

## SENATE....No. 14.

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### MEMORIAL.

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*To the Honorable Senate and House of Representatives of the  
Commonwealth of Massachusetts :*

Humbly show the Massachusetts Historical Society, that

The careful preservation of public records and documents throughout the Commonwealth presents an object worthy the attention of an enlightened government. Such records possess a high and increasing interest as memorials of the fathers and founders of the Commonwealth, to be preserved with reverential care. But as materials for illustrating its history, general or local, they are invaluable, and should be guarded, as far as possible, by the protection of the public law, against the decay of time, or the mutilation, injury or loss, to which indifference or neglect may expose them. No adequate security, it is believed, is now provided for these important historical documents in the existing statutes of the Commonwealth.

In the case of many of our towns and cities, the necessity of such provision has been, to a great extent, obviated by the vigilance and public spirit of the municipal authorities themselves. Cases, however, are well known to exist, in which the records of towns have been greatly endangered and exposed, either by want of suitable protection against fire, by inattention to the proper and seasonable binding of ancient books, fast yielding to natural decay, or by the improper removal and detention of the public records by unauthorized and irresponsible persons. It is believed that suitable enactments, meeting such cases, would contribute essentially to the permanent security and preservation

of our municipal records, especially at a period when historical inquiries are so extensively pursued as now.

In the early establishment of our towns, grants were often made by the General Court of the townships themselves, or of other tracts of land, to a body of proprietors, whose records were kept apart from the civil records of the town. Common lands have been, in like manner, held as a proprietary interest and under a form of proprietary organization, in which the town, in its municipal character had no part. In process of time, such organizations, upon the final disposition of their lands, ceased to exist. Their records, in some cases, were very properly deposited, for safe keeping, with the clerk of the town. In many instances, however, they fell into the hands of private and irresponsible individuals, resulting, in some cases, in their serious injury and mutilation, in others, in their total loss. It is believed that a provision by statute, vesting the legal custody of such proprietary records, when not otherwise legally provided for in the authorities of the town, would yet spare to us much valuable information, which, without such provision, must be sooner or later forever beyond recovery.

It may not be unworthy of inquiry, in regard to the registries and records of churches, parishes and religious societies, whether the laws of the Commonwealth should not define the proper authority to hold them in safe keeping when necessary, to certify copies from them, in the event of the extinguishment of such churches or societies as bodies corporate. Such records are worthy of careful preservation, not only for their historical interest, they often verify important facts affecting the rights and interests of individuals. Many cases arising under the pension laws of the United States, have depended for a decision favorable to the petitioner, solely upon an authenticated entry in a church registry.

The county records and registries, owing to the difference in the dates of the original establishment of the several counties of the Commonwealth, are, in some instances, materially incomplete. Much valuable matter of record, and that of an early date, connected with the territory prior to its legal establishment as a county, being in other, and, in some instances, distant county offices. It being greatly conducive to the public convenience to afford every practicable facility of access to the

public archives, in which the whole community possess a common interest, it is submitted whether the county commissioners shall be authorized and instructed, when the public accommodation shall render it desirable, to have attested copies prepared by skilful transcribers of such records, registries or papers, or parts of them, in other county officers, as shall afford the desired completeness to their archives, and relieve or assist the labor of research.

In submitting these suggestions, it is confidently believed, that such provisions as the wisdom of the Legislature may desire and ordain in the premises, will add materially to the value, security and permanence of those public records and historical memorials, which in all enlightened countries of the earth are revered as an inviolable trust from past ages, to be guarded with the utmost vigilance by the supreme authority of the State, and secured by the direct sanctions of established law.

For the society,

JAMES SAVAGE, *President.*

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At a stated meeting of the Massachusetts Historical Society, held on the last Thursday in December, 1850,—

*Voted,* That the foregoing memorial be presented to the Legislature of the Commonwealth at their approaching session.

Attest,           JOSEPH WILLARD,  
*Recording Secretary of the Mass. Hist. Soc.*

## Commonwealth of Massachusetts.

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IN SENATE, January 30, 1851.

The Joint Standing Committee on the Library, to which was referred the memorial of the Massachusetts Historical Society, praying that provision may be made by law for the better preservation of town and county records, report the accompanying Bill.

For the committee,

JOS. T. BUCKINGHAM, *Chairman.*

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Fifty-  
One.

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### AN ACT

For the better Preservation of Municipal and other  
Records.

*BE it enacted by the Senate and House of Representa-  
tives, in General Court assembled, and by the authority of  
the same, as follows :*

1   SECT. 1. It shall be the duty of the proper au-  
2   thorities of counties, cities and towns in this Com-  
3   monwealth, to have all books of public record or  
4   registry well and strongly bound, and other papers  
5   and documents duly filed and arranged in a careful  
6   and orderly manner convenient for examination and  
7   reference. They shall also provide, at the expense  
8   of the county, town or city, a suitable iron safe, or  
9   fire proof vault or apartment, in which the public  
10  records and other valuable documents shall be de-  
11  posited and securely kept.

1   SECT. 2. It shall be the duty of the county com-  
2   missioners of the respective counties, the city govern-

3 ment of cities and the selectmen of the several towns  
4 of the Commonwealth, to provide for the particular  
5 security and preservation of ancient records; and in  
6 cases where, from any cause, they are liable to become  
7 worn, mutilated or illegible, it shall be their duty to  
8 have a fair copy of such records seasonably taken  
9 and duly authenticated by competent and skilful  
10 transcribers, at the expense of the county, town or  
11 city, to be preserved in like manner as the originals.

1     SECT. 3. It shall be the duty of each clerk or  
2 register of any county, city or town in this Common-  
3 wealth, to keep all records or documents in his sole  
4 custody, and in no case, except upon summons, in  
5 due form of law, to have them, or cause or permit  
6 them, to be removed or taken away, under a penalty  
7 for each offence of

1     SECT. 4. All county, city or town records and  
2 files shall be open to public inspection, under direc-  
3 tion of the officers having them in legal custody;  
4 and any person who shall be guilty of taking and  
5 carrying away any book of record, paper or docu-  
6 ment, or of defacing, altering or mutilating the same,  
7 by mark, erasure, cutting or otherwise, shall forfeit  
8 and pay a sum not less than                   to the use of  
9 the Commonwealth.

1     SECT. 5. The legal custody of the books of record  
2 and other documents of the ancient proprietors of  
3 townships, or of common lands within the cities or  
4 towns of this Commonwealth, in case such proprie-  
5 tors shall have ceased to be a body corporate, shall,  
6 when not otherwise legally disposed of or provided  
7 for by such proprietary body before its dissolution,

8 be vested and held to be in the clerk, for the time  
9 being, of the city or town in which such lands lie,  
10 who may make and certify any copies of such records,  
11 in the same manner as the clerk of the proprietors  
12 may have done; and it shall be the duty of the clerk  
13 of any city or town, to claim such proprietary records  
14 and papers, and any person unlawfully holding the  
15 same, who shall refuse, upon such demand, to sur-  
16 render them, shall be punished by a fine.

1     SECT. 6. That any county, city or town, in this  
2 Commonwealth, be authorised, when the public con-  
3 venience shall so require, to have copies taken for  
4 their own use by a skilful and competent hand, at  
5 the expense of said county, city or town, of any  
6 original records, or parts of the same, or of any pa-  
7 pers or documents in the legal custody of any other  
8 county, city or town, which copies shall be subject  
9 to the like control, care and regulations, as the other  
10 records and files of such county, city or town.

1     SECT. 7. Any town neglecting or refusing to fulfil  
2 the requirements of this act, or any one of them, shall  
3 forfeit and pay for each offence the sum of  
4 Any town clerk neglecting or refusing to fulfil the  
5 requirements of this act, or any of them, shall forfeit  
6 and pay for each offence the sum of

1     SECT. 8. In case any church or religious society,  
2 in this Commonwealth, shall be disbanded or cease  
3 to have a legal existence, and the care of the records  
4 and registries of such church or society, shall not  
5 have been otherwise provided for in due form of law,  
6 it shall be the duty of the clerk of such church or  
7 society, or other person holding such records and

8 registries, to deliver them into the custody of the  
9 clerk of the city or town in which such church or  
10 society was, who shall have authority to certify copies  
11 from the same; and in case of refusal to surrender  
12 the same, upon due notice and demand by such clerk,  
13 the offender shall pay a fine not exceeding