

unsettled between Plaintiff and Defendants as they were the day before the Plaintiff presented the requête."

But if the principle above laid down be acted upon, the Court may, in a peremptory writ, specify distinctly what they consider the Defendants are bound to do according to usage and law, and may peremptorily command the Defendants to do it. If they consider that the Defendants are bound to provide ecclesiastical burial with the rites and ceremonies of the Roman Catholic Church, they may say so. If they consider that the Defendants are bound to bury the body in that part of the cemetery in which bodies of those interred with ecclesiastical burial are usually buried, the peremptory writ may be worded accordingly. If they think the Defendants are bound to register the burial, the writ may go on to order such registration; or, if they think that the Defendants are not bound to register the burial, they can order the burial alone.

The next point of form relates to the question, who are the Defendants to this writ? Are they the "Curé" and "Marguilliers" personally, or in their corporate capacity? The name used in the conveyance of the land for the cemetery, and that used in the plaint and writ of summons are identical. And their Lordships upon the whole are clearly of opinion that the writ was against "les Curé et Marguilliers," for the time being, in their corporate capacity as holders of the land and administrators of the cemetery; and that the Curé in his individual or spiritual capacity is not a party to this suit.

It now becomes necessary to determine the merits of the case, and the grave questions of public and constitutional law which are raised by the third plea, and the subsequent pleadings.

In order to do this, it is desirable to consider shortly the status of the Roman Catholic Church in Lower Canada, both before and after the cession of the Province of Quebec in 1762.

It is certain that before the cession the Established Church of that Province, as in the Kingdom of France itself, was the Roman Catholic Church; its law, however, being modified by what were