — the conflict of ideologies. It was the clash of extreme against moderate, of conservative against liberal that formed the ideological basis of the dispute.

\(^{94}\) the Ecole's great number of students certainly would have contributed considerably to the growth and expansion of Laval's medical school.
Equally convinced of the justice of their cause, both sides were determined to carry on the struggle to the very end. Ultramontanism was defeated not only because it failed to acknowledge progress in a changing world but because it deviated, at the critical moment, from its own teachings when these teachings proved to be a temporary disadvantage. Great in its victory in the Guibord case, it suffered a crushing defeat when it made the fatal mistake of placing material gain over moral victory.
CHAPTER III

"UNDUE" CLERICAL INFLUENCE

At the time when Guibord was laid to his final rest and in the midst of the Laval-Victoria dispute, another issue animated the minds of the Quebec population, the "undue" clerical interference in federal and provincial elections. Like the Guibord case, the question of "undue influence" was, in substance, nothing else than a renewed outbreak of the quarrel for supremacy between Church and State. Yet, while the Guibord case and the Laval-Ecole dispute were mostly limited to the educated strata of society, the question of "undue influence", because of its concern to each individual elector, agitated the minds of the population at large.

The term "undue clerical influence" owes its origin to the actions of a certain number of priests who threatened to withhold the sacraments to all those electors, who failed to cast their ballots for the candidates designated by them. In the late seventies and early eighties of the nineteenth century, a number of Roman Catholic priests, in certain Roman Catholic constituencies of the Province of Quebec, made use of the influence and prestige which they enjoyed among the habitants of their parishes and
and publicly, from the pulpit, denounced the candidates of the Liberal party. In order to influence the outcome of the elections and to ascertain that no candidate would be elected who thus had been stigmatized by them, the priests threatened all those electors who, in spite of their warnings, would cast their ballots for the proscribed candidates, with various spiritual sentences, among others with the refusal of the last rites of the Church. In thus using the pulpit for political ends and in threatening to withhold the sacraments to all those electors who neglected their warnings and threats, the priests could virtually determine which candidate would be elected in a Roman Catholic constituency.

Although merely Catholic and not political liberalism had been proscribed by the Holy See, the curés, under the influence of the ultramontane bishops Bourget and Laflèche, did not distinguish between the two terms and denounced every one of the candidates who presented himself on behalf of the Liberal party. In order to evade the stigma of Catholic liberalism, the Liberals sought redress in the civil courts. A considerable number of federal and provincial elections were thus contested before the courts of the Province of Quebec. It was by such appeals to the civil authorities and by appealing to the
provisions of the Dominion Elections Act that Liberals finally were able to escape this form of clerical control.

The principle invoked by the Liberals in all these electoral contests was not any restriction of the freedom of preaching but the undue interference into the freedom of the electors. The question to be decided was: Did threats of spiritual pains constitute "undue" interference?

Chapter IX, Section 95 of the Dominion Elections Act of May 26, 1874 reads as follows:

Every person who, directly or indirectly, by himself or by any other person on his behalf makes use of, or threatens to make use of any force, violence or restraint, or inflicts, or threatens the infliction by himself, or by or through any other person, of any injury, damage, harm, or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter, either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be guilty of misdemeanor, and shall also forfeit the sum of
two hundred dollars to any person
suing for the same, with full
costs of suit.¹

And section 98 adds:

The offences of bribery, treating, or
undue influence, or any of such offences
as defined by this or any other Act
of the Parliament of Canada, person-
ation or the inducing any person to
commit personation, or any wilful
offence against any one of the six
next preceding sections of this Act
shall be corrupt practices within
the meaning of the provisions of
this Act.²

Did spiritual threats constitute "undue influence"?

Had the legislators, in composing the wording of the
Act, intended to protect the citizen from all kinds
of "undue influence" or had they considered temporal
influence only? Herein was the root of the whole
conflict. Had they thought of limiting the Act to the
strictly temporal domain, they would, in so doing,
have recognized the non-competence of civil legislation
in spiritual matters. Had they, however, intended
to cover both temporal and spiritual interference
under the term "undue influence", they would have
extended the validity of civil legislation into the
field of the Church thus decreeing the subjection of
the latter to the laws of the State.

¹ Canada, Parliament, Acts of the Parliament of
the Dominion of Canada, Ottawa, Queen's Printer, 1874,
p. 69.

² Ibid., p. 70.
Among the numerous cases of undue clerical influence into elections which had been contested in the civil courts, three stand out as being particularly suitable for the illustration of this chapter. In all three of them, the verdicts rendered were of singular importance to the definition of relationship between Church and State. The three cases in question were the electoral contests of Berthier, Bonaventure and Charlevoix. They are significant since they provide a good illustration of both the ultramontane and the Gallican point of view on which the different judges had based their verdicts. While Judge Routhier, in the Charlevoix election, upheld the ultramontane doctrine of supremacy of Church over the State, both the three judges of the Court of Revision in the Bonaventure case as well as their colleagues in the Berthier election, asserted the Gallican teaching of State supremacy over Church. When the newly established Supreme Court of Canada reversed Judge Routhier's ultramontane verdict rendered in the Charlevoix contestation, it had set an important precedent in the interpretation of the Elections Act. Its decision, together with the verdict rendered by the Privy Council in the Guibord case, constituted a definite pronouncement on the interrelationship between Church and State. Both, the highest judicial authorities
of Dominion and Empire were in agreement in their subordination of the Church to the State.

In the federal by-election of Charlevoix, in 1875, the Conservative candidate Hector Langevin defeated his Liberal opponent Alexis Tremblay by a margin of some 200 votes. This defeat came as a surprise to the Liberals since only two years before, in that same electoral district, Tremblay had defeated his Conservative opponent by 76 votes. The Liberals attributed the sudden shift of nearly 300 votes in a small rural constituency such as Charlevoix to intervention, in favour of Langevin, by the local curés. They decided to take the matter to court and to contest the election results. Judge Routhier, of the Superior Court of Quebec, dismissed their petition on the ultramontane grounds that the curés in question had limited their influence to the spiritual domain and that such an act, even if it constituted an offence, was beyond the competence of the civil courts. Dissatisfied, Tremblay appealed to the Supreme Court seeking reversal of Routhier's judgement. The judges of the Supreme court took a different attitude. They reversed the judgement of the first instance and ruled

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3 R. Rumilly, Monseigneur Laflèche et son temps, Montreal, Simpson, 1938, p. 104.
that the curés had violated the Dominion Elections Act and unduly influenced the electors by sermons and open threats of spiritual anathema. Judge Routhier's ultramontane point of view of non-competence of a civil tribunal in all cases affecting matters of faith and doctrine and his assertion that civil courts were incompetent whenever the defendant was an ecclesiastic, had been overruled by the Gallican point of view of the five Supreme Court judges who stated that nobody, not even an ecclesiastic, was immune from civil jurisdiction, whenever the law of the country had been offended.

The Bonaventure provincial election had been contested between the Conservative candidate Beauchesne and his Liberal opponent Hamilton. Hamilton being defeated at the polls, brought the case before the Court of Revision where he charged that the Roman Catholic priests of the district had misused the pulpit and unduly influenced the electors, a factor which had contributed to his defeat. During the court proceedings the question arose whether such influencing or counselling the electors was to be considered a strictly spiritual act on the part of the priest and whether, as such, it was subject to civil jurisdiction. The judges took the ground that mere advice and counsel, even if it came from the pulpit, was no offence against
the law but decided that if such counsel was accompanied by threats and intimidation, temporal or spiritual, the law had been violated and no one, not even a priest was exempt from the consequences. In other words, they asserted that the law of the country superseded the law of the Church in case of collision between the two.

The third case was practically a repetition of the happenings at Charlevoix and Bonaventure. J. Robillard, the Conservative candidate, had been elected deputy for the constituency of Berthier. But the Liberals claimed that their candidate J.P. Sylvestre would never have been defeated, had not the local curés of the various parishes organized a whole system of intimidation in order to influence the vote of the electors. Their claim was heard in the Quebec Court of Revision and, by unanimous decision of that court, the Berthier election of May 1st, 1878, was disallowed.

The important issue in all three cases was not so much the verdict itself but the different interpretation of the judges of the relevant section of the Dominion Elections Act. While the ultramontane Routhier limited the terms "or in any manner practices intimidation" to the temporal domain, declaring that the curés had exercised spiritual influence only, and that such influence outside the temporal field
was beyond the competence of a civil court, the other judges saw in it an open misuse of the pulpit for political purposes. In other words, Routhier based his verdict on the ultramontane principle of non-competence and subordination of State to Church while his colleagues from the other courts upheld the Gallican view of State supremacy over Church in matters of mixed nature.

As a result of the Canadian Pacific scandal, a good many Conservatives had lost their seats in the federal elections of 1874. One of them was a prominent member of the party, its long-time deputy and one of the party's foremost figures in the province of Quebec, Hector Langevin. Israel Tarte, Langevin's lieutenant and campaign manager, left no stone unturned to restore Langevin's parliamentary seat. An opportunity presented itself in the following year, in the electoral district of Charlevoix, where, after long contests in the courts, the election results of 1874 had been annulled. A by-election had been decreed and Hector Langevin, under Tarte's able management, entered the contest against the Liberal candidate Alexis Tremblay. Although Langevin himself was by no means an ultramontane, he seemed, nevertheless, far more acceptable to the clergy than the advanced Liberal Tremblay. Although, in his campaign, Tremblay enjoyed the backing
of the former Conservative leader Joseph Cauchon, lately turned Liberal, Tarte proved the better of the campaign managers and, ably exploiting the approval of the clergy, managed to get Langevin elected by a handsome majority.⁴

During the whole election campaign the clergy of the district had not only fully sympathized with the Conservative candidate but, openly from the pulpit counselled the electors upon their choice of a candidate. Some curés, inspired by the fiery pastorals of the ultramontane bishops Bourget and Lafèche, went even further. In order to ensure Langevin's victory, they threatened all those electors who voted for his opponent with the loss of the sacraments of the Church. Alexis Tremblay, convinced that such clerical influence had been the prime reason of his defeat, decided to contest the election results. In November 1876, O. Brassard, Tremblay's petitioner before the Superior Court of the Province of Quebec, came forward with the charges that curés Sirois, Langlais, Tremblay and Cinq-Mars had influenced the vote by threats and spiritual and temporal sentences and, in so doing, had deprived Tremblay of a certain victory.

Among the numerous testimonies produced in court, the following deserve special mentioning. One witness testified that Rev. J. Sirois, cure of Baie Saint-Paul, had preached from the pulpit that Liberalism was an error condemned by the Church which crept amongst us like the snake in the terrestrial paradise\(^5\), that terrible hardships and disasters were to overcome the country if the faithful lent a friendly ear to the teachings of these greedy wolves\(^7\), that Liberalism had caused the French Revolution during which so many priests had been strangled and that similar happenings might well occur here, should the Liberals come to power\(^7\), that it was a very important duty to vote and that therefore they should take the advise of the bishops or they would at their deathbed regret having contributed to the election of men who wanted to separate the State from the Church.\(^8\) Rev. M. Langlais, the cure of Saint-Hilarion, lectured to his congregation that it was not sufficient to be a Catholic in order to obtain

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\(^5\) Cour Supérieure, District de Saguenay, O. Brassard et al. vs. L'Hon. H. L. Langevin, Novembre 1876, in Quebec Law Reports, vol. II-1876, Quebec, Dawson, 1876, p. 343.

\(^6\) Ibid., p. 343.

\(^7\) Ibid., p. 343.

\(^8\) Ibid., p. 344.
the support of the clergy, but that it was also necessary to be a man of principles. Victor Emanuel and Garibaldi were both Catholics, nevertheless, both declared war on the Church. At the hour of death, the cure reminded his flock, it would undoubtedly be preferable to be on the side of the Sovereign Pontiff and of the bishops, rather than on the side of Victor Emanuel and Garibaldi. Reverend Tremblay, cure of Saint-Fidèle, made no distinction between Catholic and political liberalism and, as far as he was concerned, it was a sin to vote for the Liberal party. Cure Cinq-Mars of Saint-Simeon, was of the same opinion, although he had expressed it in private conversation only, limiting his sermons to the lecture of episcopal warnings and instructions to which he merely added some "explanatory" remarks on liberalism.

A galaxy of witnesses, most of them illiterate farmers, testified that the priests had threatened them with spiritual anathema and had predicted for them misfortune and disaster in the future, should they cast their votes for the Liberal candidate.

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9 Brassard vs. Langevin, p. 344.
10 Loc. cit.
11 Loc. cit.
12 Loc. cit.
Elzéar Denis, another witness for the prosecution, went as far as to declare openly that Alexis Tremblay would easily have obtained a majority of 100 to 150 votes in the Baie St.-Paul parish, had not curé Sirois' intimidating sermons brought about the opposite. 14 Many more witnesses testified that the sermons of their respective curés had made them cast their vote in favour of Langevin instead of Tremblay as they originally intended to do.

From all these testimonies and numerous others 15 it seemed established that clerical intervention had indeed influenced the outcome of the elections. There remained to be decided whether such influence was legal and permissible; that is whether the relevant laws, in their definition of "undue influence", included such activities.

Judge Routhier, before whom the case had been heard, admitted that the sermons of curés Sirois, Langlais and Tremblay could have done certain harm to the cause of the Liberal candidate 16 but that in view of the fact that, after cross-examination, only four

15 altogether 175 persons testified in the case, the testimonies alone lasted for 35 days.
16 Brassard vs. Langevin, p. 346.
electors had declared themselves as having been influenced by those sermons, the outcome of the elections would have been exactly the same, with the exception of a slightly reduced margin in the number of the majority.\textsuperscript{17} Yet, no matter how small and unimportant the number of influenced voters, Judge Routhier continued, one single case of undue influence, one single attempt of intimidation, was sufficient to annul an election.\textsuperscript{18}

The Judge next proceeded to decide whether or not the activities of the cure's in question were contrary to the provisions of the Elections Act. He denied that the legislators, in adopting the law, had ever thought to make it applicable to the spiritual as well as to the temporal domain.\textsuperscript{19} In his view, the only passage in the whole law that eventually might indicate such an intention were the words "...or in any manner practices intimidation..."\textsuperscript{20}. But even these, so Routhier thought, were not meant to refer to the spiritual domain since nothing would have been

\begin{itemize}
\item \textsuperscript{17} Brassard vs. Langevin, p. 347.
\item \textsuperscript{18} Ibid., p. 347.
\item \textsuperscript{19} Ibid., p. 350.
\item \textsuperscript{20} for complete text of the Elections Act see pp. 121-122.
\end{itemize}
easier for the legislators than to add to the term "intimidation" the words "spiritual and temporal". It follows, the Judge concluded, that the means of undue influence forbidden by the Law and referred to as force, violence, etc., were strictly limited to the temporal order. On the basis of such reasoning, Judge Routhier dismissed the petition and declared Hector L. Langevin legally elected.

In his explanation of the verdict, Routhier compared the actions of the cures to those of any politician or civilian who, in pre-election speeches, tried to influence the voters. The electors should and must be guided by enlightened persons in the exercise of their franchise, he said, and no one was more competent to do so, in his opinion, than the well-learned and educated clergy. Having thus laid the foundation of the ultramontane belief of active clerical participation in elections, he went on to define the role of the priests in politics when he said:

\[\text{Veut-on que le prêtre ne parle toujours que de religion et jamais de politique?} \]
\[-\text{Mais il faudrait pour cela le que}\]

\[\text{21 Brassard vs. Langevin, p. 351.}\]
\[\text{22 Ibid., p. 352.}\]
\[\text{23 Ibid., pp. 347-349.}\]
le prêtre ne fut pas citoyen, et que la politique ne touchait jamais à la religion. Or le contraire existe: Le prêtre est citoyen, et la politique ne peut faire autrement que de toucher à la religion par quelqu'un endroit. La nature même des choses veut que, la société religieuse et la société civile soient unies, et dans les pays mêmes où la séparation de l'Eglise et de l'état est un article de la constitution, elle n'existe pas et ne peut pas exister dans les faits. C'est une théorie absurde et impraticable, et entreindre le domaine politique au citoyen-prêtre serait aussi injuste qu'impie.

But the climax of Routhier's ultramontane conception of inter-relationship between Church and State was to be found in his pronouncement on the non-competence of civil courts in cases where ecclesiastics were concerned. In this connection he said:

Qu'il agit comme prêtre ou comme citoyen, dans la vie, publique ou comme individu dans la vie privée, il est toujours "personne ecclésiastique" et comme tel il jouit du privilège du for compétent, c'est-à-dire qu'il peut décliner la compétence du for laïque.

Telle est la doctrine catholique, et je puis la résumer, en quelques mots. Je suis incompétent dans toutes les causes où la question à décider est une question de doctrine dogmatique, de morale ou de discipline, et aussi dans celles où la personne poursuivie est ecclésiastique.

24 Brassard vs. Langevin, p. 350.

25 Ibid., pp. 338-339.
Routhier, one of the guiding spirits and founders of the "Programme Catholique", had well upheld the teachings of his great master Bishop Bourget who, only a short time before, had categorically refused to subordinate Church to State when he denied Guibord's right of burial in consecrated ground. Like Mgr. Bourget, also, Judge Routhier took the ultramontane point of view when he refused to consider clerical influence on the electors a violation of the civil code of the country but, on the contrary, declared all actions of the clergy to be immune from intervention by civil courts.

The five judges of the Supreme Court, where meanwhile Tremblay had taken his petition, were of a different opinion. While Judge Routhier considered the non-competence of the civil court to be the intrinsic part of the whole case, the Supreme Court Judges saw the question of freedom of elections as the one and only issue of the dispute. They were convinced that this electoral freedom, in which they saw one of the bases of constitutional right, had to be safeguarded against any undue interference, no matter from what source it might have arisen. The law, so Judge Taschereau, one of the judges commenting on the verdict, pointed out, had made ample provisions to safeguard
this right of the electors and had also specified the kind of tribunal before which any electoral contests were to be tried.26 This provision ipso facto excluded every other tribunal. As to the immunity of priests from civil tribunals, Judge Taschereau admitted that ministers of the Catholic religion were not subject to civil courts as long as their actions were confined "to preaching to the definition of dogmas and of all points of discipline."27 He denied, however, that the priest had

in this case or in any other similar case, the right to point to an individual or a political party and hold them up to public indignation, by accusing them of Catholic liberalism or of any other equally grievous irregularity, and, above all, to say that he who should help in the election of such individual would commit a grievous sin. Admitting the singular doctrine I am opposing, it would be competent for a cure to exclude a Protestant from in any way being a candidate for the representation, on the pretext that he is opposed to the Catholic religion.28

To Judge Taschereau the civil tribunal was the only one competent to annul an election, an act for

26 Brassard vs. Langevin, ex Reports of the Supreme Court of Canada, Toronto, Butterworth, (no date), vol. 1., p. 197.
27 Ibid., p. 196.
28 Loc. cit.
which the ecclesiastical tribunal had no qualities whatsoever, since it could "neither annul nor confirm the election, nor condemn in an effective manner any one of the parties to pay the costs". In admitting the competence of an ecclesiastical court, the Judge held, the Parliament of Canada would not only renounce its privileges but violate the most elementary constitutional principles. And he concluded:

... the minister who so forgets himself in the pulpit as to revile or defame any person, does not speak of religion, does not define doctrine or discipline but puts aside his sacred character, and is considered like any other man as satisfying his personal revenge, or as acting through interest, and, in consequence, he is not held to be in the exercise of his spiritual functions.

Having thus established the competence of the court, Judge Taschereau found little difficulty in reversing Routhier's verdict and declaring the election of Hector Louis Langevin null and void since neither Judge Routhier nor the defendants denied the influence of certain cures in the election.

In basing their verdict on the principle that no man, not even a priest, was allowed to appeal to the fears of his hearers and threaten them with ecclesiastical

29 Brassard vs. Langevin (Supreme Court), p. 198.
30 Ibid., pp. 198-199.
censure, the judges of the Supreme Court had not
only rejected Routhier's ultramontane doctrine but
openly asserted the exact opposite - the supremacy
of State over Church in a matter of mixed character.
However, the ultramontanes were soon to find out that
the verdict pronounced by Judge Taschereau, the
brother of the Quebec archbishop, and the other four
judges of the Supreme Court was but the beginning of
a long series of judicial actions in which their point
of view met with constant defeats. The electoral
contests of Bonaventure was but another proof to
them that even the threats of spiritual anathema did
no longer suffice to stigmatize their political opponents.

In the provincial elections of July 7th, 1875,
the Conservative Beauchesne and the Liberal Hamilton
presented themselves as candidates in the electoral
district of Bonaventure. Beauchesne emerged victorious
but Hamilton contested the election and charged that,
apart from failure of property qualification, undue
influence on the part of the Roman Catholic clergy of
the district had been practised in favour of Beauchesne.

31 all five judges of the Supreme Court agreed
that Langevin's election was to be annulled although
some of the judges differed amongst themselves as to
the amount of cost.
On December 29th, 1876, Judges McGuire, Cassault and McCord of the Court of Revision\textsuperscript{32} unanimously annulled the election of Beauchesne on the grounds that two Roman Catholic priests, curé's Thivierge of Bonaventure and Gagné of New Richmond, had intimidated a certain number of electors threatening to refuse them the sacraments of the Church, should they vote for the Liberal candidate. During the court proceedings, Judge McGuire, interpreting the relevant sections of the Elections Act, thus defined the status, rights and privileges of a priest:

I do not mean to say that a curé may not, should he think it prudent to do so, take part, like any other citizen, in the political conflict between two opposing candidates; and ... he may advise, counsel, entreat, and give his reasons for preferring one candidate to another, but he may not, without committing the offence of undue influence, under the statute, threaten the electors with the deprivation of the sacraments of the Church.\textsuperscript{33}

He then established that curé's Thivierge and Gagné had violated the law in threatening refusal of

\textsuperscript{32}The Court of Revision was constituted of three judges of the Superior Court designated by the Chief Justice for a determined period after which period they returned to their normal duties. It served, in certain cases, as a 'court of appeal. (Rumilly, Histoire, III, p. 40.

\textsuperscript{33}Hamilton vs. Beauchesne, ex. The Quebec Law Reports, Quebec, Dawson, 1877, p. 79.
the sacraments to all those who would vote for the petitioner and concluded that these threats had influenced a certain number of electors in the choice of a candidate.  

Judge Casault, in French, invoked a famous precedent, the Galway case of February 1859, when he said:

Peut-on, sans injure, dire que nos legislateurs ne connaissaient pas ces circonstances, et qu'ils ont pu adopter aveuglement une loi dont ils ignoraient la portée?

It is not without interest to compare this statement of Judge Casault with the pronouncement made by Judge Routhier in the Charlevoix election case, who said that the Canadian legislators, in adopting the election law and in defining its jurisdiction, never thought of applying its provisions in any other than the temporal domain. Judge Casault continued

34 Hamilton vs. Beauchesne, p. 79.

35 An Irish election case in which it had been decided that while priests may freely mingle into politics and advise the voters upon the choice of a candidate, they may not, to achieve their ends, use threats of any spiritual sentences.

36 Hamilton vs. Beauchesne, p. 81.

37 for details see passages on the electoral contest of Charlevoix (p. 127 ff.)
that even the Conservative (i.e. ultramontane) defendants themselves certainly had never thought of any limitation of the law to the strictly temporal orbit, since neither deputies nor bishops had ever attempted to have the law amended.\(^{38}\) And like his colleague McGuire, Judge Casault also emphasized that he did not wish to criticize and condemn the curé's teachings and sermons, but merely their threats and attempts at intimidation when he said:

> Je répète, encore une fois, que je ne m'occupe que de ce que constate la preuve, savoir, des menaces: je n'ai fait allusion aux enseignements que pour mieux distinguer et mieux faire comprendre ce qui, dans cette élection, nous paraît avoir été une intimidation ou une "influence indue" par deux membres du clergé.\(^{39}\)

Judge McCord coincided with his two colleagues as to the established fact of undue clerical influence and rejected the contention of the petitioners that the words "or in any manner practices intimidation upon or against any person" were restricted to the temporal field.\(^{40}\) Section 258 of the Quebec Elections Hamilton vs. Beauchesne, p. 81. Shortly after, mainly under the influence of the Supreme Court verdict in the Charlevoix case, bishop Laflèche launched a campaign for amendment of the Elections Act. He did, however, not succeed. For details see pp. 153 ff.

\(^{38}\) Hamilton vs. Beauchesne, p. 81. 
\(^{39}\) Ibid., p. 85. 
\(^{40}\) Ibid., p. 89 - editor's italics.
Act being a literal copy of the respective English Act and being enacted long after judgements rendered in England, Judge McCord could see no reason why spiritual influence might not be considered undue and not come within the application of the law.\footnote{Hamilton vs. Beauchesne, p. 90.}

The judge then dealt with the most important part of the whole case, the position of the priest in respect to civil society. He carefully contrasted the priest's character of an ecclesiastic person to his status as a citizen of the country. In the exercise of his ministry, in the enunciation of religious teachings or doctrine, the priest was immune from civil jurisdiction. But Judge McCord continued,

\begin{quote}
If, in any such case, it appeared to me that the doctrine of the church was inconsistent with the law of the land, I could, as a judge, be guided by no other law than that which I have sworn to administer.\footnote{Ibid., p. 91.}
\end{quote}

The doctrine of supremacy of State over Church could hardly have been enunciated more clearly.

The agitation which these court proceedings had created among the population, had hardly subsided when another electoral contest, this time in the district...
of Berthier, brought the two parties to a new clash. Like the two previous cases of Bonaventure and Charlevoix, also the Berthier election had been contested on the grounds of undue clerical influence. The accusations brought forward by the lawyers of Louis Sylvestre, the defeated Liberal candidate, differed little from those heard at Charlevoix. The petitioners charged that Revds. Clément Loranger, cure' of Lanoraie, Jean-Baptiste Champeau, cure' of Berthier, Urgèle Archambault, cure' of Saint-Barthélémi, and a number of other priests had organized, prior to the elections, a system of general intimidation in order to influence the vote of all electors in the Berthier riding to the detriment of the Liberal candidate. They further charged that the mentioned curés had referred to the Liberal party as a party of impious revolutionaries and atheists, professing principles condemned by the dogma and the discipline of the Catholic Church and threatening all those who would vote for the Liberals with spiritual and temporal sentences, divine curse, anathema and refusal of the sacraments. The curés of the Berthier constituency were even more specific than their brethren of the Charlevoix district; they insisted that the electors vote for the Conservative

candidate in order to escape all these sentences and not merely abstain from voting.

Once again, the courtroom was invaded by a whole procession of witnesses who narrated similar occurrences as those brought forward by the witnesses at Charlevoix. Some electors testified that the cure's had presented the Conservatives as a party of "our good Lord" and the Liberals as a "stairway to hell". Cure Archambault of Saint-Barthélemy had referred from the pulpit to the Liberals as "queer heads" and "children of the devil". A whole series of witnesses complained that this same cure threatened to refuse them communion at Easter should they not break their connections with the Liberal party. 44

On November 30th, 1880, the three judges of the Court of Revision unanimously annulled the Berthier election for "undue influence". They did so on the assumption that a priest or clergyman may take the side of a candidate in an election, and support him by all lawful means, even from the pulpit. When, however, in such support of a candidate, the priest used any kind

44 Rumilly, Lafleche, p. 154.
of intimidation, such as refusal of the sacraments etc. to obtain his ends, he must be considered the agents of the candidate

and the fact that he has committed the unlawful act in the exercise of his priestly office, will not protect the candidate from the consequences of such unlawful act on the part of an agent.45

The judge presiding the Court of Revision distinguished clearly the two distinct personages of a cleric when he contrasted the priest exercising his ministry to the priest in the role of an electoral agent. In this connection he said:

L'\'action commise ne l'a pas été par un prêtre, mais par un agent électoral qui se trouve être un prêtre, et si c'est l'acte du candidat accompli par un de ses agents, cela donne ouverture à la demande en annulation d'élection.46

And like his colleagues in the Bonaventure election case, the judge disputed the priest's right to misuse his sacred office by threatening his flock


with spiritual sentences when he continued:

Il n'a lui est pas permis (au prêtre)
de susciter les craintes et les
terreurs de la superstition chez
ceux auxquels il s'adresse. 47

The judicial decisions in these and numerous
other contested elections had left a deep impact in both
camps. While Judge Routhier's verdict in the Charlevoix
contest meant little less than a Liberal Party at the
mercy of the priests, the decisions rendered by the
other judges, Protestants and Catholics alike, spelt
new hope for the Liberals who now might evade clerical
stigma by appeals to the civil courts.

Two principles were opposed to each other in
all the three election cases. The ultramontanes
asserted the absolute liberty of the priest, his right
not only to guide the electors in the choice of a
candidate but even to threaten them with spiritual
sentences should they fail to obey his advice. They
reasoned that a candidate approved by the clergy and
by the bishops necessarily had to be the right
candidate since the bishops derived their authority
from the Pope who, in turn, was infallible. Thus, to
disobey such advice was then not only disobedience

47 Lafleche, L'influence ..., p. 56 - editor's
italics.
towards priest and bishop, but towards the Pope, the earthly representative of our Lord, the highest judge of divine law.

To the Gallican point of view of complete electoral freedom, the ultramontanes opposed the doctrine that no elector had the right to vote as he wished but as he ought to, in conformity with his conscience, guided and illuminated by divine law, of which the priest was teacher and interpreter. If civil law was opposed to such teachings and to the councils of the priest, it came into direct conflict with the law of God and his Church, a conflict which ipso facto nullified its validity. From the point of view that divine law enhances humanity at large and is based on a higher civilization, it is self-evident that it must be superior to any law of man and civil society since the law of God must be victorious whenever it comes into conflict with the law of man.

The priests, who had threatened refusal of the sacraments had, in the eyes of the ultramontanes, in so doing, neither hampered the elector from casting his ballot for the candidate of his choice, nor committed an act that could be judged by a civil court since they were merely enforcing the laws of God and the Church.
Mgr. Laflèche best illustrated the ultramontane point of view when, in the following terms, he commented on the judgement of Berthier:

Quel est donc l'acte reproché à M. le Cure de Berthier, et incrimine comme un acte d'influence indue? C'est d'avoir dit à l'un des paroissiens que s'il votait pour M. Sylvestre, il ne fait pas ses pâques. Or il est évident que c'est là un acte sacerdotale, que le prêtre seul peut accomplir, puisqu'il est le seul compétent à juger qui doit être admis à faire ses pâques et qui ne doit pas être admis.48

The ultramontanes and the episcopate, greatly disturbed over the outcome of events, rallied forces to bring about such changes in the election legislation which, in future, would no longer classify spiritual acts as "undue influence". On September 22nd, 1875, the Quebec hierarchy protested in the following terms against the judgement rendered by the Supreme Court of Canada in the contested election case of Charlevoix:

A la lecture de la sentence rendue le 28 février par la Cour Suprême du Canada, les soussignés, archevêque et évêques de la province ecclésiastique de Québec, ont éprouvé une douleur profonde, que tous les vrais catholiques ne manqueront pas de partager avec eux...

...En présence de la position faite au clergé par cette sentence du plus haut tribunal judiciaire du pays, nous n'avons pu nous dispenser d'élever la voix pour sauvegarder un droit sacré et nécessaire de l'Église catholique, et pour demander que nos législateurs, dans leur sagesse et leur désir de rendre justice à tous, apportent à cet état de choses un remède convenable. 49

The importance assigned by the bishops to the contested election cases manifested itself in the fact that even archbishop Taschereau, certainly not a kindred spirit of the ultramontanes, joined the remainder of the episcopate in the protestation. Notwithstanding numerous dissensions within the Church, the election controversy was too important an issue as to be jeopardized by a split in the episcopate.

Bishop Lafleche, on his part, in a series of articles in Le Journal des Trois-Rivières, 50 exposed the ultramontane point of view on the question of undue clerical influence and, simultaneously, launched a campaign for amendment of the Elections Act.

49 Mandements, lettres pastorales et circulaires des évêques de Québec, (pastoral of September 22, 1875), Québec, Côté, 1890, vol. II, N.S., pp. 10-13. (hereafter referred to as Mandements (Québec).

In so doing he soon got involved into a press polemic with L. O. David, the editor and proprietor of the Montreal newspaper *La Tribune*. David, a Liberal but by no means a radical, pointed to the impracticability of Mgr. Laflèche's suggestion according to which the bishop alone could remedy any harm inflicted by a priest. He specifically posed the question of how a candidate, who had in vain appealed to the bishop during an election, could obtain reparation of wrongs inflicted to him by the priests who had forced the electors to vote against him.\(^{51}\) In other words, once the harm had been done, and he had been defeated at the polls, who would restore to him his lost seat? Mgr. Laflèche evaded the question by saying that such a candidate had, of course, the right to appeal to the bishop and, if even the episcopal tribunal failed to satisfy him, he could bring his claim before the archbishop or even the Pope himself.\(^{52}\) And pointing to the infallibility of the Sovereign Pontiff's judgement, the bishop said:

> Si ... l'Archevêque ou le Pape décident, que ces Curés et l'Evêque ont manqué à leur devoir, que le candidat soit tranquille, ils sauront bien trouver le moyen de leur faire réparer le tort injuste qu'ils lui auront cause.\(^{53}\)


\(^{53}\) *Loc. cit.*
Such a reply might have comforted the unfortunate candidate's tormented soul and eventually even restored his reputation in the parish and the district but could hardly restore his lost seat in Parliament.

Equally unsatisfactory was Mgr. Laflèche's answer to David's second question, the case in which the bishop were well disposed to remedy any injustice done to a candidate by a priest. As in the previous case, Mgr. Laflèche had no effective remedy to offer. Only in the third case proposed by David could the bishop suggest remedial action. David asked whether there were any other means than ecclesiastical tribunals to obtain material compensation in case of considerable damage. Here bishop Laflèche conceded the possibility that, in certain cases, when the ecclesiastical courts were unable to bring sufficient remedies to the harmed candidate, they might grant him permission to bring his case before a civil court where he could obtain material satisfaction. But even in such a case the priest's personal fault would be judged in conformity with canon law. In other words, even if a priest were found guilty of actions over which the ecclesiastical tribunal itself had no jurisdiction, it still would not

54 Laflèche, L'influence ..., p. 74.
55 Ibid., p. 75.
admit the punishment of the priest by a civil tribunal under the competence of which his offence might fall.

Archbishop Taschereau who, at first, had made common cause with the rest of the episcopate in joining the bishops in their pastoral of September 1875, soon took a more moderate stand when, on October 11th, 1877, he issued a new pastoral in which he explained that certain persons had misused the mandement of 1875 for personal and political ends. In order to leave no doubt that neither the bishops nor the Holy See wished to condemn any particular political party, he said:

...Il n'existe en effet aucun acte Pontifical condamnant un parti politique quelconque; toutes les condamnations émanées jusqu'à présent de cette source vénérable, se rapportent seulement aux Catholiques-libéraux et à leurs principes ... A l'exemple du Souverain Pontife et suivant le sage prescription de Notre Quatrième Concile, Nous laissons à la conscience de chacun de juger, sous le regard de Dieu, quels sont les hommes que ces condamnations peuvent atteindre, quelque soit d'ailleurs le parti politique auquel ils appartiennent.

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56 Mandements (Quebec), pastoral of October 11, 1877, vol. II, N.S., p. 52.

57 Loc. cit. - editor's italics.
Like the mandement of September, 1875, this latest joint pastoral had also been signed by all the bishops of the province, including Mgr. Laflèche. It need hardly be pointed out that the bishop of Three Rivers signed with little enthusiasm. Some of his adversaries went as far as to say that he signed only in order to gain concessions in the dispute over the division of his diocese. Whatever his motives might have been, even the ultramontane Le Journal des Trois-Rivières, the mouthpiece of Mgr. Laflèche, had to admit that "L'année 1877 pourra être designée comme l'époque spéciale des concessions au libéralisme et des lachetés, l'époque du triomphe du libéralisme catholique".

Bishop Laflèche, however, was too convinced a fighter for the justice of his cause as to be discouraged by a temporary setback. He was determined to obtain from the federal government such changes in the Elections Act which, once and for all, would prevent the recurrence of a similar verdict. In two letters to Mgr. Conroy, the apostolic legate, who at that time was in Quebec to solve the various religious difficulties of the province, the bishop of Three Rivers explained to the papal emissary his point of view on the subject and

58 Rumilly, Laflèche, p. 134.

asked his co-operation. Archbishop Taschereau, although in agreement with the rest of the episcopate in criticizing the Supreme Court verdict, opposed bishop Lafleche's demands for amended electoral legislation. While Mgr. Laflèche enlisted the support of his colleagues from Rimouski, Ottawa and Saint-Hyacinthe, the bishops of Montreal, Chicoutimi and Sherbrooke sided with archbishop Taschereau and favoured abstention. A lengthy correspondence ensued between the leaders of both camps. Four bishops were in favour of amended legislation while the remaining four were against the project. It was at this stage that archbishop Taschereau asserted his position as primus inter pares among the episcopate when he said

Je partage l'avis des trois (Montreal, Sherbrooke and Chicoutimi), ce qui fait, vu ma qualité, plus d'opposants qu'il n'en faut pour le maintien de statu quo. 61

Mgr. Laflèche, defeated by the narrowest possible margin, had to withdraw his bill.

The bishop of Three Rivers did therefore not surrender. He continued in his propaganda for amended

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61 Letter of archbishop Taschereau to bishop Laflèche, (no date), ex Savaète, III., p. 276 - editor's italics.
electoral legislation submitting his views to numerous prominent ecclesiastic and lay personages of the province, among them to the provincial Prime Minister.

In a letter to Hon. J. A. Chapleau, Mgr. Laflèche wrote:

Dans mon humble opinion il ne faudrait pas traiter cette question (l'influence indue) au point de vue des partis politiques, mais bien au point de vue religieux et constitutionel; car tel est son véritable caractère ...

Tous les amis de la liberté et des Droits de l'Eglise, à quelque parti politique et à quelque croyance religieuse qu'ils appartiennent, doivent désirer que cette loi soit modifiée, de manière à ne pouvoir être étendue au domaine religieux; et il n'y a que ceux qui veulent soumettre l'Eglise à l'état, c'est à dire Dieu à Cesar, qui peuvent en vouloir le maintien.62

While bishop Lafleche attempted to enlist the support of Premier Chapleau, the leader of the Quebec Conservatives, archbishop Taschereau did not remain inactive. He informed the Congregation of the Propaganda about the Elections Law controversy and received from its Prefect, Cardinal Simeoni, the following reply:

It est venu à la connaissance de la Sacré Congrégation de la Propagande que dans votre Province certain membres du clergé et du corps séculier continuent à s'ingérer trop dans les élections politiques, en se servant soit de la chaire, soit des journaux et autres publications.

Il est également connu de la susdite Suprême Congrégation que certain suffragant de Votre Seigneurie63 cherche actuellement à recourir au Parlement, pour faire modifier la loi des élections relativement à l'influence dite indue....

...Votre Seigneurie devra notifier à chacun des suffragants, de la part de Sa Sainteté, que chacun des Prélat individuellement ait à s'abstenir d'agiter ou de faire agiter soit dans le Parlement, soit dans la presse la question de la modification de la loi concernant la dite influence indue. Que s'il arrivait une époque où les évêques réunis jugeassent tous ensemble que le temps opportun est venu de faire la susdite demande, ils devront d'abord recourir à cette Sacré Congrégation pour en recevoir les instructions convenables.64

As had been the case in the Laval-Ecole dispute and in the issue concerning the division of the Three Rivers diocese, Rome had upheld the archbishop.

In a country where English Canadians formed the

63 the "certain suffragant" is, of course, bishop Lafleche.

64 Letter of Cardinal Simeoni to archbishop Taschereau of September 13th, 1881 ex Mandements (Quebec), II., N.S., pp. 270-272.
greater part of the population, a controversy of such importance soon aroused the interest of the Protestant majority. As early as 1876, immediately following the Charlevoix election case, Sir Alexander T. Galt expressed the opinion of the English-speaking part of the population. In a study devoted to the relationship of Church and State, Sir Alexander, referring to numerous pronouncements embodied in the papal Syllabus of Errors, said:

The extracts given prove in the most authentic manner possible, that the Roman Catholic Church in Quebec extends its demands—

1. To the general assertion of superiority of ecclesiastical over civil authority.

2. To positive interference with both voters and candidates in the Elections.65

Galt continued by expressing his fears that such constant extension of the demands of the Roman Catholic Church in Quebec "has affected the general rights of Protestants, as citizens of the Province of Quebec, and especially, has weakened their guarantees obtained at Confederation".66 And he concluded by proposing the establishment of a united front of both Catholics and Protestants,


66 Ibid., p. 36.
Conservatives and Liberals which, once for ever, would check the interference of the hierarchy into civil matters. 67

It need not be doubted that the weight of English Canadian public opinion in the election controversies had left its influence upon the more moderate element within the hierarchy. Indeed, it might not be entirely out of place to explain the conciliatory attitude of archbishop Taschereau as a direct result of the significance which he attributed to the voice of the majority. Summing up, the two opposing points of view might be contrasted as follows:

While to the ultramontanes preaching included the right of coercion even in such purely civil matters as parliamentary elections, the Gallicans were of the opinion that no election was really free unless the elector's conscience was completely unrestricted. If a man's conscience is not free and his own, all appeals to it would be little more than complete mockery. The Gallicans did not dispute the liberty of preaching and the freedom of the pulpit; they did, however, object to the misuse of the pulpit for activities which, outside of it would be considered illegal. "What would

67 A. T. Galt, Church and State, Montreal, Dawson, 1876, p. 41.
be a libel out of the pulpit is in no way privileged in it; and what would be illegal intimidation out of the pulpit does not change its nature in the pulpit. 68

The ultramontanes considered to be a moral act the exercise of the franchise and as such subject to the laws of the Church. The Gallicans contended that it was one of the basic political privileges and, consequently, strictly under the jurisdiction of the civil courts. The priest who thus offended the civil law was liable to the consequences of his offence under the same terms as any other citizen.

All these disputes had one common root - the question of relationship between Church and State. The ultramontane school held that everything that had been declared by the Church as falling within the sphere of ecclesiastical interest, belonged under the jurisdiction of the Church. It also specified the role of the State as one of an auxiliary, a servant and supporter of the Church in all her activities. The Gallicans, on the contrary, considered the State as having moral rights of equal value and saw in it the protector, the tribunal of appeal against any misuse

68 Ch. Lindsey, Rome in Canada, Toronto, Lovell Bros., 1877, p. 282.
of the powers of the Church. While they conceded to the Church fullest autonomy in its internal legislation, they asserted the State's power of veto in all such matters, which, by its own definition, in any way encroached upon the domain of civil liberties. They held that all new ecclesiastical legislation should be previously approved by the State and all such legislation already existing be subject to its disallowance.

While the ultramontanes stubbornly refused the right of the State to abrogate or dismiss any ecclesiastical legislation and to interfere in all such matters which the Church had declared as falling within its own sphere of competence, the Gallicans categorically denied to the Church any more privileged position in the State than that of any civil society or corporation. They recognized its internal freedom but, at the same time, insisted on ultimate State supervision.

Clerical influence in elections did not cease even after the highest judicial authorities of the land had given their opinion on them and there can be no doubt that the clergy continued to remain an influential medium in the political life of the province. Although repeatedly rebuked, most curés continued to throw
their weight and prestige against the Liberal Party. But by now the greatest danger was over and the law courts of the province had, in no uncertain terms, defined the limits of clerical influence.

Laurier, then already in the forefront of the Liberal Party, thus summarized the results of the election controversy in two letters to Edward Blake:

Clerical influence is not the greatest obstacle we have. It can now be met and fought; it cannot be overcome, but it is a great advantage to be able to say to conscientious and intelligent Catholics that by the authority of the Pope they are free. 69

CONCLUSION

Not all the religious difficulties which, in the preceding chapters have been discussed under the common topic of "Holy War", had their origins in a conflict between Church and State. While both the Guibord case and the issue of "undue clerical influence" were, in substance, controversies between the civil and the ecclesiastical power, the Laval-Ecole dispute was an internal conflict within the Church itself.

In the Guibord case, the Judicial Committee of the Privy Council, in last instance, decided that spiritual penalties did not deprive the individual of his civil rights. By so doing it asserted the complete independence of the civil power from the Church and established that the free exercise of the Catholic religion in Canada was limited by the laws of the country.

Even more emphatic were the verdicts in most of the disputed election cases where, in upholding the electors' fundamental rights of absolute freedom in the choice of their candidates, the courts established supremacy of State over Church. The enunciation of this principle meant more than the
establishment of a dead theory. It meant that, from now on, the Liberals no longer were exposed to the will of the clergy, since in the civil courts, they had found a powerful weapon in their fight against clerical dominance in politics.

The Laval-Ecole dispute, having no implications outside the Church, gave proof that the attitude of the Ultramontanes was by no means accepted within the Church in Quebec. Like nearly every political party, also the Roman Catholic Church was, in its interior divided into a radical and a more moderate faction. It was a clash between these two that lay at the bottom of the controversy.

Yet, in spite of disagreement in tactics and methods between Ultramontanes and moderates, their claims remained identical. This unity of purpose found its best illustration in the election cases. The episcopate was unanimous in its campaign for amendment of the Elections Act, although councils were divided as to the ways and means by which such a amendment should be brought about. The moderates fully agreed to the ends of the extremists but, fearing that the adoption of radical methods might arouse the attention and intervention of the English Canadians and, ultimately bring about more harm
than good, they objected to the means deployed by them.

The unrealistic and often exorbitant claims of the Ultramontanes in respect to temporal power, their all-out attempt to extirpate political freedom and civil rights, eventually brought about the disavowal of their principles by Rome. While, in the Institut Canadien issue and the Guibord case the Holy See made common cause with bishop Bourget, the papal tribunals ultimately upheld Laval in the Laval-Ecole dispute. In the election cases, the papacy, in exempting political liberalism from clerical proscription, gave renewed proof of its adoption of the more moderate views.

In all three cases treated in this thesis, the moderate point of view had prevailed over that of the extremists. The result of the ultramontane defeat was the continuation of Quebec politics on the traditional two party platform. It is highly probable that ultramontane victory would have meant the formation in both Quebec and Ottawa of a clerical party with the necessary result of a counterpart forming among the English Protestants. The events in connection with the World War I conscription crisis speak much in favour of such a hypothesis.
BIBLIOGRAPHICAL NOTE

A controversial subject such as the one treated in this thesis, necessarily stimulates a great wealth of partisan literature. The more difficult it is to discover among the numerous writers in the field, more than a handful of relatively unbiased ones. For this reason, a certain number of sources, except for occasional references, had to be laid aside as being too biased and critical for the proposed study. The History of the Guibord Case, Lindsey's Rome in Canada, Bellerose's L'Orangisme et le Catholicisme and abbé Leblond de Brumath's biographical sketch on bishop Bourget are some of the most striking examples.

By far the most useful secondary source was R. Rumilly's Monseigneur Lafleche et son temps. Although the author writes from a strictly Catholic point of view, he seems reliable as to factual information. Unfortunately, the passages of Rumilly's Histoire de la Province de Québec relevant to the subject, are in most cases literal repetitions of what had been said in Lafleche. M. Wade's The French Canadians provided a useful background study and, in comparison with Rumilly, had the great
advantage of a pertinent bibliography. Father Hudon's *L'Institut Canadien de Montréal et l'Affaire Guibord* was of considerable use for factual information although the author's teleological approach to his subject can hardly be denied. Into this same category belongs the work of the Frenchman A. Savaète which, apart from being a valuable collection of documents (mostly letters and memoranda difficult to be traced elsewhere) is of little critical value.

Source material for chapters I and III are not lacking. In chapter I it had been possible to secure extracts of the original constitution of the *Institut Canadien* as well as most of the court proceedings in the Guibord case. The article of M. Dandurand "Les premières difficultés entre Mgr. Bourget et l'Institut Canadien de Montréal" and the summary of Ch. Bourgeois "Un conflit judico-ecclesiastique", both in *Revue de l'Université d'Ottawa* were, in spite of the Catholic orientation of their authors, the most valuable analytical accounts on the subject.

In chapter III, the court proceedings of the Charlevoix and Bonaventure election cases were at hand (*Quebec Law Reports*) while occasional quotations from the Berthier case in various secondary sources gave
a sufficiently clear picture for a study of the case. Savaète's already mentioned *Voix Canadiennes: Vers l'abîme* contained some good documentation as did bishop Laflèche's *L'Influence spirituelle indue devant la liberté religieuse et civile*.

Somewhat scarce was the source material on the first stages of the Laval-*École* conflict where, except for the little volume *Question Laval-Victoria*, secondary sources had to be used. Once again, Rumilly and Savaète proved to be the most useful although Laval's official *Annuaire* for 1877-78 as well as Boissonault's *Histoire de la Faculté de Médecine de Laval* and Roy's *L'Université Laval et les Fêtes du Cinquantenaire* contained a certain amount of relevant material. For the latter part of chapter II, the memoranda of abbé Proulx together with the transcripts of the pleadings of MM. Hamel and Lacoste have been found very helpful.

Finally, the collections of both the Montreal and Quebec *Mandements* have been extensively used in all three chapters. Apart from the pastorals and circulars of the bishops, they contain, with few exceptions, most of the papal decrees relevant to
the ecclesiastical province of Quebec. It is to be regretted that a similar collection for the Three Rivers diocese was unavailable.
BIBLIOGRAPHY

I. Manuscript Sources

1. Correspondence

Tougas, G., Notes on correspondence between Consul Lefaivre and the Duc Decazes relating to the Guibord case.

It was interesting to compare from these notes the reactions to the Guibord case of the various foreign statesmen.

2. Theses


II. Printed Sources

1. Government Publications


Quebec, Journals of the Legislative Assembly.

Quebec, Law Reports.

Reports of the Supreme Court of Canada.

Statutes of Canada.

2. Yearbooks

Annuaire de l'Université Laval pour l'année académique 1877-1878, Québec, Côte, 1877.

3. Collections of source materials

Tâtu H., & Gagnon, C.-O., ed., Mandements, lettres pastorales et circulaires des évêques de Québec, Québec, Côte, 1890, 6 vols., (vols. 1 and 2 N.S. used for this thesis).
4. General works

a. Books (1) Contemporary


This book is important for it illustrates the position taken by the English Canadians in the conflict.


A good illustration, from the ultramontane point of view of the position of the Roman Catholic Church in Canada.

(2) Later works


Contains some interesting, but not original material on Mgr. Lafleche.


States the official position of Laval in the early stages of the Laval-Ecole conflict.

Groulx, L., *Notre maître le passé, 3ème série*, Montréal, Granger 1944.


A concise historical sketch on the medical school of Laval. Account biased in favour of Laval.

Rumilly, R., *Histoire de la Province de Québec*, Montréal, Valiquette, 1940-1953, 26 vols. (volumes 2, 3, 4, and 5 have been used for this thesis).


For comment on Rumilly see bibliographical note.

Savaète, A., *Voix Canadiennes; Vers l'abîme*, Paris, Librairie Générale Catholique, 1912, 12 vols. (volumes 2, 3, 4, 6 and 9 have been used for this thesis).

For comment on Savaète see bibliographical note.


b. Periodicals


Used for one quotation only.


The best source in the field for material on the library of the Institut Canadien.

5. Special Studies

a. Pamphlets

Affaire Guibord, Jugement rendu au Cour de Revision in re Guibord, (10 septembre 1870), Montréal, Minerve, 1870.


Affaire Guibord, Rapport de la cause avec le texte du jugement de Son Honneur le Juge Mondelet, Montréal, Minerve, 1870.


A very pertinent although partisan piece of rhetorics.


A good illustration of the agitation caused by the Laval-Ecole dispute. Of no critical value whatsoever.

*Plaidoyers de MM. Hamel et Lacoste devant le Comité des Bills privés en faveur de l'Université Laval, Québec, Côte, 1881.*


*Question Laval Victoria, procedes officiels devant Son Excellence Dom Henri Smeulders, Commissaire apostolique au Canada, (Confidentiel), n.p., n.d.*

*Return to an Address of the Senate for copies of all Correspondence, Petitions etc., relating to the Laval University of Quebec, Ottawa, Maclean, Roger & Co., 1881.*

*Une réponse à l'Université Laval, n.p., n.d.*

Ultramontane inspired.