

[STATUTES OF GREAT BRITAIN, 1771] [1]

[Anno undecimo Georgii III. c. 18.]

CAP. XVIII.

An act to indemnify persons who have omitted to qualify themselves for offices and employments, and to indemnify justices of the peace and others who have omitted to register their qualifications, within the time limited by law; and for giving further time for those purposes.

[1] Preamble.

Persons who have omitted

to take the oaths appointed by

act 1 Geo. 1.

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 the 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 late 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 prince's Sophia, being protestants; and for extinguishing the hopes of the pretended prince of Wales, and his open and secret abettors*; [2] or

Act 13 Car. 2.

to have qualified themselves according to an act made in the thirteenth year of the reign of King Charles the Second, intituled, *An act for the well-governing and regulating corporations*; [3] or

Act 25 Car. 2.

to have qualified themselves according to another act, made in the twenty-fifth year of the reign of King Charles the Second, intituled, *An act for preventing the dangers which may happen from popish recus-*

ants, [4] by receiving the sacrament of the Lord's supper, according to the usage of the church of *England*, and making and subscribing the declaration against transubstantiation therein mentioned; or

according to another act, made in the thirteenth [thirtieth] year of the reign of 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*; [5] or

Act 13 [30] Car. 2.

according to another act, made in the eighteenth year of the reign of his late majesty King George the Second, of glorious memory, intituled, *An act to amend and render more effectual an act passed in the fifth year of his said late Majesty's reign, intituled, An act for the further qualification of justices of the peace*; [6] or

Act 18 Geo. 2.

according to another act made in the thirtieth year of his said late Majesty's reign, intituled, *An act for the better ordering of the militia forces in the several counties of that part of Great Britain called England*; [7]

and act 30 Geo. 2.

have, through ignorance of the law, absence, or some unavoidable accident, omitted to take and subscribe the said oaths and assurance, or otherwise to qualify themselves as aforesaid, within such time, and in such manner, as in and by the said acts respectively, or by any other act of parliament in that behalf made and provided, is required, whereby they may be in danger of incurring divers penalties and disabilities:

[1] [Source: *Statutes at Large*, Pickering (1771), vol 29 pp 22-24. Title only in Raithby (1811), vol 13 p 179. This act was passed (received royal assent) on 28 March 1771 and under the legal doctrine of the time it would have been deemed to have come into force retroactively on 13 November 1770, the date of commencement of the session; but s 1 of this act offered greater retroactivity. It indemnified dissenters and recusants who had failed to get religiously qualified for office at any time before 28 November 1771. This allowed them to acquire or continue in many governmental, municipal, trust, legal and corporate offices which such failure would otherwise have denied to them, up to and until that date. Cited unofficially as the Indemnity Act of 1771, it was the first of about 100 annual identical Indemnity Acts passed until 1867 that in effect repeatedly re-extended relief from oppressive religious legislation—without actually repealing that legislation. Once that finally happened all these Indemnity Acts were repealed by *The Promissory Oaths Act, 1871*, 34 & 35 V c 48 s 1 Sch 4.]

[2] [Security of the Sovereign Act of 1714, 1 G 1 c 13]

[3] [Corporation Act of 1661, 13 Ch 2 St 2 c 1]

[4] [Popish Recusants Act of 1672, also known as the Test Act of 1673, 25 Ch 2. c 2]

[5] [Parliament Act of 1678, also known as the Test Act of 1678, 30 Cha 2 St 2 c 1]

[6] [*The Justices Qualification Act, 1744*, 18 G 2 c 20]

[7] [*Militia Act of 1757*, 30 G 2 c 25]

for quieting the minds of his Majesty's subjects, and for preventing any inconveniencies that might otherwise happen by means of such omissions; be it enacted by the King'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 all and every person and persons

[I.]

qualifying
before Nov.
28. 1771.

who shall, on or before the twenty-eighth day of *November*, one thousand seven hundred and seventy-one,

take and subscribe the said oaths and assurance respectively, in such cases wherein by law the said oaths and assurance ought to have been taken or subscribed, in such manner and form, and in such place and places, as are appointed in and by the said act made in the first year of the reign of his said late majesty King *George* the First, or by any other act or acts of parliament in that behalf made and provided; and

also receive the sacrament of the Lord's supper according to the usage of the church of *England*, and make and subscribe the said declaration against transubstantiation, in such cases wherein the said sacrament ought to have been received, and the said declaration ought to have been made and subscribed; or

take and subscribe the oath directed by the said act in the eighteenth year of the reign of his late majesty King *George* the Second, in such cases wherein the said oath ought to have been taken and subscribed, in such manner as by the said act is directed;

indemnified
against forfei-
tures.

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 former neglect or omission of taking or subscribing the said oaths or assurance, or receiving the sacrament, or making or subscribing the said declaration respectively, according to the above-mentioned acts, or any of them, or any other act or acts;

is and are, and shall be fully and actually recapitulated, and restored to the same state and condition as such person or persons were before such neglect or omission, and

shall 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 acts done, or to be done, by any such person or persons, or by authority derived from him 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 had taken the said oaths or assurance, and received the sacrament of the Lord's supper, and made and subscribed the said declaration, or taken and subscribed the said oath respectively, according to the direction of the said acts, and every of them;

and that 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 received the sacrament, and made and subscribed the said declaration, and taken and subscribed the said oath, within the time, and in the manner appointed by the several acts before mentioned.

II. Provided always, That this act, or any thing herein contained, shall not extend, or be construed to extend, to restore or intitle any person or persons to any office or employment, benefice, matter or thing, whatsoever, already actually avoided by judgement of any of his Majesty's courts of record, already filled up or enjoyed by any other person;

Not to extend
to restore
persons to any
office avoided
by judge-
ment;

but such office, employment, benefice, matter or thing, so avoided or filled up, and enjoyed, shall be, and remain in and to the person or persons who is or are now intitled to the same, as if this act had never been made.

III. Provided also, That this act, or any thing herein contained, shall not extend, or be construed to extend, to indemnify any person against whom final judgement shall have been given, in any action of debt, bill, plaint, or information, in any of his Majesty's courts of record, for any penalty incurred, by having neglected to qualify himself within the time limited by law.

Nor to indem-
nify persons
for penalties
incurred.