Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Moore v. *The Bishop of Oxford, from the Consistory Court of the Diocese of Oxford; delivered the* 17*th March* 1904.

Present:

THE LORD CHANCELLOR.
LORD DAVEY.
LORD JAMES OF HEREFORD.
LORD ROBERTSON.
LORD LINDLEY.

Ecclesiastical Assessors:

THE ARCHBISHOP OF CANTERBURY.
THE BISHOP OF SOUTHWELL.
THE BISHOP OF RIPON.

[*Delivered by the Lord Chancellor.*]

THEIR Lordships are of opinion that the main charge in this case has broken down. The statements of the only witness who is relied upon for the purpose of proving the charge are, in the opinion of their Lordships, uncorroborated by any conduct, act, or proof, and the charge rests entirely upon the evidence of this witness, who is the accuser herself. Their Lordships do not think it necessary to consider more minutely the conduct of the witness, her account of the commencement of the relations between the Appellant and herself being such as probably no Court would accept, and one which, so far as their Lordships know, the Court below did not accept as true. All the Court below had to determine was whether or not immoral relations existed at any time, and in any circumstances, between the parties; and on that point their Lordships are

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unable to concur with the Consistory Court in thinking that there is any corroboration by the correspondence or otherwise in favour of the accusation which has been made. Apart from any technical rule upon the subject, it would be a most dangerous thing for any Court to allow an accusation of this sort to prevail when there is no corroboration; and probably no Court would be induced to do so. If that observation is true, speaking generally of an accusation of this character, it is certainly not rendered less important in this case by the fact of the witness giving an account of the commencement of the relations between herself and the accused clergyman, which (as has already been said) probably no Court would accept. Brought into contact with a stranger for the first time in her life she is ravished (according to her statement) almost instantly after being brought up into the room to inspect the repairs that had been made, and yet she made no complaint or real attempt to defend her chastity. According to her own account there was an act of violent connection with her repeated on four separate occasions, and though immediate assistance, or, at all events, opportunities of complaint were at hand, there was no loud cry for assistance on her part, no pretence of any such complaint. In those circumstances their Lordships think it impossible to confirm the finding that the evidence of the witness, uncorroborated as it is, and discredited by her own version of the transaction, can be accepted as conclusive against the clergyman whom she accuses.

With regard to the other charge, of having been "habitually guilty of swearing and ribaldry," there is a body of evidence relating to three or four occasions, which undoubtedly establishes (as the Court below has found) that on those occasions language was used which certainly

could not be defended, and the use of which would be disgraceful to anybody, whether clergyman or layman. But the question upon this part of the case is, whether the Defendant was, or was not, guilty of the charge made—and properly made—in pursuance of the Clergy Discipline Act, 1892, which speaks of a clergyman "alleged to have been guilty of any immoral act, immoral conduct, or immoral habit," the words "immoral habit" being the words contained in the charge. Where on occasions of considerable provocation words are used however discreditable and disgraceful to the person who used them—and certainly no words could be too severe in condemnation of language such as that found to have been used by the Appellant, even allowing for exaggeration in the views of some of the witnesses who used such words themselves, and attributed them to the Appellant—yet the question would still remain whether or not, the clergyman having been proved in circumstances of provocation to have used such words on three or four occasions in the course of three years, it is true to say that he is guilty of the offence contemplated by the Statute. The use of language of that sort can hardly be described as an "immoral act" in the sense in which that term is used in the Clergy Discipline Act. Immoral conduct and immoral habit are probably the same thing. What is charged—and in their Lordships' opinion properly charged in accordance with the Statute—is that the Appellant has "during the "past five years been guilty of offences against "the laws ecclesiastical (being offences against "morality within the meaning of the Clergy "Discipline Act, 1892) in that he had habitually "been guilty of swearing and ribaldry." Their Lordships certainly do not mean to give any countenance to the supposed innocence of the use of such words, even on special occasions of

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extraordinary provocation. As has been already said, no words are too severe to condemn such language. But the view their Lordships entertain is that the offence contemplated by the Statute,—namely, of being habitually guilty of swearing and ribaldry—is not made out. Even although the Appellant may have sometimes used such language, it is not established that he has been habitually guilty of such conduct. The evidence is spread over a period of three years, and the suggestion on the Appellant's behalf is that objectionable language was only used on rare occasions of great provocation.

Under these circumstances their Lordships are of opinion that the Appeal ought to be allowed with respect to both charges.

It is satisfactory to their Lordships to find that the views which they entertain are shared by the Most Reverend and Right Reverend Prelates who have been good enough to give them their assistance on this occasion.

Their Lordships desire to add that they entirely concur in the observation of the learned Counsel for the Appellant that, under the circumstances, the Bishop of Oxford could not have taken any other course in this case than that which he has pursued.

The result, therefore, is that their Lordships will humbly advise His Majesty to allow the Appeal, but under the circumstances their Lordships feel that it is not a case in which costs should be given, and there will, therefore, be no Order as to costs on either side, either before this Board or in the Court below.