

is it pretended that the Fabrique should be denied of all religious ceremony and *mise en cause*, and the Cure as such put aside made in the place where the civil burials, for the reason that it is the Fabrique which then, and now actually take place, that her husband understood and desired to have, has charge of the cemetery and should furnish the registers. Once these registers are furnished and delivered to the Cure the Fabrique possesses no farther right over them than religious burials. It was in the execution of them, their maintenance, their care, their deposit, the resulting responsibility, all is that, declared that he would not insist at the charge of the Cure, and the Marguill- upon the ceremonies usual in the case of the parishioners or even simple strangers this determination that Guilbord's body, accom- whilst as to the burial itself, it is needless to say that the Warden had nothing to do with it. Besides, it is easy to conceive that the Curé had not been notified: the inconvenience would result from the adoption of the doctrine set forth by the appel- lant, viz: that the writ is well addressed to the Fabrique. The Curé, who was called upon to open the gates as forming a part of that Fabrique, has had consented to do so, the body of the de- cessant would have been deposited therein no more power than any of the other mem- bers which compose it; his vote in the de- liberations only counts as that of another, and now, would it not be absurd to expose the Curé to be controlled, prevented even by a majority of his wardens, from accomplish- ing the duties which he only is held, and which he is only qualified to fulfil. The conclusion to be drawn from all this is that the writ, supposing it to be valid, has been wrongly directed; the person to whom it should be addressed not being regularly or legally *en cause*; the peremptory writ directed against him is null, and for this reason, again, the judgment of the Court of Revision should be sustained.—3. What form of burial has been demanded? By referring to the *Requete* we see that on this subject nothing is specified. The parties content themselves by demanding that it shall be enjoined and ordered upon the defendants to cause the body of Guilbord to be buried in conformity to the usage and law, and to insert in the registers kept by them the certificate of that burial. All that was therefore required was the burial and the registration should made in conformity with usage and law. Now, each of the said burials may be made in conformity with the usages and the law. In the case before us all the indications are that it was the civil sepulture which was required; which was demanded, and which the appellants contented themselves with asking for. This assertion is justified by the terms even of the *requete*, which are vague and uncertain as to the description of the burial required and which must be consequently interpreted by the facts established in this case. The facts, amongst others, are anterior to the decease of Guilbord, the declaration which was made to him, that he knew that if he persisted in remaining a member of the Institute he would not be buried *en terre sainte*, but that he did not care much about it, provided that he had a large number of persons at his funeral was all he desired. It was to his wife, the appellant, that this declaration was made, and startling, therefore, from the decease of her husband, she knew that it was civil bur- 4th. As to the refusal of the sepulture offered. The proof on this point has been abundantly and conclusively to establish that the Curé offered to give the sepulture, that is to say, the sepulture without any religious ceremony, prayers, singing, ecclesiastical vestments, and other things usual in ecclesiastical sepultures. It is equally established that the time accepted the offer thus made, and declared on the part of appellant, that they did not insist on the prayers and religious ceremonies, it was only when we entered into the question of where the sepulture was to take place that the misunderstanding commenced that has given rise to the unfortunate litigation that now occupies us. In effect they were at accord on all points except the place where the interment was to take place, and this was the only point on which there was any question and on which they could not agree. The appellant contends that it could and should be made in the part of the ground set aside for ecclesiastical sepulture, while the defendants aver that it was in part reserved for those who had no right to ecclesiastical sepulture but to the civil only. It is because the defendants have insisted on this point that the appellant refused to accept the sepulture offered, and has brought this action to obtain what she claims. All depends then in knowing if the defendants are right in their pretension—for if they are, the appellant insists on a right that she has not and that we cannot give her. If, on the contrary, she had that right, the defendants in insisting as they do are wrong, and ought to be condemned, seeing that they refuse to perform a duty that is imposed upon them,—an illegal condition to