

## No. XI.

An Act for the establishment and regulation by SYDNEY NECROPOLIS.  
Trustees of a General Cemetery near to the  
City of Sydney to be called "The Necropolis."  
[24th August, 1847.]

**W**HEREAS the Cemeteries or Burial Grounds within the City of Preamble.  
Sydney and the suburbs thereof are of limited extent and  
insufficient for the increased and increasing population thereof and it  
is intended by Her Majesty the Queen to grant certain land in the  
neighbourhood of the City of Sydney for the purposes of a General  
Cemetery for burying the dead of all denominations of religious faith  
to be called "The Necropolis" and it is expedient that the same should  
be vested in 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 or proper for the preservation  
of such Cemetery and all buildings and erections thereon and of orna-  
menting the grounds thereof in a suitable manner Be it therefore enacted Trustees to be ap-  
pointed by the  
Governor.  
by His Excellency the Governor of New South Wales with the advice  
and consent of the Legislative Council thereof That after the passing  
of this Act Trustees not fewer than three in number to be appointed by  
the Governor for the time being of the said Colony and their successors  
to be appointed as hereinafter is provided shall have power to hold for Trustees may hold  
land granted for  
Cemetery.  
ever all such lands as by Her Most Gracious Majesty the Queen may  
be conveyed to them by deed of grant from the Crown for such general  
Cemetery as aforesaid upon such trusts as in the said deed of grant  
shall be declared and that thereupon the land so granted together with  
all erections thereon and the rights easements and appurtenances to  
the same belonging shall be and become remain and continue vested  
in the said Trustees and their successors in the said trust for ever  
upon the trusts in the said deed of grant to be declared and subject  
to the provisions of this Act.

2. Whereas by a certain Act of the Governor and Council of  
New South Wales passed in the sixth year of the reign of His late  
Majesty King George the Fourth intituled "*An Act for better regu-* 6 Geo. IV. No. 21.  
*lating and preserving parish and other registers of Births Baptisms*  
*Marriages and Burials in New South Wales and its Dependencies*  
*including Van Diemen's Land*" it is amongst other things enacted  
that no burial shall take place in any Burial Ground within the limits  
of any town otherwise than in any Burial Ground which may be  
set apart for such purpose and which Burial Ground must be distant  
one mile at the least from any town or township And it is expedient to  
except any land set apart for the purposes of this Act from the opera-  
tion of the said Act as respects the distance from the City of Sydney Sect. 10 of 6 Geo. IV.  
No. 21 prohibiting  
Burial Grounds  
Be it enacted That nothing in the said Act contained shall be deemed

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within one mile of a town to be inoperative as to land set apart for a Burial Ground for Sydney.

The Governor to have power of removing any Trustee and of appointing to vacancies.

Trustees to have power to lay out the grounds in the most convenient manner for burial and to make walks avenues &c.

Trustees to have power to make rules and regulations and to do and perform all acts necessary for the purposes of the Cemetery.

Proviso That Trustees shall not by rule or otherwise interfere with any religious ceremony or with the original distribution of the land among the different religious denominations.

Spiritual functions of any religious denomination may be exercised without hinderance by Trustees.

Trustees to permit vaults to be dug and monuments or tomb-stones to be erected on payment of charges.

to prevent the use of any land conveyed to the said Trustees for the purposes of this Act notwithstanding that the said land or any part thereof may be within the distance of one mile from the boundaries of the said city.

3. And be it enacted That the Governor for the time being of the Colony shall have power from time to time to remove from the said trust any Trustee of the said Cemetery as and when he shall think proper and also upon the death resignation or removal of any Trustee appointed under this Act to appoint another in his place and stead.

4. And be it enacted That the Trustees of the said Cemetery shall have power to lay out the said land so to be granted as aforesaid in such manner as may be most convenient for the burial of the dead and to embellish the same with such walks avenues roads trees and shrubs as may to them seem fitting and proper and to enclose the same with proper and sufficient walls rails fences palisades gates and entrances and to preserve maintain and keep in a cleanly and orderly state and condition and cause to be so maintained and kept the whole of the said Cemetery and its walls and fences and all monuments tomb-stones enclosures buildings erections walls shrubberies therein and belonging thereto and shall lay out and expend all moneys to be received by them under this Act in and about the matters aforesaid and in ornamenting the said Cemetery with trees shrubs and plants and in the erection of such buildings and improvements in and to the said Cemetery from time to time as they the said Trustees shall think proper.

5. And be it enacted That the Trustees of the said Cemetery shall have power and authority to make such rules and regulations and to do and perform and cause to be done and performed all such acts matters and things as may be necessary or proper for any of the purposes aforesaid and also for determining and directing the order and position of all graves and vaults to be made in the said Cemetery and for protecting the buildings monuments shrubberies plantations and enclosures therein and thereof from destruction or damage and shall have power to prosecute all persons who shall or may at any time do or cause to be done any damage to any such buildings monuments tomb-stones shrubberies plantations or enclosures Provided nevertheless that the said Trustees shall not by any rule or regulation or any act matter or thing at any time interfere directly or indirectly with the performance of any religious ceremonies in the burial of the dead according to the usage of the communion to which the deceased may have belonged or with the original distribution of the said land made or intended to be made by the grant thereof to and amongst separate and distinct religious denominations or communions Provided further that no rite or ceremony shall be performed in any portion of such Cemetery set apart for any particular denomination except according to the usage of such denomination and by a duly recognized Minister of the same.

6. Provided always and be it enacted That it shall and may be lawful for the Ministers of any denomination for which any portion of such Cemetery shall be specially set apart to have free access and admission to such portion of the said Cemetery at all times as they respectively shall think fit and freely to exercise their spiritual functions therein without any hinderance or disturbance of the Trustees of the said Cemetery or any person whatsoever.

7. And be it enacted That it shall and may be lawful for the Trustees of the said Cemetery to permit any vault to be dug and made in the said Cemetery and any monument or tomb-stone to be erected or placed in such parts of the said Cemetery as they may think proper upon payment to them by the person or persons desiring to dig and make

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make such vault or to erect and place such monument or tomb-stone of such charges as shall from time to time be established and varied by the said Trustees with the concurrence and approval of His Excellency the Governor and published in the *New South Wales Government Gazette* and that any person or persons so digging and making such vault or erecting and placing such monument in such Cemetery by and with such permission aforesaid and upon payment of the charges aforesaid shall be entitled to have maintain and keep up such vault monument or tomb-stone according to the terms of such permission to and for the sole and separate use of such person or persons and his and their heirs and near relations for ever

Provided always that a plan of every monument proposed to be erected and placed shall be exhibited to the said Trustees before such permission as aforesaid is given and that the said Trustees shall be at liberty to withhold such permission and prevent the erection of any monument which shall appear to them inappropriate or unbecoming and shall determine and fix the position of any unobjectionable monument which may be proposed to be erected according to the description size and character thereof having reference to their general plans for ornamenting the said Cemetery in an appropriate manner Provided always that nothing herein contained shall be deemed to prevent the said Trustees from allowing the burial of the body of any poor person in such Cemetery free of any charge whatsoever.

*Proviso That plans of monuments be exhibited to Trustees before permission given for their erection.*

*Proviso Trustees may allow poor persons to be buried free of charge.*

8. And be it enacted That it shall be lawful for the said Trustees to take down and remove any monuments cenotaphs tablets or other erection which shall have been erected or built contrary to the terms and conditions upon which permission to erect or construct the same was granted or in case such terms and conditions as well as the regulations of the said Cemetery shall not have been complied with.

*Trustees may take down and remove monuments &c. which are contrary to rules and conditions.*

9. And be it enacted That if any person or persons shall wantonly or wilfully do or cause to be done any damage to any monument vault tomb-stone building erection railing shrubbery tree or plant in the said Cemetery he shall be guilty of a misdemeanor and being convicted thereof before any two or more Justices of the Peace of the City of Sydney (who are hereby authorized to hear and determine in a summary way any complaint thereof made by the said Trustees or by any officer or servant employed by them in the said Cemetery) or by any person or persons to whom the burial place may belong shall be liable for every such offence to a penalty not exceeding twenty pounds or to be committed by such Justices at their discretion to any gaol or house of correction in the said city there to remain for a reasonable time not exceeding three months and any person or persons who shall do or cause to be done any injury to any such monument vault tomb-stone building erection railing shrubbery tree or plant whether the same shall have been done wilfully or wantonly or otherwise howsoever shall be liable to pay a reasonable sum of money by way of damages and compensation therefor which said sum of money shall be recoverable in the Supreme Court of the Colony or in the Court of Requests in the City of Sydney according to the amount of damage sustained either at the suit of the said Trustees or by the person or persons entitled to any vault or monument or other such erection so injured under the provisions of this Act.

*Injuring monuments &c. a misdemeanor offender may be convicted before any two Justices of the Peace.*

10. And be it enacted That the said Trustees shall and may allow any body of Christians at their own expense to erect and build within such part of said Cemetery as shall be specially set apart for that denomination a suitable Mortuary Church or Chapel for the performance of the rites and ceremonies in the burial of the dead according to the usages of such denomination Provided that the plans specifications elevations and models with such lodges and other buildings

*Permission to be given to any denomination to erect a Mortuary Church or Chapel at their own expense.*

*Proviso That plan &c. be submitted to and approved of by the Trustees.*

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buildings and conveniences thereto shall be first submitted for the approval of the said Trustees and shall be approved by them.

Before burial is allowed Trustees must be satisfied that the owner of the grave has consented thereto.

11. And be it enacted That before any corpse shall be permitted to be interred in any vault brick grave or in any place of burial the exclusive right of burial or interment wherein shall have been sold or granted by the said Trustees as a family or private burial place it shall be lawful for the said Trustees or any officer employed by them to require and they or he shall be entitled to have produced to them or him satisfactory evidence that the person for the time being entitled as owner to the exclusive right of burial or interment in such vault brick grave or other burial place has consented or would not object to such interment taking place therein.

Mode of providing against offenders.

12. And be it enacted That in all cases in which Justices of the Peace have jurisdiction under the foregoing or other provisions of this law it shall be lawful for any Justice of the Peace before whom complaint on oath shall be made to summon before any two Justices the party complained against and on proof of the service of such summons it shall be lawful and they are hereby empowered to hear and determine in a summary way the matter of such complaint and on proof of the offence to convict the offender and to adjudge him to pay a penalty or commit him to prison although no information in writing shall have been exhibited before such Justices and all such proceedings by summons without information in writing shall be as good valid and effectual to all intents and purposes as if an information in writing had been exhibited Provided that in every such summons the general nature of the complaint shall be succinctly stated.

Offenders may be arrested and detained.

13. And be it enacted That it shall be lawful for any Trustee or any officer or servant of said Trustees and all such persons as he shall call to his assistance to seize and detain any person who shall commit or be in the act of committing an offence against this Act and whose name and place of abode shall be unknown to such Trustee officer or servant and to convey him or her before some Justice of the Peace without any other warrant or authority than this Act and in case such offender refuses to satisfy the said Justice as to his name and residence such Justice is hereby empowered and required either to proceed immediately to the hearing and determining the complaint in the same manner as if heard by summons before two or more Justices or to order such offender to be detained in custody until brought before two or more Justices to be dealt with in the ordinary course.

No proceeding to be quashed for want of form.  
*Certiorari* taken away.

14. And be it enacted That no proceeding in pursuance of this Act shall be quashed for want of form or be removed by *certiorari* or by any other writ or process whatsoever into the Supreme Court or other superior Court.

Not lawful for Trustees to act but at meetings to be convened in accordance with rules to be established.

15. And be it enacted That it shall not be lawful for the said Trustees to act unless at a meeting to be convened according to a rule to be adopted by them for such purpose and every such meeting shall be presided over by the senior Trustee present such seniority being determined by the order in which the respective names of such Trustees shall stand in their commission or commissions of appointment and all questions matters and things which shall be discussed or considered at any such meeting shall be decided and determined by the majority in number of the Trustees then present Provided that the said Trustees shall not be competent to proceed to business unless there be at least three of them present and that a book 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 who shall have presided at the time such proceedings were held.

Regulations as to proceedings at such meetings.

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*Colonial Distillation.*

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16. And be it enacted That a book shall be opened and kept by the said Trustees in which shall be entered a full and particular account in writing of all sums of money which shall be received and expended by the said Trustees and an abstract of such account 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 Colonial Secretary for the said Colony for the time being in the month of January in each and every year and shall be by him forthwith inserted and published in the *New South Wales Government Gazette* and every such account shall be verified by a declaration to be made and subscribed by such Trustees in the form or to the effect required by a certain Act of the said Governor and Council passed in the ninth year of the reign of Her Majesty Queen Victoria intituled “*An Act for the more effectual abolition of Oaths and Affirmations taken and made in various departments of the Government of New South Wales and to substitute Declarations in lieu thereof and for the suppression of voluntary and extra-judicial Oaths and Affidavits*” and any Justice of the Peace is hereby empowered and required to administer such declaration and if any Trustee or Trustees shall wilfully make a false statement in any such declaration to any material matter in such account he or they shall be deemed guilty of a misdemeanor.

Trustees to keep  
accounts.

Accounts to be veri-  
fied by declaration.

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