



ANNO SECUNDO & TERTIO

GULIELMI IV. REGIS.

C A P. C.

An Act for shortening the Time required in Claims of Modus decimandi, or Exemption from or Discharge of Tithes. [9th August 1832.]

WHEREAS the Expence and Inconvenience of Suits instituted for the Recovery of Tithes may and ought to be prevented, by shortening the Time required for the valid Establishment of Claims of a Modus decimandi, or Exemption from or Discharge of Tithes ; be it therefore 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 all Prescriptions and Claims of or for any Modus decimandi, or of or to any Exemption from or Discharge of Tithes, by Composition real or otherwise, shall, in Cases where the Render of Tithes in Kind shall be hereafter demanded by our said Lord the King, His Heirs or Successors, or by any Duke of *Cornwall*, or by any Lay Person, not being a Corporation Sole, or by any Body Corporate of many, whether Temporal or Spiritual, be sustained and be deemed good and valid in Law, upon Evidence showing, in Cases of Claim of a Modus decimandi the Payment or Render of such Modus, and in Cases of Claim to Exemption or Discharge showing the Enjoyment of the Land, without Payment or Render of Tithes, Money, or other Matter in lieu thereof, for the full Period of Thirty Years next before the Time of such Demand, unless, in the Case of Claim of a Modus decimandi, the actual Payment or Render of Tithes in Kind, or of Money

What Prescriptions and Claims of Modus decimandi to be valid in Law.

Money or other Thing differing in Amount, Quality, or Quantity from the Modus claimed, or, in case of Claim to Exemption or Discharge, the Render or Payment of Tithes, or of Money or other Matter in lieu thereof, shall be shown to have taken place at some Time prior to such Thirty Years, or it shall be proved that such Payment or Render of Modus was made or Enjoyment had by some Consent or Agreement expressly made or given for that Purpose by Deed or Writing; and if such Proof in support of the Claim shall be extended to the full Period of Sixty Years next before the Time of such Demand, in such Cases the Claim shall be deemed absolute and indefeasible, unless it shall be proved that such Payment or Render of Modus was made or Enjoyment had by some Consent or Agreement expressly made or given for that Purpose by Deed or Writing; and where the Render of Tithes in Kind shall be demanded by any Archbishop, Bishop, Dean, Prebendary, Parson, Vicar, Master of Hospital, or other Corporation Sole, whether Spiritual or Temporal, then every such Prescription or Claim shall be valid and indefeasible, upon Evidence showing such Payment or Render of Modus made or Enjoyment had, as is herein-before mentioned, applicable to the Nature of the Claim, for and during the whole Time that Two Persons in succession shall have held the Office or Benefice in respect whereof such Render of Tithes in Kind shall be claimed, and for not less than Three Years after the Appointment and Institution or Induction of a Third Person thereto: Provided always, that if the whole Time of the holding of such Two Persons shall be less than Sixty Years, then it shall be necessary to show such Payment or Render of Modus made or Enjoyment had (as the Case may be), not only during the whole of such Time, but also during such further Number of Years, either before or after such Time, or partly before and partly after, as shall with such Time be sufficient to make up the full Period of Sixty Years, and also for and during the further Period of Three Years after the Appointment and Institution or Induction of a Third Person to the same Office or Benefice, unless it shall be proved that such Payment or Render of Modus was made or Enjoyment had by some Consent or Agreement expressly made or given for that Purpose by Deed or Writing.

Proviso.

What Compositions for Tithes shall be considered valid.

II. And be it further enacted, That every Composition for Tithes which hath been made or confirmed by the Decree of any Court of Equity in *England* in a Suit to which the Ordinary, Patron, and Incumbent were Parties, and which hath not since been set aside, abandoned, or departed from, shall be and the same is hereby confirmed and made valid in Law; and that no Modus, Exemption, or Discharge shall be deemed to be within the Provisions of this Act, unless such Modus, Exemption, or Discharge shall be proved to have existed and been acted upon at the Time of or within One Year next before the passing of this Act.

The Act not available in any Suit now commenced, &c.

III. Provided always, That this Act shall not be prejudicial or available to or for any Plaintiff or Defendant in any Suit or Action relative to any of the Matters before mentioned, now commenced, or which may be hereafter commenced, during the present Session of Parliament, or within One Year from the End thereof.

IV. Provided also, and be it further enacted, That this Act shall not extend or be applicable to any Case where the Tithes of any Lands, Tenements, or Hereditaments shall have been demised by Deed for any Term of Life or Number of Years, or where any Composition for Tithes shall have been made by Deed or Writing, by the Person or Body Corporate entitled to such Tithes, with the Owner or Occupier of the Land, for any such Term or Number of Years, and such Demise or Composition shall be subsisting at the Time of the passing of this Act, and where any Action or Suit shall be instituted for the Recovery or enforcing the Payment of Tithes in Kind within Three Years next after the Expiration, Surrender, or other Determination of such Demise or Composition.

To what Cases this Act shall not extend.

V. Provided also, and be it further enacted, That where any Lands or Tenements shall have been or shall be held or occupied by any Rector, Vicar, or other Person entitled to the Tithes thereof, or by any Lessee of any such Rector, Vicar, or other Person, or by any Person compounding for Tithes with any such Rector, Vicar, or other Person, or by any Tenant of any such Rector, Vicar, or other Person, or of any such Lessee or Compounder, whereby the Right to the Tithes of such Lands or Tenements may have been or may be during any Time in the Occupier thereof, or in the Person entitled to the Rent thereof, the whole of every such Time and Times shall be excluded in the Computation of the several Periods of Time herein-before mentioned.

Time during which Lands shall be held by Persons entitled to the Tithes thereof to be excluded in the Computation under this Act;

VI. Provided also, That the Time during which any Person otherwise capable of resisting any Claim to any of the Matters before mentioned shall have been or shall be an Infant, Idiot, Non compos mentis, Feme Covert, or Lay Tenant for Life, or during which any Action or Suit shall have been pending, and which shall have been diligently prosecuted, until abated by the Death of any Party or Parties thereto, shall be excluded in the Computation of the Periods herein-before mentioned, except only in Cases where the Right or Claim is hereby declared to be absolute and indefeasible.

as also the Time during which any Person capable of resisting any Claim shall be an Infant, &c.

VII. And be it further enacted, That in all Actions and Suits to be commenced after this Act shall take effect it shall be sufficient to allege that the Modus or Exemption or Discharge claimed was actually exercised and enjoyed for such of the Periods mentioned in this Act as may be applicable to the Case; and if the other Party shall intend to rely on any Proviso, Exception, Incapacity, Disability, Contract, Agreement, Deed, or Writing herein mentioned, or any other Matter of Fact or of Law not inconsistent with the simple Fact of the Exercise and Enjoyment of the Matter claimed, the same shall be specially alleged and set forth in answer to the Allegation of the Party claiming, and shall not be received in Evidence on any general Traverse or Denial of the Matter claimed.

What it shall be sufficient to allege in Actions commenced under this Act.

VIII. And be it further enacted, That in the several Cases mentioned in and provided for by this Act no Presumption shall be allowed or made in favour or support of any Claim upon Proof of the Exercise

No Presumption allowed in support of any Claim for any less

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Period than mentioned in this Act. Exercise or Enjoyment of the Right or Matter claimed for any less Period of Time or Number of Years than for such Period or Number mentioned in this Act as may be applicable to the Case and to the Nature of the Claim.

Act to extend to England only. IX. Provided also, and be it further enacted, That this Act shall not extend to *Scotland* or *Ireland*.

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