

*The real position of the Church of England in the Colonies.*

In order satisfactorily to explain my meaning in this matter, it is necessary to point out what I consider to be the real position of the Church of England in these colonies. It is declared in the Judgement of the Judicial Committee that the Church of England in the colonies which have an established Legislature and no Church established by law is to be regarded in the light of a voluntary association, "in the same situation with any other religious body, in no better but in no worse position, and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body which will be binding on those who expressly or by implication have assented to them." These expressions have created some alarm, which has, it appears to me, arisen from an imperfect apprehension of what is meant by them. They do not mean, as some persons seem to have supposed, that because the members of such a Church constitute a voluntary association they may adopt any doctrines and ordinances they please, and still belong to the Church of England. All that really is meant by these words is, that where there is no State religion established by the Legislature in any colony, and in such a colony is found a number of persons who are members of the Church of England, and who establish a Church there with the doctrines, rites and ordinances of the Church of England, it is a part of the Church of England, and the members of it are, by implied agreement, bound by all its laws. In other words, the association is bound by the doctrines, rites, rules, and ordinances of the Church of England, except so far as any statutes may exist which (though relating to this subject) are confined in their operations to the limits of the United Kingdom of England and Ireland. Accordingly, upon reference to the civil tribunal in the event of any resistance to the order of the Bishop in any such colony, the Court would have to inquire, not what were the peculiar opinions of the persons associated together in the colony as members of the Church of England, but what were the doctrines and discipline of the Church of England itself, obedience to which doctrines and discipline the Court would have to enforce. This is the more important to be borne in mind, because it is the want of duly considering this that has given rise not only to much misapprehension on this subject, but also, as I conceive to still more serious results. The rule by which the courts are bound is this. If any number of persons, either in England or in any of its dependencies, associate themselves together, professing to follow a particular religion, not being the religion of the State, the Court must, when applied to, inquire into what the doctrines and discipline of that religion are, and must then enforce obedience to them accordingly. Thus, if they be Presbyterians, or Independents, or Wesleyans, or Baptists, or the like, the Court ascertained as a matter of fact, upon proper evidence, what the doctrines, ordinances, and rules are by which the particular sect of a religionists is bound, and enforces obedience to them accordingly. It is needless to cite authorities to establish this proposition. The books abound with decisions on the subject, all of the same character, many of which have been cited and referred to in the case of "*Long v. Bishop of Capetown*" and in the present case, and are familiar to every one conversant with this subject. Thus to apply that principle to the present case in illustration of the observations I am now making, and explanatory of the passage I have read from the judgment in "*Long v. Bishop of Capetown*," if a class of persons in one of the dependencies of the English Crown