CHAPTER 85.

An Act for the better administration of the Laws respecting the regulation of Public Worship. [7th August 1874.]

WHEREAS it is expedient that in certain cases further regulations should be made for the administration of the laws relating to the performance of divine service according to the use of the Church of England:

Be it 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:

1. This Act may be cited as The Public Worship Regulation Act, 1874. Short title.

2. This Act shall come into operation on the first day of July one thousand eight hundred and seventy-five, except where expressly herein-after provided. Commencement of Act.

3. This Act shall extend to that part of the United Kingdom called England, to the Channel Islands, and the Isle of Man. Extent of Act.

4. Proceedings taken under this Act shall not be deemed to be such proceedings as are mentioned in the Act of the third and fourth year of the reign of Her Majesty, chapter eighty-six, section twenty-three. Proceedings under this Act not to be deemed proceedings under 3 & 4 Vict. c. 86. s. 23.

5. Nothing in this Act contained, save as herein expressly provided, shall be construed to affect or repeal any jurisdiction which may now be in force for the due administration of ecclesiastical law. Saving of jurisdiction.

6. In this Act the following terms shall, if not inconsistent with the context, be thus interpreted— Interpretation of terms.

The term "bishop" means the archbishop or bishop of the diocese in which the church or burial ground is situate to which a representation relates: "Bishop."

The term "Book of Common Prayer" means the book annexed to the Act of the fourteenth year of the reign of King Charles the Second, chapter four, intituled "The "Book of Common Prayer, and Administration of the Sacraments, and other Rites "and Ceremonies of the Church, according to the use of the Church of England; "together with the Psalter or Psalms of David, pointed as they are to be sung or "said in churches; and the form or manner of making, ordaining, and consecrating "of Bishops, Priests, and Deacons;" together with such alterations as have from time to time been or may hereafter be made in the said book by lawful authority: "Book of Common Prayer."

The term "burial ground" means any churchyard, cemetery, or burial ground, or the part of any cemetery or burial ground, in which, at the burial of any corpse therein, the order for the burial of the dead contained in the Book of Common Prayer is directed by law to be used: "Burial ground."

The term "church" means any church, chapel, or place of public worship in which the incumbent is by law or by the terms of license from the bishop required to conduct divine service according to the Book of Common Prayer: "Church."

The term "diocese" means the diocese in which the church or burial ground is situate to which a representation relates, and comprehends all places which are situate within the limits of such diocese: "Diocese."

The term "incumbent" means the person or persons in holy orders legally responsible for the due performance of divine service in any church, or of the order for the burial of the dead in any burial ground: "Incumbent."

The term "parish" means any parish, ecclesiastical district, chapelry, or place, over which any incumbent has the exclusive cure of souls: "Parish."

The term "parishioner" means a male person of full age who before making any representation under this Act has transmitted to the bishop under his hand the declaration contained in Schedule (A.) to this Act, and who has, and for one year next before taking any proceeding under this Act has had, his usual place of abode in the parish "Parishioner."

within which the church or burial ground is situate, or for the use of which the burial ground is legally provided, to which the representation relates:

"Barrister-at-law." The term "barrister-at-law" shall in the Isle of Man include advocate:

"Rules and orders." The term "rules and orders" means the rules and orders framed under the provisions of this Act.

Appointment and duties of judge.

7. The Archbishop of Canterbury and the Archbishop of York may, but subject to the approval of Her Majesty to be signified under Her Sign Manual, appoint from time to time a barrister-at-law who has been in actual practice for ten years, or a person who has been a judge of one of the Superior Courts of Law or Equity, or of any court to which the jurisdiction of any such court has been or may hereafter be transferred by authority of Parliament, to be, during good behaviour, a judge of the Provincial Courts of Canterbury and York, herein-after called the judge.

If the said archbishops shall not, within six months after the passing of this Act, or within six months after the occurrence of any vacancy in the office, appoint the said judge, Her Majesty may by Letters Patent appoint some person, qualified as aforesaid, to be such judge.

Whensoever a vacancy shall occur in the office of official principal of the Arches Court of Canterbury, the judge shall become ex officio such official principal, and all proceedings thereafter taken before the judge in relation to matters arising within the province of Canterbury shall be deemed to be taken in the Arches Court of Canterbury; and whensoever a vacancy shall occur in the office of official principal or auditor of the Chancery Court of York, the judge shall become ex officio such official principal or auditor, and all proceedings thereafter taken before the judge in relation to matters arising within the province of York shall be deemed to be taken in the Chancery Court of York; and whensoever a vacancy shall occur in the office of Master of the Faculties to the Archbishop of Canterbury, such judge shall become ex officio such Master of the Faculties.

Every person appointed to be a judge under this Act shall be a member of the Church of England, and shall, before entering on his office, sign the declaration in Schedule (A.) to this Act; and if at any time any such judge shall cease to be a member of the Church, his office shall thereupon be vacant.

This section shall come into operation immediately after the passing of this Act.

Representation by archdeacon, churchwarden, parishioners, or inhabitants of diocese.

8. If the archdeacon of the archdeaconry, or a churchwarden of the parish, or any three parishioners of the parish, within which archdeaconry or parish any church or burial ground is situate, or for the use of any part of which any burial ground is legally provided, or in case of cathedral or collegiate churches, any three inhabitants of the diocese, being male persons of full age, who have signed and transmitted to the bishop under their hands the declaration contained in Schedule (A.) under this Act, and who have, and for one year next before taking any proceeding under this Act have had, their usual place of abode in the diocese within which the cathedral or collegiate church is situated, shall be of opinion,—

(1.) That in such church any alteration in or addition to the fabric, ornaments, or furniture thereof has been made without lawful authority, or that any decoration forbidden by law has been introduced into such church; or,

(2.) That the incumbent has within the preceding twelve months used or permitted to be used in such church or burial ground any unlawful ornament of the minister of the church, or neglected to use any prescribed ornament or vesture; or,

(3.) That the incumbent has within the preceding twelve months failed to observe, or to cause to be observed, the directions contained in the Book of Common Prayer relating to the performance, in such church or burial ground, of the services, rites, and ceremonies ordered by the said book, or has made or permitted to be made any unlawful addition to, alteration of, or omission from such services, rites, and ceremonies,—

such archdeacon, churchwarden, parishioners, or such inhabitants of the diocese, may, if he or they think fit, represent the same to the bishop, by sending to the bishop a form, as contained in Schedule (B.) to this Act, duly filled up and signed, and accompanied by a declaration made by him or them under the Act of the fifth and sixth year of the reign of

King William the Fourth, chapter sixty-two, affirming the truth of the statements contained in the representation: Provided, that no proceedings shall be taken under this Act as regards any alteration in or addition to the fabric of a church if such alteration or addition has been completed five years before the commencement of such proceedings.

Proceedings on representation.

9. Unless the bishop shall be of opinion, after considering the whole circumstances of the case, that proceedings should not be taken on the representation, (in which case he shall state in writing the reason for his opinion, and such statement shall be deposited in the registry of the diocese, and a copy thereof shall forthwith be transmitted to the person or some one of the persons who shall have made the representation, and to the person complained of, (he shall within twenty-one days after receiving the representation transmit a copy thereof to the person complained of, and shall require such person, and also the person making the representation, to state in writing within twenty-one days whether they are willing to submit to the directions of the bishop touching the matter of the said representation, without appeal; and, if they shall state their willingness to submit to the directions of the bishop without appeal, the bishop shall forthwith proceed to hear the matter of the representation in such manner as he shall think fit, and shall pronounce such judgment and issue such monition (if any) as he may think proper, and no appeal shall lie from such judgment or monition.

Provided, that no judgment so pronounced by the bishop shall be considered as finally deciding any question of law so that it may not be again raised by other parties.

The parties may, at any time after the making of a representation to the bishop, join in stating any questions arising in such proceedings in a special case signed by a barrister-at-law for the opinion of the judge, and the parties after signing and transmitting the same to the bishop may require it to be transmitted to the judge for hearing, and the judge shall hear and determine the question or questions arising thereon, and any judgment pronounced by the bishop shall be in conformity with such determination.

If the person making the representation and the person complained of shall not, within the time aforesaid, state their willingness to submit to the directions of the bishop, the bishop shall forthwith transmit the representation in the mode prescribed by the rules and orders to the archbishop of the province, and the archbishop shall forthwith require the judge to hear the matter of the representation at any place within the diocese or province, or in London or Westminster..

The judge shall give not less than twenty-eight days notice to the parties of the time and place at which he will proceed to hear the matter of the said representation. The judge before proceeding to give such notice shall require from the person making the representation such security for costs as the judge may think proper, such security to be given in the manner prescribed by the rules and orders.

The person complained of shall within twenty-one days after such notice transmit to the judge, and to the person making the representation, a succinct answer to the representation, and in default of such answer he shall be deemed to have denied the truth or relevancy of the representation.

In all proceedings before the judge under this Act the evidence shall be given vivâ voce, in open court, and upon oath; and the judge shall have the powers of a court of record, and may require and enforce the attendance of witnesses, and the production of evidences, books, or writings, in the like manner as a judge of one of the superior courts of law or equity, or of any court to which the jurisdiction of any such court has been or may hereafter be transferred by authority of Parliament.

Unless the parties shall both agree that the evidence shall be taken down by a shorthand writer, and that a special case shall not be stated, the judge shall state the facts proved before him in the form of a special case, similar to a special case stated under the Common Law Procedure Acts, 1852–1854.

The judge shall pronounce judgment on the matter of the representation, and shall deliver to the parties, on application, and to the bishop, a copy of the special case, if any, and judgment.

The judge shall issue such monition (if any) and make such order as to costs as the judgment shall require.

Upon every judgment of the judge, or monition issued in accordance therewith, an appeal shall lie, in the form prescribed by rules and orders, to Her Majesty in Council.

The judge may, on application in any case, suspend the execution of such monition pending an appeal, if he shall think fit.

Registrar of the diocese to perform duties under the Act.

10. The registrar of the diocese, or his deputy duly appointed, shall perform such duties in relation to this Act and shall receive such fees as may be prescribed by the rules and orders.

Parties may appear in person or by counsel, &c.

11. In any proceedings under this Act either party may appear either by himself in person or by counsel, or by any proctor or any attorney or solicitor.

No fresh evidence to be admitted on appeal.

12. For the purpose of an appeal to Her Majesty in Council under this Act, the special case settled by the judge, or a copy of the shorthand writer's notes, as the case may be, shall be transmitted in the manner prescribed by rules and orders, and no fresh evidence shall be admitted upon appeal except by the permission of the tribunal hearing the appeal.

Inhibition of incumbent.

13. Obedience by an incumbent to a monition or order of the bishop or judge, as the case may be, shall be enforced, if necessary, in the manner prescribed by rules and orders, by an order inhibiting the incumbent from performing any service of the church, or otherwise exercising the cure of souls within the diocese for a term not exceeding three months; provided that at the expiration of such term the inhibition shall not be relaxed until the incumbent shall, by writing under his hand, in the form prescribed by the rules and orders, undertake to pay due obedience to such monition or order, or to the part thereof which shall not have been annulled; provided that if such inhibition shall remain in force for more than three years from the date of the issuing of the monition, or from the final determination of an appeal therefrom, whichever shall last happen, or if a second inhibition in regard to the same monition shall be issued within three years from the relaxation of an inhibition, any benefice or other ecclesiastical preferment held by the incumbent in the parish in which the church or burial ground is situate, or for the use of which the burial ground is legally provided, in relation to which church or burial ground such monition has been issued as aforesaid, shall thereupon become void, unless the bishop shall, for some special reason stated by him in writing, postpone for a period not exceeding three months the date at which, unless such inhibition be relaxed, such benefice or other ecclesiastical preferment shall become void as aforesaid; and upon any such avoidance it shall be lawful for the patron of such benefice or other ecclesiastical preferment to appoint, present, collate, or nominate to the same as if such incumbent were dead; and the provisions contained in the Act of the first and second year of the reign of Her Majesty, chapter one hundred and six, section fifty-eight, in reference to notice to the patron and as to lapse, shall be applicable to any benefice or other ecclesiastical preferment avoided under this Act; and it shall not be lawful for the patron at any time to appoint, present, collate, or nominate to such benefice or such other ecclesiastical preferment the incumbent by whom the same was avoided under this Act.

The bishop may, during such inhibition, unless he is satisfied that due provision is otherwise made for the spiritual charge of the parish, make due provision for the service of the church and the cure of souls, and it shall be lawful for the bishop to raise the sum required from time to time for such provision by sequestration of the profits of such benefice or other ecclesiastical preferment.

Any question as to whether a monition or order given or issued after proceedings before the bishop or judge, as the case may be, has or has not been obeyed shall be determined by the bishop or the judge, and any proceedings to enforce obedience to such monition or order shall be taken by direction of the judge.

Faculty not necessary in certain cases.

14. It shall not be necessary to obtain a faculty from the ordinary in order lawfully to obey any monition issued under this Act, and if the judge shall direct in any monition that a faculty shall be applied for, such fees only shall be paid for such faculty as may be directed by the rules and orders; provided that nothing in this Act contained shall be construed to limit or control the discretion vested by law in the ordinary as to

the grant or refusal of a faculty: Provided also, that a faculty shall, on application, be granted, if unopposed, on payment of such a fee (not exceeding two guineas) as shall be prescribed by the rules and orders, in respect of any alteration in or addition to the fabric of any church, or in respect of any ornaments or furniture, not being contrary to law, made or existing in any church at the time of the passing of this Act.

Service of notices.

15. All notices and other documents directed to be given to any person under this Act shall be given in the manner prescribed by rules and orders.

Substitute for bishop when patron, or in case of illness.

16. If any bishop shall be patron of the benefice or of any ecclesiastical preferment held by the incumbent respecting whom a representation shall have been made, or shall be unable from illness to discharge any of the duties imposed upon him by this Act in regard to any representation, the archbishop of the province shall act in the place of such bishop in all matters thereafter arising in relation to such representation; and if any archbishop shall be patron of the benefice or of any ecclesiastical preferment held by the incumbent respecting whom a representation shall have been made, or shall be unable from illness to discharge any of the duties imposed upon him by this Act in regard to any representation, Her Majesty may, by Her Sign Manual, appoint an archbishop or bishop to act in the place of such archbishop in all matters thereafter arising in relation to such representation.

Provisions relating to cathedral or collegiate church.

17. The duties appointed under this Act to be performed by the bishop of the diocese shall in the case of a cathedral or collegiate church be performed by the visitor thereof.

If any complaint shall be made concerning the fabric, ornaments, furniture, or decorations of a cathedral or collegiate church, the person complained of shall be the dean and chapter of such cathedral or collegiate church, and in the event of obedience not being rendered to a monition relating to the fabric, ornaments, furniture, or decorations of such cathedral or collegiate church, the visitor, or the judge, as the case may be, shall have power to carry into effect the directions contained in such monition, and, if necessary, to raise the sum required to defray the cost thereof by sequestration of the profits of the preferments held in such cathedral or collegiate church by the dean and chapter thereof.

If any complaint shall be made concerning the ornaments of the minister in a cathedral or collegiate church, or as to the observance therein of the directions contained in the Book of Common Prayer, relating to the performance of the services, rites, and ceremonies ordered by the said book, or as to any alleged addition to, alteration of, or omission from such services, rites, and ceremonies in such cathedral or collegiate church, the person complained of shall be the clerk in holy orders alleged to have offended in the matter complained of; and the visitor or the judge, as the case may be, in the event of obedience not being rendered to a monition, shall have the same power as to inhibition, and the preferment held in such cathedral or collegiate church by the person complained of shall be subject to the same conditions as to avoidance, notice, and lapse, and as to any subsequent appointment, presentation, collation, or nomination thereto, and as to due provision being made for the performance of the duties of such person, as are contained in this Act concerning an incumbent to whom a monition has been issued, and concerning any benefice or other ecclesiastical preferment held by such incumbent.

Limitation of proceedings against incumbent.

18. When a sentence has been pronounced by consent, or any suit or proceeding has been commenced against any incumbent under the Act of the third and fourth year of the reign of Her Majesty, chapter eighty-six, he shall not be liable to proceedings under this Act in respect of the same matter; and no incumbent proceeded against under this Act shall be liable to proceedings under the said Act of the third and fourth year of the reign of Her Majesty, in respect of any matter upon which judgment has been pronounced under this Act.

Rules for settling procedure and fees under this Act.

19. Her Majesty may by Order in Council, at any time either before or after the commencement of this Act, by and with the advice of the Lord High Chancellor, the Lord Chief Justice of England, the judge to be appointed under this Act, and the archbishops and bishops who are members of Her Majesty's Privy Council, or any two of

the said persons, one of them being the Lord High Chancellor or the Lord Chief Justice of England, cause rules and orders to be made for regulating the procedure and settling the fees to be taken in proceedings under this Act, so far as the same may not be expressly regulated by this Act, and from time to time alter or amend such rules and orders. All rules and orders made in pursuance of this section shall be laid before each House of Parliament within forty days after the same are made, if Parliament is then sitting, or if not, within forty days after the then next meeting of Parliament; and if an address is presented to Her Majesty by either of the said Houses within the next subsequent forty days on which the House shall have sat praying that any such rules may be annulled, Her Majesty may thereupon by Order in Council annul the same, and the rules and orders so annulled shall thenceforth become void, without prejudice to the validity of any proceedings already taken under the same.

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

I do hereby solemnly declare that I am a member of the Church of England as by law established.

Witness my hand this day of

SCHEDULE (B.)

"PUBLIC WORSHIP REGULATION ACT, 1874."

To the Right Rev. Father in God, *A.*, by Divine permission Lord Bishop of *B.*

I, [We,] *C.D.*, Archdeacon of the archdeaconry of , [*or* a churchwarden *or* three parishioners of the parish of *E.*,] in your Lordship's diocese, do hereby represent that [*the person or persons complained of*] has or have [*state the matter to be represented; if more than one, then under separate heads*].

Dated this day of 18 .

(Signed) *C.D.*

CHAPTER 86.

An Act to amend the Law relating to the Irish Reproductive Loan Fund.

[7th August 1874.]

WHEREAS in the year one thousand eight hundred and twenty-two a large sum of money was subscribed in England for the purpose of relieving the distress arising from scarcity of food in Ireland, and the residue of such sum after affording relief in such distress, under the name of the "Irish Reproductive Loan Fund," was vested in a charitable association called the "Irish Reproductive Loan Fund Institution," to be held by them on trust to lend the same at interest to the industrious poor in the ten counties of Clare, Cork, Galway, Kerry, Leitrim, Limerick, Mayo, Roscommon, Sligo, and Tipperary, in Ireland, certain proportions of the said fund being appropriated to each of the said counties:

11 & 12 Vict. c. 115.

And whereas in the year one thousand eight hundred and forty-eight, by an Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter one hundred and fifteen, intituled "An Act to vest in Her Majesty the property of the