ANNO DUODECIMO & DECIMO TERTIO

VICTORIÆ REGINÆ.

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C A P. CXI.

An Act to amend the Nuisances Removal and Diseases Prevention Act, 1848.

[1st *August* 1849.]

WHEREAS it is expedient that the Nuisances Removal and Diseases Prevention Act, 1848, should be amended, and that the Powers of the General Board of Health in relation to certain of the Purposes of that Act should be extended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act shall be deemed to be Part of the Nuisances Removal and Diseases Prevention Act, 1848, and shall be construed accordingly.

> 11 & 12 Vict. c. 123.

> This Act to be construed with Nuisances Removal and Diseases Prevention Act, 1848, as One Act.

II. And be it enacted, That it shall be lawful for the General Board of Health, or any Two of the Members thereof, from Time to Time as such Board shall see Occasion, to require, by Summons under the Seal of the said Board, or if by Two only of the Members of such Board, then under the Hands of such Two Members and the Seal of the said Board, (according to the Form in the Schedule annexed

> Power to summon Witnesses, &c. in certain Cases.

annexed to this Act, or as near thereto as the Case will permit,) any Person to appear before such Board to testify on Oath the Truth touching any Matters respecting which the said Board are now or may hereafter be authorized to inquire (which Oath any Member of the said Board is hereby empowered to administer); and every Person who, after Tender of reasonable Expenses in that Behalf, shall not appear pursuant to such Summons, or shall not assign some reasonable Excuse for not so appearing, or refusing to be sworn or examined, shall, upon being convicted thereof before One of Her Majesty's Justices of the Peace or the Sheriff for the County or Place at and within which such Person shall have been by such Summons required to appear and give Evidence shall be situate, for every such Neglect or Refusal forfeit a Sum not exceeding Twenty Pounds.

Secretary of Board of Health may institute and carry on Prosecution for Violation or Neglect of Regulations.

III. And be it enacted, That the Secretary of the General Board of Health may, on the Order of the said Board, sealed with the Seal of such Board, and signed by any Two Members thereof, prosecute any Person for wilful Violation or Neglect of any Direction or Regulation issued by such Board under the Nuisances Removal and Diseases Prevention Act, 1848; and all Penalties sued for and recovered by such Secretary shall, notwithstanding anything contained in the last-mentioned Act, be paid to him, and be applied in defraying the Costs and Expenses incurred by him in such Prosecutions, and the Balance (if any) shall be applied in such Manner as the Lords Commissioners of Her Majesty's Treasury shall direct; and if the Penalties so recovered shall be insufficient to defray such Costs and Expenses, the Deficiency shall be defrayed out of any Monies which may be from Time to Time provided by Parliament for that Purpose.

Guardians of the Poor, &c. may direct Prosecutions in certain Cases.

IV. And be it enacted, That the Guardians, Directors, Wardens, Governors, or Overseers of the Poor, or Parochial Board, or other like Officers having the Management of the Poor, or acting under the Authority of any Local Act of Parliament for the paving, cleansing, drainage, or lighting any Town or Parish, may from Time to Time direct any Prosecutions or legal Proceedings for or in respect of the wilful Violation or Neglect of any Direction or Regulation issued by the General Board of Health, or in *Ireland* Commissioners of Health, under the Nuisances Removal and Diseases Prevention Act, 1848, and may defray the Expenses of such Prosecutions or Proceedings out of the Funds in their Hands applicable to the Relief of the Poor.

Ex-officio Guardians may act as Justices.

V. And be it enacted, That Justices of the Peace being *ex-officio* Guardians of the Poor may in all Cases, notwithstanding their

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holding the Office of Guardian, exercise in Petty Session the Jurisdiction vested in them as Justices of the Peace under the Nuisances Removal and Diseases Prevention Act, 1848.

Guardians of the Poor, &c. may take certain Proceedings upon the Certificate of Medical or Relieving Officer.

VI. And be it enacted, That Guardians, Directors, Wardens, Governors, Overseers, or Parochial Board, or other like Officers having the Management of the Poor, or acting under such Authority as aforesaid, upon the Receipt of a Certificate of any Medical or Relieving Officer of the Union or Parish for which any such Guardians, Directors, Governors, Overseers of the Poor, or Parochial Board, or other Officers, act, stating the Existence of any of the Cause or Causes of Complaint specified in the Sections numbered I. and II. in the Copies of the Nuisances Removal and Diseases Prevention Act, 1848, printed by Her Majesty's Printers, or in *Ireland* upon the Receipt of a like Certificate of any such Medical or Relieving Officer, or of any Two Constables of the Constabulary Force of the District or Place or of any Two Constables of the *Dublin* Police within the *Dublin* Police District, shall take all such Proceedings as by the said Sections respectively are required to be taken upon the Receipt of a Notice in Writing signed by Two Inhabitant Householders, and in the same Manner (as nearly as may be) as if such Notice had been given.

Guardians of the Poor, &c. may defray certain Expenses without an Order of Justices, Sheriff, or Magistrates.

VII. And whereas it is enacted by the Nuisances Removal and Diseases Prevention Act, 1848, that all Costs and Expenses reasonably incurred in carrying into effect certain Provisions therein contained, and not recovered from any Owner or Occupier of the Premises in respect of which such Expenses shall have been incurred, shall, upon an Order in Writing, specifying the Sum to be paid, under the Hands and Seals of Two Justices, or in *Scotland* under the Hands of the Sheriff or Magistrate, or Two Justices, be retained, paid, or defrayed by the Treasurer of the Guardians of the Poor, or Parochial Board, or by the Overseers of the Poor or other proper Officers, out of the Funds in their Hands applicable to the Relief of the Poor; and it is expedient that such Costs and Expenses should be retained, paid, and defrayed in certain Cases without an Order of Justices, Sheriff, or Magistrates: Be it therefore enacted, That whenever any such Costs and Expenses shall have been or shall be reasonably incurred by any Guardians, Directors, Wardens, Governors, Overseers of the Poor, or Parochial Board, or other like Officers having the Management of the Poor, and the same shall not have been recovered from the Owner or Occupier of the Premises in respect of which such Costs and Expenses shall have been incurred, such Costs and Expenses may, where an Order shall have been made by the Justices for the Removal or Abatement of the Nuisance, or in any

any Case where the Amount shall not exceed Twenty Shillings, be retained, paid, and defrayed by the Treasurer of such Guardians, or by such Directors, Wardens, Governors, Overseers, or Parochial Board, or other like Officers, (as the Case may be,) out of the Funds in their Hands applicable to the Relief of the Poor, without the Order of any Justice or Justices of the Peace, anything in the said Act to the contrary notwithstanding, and be charged as in the said Act directed.

Guardians of Unions or Parochial Boards may charge Expenses of removing Nuisances on Parish, &c. where Premises situated.

VIII. And be it enacted, That where the Guardians of a Union, or Parochial Board, shall, in the Execution of any Order or Regulation of the Board of Health issued under the Authority of the said herein-before mentioned Act, expend any Money in the Removal or Abatement of a Nuisance from any private Premises or Land, or from any public Place, they may, if they think fit, charge the same, where the Expenses do not exceed Twenty Shillings, to the Parish or Place or Electoral Division in the Union or Combination wherein the Premises shall be situated in respect whereof such Expenses shall have been incurred, and where they exceed Twenty Shillings, and the Guardians or the Majority of the Guardians, if more than Two Guardians of such Parish, Electoral Division, or Place, object in Writing to the said Expenses being so charged, then only upon an Order in Writing under the Hands and Seals of Two Justices, or in *Scotland* under the Hands of the Sheriff or Magistrates, or Two Justices, who are hereby required to make such Order, upon Application on behalf of such Guardians.

General Board of Health may cause Inquiry to be made into State of Burial Grounds, and may direct Measures of Precaution.

IX. And be it enacted, That it shall be lawful in *England* or *Wales* for the General Board of Health, and in *Ireland* for the Commissioners of Health, to cause Inquiry to be made by a Superintending Inspector, or by such other Ways and Means as the General Board of Health or such Commissioners may deem fit to direct, into the State of the Burial Grounds in any Part of *England* or *Wales* excepted from the Powers of the Public Health Act, 1848, or in any populous City, Town, or Place in *England* or *Wales* to which for the Time being the said Act has not been applied, or in any populous City, Town, or Place in *Ireland;* and if it appear to the General Board of Health or the said Commissioners that any such Burial Ground is in such a State as to be dangerous to the Health of the Persons living in the Neighbourhood thereof, it shall be lawful for the said General Board of Health in *England* and *Wales*, under the Seal of the said Board, and under the Hands of Two or more Members thereof, and the said Commissioners of Health in *Ireland*, under the Hands of Two or more of them, to issue such Orders as the said Board or Commissioners respectively may think fit for the Application

cation of such disinfecting Substances, and for the Adoption of such other Measures of Precaution in relation to the Premises, as may, in the Opinion of the said Board or Commissioners of Health, tend to lessen or remove the Danger to Health; and the Churchwardens and other Persons having the Care and Control of the Burial Grounds to which such Orders shall relate shall do all such Works and Matters in relation thereto as by such Orders may be directed, and all Expenses incurred in the Execution of such Orders shall be defrayed out of the Poor Rates of the Parish: Provided always, that no such Order as aforesaid shall be made after the End of the next Session of Parliament.

Where Churchyard is dangerous to Health Churchwardens may agree for the Burial of Parishioners in the Ground of any Cemetery Company or in the Burial Ground of any other Parish.

X. And be it enacted, That where it appears to the General Board of Health, or the Commissioners of Health in *Ireland*, that the Churchyard or other Burial Ground of any Parish is dangerous to Health as aforesaid, and that temporary Provision for Interment elsewhere is urgently required, the Churchwardens of such Parish, with the Consent of the Bishop of the Diocese and the Approval of such General Board of Health, or Commissioners of Health in *Ireland*, shall, if possible, either agree with any Cemetery Company for the Burial in the Ground of such Company of the Bodies of Persons having Right of Burial in the Churchyard or other Burial Ground of such Parish, or agree for the Burial of such Bodies in the Churchyard or Burial Ground of any other Parish of which the Minister and Churchwardens may consent thereto, and make all proper Arrangements in relation to such Burials: Provided always, that where any such Agreement as aforesaid shall be proposed to be made by the Churchwardens of any Parish, such Churchwardens shall submit such proposed Agreement to a Meeting of the Vestry, or Persons having the Powers of Vestry, in such Parish, and if the Majority of Persons assembled at such Meeting shall disapprove such Agreement the Churchwardens shall not proceed therewith; and the Expenses incurred by such Churchwardens in relation to such Agreement, and in carrying the same into effect, shall be paid out of the Poor Rates of their Parish; provided also, that no such Agreement as aforesaid shall be made after the End of the next Session of Parliament.

General Board of Health may direct Inquiries, where it may be expedient to prohibit Interment.

XI. And be it enacted, That where upon any such Inquiry as aforesaid it appears to the General Board of Health that the State of the Burial Grounds in any Parish, or in any Parishes which may be conveniently united for the Purposes herein-after mentioned, and the Circumstances of such Parish or Parishes render it expedient for the Protection of the Public Health that Interments should be prohibited in such Parish or Parishes, except as after mentioned,

and that a Burial Ground or Burial Grounds should be provided for such Parish, or for the common Use of such Parishes, the General Board of Health may direct a Superintending Inspector to make Inquiry, in the Manner directed by the Public Health Act, 1848, or as near thereto as Circumstances will permit, into all the Circumstances connected with the Parochial and other Burial Grounds of such Parish or Parishes, and as to the Place or Places in which any Burial Ground or Burial Grounds might be provided, either within or beyond the Limits of such Parish or Parishes, and as to the Means which might be provided for the Conveyance of Bodies for Interment, and any other Arrangements which might be practicable for facilitating the convenient Interment of Bodies in the Burial Ground or Burial Grounds to be so provided, and as to the Rights in any Burial Ground in such Parish or Parishes, not being a Parochial Burial Ground, which might be affected by the Prohibition of Interments in such Parish or Parishes, and as to the Proportions in which several Parishes (if more than One) should contribute to the Expense of providing and maintaining a common Burial Ground or common Burial Grounds for such Parishes, and into such other Matters as the General Board of Health may think necessary for the Purpose of enabling them to judge of the Propriety of framing a Scheme to be submitted to Parliament as herein-after mentioned, and of the Provisions which should be inserted therein; and such superintending Inspector shall report in Writing, in such Manner as the General Board of Health shall direct, the Result of his Inquiries in relation to the Premises.

Upon Report, Board of Health may frame a Scheme for providing new Burial Grounds.

XII. And be it enacted, That upon the Presentation of such Report the General Board of Health shall cause a Copy thereof to be transmitted to the Bishop of the Diocese, and Copies thereof to be published, in such Manner as they may direct, in the Parish or Parishes to which such Report relates, and to be deposited with the Minister and with the Churchwardens of such Parish or each of such Parishes; and the General Board of Health shall receive all such Statements in relation to the Matter of such Report as shall be delivered within a Time to be limited by the said Board in this Behalf, and may, where they think fit, cause further Inquiry to be made in relation to the Matter of such Report; and if after such Inquiry and Report, or further Inquiry as aforesaid, it appear to the said Board expedient so to do, they may frame a Scheme in which shall be set forth such Provisions as to the said Board under the Circumstances of each Case may appear proper for providing a Burial Ground or Burial Grounds for such Parish or Parishes as aforesaid, either within such Parish or any of such Parishes, or beyond the Limits thereof, as the Case may appear to require, to be in Law the Burial Ground for the

Parish or for each of the Parishes for the common Use of which the same is or are provided, and for the Maintenance and due Management and Control of such Burial Ground or Burial Grounds; for securing to the Ministers and others having Rights in respect of Burials in the Burial Grounds in which Interment is to be prohibited Compensation by like Rights in respect of Burials in the Burial Ground or Burial Grounds proposed to be provided or otherwise, and for providing and securing Rights in such Burial Ground or Burial Grounds in substitution for other Rights (which in the Opinion of the Board may require to be compensated) in Grounds in which Interment is to be prohibited; for the Election or Appointment of Persons to enter into Contracts for providing such Burial Ground or Burial Grounds, and to maintain and manage the same; for facilitating the Conveyance of the Bodies of the Dead from the Place of Death to such Burial Ground or Burial Grounds; for determining the Proportions in which the Expense of providing, maintaining, and managing such Burial Ground or Burial Grounds, where the same is or are provided for the common Use of any Parishes, shall be defrayed by such Parishes respectively; for prohibiting, after such Burial Ground or Burial Grounds shall be provided, Interment in such Parish or Parishes, except in such Cases as it may appear to the said Board may be specified and excepted; and generally for and concerning all Matters in relation to such Burial Ground or Burial Grounds as aforesaid, and the Arrangements consequent upon the Prohibition of Interments as aforesaid: Provided always, that all Provisions which shall be set forth in such Scheme concerning the Consecration of the Burial Ground or Burial Grounds to be provided, and concerning the Burial of Members of the United Church of *England* and *Ireland*, and the Compensation to be provided for Rights in respect of Burials and other Rights of Ministers of the said United Church which may be affected by the Prohibition of Interment in Parochial and other Burial Grounds, be approved by the Bishop of the Diocese; provided also, that such Scheme, with the Reports of the Superintending Inspectors in relation to the Matters thereof, shall be presented to both Houses of Parliament forthwith after the framing thereof, or, if Parliament be not then sitting, within Fourteen Days after the next Meeting thereof.

Short Title of this Act.

XIII. And be it enacted, That in citing this Act in any Act of Parliament, Deed, Instrument, or other Proceeding it shall be sufficient to use the Words "The Nuisances Removal and Diseases Prevention Amendment Act, 1849."

Act may be amended, &c.

XIV. And be it enacted, That this Act may be amended or repealed by any Act to be passed this present Session of Parliament.

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SCHEDULE to which this Act refers.

Form of Summons.

We, the General Board of Health, [*or* We, whose Names are hereunto set, being Two of the Members of the Board of Health,] do hereby summon and require you personally to appear before the General Board of Health, at in the Parish of in the County of on next, the Day of at the Hour of in the noon of the same Day, and then and there to be examined, and to testify the Truth touching certain Matters with respect to which the Board is authorized to inquire.

Sealed with the Seal of the General Board of Health, [*or* Given under our Hands and Seals, and the Seal of the General Board of Health,] this Day of in the Year of our Lord One thousand eight hundred and

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