

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Lecien v. Our Sovereign Lady the Queen, from the Supreme Court of Jamaica; delivered on the 8th July, 1867.*

Present:

LORD CAIRNS.

SIR WILLIAM ERLE.

SIR JAMES W. COLVILLE.

SIR EDWARD VAUGHAN WILLIAMS.

SIR RICHARD TORIN KINDERSLEY.

IN this case an application was made to Her Majesty, in the course of last year, for leave to appeal, and, upon the recommendation of their Lordships, Her Majesty was pleased, on the 6th of July, 1866, to make an Order, on the petition of the present Appellant, that he should have leave to appeal as he had prayed, without prejudice, however, to any objection that might be taken thereafter, on behalf of Her Majesty's Crown, to the jurisdiction of Her Majesty in Council in the matter.

At the time the petition of the Appellant was presented and this Order in Council was made, the Appellant was in prison under the sentence of which he complained. Since that time he has been released from prison,—released, as we understand, upon his own memorial,—and he has, by the remittal of his sentence, obtained all the substantial, even if not all the technical, benefits which would be conferred in this particular case by a free pardon.

Now, having regard to the principles upon which they have always acted when leave to appeal in criminal cases has been prayed for,—principles which were fully recognized in the case of *The Falkland Islands Company v. The Queen*, reported in 1 Moore's Privy Council Cases (new series),—their Lordships have no hesitation in saying that

if, at the time when the petition of the Appellant for leave to appeal was heard, the facts which now appear could have been made known to their Lordships, the leave to appeal which was given would not have been granted.

Their Lordships, therefore, having regard to the Order which was then made, and to the facts which now appear to be in existence, are clearly of opinion that no good purpose could be answered by entertaining the present appeal by hearing it further; they are of opinion, therefore, that, on this ground, and this ground alone, the appeal must be dismissed; but their Lordships will advise Her Majesty to make no order as to costs.



