CAP. LX.

An Act for suspending, until the First Day of *October* One thousand eight hundred and forty-four, the Operation of the new Arrangement of Dioceses, so far as it affects the existing Ecclesiastical Jurisdictions. [17th *August* 1843.]

'WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty, intituled *An Act for carrying into effect the Reports of the Commissioners appointed to consider the State of the Established Church in* England *and* Wales *with reference to Ecclesiastical Duties and Revenues, so far as they relate to Episcopal Dioceses, Revenues, and Patronage,* and the said Act contains certain temporary Provisions relating to the State and Jurisdiction of all the Ecclesiastical Courts in *England* and *Wales:* And whereas the said temporary Provisions, having been from Time to Time continued by certain other Acts of Parliament, were further continued, together with a further Provision respecting the Visitations of Bishops and Archdeacons, contained in an Act passed in the Fifth Year of Her Majesty's Reign, intituled *An Act to explain and amend Two several Acts relating to the Ecclesiastical Commissioners for* England, and now stand continued until the First Day of *October* next: And whereas it is expedient that the said temporary Provisions, and such further Provision as aforesaid, should be further continued for a limited Time:' 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 the said temporary Provisions, and the said further Provision relating to the Visitations of Bishops and Archdeacons, shall continue and be in force until the First Day of *October* in the Year One thousand eight hundred and forty-four. 6 & 7 W. 4. c. 77. 4 & 5 Vict. c. 39. Temporary Provisions relating to Ecclesiastical Courts and Provision relating to Visitations continued.

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 And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.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

CAP. LXI.

An Act to remove Doubts respecting the Admission of Ministers to Benefices in that Part of the United Kingdom called *Scotland.* [17th *August* 1843.]

'WHEREAS certain Acts of the Parliament of *Scotland* and of the United Kingdom of *Great Britain* have declared that the Right of Collation in regard to the Settlement of Ministers in the Parishes to which they may be presented belongs to the Church established by Law in that Part of the United Kingdom called *Scotland:* And whereas Provision has been made by these Statutes for securing to the Church the exclusive

'exclusive Right of examining and admitting any Person who 'may be presented to a Benefice having Cure by the Patron 'of such Benefice; and in particular by an Act passed in the 'Parliament of *Scotland* in the Year One thousand five hundred
1567. c. 7. 'and sixty-seven, intituled *Admission of Ministers; of Laick 'Patronages*, it is statute and ordained, that the Examination 'and Admission of Ministers within this Realm be only in 'the Power of the Kirk now openlie and publicly professed 'within the samin, the Presentation of Laick Patronage 'alwaies reserved to the just and auncient Patrones; and by 'an Act passed in the Parliament of *Scotland* in the Year One
1592. c. 114. 'thousand five hundred and ninety-two, intituled *Ratification 'of the Liberty of the trew Kirk*, the Government of the Church 'by Presbyteries, Synods, and General Assemblies was ratified and established, and it was ordained that all Presentations to Benefices be direct to the particular Presbyteries 'in all Time cumming, with full Power to give Collation thereupon, and to put Ordour to all Maters and Causes Ecclesiastical within their Boundes according to the Discipline of 'the Kirk; providing the foresaids Presbyteries be bound and 'astricted to receive and admitt whatsumever qualified Minister 'presented be His Majesty or Laick Patrones; and by an Act 'of the Parliament of *Great Britain* passed in the Tenth
10 Ann. c. 12. 'Year of the Reign of Her Majesty Queen *Anne*, intituled *An 'Act to restore the Patrones to their ancient Rights of presenting 'the Ministers to Churches vacant in that Part of* Great Britain 'called Scotland, the Right of the Church to receive and 'admit Persons presented to Benefices was again recognized 'and secured; and by an Act of the Parliament of *Great 'Britain* passed in the Fifth Year of the Reign of His Majesty
5 G. 1. c. 29. 'King *George* the First, intituled *An Act for making more 'effectual the Laws appointing the Oaths for Security of the 'Government to be taken by Ministers and Preachers in Churches 'in* Scotland, *providing that certain Oaths should be taken by 'Ministers and Preachers of the Church of* Scotland, *and for 'preventing Delays in the supplying or filling up of vacant 'Churches in* Scotland, it is also declared and enacted, that 'nothing herein contained shall prejudice or diminish the 'Rights of the Church, as the same now stands by Law established, as to the trying of the Qualities of any Person presented to any Church or Benefice: And whereas it is expedient 'to remove any Doubt which may exist as to the Powers and 'Jurisdiction of the Church as by Law established in *Scotland* 'in the Matter of Collation, and as to the Right of the Church 'to decide that no Person be settled in any Parish or Benefice 'having Cure against whom or whose Settlement in such Parish 'or Benefice there exists any just Cause of Exception:' May it therefore please Your Majesty that it may be declared and enacted; and be it declared and 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

That when a Presentation to any Benefice within that Part of the United Kingdom called *Scotland* by the undoubted Patron has been laid before the Presbytery of the Bounds, it shall and may be lawful for the Presbytery, as Part and as the Commencement of the Proceedings in the Examination and Admission of the Person so presented for the Cure of that Parish, and of the Trial of his Gifts and Qualities, to appoint him to preach in the Church of the said Parish at such Times as the Presbytery may direct, or as may be directed by any Regulations of the General Assembly to that Effect; and after the Presentee shall have preached in the Parish Church according to the Directions of the Presbytery, the Presbytery, or a Committee of their Number, shall meet, after due Notice, at the said Church, and shall intimate that if any One or more Parishioners being Members of the Congregation have any Objection to the Individual so presented, in respect to his Ministerial Gifts and Qualities, either in general or with reference to that particular Parish, or any Reason to state against his Settlement in that Parish, and which Objections or Reasons do not infer Matter of Charge against the Presentee to be prosecuted and followed out according to the Forms and Discipline of the Church, the Presbytery are ready, either then or at their next Meeting, to receive the same in Writing, or to write down the same in their Minutes in the Form and Manner which such Parishioners may desire.

Upon Presentation to a Benefice being laid before any Presbytery they may require the Person presented to preach in the Parish Church, and thereupon may meet, after due Notice, to receive or enter Reasons or Objections against him.

II. And be it enacted, That the Objections or Reasons aforesaid shall be fully considered and disposed of by the Presbytery by whom they are to be cognosced and determined on judicially, or shall be referred by the Presbytery to the superior Judicatory of the Church for Decision, as the Presbytery may see Cause, the Presentee and all Parties having Interest being heard in either Case on the same; and the Presbytery or other Judicatory of the Church to whom the said Objections or Reasons shall be stated or referred as aforesaid shall, in cognoscing and determining on the same judicially, have regard only to such Objections and Reasons so stated as are personal to the Presentee in regard to his Ministerial Gifts and Qualities, either in general or with respect to that particular Parish, but shall be entitled to have regard to the whole Circumstances and Condition of the Parish, to the Spiritual Welfare and Edification of the People, and to the Character and Number of the Persons by whom the said Objections or Reasons shall be preferred; and if the Presbytery or other Judicatory of the Church shall come to the Conclusion, as their Judgment on the whole Matter, that the said Objections or Reasons, or any of them, are well founded, and that in respect thereof the Individual presented is not a qualified and suitable Person for the Functions of the Ministry in that particular Parish, and ought not to be settled in the same, they shall pronounce a Deliverance to that Effect, and shall set forth and specify in such Deliverance the special Ground or Grounds on which it is founded, and in respect of which they find that the Presentee is not qualified for

Reasons and Objections to be determined by Presbytery, or referred to superior Judicatory of the Church.

To what the Presbytery shall have regard in their Determination.

If the Presbytery support such Objections, they shall issue a Deliverance to that Effect, and Patron may make another Presentation.

for that Charge, in which event they shall intimate their Deliverance respecting the Presentee to the Patron, who shall thereupon have Power to issue another Presentation within the Period of Six Calendar Months after the Date of such Deliverance if no Appeal shall be taken to a superior Judicatory of the Church, or in the event of an Appeal being taken to a superior Judicatory of the Church, then within Six Months after the Date of the Judgment of the superior Judicatory of the Church affirming the Deliverance of the inferior Judicatory of the Church or dismissing the Appeal.

If no good Objections against Presentee, Presbytery shall (subject to Appeal) proceed to further Trial, and admit him if qualified.

III. And be it enacted, That if the Presbytery or other Judicatory of the Church, after considering all the Objections aforesaid to the Presentee and all the Reasons stated against his Settlement in that particular Parish, shall be satisfied, in the Discharge of their Functions and in the Exercise of their Authority and Duty as Ministers of the Gospel and as Office-bearers in the Church, that no good Objections against the Individual or no good Reason against his Settlement has been stated as aforesaid, or that the Objections and Reasons stated are not truly founded in any Objection personal to the Presentee in regard to his Ministerial Gifts and Qualities, either in general or with reference to that particular Parish, or arise from causeless Prejudices, the said Presbytery or other Judicatory of the Church shall repel the same, and, subject to the Right of Appeal as herein-after provided, shall complete the further Trials and Examination of the Presentee, and, if found by them to be qualified for the Ministry in that Parish, shall admit and receive him into the Benefice as by Law provided.

No Presentee to be rejected unless Dissent or Dislike be founded upon Objections to be judged of by Presbytery, &c.

IV. And be it enacted, That it shall not be lawful for any Presbytery or other Judicatory of the Church to reject any Presentee upon the Ground of any mere Dissent or Dislike expressed by any Part of the Congregation of the Parish to which he is presented, and which Dissent or Dislike shall not be founded upon Objections or Reasons to be fully cognosced, judged of, and determined in the Manner aforesaid by the said Presbytery or other Judicatory of the Church.

Presentee, &c. may appeal to superior Judicatory of the Church from Deliverance of Presbytery.

V. And be it enacted, That it shall be in the Power of the Presentee, Patron, or Objectors to appeal from any Deliverance pronounced as aforesaid by the said Presbytery acting within its Competency as a Judicatory of the Church, which Appeal shall lie exclusively to the superior Judicatories of the Church according to the Forms and Government of the Church of *Scotland* as by Law established.

The Right of Presentees now in possession not to be challenged, although a former Presentee may have been rejected under the Act of General Assembly of May 1835.]

VI. 'And whereas by an Act of the General Assembly of the 'Church of *Scotland*, of Date Twenty-ninth *May* One thousand 'eight hundred and thirty-five, it was made an Instruction to 'Presbyteries that if at the moderating in a Call to a vacant 'Parish the major Part of the Male Heads of Families, Mem-'bers of the vacant Congregation and in full Communion with 'the Church, shall disapprove of the Person in whose Favour 'the Call is proposed to be moderated in, such Disapproval 'shall be deemed sufficient Ground for the Presbytery reject-

'ing

'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.