religion and morality that each bishop should have a see or diocese assigned to him, wherein these functions should be exercised exclusively. Therefore even, if the plaintiff might in some sense be called a titular and not a territorial bishop, this made no essential difference; and so far as the powers of orders went there could be no dispute that the plaintiff was validly constituted Bishop of Capetown.

But it was contended that the *jurisdictio* of the plaintiff (his coercive jurisdiction) over the clergy of Natal, which the letters patent professed to give him, and also the jurisdiction of the Bishop of Capetown over the Bishop of Natal, which was also purported to be created by the letters patent, had been judged null and void by the Privy Council, and therefore the plaintiff had never possessed the legal *status* of a bishop. But this contention on the part of the defendants proceeded on a misunderstanding of the real point decided in the cases of *Long* v. *Bishop of Capetown* and *Bishop of Capetown* v. *Bishop of Natal*. It had been decided in these cases that the jurisdiction of the bishops in all colonies having an established Legislature, but not an established Church, must be subject to the civil jurisdiction in the colony, with an appeal to the Queen in Council. But this did not take away the episcopal jurisdiction. It left him the power of instituting to benefices of visiting all the clergy of the Church of England resident in his diocese, and inspecting their morals and of appointing dignitaries of his cathedral. The only limitation to his *jurisdictio* was this: that the power of enforcing obedience to his decrees and removing obstructions to the performance of his episcopal functions was not given him personally, but for these purposes he must have resource to the civil tribunal, and that tribunal would consider the question whether the decree attempted to be enforced by the bishop was consistent with the discipline of the Church of which he was a bishop, and with the principles of justice. The letters patent were inoperative in so far as they purported to give him such a personal power, and also as to the mode of procedure on appeal; for an appeal was decided to lie from the bishop to the civil tribunal in the colony, and thence to the Queen in Council; but he did not see how these details of procedure affected the *status* of the bishop or lessened his powers of *jurisdictio*.

His Lordship proceeded to show that the foundation of the error in the case of the defendant was a mistaken notion as to the position of the English colonial Church. That Church was not merely in union and communion with the Church at home, but formed part of it, and was a branch of it. No doubt the Churches in the colonies were voluntary associations, but this did not mean that they might adopt any ordinances or discipline they chose and still belong to the Church of England. The judicial committee had said that the Church of England established in the colonies was to be regarded "in the same situation with any other religious body, in no better, but in no worse position; and the members might adopt, as the members of any other communion might adopt, rules for enforcing discipline within their body, which would be binding on those who expressly, or by implication, assented to them." These words had created alarm; but they meant only that if any number of persons in England or in the dependencies associated themselves into a religious sect, the law would, in case of any dispute coming before the civil tribunal, first enquire what were the ordinances of that particular sect, and when these were ascertained as a matter of fact, obedience to those ordinances would be enforced. So that a body might, no doubt, agree to call themselves "in communion" with the Church of England, and at the same time agree to be subject to the jurisdiction of a metropolitan bishop; and in such a case, no doubt, the authority of such metropolitan would be binding on that body on account of this consent, but such a body would not form part of the Church of England, as the colonial Church of South Africa professed to do, and their doctrines and discipline might, in some respects, differ from those of the Church of England. When, however, as in this case, a number of persons voluntarily formed themselves into an association, and called themselves members of the Church of England, then they were bound by its doctrines and discipline, and the jurisdiction of its bishop would be upheld and enforced by the civil tribunals of the colony, which tribunals would consider first, as matter of evidence, what were the doctrines and discipline of the English Church; and, secondly, whether the particular orders of the bishop attempted to be enforced were in harmony with the laws and ordinances of the English Church. And it being a fundamental principle of the English Church that the Sovereign is head of the Church, it was impossible for persons voluntarily to associate themselves into a body professing to belong to the English Church, and not to submit their disputes to be decided on the same principles as in England. And in the colonies, where there was an independent Legislature, and where the statutes appointing certain ecclesiastical tribunals in England do not apply, this could only be done by having recourse to the ordinary civil courts of the colonies.

His Lordship proceeded to establish this principle which, as he said, lay at the root of the case, by referring at length to the words of the judgment in *Long* v. *Bishop of Capetown*. In that case it was held that Mr. Long had voluntarily bound himself to the doctrines and discipline of the Church of England, and that if the obedience required of him by the Bishop of Capetown had been obedience to the rules and ordinances of the Church of England, that obedience would have had to be enforced. But it was held that the commands of the bishop in that case were not in accordance with the discipline of the Church, and therefore Mr. Long was justified in resisting them. His Lordship also referred to *Dr. Warren's case*, where the Court, having ascertained that a religious society had agreed to be bound by Wesleyan ordinances, inquired no further, but decided that they must be held bound by the judgment of a Wesleyan conference and could not appeal to any other tribunal.

The result of the decision in the Privy Council as to the jurisdiction of the colonial bishops was not to decide that they had no jurisdiction and no tribunal, but merely that such jurisdiction was really consensual, and their tribunal a *forum*