CHAP. 111.

An Act for the relief of Archbishops and Bishops when incapacitated by infirmity. [11th August 1869.] A.D. 1869.

WHEREAS it is expedient to provide for the relief of archbishops and bishops who by reason of age or any mental or bodily infirmity may be permanently incapacitated from the due performance of their episcopal 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 Bishops Resignation Act, 1869." Short title.

Resignation.

2. On a representation being made to Her Majesty, in manner herein-after mentioned, that any archbishop or bishop in England is desirous of resigning his archbishopric or bishopric by reason that he is incapacitated by age or some mental or permanent physical infirmity from the due performance of his duties as archbishop or bishop, it shall be lawful for Her Majesty, if satisfied of such incapacity, and that such archbishop or bishop has canonically resigned, by Order in Council to declare such archbishopric or bishopric to be vacant, and thereupon such vacancy may be filled up in the same manner and with the same incidents in all respects as if such archbishop or bishop were dead, with the exceptions following; that is to say, As to resignation of bishops.

(1.) There shall be paid, by the year, to the retiring archbishop or bishop, out of the revenue of the archbishopric or bishopric, and as a first charge thereon in the hands of the successor, such one of the two sums herein-after mentioned as may be the greater, that is to say, one third

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part of the income enjoyed by the retiring archbishop or bishop before his retirement, or two thousand pounds; such yearly sums to accrue due from day to day, but to be payable half-yearly: Provided that if in the case of the retirement of any bishop appointed before the year one thousand eight hundred and thirty-two such retiring allowance shall exceed the sum of two thousand pounds, the excess shall be paid by the Ecclesiastical Commissioners for England out of their common fund:

(2.) Her Majesty may, upon special grounds, by the Order in Council declaring the archbishopric or bishopric to be vacant, or by any subsequent Order in Council, assign to the retiring archbishop or bishop, for his residence during his life, any episcopal residence hitherto occupied by him.

(3.) With the exception of the necessary expenses of his election and consecration, an archbishop or bishop succeeding to a retiring archbishop or bishop in pursuance of this section, shall not be required to pay the fees and charges usually payable on accession to an archbishopric or bishopric until the death of the retiring archbishop or bishop.

For the purposes of this section a representation shall be made to Her Majesty, in the case of a bishop desirous of resigning, by the archbishop of the province at the instance of the bishop, and in the case of an archbishop by such archbishop himself.

Bishops Coadjutor.

Proceedings to prove the incapacity of a bishop.

3. If it appears to any archbishop on credible evidence that any bishop within his province is incapacitated by reason of permanent mental infirmity from the due performance of his episcopal duties, he shall call to his aid two bishops of his province, and such archbishop and bishops shall inquire into the existence of such incapacity, and if satisfied thereof shall certify under their hands and seals the fact to one of Her Majesty's Principal Secretaries of State, together with the evidence on which their certificate is founded.

Appointment of bishop coadjutor.

4. Upon the receipt of such certificate it shall be lawful for Her Majesty to grant to the dean and chapter of the diocese a licence to proceed to the election of a bishop coadjutor, accompanied by a letter missive from Her Majesty containing the name of the person whom Her Majesty may desire to be appointed bishop coadjutor of

the diocese to which the bishop certified to be incapacitated belongs, and the dean and chapter shall thereupon proceed in reference to the election of the person named as bishop coadjutor in the same manner in all respects as if a licence had been granted to them to proceed to the election of a bishop, accompanied by the usual letter missive, and the person named as bishop coadjutor, when so elected, shall be confirmed and consecrated a bishop in like manner as if the bishopric of the incapacitated bishop were vacant.

Relative positions of bishop and bishop coadjutor.

5. The following enactments shall be made with respect to the relative positions of the incapacitated bishop, in this Act referred to as the bishop and his bishop coadjutor:

(1.) The bishop shall retain his rank, style, and privilege:

(2.) Subject to the annual payment by this Act directed to be made to the bishop coadjutor, the bishop shall retain all the temporalities of his see, except the patronage:

(3.) The bishop coadjutor shall not as such either be installed or sue the temporalities of the see out of the Queen's hands, or acquire any title to sit in the House of Lords. He shall be styled the bishop coadjutor of the diocese to which he is attached, and may subscribe himself by his usual signature with the addition of bishop, but not by the name of the diocese:

(4.) The bishop coadjutor shall not as such be required to pay any fees except the necessary expenses of his election and consecration:

(5.) Immediately upon the consecration of a bishop coadjutor the spiritualities of the see and the patronage of the bishop shall pass to and vest in the bishop coadjutor, in the same manner and to the same extent as if he were the sole bishop, and such bishop shall for all purposes and in all respects, except as by this Act otherwise provided, be deemed to be sole bishop of the diocese in which he is appointed bishop coadjutor:

(6.) There shall be paid to the bishop coadjutor out of the episcopal income of the bishop the sum of two thousand pounds by the year:

(7.) The said sum of two thousand pounds shall be deemed to be a first charge on the income of the bishop, and to accrue due from day to day, but to be payable half-yearly:

(8.) Upon the death of the bishop the bishop coadjutor shall succeed to his bishopric with the same ceremonies, upon

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the same payments, and in the same manner in all respects, except consecration, as if Her Majesty had granted to the dean and chapter of the diocese a licence to proceed to the election of a bishop, and such licence had been accompanied by a letter missive of Her Majesty naming the bishop coadjutor as the person whom the dean and chapter were required to elect and choose:

(9.) When a bishop coadjutor has been appointed, and the bishop dies, no vacancy shall be created in the spiritualities of the bishopric to which the bishop coadjutor succeeds, but such spiritualities shall, in the case of the bishop coadjutor succeeding to the deceased bishop, remain vested in the bishop coadjutor.

Supplemental Provisions.

Conduct of inquiry.

6. The persons authorized under this Act to make an inquiry into the incapacity of a bishop shall give notice to the registrar of the diocese of a time and place at which the inquiry will be made, and the registrar, or any person authorized by or on behalf of the incapacitated bishop may attend such inquiry, and produce such evidence on behalf of the bishop as he thinks fit, and cross-examine the witnesses adduced to prove his incapacity and generally conduct the case on behalf of the bishop. The persons conducting the inquiry, or any of them, may examine witnesses on oath or not, in writing or orally, as they think expedient, and any person when examined by such persons 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 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.

Proof of incapacity by bishop.

7. If any bishop has been found by due process of law to be a lunatic or of unsound mind, the archbishop may dispense with an inquiry and certify to Her Majesty under his hand and seal the incapacity of such bishop, and such certificate shall for the purposes of this Act have the same effect in all respects as if it were the certificate of the archbishop and two bishops made in pursuance of this Act.

Expenses of an inquiry.

8. The expenses of any inquiry under this Act into the incapacity of a bishop shall be certified under the hands of any two persons authorized to conduct the inquiry, and when so certified shall be defrayed out of the revenues of the bishopric.

Apportionment of first fruits and tenths.

9. The annual charge payable in respect of first fruits and tenths shall, in the case of the appointment of any bishop coadjutor, be paid by such coadjutor and the bishop in proportion to the income received by them respectively in pursuance of this Act.

Death or resignation of a bishop coadjutor.

10. If any bishop coadjutor dies or resigns the same consequences shall ensue, and the same powers in relation to a bishop coadjutor shall accrue to Her Majesty as upon the receipt of a certificate under this Act that the bishop of the diocese is incapacitated by mental infirmity from the due performance of his episcopal duties.

Sodor and Man.

Application of Act to the bishopric of Sodor and Man.

11. This Act shall apply to the bishopric of Sodor and Man in the same manner in all respects as if it were a bishopric in England, with the following exceptions:

(1.) If the Bishop of Sodor and Man resign, his retiring pension shall be one thousand pounds a year:

(2.) If a coadjutor be appointed to the Bishop of Sodor and Man the yearly sum payable to such bishop coadjutor shall be one thousand pounds a year:

(3.) The Bishop of Sodor and Man shall not be translated to any diocese of which a bishop coadjutor has been appointed.

Application of Act to Archbishops.

Application of the Act to archbishops.

12. A bishop coadjutor may be appointed in the case of an archbishop being incapacitated by reason of permanent mental infirmity from the due performance of his duties, in the same manner in all respects as if such archbishop were a bishop and his archbishopric a bishopric, and all the provisions of this Act shall apply accordingly with the following additions and exceptions:

(1.) That where the incapacity of an archbishop is in question there shall in the inquiry be substituted for the archbishop such bishop of his province as Her Majesty may by sign manual determine, on its being certified to Her Majesty by any two bishops of the province that the archbishop is incapacitated by permanent mental infirmity from the due performance of his duties, and the nominee of Her Majesty shall in all respects for the purposes of this Act exercise the powers of an archbishop:

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(2.) That in the case of the Archbishop of York the bishop coadjutor shall be entitled to a salary of three thousand pounds a year, and in the case of the Archbishop of Canterbury to a salary of four thousand pounds a year:

(3.) That the archiepiscopal jurisdiction capable of being exercised by the archbishop shall be exercised by the bishop of the province who is senior in rank.

Translation of Bishops.

Provision as to translation of bishops.

13. Notwithstanding the appointment of a bishop coadjutor, Her Majesty may in the case of the archbishopric of Canterbury, the archbishopric of York, or any of the bishoprics of London, Durham, or Winchester, on the death of the archbishop or bishop, exercise the same right of translation as if no bishop coadjutor had been appointed, so that such right be so exercised as to leave an archbishopric or bishopric vacant for the bishop coadjutor, and in the event of any translation or translations taking place the bishop coadjutor shall be entitled to succeed to any archbishopric or bishopric thereby left vacant in the same manner in all respects as if he were a bishop and not a bishop coadjutor, and had been translated to such vacant archbishopric or bishopric.

Definitions.

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14. In this Act,—

"Temporalities" shall include all real and personal property held by any archbishop or bishop as such, and all fees and emoluments receivable by him by virtue of his office:

"Spiritualities" shall include all episcopal and other jurisdiction of whatever description exercisable by an archbishop or bishop:

"Patronage" shall include all advowsons, rights of presentation to benefices, and any ecclesiastical or cathedral preferment or dignity, and all other appointments to office exercisable by an archbishop or bishop by reason of his office.

Repeal.

Repeal of 6 & 7 Vict. c. 62.

15. There shall be repealed the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter sixty-two, intituled "An Act to provide for the performance of the "episcopal functions in case of the incapacity of any bishop or "archbishop;" provided that such repeal shall not affect any proceeding commenced, any right acquired, or any act or thing duly done, under such repealed Act.

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Duration of Act.

16. This Act shall remain in force for two years, and further until the end of the then next ensuing session of Parliament; but notwithstanding the expiration of this Act all matters and things made and done during its continuance shall remain valid and effectual, and all payments consequential thereon shall continue to be made as if this Act had not expired.

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