

1884. to us by faith and allegiance, that they do not favour, counsel, or aid in any manner the maintainers or preachers of such conclusions so condemned, or their households, under forfeiture of all things which can be forfeited in that event, but obey, be obedient to, and intendent upon the aforementioned Archbishop of York and his suffragans and ministers in the execution of the presents; so that, without disturbance, due and open publication may be made against such conclusions and their maintainers, in order that the defence of the Catholic faith may be better established. In witness whereof &c. Witness the king at Westminster on the 8th of December.

## XXXIX.

## THE SECOND STATUTE OF PROVISORS,

A. D. 1390.

13 RICHARD II, STAT. 2.

1390. THE injustice of provision had been admitted as early as the days of Grosseteste (A. D. 1247), who procured an admission from Pope Innocent IV. A remonstrance against the practice is heard of in the year 1343 (Walsingham, i. 254-258). In 1351 a statute was made forbidding the practice. In 1390 the following Act was passed, which recites, in full, the statute of 1351, and contains additional safeguards against provision. In 1391, a proposal, supported by the king and the Duke of Lancaster, to repeal this statute was rejected by Parliament (Stubbs, *Const. Hist.* ii. 506; iii. 324).

[Tr. Statutes of the Realm, ii. 69.]

Effect of  
the Statute  
of Provi-  
sors of 25  
Edw. III.

Item, whereas the noble King Edward, grandfather of our lord the king that now is, at his Parliament holden at Westminster on the Octave of the Purification of our Lady, the five-and-twentieth year of his reign, caused to be rehearsed the statute made at Carlisle in the time of King Edward, son of King Henry, touching the estate of the

Holy Church of England ; the said grandfather of the king that now is, by the assent of the great men of his realm, being in the same Parliament, holden the said five-and-twentieth year, to the honour of God and of Holy Church, and of all his realm, did ordain and establish, that the free elections to archbishoprics, bishoprics, and all other dignities and benefices elective in England, should hold from thenceforth in the manner as they were granted by his progenitors, and by the ancestors of other lords, founders ; and that all prelates and other people of Holy Church, which had advowsons of any benefices of the gift of the king, or of his progenitors, or of other lords and donors, should freely have their collations and presentments ; and thereupon a certain punishment was ordained in the same statute for those who accept any benefice or dignity contrary to the said statute made at Westminster the said twenty-fifth year, as is aforesaid ; which statute our lord the king has caused to be recited in this present Parliament at the request of his Commons in the same Parliament, the tenor whereof is such as hereafter follows :

1390.

Whereas of late in the Parliament of Edward of good memory, king of England, grandfather of our lord the king that now is, in the twenty-fifth year of his reign, holden at Carlisle, the petition heard, put before the said grandfather and his council in the said Parliament by the commonalty of the said realm, containing : That whereas the Holy Church of England was founded [*founde*] in the estate of prelacy, within the realm of England, by the said grandfather and his progenitors, and the earls, barons, and other nobles of his said realm, and their ancestors, to inform them and the people of the law of God, and to make hospitalities, alms, and other works of charity, in the places where the churches were founded [*fonduz, foundes*], for the souls of the founders, their heirs, and all Christians ; and certain possessions, as well in fees, lands, rents, as in advowsons, which extend to

Tenor of the said statute.

Recital of proceedings in Parliament, 35 Edw. I.

Origin and purpose of religious foundations.

1890. a great value, were assigned by the said founders [*foundors*] to the prelates and other people of the Holy Church of the said realm, to sustain the same charge, and especially of the possessions which were assigned to archbishops, bishops, abbots, priors, religious, and all other people of Holy Church, by the kings of the said realm, earls, barons, and other great men of his realm; the same kings, earls, barons, and other nobles, as lords and advowees, have had and ought to have the custody of such voidances, and the presentments and the collations of the benefices being of such prelacies.

Voidances and presentments to benefices.

The Pope bestows English benefices on aliens.

And the said kings in times past were wont to have the greatest part of their council, for the safeguard of the realm, when they had need, of such prelates and clerks so advanced; the pope of Rome, accroaching [*accrochant*] to him the seignories of such possessions and benefices, does give and grant the same benefices to aliens, who never dwell in England, and to cardinals, who could not dwell here, and to others as well aliens as denizens, as if he had been patron or advowee of the said dignities and benefices, as he was not of right by the law of England; whereby if these should be suffered, there would scarcely be any benefice within a short time in the said realm, but that it should be in the hands of aliens and denizens by virtue of such provisions, against the good will and disposition of the founders of the same benefices; and so the elections of archbishops, bishops, and other religious should fail, and the alms, hospitalities, and other works of charity, which should be done in the said places, should be withdrawn, the said grandfather, and other lay-patrons, in the time of such voidances, should lose their presentments, the said council should perish, and goods without number should be carried out of the realm, to the annulling of the estate of the Holy Church of England, and disherison of the said grandfather, and the earls, barons, and other nobles of the said realm, and in offence and destruction of the laws and rights of his realm, and to the

Inconveniences ensuing.

great damage of his people, and in subversion of all the estate of all his said realm, and against the good disposition and will of the first founders, by the assent of the earls, barons, and other nobles, and of all the said commonalty, at their instant request, the damage and grievances aforesaid being considered in the said full Parliament, it was provided, ordained, and established, that the said oppressions, grievances, and damages in the same realm from henceforth should not be suffered in any manner. 1390.

Provision  
against it  
in Parliam-  
ent of  
35 Edw. I.

And now it is shown to our lord the king in this present Parliament holden at Westminster, on the Octave of the Purification of Our Lady, the five-and-twentieth year of his reign of England, and the twelfth of France, by the grievous complaint of all the commons of his realm, that the grievances and mischiefs aforesaid do daily abound, to the greater damage and destruction of all the realm of England, more than ever were before, viz. that now anew our holy father the pope, by procurement of clerks and otherwise, has reserved, and does daily reserve to his collation generally and especially, as well archbishoprics, bishoprics, abbeys, and priories, as all other dignities and other benefices of England, which are of the advowson of people of Holy Church, and gives the same as well to aliens as to denizens, and takes of all such benefices the first-fruits, and many other profits, and a great part of the treasure of the said realm is carried away and dispended out of the realm, by the purchasers of such graces aforesaid; and also by such privy reservations, many clerks, advanced in this realm by their true patrons, which have peaceably holden their advancements by long time, are suddenly put out; whereupon the said Commons have prayed our said lord the king, that since the right of the crown of England, and the law of the said realm is such, that upon the mischiefs and damages which happen to his realm, he ought, and is bound by his oath, with the accord of his people in his Parliament thereof, to make

The pope  
grants  
benefices,  
and re-  
serves the  
first-fruits  
to himself.

1390. remedy and law, for the removing of the mischiefs and damages which thereof ensue, that it may please him to ordain remedy therefor.

The causes and reasons of making this present statute.

Our lord the king, seeing the mischiefs and damages before mentioned, and having regard to the said statute made in the time of his said grandfather, and to the causes contained in the same; which statute holds always its force, and was never defeated, repealed, nor annulled in any point, and insomuch as he is bound by his oath to cause the same to be kept as the law of his realm, though that by sufferance and negligence it has been since attempted to the contrary; also having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordain remedy for the great damages and mischiefs which have happened, and daily do happen to the Church of England by the said cause; by the assent of all the great men and the commonalty of the said realm, to the honour of God, and profit of the said Church of England, and of all his realm, has ordered and established: that the free elections of archbishops, bishops, and all other dignities and benefices elective in England, shall hold from henceforth in the manner as they were granted by the king's progenitors, and the ancestors of other lords, founders.

Elections of the dignities of the Church shall be free, as they were founded.

Collations and presentations shall be free.

Where the pope provides the king shall present.

And that all prelates and other people of Holy Church, which have advowsons of any benefices of the king's gift, or of any of his progenitors, or of other lords and donors, to do divine service, and other charges thereof ordained, shall have their collations and presentments freely to the same, in the manner as they were enfeoffed by their donors. And in case that reservation, collation, or provision be made by the court of Rome, to any archbishopric, bishopric, dignity, or other benefice, in disturbance of the free elections, collations, or presentations aforementioned, that, at the same time of the voidance, as such reservations, collations, and

provisions ought to take effect, our lord the king and his heirs shall have and enjoy, for the same time, the collations to the archbishoprics, bishoprics, and other dignities elective, which be of his advowson, such as his progenitors had before that free election was granted; seeing that the election was first granted by the king's progenitors upon a certain form and condition, as to demand licence of the king to choose, and after the election to have his royal assent, and not in other manner. Which conditions not being kept, the thing ought by reason to resort to its first nature.

And if any such reservation, provision, or collation be made of any house of religion of the king's advowson, in disturbance of free election, our sovereign lord the king, and his heirs, shall have, for that time, the collation to give this dignity to a convenient person. And in case that collation, reservation, or provision be made by the court of Rome to any church, prebend, or other benefice, which is of the advowson of people of Holy Church, whereof the king is advowee paramount immediate, that at the same time of the voidance, at which time the collation, reservation, or provision ought to take effect as is aforesaid, the king and his heirs shall thereof have the presentation or collation for that time—and so from time to time, whensoever such people of Holy Church shall be disturbed of their presentments or collations by such reservations, collations, or provisions, as is aforesaid. Saving to them the right of their advowsons and their presentments, when no collation or provision by the Court of Rome is made thereof, or where that the said people of Holy Church shall or will, to the same benefices, present or make collation; and that their presentees may enjoy the effect of their collations or presentments. And in the same manner every other lord, of what condition he be, shall have the collations or presentments to the houses of religion which are of his advowson, and

1390.

So in cases of provision to religious houses or to benefices of the advowson of the clergy.

Saving when there is no provision or when the parties themselves present.

1390. other benefices of Holy Church which pertain to the same houses. And if such advowees do not present to such benefices within the half-year after such voidances, nor the bishop of the place give the same by lapse of time within a month after half a year, that then the king shall have thereof the presentments and collations, as he has of others of his own advowson demesne.
- Presenta-  
tion by  
king in  
default of  
patrons.** And in case that the presentees of the king—or the presentees of other patrons of Holy Church, or of their advowees, or they to whom the king, or such patrons or advowees aforesaid, have given benefices pertaining to their presentments or collations—be disturbed by such provisors, so that they may not have possession of such benefices by virtue of the presentments or collations to them made, or that they which are in possession of such benefices be impeached upon their said possessions by such provisors, then the said provisors, their procurators, executors, and notaries, shall be attached by their bodies, and brought in to answer ; and if they be convicted, they shall abide in prison without being let to mainprize or bail, or otherwise delivered, till they have made fine and ransom to the king at his will, and satisfaction to the party that shall feel himself grieved.
- Penalty for  
disturb-  
ance by  
provisors.** And nevertheless before that they be delivered, they shall make full renunciation, and find sufficient surety that they will not attempt such things in time to come, nor sue any process by themselves, nor by others, against any man in the said court of Rome, nor in any part elsewhere, for any such imprisonments or renunciations, nor any other thing depending of them. And in case that such provisors, procurators, executors, or notaries be not found, that the exigent shall run against them by due process, and that writs shall go forth to take their bodies wherever they be found, as well at the king's suit, as at the suit of the party.
- Imprison-  
ment on  
conviction.** And that in the meantime the king shall have the profits
- Surety  
against  
further  
attempts.**
- Outlawry.**
- The king  
shall take**

of such benefices so occupied by such provisors, except 1390.  
 abbeys, priories, and other houses, which have colleges or the profits  
 convents, and in such houses the colleges or convents shall mean-  
 have the profits ; saving always to our lord the king, and to while.  
 all other lords, their old right.

And this statute shall hold good as well as to reservations, Date at  
 collations, and provisions made and granted in times past which the  
 against all them which have not yet obtained corporal statute 25  
 possession of the benefices granted to them by the same Edw. III,  
 reservations, collations, and provisions, as against all others here re-  
 in time to come. And this statute ought to hold place and cited, was  
 to begin at the said octave. commence.

Our lord the king that now is, with the assent of the great For all  
 men of his realm, being in this present Parliament, has benefices  
 ordained and established, that for all archbishoprics, bishop- void after  
 rics, and other dignities and benefices elective, and all other 29 Jan.  
 benefices of Holy Church, which began to be void in deed 13 Rich. II,  
 the twenty-ninth day of January, the thirteenth year of the the said  
 reign of our lord King Richard that now is, or after, or statute  
 which shall be void in time to come within the realm of shall be put  
 England, the said statute, made the said twenty-fifth year, in execu-  
 shall be firmly held for ever, and put in due execution tion.  
 from time to time in all manner of points. And if any do Banish-  
 accept a benefice of Holy Church contrary to this statute, ment of  
 and that duly proved, and be beyond the sea, he shall abide those who  
 exiled and banished out of the realm for ever, and his lands accept  
 and tenements, goods and chattels shall be forfeited to the benefices  
 king ; and if he be within the realm, he shall be also exiled contrary  
 and banished, as is aforesaid, and shall incur the same to this  
 forfeiture, and take his way, so that he be out of the realm statute.  
 within six weeks next after such acceptation. And if any The  
 receive any such person banished coming from beyond the punish-  
 sea, or being within the realm after the said six weeks, having ment of the  
 knowledge thereof, he shall be also exiled and banished, receivers,  
 and incur such forfeiture as is aforesaid. And that their procura-  
 offenders.



1390. procurators, notaries, executors, and summoners have the pain and forfeiture aforesaid.

Saving of beneficed persons, to whom the pope has given dignities of the Church.

Provided nevertheless, that all they for whom the pope, or his predecessors, have provided any archbishopric, bishopric, or other dignity, or other benefices of Holy Church, of the patronage of people of Holy Church, in respect of any voidance before the said twenty-ninth day of January, and thereof were in actual possession before the same twenty-ninth day, shall have and enjoy the said archbishoprics, bishoprics, dignities, and other benefices peaceably for their lives, notwithstanding the statutes and ordinances aforesaid. And if the king send by letter, or in other manner, to the court of Rome, at the entreaty of any person, or if any other send or sue to the same court, whereby anything is done contrary to this statute, touching any archbishopric, bishopric, dignity, or other benefice of Holy Church within the said realm, if he that makes such motion or suit be a prelate of Holy Church, he shall pay to the king the value of his temporalties for one year; and if he be a temporal lord, he shall pay to the king the value of his lands and possessions not moveable for one year; and if he be another person of a more mean estate, he shall pay to the king the value of the benefice for which suit is made, and shall be imprisoned for one year.

The penalty of suing at Rome to infringe the purport of this statute.

Saving as to benefices void on, but collated, before the day named.

And it is the intent of this statute, that of all dignities and benefices of Holy Church, which were void in deed the said twenty-ninth day of January, which are given, or to which it is provided by the apostolic [see] before the same twenty-ninth day, that they to whom such gifts or provisions be made, may freely, of such gifts and provisions, sue execution without offence of this statute. Provided always, that of no dignity or benefice which was full the said twenty-ninth day of January, shall any man, because of any collation, gift, reservation, and provision, or other grace of the apostolic [see], not executed before the said twenty-ninth

day, sue thereof execution, upon the pains and forfeitures 1890.  
contained in this present statute.

Also, it is ordained and established, that if any man bring or send within the realm, or the king's power, any summons, sentences, or excommunications, against any person, of what condition soever he be, for the cause of making motion, assent, or execution of the said Statute of Provisors, he shall be taken, arrested, and put in prison, and forfeit all his lands and tenements, goods and chattels for ever, and incur the pain of life and of member. And if any prelate make execution of such summons, sentences, or excommunications, that his temporalities be taken and abide in the king's hands, till due redress and correction be thereof made. And if any person of less estate than a prelate, of what condition soever he be, make such execution, he shall be taken, arrested, and put in prison, and have imprisonment, and make fine and ransom at the discretion of the council of our said lord the king.

Penalty for bringing summons, sentence, &c., against any person upon the Statute of Provisors.

The penalty of a prelate executing the sentence, &c.

[*The King's Writ directing proclamation of the Statute.*]

The King to the Sheriff of Kent, greeting. We command you, firmly enjoining, that without delay you cause to be read and on our behalf publicly proclaimed and to be firmly kept and observed according to the form of the statutes and ordinances aforesaid, certain statutes and ordinances by us, with the assent of the nobles and commonalty of our realm of England, made in our last Parliament holden at Westminster, which we send you under our great seal in open form, within your county, in places where it may be most expedient. And this under instant peril you shall in no wise omit. Witness the king at Westminster the fifteenth day of May. The like writs were directed to the several sheriffs throughout England.