

[STATUTES OF ENGLAND, 1689] [1]

1° GUL. & MAR. A. D. 1688.

CHAPTER XVIII.

AN ACT for Exempting their Majestyes Protestant Subjects dissenting from the Church of England from the Penalties of certaine Lawes.

Rot. Parl.
pt. 5.
nu. 15. [1]

FORASMUCH as some ease to scrupulous Consciences in the Exercise of Religion may be an effectuall meanes to unite their Majestyes Protestant Subjects in Interest and Affection

Bee it enacted by the King and Queens most excellent Majestyes by and with the advice and consent of the Lords Spirituall and Temporall and the Commons in this present Parliament assembled and by the authoritie of the same That

23 El. c. 1.

neither the Statute made in the three and twentieth yeare of the Raigne of the late Queene Elizabeth Entituled *An Act to Retaine the Queens Majestyes Subjects in their due Obedience*, [2]

29 El. c. 6.

Nor the Statute made in the twenty ninth yeare of the said Queene Intituled *An Act for the more speedy and due Execution of certaine Branches of the Statute made in the three and twentieth yeare of the Queens Majestyes Raigne vizt* The aforesaid Act, [3]

1 El. c. 2
§ 14.

nor that Branch or Clause of a Statute made in the first yeare of the Raigne of the said Queene Intituled *An Act for the Uniformity of Common Prayer and Service in the Church and Administration of the Sacraments* [4] whereby all persons haveing noe lawfull or reasonable excuse to be absent are required to resort to their Parish Church or Chappell or some usuall place where the Common Prayer shall be used upon paine of Punishment by the Censures of the Church and alsoe upon paine that every person soe offending

shall forfeite for every such Offence twelve pence

Nor the Statute made in the third yeare of the Raigne of the late King James [5] Intituled *An Act for the better discovering and repressing Popish Recusants* [6]

Nor that other Statute made in the same yeare Intituled *An Act to Prevent and Avoid Dangers which may grow by Popish Recusants* [7]

Nor any other Law or Statute of this Realme made against Papists or Popish Recusants

Except the Statute made in the five and twentieth yeare of King Charles the Second Intituled *An Act for preventing Dangers which may happen from Popish Recusants* [8] And

except alsoe the Statute made in the thirtieth yeare of the said King Charles the Second Intituled *An Act for the more effectuall preserving the Kings Person and Government by disabling Papists from sitting in either House of Parlyament* [9]

Shall be construed to extend to any person or persons dissenting from the Church of England that

shall take the Oaths mentioned in a Statute made this present Parliament Intituled *An Act for removeing and preventing all Questions and Disputes concerning the assembling and sitting of this present Parliament* [10] And

3 Jac. I.
c. 3, 4.3 Jac. I.
c. 5.nor any
other Law
against Pa-
pists or Po-
pish Recu-
sants, ex-
cept 25
Car. II. c. 230 Car. II
st. 2.to extend to
Dissenterstaking the
Oaths of
cap. 1. an-
te, and

[1] [Statutes of the Realm vol 6 pp 74-76. Also *Statutes at Large*, Ruffhead (1763) vol 3 pp 424-427; Pickering (1764) vol 9 pp 19-25; Raithby vol 5 [unavailable]. Given the short title *The Toleration Act, 1688* by the *Statute Law Revision Act, 1948*; though it was in fact passed 24 May 1689. Finally repealed in 1969.

[2] [Religion Act of 1580]

[3] [Religion Act of 1586]

[4] [*The Act of Uniformity, 1558*]

[5] "the first", in the original act.

[6] [3 Jac 1 c 3 was the Union of England and Scotland act of 1605, cited in the margin here apparently by mistake (?); c 4 was the Popish recusants act of 1605.]

[7] [*The Presentation of Benefices Act, 1605*]

[8] [Popish Recusants Act of 1672, also called the Test Act of 1673]

[9] [Parliament Act of 1678, also called the Test Act of 1678]

making and subscribing the Declaration of 30 Car. II. st. 2. shall make and subscribe the Declaration mentioned in a Statute made in the thirtyeth yeare of the Raigne of King Charles the Second Intituled *An Act to prevent Papists from sitting in either House of Parlyament* [11]

Justices to tender Which Oaths and Declaration the Justices of Peace at the generall Sessions of the Peace to be held for the County or Place where such person shall live are hereby required

Oaths and Declarations, and to tender and administer to such persons as shall offer themselves to take make and subscribe the same and

keep a Register thereof. thereof to keepe a Register

Fee for And likewise none of the persons aforesaid shall give or pay as any Fee or Reward to any Officer or Officers belonging to the Court aforesaid

Register and above the summe of six pence nor that more then once for his or their Entry of his takeing the said Oaths and makeing and subscribing the said Declaration Nor

Certificate. above the further summe of six pence for any Certificate of the same to be made out and signed by the Officer or Officers of the said Court.

AND bee it further enacted by the authoritie aforesaid That all and every person and persons already convicted or prosecuted in order to Conviction of Recusancy by Indictment Information Action of Debt or otherwise grounded upon the aforesaid Statutes or any of them that shall take the said Oaths mentioned in the said Statute made this present Parliament and make and subscribe the Declaration aforesaid in the Court of Exchequer or Assizes or Generall or Quarter Sessions to be held for the County where such person lives and to be thence respectively certified into the Exchequer shall be thenceforth exempted and discharged from all the Penalties Seizures Forfeitures Judgements and Executions incurred by force of any the aforesaid Statutes without any Composition Fee or further Charge whatsoever

AND bee it further enacted by the authoritie aforesaid That all and every person and persons that shall as aforesaid take the said Oathes and make and subscribe the Declaration aforesaid shall not be lyable to any Paines Penalties or Forfeitures mentioned

in an Act made in the five and thirtyeth yeare of the Raigne of the late Queene Elizabeth Intituled *An Act to retaine the Queenes Majestyes Subjects in their due Obedience* [12]

Nor in An Act made in the two and twentyeth yeare of the Raigne of the late King Charles the Second Intituled *An Act to prevent and suppress seditious Conventicles* [13]

Nor shall any of the said persons be prosecuted in any Ecclesiasticall Court for or by reason of their Nonconforming to the Church of England.

PROVIDED alwayes and bee it enacted by the authoritie aforesaid That if any Assembly of persons dissenting from the Church of England shall be had in any place for Religious Worship with the doores locked barred or bolted dureing any time of such Meeting together all and every person or persons that shall come to and be at such Meeting shall not receive any benefitt from this Law but be lyable to all the Paines and Penalties

II. Persons convicted, &c. taking the Oaths, &c. to be discharged.

III. Persons taking the Oaths, &c. not liable to Penalties of

35 El. c. 1. and

22 Car. II. c. 1.

nor to be prosecuted in any Ecclesiasticall Court.

IV. Dissenters meeting with Doors locked, &c. excluded from Benefit of this Act.

[10] [Parliament Act of 1688, 1 W & M c 1; s 4 set out the oaths as follows:

I A B Doe sincerely Promise and Swear that I will be Faithfull and beare true Allegiance to Their Majestyes King William and Queene Mary Soe helpe me God.

I A B Doe Swear that I doe from my Heart Abhorr Detest and Abjure as Impious and Hereticall that damnable Doctrine and Position That Princes Excommunicated or Deprived by the Pope or any Authoritie of the See of Rome may be Deposed or Murthered by their Subjects or any other whatsoever And I doe Declare that noe Forreigne Prince, Person, Prelate State or Potentate hath or ought to have any Power Jurisdiction Superiority Preeminence or Authoritie Ecclesiasticall or Sprituall within this Realme Soe helpe me God.]

[11] [Parliament Act of 1678, also called the Test Act of 1678; s 1 set out the declaration as follows:

I A B doe solemnly and sincerely in the presence of God professe testifie and declare That I doe believe that in the Sacrament of the Lords Supper there is not any Transubstantiation of the Elements of Bread and Wine into the Body and Blood of Christ at or after the Consecration thereof by any person whatsoever; And that the Invocation or Adoration of the Virgin Mary or any other Saint, and the Sacrifice of the Masse as they are now used in the Church of Rome are superstitious and idolatrous, And I doe solemnly in the presence of God professe testifie and declare That I doe make this Declaration and every part thereof in the plaine and ordinary sence of the Words read unto me as they are commonly understood by English Protestants without any Evasion, Equivocation or Mentall Reservation whatsoever and without any Dispensation already granted me for this purpose by the Pope or any other Authority or Person whatsoever or without any hope of any such Dispensation from any person or authority whatsoever or without thinking that I am or can be acquitted before God or Man or absolved of this Declaration or any part thereof although the Pope or any other Person or Persons or Power whatsoever should dispence with or annull the same, or declare that it was null and void from the beginning.]

[12] [Religion Act of 1592, also called the Seditious Sectaries Act of 1592, the Act against Puritans of 1592 or the Conventicles Act of 1592]

[13] [Conventicles Act of 1670]

of all the aforesaid Laws recited in this Act for such their Meeting notwithstanding his taking the Oaths and his making and subscribing the Declaration aforesaid

Proviso for Tythes. Provided always That nothing herein contained shall be construed to exempt any of the persons aforesaid from paying of Tythes or other Parochial Duties or any other Duties to the Church or Minister nor from any Prosecution in any Ecclesiasticall Court or elsewhere for the same

V. Dissenters AND bee it further enacted by the Authoritie aforesaid That if

appointed Officers, and any Person dissenting from the Church of England as aforesaid shall hereafter be chosen or otherwise appointed to beare the Office of High Constable or Petty Constable Churchwarden Overseer of the Poore or any other Parochiall or Ward Office and

scrupling Oaths, &c. such person shall scruple to take upon him any of the said Offices in regard of the Oathes or any other Matter or Thing required by the Law to be taken or done in respect of such Office

may act by Deputy. every such Person shall and may execute such Office or Employment by a sufficient Deputie by him to be provided that shall comply with the Laws on this behalfe

Provided always the said Deputy be allowed and approved by such person and [14] persons in such manner as such Officer or Officers respectively should by Law have beene allowed and approved

VI. Dissenters in Orders by what Means exempted from the Penalties of 13 & 14 Car. II. c. 4. § 10. AND bee it further enacted by the authoritie aforesaid That noe person dissenting from the Church of England in Holy Orders or pretended Holy Orders or pretending to Holy Orders nor any Preacher or Teacher of any Congregation of dissenting Protestants that

shall make and subscribe the Declaration aforesaid and take the said Oaths at the Generall or Quarter Sessions of the Peace to be held for the County Towne Parts or Division where such person lives which Court is hereby impowred to administer the same and

shall also declare his approbation of and subscribe the Articles of Religion mentioned in the Statute made in the thirteenth year of the Raigne of the late Queene Elizabeth [15] Except the thirty fourth [16] thirty fifth [17] and thirty sixth [18] and these words of the twentyeth Article [19] *vizt* (the Church hath power to decree Rights or Ceremonies and Authority in Controversies of Faith and yet)

[13 Eliz 1 c 12]

shall be lyable to

any of the paines or penalties mentioned in An Act made in the seventeenth year of the Raigne of King Charles the Second intituled *An Act for* **17 Car. II. c. 2. and**

[15] [*An Act to reforme certayne Disorders touching Ministers of the Church; given the short title The Ordination of Ministers Act, 1571 by the Statute Law Revision Act, 1948.* This act referred to articles of religion made in 1562; but these had been somewhat revised under Queen Elizabeth's direction and had become the famous 39 articles as approved by Convocation in 1571. They were included in the *Book of Common Prayer*, the 1662 version of which was in use at the time of this 1689 act. Relevant articles are shown in the following notes.]

[16] [*Articles of Religion*] XXXIV. *Of the Traditions of the Church.*

IT is not necessary that Traditions and Ceremonies be in all places one, or utterly alike; for at all times they have been divers, and may be changed according to the diversities of countries, times, and men's manners, so that nothing be ordained against the God's Word. Whosoever through his private judgment, willingly and purposely doth openly break the Traditions and Ceremonies of the Church, which be not repugnant to the Word of God, and be ordained and approved by common authority, ought to be rebuked openly (that others may fear to do the like) as he that offendeth against the common Order of the Church, and hurteth the authority of the Magistrate, and woundeth the consciences of the weak brethren. Every particular or national Church hath authority to ordain, change, and abolish, Ceremonies or Rites of the Church, ordained only by man's authority, so that all things be done to edifying.

[17] [*Articles of Religion*] XXXV. *Of the Homilies.*

THE second Book of Homilies, the several titles whereof we have joined under this Article, doth contain a godly and wholesome Doctrine, and necessary for these times, as doth the former Book of Homilies, which were set forth in the time of Edward the Sixth; and therefore we judge them to be read in the Churches by the Ministers, diligently and distinctly, that they may be understood by the people. [*Homily titles omitted*]

[18] [*Articles of Religion*] XXXVI. *Of Consecration of Bishops and Ministers.*

THE Book of Consecration of Archbishops and Bishops, and Ordering of Priests and Deacons, lately set forth in the time of Edward the Sixth, and confirmed at the same time by authority of Parliament, doth contain all things necessary to such Consecration and Ordering: neither hath it any thing, that of itself is superstitious and ungodly. And therefore whosoever are consecrated or ordered according to the Rites of that Book, since the second year of the forenamed King Edward unto this time, or hereafter shall be consecrated or ordered according to the same Rites; we decree all such to be rightly, orderly, and lawfully consecrated and ordered.

[19] [*Articles of Religion*] XX. *Of the Authority of the Church.*

THE Church hath power to decree Rites or Ceremonies, and authority in Controversies of Faith: And yet it is not lawful for the Church to ordain anything that is contrary to God's Word written, neither may it so expound one place of Scripture, that it be repugnant to another. Wherefore, although the Church be a witness and a keeper of holy Writ, yet, as it ought not to decree any thing against the same, so besides the same ought it not to enforce any thing to be believed for necessity of Salvation.

[14] "or", in the original act.

restraining Non Conformists from inhabiting in Corporations [20]

22 Car. II. c. 1.

Nor the penalties mentioned in the aforesaid Act made in the two and twentyeth yeare of his said late Majesties Raigne [13] for or by reason of such persons preaching at any Meeting for the Exercise of Religion

[13 & 14 Car. II. c. 4. § 10.]

Nor to the penalty of one hundred pounds mentioned in An Act made in the thirteenth and fourteenth of King Charles the Second Intituled *An Act for the Uniformity of Publique Prayers and Administration of Sacraments and other Rites and Ceremonies And for establishing the Forme of makeing ordaineing and consecrating of Bishops Priests and Deacons in the Church of England* [21] for officiating in any Congregation for the Exercise of Religion permitted and allowed by this Act

Taking the Oaths, &c. to be registered.

[22] [Provided alwayes That the makeing and subscribing the said Declaration and the takeing the said Oaths and makeing the Declaration of Approbation and Subscription to the said Articles in manner as aforesaid by every respective person or persons herein before mentioned at such Generall or Quarter Sessions of the Peace as aforesaid shall be then and there entred of Record in the said Court for which six pence shall be paid to the Clerke of the Peace and noe more]

Meeting-Door to be unlock-ed.

Provided that such person shall not at any time preach in any place but with the doores not locked barred or bolted as aforesaid

VII. Provision for Anabaptists.

AND whereas some dissenting Protestants scruple the baptizeing of Infants

Bee it enacted by the authoritie aforesaid That every person in pretended Holy Orders or pretending to Holy Orders or Preacher or Teacher that

shall subscribe the aforesaid Articles of Religion

Except before excepted and

also except part of the seven and twentyeth Article touching Infant Baptisme [23] and

shall take the said Oathes and make and subscribe the Declaration aforesaid in manner aforesaid

every such person shall enjoy all the Privileges Benefitts and Advantages which any other dissenting Minister as aforesaid might have or enjoy by vertue of this Act

AND bee it further enacted by the authoritie aforesaid That every Teacher or Preacher in Holy Orders or pretended Holy Orders that is a Minister Preacher or Teacher of a Congregation that shall

take the Oathes herein required and

make and subscribe the Declaration aforesaid And

alsoe subscribe such of the aforesaid Articles of the Church of England as are required by this Act in manner aforesaid

shall be thenceforth exempted

from serveing upon any Jury or

from being chosen or appointed to beare the Office of

Churchwarden

Overseer of the Poore or

any other Parochiall or Ward Office or other Office

in any Hundred of any Shire City Towne Parish Division or Wapentake

AND bee it further enacted by the authoritie aforesaid That every Justice of the Peace may at any time hereafter require any person that goes to any Meeting for Exercise of Religion

to make and subscribe the Declaration aforesaid and

alsoe to take the

said Oaths or

Declaration of Fidelity herein after mentioned in case such person scruples the takeing of an Oath

VIII. Teacher exempt from Office.

IX. Justice of Peace may tender the Oaths, &c.

[23] [Articles of Religion] XXVII. *Of Baptism.*

BAPTISM is not only a sign of profession, and mark of difference, whereby Christian men are discerned from others that be not christened; but it is also a sign of Regeneration or New Birth, whereby, as by an instrument, they that receive Baptism rightly are grafted into the Church; the promises of the forgiveness of sin, and of our adoption to be the sons of God by the Holy Ghost, are visibly signed and sealed; Faith is confirmed, and Grace increased by virtue of prayer unto God. The Baptism of young Children is in any wise to be retained in the Church, as most agreeable with the institution of Christ.

[20] [Nonconformists Act of 1665, also called the Five Mile Act or the Oxford Act]

[21] [*The Act of Uniformity, 1662*]

[22] annexed to the Original Act in a separate Schedule.

First Refusal; and upon refusall thereof such Justice of the Peace is hereby required

Imprisonment, &c to committ such person to Prison without Baile or Maineprize and to certifie the Name of such person to the next Generall or Quarter Sessions of the Peace to be held for that County City Towne Part or Division where such person then resides and

Second Refusal; if such person soe committed shall upon a second tender at the Generall or Quarter Sessions refuse to make and subscribe the Declaration aforesaid

such persons refuseing shall be then and there recorded and

Taken to be a Popish Recusant Convict. he shall be taken thenceforth to all intents and purposes for a Popish Recusant Convict and suffer accordingly and incurr all the penalties and forfeitures of all the aforesaid Laws

AND whereas there are certaine other persons Dissenters from the Church of England who scruple the takeing of any Oath

X. Quakers making Declaration of Fidelity, and Bee it enacted by the authoritie aforesaid That every such person shall make and subscribe the aforesaid Declaration and alsoe this Declaration of Fidelity following *viz*

IA B doe sincerely promise and solemnly declare before God and the World that I will be true and faithfull to King William and Queene Mary And I doe solemnly professe and Declare That I doe from my Heart Abhor Detest and Renounce as Impious and Hereticall that damnable Doctrine and Position That Princes Excommunicated or Deprived by the Pope or any Authority of the See of Rome may be Deposed or Murthered by their Subjects or any other whatsoever And I doe declare that no Forreigne Prince Person Prelate State or Potentate hath or ought to have any Power Jurisdiction Superiority Preeminence or Authoritie Ecclesiasticall or Spirituall within this Realme.

subscribing Profession of Christian Belief, [22] [And shall subscribe a Profession of their Christian Beliefe in these Words

IA B professe Faith in God the Father and in Jesus Christ his Eternall Sonne the true God and in the Holy Spirit one God blessed for evermore And doe acknowledge the Holy Scriptures

of the Old and New Testament to be given by Divine Inspiration,

Which Declarations and Subscription shall be made and entred of Record at the generall Quarter Sessions of the Peace of the County City or place where every such person shall then reside]

And every such person that shall make and subscribe the two Declarations and Profession aforesaid being thereunto required shall

be exempted

from all the pains and penalties of all and every the aforementioned Statutes made against Popish Recusants or Protestant Nonconformists and

alsoe from the penalties of an Act made in the fifth yeare of the Raigne of the late Queene Elizabeth Intituled *An Act for the Assurance of the Queenes Royall Power over all Estates and Subjects within her Dominions* [24] For or by reason of such persons not takeing or refuseing to take the Oath mentioned in the said Act And

alsoe from the penalties of An Act made in the thirteenth and fourteenth yeares of the Raigne of King Charles the Second Intituled *An Act for preventing Michiefes that may arise by certaine persons called Quakers refuseing to take lawfull Oaths* [25] And

enjoy all other the Benefitts Priviledges and Advantages under the like Limitations Provisoes and Conditions which any other Dissenters shall or ought to enjoy by vertue of this Act

PROVIDED alwayes and bee it enacted by the authoritie aforesaid That in case any person shall refuse to take the said Oaths when tendred to them which every Justice of the Peace is hereby impowred to doe such person shall not be admitted to make and subscribe the two Declarations aforesaid though required thereunto either before any Justice of the Peace or at the Generall or Quarter Sessions before or after any Conviction of Popish Recusancy as aforesaid unlesse such person

can within thirty one dayes after such tender of the Declarations to him produce

exempted from Penalties of the aforesaid Statutes, and

and also from the Penalties of 5 Eliz. c. 1. and

13 & 14 Car. II. c. 1.

XI. How purged after Refusal of the Oaths.

[24] [Supremacy of the Crown Act of 1562]

[25] [Quakers Act of 1662]

two sufficient Protestant Witnesses to testify upon Oath that they believe him to be a Protestant Dissenter or

a Certificate under the Hands of four Protestants who

are conformable to the Church of England or have taken the Oaths and subscribed the Declaration abovementioned and

Certificate of belonging to a Congregation, &c.

shall also produce a Certificate under the Hands and Seals of six or more sufficient Men of the Congregation to which he belongs owning him for one of them

XII. Until Certificate produced, Justices to take Recognizance to produce same.

PROVIDED alsoe and bee it enacted by the Authoritie aforesaid That untill

such Certificate under the Hands of six of his Congregation as aforesaid be produced and

two Protestant Witnesses come to attest his being a Protestant Dissenter or a Certificate under the Hands of four Protestants as aforesaid be produced

the Justice of the Peace shall and hereby is required

to take a Recognizance with two Sureties in the penall Summe of fifty pounds [22] [to be levied of his Goods and Chattells Lands and Tenements to the use of the King and Queens Majestyes their Heires and Successors] for his producing the same and

if he cannot give such Security to committ him to prison there to remaine untill he has produced such Certificates or two Witnesses as aforesaid

XIII. Laws for Divine Service in force.

PROVIDED alwayes and it is the true intent and meaning of this Act That all the Laws made and provided for the frequenting of Divine Service on the Lords Day commonly called Sunday shall be still in force and executed against all persons that offend against the said Laws except such persons come to some Congregation or Assembly of Religious Worship allowed or permitted by this Act

XIV. Papists, &c. excepted from Benefit of Act.

PROVIDED alwayes and bee it further enacted by the authoritie aforesaid That neither this Act nor any Clause Article or Thing herein contained shall extend or be construed to extend to give any ease benefitt or advantage to

any Papist or Popish Recusant whatsoever or any person that shall deny in his Preaching or Writeing the Doctrine of the Blessed Trinity as it is declared in the aforesaid Articles of Religion

PROVIDED alwayes, and bee it enacted by the Authoritie aforesaid That if any person or persons at any time or times after the tenth day of June doe and shall willingly and of purpose maliciously or contemptuously

come into any Cathedrall or Parish Church Chapell or other Congregation permitted by this Act and

disquiet or disturbe the same or misuse any Preacher or Teacher

such person or persons upon prooffe thereof before any Justice of Peace by two or more sufficient Witnesses

shall finde two Sureties to be bound by Recognizance in the penall Summe of fifty pounds and in default of such Sureties shall be committed to prison there to remaine till the next Generall or Quarter Sessions and

upon conviction of the said offence at the said Generall or Quarter Sessions shall suffer the paine and penalty of twenty pounds [22] [to the use of the King and Queens Majesties their Heires and Successors]

PROVIDED alwayes That noe Congregation or Assembly for Religious Worship shall be permitted or allowed by this Act untill the place of such Meeting shall be certified to the Bishop of the Diocesse or to the Arch-Deacon of that Archdeaconry [22] [or to the Justices of the Peace at the Generall or Quarter Sessions of the Peace for the County City or Place] in which such Meeting shall be held and registred in the said Bishops or Archdeacons Court respectively or recorded at the said Generall or Quarter Sessions

The Register or Clerke of the Peace whereof respectively is hereby required to register the same and to give Certificate thereof to such person as shall demand the same for which there shall be none greater Fee nor Reward taken then the Summe of six pence.

XV. Disturbers of Religious Worship,

Recognizance; or in Default, imprisonment; and

on Conviction, Penalty £20.

XVI. Place for Worship to be certified.