

## No. XIV.

NECROPOLIS.

## An Act to regulate the Necropolis. [23rd December, 1867.]

Preamble.

WHEREAS it has become expedient to make provision for the burial of the dead in some place situated at a distance from Sydney And whereas certain land consisting of two hundred acres or thereabouts at Haslem's Creek has been purchased and become vested in Her Majesty the Queen and has by notification in the *Gazette* been designated the Necropolis And whereas it is desirable by legislative enactment to dedicate and set apart such land for the purpose of the same being used as a Cemetery for burying the dead And whereas it is expedient that one portion of the said land be set apart for a general Cemetery and that other portions of the said land be set apart for certain denominations of religious faith for the purpose of being used as a Burial Ground for burying the dead of such denominations respectively and that such portions be respectively vested in separate bodies of Trustees with perpetual succession who shall have power to regulate the use thereof and to do and cause to be done all such acts matters and things as may be requisite and proper for the preservation of such portions of such Cemetery and all buildings and erections thereon and for ornamenting the grounds thereof in a suitable manner Be it therefore 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:—

The Governor may dedicate land at Haslem's Creek

1. It shall be lawful for the Governor with the advice of the Executive Council by Proclamation to be published in the *Government Gazette* to dedicate and set apart the said land at Haslem's Creek for the purpose of the same being used as a Cemetery under the name and designation of Necropolis.

Governor to vest certain portions in Trustees for the denominations.

2. It shall be lawful for the Governor with the like advice and in like manner to set apart for each of the denominations mentioned in Schedule A hereto annexed a separate portion of the said land for the purpose of the same being used as a Burial Ground for burying the dead of such denomination and as to each of the said portions of land to appoint Trustees of the same such Trustees not being fewer than five in number and being members of the denomination for whose use the portion of land is set apart.

The residue to be appropriated for burials of those other than members of any denomination.

3. It shall be lawful for the Governor with the like advice and in like manner as hereinbefore mentioned to set apart a portion of the said land to be called "The General Cemetery" such portion to be used as a Burial Ground for burying the dead for whose burial none of the several portions of land set apart as in the said last section mentioned may from any cause whatever be applicable And to appoint Trustees of the said portion of land such Trustees not being fewer than five in number.

Nature of trusts.

4. Each body of Trustees appointed as aforesaid and their successors shall by virtue of this Act have vested in them the legal estate in and shall hold for ever the portion of land in respect of which they shall be appointed Trustees as aforesaid respectively for a Burial Ground for burying the dead as hereinbefore mentioned and the land so vested in them together with all erections thereon and the rights easements

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casements and appurtenances to the same belonging shall remain vested in the said Trustees and their successors for ever upon the trusts and purposes and subject to the provisions of this Act.

5. It shall be lawful for the Governor with the like advice to remove from the said respective trusts any Trustee appointed as hereinbefore provided and upon the death resignation or removal of any such Trustee to appoint another in his place and stead.

Trustees may be removed.

6. Each body of Trustees appointed as aforesaid shall subject to the approval of the Governor and Executive Council lay out the portion of land vested in them 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 enclose the same with proper and sufficient palisades gates and entrances and preserve maintain and keep in a cleanly and orderly state and condition and cause to be so maintained and kept the said land and its palisades gates and entrances and all monuments tombstones enclosures buildings erections and shrubberies thereon and belonging thereto.

Grounds to be laid out.

7. Any recognized minister of the denomination for which any portion of the Cemetery shall be set apart as hereinbefore provided shall at all times have free access and admission to such portion of the Cemetery and also to the General Cemetery and shall freely exercise his spiritual functions therein in connection with the burial of the dead without any hindrance or disturbance Provided however that no such minister shall be entitled to receive any fee in respect of any service he may so perform unless with the sanction of the Trustees of that portion of the Cemetery within which the same shall be performed.

Spiritual functions to be exercised.

8. Each body of Trustees appointed as aforesaid may in respect of the portion of the Cemetery vested in them and under such restrictions and conditions as they think proper such restrictions and conditions having been previously approved by the Governor and Executive Council sell and grant the exclusive right of burial either in perpetuity or for a limited period and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period and also the right of erecting and placing any monument gravestone tablet or monumental inscription and such exclusive rights as aforesaid whether granted in perpetuity or for a limited time shall be considered as the personal estate of the grantee and may be assigned in his lifetime or bequeathed by his will.

Trustees may sell exclusive rights of burial vaults and right to erect monuments.

9. Each body of Trustees appointed as aforesaid may in respect of the portion of the Cemetery vested in them charge and receive for and in connection with the interment of bodies and the exclusive right of burial either in perpetuity or for a limited period and the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period and the right of erecting and placing any monument gravestone tablet or monumental inscription such fees and charges as shall be fixed by them and be approved of by the Governor and Executive Council and notified in the *Government Gazette* And a table shewing such fees and charges shall be affixed and at all times continued in a conspicuous part of that portion of the Cemetery to which the same are applicable Provided always that the Trustees of any portion of the Cemetery shall allow the interment of the dead body of any poor person in such portion free of any charge whatsoever.

Trustees to fix amounts payable for interments &c. and expend the same.

10. Each body of Trustees appointed as aforesaid may in the portion of the Cemetery vested in them take down and remove any monument gravestone tablet or monumental inscription which shall have been erected or placed contrary to the rules and conditions

Monuments to be removed.

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ditions upon which permission to erect or place the same was granted or in case such rules or conditions or the regulations of that portion of the Cemetery shall not have been complied with.

Vaults &c. to be kept exclusively for purchasers of exclusive right.

11. No body 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.

Chaplains may be appointed for the portions set apart for the denominations.

12. Each body of Trustees of any portion of the Cemetery set apart for a particular denomination appointed as aforesaid may appoint a duly recognized minister of such denomination to perform the burial service within such portion according to the rites of such denomination and may allow to such minister such annual stipend not exceeding two hundred and fifty pounds per annum as to them shall seem proper Provided that where no such minister is so appointed the minister performing the burial service in respect of any dead body brought to such portion of the Cemetery to be buried shall be entitled to receive such fee for every such interment as shall subject to the approval of the Governor and Executive Council be fixed by the Trustees of the portion of the Cemetery within which such interment shall take place.

Minister performing service in General Cemetery to receive a fee.

13. Any minister performing the burial service in respect of any interment in the General Cemetery shall be entitled to receive such fees as shall be fixed by the Trustees of the General Cemetery and approved of by the Governor and Executive Council.

Applications by Trustees of fees and charges.

14. Each body of Trustees appointed as aforesaid shall subject to the provision hereinafter contained in reference to the building of mortuary churches or chapels apply the fees and charges and other income arising from the portion of the Cemetery vested in them 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 the portion of the Cemetery vested in them and so fenced and laid out as hereinbefore mentioned and all erections thereon in complete repair in the next place in the case of the Trustees of any portion of the Cemetery set apart for a particular denomination in and towards paying the stipend of the minister appointed by them to perform the burial service in the portion of the Cemetery vested in them or in case no such appointment is made and also in the case of the Trustees of the General Cemetery in and towards paying the fees of any minister performing the burial service in respect of any interment in such portion of the Cemetery in and towards paying the salary of any Secretary Clerks and other Officers who may be appointed to carry out this Act and in the last place in and towards laying out and embellishing the portion of the Cemetery vested in them.

Mortuary chapels may be erected.

15. Each body of Trustees appointed as aforesaid may build within the portion of the Cemetery vested in them a suitable mortuary church or chapel for the performance therein of the rites and ceremonies in the burial of the dead which may under the provisions of this Act be performed within such portion of the Cemetery and the said Trustees may borrow any money required for such purpose and charge the fees and charges payable and to be received by them respectively under this Act with the payment of such money and interest Provided that the plans specifications elevations and models of any such mortuary church or chapel shall be first submitted to and approved by the Governor and Executive Council.

Appointment of Secretary.

16. The Governor with the advice of the Executive Council may appoint a Secretary and such Clerks as may be necessary for the business and general management of the affairs of the Cemetery.

Duties of the Secretary.

17. The Secretary shall have an office in Sydney and shall answer all inquiries and give all the necessary information as to the Cemetery

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Cemetery and shall subject to the regulations to be made by each body of Trustees under the powers hereinafter given make all arrangements necessary for carrying into effect the provisions of this Act and shall receive all fees charges and sums of money payable under the Act for and on account of each body of Trustees respectively and shall make such payments as may be authorized by them respectively and shall keep a separate and distinct book on account of each body of Trustees 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 each body of Trustees respectively for and on account of 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 of Lands in the month of January in each and every year and published in the *Government Gazette* and every such account shall be verified by a solemn declaration to be made and subscribed by the 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 Provided however that in any matter arising with respect to interments in any of the portions of the Cemetery set apart and granted as aforesaid and which is not provided for by this Act or the regulations to be made hereunder the Secretary shall have power to act under the direction of the body of Trustees or the majority of them in whom that portion of the Cemetery shall be vested.

18. Each body of Trustees appointed as aforesaid may in respect of the portion of the Cemetery vested in them make such rules and regulations such rules and regulations having been previously approved of by the Governor and Executive Council and do and cause to be done all such acts matters and things 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 portion of the Cemetery and also for protecting the buildings monuments 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 the buildings monuments tombstones shrubberies plantations or enclosures in the same Provided nevertheless that it shall not be lawful for any body of Trustees by any rule or regulation or any other act matter or thing at any time to interfere directly or indirectly with the performance of any religious ceremony in the burial of the dead according to the rites of the denomination for which the land is vested in them.

19. Each body of Trustees appointed as aforesaid shall meet at least once in every three months at the office of the Secretary or some other convenient place according to a rule to be adopted by them for that purpose and every such meeting shall be presided over by a Chairman to be chosen at such meeting and all questions matters and things which shall be considered at any such meeting shall be determined by the majority in number of the Trustees then present Provided that it shall not be competent for the said Trustees to proceed to business unless there be at least three of them present And a book shall be opened and kept in which shall be entered a minute of the proceedings of the Trustees at every such meeting which minute shall be read and confirmed at the next subsequent meeting and shall be signed by the Chairman of such meeting Provided also that any two of the same body of Trustees may by writing under their hands

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summon with at least forty-eight hours notice a meeting of such body for any special purpose mentioned in such writing and to meet at such time as shall be appointed therein.

Penalty on persons committing nuisances.

20. Whosoever shall play at any game or sport or discharge fire-arms save at a military funeral in the Cemetery or shall wilfully and unlawfully disturb any persons assembled in the Cemetery for the purpose of burying any body therein or shall commit any nuisance within the Cemetery shall forfeit and pay any sum not exceeding five pounds.

Penalty for injuring monuments.

21. Whosoever shall wantonly or wilfully do or cause to be done any damage to any monument vault tombstone building erection railing shrubbery tree or plant in the said Cemetery shall forfeit and pay any sum not exceeding twenty pounds And whosoever shall do or cause to be done any injury to any such monument vault tombstone building erection railing shrubbery tree or plant whether the same shall have been done wilfully or wantonly or otherwise shall be also liable to pay damages and compensation therefor according to the amount of damage sustained either at the suit of the body of Trustees in whom is vested that portion of the Cemetery wherein is situated the property so injured or of the persons entitled to such property.

Apprehension of offenders by any person.

22. 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 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.

Penalty for giving false name.

23. If any person being required as in the last preceding section hereof is provided to give his name and place of abode shall give a false or fictitious name or place of abode he shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Summary convictions.

24. All 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 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 with or without hard labor for any period not exceeding three calendar months unless the same be sooner paid.

Short title.

25. This Act shall be styled and may be cited as the "Necropolis Act of 1867."

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SCHEDULE A.

*Names of Denominations.*

Church of England.  
 Roman Catholic.  
 Presbyterian.  
 Wesleyan.  
 Independent.  
 Jews.

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