ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

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C A P. XCIV.

An Act for keeping safely the Public Records.

[14th *August* 1838.]

WHEREAS the Public Records are in the keeping of several Persons, and many are kept in unfit Buildings; and it is expedient to establish One Record Office and a better Custody, and to allow the free Use of the said Records, as far as stands with their Safety and Integrity, and with the Public Policy of the Realm: Be it therefore 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 by the Authority of the same, That the Records belonging to Her Majesty which now are or ought to be deposited in the several Record Offices, Courts, Places, and Custody herein-after mentioned; that is to say, in the Tower of *London*, Chapter House of *Westminster*, Rolls Chapel, Petty Bag Office, Offices in the Custody of the Queen's Remembrancer of the Exchequer or of any other Officer of the Exchequer, Augmentation Office, First Fruits and Tenths Office, and the Office of the Land Revenue and Enrolments, or of the late Auditor of the Land Revenues of *England* and *Wales*, and the Records lately deposited in the Office of the Pells of the Exchequer and now in the Custody of Her Majesty's Comptroller of the Exchequer, and the Records belonging to the Courts of Chancery, Exchequer, and Admiralty, Queen's Bench, Common Pleas, and Marshalsea, in whatsoever Office or Place they may be deposited at the Time of the passing of this Act, and also all the Records of the lately abolished Courts of the

Records to be in the Custody of the Master of the Rolls.

the Principality of *Wales* and Palatinates of *Chester* and *Durham* and of the *Isle of Ely*, shall from the passing of this Act be under the Charge and Superintendence of the Master of the Rolls for the Time being, in the Name and on the Behalf of Her Majesty, Her Heirs and Successors; and until the Appointment of a Deputy Keeper and Assistant Keepers of the Records, as herein-after provided, the Persons now having the Care of any such Records shall continue to have the Charge of them, subject to such Orders as the Master of the Rolls is herein empowered to give concerning the same.

Until Appointment of a Deputy and Assistants, the Persons in charge to continue so.

II. And be it enacted, That it shall be lawful for Her Majesty, with the Advice of Her Privy Council, to order that Records belonging to Her Majesty deposited in any Office, Court, Place, or Custody other than as herein-before mentioned shall be thenceforth under the Charge and Superintendence of the Master of the Rolls; and thereupon the Provisions of this Act shall extend to all such Records, and to the Persons then having the Charge or Custody of the same, as fully as if such Office, Court, Place, or Custody had been named and included in this Act.

Queen in Council may order Records in other Offices to be included in this Act.

III. And be it enacted, That after the passing of this Act the Records of the Chancery of *England* shall be deemed to be in the Custody of the Master of the Rolls, under the Authority of this Act, and subject to the Regulations hereby authorized to be made, and the Master of the Rolls shall by Warrant under his Hand from Time to Time appoint a fit Person or fit Persons to attend the several Courts, Offices, and Places aforesaid, and in his Name to receive and take charge of all other Records of which the Charge and Superintendence are hereby vested in him; and the Chief Judge of the Court or principal Officer of the Office to which the same shall belong, upon sight of the Warrant of the Person thereby appointed to take charge of the Records then to be delivered from that Court or Office into the Custody of the Master of the Rolls, shall give the necessary Orders to the proper Officer or Officers of his Court or Office for the Delivery thereof; and as soon as the said Records shall have been so delivered to the Person so appointed to receive the same, in pursuance of such Warrant, the same shall be deemed to be in the Custody of the Master of the Rolls, and to be subject to the Regulations hereby authorized to be made; and the Person receiving any Records by virtue of any such Warrant shall thereupon deliver a Schedule thereof, and a Receipt for the same, under his Hand, to the Judge or Officer to whom the same shall be delivered: Provided always,

Accumulating Records to be delivered from Time to Time to the Master of the Rolls.

First, That no such Warrant be issued by the Master of the Rolls unless the same shall be first approved of, and countersigned by the Lord High Chancellor:

Secondly, That every such Warrant shall specify and describe the Records intended to be delivered to the Person thereby authorized to receive the same:

Thirdly, That the Master of the Rolls shall not issue any such Warrant for the Removal of any Records belonging to any of Her Majesty's Superior Courts of Common Law, or to the Court of Admiralty, unless or until the Records described in such

Warrant shall be of the Age of Twenty Years from the making thereof, or if the same be under that Age, unless the Removal thereof shall have been requested by the Chief Judge of the Court to which the same shall belong:

Fourthly, That if it shall appear to the Chief Judge of any such Court that it will be conducive to the Ends of Justice, or to the due Performance of the Business of such Court, that any Record belonging thereto should not be delivered into the Custody of the Master of the Rolls as aforesaid, at the End of Twenty Years from the making thereof, it shall be lawful for such Chief Judge to certify such his Opinion to the Master of the Rolls, and that the Master of the Rolls, upon receiving such Certificate under the Hand of such Chief Judge, may and shall from Year to Year, but not for any Time longer than a Year without a new Certificate, abstain from issuing any Warrant for the Removal of the Records mentioned in such Certificate into his Custody:

Fifthly, That the Master of the Rolls shall not issue any Warrant for removing any Bills, Answers, Decrees, or Proceedings of the Court of Exchequer as a Court of Equity unless the same shall be first approved by the Lord Chief Baron of the same Court, nor for removing any Papers or Documents from the Registry of the High Court of Admiralty unless the same be first approved by the Judge of the said Court, nor for removing any Records or Documents from the Office of Land Revenue Records and Inrolments, or from the Office of Her Majesty's Comptroller of the Exchequer, unless the same shall be first approved by the Lord High Treasurer, or any Three or more of the Commissioners of Her Majesty's Treasury.

Master of the Rolls to make Orders for the Preservation of the Records.

IV. And be it enacted, That the Master of the Rolls shall have full Power to make such Orders as he may think fit for cleaning, repairing, preserving, and arranging all the Public Records under his Charge and Superintendence, and for making Calendars, Catalogues, and Indexes to the same, and for such Purposes to cause any of the said Records to be from Time to Time removed from their present Place of Custody, and deposited in such safe Place or Places as the Master of the Rolls may order, by Warrant under his Hand, directed to the Person then having the same under his Care; and every such Warrant shall be kept among the Public Records in the Custody of the Master of the Rolls, and shall be a sufficient Warrant for the Removal of such Records as shall be specified therein to the Place named in the Warrant; and such Removal of any Record by Authority of the Master of the Rolls shall not in any Manner affect the legal Authenticity of such Record, but the Place where any such Record shall be deposited and kept from Time to Time under the Authority of the Master of the Rolls shall be taken to be for the Time its legal Place of Deposit, and every such Record shall, after any Removal under this Act, and in its new Place of Deposit, be of the same legal Validity, and be received or rejected as Evidence in all Courts and Proceedings, in the same Manner as if such Record had remained in the Custody in which it is at the Time of the passing of this Act.

V. And

Deputy Keeper of the Records to be appointed.

V. And be it enacted, That the Master of the Rolls, with the Approval of Her Majesty, shall appoint a fit Person duly qualified by his Knowledge of Records to be Deputy Keeper of the Records, and, subject to the like Approval of Her Majesty, may remove the Deputy Keeper of the Records, and appoint another Person in his Room; and the Deputy Keeper of the Records shall act as Chief Record Keeper under the Master of the Rolls, and shall superintend all Persons employed in keeping the Records in the Custody of the Master of the Rolls, subject to such Directions as he may from Time to Time receive from the Master of the Rolls.

Appointment of Assistant Record Keepers and other Officers.

VI. And be it enacted, That the Lord High Treasurer, or any Three or more of the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland*, shall appoint a sufficient Number of Assistant Record Keepers, duly qualified as aforesaid, and all such other Officers and Servants as shall be necessary for the Purposes of this Act; and the Persons so appointed shall assist in executing this Act under the Superintendence of the Deputy Keeper of the Records, in such Manner as the Master of the Rolls may direct; and the said Assistant Record Keepers shall be removeable at pleasure by the Master of the Rolls, and the other Officers and Servants shall be removeable at pleasure by the Master of the Rolls or by the Deputy Keeper of the Records, with the Approval of the Master of the Rolls: Provided always, that when any such Person shall have been removed from his Office the Fact of his Removal and a Statement of the Grounds thereof shall be reported to the Lord High Treasurer or the Commissioners of the Treasury.

Treasury to provide additional Buildings for the Custody of Records.

VII. And be it enacted, That the Lord High Treasurer, or any Three or more of the Commissioners of Her Majesty's Treasury, shall provide such suitable and proper or additional Building or Buildings as may be required for the Reception and safe Custody of all the Public Records which, under the Provisions of this Act, shall be in the legal Custody of the Master of the Rolls.

A Public Record Office to be established.

VIII. And be it enacted, That, as soon as conveniently may be after the Appointment of a Deputy Keeper of the Records under the Provisions of this Act, a Public Record Office shall be established under the Direction of the Master of the Rolls, and that the said Deputy Keeper of Records and the Assistant Record Keepers, and every other Person employed in the Care of the Records in the Custody of the Master of the Rolls, wheresoever the same may be at any Time deposited, as well before as after the Time when such Building or Buildings as aforesaid shall have been provided, shall be taken to be employed in the Public Record Office; and that from and after the Time when such Record Office shall be established every Office or Place where Public Records which by the Authority of this Act are placed under the Charge and Superintendence of the Master of the Rolls are or shall be deposited shall be, so long as such Records shall remain therein, deemed and taken to be a Branch or Part of such Public Record Office.

IX. And

Master of the Rolls to make Rules for the Management of the Office and the Admission of Persons using the Records;

IX. And be it enacted, That the Master of the Rolls shall have Power to make Rules for the Management of the said Public Record Office, and the Duties to be performed by the Deputy Keeper, Assistant Keepers, and other Officers thereof, and in like Manner for the Management of the present Record Offices, and the Duties to be performed therein, so long as they shall subsist, and also for the Admission of such Persons as ought to be admitted to the Use of the Records, Calendars, Catalogues, and Indexes in his Custody, and to suspend, alter, or rescind such Rules, or any of them, and to fix the Amount of Fees (if any) which he shall think proper to be paid for the Use thereof respectively, and for making Copies of Records, as herein-after provided, and from Time to Time to vary the same as he shall think fit; and also to make Rules for dispensing with the Payment of Fees in such Cases as he shall think fit; and every such Rule shall be laid by the Master of the Rolls before both Houses of Parliament within Six Weeks after it is made, or after the next Meeting of Parliament: Provided always, that nothing herein contained shall be deemed or taken to affect the Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in* England, or the Orders made or to be made in pursuance thereof, so far as relates to such of the Records of the Court of Chancery as shall not be removed from their present Places of Custody under the Power herein-before contained, or to the Fees payable for Searches in and Copies of such Records.

and for dispensing with Fees in certain Cases.

Nothing herein to affect 3 & 4 W. 4. c. 94.

Fees to be paid into the Exchequer.

X. And be it enacted, That the Deputy Keeper of the Records shall keep or cause to be kept an Account of all Fees which shall be paid for the Use of the Records in the Custody of the Master of the Rolls, and shall pay the Amount thereof monthly into the Bank of *England* to the Credit of the Exchequer, and the Amount thereof shall be carried to the Account of the Consolidated Fund; and the Person by whom such Account shall be kept shall be considered as a Public Accountant, and within all Provisions concerning Public Accountants in the Acts for examining and auditing the Public Accounts.

Seal of the Record Office to be provided.

XI. And be it enacted, That the Master of the Rolls shall cause to be made a Seal of the said Record Office, and shall cause to be sealed or stamped therewith all certified Copies made as herein-after provided of any Records in his Custody.

Power to order the making of authentic Copies of Records, which shall be sealed.

XII. And be it enacted, That the Master of the Rolls or Deputy Keeper of the Records may allow Copies to be made of any Records in the Custody of the Master of the Rolls, at the Request and Costs of any Person desirous of procuring the same; and any Copy so made shall be examined and certified as a true and authentic Copy by the Deputy Keeper of the Records, or One of the Assistant Record Keepers aforesaid, and shall be sealed or stamped with the Seal of the Record Office, and delivered to the Party for whose Use it was made.

Such Copies, sealed with the Seal of the Record Office, to be received in Evidence.

XIII. And be it enacted, That every Copy of a Record in the Custody of the Master of the Rolls, certified as aforesaid, and purporting to be sealed or stamped with the Seal of the Record Office, shall be received as Evidence in all Courts of Justice, and before all legal Tribunals, and before either House of Parliament, or any Committee of either House, without any further or other Proof thereof, in every Case in which the original Record could have been received there as Evidence.

Calendars, Indexes, and Records may be printed.

XIV. And be it enacted, That it shall be lawful for any One of Her Majesty's Principal Secretaries of State to cause to be printed, from Time to Time, such Calendars, Catalogues, and Indexes of the Records, and also such Records, in the Custody of the Master of the Rolls, as the Secretary of State may select, or as the Master of the Rolls shall recommend as fit to be printed: Provided always, that an Estimate of the probable Cost to be thereby occasioned shall be laid in every Case before Parliament, and that no such Expence shall be incurred until the Sum estimated for making Provision for the same shall have been voted by Parliament.

Printed Copies of Records to be sold.

XV. And be it enacted, That all Records, Calendars, Catalogues and Indexes of the said Records which shall be printed as aforesaid under the Direction of the Secretary of State shall be published and sold for such reasonable Sums which shall be approved by the Secretary of State; and the Proceeds of all such Sales shall be paid into the Bank of *England*, to the Credit of the Exchequer, and carried to the Account of the Consolidated Fund: Provided nevertheless, that so many printed Copies of any such Records, Calendars, Catalogues, and Indexes as the Secretary of State from Time to Time shall direct may be presented gratuitously to Public Offices, Institutions, and Libraries in this or any other Realm or Country.

Power to purchase private Calendars, Catalogues, and Indexes.

XVI. And be it enacted, That the Lord High Treasurer, or any Three or more Commissioners of Her Majesty's Treasury, shall have Power to purchase, for the Use of the Public Record Office, any private Calendars, Catalogues, and Indexes to the Public Records which the Master of the Rolls shall recommend as fit to be purchased; and every Calendar, Catalogue, and Index to any Records in the Custody of the Master of the Rolls which shall be compiled, continued, or copied, after the passing of this Act, by any Person belonging to or employed in the Public Record Office, excepting such printed Copies which shall be sold or given away by the Authority aforesaid, shall belong to Her Majesty, Her Heirs and Successors, for the Use of the Public Record Office.

Annual Report to be made to Parliament by Deputy Keeper of Records.

XVII. And be it enacted, That the Deputy Keeper of the Records, under the Direction of the Master of the Rolls, shall once in every Year report to Her Majesty the Proceedings had in the Execution of this Act; and every such Report shall be signed by the Deputy Keeper of the Records and Master of the Rolls, and shall be laid before both Houses of Parliament.

XVIII. And

Compensation to present Record Keepers.

XVIII. And be it enacted, That all Keepers of Records and Persons deriving Emolument from any Office to which the Custody of Records is attached, or from Fees for searching or copying Records by virtue of any Office holden by them or any of them before or at the passing of this Act, whose Office, Profits, or Emoluments shall in anywise be affected by the passing of this Act, may deliver to the Master of the Rolls a Statement in Writing of any Losses they may thereby sustain, or of the Manner in which they may be thereby affected, and the Master of the Rolls shall have Power thereupon to examine the Parties and such other Persons as he may think fit, and shall report such Statements, and the Result of such Examinations, with his Opinion thereon, to the Lord High Treasurer or Commissioners of Her Majesty's Treasury, who may award such Compensation to the said Record Keepers and Officers as the Lord High Treasurer or any Three or more Commissioners of Her Majesty's Treasury may think fit; and the Payment of any such Compensation shall be taken to be an Expence incurred for the Purposes of this Act: Provided always, that Account shall be taken of such Compensation in any Salary or Emolument to which any Person to whom the same shall be awarded may become entitled in virtue of any Appointment in the Public Record Office or elsewhere in Her Majesty's Service: Provided also, that every Person who shall receive any Compensation under this Act shall, if appointed, take upon himself the Office of Assistant Record Keeper in the Public Record Office, without prejudice nevertheless to his Right to Compensation under this Act, if afterwards removed from the said Office for any Cause other than for Misbehaviour: Provided also, that the Commissioners of Her Majesty's Treasury shall in the first instance appoint the Assistant Record Keepers and other Officers and Servants in the Public Record Office from among such of the Persons entitled to Compensation under this Act whom they shall judge to be in all respects competent and fit to be appointed to such Office or Service respectively.

Certifying as true any false Copies of Records a Felony.

XIX. And be it enacted, That every Person belonging to or employed in the said Public Record Office who shall certify any Writing as a true and authentic Copy of a Record in the Custody of the Master of the Rolls, knowing the same to be false in any material Part, and every Person who shall counterfeit the Signature of an Assistant Record Keeper for the Purpose of counterfeiting a certified Copy of a Record, or shall forge or counterfeit the Seal of the Public Record Office, shall be guilty of Felony, and being duly convicted thereof, shall be liable, at the Discretion of the Court, to be transported beyond the Seas for Life, or for any Term not less than Seven Years, or to be imprisoned for any Term not exceeding Four Years.

Interpretation Clause.

XX. And be it enacted, That in this Act the Word "Records" shall be taken to mean all Rolls, Records, Writs, Books, Proceedings, Decrees, Bills, Warrants, Accounts, Papers, and Documents whatsoever of a public Nature belonging to Her Majesty, or now deposited in any of the Offices or Places of Custody before mentioned.

XXI. And

Act may be amended or repealed.

XXI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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