

ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

CAP. LXVI.

An Act for enforcing the Reſidence of Spiritual Perſons on their Benefices in *Ireland*. [18th *June* 1808.]

WHEREAS it is expedient that more effectual Proviſions ſhould be made for enforcing the Reſidence of Spiritual Perſons on their Benefices in *Ireland*; May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King'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 in every Caſe in which it ſhall appear to any Biſhop or Archbiſhop of that Part of the United Kingdom of *Great Britain* and *Ireland* called *Ireland*, that any Spiritual Perſon having or holding any Benefice, Donative, perpetual Curacy or parochial Chapelry within the Dioceſe of ſuch Biſhop or Archbiſhop reſpectively, having no lawful Cauſe of Abſence from the ſame, does not in the whole reſide for the Space of Nine Calendar Months within the Year on the ſame reſpectively, it ſhall be lawful for ſuch Biſhop or Archbiſhop to iſſue or cauſe to be iſſued a Monition to ſuch Spiritual Perſon forthwith to proceed to and reſide thereon, and perform the Duties thereof, and to make a Return to ſuch Monition within a certain Number of Days after the iſſuing thereof, ſo as that in every ſuch Caſe there ſhall be Thirty Days between the Time of delivering ſuch Monition to ſuch Spiritual Perſon, or leaving the ſame at his then uſual or laſt Place of Abode, or if not there to be found, or if he ſhall be abſent from the Dioceſe, with the officiating Miniſter or one of the Churchwardens, and alſo at the

Biſhops to enforce Reſidence, and to iſſue a Monition accordingly.

the Houſe of Reſidence (if any ſuch there be) belonging to ſuch Benefice, Donative, perpetual Curacy or parochial Chapelry to which any ſuch Spiritual Perſon ſhall be required by ſuch Monition to proceed and reſide thereon, and on the Proctor, Manager or Collector of the Tythes of ſuch Spiritual Perſon (if any ſuch there be) and the Time ſpecified in ſuch Monition for the Return thereto; and every ſuch Monition ſhall immediately on the iſſuing thereof be filed in the Regiſtry of ſuch Dioceſe, and open for Inſpection on the Payment of One Shilling and no more; and the Spiritual Perſon to whom any ſuch Monition ſhall be ſent under this Act, ſhall within the Time ſpecified for that Purpoſe make a Return thereto; and it ſhall be lawful for the Biſhop or Archbiſhop to whom any ſuch Return ſhall be made, to require ſuch Return or any Facts contained therein to be verified by the Oath of ſuch Spiritual Perſon or others, to be taken before ſome Surrogate or Maſter Extraordinary in Chancery, which Oath any ſuch Surrogate or Maſter Extraordinary in Chancery is hereby authorized and required to adminiſter on Application being made for that Purpoſe; and in every caſe where no ſuch Return ſhall be made, or where ſuch Return ſhall not ſtate ſuch Reaſons as ſhall be deemed ſatisfactory by ſuch Biſhop or Archbiſhop for the Non-reſidence of the Spiritual Perſon to whom ſuch Monition ſhall have been ſent as aforeſaid, or where the ſame or any of the Facts contained therein ſhall not be ſo verified on Oath as aforeſaid, when the ſame ſhall have been required, then and in ſuch caſe it ſhall be lawful for ſuch Biſhop or Archbiſhop to iſſue an Order in Writing under his Hand and Seal, to require ſuch Perſon to proceed to and reſide as aforeſaid, within Thirty Days after ſuch Order in Writing or a Copy thereof ſhall have been delivered or left in like Manner as is herein-before required as to Monitions; and in caſe of Non-compliance it ſhall be lawful for ſuch Biſhop or Archbiſhop to ſequeſter the Profits of ſuch Benefice, Donative, perpetual Curacy and parochial Chapelry of ſuch Spiritual Perſon as aforeſaid, until ſuch Order ſhall be complied with, or ſuch ſufficient Reaſons for Non-reſidence ſtated and proved as aforeſaid, and to direct by any Order to be made for that Purpoſe under his Han , the Application of ſuch Profits after deducting the neceſſary Expences of ſerving the Cure, either in the Whole, or in ſuch Proportion as he ſhall think fit, in the firſt place to the Payment of ſuch reaſonable Expences as ſhall have been incurred in relation to ſuch Monition and Sequeſtration; and in the next place towards the Augmentation or Improvement of any ſuch Parſonage, Vicarage, Donative or perpetual Curacy, or the Houſe of Reſidence thereof, or any of the Buildings or Appurtenances thereof or towards the Improvement of any of the Glebe or Demeſne Lands thereof, or may order or direct the ſame or any Portion thereof to be paid to the Truſtees and Commiſſioners of the Firſt Fruits payable out of Eccleſiaſtical Benefices in that Part of the United Kingdom of *Great Britain* and *Ireland* called *Ireland*, to be applied for the Purpoſe of the Augmentation of the Funds veſted in the ſaid Truſtees and Commiſſioners; and it ſhall alſo be lawful for ſuch Biſhop or Archbiſhop, within Six Months after ſuch Order for Sequeſtration, or within Six Months after any Money ſhall have been actually levied by ſuch Sequeſtration, to remit to any ſuch Spiritual Perſon any Part or Proportion of ſuch ſequeſtered Profits, or cauſe the ſame or any Part thereof that ſhall have been paid or directed to be paid to ſuch Truſtees and Commiſſioners of the Firſt Fruits, to be repaid to ſuch Spiritual Perſon, which Repayment the ſaid Truſtees and Commiſſioners are hereby authorized and required, upon an Order under

Biſhops in certain caſes to ſequeſter th Profits of Benefices of Spiritual Perſons not obeying ſuch Monition.

Such Profits, how to be applied.

under the Hand of any such Bishop or Archbishop, to make out of any Money then in their Hands, or if no Money shall then be in their Hands, out of the next Money that shall come to their Hands, in any case in which by reason of the subsequent Obedience of any such Spiritual Person to any such Monition or Order, or the stating and proving such sufficient Reasons as aforesaid, such Bishop or Archbishop shall think the same proper: Provided always, that when any such Spiritual Person shall think himself aggrieved by reason of any such Sequestration issued by any Bishop it shall be lawful for any such Spiritual Person, within Thirty Days after the making any Order for any such Sequestration, as aforesaid, and upon such Notice thereof to be served in like Manner as the Monition herein-before directed, to appeal to the Archbishop of the Province to which such Bishop shall belong, who shall forthwith, either by himself or some Commissioner or Commissioners appointed from among the Bishops of his Province for that Purpose, under his Hand and Seal make or cause to be made due Inquiry into the same, and make such Order therein or relating thereto, or to the Profits that shall be so sequestered as aforesaid, for the Return to such Spiritual Person of the same or any Part thereof, or otherwise as shall, under all the Circumstances of the Case, appear to such Archbishop (after such Inquiry made by himself or by his Commissioner or Commissioners, and in the latter Case after the Substance of such Inquiry shall have been returned in Writing to the said Archbishop) to be just and proper: Provided always, that the Party so appealing shall give Security to the Bishop for the Payment of such reasonable Expences occasioned by the Appeal, as the Archbishop or his Commissioner or Commissioners shall award: Provided always, that no such Order for any Sequestration shall be put in force during such Appeal as aforesaid, and until the same shall be determined.

Spiritual Persons may appeal to Archbishops against Sequestration.

Archbishops to inquire into such Appeal.

II. Provided also, and be it further enacted, That every Spiritual Person to whom any such Monition or Order in Writing shall be sent as aforesaid under this Act, who shall at the Time of issuing thereof be absent from Residence in or upon his Benefice, his Donative, perpetual Curacy or parochial Chapelry, contrary to the Provisions of this Act; but who shall in Obedience to such Monition or Order forthwith return to due Residence, and the Profits of whose Benefice, Donative, perpetual Curacy or parochial Chapelry shall by reason of such Return not be sequestered, shall nevertheless pay all Costs, Charges, and Expences incurred by reason of the issuing and serving such Monition or Order; and if such Costs, Charges, and Expences shall remain unpaid for the Period of Twenty Days after Demand thereof from the Person liable to the Payment thereof, or left in Writing at his usual or last Place of Abode, it shall be lawful for such Archbishop or Bishop respectively, to cause the same to be recovered by Sequestration of the Profits of the Benefice, Donative, perpetual Curacy or parochial Chapelry of such Spiritual Person as aforesaid, which Sequestration such Bishop and Archbishop are respectively hereby empowered to issue.

Spiritual Persons absent from Residence, but obeying such Monition, to pay the Costs of issuing thereof.

III. And, to the Intent effectually to enforce *bonâ fide* Residence according to the Intent and Meaning of such Monitions and Orders as aforesaid; be it further enacted, That if any Spiritual Person having no lawful Cause of Absence from his Benefice, Donative, perpetual Curacy or parochial Chapelry, who after such Monition or Order as aforesaid requiring his Residence,

For preventing Spiritual Persons from quitting Residence after obeying the Monition.

Reſidence, and before or after any ſuch Sequeſtration as aforeſaid, ſhall, in obedience to ſuch Monition or Order, have begun to reſide upon his Benefice, Donative, perpetual Curacy or parochial Chapelry, ſhall afterwards and before the Expiration of Six Months next after the Commencement of ſuch Reſidence, in the Judgment of ſuch Biſhop or Archbiſhop and without his Leave, wilfully abſent himſelf for one Week from ſuch Benefice, Donative, perpetual Curacy or parochial Chapelry, it ſhall be lawful for ſuch Biſhop or Archbiſhop, without iſſuing any other Monition, or making any other Order again, to ſequeſter and apply the Profits of ſuch Benefice, Donative, or perpetual Curacy as is before directed by this Act, for the Purpoſe of enforcing the Reſidence of ſuch Spiritual Perſon according to the true Intent of the original Monition iſſued by ſuch Biſhop or Archbiſhop as aforeſaid; and it ſhall be lawful for the Archbiſhop or Biſhop ſo to proceed in like Caſes from Time to Time as often as Occaſion may require, provided that in each and every of ſuch Caſes ſuch Spiritual Perſon ſhall be entitled to appeal againſt ſuch Sequeſtration, in ſuch Manner and upon ſuch Terms as herein-before is and are mentioned touching Appeals reſpecting Sequeſtrations, but nevertheleſs the ſame ſhall be in force during ſuch Appeal.

Benefices under Sequeſtration for Three Years to be forfeited.

IV. And be it further enacted, That if any Spiritual Perſon ſhall continue under any Sequeſtration made under the Proviſions of this Act for Non-reſidence for the Space of Three Years, or ſhall under the Proviſions of this Act incur Three Sequeſtrations in the ſaid Space of Three Years, not being relieved with reſpect to any of ſuch Sequeſtrations upon Appeal, the Benefice, Donative, perpetual Curacy or parochial Chapelry, in relation to Non-reſidence upon which ſuch Sequeſtrations ſhall have been made, ſhall become *ipſo facto* void, and the Patron entitled to preſent or nominate ſome Clerk thereto, ſhall preſent or nominate ſome Clerk thereto other than the Clerk who ſhall have ſo continued under ſuch Sequeſtration or Sequeſtrations, as if the ſame had been avoided by the natural Death or Reſignation of the Party.

Leaſes of Houſes of Reſidence ſhall be void.

V. And be it further enacted, That all Contracts and Agreements made after the paſſing of this Act for the letting of Houſes of Reſidence, or the Buildings, Gardens, Orchards and Appurtenances neceſſary for the convenient Occupation of the ſame, belonging to any Benefice, Donative, perpetual Curacy or parochial Chapelry (to which Houſes of Reſidence any Spiritual Perſons ſhall be required by Order of the Archbiſhop or Biſhop as aforeſaid to proceed and to reſide therein, a Copy of which Order ſhall immediately on the iſſuing thereof be tranſmitted to one of the Churchwardens of the Pariſh, and be by him forthwith ſerved on the Occupier of ſuch Houſe of Reſidence or left at the ſame, and which ſuch Churchwarden is hereby required to ſerve accordingly) ſhall be null and void; and any Perſon continuing to hold any ſuch Houſe of Reſidence, or any ſuch Building, Garden, Orchard or Premiſes, after the Day on which the ſaid Spiritual Perſon ſhall be directed by the ſaid Order to reſide in ſuch Houſe of Reſidence, and after Service of ſuch Copy as aforeſaid, ſhall forfeit the Sum of Forty Shillings for every Day he ſhall, without the Permiſſion of the Archbiſhop or Biſhop in Writing for that Purpoſe obtained, wilfully continue to hold any ſuch Houſe, Building, Garden, Orchard or Premiſes, to be recovered by Action of Debt, Bill, Plaint or Information, in any of His Majeſty's

Majeſty's Courts of Record at *Dublin*, wherein no Eſſoign, Privilege, Protecton or Wager of Law, or more than one Imparlance ſhall be allowed; and the Whole of every ſuch Penalty or Forfeiture ſhall go and be paid to the Perſon or Perſons who ſhall inform and ſue for the ſame, together with ſuch Coſts of Suit as ſhall be allowed according to the Practice of the Court in which ſuch Action ſhall be brought; but in caſes of ſuch Contracts or Agreements made before the paſſing of this Act the Perſon holding and occupying under any ſuch Contract or Agreement, ſhall not be liable to any Penalty or Forfeiture for Three Calendar Months, to be computed from the Service of the Copy of ſuch Order of the Archbiſhop or Biſhop as aforeſaid upon ſuch Occupier, or at ſuch Houſe of Reſidence as aforeſaid, and Sequeſtration ſhall not iſſue for Diſobedience to the Order of the Archbiſhop or Biſhop for Three Calendar Months, to be computed from the Service of the Copy of the ſaid Order, at the Expiration of which Time it ſhall be lawful for the Archbiſhop or Biſhop to iſſue Sequeſtration, and from and after the Expiration of which Time the Party continuing to hold any ſuch Houſe, Building, Garden, Orchard, Premiſes or Appurtenances as aforeſaid, ſhall forfeit the Sum of Forty Shillings for every Day he ſhall wilfully continue without ſuch Permiſſion in Writing as aforeſaid to hold the ſame or any of them, to be recovered and applied in the like Manner as aforeſaid.

Spiritual Perſons not liable to Penalties whilſt Tenants occupy the Premiſes.

VI. Provided always, and be it further enacted, That no Spiritual Perſon ſhall be liable to any Penalties under this or any former Act, for not reſiding in ſuch Houſe of Reſidence, during ſuch Time as ſuch Tenant ſhall continue to occupy ſuch Houſe of Reſidence and other Buildings neceſſary to the Occupation of the ſame.

To what Benefices the Act ſhall extend.

VII. And be it further enacted, That from and after the paſſing of this Act all and every the Clauſes, Proviſions, Penalties and Forfeitures in this Act contained in relation to Reſidence, or to any other Matters or Things relating thereto, ſhall extend and be deemed and conſtrued to extend to all Dignities, Prebends, Benefices, Donatives, perpetual Curacies, and all parochial Chapelries, exempt as well as not exempt, and all Peculiars, as fully and amply to all Intents and Purpoſes as if the ſame had been and were in this Act particularly mentioned and ſpecified; any Thing in any Act or Acts, Law or Laws to the contrary thereof notwithſtanding.

The Juriſdiction of Biſhops.

VIII. And be it further enacted, That every Archbiſhop, Biſhop and Archdeacon within the Limits of whoſe Province, Dioceſe or Juriſdiction reſpectively, any Dignity, Benefice, Donative, perpetual Curacy or parochial Chapelry reſpectively, exempt or peculiar, ſhall be locally ſituate, ſhall have, uſe, and exerciſe all the Powers and Authorities neceſſary for the due Execution by them reſpectively of the Proviſions and Purpoſes of this Act, and for enforcing the ſame with regard thereto reſpectively, as ſuch Archbiſhop, Biſhop and Archdeacon reſpectively would have uſed and exerciſed if the ſame were not exempt or peculiar, but were ſubject in all reſpects to the Juriſdiction of ſuch Archbiſhop, Biſhop or Archdeacon; and alſo that where any Benefice, Donative, perpetual Curacy or parochial Chapelry, exempt or peculiar, ſhall be locally ſituate within the Limits of more than one Province, Dioceſe or Juriſdiction, or where the ſame or any of them ſhall be locally ſituate between the Limits of any Two or more of ſuch Provinces, Dioceſes or Juriſdictions, or any of them,

the Archbiſhop or Biſhop to the Cathedral Church of whoſe Province or Dioceſe the Pariſh Church of the ſame reſpectively ſhall be neareſt in local Situation, ſhall have, uſe, and exerciſe all the Powers and Authorities which are neceſſary for the due Execution of the Proviſions of this Act, and enforcing the ſame with regard thereto reſpectively, as ſuch Archbiſhop or Biſhop could have uſed if the ſame were not exempt or peculiar, but were ſubject in all reſpects to the Juriſdiction of ſuch Archbiſhop or Biſhop reſpectively; and the ſame, for all the Purpoſes of this Act, ſhall be deemed and taken to be within the Limits of the Province or Dioceſe of ſuch Archbiſhop or Biſhop; and the ſame ſhall alſo, for the Purpoſes of this Act, be taken to be within the Archdeaconry of, and be ſubject to the Juriſdiction of ſuch Archdeacon as hath Juriſdiction as ſuch over the Pariſh, the Pariſh Church of which is neareſt to the Church of ſuch Benefice, Donative, perpetual Curacy or parochial Chapelry, exempt or peculiar; any Thing in any Act or Acts, Law or Laws, Uſage or Uſages, or other Matter or Thing to the contrary notwithſtanding; provided, that the Peculiars belonging to any Archbiſhoprick or Biſhoprick, though locally ſituate in another Dioceſe, ſhall continue ſubject to the Archbiſhop or Biſhop to whom they belong, as well for the Purpoſes of this Act as for all other Purpoſes of Eccleſiaſtical Juriſdiction in the Laws whatſoever.

His Majeſty's Prerogative not to be affected.

IX. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to alter or affect His Majeſty's Royal Prerogative in granting of Diſpenſations for Non-reſidence upon Benefices, as the ſame now exiſts by Law.

Parſonages without Cure of Souls, not within the Meaning of this Act.

X. Provided always, and be it further enacted, That no Parſonage that hath a Vicar endowed or perpetual Curate, and having no Cure of Souls ſhall be taken to be or be comprehended under the name of Benefice, within the true Intent and Meaning or for the Purpoſes of this Act.

Perſons not exempt from Canonical Cenſures.

XI. And be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to exempt any Perſon or Perſons from any Canonical or Eccleſiaſtical Cenſures, or affect any Proceedings that ſhall hereafter be inſtituted in any Eccleſiaſtical Court, in order to cauſe the ſame to be inflicted in relation to the Non-reſidence of any Spiritual Perſon having or holding any Benefice, Donative, perpetual Curacy or parochial Chaplery, not having any lawful Cauſe of Abſence therefrom: Provided always, that from and after the paſſing of this Act no ſuch Cenſures by reaſon of any Non-reſidence, not exceeding Three Months in any One Year, ſhall be put in force; nor ſhall any Proceedings be admitted in any Eccleſiaſtical Court againſt any ſuch Spiritual Perſon for ſuch Non-reſidence not exceeding Three Months in any One Year, at the Suit or Inſtance of any Perſon or Perſons other than the Archbiſhop, Biſhop or Archdeacon only of the Dioceſe and Archdeaconry, within which ſuch Benefice, Donative, perpetual Curacy or parochial Chapelry, in reſpect whereof ſuch Non-reſidence ſhall have taken place, ſhall be locally ſituated; any Thing in any Law or Laws, or Eccleſiaſtical Canon or Canons to the contrary thereof notwithſtanding.

Maſters of Hoſpitals, &c. not to be affected by the Act.

XII. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend to or in any Manner to affect any Maſter or Preacher of Hoſpitals or Incorporated Charitable Foundations,

Foundations, during the Period for which he may be required to reſide by any Charter or Statute of any ſuch Hoſpital or Incorporated Charitable Foundation, or by any other lawful Authority in the ſame, and ſhall actually reſide and perform the Duties therein; or the Chancellor or Vicar General, or Surrogate or Official in any Eccleſiaſtical Court of any Dioceſe, whilſt they are reſiding in the Places where their reſpective Offices are exerciſed; or any Chaplain or Chaplains of the Lord Lieutenant or any other Chief Governor of that Part of the ſaid United Kingdom called *Ireland*: Provided, that every ſuch Chaplain ſhall have a Certificate from the Lord Lieutenant or his chief Secretary that he is reſident in *Dublin*, or near the Perſon of the Lord Lieutenant, and is occupied by the Duty of his Office as ſuch Chaplain; or the Provoſt or Fellows of Trinity College *Dublin*, or any Profeſſor or Public Officer in the Univerſity of *Dublin*, during the Period for which he may be required by reaſon thereof to perform the Duties of any ſuch Office, and actually ſhall perform the Duties of the ſame; or to any Schoolmaſter of any School founded and endowed by His Majeſty or any of His Royal Predeceſſors, or to any Dioceſan Schoolmaſter, during ſuch Time as ſuch Schoolmaſter ſhall actually reſide at ſuch School and perform the Duties of a Schoolmaſter therein.

Exemptions ſpecified only allowed.

XIII. Provided always, and be it further enacted, That nothing in this Act or in any former Act ſhall extend or be conſtrued to extend to exempt from Reſidence any Perſon on account of any Office or Employment whatever except as herein-before excepted.

Archbiſhops or Biſhops not liable to the Act.

XIV. And, for the Purpoſe of removing all Doubts, be it further enacted, That no Archbiſhop or Biſhop having or who ſhall have any Dignity, Prebend, Benefice, Donative or perpetual Cure, ſhall, by reaſon of Non-reſidence upon the ſame, be ſubject or liable to any Penalties or Forfeitures.

Privileges of Peers,

XV. Provided always, That nothing in this Act contained ſhall be conſtrued to affect any Privileges of the Peers of *Ireland* reſpecting Chaplains.

and of Archbiſhops and Biſhops reſpecting Chaplains.

XVI. Provided alſo, That nothing herein contained ſhall be conſtrued to affect any Privileges of the Archbiſhops or Biſhops of *Ireland* reſpecting Chaplains.

Returns of Non-reſidents to be made, &c.

XVII. And be it further enacted, That on or before the Twenty-fifth Day of *March* One thouſand eight hundred and nine, and at the like Period in every ſucceeding Year, a Return or Returns ſhall be made to His Majeſty in Council, by every Archbiſhop and Biſhop of the Names of every Dignity, Prebend, Benefice, Donative, Perpetual Curacy, and Parochial Chapelry, in their reſpective Dioceſes, or ſubject to their reſpective Juriſdictions, by virtue of this Act, and the Names of the ſeveral Perſons poſſeſſing the ſame, who ſhall not have reſided thereon by reaſon of any Exemption under or by virtue of this Act, or any other Act, or by reaſon of any Permiſſion or Licence granted by the Lord Primate of all *Ireland*, or by any Archbiſhop or Biſhop reſpectively, for any and what Cauſe, and alſo of all the Perſons poſſeſſing the ſame, not having any ſuch Exemption, Permiſſion, or Licence, who ſhall not have reſided on ſuch Dignity, Prebend, Benefice, Donative, Perpetual Curacy, or

or Parochial Chapelry, so far as such Archbishop or Bishop is informed thereof.

When Penalties shall commence.

XVIII. Provided also, That no Forfeiture or Penalty shall be incurred under or by virtue of this Act, for any Act of Non-residence committed prior to the First Day of *August* One thousand eight hundred and eight.

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