

ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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CAP. CI.

An Act to amend several Acts relating to the Temporalities of the Church in *Ireland*.

[10th *August* 1840.]

WHEREAS an Act was passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of His late Majesty, intituled *An Act to alter and amend the Laws relating to the Temporalities of the Church in* Ireland, which Act was amended by Two Acts passed respectively in the Sessions of Parliament holden in the Fourth and Fifth, and Sixth and Seventh Years of the same Reign: And whereas it is exepdient to amend the said Acts in certain respects: 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 in every Case in which the Appointment, Presentation, or Collation of a Clerk to any Benefice or Parish shall have been suspended, pursuant to the said first-recited Act, and a Curate or other Minister shall have been appointed to officiate within such Benefice or Parish, the Consent of such Curate or Officiating Minister shall, for all Purposes for which the Consent of the Rector, Vicar, or Incumbent of such Benefice or Parish may by Law be required, be as valid and effectual, during such Suspension,

3 & 4 W. 4. c. 37.
4 & 5 W. 4. c. 90.
6 & 7 W. 4. c. 99.

The Consent of the Curate or Officiating Minister of any suspended Benefice shall be good for certain Purposes.

Suspension, as if such Curate or Officiating Minister were the Rector, Vicar, or Incumbent of such Benefice or Parish.

The Valuation made for the Assessment of the Tax under 3 & 4 W. 4. c. 37. shall be amended, and Relief given in respect of Arrears.

II. And whereas the said Ecclesiastical Commissioners for *Ireland* did, pursuant to the Provisions of the herein-before first-recited Act, cause a Valuation to be made of the Revenues of the several Dignities and Benefices liable, under the Provisions of the said Act, to the Payment of the Tax, Rate, or Assessment in such Act mentioned, and did, according to such Valuation, compute and impose such Tax, Rate, or Assessment on the several Dignities and Benefices respectively liable thereto; but, by reason of the Opposition to the Payment of Tithes in *Ireland*, it was in many Cases found impossible to enforce Payment of the same; and the said Commissioners have, in the Exercise of the Discretion in that Behalf vested in them by the said Act, extended the Time for the Payment thereof: And whereas by an Act passed in the Session of Parliament holden in the First and Second Years of the Reign of Her present Majesty, intituled *An Act to abolish Compositions for Tithes in* Ireland, *and to substitute Rent-charges in lieu thereof*, the Right of all Persons in and to all Tithes and Composition for Tithes theretofore accrued, or at any Time thereafter to accrue due in *Ireland*, wholly ceased and determined, with certain Exceptions in the said Act mentioned; and by the said Act a certain Fund was appropriated to the Relief of the several Persons who, if the said Act had not been made, would have been entitled to Compositions for Tithes accrued due for certain Years in the said Act mentioned, and further Provision was made for the Payment to the Parties theretofore entitled to certain Tithes and Composition for Tithes vested in Her Majesty by the said Act of such Sums as should be paid or recovered by Her Majesty's Attorney General for *Ireland* on account thereof: And whereas it is reasonable that the Parties whose Right to the Arrears of Tithe or Tithe Composition due to them has so ceased and determined should be relieved from the Payment of the said Tax in respect of such Portion of the Revenues of their Benefices or Promotions as by the Operation of the said Act may have been lost to them, or shall not be hereafter paid to them, and that for the Purpose of computing the Amount of Tax justly payable by them the Valuation and Assessment of their respective Dignities or Benefices heretofore made by the said Ecclesiastical Commissioners shall be amended; be it therefore enacted, That it shall and may be lawful for the said Ecclesiastical Commissioners, when and as they shall think necessary, to alter and amend the Valuation heretofore made by them of the Revenues or Emoluments of all or any of such Dignities or Benefices, under the Rank of Bishopricks, as were or are now liable to the said Tax, Rate, or Assessment, or any Arrears thereof, for any of the Years preceding the Year One thousand eight hundred and thirty-eight; and in altering or amending such Valuation the said Commissioners shall have regard to and include all or any such Payments as may or shall be made to any Dignitary or Incumbent pursuant to the Provisions of the said recited Act of the First and Second Years of Her present Majesty's Reign; and they shall assess and compute the Tax or Arrears thereof to which every such Dignity or Benefice, under the Rank of a Bishoprick, was or shall be deemed to be or have been

1 & 2 Vict. c. 109.

liable for any Year, or Portion of any Year, preceding the Year One thousand eight hundred and thirty-eight, upon such altered or amended Valuation, according to the several Rates or Scales specified in the Schedule (A.) annexed to the said herein-before first-recited Act, in like Manner as if such altered or amended Valuation had been the Valuation of each such Dignity or Benefice originally made, pursuant to the Provisions of the said Act; and all Arrears of the said Tax so assessed and computed, if any, now remaining unpaid, shall and may be recovered by all such Ways and Means as are in and by the said Act provided for enforcing Payment of the said Tax, Rate, or Assessment: Provided always, that it shall and may be lawful for the said Ecclesiastical Commissioners, if they shall so think fit, in any Case to direct the Payment of the whole or any Portion of the Arrears of the said Tax, Rate, or Assessment, by Instalments, of such Amount, and to be paid at such Times, and subject to such Conditions for securing the Payment thereof, as they shall deem reasonable, but so nevertheless that the whole shall be paid within Five Years next after the passing of this Act; provided further, that in any Case where it shall appear to the said Commissioners that any Party shall have paid on account of such Tax any Sum with which he would not have been justly chargeable under such amended Valuation, or any Sum greater than, under such amended Valuation, he would have been justly chargeable with, the said Commissioners shall repay and refund to such Party the Sum or Overplus so paid.

In Cases of Proprietary Chapels, Commissioners to have a Discretion as to contributing towards Repairs, &c. 6 & 7 W. 4. c. 31.

III. And be it enacted, That in all Cases in which Application shall be made to the said Ecclesiastical Commissioners, pursuant to the said recited Acts or any of them, to pay or apply any Sum or Sums of Money for or towards the rebuilding, enlarging, or repairing of any Church or Chapel, now or which may be hereafter erected or appropriated and endowed by virtue of an Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of His late Majesty, intituled *An Act to amend an Act of His late Majesty King* George *the Second, for the Encouragement of building of Chapels of Ease in* Ireland, or for or towards the providing of Things necessary for the Celebration of Divine Service in any such Church or Chapel, or for or towards the Payment of the Salaries for Maintenance of the Clerks or Sextons thereof, the Person or Persons so making such Application shall and he and they is and are hereby required to furnish to the said Ecclesiastical Commissioners a Statement in Writing, in such Form and for such Period, and verified in such Manner, as the said Commissioners shall direct, of the annual or periodical Income belonging to or derived or produced by such Church or Chapel, or received by the Minister or Ministers thereof, whether the same shall arise from any Endowment or Endowments, or from the Sale or Letting of Pews, or the Amount of Collections made in such Church or Chapel, or from any other Source or Sources whatsoever, and how such Income has been theretofore applied, and is in future intended to be applied; and that it shall and may be lawful for the said Commissioners, having regard to the Amount and Application of such Income, to pay or contribute such Sum or Sums as under or by virtue of the said recited Acts, or

any of them, they might or ought to have paid or contributed for or towards the providing of Things necessary for the Celebration of Divine Service in such Church or Chapel, as required and authorized by any Rubric or Canon in force in *England* or *Ireland*, or for or towards Payment of the Salaries for Maintenance of the Clerks or Sextons of such Church or Chapel, or for or towards the rebuilding, enlarging, or repairing of the same, or, at their Discretion, to withhold, in case of any such Church or Chapel, the Payment of any Sum or Sums of Money for or towards the several Objects and Purposes aforesaid, or any of them.

Fund to be provided for Repairs of Church or Chapel, in addition to that set apart for Support of Minister.

IV. And whereas it was by the herein-before recited Act passed in the Sixth and Seventh Years of the Reign of His late Majesty, amongst other things, enacted, that upon any Lands set apart for that Purpose as in the said reciting Act mentioned it should and might be lawful to and for any Person or Persons, Bodies Politic or Corporate, to erect and build a Church or Chapel, or to appropriate as a Church or Chapel any Building already erected on such Land, in which the Liturgy and Rites of the United Church of *England* and *Ireland* as by Law established was to be used and observed, who should first settle and assure Lands, Tenements, or Hereditaments held in Fee Simple or for Lives with Covenant for perpetual Renewal thereof, or for a Term of Ninety-nine Years, of which Sixty Years at the least should be then unexpired, free from Incumbrances, and of the clear yearly Value of Fifty Pounds at the least, or Money in any of the Government Funds amounting at the least to One thousand two hundred and fifty Pounds, as a Provision or Maintenance for a Minister to officiate in such Church or Chapel, and his Successors for ever, as a perpetual Endowment of such Church or Chapel: And whereas it is expedient that a Fund shall be provided for the Repairs of every such Church or Chapel in like Manner as is by Law required in respect of Churches and Chapels built or appropriated under similar Enactments in *England*; be it therefore enacted, That, in addition to the Endowment required to be made for the Support or Maintenance of the Minister and his Successors to officiate in any Church or Chapel built or appropriated under the Provisions of the said recited Act, it shall, from and after the passing of this Act, be necessary also to provide a Fund for the Repairs of the said Church or Chapel in manner following; (namely,) one Sum equal in Amount to Three Pounds upon every One hundred Pounds of the original Cost of erecting and fitting up or of purchasing such Chapel or Building, to be secured upon Lands or Money in the Funds as aforesaid, and also a further Sum to be reserved annually out of the Pew Rents of the said Church or Chapel, after the Rate of Three Pounds for every One hundred Pounds of the Sum so to be provided as last aforesaid.

4 & 5 W. 4. c. 90. s. 5. recited and in part repealed.

V. And whereas it was by the herein-before recited Act of the Fourth and Fifth Years of the Reign of His late Majesty, among other things, enacted, that where there shall not be any Vicar or Curate in any Parish which, of the Tithes or any Portions of the Tithes and Glebes whereof, may be appropriated or united to any Archbishoprick, Bishoprick, Deanery, Archdeaconry, Dignity, Prebend,

bend, or Canonry, it shall and may be lawful for the Lord Lieutenant of *Ireland* and the Privy Council there, if they shall so think fit, by and with the Consent and Approbation of the Archbishop, Bishop, Dean, Archdeacon, Dignitary, Prebendary, or Canon thereof, or whensoever such Archbishoprick, Bishoprick, Deanery, Archdeaconry, Dignity, Prebend, or Canonry shall be void, to disappropriate, disunite, and divest such Parish, and all Tithes, Portions of Tithes, or Glebes thereunto belonging, from and out of such Archbishoprick, Bishoprick, Deanery, Archdeaconry, Dignity, Prebend, or Canonry, and, if they shall so think fit, to order and direct that such Tithes or Portions of Tithes, or Glebes, so disunited, shall from thenceforward be united and annexed to any neighbouring Rectory, Vicarage, or Perpetual Curacy, as in the said Act after mentioned, or shall be and become for ever a separate Benefice and Parish; And whereas it is expedient to repeal Part of the said recited Enactment, and to make other Provisions in lieu thereof; be it therefore enacted, That so much of the said recited Enactment as empowers the said Lord Lieutenant and Council to unite and annex any Parish, Tithes or Portions of Tithes, or Glebes, so disunited, to any neighbouring Rectory, Vicarage, or Perpetual Curacy, shall be and the same is hereby repealed.

Disappropriated Tithes, &c. shall be carried to the general Fund of the Ecclesiastical Commissioners, but charged with a Sum not exceeding 1,000*l.* per Annum for Augmentation of small Livings.

VI. And be it enacted, That in lieu of uniting and annexing any Parish, Tithes or Portions of Tithes, or Glebes, so disunited, to any neighbouring Rectory, Vicarage, or Perpetual Curacy, it shall be lawful for such Lord Lieutenant and Council, if they shall not think fit to erect the same into a separate Benefice or Parish, to order and direct that such Parish, Tithes or Portions of Tithes, or Glebes, so disunited, shall be transferred to the said Ecclesiastical Commissioners, and the Right and Interest in and to the same, and all Arrears thereof, shall thereupon vest in the said Commissioners, and be by them carried to the general Fund under their Administration, after making thereout such Provision, if needed, for the due Performance of the occasional Duties of such Parish or Place, as the said Commissioners may think fit: Provided nevertheless, that it shall and may be lawful for the said Commissioners, from and out of the Monies hereafter accruing to the said Fund by the Means aforesaid, and in preference to any other Purposes to which the said Fund may be by Law now primarily applicable, to appropriate such Sum or Sums as they may think fit, not exceeding One thousand Pounds in any One Year, to the like Purposes and Uses as the Monies bequeathed by Doctor *Hugh Boulter* and Doctor *Richard Robinson*, formerly Archbishops of *Armagh*, and now vested in the said Commissioners, are by Law applicable.

4 & 5 W. 4. c. 90. s. 7. recited and repealed.

VII. And whereas the said last-recited Act contains a further Enactment, which it is expedient, with regard to the Provisions herein-before made, shall also be repealed; be it therefore enacted, That the Enactment of the said recited Act of the Third and Fourth Years of His late Majesty's Reign herein-after following shall be and the same is hereby repealed; (that is to say,) so much of the said recited Act as enacts, that in any Case in which the said Lord Lieutenant and Council shall have Power and Authority, under the Provisions

visions of the said recited Act, or under the Provisions of the said Act of the Fourth and Fifth Years of the same Reign, and shall think fit, to disappropriate, disunite, and divest any Rectory, Vicarage, Tithes or Portion of Tithes, and Glebes or Part or Parts thereof, from and out of any Archbishoprick, Bishoprick, Deanery, Archdeaconry, Dignity, Prebend, or Canonry, it shall and may be lawful for such Lord Lieutenant and Council, if they shall so think fit, to unite and annex to any adjoining or neighbouring Rectory, Vicarage, or Perpetual Curacy as aforesaid, such Rectory, Vicarage, Tithes or Glebes, or any Part or Parts or Portions thereof respectively, so disappropriated, disunited, or divested as aforesaid, together with the actual Cure of Souls within such Rectory or Vicarage, or such Part or Parts thereof so united or annexed respectively, or within such Place or Places respectively, whereof the Tithes or Glebes shall be so united and annexed.

1 & 2 Vict. c. 109. s. 15.

VIII. And whereas it was by the herein-before recited Act of the First and Second Years of the Reign of Her present Majesty, among other things, provided, that in every Case in which no Applotment of a Composition for Tithes had been hitherto made, pursuant to the Provisions of the several Acts for establishing such Compositions therein referred to, it should be lawful for any Person or Persons in any Parish who would have been, in case such Act had not been made, individually or collectively liable to the Payment of more than One Fourth Part of the Amount of the whole Composition established in and for such Parish, to apply for the making of such Applotment to the Lord Lieutenant or the Chief Governor or Governors of *Ireland* in Council, and that such Application should be made by Memorial to be lodged with the Clerk of the Council before the First Day of *October* then next, and notified by public Advertisement, and otherwise, as in the said Act mentioned: And whereas it is expedient to make further Provision for the Applotment of such Compositions in Parishes in which no such Applotment has been made under the said Acts or any of them; be it enacted, That in any Case in which no Applotment of the said Composition for Tithes shall have been hitherto made, it shall be lawful for any Person or Persons in any Parish who would have been, in case the said Act had not been made, entitled to the Receipt of the Composition established in and for such Parish, or any Portion thereof, or for any Person or Persons in any Parish who shall be individually or collectively liable to the Payment of more than One Fourth of the whole Amount of the Rent-charges charged under the Provisions of the said recited Act upon the Lands theretofore subject to the Payment of the said Compositions for Tithes in such Parish, to apply to the said Lord Lieutenant in Council for the making of such Applotment; and that such Application shall be made by Memorial, to be lodged, at any Time before the First Day of *October* now next, with the Clerk of the said Council; and Notice of every such Memorial shall be posted at the Door of every Church and Chapel within such Parish, and at the usual Place or Places of posting Grand Jury Notices in the Barony or Half Barony, Baronies or Half Baronies, in which the Parish to which such Memorial may refer is situated; and shall be once published in some Newspaper circulating within such Parish; such Posting and Publication to be made by the

In any Case where no Applotment of Tithe Composition has been made, any Person who would have been entitled to the Receipt or liable to the Payment of such Composition, may apply to have such Applotment made.

Memorialist within Ten Days after such Memorial shall be so lodged as aforesaid.

Persons liable to Tithe or Tithe Rent-charge may oppose the Application for an Applotment by a counter Memorial.

IX. And be it enacted, That it shall be lawful for any Person or Persons, liable to the Payment of any Rent-charge in such Parish under the said recited Act, to apply by counter Memorial to the Lord Lieutenant in Council to be heard in opposition to such Memorial, such counter Memorial to be lodged with the Clerk of the Council within Twenty Days after such Notice shall have been published as aforesaid, or within such further Time as such Lord Lieutenant in Council shall order; and it shall be lawful for the Lord Lieutenant in Council to examine into the Merits of any such Memorial or counter Memorial, and for that Purpose to receive such Evidence on Oath and otherwise as to him shall seem meet, and to make such Order, whether for dismissing such Memorial, or for directing an Applotment to be made, or respecting the Manner in which such Applotment shall be made, or respecting the Omission therefrom of any Lands which may appear to be Tithe-free, or otherwise, as to the said Lord Lieutenant in Council shall seem meet; and it shall be lawful for the said Lord Lieutenant and Council, for the better informing them upon any Matter relating to the Subject of the Prayer of such Memorial or counter Memorial, to direct any such Matter to be inquired into before the Judge or Judges of Assize for the County in which such Parish shall be situate, with or without a Jury, as the Lord Lieutenant and Council shall order, and such Judge or Judges shall so inquire accordingly, and shall receive Evidence on such Inquiry, as in Cases of Trials by Nisi Prius, and shall certify the Result of such Inquiry to the Lord Lieutenant in Council.

Proceedings thereon respectively.

Lord Lieutenant and Council empowered, at their Discretion, to cause such Applotment to be made.

X. And be it enacted, That in every such Case it shall and may be lawful for the said Lord Lieutenant in Council, if he shall so think fit, to appoint One or more skilful Person or Persons to make such Applotment, who shall therein (subject to any Order or Orders of the Lord Lieutenant in Council made under this Act) have and exercise the like Powers, Privileges, and Authorities, and observe, as far as may be, the like Regulations, as are given and directed to be observed by the said Acts for establishing Compositions of Tithes; and the said Lord Lieutenant shall cause to be paid to the Person or Persons employed for the Purposes aforesaid such Remuneration as he shall think reasonable, and the Expences thereof shall be repaid by Grand Jury Presentment on or off the Parish in which such Expences shall have been incurred; and a Certificate of the Amount so expended in respect of each such Parish shall be transmitted, under the Hand of the Paymaster of Civil Services in *Ireland*, to the Treasurer of the County in which such Parish may be situate, and such Treasurer shall insert the Sum specified in such Certificate in his Warrant for the Collection of the Money to be raised and levied off such Parish by Presentment of the Grand Jury at the Assizes next succeeding, and such Sum shall be applotted (if need be by a separate Applotment) and raised and levied off the Lands liable to Rent-charge in such Parish, in like Manner, and by the like Ways and Means, as if such Sum had been presented by the said Grand Jury at such Assizes

The Expence to be defrayed by Grand Jury Presentment.

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to be levied off such Lands, and shall be paid over by the said Treasurer, when and as by him received, to such Bank or Person, and in such Manner, as the Commissioners of Her Majesty's Treasury, or any Three or more of them, shall direct.

Applotment to be subject to Appeal, &c.

Lord Lieutenant and Council shall declare from what Time such new Applotments shall take effect.

XI. And be it enacted, That every such Applotment made under the Authority of this Act shall be subject to such Appeal, Alteration, and Amendment, and shall be as good, valid, and effectual as any Applotment made under the Authority of the said Acts for establishing Compositions for Tithes in *Ireland*, or any of them: Provided nevertheless, that it shall be lawful for the said Lord Lieutenant or other Chief Governor or Governors in Council to fix and declare the Time from which each such Applotment to be made under the Authority of this Act shall take effect, or to which the same shall relate, and to make such Orders and Regulations in each such Case, and from Time to Time to rescind or vary the same, as to him and them shall seem just and necessary; and all such Orders and Regulations shall be good, valid, and effectual as if the same had been inserted in this Act; and the Enactments herein made in respect of the Applotments to be made under the Authority of this Act shall be construed together with the said recited Act of the First and Second Years of Her Majesty's Reign, and as Part thereof, to all Intents and Purposes.

Construction of Act.

XII. And be it enacted, That in the Construction of this Act the Words "Lord Lieutenant" shall be construed to mean the Lord Lieutenant, Lords Justices, or other Chief Governor or Governors of *Ireland*.

Act may be amended this Session.

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

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