

of the parochial cemetery in which he ought on this hypothesis to be interred; or, in other words, the Bishop, by his own absolute power in any individual case, might dispense with the application of the general ecclesiastical law, and prohibit upon any grounds, revealed or not revealed, satisfactory to himself, the ecclesiastical burial of any parishioner. There is no evidence before their Lordships that the Roman Catholics of Lower Canada have consented to be placed in such a condition.

Their Lordships do not think it necessary to consider whether, if the parties and circumstances of the suit had been different, they would or would not have had power to order the interment of Guibord to be accompanied by the usual religious rites, because the widow finally forewent this demand, and Counsel at their Lordship's bar have not asked for it, and also because the Curé is not before them in his individual capacity; but they will humbly advise Her Majesty that the Decrees of the Court of Queen's Bench and of the Court of Review be reversed. That the original Decree of the Superior Court be varied, and that, instead of the order made by that Court, it should be ordered that a peremptory writ of mandamus be issued, directed to "Les Curé et Marguilliers de l'Œuvre et Fabrique de Notre Dame de Montréal," commanding them, upon application being made to them by or on behalf of the Institut Canadien, and upon tender or payment to them of the usual and accustomed fees, to prepare, or permit to be prepared, a grave in that part of the cemetery in which the remains of Roman Catholics, who receive ecclesiastical burial, are usually interred, for the burial of the remains of the said Joseph Guibord; and that, upon such remains being brought to the said cemetery for that purpose at a reasonable and proper time, they do bury the said remains in the said part of the said cemetery, or permit them to be buried there. And that the Defendants do pay to the Canadian Institute all the costs of the widow in all the lower Courts, and of this Appeal, except such costs as were occasioned by the plea of *recusatio judicis*, which should be borne by the Appellants.

Their Lordships cannot conclude their Judgment without expressing their regret that any conflict should have arisen between the ecclesiastical members of the Roman Catholic Church in Montreal, and the lay members belonging to the Canadian Institute.

It has been their Lordships' duty to determine the questions