domesticum, not a State tribunal as in the United Kingdom, where the Crown appointed bishops in pursuance of Act of Parliament. Hence the bishops of the English Church in South Africa could have no such irresponsible tribunal as the bishops of the Church at home had, but must be subject to the decisions of the civil tribunal. And he was of opinion that this necessity for the colonial Church to refer its disputes to the civil tribunals was very valuable as a means of securing the uniformity of doctrine and discipline which was an important safeguard of the Church of England, for if in every case of a dispute in a colonial church the result were to be dependent on the decision of a *forum domesticum*, merely in union and communion with the English Church, the decisions might easily vary according to the opinions of different bishops, a result which was avoided by making the Queen in Council the ultimate arbiter of all such disputes.

The course of legislation on this subject plainly showed that no bishop could be nominated or appointed except by the Sovereign, nor could any person be legally consecrated except by order of the Crown. In 1786, after the severance of our American colonies, an Act of Parliament for consecrating bishops in those colonies provided that the license of the Crown must in each case be obtained. This principle was also plainly to be found throughout the various statutes by which bishoprics were created in places, not under the immediate jurisdiction of the Crown, especially in 59 Geo. 3, c. 60; 3 & 4 Vict. c. 33; 15 & 16 Vict. c. 52.

His Lordship held, therefore, that in every respect the plaintiff was validly ordained a bishop of the English Church, the power of orders was fully given to him at his consecration, the power of jurisdiction was his, only limited and qualified by the necessity of the case, because the Crown could no more establish a see or diocese in the colonies, with jurisdiction analogous to that of a see in England with coercive jurisdiction over all the inhabitants of the colony, without the authority of the colonial Legislature, than it could appoint an English or Irish bishop without the authority of Parliament; and, referring to the judgment in *Re Bishop of Natal*, he said that the Lord Chancellor had not there said that the Ceown has no power to assign a colonial bishop a diocese in the colonies, but only that the Crown cannot assign him a diocese there with a coercive jurisdiction. But it was not the coercive jurisdiction which constituted the diocese. He was therefore of opinion that the plaintiff was regally in possession of a see or diocese, and the defendants' argument that there was no legal identity between the colonial bishops and the bishops of England Wales and Ireland fell to the ground, and indeed he had come to the contrary conclusion, viz.: that if the colonial bishops had been decided to have a jurisdiction independent of the colonial civil tribunals, the identity which at present existed would soon cease to exist.

In respect of his *status*, then, the plaintiff was legally and validly constituted Bishop of Natal, and was entitled to his salary.

As regarded the argument from the intention of the contributors to the Colonial Bishopric Fund, his Lordship said that their intention, so far as was made plain to him, appeared to him to be rather furthered than prevented by the decision he had given Their intention appeared to be to secure uniformity of doctrine and discipline in the colonial churches, to the support of which they contributed; and also that the clergy and bishops of those churches should exercise and be subject to an effective jurisdiction.

These contibutors had expressed an opinion that the jurisdiction at present exercised by and over the bishops in the colonies was not *effective*, but such opinion was, he believed, founded on the misapprehension, he had been endeavouring to meet The jurisdiction in question was effective, provided it was legally exercised and administered according to the doctrine and discipline of the Church and the principles of justice. If so administered it would be carried into effect by the civil courts; if not, it was a nullity. He could not consider that the object of the contributors was to elevate the Church over the Sovereign, they must be taken to know the law that the Queen is the head of the Church. It might be doubted how far a lay tribunal was qualified to understand and fully appreciate the bearing and importance of religious questions, but he could not relieve the defendants from their contract on the ground that their ignorance that "the Sovereign is at the head of all causes ecclesiastical as well as civil."

Another reason for deciding in the plaintiff's favour was that it would be impossible now to restore the plaintiff to the position held by him in 1853, and the Court of Chancery would not annul a contract unless it was possible to restore all parties to their original situations. This would not apply to the next person who might be appointed Bishop of Natal, with whom a fresh contract would have to be made, the terms of which, express or implied, would bind the parties to it, but that had nothing to do with the plaintiff.

The result was that he must hold the plaintiff to be Bishop of Natal in every sense of the word, duly appointed and duly consecrated, and that he would remain bishop until he died or resigned, or until the letters patent appointing him were revoked, or until he should be in some manner lawfully deprived of his see. He did not mean to imply that that the plaintiff could not by any means be lawfully deprived of his see without the revocation of his letters patent; no doubt if he did not perform his part of the contract, viz., by performing the duties of a bishop by law established, such as teaching and superintending his flock, he could not compel payment of his salary; but the question whether the plaintiff had acted inconsisteutly with his duties, in short whether he had so far renounced the doctrines of the English Church as to have broken his side of the contract (for he would not affect to be ignorant that the charge of heresy against the plaintiff was the real reason for the institution of these proceedings); this question had not been raised, had it been raised he must have tried it if no other Court could have been found to do so by *scire facias* at common law or petition to the Sovereign, but as it was he had been compelled to consider the case on the assumption that the plaintiff was, as regarded moral charac-