

ANNO TERTIO

VICTORIÆ REGINÆ.

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CAP. XVI.

An Act to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the Time limited for those Purposes respectively until the Twenty-fifth Day of *March* One thousand eight hundred and forty-one; and for the Relief of Clerks to Attornies and Solicitors in certain Cases. [19th *June* 1840.]

WHEREAS divers Persons, who, on account of their Offices, Places, Employments, or Professions, or any other Cause or Occasion, ought to have taken and subscribed the Oaths or Assurance respectively appointed to be by such Persons taken and subscribed in and by an Act made in the First Year of the Reign of His Majesty King *George* the First, of glorious Memory, intituled *An Act for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess* Sophia, *being Protestants; and for extinguishing the Hopes of the pretended Prince of* Wales, *and his open and secret Abettors;* or to have qualified themselves according to an Act made in the Thirteenth Year of the Reign of His Majesty King *Charles* the Second, intituled *An Act for the well-governing and regulating of Corporations;* or to have qualified themselves according to another Act made in the Twenty-fifth Year of the Reign of His Majesty King *Charles* the Second, intituled *An Act for preventing*

1 G. 1. st. 2. c. 13.

13 C. 2. st. 2. c. 1.

25 C. 2. st. 2. c. 2.

preventing the Dangers which may happen from Popish Recusants; or according to another Act made in the Thirtieth Year of the Reign of
30 C. 2. st. 2. His Majesty King *Charles* the Second, intituled *An Act for the more effectual preserving the King's Person and Government, by disabling Papists from sitting in either House of Parliament;* or according to another Act made in the Eighth Year of the Reign of His Majesty
8 G. 1. c. 6. King *George* the First, intituled *An Act for granting the People called* Quakers *such Forms of Affirmation or Declaration as may remove the Difficulties which many of them lie under;* or according to another Act made in the Ninth Year of the Reign of His Majesty
9 G. 2. c. 26. King *George* the Second, intituled *An Act for indemnifying Persons who have omitted to qualify themselves for Offices within the Time limited by Law, and for allowing further Time for that Purpose; and for amending so much of an Act passed in the Second Year of the Reign of His present Majesty as requires Persons to qualify themselves for Offices before the End of the next Term or Quarter Sessions, and also for enlarging the Time limited by Law for making and subscribing the Declaration against Transubstantiation; and for allowing a further Time for Enrolment of Deeds and Wills made by Papists; and for Relief of Protestant Purchasers, Devisees, and Lessees;* or according to another Act made in the Eighteenth Year
18 G. 2. c. 20. of the Reign of His Majesty King *George* the Second, intituled *An Act to amend and render more effectual an Act passed in the Fifth Year of His present Majesty's Reign, intituled 'An Act for the further 'Qualification of Justices of the Peace;'* or according to another Act made in the Sixth Year of the Reign of His Majesty King *George*
6 G. 3. c. 53. the Third, intituled *An Act for altering the Oath of Abjuration, and the Assurance; and for amending so much of an Act made in the Seventh Year of the Reign of Her late Majesty Queen* Anne, *intituled 'An Act for the Improvement of the Union of the Two Kingdoms,' as after the Time therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason;* or according to another Act passed in the Ninth Year of the Reign of His Majesty King *George* the
9 G. 4. c. 17. Fourth, intituled *An Act for repealing so much of several Acts as imposes the Necessity of receiving the Sacrament of the Lord's Supper as a Qualification for certain Offices and Employments;* or according to another Act passed in the Tenth Year of the Reign of His said
10 G. 4. c. 7. Majesty, intituled *An Act for the Relief of His Majesty's Roman Catholic Subjects*, so far only as the said Act relates to any Civil or Military Offices or Places of Trust, or Places of Profit or Corporate Offices; have, through Ignorance of the Law, Absence, or some unavoidable Accident, omitted to take and subscribe the Oaths and Assurance and make and subscribe the Declaration required by the said recited Acts or either of them, or otherwise to qualify themselves as aforesaid, within such Time and in such Manner as in and by the said Acts respectively is required, whereby they have incurred, or may be in danger of incurring, divers Penalties and Disabilities: For quieting the Minds of Her Majesty's Subjects, and for preventing any Inconvenience that might otherwise happen by means of such Omissions, 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

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by the Authority of the same, That all and every Person or Persons who, at or before the passing of this Act, hath or shall have omitted to take and subscribe the Oaths and Declarations, or otherwise to qualify him, her, or themselves, within such Time and in such Manner as in and by the said Acts or any of them is required, and who, after accepting any such Office, Place, or Employment, or undertaking any Profession or Thing, on account of which such Qualification ought to have been had and is required, before the passing of this Act hath or have taken and subscribed the said Oaths or made the Declarations required by Law, or who, on or before the Twenty-fifth Day of *March* One thousand eight hundred and forty-one, shall take and subscribe the Oaths, Declarations, and Assurance respectively, in such Cases wherein by the said several Acts or any or either of them the said Oaths, Declarations, and Assurance ought to have been taken and subscribed, in such Manner and Form, and at or in such Place or Places, as are appointed in and by the said several Acts or any or either of them, shall be and are hereby indemnified, freed, and discharged from and against all Penalties, Forfeitures, Incapacities, and Disabilities incurred or to be incurred for or by reason of any Neglect or Omission, previous to the passing of this Act, of taking or subscribing the said Oaths or Assurance, or making or subscribing the said Declarations respectively, or taking or subscribing the said Oath, according to the above-mentioned Acts or any of them, or any other Act or Acts; and such Person or Persons is and are and shall be fully and actually recapacitated and restored to the same State and Condition as he, she, or they were in before such Neglect or Omission, and shall be and be deemed and adjudged to have duly qualified him, her, or themselves according to the above-mentioned Acts and every of them; and that all Elections of, and Acts done or to be done by, any such Person or Persons, or by Authority derived from him, her, or them, are and shall be of the same Force and Validity as the same or any of them would have been if such Person or Persons respectively had taken the said Oaths or Assurance, and made and subscribed the said Declarations respectively, and taken and subscribed the said Oath, according to the Directions of the said Acts and every or any of them; and that the Qualification of such Person or Persons qualifying themselves in manner and within the Time appointed by this Act shall be to all Intents and Purposes as effectual as if such Person or Persons had respectively taken the said Oaths and Assurance, and made and subscribed the said Declarations respectively, and taken and subscribed the said Oath, within the Time and in the Manner appointed by the several Acts before mentioned.

Persons who have omitted to qualify themselves as required by the recited Acts indemnified and allowed further Time.

II. And whereas several Persons well affected to Her Majesty's Government, and to the United Church of *England* and *Ireland*, have, through Ignorance of the Law, neglected, or been, by Sickness or other unavoidable Causes, prevented from taking and subscribing the Declaration according to the Directions of an Act passed in the Parliament of *Ireland* in the Second Year of the Reign of Her Majesty Queen *Anne*, intituled *An Act to prevent the further Growth of Popery;* be it therefore enacted, That all Persons who have incurred any Penalty or Incapacity in the said recited Act mentioned,

Indemnity to those who have omitted to make and subscribe the Oath and Declaration required by the Irish Act of 2 Anne.

mentioned, by neglecting to qualify themselves according to the said Act, shall be and are hereby indemnified, freed, and discharged from all Incapacities, Disabilities, Penalties, and Forfeitures incurred by reason of such Omission or Neglect as aforesaid; and that no Act done by any of them, not yet avoided, shall be questioned or avoided by reason of such Omission or Neglect, but that all such Acts shall be and are hereby declared to be as good and effectual as if such Persons respectively had taken and subscribed the said Oath, and made and repeated and subscribed the said Declaration, at such Time and Place and Manner as in the said Act is mentioned; any thing in the said Act to the contrary notwithstanding: Provided always, that such Person or Persons do and shall take and subscribe the said Oaths, and make, repeat, and subscribe the said Declaration, in such Manner and Form, and in such Place or Places respectively, as are directed and appointed by the said last-recited Act, on or before the Twenty-fifth Day of *March* One thousand eight hundred and forty-one.

Not to indemnify Persons against whom final Judgment has been given.

III. Provided always, and be it enacted, That this Act, or any thing herein contained, shall not extend or be construed to extend to indemnify any Person against whom final Judgment shall have been given in any Action of Debt, Bill, Plaint, or Information, in any of Her Majesty's Courts of Record, for any Penalty incurred by having neglected to qualify himself within the Time limited by Law.

Not to exempt Justices acting without legal Qualification.

IV. Provided also, and be it enacted, That nothing contained in this Act shall extend or be construed to extend to exempt any Justice of the Peace within *Great Britain* from the Penalties to which he is subject for acting as such without being possessed of the Qualification required by the Laws now in force.

Admissions to Corporations may be stamped after the Time allowed.

V. And whereas the Appointment of divers Clerks of the Peace, Town Clerks, and other Public Officers, and the Admission of divers Members and Officers of Cities, Corporations, and Borough Towns in *Great Britain* and *Ireland*, or the Entries of such Admissions in the Court Books, Rolls, or Records of such Cities, Corporations, and Borough Towns, which by several Acts are directed and required to be stamped, may not have been provided or the same not stamped, or may have been lost or mislaid; be it enacted, That for the Relief of such Persons whose Appointments and Admissions, or the Entries of whose Admissions as aforesaid, may not have been provided, or not duly stamped, or where the same have been lost or mislaid, it shall and may be lawful to and for such Persons in *Great Britain* or *Ireland*, on or before the Twenty-fifth Day of *March* One thousand eight hundred and forty-one, to provide or cause to be provided Appointments and Admissions, or Entries of Admissions, as aforesaid, duly stamped; or in case where such Appointments, Admissions, or Entries of Admissions as aforesaid have been made or provided, but have not been duly stamped, to produce such Appointments, Admissions, or Entries of Admissions as aforesaid to the Commissioners appointed to inspect and manage the Revenues of the Stamp Duties, to be duly stamped, which such Commissioners are

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hereby authorized and empowered and required to duly stamp, on Payment of Double the Amount of the Duties first payable or to have been paid on such Appointments, Admissions, or Entries as aforesaid, without any other Fine or Forfeiture thereon; and in order to denote the said Duties the said Commissioners are hereby authorized and empowered to use such Stamps as shall have been heretofore provided to denote any former Duties on stamped Vellum, Parchment and Paper, or to cause new Stamps to be provided for that Purpose, and to do all other Things necessary for putting this Act in execution, in the like and in as full and ample Manner as they or the major Part of them are authorized to put in execution any former Law concerning stamped Vellum, Parchment, and Paper; and such Persons so providing Appointments, Admissions, or Entries of Admissions as aforesaid, duly stamped, or procuring the same to be duly stamped in manner aforesaid, are and shall be hereby confirmed and qualified to act as Clerk of the Peace, Town Clerk, and other Public Officer, or Member or Members, Officer or Officers of such Cities, Corporations, and Borough Towns respectively, to all Intents and Purposes, and shall and may hold and enjoy and execute such Offices, or any other Office or Offices into which he or they hath or have been elected, notwithstanding his or their Omission, or the Omission of any of their Predecessors in such Cities, Corporations, or Borough Towns as aforesaid, and shall be indemnified and discharged of and from all Incapacities, Disabilities, Forfeitures, Penalties, and Damages by reason of any such Omission; and none of his or their Acts shall be questioned or avoided by reason of the same.

Indemnity to Persons who have paid the Duties on Indentures to serve as Clerks to Attornies, &c. but have neglected to cause Affidavits thereof to be made.

VI. And whereas many Persons who may have paid the proper Stamp Duties, either before or within Six Months after the Execution of the Contracts in Writing entered into by them to serve as Clerks to Attornies or Solicitors, Scriveners or Notaries Public, in *Great Britain*, have omitted to cause Affidavits to be made, and afterwards to be filed in the proper Office, of the actual Execution of such Contracts, and have also omitted to cause such Contracts, and the Indentures thereof, or the Assignment of any such Indentures, to be enrolled within the Time in which the same ought to have been done; and many Solicitors, Attornies, Notaries Public, and others have omitted to take out Annual Certificates, or to enter the same in the proper Office; and many Infants and others may thereby incur certain Disabilities: For preventing thereof, and relieving such Persons, be it enacted, That every Person who shall, either before or within Six Months after the Execution of such Contract or Indenture, have paid the proper Stamp Duty in that Behalf, and who at the passing of this Act shall have neglected or omitted to cause any such Affidavit or Affidavits as aforesaid to be made and filed, or such Contract or Indenture or Assignment to be enrolled, and who, on or before the First Day of *Hilary* Term One thousand eight hundred and forty-one, shall cause such Contract or Indenture or Assignment to be enrolled with the proper Officer in that Behalf, and One or more Affidavit or Affidavits to be made, and afterwards to be filed, in such Manner as the same ought to have been made and filed in due Time, shall be and is hereby indemnified, freed, and discharged from and against all Penalties, Forfeitures, Incapacities, and Disabilities in or by any Act or Acts mentioned,

mentioned, and incurred or to be incurred for or by reason of such Neglect or Omission; and every such Affidavit and Affidavits so to be made, and which shall be duly filed on or before the First Day of *Hilary* Term One thousand eight hundred and forty-one, shall be as effectual to all Intents and Purposes as if the same had been made and filed within the respective Times the same ought, by the Laws now in being for that Purpose, to have been made and filed; and that the respective Officer or Officers who ought to receive, file, enter, or register such Contract or Indenture, or Affidavit or Affidavits, shall not refuse to receive, file, enter, or register the same by reason that the Attorney, Solicitor, or Notary Public to whom such Infant or other Person shall have been articled or assigned, or have contracted to serve, shall have neglected to take out his Annual Certificate, or to register the same, but such Officer or Officers are hereby directed and empowered to receive, file, enter, or register the same, notwithstanding such Omission; and that every Person who shall have regularly served any Attorney or Attornies, Solicitor or Solicitors, Notary Public or Notaries Public, for the Term of Years required by Law, shall not be prevented or disqualified from being admitted an Attorney, Solicitor, or Notary Public, by reason of any Omission of the Person or Persons to whom he served for the same Term, or for any Part thereof, having so neglected to take out his Annual Certificate, or to register the same, provided that such Person is otherwise entitled to be created and admitted to such Office by the Laws now in force relating thereto.

Neglect of Attornies, &c. in taking out their Annual Certificates not to disqualify the Persons who have served them.

VII. And be it enacted, That in case the Attorney, Solicitor, Proctor, or Notary to whom any Person shall have duly served his Clerkship under Articles in Writing for that Purpose shall after such Service of the Clerk be struck off the Roll in consequence of some Defect in the Service under the Articles of Clerkship or of the Admission and Enrolment of such Attorney, Solicitor, Proctor, or Notary, the Person who has so duly served his Clerkship shall not be prevented or disqualified from being admitted and enrolled as an Attorney, Solicitor, Proctor, or Notary, nor liable to be struck off the Roll if admitted, by reason of any such Defect as aforesaid, provided that such Clerk or Person be otherwise entitled to be admitted and enrolled according to the Laws now in force relating thereto.

Defects in the Service &c. of Attornies not to disqualify Persons who have served them.

VIII. And be it enacted, That no Person who has been admitted and enrolled and in actual Practice as an Attorney, Solicitor, Proctor, or Notary shall be liable to be struck off the Roll for or on account of any Defect in the Articles of Clerkship, or the Registry thereof, or the Service under such Articles, or of his Admission and Enrolment, unless the Application for striking him off the Roll be made within Twelve Months from the Time of his Admission and Enrolment.

Applications for striking Attornies off the Roll for Defect in Articles, &c. to be made within 12 Months of Admission.

IX. Provided always, and be it enacted, That in any Case in which the original Articles of Clerkship shall have been or shall hereafter be lost or destroyed before or after Payment of the Duty, it shall be competent to either of Her Majesty's Superior Courts at *Westminster* to direct the Enrolment of a Copy of such Articles, upon being satisfied,

In case of Articles being lost the Court may order a Copy thereof to be enrolled.

fied, by such Evidence as shall appear to the Court sufficient to prove the Loss of such original Articles, of the Authenticity of the Paper proposed for Enrolment, and that the Duty has been duly paid upon such Articles or upon a Copy thereof, to be shown by the denoting or other appropriate Stamp, as the Case may require, and provided such Court shall be satisfied that the Clerk has duly served under such Articles from the Time of the Execution thereof, or for such Time as shall appear satisfactory to the Court under the Circumstances of the Case.

The Word "Months" in 7 G. 4. c. 44. to mean Calendar Months.

X. And whereas by an Act passed in the Seventh Year of the Reign of His Majesty King *George* the Fourth, to allow, until the Tenth Day of *October* One thousand eight hundred and twenty-six, the Enrolment of certain Articles of Clerkship, and for other Purposes therein mentioned, it was enacted, that it should not be lawful for the Commissioners of Stamps, or any of their Officers, to stamp, under any Pretence whatever, after the Expiration of Six Months from their Date, any Articles of Clerkship to Attornies or others, as therein specified: And whereas the using of the Word "Months" in the said last-mentioned Act, in this respect, without the Addition of the Word "Calendar," occasioned Mistakes and Inconveniences; be it enacted, That from and after the passing of this Act the Word "Months" used in the said last-mentioned Act, so far as the same relates to the stamping of Articles of Clerkship to Attornies and others therein specified, shall be understood to mean Calendar Months.

Indentures, &c. may be stamped before last Day of Michaelmas Term 1840, if Application was made therefor within Six Calendar Months from the Dates thereof.

XI. And whereas several Persons bound to serve as Clerks or Apprentices to Attornies or Solicitors have applied to have the Indentures or Contracts of such Clerkship stamped after the Expiration of Six Lunar and before the Expiration of Six Calendar Months from the Date thereof; be it enacted, That it shall and may be lawful for the Commissioners of Stamps and Taxes, or any of their proper Officers, at any Time before the last Day of *Michaelmas* Term One thousand eight hundred and forty, to stamp any Articles of Clerkship, Contract, Indenture, or other Instrument whereby any Person hath become bound to serve as a Clerk or Apprentice, in order to his Admission as an Attorney or Solicitor in any of the Courts of Law or Equity, although the Period of Six Calendar Months from the Date thereof hath now elapsed, upon Payment of the proper Duty payable in respect of the same, and of the further Sum of Five Pounds by way of Penalty, provided it shall be proved to the Satisfaction of the said Commissioners that Application was made to them or to their proper Officer to have such Articles, Contract, Indenture, or Instrument stamped within Six Calendar Months from the Date thereof.

Not to restore Persons to any Office avoided by Judgment.

XII. Provided always, and be it enacted, That this Act, or any thing herein contained, shall not extend or be construed to extend to restore or entitle any Person or Persons to any Office or Employment, Benefice, Matter, or Thing whatsoever, already actually avoided by Judgment of any of Her Majesty's Courts of Record, already legally filled up and enjoyed by any other Person; but that such Office or Employment, Benefice, Matter, or Thing, so avoided or legally filled

filled up and enjoyed, shall be and remain in and to the Person or Persons who is or are now or shall at the passing of this Act be legally entitled to the same, as if this Act had never been passed.

General Issue.

XIII. And be it enacted, That in case any Action, Suit, Bill, of Indictment, or Information shall from and after the passing of this Act be brought, carried on, or prosecuted against any Person or Persons hereby meant or intended to be indemnified, recapacitated, or restored, for or on account of any Forfeiture, Penalty, Incapacity, or Disability whatsoever incurred or to be incurred by any such Neglect or Omission, such Person or Persons may plead the General Issue, and upon their Defence give this Act and the special Matter in Evidence upon any Trial to be had thereupon.

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