CHAPTER 8.

An Act to provide for the Resignation of Deans and Canons. A.D. 1872.

[13th May 1872.]

WHEREAS it is expedient to provide for the relief of deans and canons who by reason of age or any mental or bodily infirmity may be permanently incapacitated from the due performance of their duties:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as "The Deans and Canons Resignation Act, 1872." Short title.

2. In this Act— Definitions:

"Dean" means a dean of a cathedral or collegiate church in England or Wales: "Dean:"

"Canon" means a canon or minor canon of a cathedral or collegiate church in England or Wales, but does not include an honorary canon: "Canon:"

"Bishop," in the case of the diocese of Canterbury, means the Archbishop of Canterbury, and in the case of the diocese of York means the Archbishop of York. "Bishop."

Resignation.

3. On a representation being made to the bishop of the diocese by any dean or canon that he is desirous of resigning his deanery or canonry by reason that he is incapacitated by age or some mental or permanent physical infirmity from the due performance of his duties, such bishop shall, if satisfied of the incapacity of the dean or canon by whom the representation is made, certify such incapacity, in writing under his hand, to Her Majesty, the archbishop, bishop, Provision for resignation of incapacitated deans and canons on application to bishop.

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body corporate, or person in whom the patronage of the deanery or canonry held by such dean or canon is vested, and from and after the date of such certificate such deanery or canonry shall be vacant, and such vacancy may be filled up in the same manner and with the same incidents in all respects as if such dean or canon were dead, with the exception following; that is to say,

There shall be paid, by the year, to the retiring dean or canon, by the treasurer or other proper officer of the chapter to which the dean or canon belongs, out of the income of the deanery or canonry, and as a first charge thereon in the hands of the successor, one third part of the income, calculated on an average of the three preceding years, received by the retiring dean or canon before his retirement on account of his deanery or canonry, such yearly sum to accrue due from day to day, but to be payable half-yearly: Provided that if the retiring dean or canon holds no other ecclesiastical preferment, such one third shall, in the case of a dean in England, if less than four hundred pounds a year, be made up to four hundred pounds a year; and in the case of a dean in Wales, if less than three hundred pounds a year, be made up to three hundred pounds a year; and in the case of a canon not being a minor canon in England, if less than two hundred and fifty pounds a year, be made up to two hundred and fifty pounds a year; and in the case of a canon not being a minor canon in Wales, if less than one hundred and seventy-five pounds a year, be made up to one hundred and seventy-five pounds a year.

Power to bishop to direct inquiry into incapacity of dean or canon.

4. When a representation has been made to a bishop by a dean or canon of his desire to resign, the bishop may, if he in his discretion thinks it expedient so to do for the purpose of satisfying himself of the incapacity of such dean or canon, direct an inquiry to be held into the existence of such incapacity by any number of persons not exceeding three, being beneficed clergymen, or holding a rank in the church higher than that of beneficed clergymen, and he may give or withhold his certificate according to the result of such inquiry.

The person or persons directed by the bishop to make an inquiry into the incapacity of a dean or canon shall give notice to such dean or canon of a time and place at which the inquiry will be made, and any person authorised by or on behalf of such dean or canon may attend the inquiry, and produce evidence and cross-examine the witnesses, and generally conduct the case on behalf of the dean or canon. The person or persons conducting the inquiry, or any of them, may administer an oath and may examine witnesses

on oath or not, in writing or orally, as he or they think expedient; and any person when examined as aforesaid who wilfully makes a false statement, whether on oath or not, shall be guilty of a misdemeanor. Any person refusing to give evidence when required, after a tender of his reasonable expenses, may be certified by any person or persons conducting such inquiry to have so refused to any judge of one of Her Majesty's superior courts of law or equity, and such judge may deal with such person in the same way as if he had refused to give evidence in a proceeding instituted in the court of which he is judge. A.D. 1872.

Special provision as to dean or canon found by process of law to be of unsound mind.

5. If any dean or canon has been found by due process of law to be a lunatic or of unsound mind, the bishop of the diocese may if he think fit grant a certificate of the incapacity of such dean or canon without any representation being made by him of such incapacity, and such certificate shall for the purposes of this Act have the same effect as if it had been granted in pursuance of a representation of incapacity made by the dean or canon: Provided that no such certificate shall be granted where the deanery or canonry held by the person so found to be a lunatic or of unsound mind is annexed to the headship of a college or professorship of any University so long as provision shall be made to the satisfaction of the bishop for performing the duties of the said deanery or canonry.

As to expenses of an inquiry if directed by bishop.

6. The reasonable expenses of any inquiry under this Act into the incapacity of a dean or canon shall be certified under the hands of any person or persons authorised to conduct the inquiry, and when so certified and approved by the bishop shall be defrayed out of the income of the retiring dean or canon.

Vacancy in deanery or canonry to create a vacancy in any annexed preferment.

7. Where any professorship, archdeaconry, headship, or other preferment, ecclesiastical or civil, is annexed to any deanery or canonry, or any deanery or canonry is annexed to any professorship, archdeaconry, headship, or other preferment, ecclesiastical or civil, the dean or canon retiring from his deanery or canonry in pursuance of this Act shall be deemed to have vacated also such professorship, archdeaconry, headship, or other preferment, and shall be entitled to be paid out of the income of such preferment, and as a first charge thereon in the hands of the successor, by the treasurer or other officer whose duty it is to pay such income, one third part of the income, calculated on an average of the three preceding years, received therefrom by the retiring dean or canon before his retirement on account of such preferment, such yearly sum to accrue due from day to day, but to be payable half-yearly: Provided, that where any such dean or canon would

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(if this Act had not passed, and he had vacated or become incapable of performing the duties of any such professorship, archdeaconry, headship, or other preferment,) have been entitled to any other payment in respect of such preferment than that to which he is entitled under this section, such payment shall be substituted for the one third awarded to him hereby.

Archbishop to act as bishop in case of certain collegiate churches.

8. All powers and duties by this Act vested in or imposed on the bishop of the diocese shall in the case of the dean and canons of the Queen's Free Chapel of Saint George within her Castle of Windsor, the dean and canons of Christchurch, Oxford, and the dean and canons of the collegiate church of Saint Peter, Westminster, vest in and be imposed on the Archbishop of Canterbury acting on behalf of Her Majesty.

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