

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Ward v. The Bishop of Mauritius, from a Decision of the Right Reverend Francis A. Gregory, D.D., Bishop and Ordinary Pastor of the See and Diocese of Mauritius, including the Islands of Seychelles; delivered the 8th November 1906.*

---

Present :

THE EARL OF HALSBURY.

LORD MACNAGHTEN.

LORD DAVEY.

LORD ROBERTSON.

SIR ANDREW SCOBLE.

SIR ARTHUR WILSON.

[*Delivered by The Earl of Halsbury.*]

Their Lordships are of opinion that this Appeal ought to be dismissed. If there had been jurisdiction to try the matter in question as an ecclesiastical offence, and if there had been subject-matter for appeal, their Lordships think it only just to say that, in their opinion, the Respondent acted upon evidence which would have been sufficient before any tribunal to establish the fact which he found to be established. Considering that there were no less than two or three witnesses who gave evidence of facts absolutely inconsistent with the decorous conduct of a clergyman, and that, these facts having been deposed to, the person treated as Defendant declined to go into the witness-box to deny what was attributed to him, any Court probably would have thought it right to give effect to the evidence against the Defendant. It is

therefore only just to the Respondent to say what course their Lordships would have taken if the tribunal had been regularly constituted and if the Respondent had been trying a matter over which he had jurisdiction as above. But in truth there was no such jurisdiction. There was no litigation which the Respondent was competent to determine. The point which the parties intended to raise was whether an office which it was in the power of the Crown to give or withhold should or should not be withdrawn by reason of the finding of the Bishop. That is not a matter over which the Bishop had any jurisdiction as Bishop at all. The Bishop had previously nominated the Appellant for the office of Chaplain at the request and by the permission of the Colonial Secretary. The Colonial Secretary had acted upon the recommendation, or selection, or whatever it may be called, but before an actual appointment had been made, certain charges were preferred against the Appellant and the giving of the appointment had been suspended, and in consequence of the finding by the Bishop on these charges, the appointment was not given at all. It is impossible to suppose that there is any jurisdiction in this Board to review such a question as that by way of appeal. The truth is, that if the facts had been before their Lordships at the time when the original application for leave to appeal was made, certainly no leave would have been given. In their Lordships' opinion there was no jurisdiction to entertain such a question. Their Lordships will accordingly humbly advise His Majesty that the Appeal ought to be dismissed.

As the Appellant is appealing *in formâ pauperis*, there will be no order as to costs.

---