Jodoin was a wealthy self murderer. whose blood-stained "golden fleece" was of more value to the Roman wolves than the honest unstained "home-spun" of the poor, friendless, but now, enver to be forgotten Printer, Guibord.

It was in consequence of this refusal to bury her husband that the widow Guibord was forced to apply to our Courts of law in order to compel the curé and church wardens of the parish church of *Notre Dame* of Montreal to give her husband's remains burial in the Roman Catholic Cemetery.

The proceedings for this purpose adopted, were an application for a writ of *mandamus* ordering the burial of *Guibord's* remains. A prolonged argument of seventeen days took place before the Honorable Mr. Justice Mondelet, senior Judge of the Superior Court for Lower Canada, sitting in Montreal, resulting in the granting of the widow's prayer, by ordering a peremptory writ of *mandamus* to issue, commanding the curé and church wardens to bury the deceased within six days, and to report the execution of the writ.

The arguments of counsel and the remarks of the learned and independent judge, and the judgment itself deserve special notice but unfortunately they are so voluminous, that were we to repeat them our readers might think that we were testing the extent of their patience.

The Church of Rome was not disposed to acknowledge civil law, particularly when its utterances were adverse to its extravagant pretensions that the civil Courts had no jurisdiction over matters strictly ecclesiastical, and accordingly an appeal from the decision of Mr. Justice Mondelet was taken to the Court of Review, consisting of the Honorable Justices BERTHELOT, M'KAY and TORRANCE; who after having heard counsel and maturely deliberated, reversed the judgment of the Honorable Mr. Justice MONDELET, and dismissed the action or application: 1st. *Because the action should have been brought against the curé personally*—and 2ndly. *Because the writ was informal.*

It is well known in every country that judges are to be found who are afraid of making themselves disagreeable to the RULING POWERS whether they be king, clergy, or mob, and these experience no great difficulty in discovering some loophole or question of form by which they wash their hands of an embarassing case. Such was Pilate's example, *when he washed his hands of innocent blood*, and gave up the Son of God to a band of relentless priests, to shed his blood.

The discussion of the technicalities on which the Court of Review based their judgment would present very little interest to the non-professional reader and therefore we will not enter into them here.

Up to this stage the widow of the poor journeyman printer GUIBORD had been able to avail herself of a charitable provision of law, by which an indigent suitor is allowed to sue *in forma pauperis* but having lost her action, an appeal from what was considered an unjust judgment could not be taken unless security for the costs of such appeal, in case of failure, were first put in, and this it was supposed would present an insurmountable barrier to her further proceedings, even though she had lawyers so devoted to her cause as to act gratuitously. But sympathy had been aroused and the tyrants of Rome and their sycophants were not yet allowed to proclaim a final victory over the poor printer GUIBORD, for the required security was given and the desired appeal—an appeal to the Court of Queen's Bench—was quickly taken, and here it was that this now celebrated cause assumed a new shape and a greater importance.

The decision of the Court of Review had produced an impression on the minds of the friends of the poor widow, and upon the minds of a large class of the community, that the Roman Catholic clerical influence had so much weight over the judges in Review that they had, instead of pronouncing on the merits of the case, resorted to technicalities raised contrary to the most positive enactments of the Code of Civil Procedure, objections which should have been dismissed at once, even though under other circumstances they might have been well founded in law, objections which the Honorable Mr. Justice Mondelet had the manliness and intrepidity to dispose of summarily.

To make this matter understood by our non-professional readers, we would illustrate the matter thus:—It is very clear that the endorser on a promissory note is liable to its payment, provided the note was protested on the third day of its maturity. If, however such note was only protested ten days after maturity no Court could maintain an action against the endorser. So in matters of form the Code of Civil Procedure provides that all these shall be taken advantage of within four days of the return of the action, whereas in the Guibord matter the Defendants pleaded TEN DAYS after the return, *that the form of the Writ was defective, that the Writ itself should have contained the command* to bury Guibord. His Honor Mr. Justice Torrance admitted that since 1849, when a Statute was passed to amend the law relating to Writs of Prerogative, the uniform practice had been to insert the order in a petition *annexed* to the Writ, and not in the Writ itself, but, nevertheless, he concurred in a judgment which dismissed the action, *because it was shaped in accordance with that uniform practice*, and this, on an objection raised TEN DAYS after the return of the action.

The action of the widow Guibord was known in France, in Spain, in Austria, and generally in Roman Catholic countries, under the name of *Appel Comme d'Abus*, appeal against the abuses of the Church. In 1864 the *syllabus* decreed a number 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 Roman Catholic Bishop was final and not susceptible of Appeal, the Appellant considered it would be a waste of time and of legal research, to show that the refusal to bury Guibord was unfounded. Should such a doctrine prevail it would follow that the Roman Catholics of this part of Canada are eminently priviledged inasmuch as they would not recognize any authority as higher than the Church. The Anglican Bishop in Q ebec was impleaded for refusing to bury a child, and though the case was dismissed it was on the ground that the Anglican Church had not acknowledged as its cemetery the piece of land, wherein the father wished to compel the Bishop to bury the child. No one ever dreamt of denying the jurisdiction of the Court.

In the Guibord matter, however, it is different. The pretensions of the Romish Church are exposed as follows, by the Defendants pleadings:—By the treaty of Cession of Canada of 1763, it is declared that the Roman Catholics shall have the free exercise of their religion according to the rites of the Church of Rome. From this it follows that the Roman Catholic bishop is amenable to no authority in the country when he decides that a man has no right to be buried in a Catholic cemetery. Furthermore, the Church of Rome has deemed that it exercises its authority independently of all civil governments, and other doctrines which will be mentioned presently.

Can Protestants look with indifference to the settlement of such pretensions, set up as they are against the Guibord action? If it be true! were such a pretention to be allowed, the Roman Catholic Church which already enjoys the exclusive right of forcing its members by compulsory process of the courts, to support it, would possess an immense power of cohesion and coercion, not only over its own members, but indirectly over the members of other churches, for on pain of being buried like a dog, a Roman Catholic might be induced to join organizations of hostility or propogandism against the members of other churches. To look upon this as a mere supposition is a grave error, for it was fully proved to be a matter of fact in the very Guibord case itself. Guibord was a member of a benevolent society,—in which none but Roman Catholics were allowed to participate. Several of its members gained their living and consequently their means of supporting the society,—exclusively from Protestant employers. Without enquiring how such societies are propagandist organizations, it cannot be denied but that their influence lends *éclat* and show to the Romish Church. In public demonstrations, such as the procession of *Corpus Christi*, or when the St. Patrick's Society or the St. Jean Baptiste Society celebrates its anniversary; we see a great concourse of people filling and blocking up the streets. Now, who compose those crowds? These very Roman Catholic benevolent societies formed under the sanction of parliamentary incorporation, for the glorification and strengthening of the cords of the Romish Church! Each trade is formed into one of these societies, and of these societies it is said fully twenty-five are in existence, with an average membership of 500.

Leaving our readers to connect these statements with the proceedings in the Court of Appeals, we proceed with our narrative.

At the opening of the December term (1870) of the Court of Appeals, Joseph Doutre, Q.C., one of the counsel for the Appellant, (Mrs. Guibord,) challenged the four Roman Catholic judges as being disqualified on the ground that they belonged to the Church of Rome, which had by the *syllabus* of 1864 promulgated the following dogmas:—

1st. That the ecclesiastic authority was exercised independently of any permit or consent of the civil government.

2nd. That the State and the Queen were not the source of all rights; and that its or their powers were limited.

3rd. That the State, even when it was governed by a Protestant Sovereign, possesses no authority, not even indirectly, over matters of religion; that in consequence it has neither the right of *exequatur*, nor that of *Appel comme d'Abus*, (Appeal against ecclesiastical abuses).

4th. That in matters of conflict between the two powers, (the State and the ecclesiastical authority), the latter prevails in preference to the State.

5th. That the civil power has no right to interfere in matters of religion, morals or spiritual things; that the instructions contained in pastoral letters (even, we suppose, if they contained libels or instigations of high treason) cannot be submitted to its decisions.

6th. That Kings are amenable to the jurisdiction of the Church, and that they have no jurisdiction above the Church when questions of jurisdiction are to be decided.

7th. That the Roman Catholic religion should be the only religion recognized by the State, and that, to the exclusion of all other religions.

8th. That the Romish Church has the right of physical coercion, and possesses a direct and indirect temporal power.

9th. That the immunity of the Romish Church and of ecclesiastical persons has no origin in the civil law.

The recusation or challenge, after enumerating these dogmas, stated that by a recent proclamation of the same church, its head, the Pope, has been declared infallible, and that he must be obeyed as if he were God himself, being superior to all Kings and Sovereigns It then required the judges challenged to declare whether they considered themselves bound in conscience by such commands of their church.

This recusation is framed with considerable precision. According to our Code of Civil Procedure, the judges challenged cannot decide on the merits of the recusation, they cannot even be present in Court when the decision is given.

In presenting the petition of recusation, Mr. Doutre said he hoped the measure he was adopting would not be looked upon as implying want of either respect or confidence. Quite a number of persons were in doubt as to whether our judges were the representatives of the Queen, carrying out the spirit of the laws enacted under Her sanction and those of her predecessors, or whether they were *not*, in certain matters, governed by the Church authority whose seat is at Rome!

Chief Justice Duval remarked that it was giving too much importance to the imbeciles who thought that judges recognized any authority but that of the Queen, and the laws enacted under Her authority.

Mr. Doutre replied that unfortunately these imbeciles were so numerous and occupied so many positions in life that until the judges would themselves define their stand point, their decisions would remain in many cases without moral weight, and therefore, after due consideration, he thought it essential before arguing his case, to know whether the judges felt themselves competent to hear him and render justice to his client. The condition of the Roman Catholics since the cession of the country had been altered by decrees of new dogmas, some of which if they were adhered to by the judges, would prevent those of the Roman Catholic faith from applying the law of the country. By Chap. 83, §14, George III, which confirmed the treaty of cesssion, Roman Catholics were granted the free exercise of their religion, but subject to the supremacy of the Sovereign. Several articles of the *syllabus* declared it to be a heresy to believe that any Sovereign had authority over the laws decreed in Rome, and that in a conflict of jurisdiction in civil matters, it was another heresy to recognize in the civil law the power of pronouncing upon such jurisdiction. The action of the Appellant was, Mr. Doutre said, specially mentioned in the *syllabus*, to be proscribed, and it was worthy of anathema to make use of that recourse. The judge that would receive such an action, and pronounce favorably upon it, would be liable to anathema and excommunication He knew very well, he continued, that none of the judges considered themselves bound by anything but the laws of the country; but in the present state of religious exaggeration, his own conviction in that respect was not a sufficient guarantee for his client, or for the public. He had, he said, no doubt that the answers the judges would give to the facts mentioned in the petition would be such as would put the Appellant in a position to withdraw the exception, which she would be happy to be able to do. The opportunity he considered a precious one, which should not be lost to clearly define the position of our Roman Catholic judges in mixed questions, and also to put an end for ever to the injurious doubts which are thrown out against their independence and their true position to the Sovereign who appoints, and to the other who claims authority over their consciences with the rights to define their jurisdiction and hurl defiance against the authority of our Queen, our parliaments, and our laws.

The Chief Justice ordered the Clerk of the Court to take the petition, but not to fyle it in the records of the Court, until further orders.

This recusation took place at the beginning of the term and consisted of four separate petitions, that is, one for each judge.

After four or five days consultation, Mr. Justice Badgley, the only judge unchallenged, suggested to Mr. Doutre that he should withdraw the petitions and present them *de novo* on account of the absence from the bench of one of the judges, at the time they were first presented, but to this Mr. Doutre did not accede.

However, the last day of the term arrived, and then the five judges concurred in a judgment, declaring the petitions inadmissable inasmuch as the charges contained in them amounted to accusations against the judges of treason and perjury.

Mr. Doutre thereupon moved for an Appeal to Her Majesty's Privy Council. No decision was given on this motion, but the Court suggested that a rule be taken returnable on the first day of March, a course which evidently did not meet with the learned counsel's approbation, as he has not adopted it, preferring, as we understand, to allow the motion to remain as a protest against the judgment and to proceed to the argument, so as to bring the whole matter in Appeal before Her Majesty's Privy Council, should the pretentions of the widow Guibord be unsustained.

The case is, while we write, being argued before the count on its merits, and the judgment will probably be rendered in the mouth of June next—a judgment to which our readers will look with no little interest.

"THE QUEEN'S PAY."

WHAT THE ROYAL FAMILY OF ENGLAND COSTS.

What a working man at a late meeting, more probably from paucity of language than disrespect, called the "Queen's Pay," or the sum fixed by Statute 1, 1837, "for the maintenance of the Queen's household and the honour and dignity of the Crown," amounts in gross to £385,000 a year. Besides being sovereign, the Queen is also Duchess of Lancaster, and derives from her well-managed ducal possessions a further varying annual income, averaging, say, £26,000. It is, however, the former amount only that comes out of the Consolidated fund—that is out of the revenues of the *kingdom*; and from the £385,000 so derived must first be fairly deducted, before estimating the Royal national income, the charge thrown on the civil list for pensions, at the rate of £1,200 a year, for with those pensions the sovereign personally has really nothing to do. What their amount now reckons does not appear. The civil list of £385,000 is also charged with £13,000 a year for "royal bounty, alms, and special services," which fall on the Queen as representing the nation, and diminish the income personally enjoyed by her Majesty.

Whatever the net income of the Queen under the act of 1837 may be, it is notorious—1. That it is less in amount than that of her Majesty's predecessors for the last one hundred and seventy years, and in purchasing power than during by far the greater part of that period; 2. That it does not reach the income possessed by the other great sovereigns of Europe; 3. That Queen Victoria has not exceeded in her expenditure, as most of her predecessors in that time did, her civil list; and 4, has not had the other pecuniary resources which they one and all had, from Queen Anne down to William IV.

Queen Anne had an annual provision from Parliament of £800,000 a year, whereon debts accumulated during the twelve years of her reign of £1,200,000, which Parliament had to discharge. George I. had a civil list of similar amount, but in a reign of twelve years Parliament had to pay his debts to the extent of £1,000,000. In the thirty-three years of the reign of George II. the debts on his civil list of £800,000 were £456,000 which were also discharged by Parliament, and in the latter year of his rule the taxes assigned to him for the civil list, there being then no consolidated fund to charge it on, produced more than the £800,000 by about half a million. The civil list of George III. was originally £800,000 a year; at the end of seventeen years it was increased to £900,000, subsequently to £960,000, and in the latter years of his life it was augmented to £1,030,000. Nevertheless, in the course of his reign of sixty years debts on his civil list were liquidated by Parliament out of taxation by the large sum of £3,811,000. In his reign, too, the casual revenues and debts of the crown which had not been surrendered to the nation produced £12,000,000, of which £4,400,000 were received by the King for his personal use. And until the then Prince of Wales reach-