'ing such Person, and that he shall be rejected accordingly, 'and certain Regulations were passed for carrying the said 'Instructions into effect: And whereas it has been found by 'final Judgment of the Court of Session, affirmed by the House 'of Lords, that a Presbytery, acting in pursuance of said Act 'of Assembly and Regulations, refusing to take Trial of the 'Qualifications of a Presentee, and rejecting him on the sole 'Ground that a Majority of the Male Heads of Families Com-'municants in the said Parish have dissented, without any 'Reasons assigned, from his Admission as Minister, acted 'illegally and in violation of their Duty, and contrary to the 'Provisions of certain Statutes of the Realm, and particularly 'the Statute of the Tenth Year of Queen *Anne*, Chapter 'Twelve, intituled *An Act to restore Patrons to their ancient* 10 Ann. c. 12. '*Rights of presenting Ministers to the Churches vacant in that* '*Part of* Great Britain *called* Scotland: And whereas in some 'Instances a Presentee has, in pursuance of the said Act of 'Assembly and Regulations relative thereto, been rejected by 'a Presbytery because of the Dissents of Male Heads of Fami-'lies Communicants, and a Presentation has thereafter been 'issued in favour of a second or subsequent Presentee, who has 'been settled in the same Benefice, and whose Settlement 'therein and Right thereto have not been questioned in any 'Court of Law: And whereas it is expedient that such Settle-'ment in and Right to the Benefice should be secured and 'protected from future Challenge on the Ground of the In-'competency of the Rejection of the first or prior Presentee;' be it enacted, That it shall not be competent to challenge the Settlement or Right to the Benefice of any such second or subsequent Presentee, or to maintain any Proceedings at Law against the Presbytery or Ministers thereof, or other Parties, on account of such Rejection, unless such Challenge or Pro-ceedings shall have been instituted by Action raised in a Court of Law before the First Day of *May* last.

## CAP. LXII.

### An Act to provide for the Performance of the Episcopal Functions in case of the Incapacity of any Bishop or Archbishop. [22d *August* 1843.]

'WHEREAS it is expedient to make Provision for the 'Performance of the Functions of any Bishop or Arch-'bishop who shall be incapable of duly exercising them in 'Person:' 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 Parlia-ment assembled, and by the Authority of the same, That when-ever any Archbishop of *England* or *Ireland* shall have Reason to believe that any Bishop of his Province is incapable by reason of mental Infirmity of duly performing his Episcopal Functions, it Commission of Inquiry.

it shall be lawful for such Archbishop to give a Notice under his Hand to such Bishop, that unless within Fourteen Days from the Service thereof satisfactory Cause to the contrary be shown by or on behalf of such Bishop the said Archbishop will issue a Commission to inquire into the State of the mental Capacity of the said Bishop, and if within Fourteen Days from the Service of such Notice Cause to the contrary be not shown to the Satisfaction of the Archbishop, it shall be lawful for such Archbishop to issue a Commission to Three Persons being Members of the United Church of *England* and *Ireland*, one of whom shall be his Vicar General, and another one of the Bishops of the Province, to inquire into the Facts of the Case: Provided always, that the aforesaid Notice shall be served by leaving a Copy thereof with the Bishop or his Secretary.

Attendance of Witnesses may be compelled.

II. And be it enacted, That it shall be lawful in any such Inquiry for any Two or more of the Commissioners to require the Attendance of such Witnesses as may be necessary; and such Commissioners respectively shall have the same Powers for this Purpose as now belong to the Consistorial Court and to the Court of Arches respectively.

Proceedings of the Commissioners.

III. And be it enacted, That it shall be lawful for the said Commissioners to examine upon Oath, or upon solemn Affirmation in Cases where an Affirmation is allowed by Law instead of an Oath, all Witnesses whom they may deem it necessary to summon for the Purpose of fully prosecuting the Inquiry, as well as all Witnesses tendered to them for Examination by or on behalf of the Bishop concerning whom the Inquiry is pending; and Notice of the Time and Place at which the First Meeting of the Commissioners shall be holden for the Purpose of prosecuting the Inquiry shall be given in Writing, under the Hand of One of the said Commissioners, to the Bishop, and shall be served upon him by leaving one Copy thereof with the Bishop or his Secretary, and another Copy thereof with the Registrar of his Diocese, Fourteen Days at least before the Meeting; and it shall be lawful for the said Bishop, and his nearest Friend or One of his next of Kin, or his or their Counsel, Proctor, or Agent, to attend the Proceedings of the Commission, and to examine any of the Witnesses; and all such Proceedings shall be public, unless, on the special Application of the Bishop or his nearest Friend, or any One or more of his next of Kin, the Commissioners shall think fit to direct that the same or any Part thereof shall be private; and every such Oath or Affirmation shall be administered by the said Commissioners, or One of them: Provided always, that at the Request or with the Consent of the Bishop or his nearest Friend, or any One or more of his next of Kin, it shall be lawful for the Commissioners to take Evidence upon Affidavit to be sworn before One of the said Commissioners or a Master in Chancery: Provided also, that the said Commissioners shall not direct the Proceedings or any Part thereof to be in private, nor shall take Evidence upon Affidavit, if the Bishop, or his Counsel, Proctor, or Agent, object thereto.

IV. And

IV. And be it enacted, That every Witness who shall be examined in pursuance of this Act by or before the said Commissioners, and who shall wilfully swear or affirm falsely, and also every Person who shall swear to the Contents of any such Affidavit knowing the same or any Part thereof to be untrue, shall be deemed guilty of Perjury. Witnesses giving false Evidence guilty of Perjury.

V. And be it enacted, That the said Commissioners, or any Two of them, shall transmit to the Archbishop under their Hands and Seals the Depositions of Witnesses taken before them, and all such Affidavits, and also a Report of the Opinion of the Majority of the Commissioners whether or not the Bishop is incapable by reason of mental Infirmity of duly performing his Episcopal Functions, and such Report shall be filed in the Registry of the Diocese; and the Commissioners shall also, upon the Application of the Bishop or of his nearest Friend, or any One or more of his next of Kin, or his or their Counsel, Proctor, or Agent, cause to be delivered to such Party a Copy of the said Report and the Depositions and Affidavits. Report of the Commissioners.

VI. And be it enacted, That all the Expences of such Inquiry shall be certified under the Hands of Two of the said Commissioners, and, when allowed by the Archbishop by whom the Commission shall have been issued, shall be defrayed out of the Revenues of the Bishoprick. For defraying the Expences of the Inquiry.

VII. And be it enacted, That the like Proceedings shall be had in the Case of like Infirmity of any Archbishop of the Realm: Provided always, that in such Case all things hereinbefore required to be done by or with respect to the Archbishop of the Province shall be done by and with respect to the Lord High Chancellor of *Great Britain*, or the Lord High Chancellor of *Ireland*, accordingly as the Archbishop concerning whom the Inquiry is to be made is of *England* or *Ireland*; and of the Three Persons being Members of the United Church of *England* and *Ireland* to be appointed Commissioners, one shall be a Bishop of the Province, another shall be the other Archbishop of *England* or of *Ireland* respectively, as the Case may be, and if the Commission shall be issued by the Lord High Chancellor of *Great Britain* the Third Commissioner shall be the Master of the Rolls or One of the Vice Chancellors of *England*, and if the Commission shall be issued by the Lord Chancellor of *Ireland* the Third Commissioner shall be the Master of the Rolls or One of the Barons of the Exchequer of *Ireland*; and in every such Case the Report of the Commissioners shall be filed in the Registry of the Province; and the Expences of the Inquiry, when allowed by the Lord Chancellor by whom the Commission shall have been issued, shall be defrayed out of the Revenues of the Archbishoprick. The like Proceedings in the Case of an Archbishop.

VIII. And be it enacted, That every Commissioner to be appointed by virtue of this Act shall, at or before the First Meeting of the Commissioners for the Purpose of prosecuting the Inquiry, take before the Archbishop or Lord Chancellor Commissioners to be sworn.

issuing such Commission, or before a Master Extraordinary in Chancery, the following Oath; (that is to say,)

'I do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Knowledge, execute the several Powers and Trusts reposed in me under a Commission of Inquiry issued by relating to the Capacity of [ Lord Bishop *or* Archbishop of ] duly to perform his [Episcopal *or* Archiepiscopal] Functions, and that without Favour or Affection, Prejudice or Malice. So help me GOD.'

Petition to Her Majesty or Lord Lieutenant of Ireland in Council.

IX. And be it enacted, That at any Time before the Expiration of Twenty-eight Days after the filing of the Report of the Commissioners in the Registry of the Diocese or Province, as the Case may be, it shall be lawful for the Bishop or Archbishop concerning whom such Inquiry shall have been made, or for his nearest Friend, or any One or more of his next of Kin, or his or their Counsel, Proctor, or Agent, to present a Petition to Her Majesty in Council, or to the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the Time being in Council, praying that no such Letters Patent as are hereafter mentioned may be issued; and at the same Time to lodge with the Clerk of the Council an Office Copy of the Report of the Commissioners, and of the Depositions and Affidavits whereon the same is founded; and the Matter of such Petition shall be heard or considered on such Report, Depositions, and Affidavits in *England* before the Judicial Committee of the Privy Council, in case Her Majesty shall be pleased to refer it to the said Committee, and in *Ireland* before the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the Time being in Council; and a Copy of the Order in Council, containing the Decision in the Matter of such Petition, shall, by the Clerk of the Council, be transmitted to the Registry of the Diocese or Province, as the Case may be, and shall be there filed.

Episcopal Members of Judicial Committee.

X. And be it enacted, That every Archbishop and Bishop of the United Church of *England* and *Ireland* who now is or at any Time hereafter shall be sworn of Her Majesty's Most Honourable Privy Council in *England* shall be a Member of the Judicial Committee of the Privy Council for the Purposes of this Act.

Appointment of a Bishop to perform the Episcopal Functions;

XI. And be it enacted, That whenever it shall appear to the Archbishop or Lord Chancellor, as the Case may be, on the Report of the said Commissioners, that the Bishop or Archbishop concerning whom the Inquiry has been made is incapable by reason of mental Infirmity of duly performing his Episcopal or Archiepiscopal Functions, it shall be lawful for such Archbishop or Lord Chancellor after the Expiration of the said Period of Twenty-eight Days, or in case any such Petition as aforesaid shall be presented within such Period of Twenty-eight Days, then at any Time after the Prayer thereof shall have been pronounced against or abandoned, to make Request to Her Majesty for Remedy thereof, and thereupon it shall

shall be lawful for Her Majesty, by Letters Patent under the Great Seal of *Great Britain* or the Great Seal of *Ireland*, as the Case may be, to appoint One of the Bishops of the same Province, being a Bishop of *England* or *Ireland*, and not being One of the Commissioners aforesaid, to exercise all the Functions and Powers, as well with regard to the Temporalities as the Spiritualities, of the Bishop or Archbishop so found to have become incapable; and in case of the Death or Incapacity, Deprivation or Suspension of the Bishop so appointed, or in case Her Majesty shall, on the Petition of such Bishop, be pleased to relieve him from the further Exercise of such Functions and Powers, it shall be lawful for Her Majesty in like Manner to appoint another such Bishop, and so as often as the Case shall happen; and it shall be lawful for the Bishop so appointed, and the Archbishop or Lord Chancellor (as the Case may be) by whom the Commission aforesaid was issued, or any Successor of such Archbishop or Lord Chancellor, by an Instrument in Writing under their Hands and Seals, jointly to commission and appoint a Spiritual Person to assist in the Administration of the Temporalities of the See, and in such Matters of Jurisdiction of the See or Province of the Bishop or Archbishop so found to have become incapable as shall and may be lawfully committed to him, which Spiritual Person shall give to the Bishop and to the Archbishop or Lord Chancellor by whom he shall be appointed a Bond, with sufficient Surety in a sufficient Sum, with a Condition for his duly accounting for the Monies which may come to his Hands by virtue of his Office; and it shall be lawful for the Bishop so appointed, and the same or any succeeding Archbishop or Lord Chancellor, at their Pleasure, to revoke and cancel such Appointment, and in any such Case, or upon the Death or Resignation of such Spiritual Person, in like Manner to commission and appoint another Spiritual Person, on his giving such Security as before mentioned, and so from Time to Time as often as the Case shall happen; and all things done by virtue of this Act within the Limits of his Authority by any such Bishop or Spiritual Person shall be done in the Name of the Bishop or Archbishop so found to have become incapable, and under the Seal of such Bishop or Archbishop where a Seal is required to be used, and shall be as valid as if done by such Archbishop or Bishop; and the Receipt of the Bishop or Spiritual Person, so appointed as aforesaid, for such Sums as he shall receive by virtue of his Commission, shall be good and effectual Discharges for the Monies which in such Receipts shall be acknowledged to have been received: Provided always, that it shall not be lawful for such Bishop or Spiritual Person to present, collate, nominate, or license any Clerk to any Ecclesiastical Benefice in the Gift or Patronage of the Bishop or Archbishop so found to be incapable, or to sanction the Union or Disunion of any Benefice in such Gift or Patronage with or from any other Benefice, without the Approval of the Archbishop or Lord Chancellor by whom the Commission was

and of a Spiritual Person to assist in the Administration of the Temporalities.

Proviso.

issued, or, without the like Approval, to appoint or displace any Officer of the See or Province; and that no Lease, or Deed of Conveyance, Exchange, or Enfranchisement, of any Lands or Possessions belonging to the See or Province, to be executed by any Bishop or Spiritual Person appointed as aforesaid, shall be valid unless approved and executed by the Archbishop of the Province, or, in case of the Incapacity of the Archbishop, by the Lord Chancellor of *Great Britain* or the Lord Chancellor of *Ireland*, as the Case may be, and in each Case sealed also with the Seal of the Ecclesiastical Commissioners for *England* or of the Ecclesiastical Commissioners for *Ireland*, as the Case may be.

Power to recover Revenues.

XII. And be it enacted, That the Bishop and the Spiritual Person to be appointed by virtue of this Act shall, for the Purpose of enforcing Payment of the Revenues of the See of the Bishop or Archbishop found to have become incapable, severally have all the same legal Rights, Powers, and Remedies, whether by Action, Suit, or Distress, as the Case may be, as might have been exercised by the said Bishop or Archbishop if no Commission had been issued: Provided always, that neither such Bishop or Spiritual Person shall be accountable for any Monies which may be payable to either of them by virtue of this Act which shall not have been actually received by them respectively.

Allowance to the Spiritual Person so appointed.

XIII. And be it enacted, That it shall be lawful for Her Majesty to assign to the Spiritual Person to be appointed as aforesaid a yearly Allowance, not exceeding One Sixth Part of the Revenues of the Bishoprick or Archbishoprick, such as to Her Majesty shall seem fit, which shall be defrayed out of the Revenues of the Bishoprick or Archbishoprick; and such Spiritual Person shall also, out of such Revenues, defray and reimburse to the Bishop to be appointed as aforesaid all Expences incurred by him in the Execution of this Act, such Expences being first allowed by the Archbishop or Lord Chancellor, as the Case may be; and that the Remainder of the said Revenues, after such Payments as aforesaid, and such other Payments (if any) as shall be made by the Bishop or the Spiritual Person who shall be appointed by virtue of this Act, in respect of Rates, Taxes, Tenths, Salaries, Pensions, Repairs, Insurances from Fire, and other Expences incident to the Administration of the Temporalities, or to the Exercise of the Jurisdiction of the Bishop or Archbishop so found to be incapable, shall be paid to such Bishop or Archbishop, or to such other Person or Persons as shall be by Law entitled to receive the same.

Reimbursement to the Bishop.

Remainder of Revenues how to be paid.

A Finding under a Writ De lunatico inquirendo to stand in the Place of a Report of the Commissioners.

XIV. And be it enacted, That if at any Time hereafter any Bishop or Archbishop shall have been found a Lunatic or of unsound Mind under any Commission in the Nature of a Writ De lunatico inquirendo, and if the Inquisition shall not have been quashed or the Commission superseded, it shall be lawful for the Archbishop of the Province or Lord Chancellor, as the Case may be, without further or other Inquiry, to make Request

Request to Her Majesty as on the Report of Commissioners appointed under this Act; and such Request shall be to all Intents and Purposes whatsoever of the same Force and Effect as a Request made on such Report as aforesaid.

Provision in case of the Recovery or Death of the Bishop or Archbishop.

XV. Provided always, and be it enacted, That it shall be lawful for Her Majesty, with the Advice of Her Privy Council, upon a Petition from the Bishop or Archbishop so found to be incapable, a Lunatic, or of unsound Mind, setting forth that such Incapacity, Lunacy, or Unsoundness of Mind hath ceased, to cause Inquiry to be made in such Manner as to Her Majesty, with the Advice aforesaid, shall seem fit; and if upon such Inquiry it shall appear to Her Majesty that such Incapacity, Lunacy, or Unsoundness of Mind hath ceased, and that such Bishop or Archbishop hath become capable of again duly performing his Episcopal or Archiepiscopal Functions, it shall be lawful for Her Majesty, by Letters Patent under the Great Seal of *Great Britain* or *Ireland*, as the Case may be, to supersede and annul the Letters Patent so first issued; and thenceforward, and also in case of the Death of the Bishop or Archbishop so found to be incapable, all Powers and Authorities vested in any other Bishop or Spiritual Person on behalf of such Bishop or Archbishop shall cease.

Act may be amended, &c.

XVI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

## CAP. LXIII.

### An Act for granting Relief to the Islands of *Antigua*, *Saint Kitts*, *Nevis*, *Dominica*, and *Montserrat*. [22d *August* 1843.]

'WHEREAS, in consideration of the heavy Losses both of public and private Property which have been caused by Earthquakes in the Islands of *Antigua*, *Saint Kitts*, *Nevis*, *Dominica*, and *Montserrat*, it is expedient that Her Majesty should be empowered to make Advances of Money to the Legislatures of the said Islands for the immediate Relief of the Inhabitants thereof:' 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, That it shall be lawful for the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland* to cause any Number of Exchequer Bills to be made out at the Receipt of the Exchequer at *Westminster* for any Sum or Sums of Money not exceeding in the whole the Sum of One hundred and fifty thousand Pounds, in like Manner as is prescribed in an Act passed in the Forty-eighth Year of the Reign of King *George* the Third, intituled *An Act for regulating the issuing and paying off of Exchequer Bills*, and in another Act passed in the Fourth Year of the Reign of His late Majesty, intituled *An*

Authorizing Issue of Exchequer Bills.

48 G. 3. c. 1.

4 & 5 W. 4. c. 15.