

(No. 2.)

33^o VICTORIÆ, 1870.

A BILL

To regulate Cemeteries.

[MR. FORSTER ;—9 February, 1870.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

5 1. The Act thirty-one Victoria number fourteen styled the Repeal of "Necropolis Act of 1867."
"Necropolis Act of 1867" is hereby repealed.

2. Unless the context otherwise indicate the word "Cemetery" Interpretation.
shall for the purposes of this Act mean a Cemetery under this Act and
"Government" shall mean Governor with the advice of the Executive
10 Council and "Trustees" shall mean Trustees of any Cemetery.

3. The land at Haslem's Creek already dedicated and set apart Cemetery at Haslem's Creek.
under the designation of "The Necropolis" shall be a Cemetery under
this Act and shall be dedicated for the purposes thereof.

4. The Government may by notification in the *Gazette* dedicate Power to dedicate other lands as Cemeteries.
15 and set apart as occasion may require any other land to be used as a
Cemetery under and for the purposes of this Act.

5. Every portion of the said Necropolis at Haslem's Creek Existing divisions maintained.
which has been already dedicated and set apart as a burial-ground for
burying the dead of any religious denomination shall subject to this
20 Act and to the general management and supervision of the Trustees
of the said Necropolis continue to be set apart as a place for the burial
of the dead and for the exclusive use for that purpose of such
denomination.

Existing Cemeteries
and divisions.

6. Any land already dedicated and set apart by the Government as a Cemetery or for the purposes thereof shall be a Cemetery under this Act. Provided that any portion of such Cemetery already dedicated and set apart as a burial-ground for burying the dead of any religious denomination shall subject to this Act and to the general management and supervision of the Trustees of such Cemetery continue to be set apart for the burial of the dead and for the exclusive use for that purpose of such denomination. 5

Appointment of
Trustees.

7. The Government may by notification in the *Gazette* appoint Trustees not being fewer than five in number for every Cemetery. 10

Trustees a body
corporate.

8. The Trustees of every Cemetery shall be a body corporate with perpetual succession and power to sue and be sued in their corporate name and such Trustees and their successors shall have vested in them the legal estate in and shall for the purposes of this Act for ever hold such Cemetery together with all erections thereon and all rights easements and appurtenances thereto belonging. 15

Division of Cemeteries
among several
denominations.

9. The Trustees may with the approval of the Government by notification in the *Gazette* describe and set apart any portion of the Cemetery under their charge not previously set apart for a like purpose as a burial-ground for burying the dead of any religious denomination and thereupon the portion so notified shall subject to this Act and to the general management and supervision of the Trustees of such Cemetery be set apart as a place for the burial of the dead and for the exclusive use for that purpose of such denomination. 20

Vacancies among
Trustees.

10. The Government may by notification in the *Gazette* remove any Trustee under this Act and upon the death resignation or removal of any such Trustee may by like notification appoint another Trustee in his place. Provided that upon such notification the legal estate in all lands and hereditaments respectively held by any such former Trustee in trust for the purposes of this Act shall vest in such new Trustee or Trustees solely or conjointly with the continuing Trustee or Trustees as the case may require. 25 30

Powers of Trustees
to improve.

11. The Trustees shall subject to the approval of the Government lay out the Cemetery under their charge in such manner as may be most convenient for the burial of the dead and may embellish the same with such walks avenues roads trees and shrubs as may to them seem fitting and proper and shall enclose the same with proper and sufficient walls fences palisades gates and entrances and preserve maintain and keep in a cleanly and orderly state and condition such Cemetery 35

Cemetery

Cemetery together with all walls fences palisades gates and entrances and all monuments tombstones enclosures buildings erections and shrubberies thereon and appertaining thereto.

12. Every minister of any religious denomination to which a Religious functions.
 5 portion of any Cemetery shall have been dedicated and set apart as a burial-ground for burying the dead of such denomination or other person duly authorized by the Trustees thereof or by the Minister for Lands shall at all times have free access and admission to such Cemetery and shall freely exercise his religious or professional functions
 10 therein in connection with the burial of the dead of the denomination whereof he is a minister.

13. The Trustees may in respect of the Cemetery under their Powers of Trustees to sell and grant exclusive rights.
 charge and under such restrictions and conditions as shall be approved by the Government sell and grant the exclusive right of burial either
 15 in perpetuity or for a definite period and also the right of constructing any vault or place of burial with the exclusive right of burial in perpetuity or for a definite period therein and also the right of erecting and placing any monument gravestone tablet or monumental inscription and such exclusive right as aforesaid whether granted in perpetuity
 20 or for a definite period shall be considered as the personal estate of the grantee and may be assigned in his lifetime or bequeathed by his will.

14. The Trustees may in respect of the Cemetery under their Powers of Trustees to fix charges for interments and exclusive rights.
 charge charge and receive for and in connection with the interment of bodies and the exclusive right of burial either in perpetuity or for a
 25 definite period and the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a definite period and the right of erecting and placing therein any monument gravestone tablet or memorial inscription such fees and charges as shall be fixed by them with the approval of the Government
 30 and notified in the *Gazette* And a table showing such fees and charges shall be exhibited at all times in a conspicuous part of such Cemetery Provided always that the Trustees may allow the interment of the dead body of any poor person in the Cemetery under their charge free of any charge whatsoever.

35 15. The Trustees may in the Cemetery under their charge take Powers of Trustees to remove monuments.
 down and remove any monument gravestone tablet or memorial inscription which shall have been erected or placed contrary to the conditions upon which permission to erect or place the same was granted or to the rules and regulations of such Cemetery.

Exclusive rights
maintained.

16. No corpse shall be buried in any place wherein any exclusive right of burial shall have been granted as hereinbefore provided except with the consent in writing of the owner for the time being of such exclusive right of burial.

Appointment of
Secretaries Clerks and
other officers.

17. The Trustees may appoint a Secretary sexton or any other clerk officer or servant as they may think necessary for the maintenance and proper management of the Cemetery under their charge. 5

Office of Cemetery
and duties of Secretary.

18. The Trustees of every Cemetery shall appoint and maintain a public office where the Secretary of such Cemetery shall under the direction of the said Trustees and subject to the rules and by-laws of such Cemetery made in pursuance of the powers hereinafter conferred manage and transact all matters connected with such Cemetery and shall receive all fees charges and sums of money payable under this Act for and on account of the Trustees of such Cemetery and shall make such payments as may be duly authorized and shall keep a book in which shall be entered a full and particular account in writing of all fees charges and sums of money received and all sums of money expended by such Trustees for the purposes of this Act and of all liabilities incurred by them for such purposes and of the several purposes for which such sums of money are paid and such liabilities incurred and an abstract of such respective accounts made up from the first day of January to the thirty-first day of December both inclusive in the year next preceding shall be transmitted to the Minister for Lands in the month of January in each and every year and published in the *Gazette* and every such account shall be verified by a solemn declaration to be made and subscribed by such Secretary in the form and to the effect required by the Act of Council ninth Victoria number nine and any Justice of the Peace is hereby authorized to take such declaration. 15 20 25

Appointment of
Chaplains.

19. The Trustees may appoint a duly recognized minister of any denomination to which any portion of the Cemetery under their charge shall have been dedicated and set apart as the burial-ground for bringing the dead of such denomination to perform the burial service within such portion of such Cemetery according to the burial rites of such denomination. Provided that where no such minister is so appointed any minister or other person duly authorized by the relatives of the deceased or in charge of any corpse brought to any Cemetery for the purpose of burial may perform rites of burial over such corpse. 30 35

20. The Trustees shall apply the fees charges and other income arising from the Cemetery under their charge in the following manner (that is to say) in the first place in and towards defraying their expenses as Trustees under this Act in the next place in and towards maintaining such Cemetery and all walls palisades fences railings enclosures gates entrances or erections thereon in complete repair in the next place in and towards paying the salary of any Secretary Clerk or other officer who may be appointed to carry out this Act and in the next place in and towards paying the stipend or other remuneration of any minister appointed or permitted under this Act to perform the burial service and in the last place in and towards laying out and embellishing such Cemetery.

Appropriation of
income from fees and
charges.

21. The Trustees may with the approval of the Government build in each portion of the Cemetery under their charge which shall have been dedicated and set apart in the burial-ground for burying the dead of any denomination a mortuary church or chapel for the performance therein of the rites and ceremonies used by such denomination in connection with the burial of the dead and the said Trustees may with the like approval borrow any money required for such purpose and charge with the payment of such money and interest the fees and charges and other income arising from such portion of such Cemetery.

Mortuary chapels.

22. The Trustees may with the approval of the Government make such rules and by-laws and may do and cause to be done all such acts matters and things in connection with the Cemetery under their charge as may be necessary for carrying out the purposes of this Act and for determining and directing the formation order and position of all graves and vaults to be made in such Cemetery and for protecting the buildings monuments graves vaults tombstones tablets memorial inscriptions shrubberies plantations and enclosures in the same from destruction or damage and may prosecute all persons who shall do or cause to be done any damage to any of the said buildings monuments graves vaults tombstones tablets memorial inscriptions shrubberies plantations or enclosures Provided nevertheless that it shall not be lawful for any such Trustee by any rule or by-law or any other act matter or thing at any time to interfere directly or indirectly with the performance of any religious ceremony in connection with the burial of the dead Provided also that all such rules and by-laws shall be from time to time published in the *Government Gazette*.

By-laws and general
powers.

Meetings of Trustees.

23. The Trustees shall meet at least once in every three months at the office of the Secretary or some other convenient place and every such meeting shall be presided over by a Chairman to be chosen from the Trustees present at such meeting and all questions matters and things which shall be considered at such meeting shall be determined by the majority in number of the Trustees then present Provided that it shall not be competent for such Trustees to proceed to business unless there be at least three of them present and the Secretary of every Cemetery shall cause a book to be kept in which shall be entered a minute of the proceedings of the Trustees thereof at every such meeting which minute shall be read and confirmed at the next subsequent meeting and shall be signed by the Chairman or any Trustee present at such meeting and shall be receivable in evidence before any Court without further proof Provided also that any two Trustees of a Cemetery may by writing under their hands summon with at least forty-eight hours notice a meeting of the Trustees thereof for any special purpose mentioned in such writing and to meet at such time as shall be appointed therein.

Penalty on persons committing nuisances.

24. Any person who shall play at any game or sport or discharge firearms save at a military funeral in any Cemetery or shall wilfully and unlawfully disturb any persons assembled in any Cemetery for the purpose of attending or assisting at any burial therein or shall commit any nuisance therein shall forfeit and pay for every such offence a sum not exceeding *five pounds*.

Penalty for insufficient burial.

25. It shall be the duty of the Trustees to cause all corpses or human remains to be buried in the Cemetery under their charge at a depth of not less than *three feet* from the surface of the ground under a penalty not exceeding *five pounds* for each several violation of the provisions in this section contained And any person who shall bury or cause to be buried in any Cemetery (whether it be a Cemetery under this Act or not) or in any other place any corpse or human remains at a less depth than *three feet* from the surface of the ground shall incur a like penalty.

Power to prohibit burials.

26. Upon the written application of *twenty* householders resident not more than *half a mile* from any place used as a Cemetery (whether the same be a Cemetery under this Act or not) or for a Burial-place complaining that such Cemetery or Burial-place is a public nuisance or upon the written certificate of three duly qualified medical practitioners that any such place is injurious to health the Government may cause

cause inquiry to be made and may thereafter by notification in the *Gazette* prohibit such place to be used as a Cemetery or Burial-place and any person who shall at any time after the expiration of *one calendar month* from the date of the *Gazette* containing such notice
 5 bury or cause to be buried in such place any corpse or human remains or take part in any funeral ceremony or burial therein shall be liable for every such offence to a penalty not exceeding *twenty pounds*.

27. Any person who shall wantonly or wilfully do or cause to
 be done any damage to any grave vault tombstone tablet monument
 10 memorial inscription building erection fence railing shrubbery tree or plant in any Cemetery (whether the same be a Cemetery under this Act or not) shall forfeit and pay any sum not exceeding *twenty pounds* and whosoever shall do or cause to be done any injury to any such grave vault tombstone tablet monument memorial inscrip-
 15 tion building erection fence railing shrubbery tree or plant whether the same shall have been done wilfully or wantonly or otherwise shall be also liable at the suit of the owner thereof or of any Trustee of such Cemetery to pay damages and compensation therefor according to the amount of injury done or caused to be done.

28. Any person who may be found committing any offence
 against this Act and who shall refuse being thereunto required by
 any person to give his name and place of abode may be thereupon
 apprehended by such person and taken to and detained at the nearest
 lock-up until he can be taken before a Justice of the Peace to be
 25 dealt with as hereinafter mentioned Provided that any Justice of the Peace Sub-inspector or Senior-sergeant of Police may liberate such person so apprehended on his giving reasonable bail for his attendance before a Justice of the Peace to answer for the offence for which he was apprehended And any person who upon being required to give
 30 his name and place of abode shall give a false or fictitious name or place of abode shall for every such offence forfeit and pay any sum not exceeding *ten pounds*.

29. Any penalties imposed by this Act may be recovered before
 any Justice of the Peace in a summary way and if the same shall not
 35 be paid either immediately or within such time as such Justice may appoint for such payment not exceeding *fourteen* days after conviction then the person so convicted shall by warrant under the hand of the convicting or of any other Justice of the Peace be imprisoned for any period not exceeding *three* calendar months unless payment be sooner
 40 made.

Appropriation of penalties &c.

30. One moiety of the proceeds of any penalty or forfeiture imposed by and recovered under this Act shall be paid to the Trustees of the Cemetery in respect of which such penalty or forfeiture shall have been recovered for the uses of such Cemetery and the other moiety shall be paid to the informer or person prosecuting who shall in all cases be deemed a competent witness Provided that all penalties and forfeitures recovered under the provisions of this Act in respect of any Cemetery or Burial-place other than a Cemetery under this Act shall be appropriated in accordance with the Act sixteen Victoria number one section fifteen. 10

Short title.

31. This Act shall be styled and may be cited as the "Cemeteries Act of 1870."

Sydney: Thomas Richards, Government Printer.—1870.

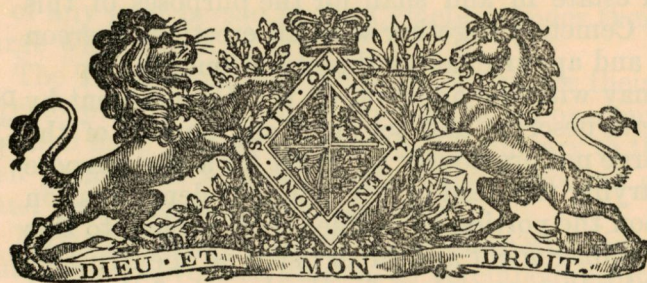
[Gd.]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber, }
Sydney, 8 March, 1870. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO TRICESIMO TERTIO

VICTORIÆ REGINÆ.

No. .

An Act to regulate Cemeteries.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

5 1. The Act thirty-one Victoria number fourteen styled the "Necropolis Act of 1867" is hereby repealed. Repeal of "Necropolis Act of 1867."

2. Unless the context otherwise indicate the word "Cemetery" shall for the purposes of this Act mean a Cemetery under this Act and "Government" shall mean Governor with the advice of the Executive Council and "Trustees" shall mean Trustees of any Cemetery. Interpretation.

3. The land at Haslem's Creek already dedicated and set apart under the designation of "The Necropolis" shall be a Cemetery under this Act and shall be dedicated for the purposes thereof. Cemetery at Haslem's Creek.

4. The Government may by notification in the *Gazette* dedicate and set apart as occasion may require any other land to be used as a Cemetery under and for the purposes of this Act. Power to dedicate other lands as Cemeteries.

5. Every portion of the said Necropolis at Haslem's Creek which has been already dedicated and set apart as a burial-ground for burying the dead of any religious denomination or otherwise shall subject to this Act and to the general management and supervision of the Trustees of the said Necropolis continue to be set apart as a place for the burial of the dead accordingly. Existing divisions maintained.

Cemeteries (No. 2).

6. Any land already dedicated and set apart by the Govern- Existing Cemeteries
ment as a Cemetery or for the purposes thereof except such as is now and divisions.
used as a burying-ground and granted or attached to any church or
place of worship or vested exclusively in any religious denomination
5 as a burial-ground for burying the dead of such denomination shall be
a Cemetery under this Act Provided that any portion of such Cemetery
already dedicated and set apart as a burial-ground for burying the
dead of any religious denomination shall subject to this Act and to the
general management and supervision of the Trustees of such Cemetery
10 continue to be set apart for the burial of the dead accordingly.

7. The Government may by notification in the *Gazette* appoint Appointment of
Trustees not being fewer than five in number for every Cemetery. Trustees.

8. The Trustees of every Cemetery shall be a body corporate Trustees a body
with perpetual succession and power to sue and be sued in their corporate.
15 corporate name and such Trustees and their successors shall have
vested in them the legal estate in and shall for the purposes of this
Act for ever hold such Cemetery together with all erections thereon
and all rights easements and appurtenances thereto belonging.

9. The Trustees may with the approval of the Government by Division of Cemeteries
20 notification in the *Gazette* describe and set apart any portion of the among several
Cemetery under their charge not previously set apart for a like purpose denominations.
as a burial-ground for burying the dead of any religious denomination
or otherwise and thereupon the portion so notified shall subject to this
Act and to the general management and supervision of the Trustees
25 of such Cemetery be set apart as a place for the burial of the dead
accordingly.

10. The Government may by notification in the *Gazette* remove Vacancies among
any Trustee under this Act and upon the death resignation or removal Trustees.
of any such Trustee may by like notification appoint another Trustee
30 in his place Provided that upon such notification the legal estate in all
lands and hereditaments respectively held by any such former Trustee
in trust for the purposes of this Act shall vest in such new Trustee
or Trustees solely or conjointly with the continuing Trustee or Trustees
as the case may require.

11. The Trustees shall subject to the approval of the Govern- Powers of Trustees
35 ment lay out the Cemetery under their charge in such manner as may to improve.
be most convenient for the burial of the dead and may embellish the
same with such walks avenues roads trees and shrubs as may to them
seem fitting and proper and shall enclose the same with proper and
40 sufficient walls fences palisades gates and entrances and preserve
maintain and keep in a cleanly and orderly state and condition such
Cemetery together with all walls fences palisades gates and entrances
and all monuments tombstones enclosures buildings erections and
shrubberies thereon and appertaining thereto.

12. Every duly recognized minister of any religious denomina- Religious functions.
45 tion to which a portion of any Cemetery shall have been dedicated and
set apart as a burial-ground for burying the dead of such denomination
or other person duly authorized by the Trustees thereof or by the
Minister for Lands in the absence of such duly recognized minister
50 shall at all times have free access and admission to such Cemetery and
shall freely exercise his religious or professional functions therein in
connection with the burial of the dead of the denomination whereof
he is a minister.

13. The Trustees may in respect of the Cemetery under their Powers of Trustees
55 charge and under such restrictions and conditions as shall be approved to sell and grant
by the Government sell and grant the exclusive right of burial either exclusive rights.
in perpetuity or for a definite period and also the right of constructing
any vault or place of burial with the exclusive right of burial in per-
petuity or for a definite period therein and also the right of erecting
and

Cemeteries (No. 2).

and placing any monument gravestone tablet or monumental inscription and such exclusive right as aforesaid whether granted in perpetuity or for a definite period shall be considered as the personal estate of the grantee and may be assigned in his lifetime or bequeathed by his will.

5 14. The Trustees may in respect of the Cemetery under their charge charge and receive for and in connection with the interment of bodies and the exclusive right of burial either in perpetuity or for a definite period and the right of constructing any vault or place of
10 definite period and the right of erecting and placing therein any monument gravestone tablet or memorial inscription such fees and charges as shall be fixed by them with the approval of the Government and notified in the *Gazette* And a table showing such fees and charges shall be exhibited at all times in a conspicuous part of such Cemetery
15 Provided always that the Trustees may allow the interment of the dead body of any poor person in the Cemetery under their charge free of any charge whatsoever.

Powers of Trustees to fix charges for interments and exclusive rights.

15. The Trustees may in the Cemetery under their charge take down and remove any monument gravestone tablet or memorial inscription which shall have been erected or placed contrary to the conditions upon which permission to erect or place the same was granted or to the rules and regulations of such Cemetery.

Powers of Trustees to remove monuments.

16. No corpse shall be buried in any place wherein any exclusive right of burial shall have been granted as hereinbefore provided except with the consent in writing of the owner for the time being of such exclusive right of burial.

Exclusive rights maintained.

17. The Trustees may appoint a Secretary sexton or any other clerk officer or servant as they may think necessary for the maintenance and proper management of the Cemetery under their charge.

Appointment of Secretaries Clerks and other officers.

30 18. The Trustees of every Cemetery may appoint and maintain a public office where the Secretary of such Cemetery shall under the direction of the said Trustees and subject to the rules and by-laws of such Cemetery made in pursuance of the powers hereinafter conferred manage and transact all matters connected with such Cemetery and
35 shall receive all fees charges and sums of money payable under this Act for and on account of the Trustees of such Cemetery and shall make such payments as may be duly authorized and shall keep a book in which shall be entered a full and particular account in writing of all fees charges and sums of money received and all sums
40 of money expended by such Trustees for the purposes of this Act and of all liabilities incurred by them for such purposes and of the several purposes for which such sums of money are paid and such liabilities incurred and an abstract of such respective accounts made up from the first day of January to the thirty-first day of December
45 both inclusive in the year next preceding shall be transmitted to the Minister for Lands in the month of January in each and every year and published in the *Gazette* and every such account shall be verified by a solemn declaration to be made and subscribed by such Secretary in the form and to the effect required by the Act of Council ninth
50 Victoria number nine and any Justice of the Peace is hereby authorized to take such declaration.

Office of Cemetery and duties of Secretary.

19. Any duly recognized minister of any denomination to which a portion of any Cemetery shall have been dedicated and set apart as the burial-ground for burying the dead of such
55 denomination may perform the burial service within such portion of such Cemetery according to the burial rites of such denomination Provided that where no such minister is in attendance any other person duly authorized by the relatives of the deceased or in charge of any corpse brought to any Cemetery for the purpose of burial may
60 perform rites of burial over such corpse.

Performances of burial services.

Cemeteries (No. 2).

20. The Trustees shall apply the fees charges and other income arising from the Cemetery under their charge in the following manner (that is to say) in the first place in and towards defraying their expenses as Trustees under this Act in the next place in and towards maintaining such Cemetery and all walls palisades fences railings enclosures gates entrances or erections thereon in complete repair in the next place in and towards paying the salary of any Secretary Clerk or other officer who may be appointed to carry out this Act and in the last place in and towards laying out and embellishing such Cemetery

10 Provided that the Trustees may appropriate such fees towards the payment of any minister for performance of the burial service.

Appropriation of income from fees and charges.

21. The Trustees may with the approval of the Government make such rules and by-laws and may do and cause to be done all such acts matters and things in connection with the Cemetery under their charge

15 as may be necessary for carrying out the purposes of this Act and for determining and directing the formation order and position of all graves and vaults to be made in such Cemetery and for protecting the buildings monuments graves vaults tombstones tablets memorial inscriptions shrubberies plantations and enclosures in the same from

20 destruction or damage and may prosecute all persons who shall do or cause to be done any damage to any of the said buildings monuments graves vaults tombstones tablets memorial inscriptions shrubberies plantations or enclosures Provided nevertheless that it shall not be lawful for any such Trustee by any rule or by-law or any other act

25 matter or thing at any time to interfere directly or indirectly with the performance of any religious ceremony in connection with the burial of the dead Provided also that all such rules and by-laws shall be from time to time published in the *Government Gazette* and shall be laid before Parliament if sitting and if not then within a reasonable

30 time after the commencement of the then next session.

By-laws and general powers.

22. The Trustees shall meet at least once in every three months at the office of the Secretary or some other convenient place and every such meeting shall be presided over by a Chairman to be chosen from the Trustees present at such meeting and all questions matters and things

35 which shall be considered at such meeting shall be determined by the majority in number of the Trustees then present Provided that it shall not be competent for such Trustees to proceed to business unless there be at least three of them present and the Secretary of every Cemetery shall cause a book to be kept in which shall be entered a

40 minute of the proceedings of the Trustees thereof at every such meeting which minute shall be read and confirmed at the next subsequent meeting and shall be signed by the Chairman or any Trustee present at such meeting and shall be receivable in evidence before any Court without further proof Provided also that any two Trustees of a

45 Cemetery may by writing under their hands summon with at least forty-eight hours notice a meeting of the Trustees thereof for any special purpose mentioned in such writing and to meet at such time as shall be appointed therein.

Meetings of Trustees.

23. Any person who shall play at any game or sport or discharge firearms save at a military funeral in any Cemetery or shall wilfully and unlawfully disturb any persons assembled in any Cemetery for the purpose of attending or assisting at any burial therein or shall commit any nuisance therein shall forfeit and pay for every such offence a sum not exceeding five pounds.

Penalty on persons committing nuisances.

24. It shall be the duty of the Trustees to cause all corpses or human remains to be buried in the Cemetery under their charge at a depth of not less than three feet from the surface of the ground under a penalty not exceeding five pounds for each several violation of the provisions in this section contained And any person who shall bury

55 or

Penalty for insufficient burial.

Cemeteries (No. 2).

or cause to be buried in any Cemetery (whether it be a Cemetery under this Act or not) or in any other place any corpse or human remains at a less depth than three feet from the surface of the ground shall incur a like penalty.

5 25. Upon the written application of twenty householders resident not more than half a mile from any place used as a Cemetery (whether the same be a Cemetery under this Act or not) or for a Burial-place complaining that such Cemetery or burial-place is a public nuisance and upon the written certificate of three duly qualified medical practitioners that any such place is injurious to health the Government may
10 appoint a Commission of three Justices of the Peace together with a duly qualified medical practitioner not being resident within three miles of such Cemetery or burial-place to inquire into such complaint and the said Justices having given not less than a week's notice to any
15 five of such householders and the Trustees of such Cemetery or burial-place and the time and place at which such inquiry will be held shall proceed to hear such evidence as shall be brought before them with reference to such complaint and if such Justices shall report in writing to the Government that such complaint is
20 well founded then the Government may thereafter by notification in the *Gazette* prohibit such place to be used as a Cemetery or burial-place and any person who shall at any time after the expiration of one calendar month from the date of the *Gazette* containing such notice bury or cause to be buried in such place any corpse or human
25 remains or take part in any funeral ceremony or burial therein shall be liable for every such offence to a penalty not exceeding twenty pounds.

26. Any person who shall wantonly or wilfully do or cause to be done any damage to any grave vault tombstone tablet monument memorial inscription building erection fence railing shrubbery tree or
30 plant in any Cemetery (whether the same be a Cemetery under this Act or not) shall forfeit and pay any sum not exceeding twenty pounds and whosoever shall do or cause to be done any injury to any such grave vault tombstone tablet monument memorial inscription building erection fence railing shrubbery tree or plant whether
35 the same shall have been done wilfully or wantonly or otherwise shall be also liable at the suit of the owner thereof or of any Trustee of such Cemetery to pay damages and compensation therefor according to the amount of injury done or caused to be done.

27. Any person who may be found committing any offence against this Act and who shall refuse being thereunto required by
40 any person to give his name and place of abode may be thereupon apprehended by such person and taken to and detained at the nearest lock-up until he can be taken before a Justice of the Peace to be dealt with as hereinafter mentioned Provided that any Justice of the
45 Peace Sub-inspector or Senior-sergeant of Police may liberate such person so apprehended on his giving reasonable bail for his attendance before a Justice of the Peace to answer for the offence for which he was apprehended And any person who upon being required to give
50 his name and place of abode shall give a false or fictitious name or place of abode shall for every such offence forfeit and pay any sum not exceeding ten pounds.

28. Any penalties imposed by this Act may be recovered before any Justice of the Peace in a summary way and if the same shall not be paid either immediately or within such time as such Justice may
55 appoint for such payment not exceeding fourteen days after conviction then the person so convicted shall by warrant under the hand of the convicting or of any other Justice of the Peace be imprisoned for any period not exceeding three calendar months unless payment be sooner made.

Power to prohibit burials.

Penalty for injuring monuments.

Apprehension of offenders.

Penalty for giving false name.

Summary convictions.

Cemeteries (No. 2).

29. One moiety of the proceeds of any penalty or forfeiture imposed by and recovered under this Act shall be paid to the Trustees of the Cemetery in respect of which such penalty or forfeiture shall have been recovered for the uses of such Cemetery and the other moiety shall be paid to the informer or person prosecuting who shall in all cases be deemed a competent witness. Provided that all penalties and forfeitures recovered under the provisions of this Act in respect of any Cemetery or burial-place other than a Cemetery under this Act shall be appropriated in accordance with the Act sixteen Victoria number one section fifteen.

Appropriation of penalties &c.

30. Nothing in this Act shall affect any right of exclusive burial granted under the Act hereinbefore repealed or derived under and by virtue of any valid grant conveyance or other lawful title whatsoever.

Exceptions from operation of Act.

31. The Colonial Secretary on the application of any person who may have purchased or acquired a right of interment in any grave vault or enclosure in any Cemetery or burial-place which may be closed by the Government under the provisions of this Act and on proof being given to his satisfaction of such purchase or acquired right may by order under his hand direct the burial of any dead body in such grave vault or enclosure. Provided however that no larger number of dead bodies shall be buried in such grave vault or enclosure than is stipulated in the terms of the purchase or acquired right of such applicant.

Private rights preserved.

32. This Act shall be styled and may be cited as the "Cemeteries Act of 1870."

Short title.