ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

****

C A P. LXXVI.

An Act to enable Archbishops and Bishops and other Persons in *Ireland* to compromise Suits touching their Rights of Patronage as to Ecclesiastical Benefices, in certain Cases.

[31st *August* 1848.]

WHEREAS an Act was passed in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the Limitation of Actions* 3 & 4 W. 4.
and Suits relating to Real Property, and for simplifying the Remedies c. 27.
for trying the Rights thereto, it was, amongst other things, enacted, that after the Thirty-first Day of *December* One thousand eight hundred and thirty-three no Person should bring any Quare impedit or other Action or any Suit to enforce a Right to present to or bestow any Ecclesiastical Benefice, as the Patron thereof, after the Expiration of One hundred Years from the Time at which a Clerk should have obtained Possession of such Benefice adversely to the Right of Presentation or Gift of such Person, or of some Person through whom he claims: And whereas by an Act passed in the Session of Parliament held in the Sixth and Seventh Years of Her present Majesty, intituled *An Act for extending to* Ireland *the Pro-* 6 & 7 Vict.
visions not already in force there of an Act of the Third and Fourth c. 54.

Years of the Reign of the late King William *the Fourth, intituled* '*An Act for the Limitation of Actions and Suits relating to Real* '*Property, and for simplifying the Remedies for trying the Rights* '*thereto,*' *and to explain and amend the said Act,* it was, amongst other things, thereby enacted, that after the First Day of *January* One thousand eight hundred and forty-four the several Clauses and Enactments in the said first-mentioned Act and therein-before recited, relating to any Right to present to or bestow any Church, Vicarage, or any other Ecclesiastical Benefice, (the Clause thereof providing that the said Act, so far as it related to any such Right, should not extend to *Ireland*, always excepted,) should extend and apply to *Ireland*, and that as fully and effectually as if the said Clauses and Enactments were thereby repeated, substituting for the said Date of the Thirty-first Day of *December* One thousand eight hundred and thirty-three the Date of the First Day of *January* One thousand eight hundred and forty-four; and it was by the said last-mentioned Act further declared and enacted, that the said last-mentioned Act should not be prejudicial or available to or for any Plaintiff or Defendant in any Action or Suit already commenced, or on or before the said First Day of *January* One thousand eight hundred and forty-five to be commenced, relating to any Right to present to or bestow any Church, Vicarage, or other Ecclesiastical Benefice in *Ireland*: And whereas in consequence of the Provisions of the said Acts numerous Actions of Quare impedit and Proceedings have been brought and instituted, and are now depending, for the Purpose of determining the Right of Presentation to divers Ecclesiastical Benefices and Preferments in *Ireland*, by Persons whose Claims to exercise such Right would but for the instituting of such Proceedings have been barred by the Provisions of the aforesaid Acts: And whereas numerous Actions and Proceedings have been brought and instituted and are now pending against Archbishops and Bishops in *Ireland* for the Recovery of Advowsons and Rights of Presentation to Ecclesiastical Benefices and Preferments in their Dioceses, the Patronage whereof has been for long and uninterrupted Periods exercised by them and their Predecessors in right of their Sees, and the said Archbishops and Bishops have been and will be put to heavy Expenses in preparing to defend and in defending, in the said Actions and Proceedings, their Rights of Patronage for themselves and their Successors: And whereas by an Act passed in the Session of Parliament holden in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled *An Act to enable Archbishops and Bishops in* Ireland *to charge their Sees with the Costs incurred by them in defence of their Rights of Patronage, in certain Cases, and also to enable Tenants for Life and other Persons having limited Interests in Estates in* Ireland *to charge said Estates with the Costs incurred by them in asserting their Rights to Ecclesiastical Patronage, in certain Cases*, it was (amongst other things) enacted, that Archbishops and Bishops might, subject to the Regulations therein provided, charge such Expenses on the Estates of their respective Sees, and it was further enacted, that Plaintiffs in Quare impedit, under Family Settlement or otherwise entitled to a Life Estate or other limited Interest in the Advowsons or Rights of Presentation to the Ecclesiastical Benefices to recover which the

8 & 9 Vict. c. 51.

the said Writs have been sued out and Proceedings instituted, might, under certain Restrictions, charge the reasonable Costs and Expenses incurred by them in prosecuting such Claims upon the Estates of those who would be entitled in remainder to such Advowsons or Rights of Presentation: And whereas the Prosecution of such Suits is attended with very great and ruinous Expense, and the Possession of the present Incumbents of many of the said Benefices is uncertain and insecure, and it is just and expedient, for the Purpose of avoiding Expense, and quieting the Possession of Incumbents in their Benefices, to enable Archbishops and Bishops, and Persons who, under Family Settlements or otherwise, would only be entitled to a Life Estate or other limited Interest in such Advowsons or Rights of Presentation, to compromise their Claims to the Patronage of such Ecclesiastical Benefices: 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, That it shall and may be lawful for any Archbishop or Bishop in *Ireland* who may be a Defendant in any Action of Quare impedit or other Action or Suit now pending, and who may claim the Ecclesiastical Benefice which is the Subject of such Suit, as the Patron thereof, for and on behalf of himself and Successors, and for any Person or Persons by whom or on whose Behalf any such Writ of Quare impedit has been sued out, and who, under Family Settlement or otherwise, would only be entitled to a Life Estate or other limited Interest in the Advowson to recover which such Writ has been sued out, not only on behalf of themselves, and their respective Heirs, Executors, and Administrators, but also on behalf of every Person entitled in reversion, remainder, or expectancy after them, or in defeazance of the Estate of such Parties, to compromise their conflicting Claims to any such Advowson or Advowsons.

Power to Archbishops and Bishops in Ireland to compromise conflicting Claims to Patronage of Advowsons.

II. And be it enacted, That it shall and may be lawful for the said Parties in such Case as aforesaid to provide by the Terms of any such Compromise that any particular Advowson or Advowsons or Right or Rights of Patronage of or to any Ecclesiastical Benefice or Benefices in *Ireland* shall belong absolutely to any Archbishop or Bishop and his Successors, in consideration of such Archbishop or Bishop, on behalf of himself and Successors, agreeing that any other Advowson or Advowsons, Right or Rights of Patronage to any other Ecclesiastical Benefice or Benefices in *Ireland*, shall belong to any such Person or Persons as aforesaid, according to such Estate or Interest as he, she, or they may respectively claim therein, under Family Settlement or otherwise, or for the Parties to such Compromise to provide that the alternate Right or Rights of Presentation or Patronage to any such Ecclesiastical Benefice or Benefices shall belong to any Archbishop or Bishop and his Successors on the one hand, and on the other to any Person or Persons, according to such Estate or Interest as he, she, or they may respectively be entitled to or claim, under Family Settlement or otherwise, or to make any other Arrangement or Provision respecting any Advowson or Advowsons, Right or Rights of Patronage, for the Recovery of which Suits are now pending, which may by them respectively be deemed proper and expedient.

Parties to provide by the Terms of such Compromise the Rights to certain Patronage.

III. And

Where Compromise carried into effect, an Instrument in Writing containing Terms of the same shall be lodged in the Council Office of Dublin Castle.

III. And be it enacted, That where any such Compromise is to be carried into effect under the Provisions of this Act an Instrument in Writing containing the Terms of such proposed Compromise (including the Terms contained in the Provision next herein-after mentioned), and in the Case of a Bishop being a Defendant having endorsed upon such Instrument the Approbation of the Archbishop entitled to exercise Archiepiscopal Jurisdiction in the Province in which the Parish or Parishes the Subject of such Compromise is or are situate, or in case any Archbishop shall be a Defendant, having endorsed thereon the Approbation of Her Majesty's Attorney General for *Ireland*, shall be lodged in the Council Office of *Dublin Castle*, and thereupon it shall and may be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, with the Consent of the major Part of Her Majesty's Privy Council of *Ireland* in Council assembled (Six at least assenting), to take the Matter of such Instrument into their Consideration, and to make an Order approving or disapproving of the Terms of such Compromise; and in case such Compromise shall be approved as aforesaid it shall be lawful for the Parties, upon the Production of a Copy of such Order before the Court of Common Pleas in *Ireland*, to proceed to have such Compromise carried into effect by a Rule or Order of such Court, to be made upon Consent of the Parties hereby enabled to enter into such Compromise, and (if required by the said Court) upon Affidavit or Affidavits of such Facts and Circumstances as the said Court may require for their Information; and every such Rule or Order shall, when made, be conclusive Evidence of the Title of the Person or Persons who shall be thereby declared to be the Patron or Patrons of every such Advowson or Advowsons.

If Lord Lieutenant, &c. approve of Compromise, Parties may obtain an Order from Common Pleas to carry the same into effect.

Incumbents to retain Possession notwithstanding Compromise.

IV. And be it enacted, That every such Compromise shall provide that every Incumbent in possession of any Ecclesiastical Benefice at the Time of the passing of this Act shall hold the same as if he had been presented or collated thereto by the true and undoubted Patron thereof, notwithstanding that by any such Compromise it shall be agreed that the Advowson of the Benefice whereof such Incumbent is in possession shall belong to any Person or Persons other than the Person or Persons by whom such Incumbent shall have been presented or collated to such Benefice.

As to Payment of Expenses of Compromise.

V. Provided always, and be it enacted, That the Costs and Expenses of such Compromise incurred or to be incurred shall be charged by the said Archbishop and Bishop, and by said Tenants for Life, or other Person or Persons having limited Estates or Interest, in such Manner and Form as is provided by said recited Act passed in the Eighth and Ninth Years of Her present Majesty.

Act may be amended, &c.

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

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