

Legislative Council.

50^o VICTORIÆ, 1887.

A BILL

To regulate the Process of Cremation.

[MR. CREED ;—10 *March*, 1887.]

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. This Act may be cited as the "Cremation Act 1887" and in its construction the word "Crematorium" means a place furnished with apparatus in accordance with the provisions of this Act for the purpose of reducing the human body after death to its mineral constituents and such purpose is in this Act referred to as "Cremation"

10 "Prescribed" means prescribed by regulations under this Act "Registrar" the Registrar of Births Deaths and Marriages of the District in which the death occurred in respect of which the certificates mentioned in section five of this Act are required or the person lawfully acting for such Registrar.

15 2. Subject to the conditions and provisions of this Act a crematorium may be established by any person provided the site and plans of such crematorium be approved by the Board of Health as constituted

constituted under the authority of the "Infectious Diseases Supervision Act of 1881" and that the apparatus to be employed for cremation be also approved by such Board. But no crematorium shall be used for the purpose of cremation unless licensed in the prescribed manner by the Governor with the advice of the Executive Council. 5

Applicant to fulfil certain requirements.

3. Every applicant for a license for a crematorium must satisfy the Governor with the advice aforesaid (1) that he is the owner in fee-simple of the site for such crematorium described in his application or (2) that he has the written consent to such application of such owner or (3) that if such site be situated in any cemetery or burial-ground he has the written consent to such application of the persons having the control and management of such cemetery or burial-ground. 10

Cremation &c. when illegal &c.

4. The burning or cremation of the body of any human being otherwise than in a licensed crematorium shall be deemed illegal and a common nuisance. 15

Conditions of cremation.

5. It shall not be lawful to cremate any human body unless the person having charge of such body or taking the same to a crematorium shall lodge with the person in charge of such crematorium a "Cremation Permit" issued by the Registrar (which permit such Registrar is hereby required subject to the provisions hereinafter contained to grant in the prescribed form to any person demanding the same) But no such permit shall be issued by the Registrar— 20

(I) Unless upon the receipt by the Registrar of a certificate from some legally qualified medical practitioner stating that such practitioner had been in professional attendance on the deceased for at least seventy-two hours immediately prior to the time of death and that the deceased died from natural causes or 25

(II) Unless a legally qualified medical practitioner shall after a *post-mortem* examination of all the vital organs of the deceased certify to the Registrar that the deceased died from natural causes or 30

(III) Unless a Coroner or Justice of the Peace who has held an inquest or inquiry as to the cause of such death shall first have certified to the Registrar that such cause has been duly inquired into and that no further examination of the body was necessary 35

Provided always that in no case shall the Registrar issue any such permit until and unless the death of the person to be cremated shall have been duly registered as by law required. And if any Registrar shall issue any "Cremation Permit" without having first received the proper certificate as prescribed by this section or if any person in charge of any crematorium shall without any such "Cremation Permit" or before receipt of the same cremate or permit the cremation of any human body such Registrar or person as the case may be shall be guilty of a misdemeanour and may be fined in any sum not exceeding five hundred pounds or be imprisoned (with or without such fine) for any term not exceeding two years. 45

Relatives &c. may object to cremation in cases where not directed by deceased person.

6. It shall not be lawful except as hereinafter mentioned to cremate the body of any deceased person if his widow or any of his next of kin whether under or above the age of twenty-one years or his executors or any of them shall object thereto but in all cases where a deceased person shall have left an attested memorandum directing that his body shall be cremated it shall be the duty of his executors or administrators to carry out his directions provided his death occurs within twenty miles of a licensed crematorium. 55

Interested persons not to give certificates.

7. If any person knowing that he has any pecuniary interest in the death of any other person whether in terms of any policy of life insurance or as knowing that he is entitled in expectancy of such death to

to any real or personal property or in any other manner whatsoever shall give or join in giving a certificate concerning the death of such person for the purposes of this Act such first-mentioned person shall be guilty of felony and may be sentenced to penal servitude for any term not exceeding ten years such sentence to be subject to the alternative provided by section eight of the "Criminal Law Amendment Act of 1883."

8. The Governor with the advice aforesaid on the appearance of any serious epidemic disease which in his opinion renders the giving of the certificates prescribed by section five of this Act or any of them either impracticable or inadvisable for sanitary reasons may suspend the operation of the said section for such time and within such limits as he shall notify by proclamation in the *Gazette*.

Executive may in certain cases dispense with certificate.

9. The Minister of Justice or any Stipendiary or Police Magistrate may in any case by writing under his hand addressed to the person in charge of any crematorium forbid the cremation of any dead body specified in such writing either absolutely or until the viscera or any other organs have been removed from such body and lodged in such manner and custody as he may require.

Minister of Justice may forbid cremation &c.

10. The body corporate authority or persons in whom any cemetery or burial-ground or the control and management thereof is vested for the time being may consent by their common seal or in writing under their hands and seals to the application for any site for a crematorium made by any person under this Act Provided that in the case of the necropolis at Rookwood the consent in writing of the Minister of Justice shall be sufficient in respect of any application for a site for a crematorium not situate within the portions of such necropolis vested in Trustees.

Consent of cemetery authorities to application for a crematorium.

11. The Governor with the advice aforesaid may frame regulations for giving effect to this Act in respect of any matter not herein specially provided for And such regulations may prescribe penalties for their violation not exceeding fifty pounds in any case and on publication in the *Gazette* shall have the full force of law Provided that any penalty so prescribed shall be recoverable in a summary way before any two Justices or before a Stipendiary Magistrate and only upon information laid with the sanction of the Medical Adviser to the Government.

Regulations

12. Before any crematorium is licensed under this Act the scale of fees and by-laws applicable to and to be in force in such crematorium must have been approved of by the Governor with the advice aforesaid And no alteration in such scale of fees or by-laws shall have any force until so approved of And no charge for cremation other than a charge specified in a scale of fees so approved shall be recoverable in any Court.

Governor &c. to approve of by-laws.

It is not a general principle of law that a party who has a right to a thing should be allowed to recover the value of a thing if it is taken from him without his consent. The principle is that a party who has a right to a thing should be allowed to recover the thing itself if it is taken from him without his consent.

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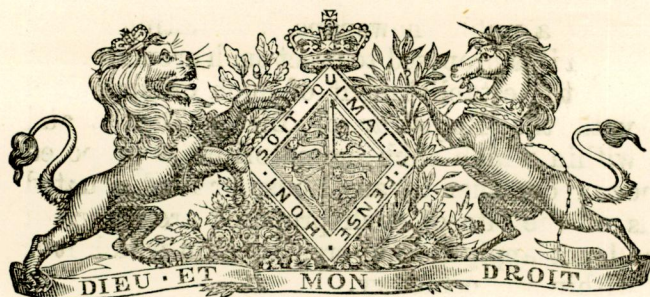
The principle is that a party who has a right to a thing should be allowed to recover the thing itself if it is taken from him without his consent.

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

*Legislative Council Chamber,
Sydney, May, 1887.* }

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO

VICTORIÆ REGINÆ.

No. .

An Act to regulate the Process of Cremation.

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. This Act may be cited as the "Cremation Act 1887" and in its construction the word "Crematorium" means a place furnished with apparatus in accordance with the provisions of this Act for the purpose of reducing the human body after death to its mineral constituents and such purpose is in this Act referred to as "Cremation"
- 10 "Prescribed" means prescribed by regulations under this Act "Registrar" the Registrar of Births Deaths and Marriages of the District in which the death occurred in respect of which the certificates mentioned in section five of this Act are required or the person lawfully acting for such Registrar.
- 15 2. Subject to the conditions and provisions of this Act a crematorium may be established by any person provided the site and plans of such crematorium be approved by the Board of Health as constituted

Short title and interpretation.

a Crematoria may be established.

Cremation.

constituted under the authority of the "Infectious Diseases Supervision Act of 1881" and that the apparatus to be employed for cremation be also approved by such Board. But no crematorium shall be used for the purpose of cremation unless licensed in the prescribed manner by the Governor with the advice of the Executive Council.

3. Every applicant for a license for a crematorium must satisfy the Governor with the advice aforesaid by statutory declaration and by such other evidence as the Governor with the advice aforesaid may require (1) that he is the owner in fee-simple of the site for such crematorium described in his application or (2) that he has the written consent to such application of such owner or (3) that if such site be situated in any cemetery or burial-ground he has the written consent to such application of the persons having the control and management of such cemetery or burial-ground (4) and that notice of intention to apply for such license shall have been given by advertisement at least once in each week for eight successive weeks immediately preceding the date of such application in a public newspaper circulating in the city town or place within which it is proposed to erect such crematorium and (5) that no objection to the establishment of such crematorium shall have been lodged with the Registrar of Births Deaths and Marriages of the district within which such crematorium is proposed to be erected by any owner or occupier of any house or land situated within one hundred yards of the site of such proposed crematorium but this last condition shall not apply to any crematorium which it is proposed shall be erected within any cemetery.

4. The burning or cremation of the body of any human being otherwise than in a licensed crematorium shall be deemed illegal and a common nuisance.

5. It shall not be lawful to cremate any human body after death unless the person having charge of such body or taking the same to a crematorium shall lodge with the person in charge of such crematorium a "Cremation Permit" issued by the Registrar (which permit such Registrar is hereby required subject to the provisions hereinafter contained to grant in the prescribed form to any person demanding the same) But no such permit shall be issued by the Registrar—

(I) Unless upon the receipt by the Registrar of a certificate from some legally qualified medical practitioner stating that such practitioner had been in professional attendance on the deceased for at least seventy-two hours immediately prior to the time of death and that the deceased died from natural causes or

(II) Unless a legally qualified medical practitioner shall after a *post-mortem* examination of all the vital organs of the deceased certify to the Registrar that the deceased died from natural causes or

(III) Unless a Coroner or Justice of the Peace who has held an inquest or inquiry as to the cause of death of any person shall first have certified to the Registrar that such cause has been duly inquired into and that no further examination of the body was necessary

Provided always that in no case shall the Registrar issue any such permit until and unless the death of the person to be cremated shall have been duly registered as by law required. And if any Registrar shall issue any "Cremation Permit" without having first received the proper certificate as prescribed by this section or if any person in charge of any crematorium shall without any such "Cremation Permit" or before receipt of the same cremate or permit the cremation of any human body such Registrar or person as the case may be shall be

Applicant to fulfil certain requirements.

Cremation &c. when illegal &c.

Conditions of cremation.

Cremation.

be guilty of a misdemeanour and may be fined in any sum not exceeding five hundred pounds or be imprisoned (with or without such fine) for any term not exceeding two years.

6. It shall not be lawful except as hereinafter mentioned to
 5 cremate the body of any deceased person if his widow or any of his
 next of kin whether under or above the age of twenty-one years or his
 executors or any of them shall object thereto but in all cases where a
 deceased person shall have left an attested memorandum directing that
 his body shall be cremated it shall be the duty of his executors or
 10 administrators to carry out his directions provided his death occurs
 within twenty miles of a licensed crematorium.

Relatives &c. may
 object to cremation
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7. If any person knowing that he has any pecuniary interest
 in the death of any other person in terms of any policy of life insurance
 or that he is entitled in expectancy of such death to any real or personal
 15 property shall give or join in giving a certificate concerning the death
 of such person for the purposes of this Act such first-mentioned person
 shall be guilty of felony and may be sentenced to penal servitude for
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 20 ment Act of 1883."

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8. The Minister of Justice or any Stipendiary or Police Magis-
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 human body after death specified in such writing either absolutely or
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 body and lodged in such manner and custody as he may require And
 if any person in charge of any crematorium shall in contravention of
 such order cremate or permit the cremation of such body he shall be
 guilty of a misdemeanour and may be fined in any sum not exceeding
 30 five hundred pounds or be imprisoned (with or without such fine) for
 any term not exceeding three years.

Minister of Justice
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9. The body corporate authority or persons in whom any
 cemetery or burial-ground or the control and management thereof is
 vested for the time being may consent by their common seal or in
 35 writing under their hands and seals to the application for any site for
 a crematorium made by any person under this Act Provided that
 in the case of the necropolis at Rookwood the consent in writing of
 the Minister of Justice shall be sufficient in respect of any application for
 a site for a crematorium not situate within the portions of such necro-
 40 polis vested in Trustees.

Consent of cemetery
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10. The Governor with the advice aforesaid may frame regula-
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