

REV. JOHN McMAHON.

(To accompany House resolution No. 137)

JANUARY 8, 1868.—Ordered to be printed.

Mr. ORTH, from the Committee on Foreign Affairs, presented the following

REPORT:

Mr. SPEAKER: The Committee on Foreign Affairs, to whom was referred the following joint resolution of the State of Indiana, to wit:

*Resolution of the legislature of Indiana relative to the Rev. John McMahon.*

Whereas in the late raid upon Canada, in the year 1866, known as the "Fenian movement," Rev. John McMahon, a quiet and estimable citizen of Anderson, Indiana, and pastor of the Catholic church at that place, was arrested by the Canadian authorities, indicted, tried, and convicted for violation of the Canada laws, and is now serving out a sentence, under such trial and conviction, for life; and whereas at the time of the arrest of said McMahon he was on his road to Montreal, Canada, on private business, and was, by accident, thrown among the sick and wounded engaged in said movement, and, while administering to the needs of such sick and wounded, from the impulses of pure humanity, was arrested as aforesaid, intending in no way to participate in said movement: Therefore, be it

*Resolved by the general assembly of the State of Indiana,* That our senators in Congress be instructed, and our representatives requested, to use their influence, and such other lawful means within their power, to secure the speedy release and liberation of Rev. John McMahon from such imprisonment.

*And be it further resolved,* That his excellency the governor be requested to transmit a copy of these resolutions to each of our senators and representatives in Congress.

WILL. CUMBACK,

*President of the Senate.*

D. C. BRANHAM,

*Speaker of the House of Representatives.*

Approved March 11, 1867.

CONRAD BAKER,

*Lieutenant Governor, acting as Governor of the State of Indiana.*

UNITED STATES OF AMERICA,

*State of Indiana, Office of Secretary of State, ss:*

I, Nelson Trusler, secretary of state for the State of Indiana, hereby certify that the above and foregoing is a full, true, and complete copy of the enrolled joint resolution No. 10, senate, from which the same was taken, now on file in the office of secretary of state for the State of Indiana.

In testimony whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the city of Indianapolis, this 14th day of March, A. D. 1867.

[SEAL.]

NELSON TRUSLER, *Secretary of State.*

have had the same under consideration, as directed by the following resolution of this house, passed on the 20th of March, 1867, to wit:

FORTIETH CONGRESS, FIRST SESSION.

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES,

March 20, 1867.

On motion of Mr. SHANKS:

*Resolved,* That the Committee on Foreign Affairs be, and they are hereby, instructed to investigate the cause of, and facts connected with, the imprisonment for life, in Canada, of

the Rev. John McMahon, a citizen of Anderson, Indiana, and pastor of the Catholic church at that place, and what means, if any, should be taken for his release; and for such purposes have power to send for persons and papers, and that said committee report their investigations to this house as early as practicable.

Attest:

EDWARD MCPHERSON, *Clerk.*

And after an investigation into "the cause of, and facts connected with, the imprisonment for life of Rev. John McMahon," by the examination of witnesses and otherwise, have instructed me to present to the House of Representatives the following report:

That the said John McMahon is a native of Ireland, and emigrated to this country with the intention of making it his permanent home in the year 1840, and continued his residence in the United States until the time of his arrest and imprisonment as hereinafter stated, to wit, the month of June, 1866; that on the 24th of October, 1844, he filed his declaration of intention to become a citizen of the United States before the marine court of the city of New York; thereafter he emigrated to the State of Minnesota, where he became the purchaser from the United States of several tracts of land, and where he continued to reside for several years, and until his removal to the State of Indiana; that said McMahon was regularly ordained a priest in the Roman Catholic church, under the ecclesiastical jurisdiction of which he was assigned to the charge of various congregations until his final location at Anderson, Indiana, as pastor of St. Mary's church in that city.

It further appears from the evidence that he had a brother—Peter McMahon—who resided in Montreal, Canada, and died in that city in November, 1862, seized and possessed of a considerable amount of valuable property. By his last will he devised all his property to his wife Margaret, to be held by her during her widowhood, with the remainder to his four brothers, Bernard, Francis, James, and the Rev. John McMahon and his sister Bridget.

That he was for the first time apprised of this testamentary disposition of his brother's property in March, 1863, and thenceforward frequently alluded to the contingent interests he had in Montreal, and expressed a purpose to visit Canada at his earliest convenience, and investigate the character and extent of the same. Pecuniary considerations, however, interfered and occasioned delays until the latter part of the spring of 1866, when he managed to collect means sufficient for the purpose. About this period of time extensive preparations were made by the "Fenian Brotherhood" in the United States for the invasion of Canada, and the various "circles" of the order were concentrating their recruits at Buffalo, in the State of New York. A "circle" existed at Anderson, (the residence of Father McMahon) composed of a numerous membership, from among whom an entire company was recruited for the descent on Canada. Transportation by railroad to Buffalo was secured for them, and the company left Anderson *en masse* in the latter part of May for its destination. The persons composing this company were mainly members of his church, and knowing his desire to visit Canada in reference to his business interests, they invited their pastor to accompany them on their train, and thus have the benefit of free transportation to Buffalo, a sufficient inducement to a person like himself, of limited pecuniary means.

That he may have sympathized with those whom he accompanied to Buffalo is most natural; they were his parishioners and he their spiritual adviser, and hence more than an ordinary bond of friendship existed between them.

They were Irishmen, or the descendants of Irishmen, feeling deeply the condition of their countrymen, their wrongs, and oppressions, and seeking, it may be, by problematical means, a redress for their grievances. He is also an Irishman, mingling with his people, witnessing some of their oppressions—at least constantly hearing the story of their wrongs—and, under these circumstances, not to be affected by their affection would be most unaccountable. That he was a member of their "order" is abundantly disproved by the evidence before your

committee. The rules of the "order" prescribe "that no person can become a member outside of his own locality or residence, if a circle was there properly organized."

Such a circle was properly organized prior to June, 1866, at Anderson, Madison county, Indiana, and known as the "Anderson Circle," and at the date aforesaid was the only "circle" within that county.

Father McMahon at that time, and for several years previous thereto, was a resident of said city and county, and it appears in evidence from the testimony of Mr. Mohun, the "centre," or presiding officer of that "circle," that Father McMahon "never was a member of the brotherhood."

He is therefore found travelling in company with Fenians who design the invasion of Canada, simply (so far as can be gathered by your committee) in the prosecution of his long-intended visit to Montreal in quest of information as to his brother's estate, in the distribution of which he had a pecuniary interest.

He was not a combatant—his clerical profession, if nothing else, forbade this—and there is nothing to show that he entered Canada with any but the most peaceful and legitimate intentions.

After the so-called battle of Ridgeway, which took place on the second of June, 1866, and while engaged, as he alleges, in ministering to the sick and wounded, he was "captured" by the Canadian authorities, taken to Toronto, and, on the 29th of October in that year, tried as a "Fenian raider," convicted, and sentenced to be hung, which sentence was afterwards commuted to imprisonment for life at hard labor, under which he is now serving as a convict in the State prison at Kingston, Canada West. His offence, if any, was merely political in its nature, and the penalty thus awarded entirely disproportionate to the charges brought against him.

Without referring to cotemporaneous history, it is obvious that the possibility of obtaining a fair, dispassionate, and impartial trial in Father McMahon's case was very remote. This implies no special censure on the people among whom, nor on the court before which, he was tried. Human nature is governed by like principles wherever we find the family of man. It would be a surpassing exception to the general rule if the alarm, agitation, and bitterness of feeling incident to a hostile invasion had permitted to the Canadian mind that condition of tranquillity and patience which the prisoner's case required to insure a just determination of his guilt or innocence. During the trial, which attracted much public attention, we find it stated by both the American and Canadian press "that from all parts of the provinces despatches are coming, demanding that no mercy should be shown to the Fenians found guilty." Such demands, added to the inflamed feeling surrounding the *locus fori*, could terminate in but one result—instant and certain conviction. Nor can it be forgotten that the public irritation was enhanced at the time of trial by pending rumors of a repetition of the invasion; and it is well to remember that considerations of personal hazard would necessarily prevent the attendance of those witnesses upon whom the prisoner could best rely for his exculpation.

On his trial Father McMahon insisted that he went into Canada without any concert with the Fenians, but upon his own private business; that he was a non-combatant, and that his only participation in the invasion (if so it could be construed) was the service he rendered, as nurse and priest, to the wounded and dying after the battle of Ridgeway. These were facts proveable best, perhaps, *solely* by witnesses who would have imperilled their lives to have visited the court.

The case of Father McMahon has, from the time of his arrest, excited attention and sympathy among the people of this country. This has been evidenced by numerous attempts to obtain clemency and pardon through the medium of private petitions in his behalf. Unfortunately, these applications have thus far failed to accomplish their purpose. The action of the legislature

of Indiana, in the passage of the joint resolution upon which the committee has been acting, indicates to what extent public feeling in that State has espoused the prisoner's cause. When it is considered that his offence, as already intimated, is at most one of a character peculiarly political, and hence a proper case for the interposition of that amnesty so customary in this liberal age, it cannot be wondered that among a people so thoroughly convinced of his innocence in fact, his fate should elicit a warm, active, and universal commiseration.

In view, therefore, of the pervading interest felt in the prisoner's behalf throughout the country, and in the belief of his innocence of the offence with which he was charged, or, if guilty of an indiscretion in his acts, that he has already endured sufficient punishment, your committee deem it proper that action should be had by Congress tending to secure intercession on the part of the President for his release from further imprisonment, and hence report the accompanying joint resolution, and respectfully ask its passage.