

of new doctrines which made it a matter of conscience and of eternal consequences for judges who acknowledged the authority of the *syllabus* to dismiss the action of the widow Guibord. In submitting their case, the Defendants' counsel formally and openly took the ground that the Church, that is the Defendants, were not amenable to the Civil Courts. The Roman Catholic judge in the Court of Review, the Honorable Mr. Justice Berthelot, went further than his Protestant colleagues in dismissing the action. He accepted in its full extent the doctrine of the independence of the Church in the question submitted, and the Appellant anticipated, in consequence, similar views with the four Roman Catholic judges in the Court of Queen's Bench sitting in appeal.

There is at first sight something plausible in that opinion which may deceive a right minded man if he be not on his guard. Mr. Justice MacKay seems to have fallen a victim to this specious aspect of the case, although his judgment is not founded on the opinion virtually expressed by him. He doubted, rightly too, whether a Methodist could force the Church of England to bury his relative, also a Methodist, in their burying ground.

It is not because the church is independent of the Civil Authorities that the Church of England could resist such a demand, but because the deceased Methodist was not a member of the Church of England, and had no right to demand burial in her cemetery.

The question, as it presented itself, was, whether a church which had acknowledged a man as one of its members during his whole life time,—a church which would have forced that man by compulsory process of the Civil Courts to pay tithes, to contribute to the building or repairs of the church, and even to paying for the cemetery ground, is so independent of all authority that it can refuse a decent burial to the remains of that man, and that his family can have no recourse against that church?

The affirmative being the doctrine of Judge Berthelot and of the dogma promulgated by the *syllabus*, the Appellant considered it a matter of paramount importance to know *in limine* whether the Roman Catholic judges in Appeal considered themselves bound by the *syllabus*, for if they did, and if the decision of the