

No. XLIV.

An Act to remove doubts respecting the eligibility of persons in Holy Orders to sit as Members of the Legislative Council and to disqualify Ministers of Religion from being elected Members of the said Legislative Council or of any other Legislative Council or Assembly that may hereafter be substituted for the same. [*Reserved—1st October, 1850.*]

ELECTORAL
DISQUALIFICATION OF
MINISTERS OF
RELIGION.

WHEREAS it is expedient to remove doubts which have arisen Preamble.
respecting the eligibility of persons in Holy Orders to sit in the Legislative Council and also to make effectual provision for excluding them from sitting therein Be it therefore declared and enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof That no person having been ordained to the office of Priest or Deacon or being a Minister of the Church of Scotland or a Minister Priest or Ecclesiastic under any form or profession of religious faith or worship whatever is or shall be capable of being elected to serve as a Member of the said Legislative Council or of any other Legislative Council or Assembly in the said Colony which may be hereafter substituted in the place or stead of the same.

No person ordained to Holy Orders under any form or profession of religious faith or worship shall hereafter be capable of being elected or serving as a Member of any Legislative Council.

2. And be it further declared and enacted That if any person having been ordained to the office of Priest or Deacon or being a Minister of the Church of Scotland or a Minister Priest or Ecclesiastic under any other form or profession of religious faith or worship shall be hereafter elected and returned to serve as such Member as aforesaid such election and return shall be void and that if any person being elected to serve as a Member of the said Legislative Council or any other such Legislative Council or Assembly as aforesaid shall after his election be ordained to the office of Priest or Deacon or become a Minister of the Church of Scotland or a Minister Priest or Ecclesiastic under any other form or profession of religious faith or worship then and in such case the seat of such person shall immediately become void and if any such person shall in any of the aforesaid cases presume to sit or vote as such Member as aforesaid he shall forfeit the sum of five hundred pounds for every day in which he shall so sit or vote to any person or persons who shall sue for the same in the Supreme Court of New South Wales or any other Court of Record in the said Colony having competent jurisdiction and the money so forfeited shall be recovered by the person or persons so suing with full costs and every person against whom any such penalty or forfeiture shall be recovered by virtue of this Act shall be from thenceforth incapable of taking

If any such person be so elected or if any person be ordained to Holy Orders after election such election shall be void and if he presume to sit or serve he shall forfeit £500 for every day in which he shall sit or vote.

Recoverable by any person who shall sue for the same.

Victorian Public Officers and Magistrates.

taking holding or enjoying any cure office or promotion ecclesiastical and of taking holding or enjoying any office of honor or profit under Her Majesty Her Heirs or Successors.

Not to void any election previous to the passing of this Act.

3. Provided always and be it enacted That nothing in this Act contained shall extend or be construed to extend to make void any election of a person to serve as a Member of the Legislative Council which election shall have taken place before the passing of this Act.

Prosecution to be commenced within twelve calendar months.

4. Provided also and be it enacted That no person shall be liable to any forfeiture or penalty inflicted by this Act unless a prosecution shall be commenced within twelve calendar months after such penalty or forfeiture shall be incurred.

Proof of celebration of Divine Service according to the rites of any Christian Religious Denomination whatsoever in any Church or Chapel or place set apart for Public Worship shall be deemed *prima facie* evidence of ordination to Holy Orders.

5. And be it enacted That proof of the celebration of Divine Service and of the administration of the Sacrament of the Lord's Supper according to the rites of the Church of England the Church of Rome the Church of Scotland or of any Church or Chapel consecrated or set apart for the Public Worship of such Churches respectively or in any Church or Chapel consecrated or set apart for any other mode or denomination whatsoever of Public Worship shall be deemed and taken to be *prima facie* evidence of the fact that the person officiating as Minister in any such Church or Chapel has been ordained to the office of Priest or Deacon or of his being a Minister of the Church of Scotland or otherwise within the intent and meaning of this Act.