CHAPTER clxxii.

An Act to enable the Corporation of Bournemouth to make and maintain a new Cemetery in the parish of Christchurch. A.D. 1891.

[28th July 1891.]

WHEREAS by an Act passed in the forty-second year of the reign of His late Majesty George III (cap. 43) intituled "An Act for dividing allotting and inclosing certain commonable "lands and waste grounds within the parish of Christchurch and "parish or chapelry of Holdenhurst in the county of Southampton" (herein-after called "the Inclosure Act of 1802") and under and by virtue of the award and allotment made in the year 1805 by the Commissioners in the said Act named (herein-after called "the award of 1805") in pursuance of the powers in them vested by the said Act certain lands situate in the tithings of Muscliff Muckleshell Throop Holdenhurst Pokesdown Iford Tuckton and Week (otherwise Wick) commonly called the liberty of West Stour (otherwise Westover) within the said parish of Christchurch and the parish or chapelry of Holdenhurst were set out and allotted unto and for Sir George Ivison Tapps Baronet the then lord of the several manors in the said tithings or liberties commonly called the liberty of West Stour (otherwise Westover) (within which liberty the said lands are situate) in trust for the occupiers for the time being of all such cottages and tenements containing less than one acre each as were erected on ancient sites or had been at the time of passing of the Inclosure Act of 1802 erected more than fourteen years as scheduled in the said award in lieu of their rights or pretended rights or custom of cutting turves in the said liberty of West Stour (otherwise Westover) for a turf common which allotments were for ever afterwards to be managed and the turf arising therefrom cut taken and used by the occupiers of such cottages or tenements in such quantities and at such time or times in every year and in such manner as the lords of the said manors respectively and the churchwardens and overseers of the poor acting for or within such manors

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or the major part of them should from time to time order and appoint but such turf common should not be fed or depastured by any cattle or sheep whatsoever:

And whereas the allotments so set out as aforesaid comprised inter alia two small pieces of land which were in or about the year 1884 taken by the London and South-western Railway Company and used for the purposes of their undertaking and a sum of money in respect thereof having been paid into court by the said railway company under the provisions of the Trustee Relief Act it was on the twenty-eighth day of March eighteen hundred and eighty-seven by the Honourable Mr. Justice Stirling upon the hearing of a petition for the distribution of the fund so in court in effect declared that the lands taken by the said railway company formed part of the turf common set out and allotted pursuant to the Inclosure Act of 1802 for supplying turves for fuel for the use of the occupiers for the time being of the cottages or tenements mentioned in the award of 1805 and that the soil of the said lands was vested in the lord of the manor without any right on his part to depasture any cattle or sheep whatsoever upon the said lands And the court did order certain inquiries to be made in chambers viz. (1) An inquiry what compensation was payable in respect of the right to the soil of the said lands taken by the said railway company and (2) An inquiry what compensation was payable in respect of the commonable rights of the occupiers of the cottages or tenements in the award of 1805 mentioned over the said lands and an apportionment was directed of the residue of the fund in court (after payment of costs) between the lord of the manor and the persons claiming through him in or towards satisfaction of the compensation that should be ascertained to be payable in answer to the first inquiry and in or towards satisfaction of the compensation that should be ascertained to be payable in answer to the second inquiry according to the amounts to be ascertained as aforesaid:

And whereas upon an appeal against the said order of Mr. Justice Stirling by Her Majesty's Attorney-General who asked that it might be adjudged that the fund in court was the subject of a charitable trust and that a scheme for the application thereof might be ordered to be settled the Court of Appeal ordered that the order of Mr. Justice Stirling of the twenty-eighth day of March eighteen hundred and eighty-seven be varied by the insertion before the ordering part of a declaration of the opinion of the Court of Appeal that the trust declared by the Inclosure Act of 1802 in favour of the said occupiers was a charitable trust and the Attorney-General was to be at liberty to apply to the judge in chambers as to the

application of so much of the residue of the fund in court as should be apportioned in respect of the compensation mentioned to be payable in answer to the said second inquiry:

And whereas Her Majesty's Attorney-General has duly preferred a petition of appeal to the House of Lords against the aforesaid order of the Court of Appeal in order to have it determined as was contended by him in the court below that the whole fund in court was subject to the aforesaid charitable trust:

And whereas such appeal is now pending:

And whereas the lands so allotted comprised amongst other lands the lands intended to be made subject to the provisions of this Act and such lands are situate in the parish of Christchurch and are a portion of the allotment numbered 59 on the map annexed to the award of 1805 and are included in an area bounded on or towards the north partly by land belonging or reputed to belong to the Earl of Malmesbury and partly by land belonging or reputed to belong to James Cooper Dean on the east partly by land belonging or reputed to belong to James Cooper Dean partly by land belonging or reputed to belong to the devisees of William Windham Farr deceased and partly by the grounds of Pokesdown Vicarage on the south partly by the Bournemouth and Christchurch high road partly by land belonging or reputed to belong to the devisees of William Windham Farr deceased partly by land belonging or reputed to belong to Sir George Meyrick partly by the London and South-western Railway and partly by land belonging to the mayor aldermen and burgesses of the borough of Bournemouth (herein-after called "the Corporation") and on the west by Ashley Road:

And whereas the lands so proposed to be made subject to the provisions of this Act are situate partly within or partly adjacent to the borough of Bournemouth:

And whereas the occupiers of the cottages or tenements who are entitled under the award of 1805 to a right to cut and take turves for fuel have for many years almost ceased to exercise such right and the active exercise of such right has owing to the introduction of more suitable fuel and from other circumstances become improbable in the future:

And whereas many of the cottages or tenements for the benefit of the occupiers of which the said allotments were made have become uninhabitable or have been taken down and in consequence thereof the number of persons entitled to the benefit of such right has greatly diminished:

And whereas the lands so proposed to be made subject to the provisions of this Act are part of the lands comprised in the

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Bournemouth Park Lands Act 1889 and therein referred to as "the park lands":

And whereas the area of the lands allotted as aforesaid excluding the park lands is greater than is necessary to satisfy the probable requirements of the occupiers of the cottages or tenements now in existence:

And whereas the total number of cottages or tenements now in existence the occupiers of which are entitled to the right of cutting or taking turf as aforesaid does not exceed fifty-eight:

And whereas the lands so allotted as aforesaid are now and have for many years past been lying waste disused and unproductive and such lands in their present condition are incapable of improvement:

And whereas the population of the borough of Bournemouth has of late years greatly increased and there is not sufficient land set apart for the interment of persons dying within the borough and it is expedient that the Corporation should be authorised to make and maintain a new cemetery for the interment of the dead and for that purpose that they should be empowered to purchase acquire and hold the lands in the parish of Christchurch and county of Southampton in the schedule to this Act described being part of the lands so allotted as aforesaid and comprised in the area above mentioned and that those lands should be excluded from the operation of section 19 of the Bournemouth Park Lands Act 1889:

And whereas an estimate has been prepared for the purchase of land for the cemetery being a permanent work within the meaning of section 234 of the Public Health Act 1875 and such estimate amounts to ten thousand pounds:

And whereas it is expedient that the purposes of this Act should be deemed and declared to be purposes of the Public Health Act 1875 and that the Corporation should be empowered to defray the expenses of carrying this Act into execution in like manner as they are empowered to defray expenses incurred under or by virtue of the Public Health Act 1875 and that the borrowing powers conferred by the Public Health Act 1875 should extend and be applicable to the borrowing of money by the Corporation for the purposes of this Act:

And whereas an absolute majority of the whole number of the council of the borough at a meeting held after ten clear days notice by public advertisement of such meeting and of the purposes thereof in the "Bournemouth Observer" a local newspaper published and circulating in the borough (such notice being in addition to the

ordinary notices required for summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate of the borough: A.D. 1891.

And whereas such resolution was published twice in the said newspaper and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the sixth day of January eighteen hundred and ninety-one being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 have consented to the promotion of the Bill for this Act:

And whereas a plan showing the lands which may be taken under the authority of this Act and a book of reference thereto containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited with the clerk of the peace for the county of Southampton which plan and book of reference are herein-after respectively referred to as the deposited plan and book of reference:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it 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 as follows:—

1. This Act may be cited as the Bournemouth East Cemetery Act 1891. Short title.

2. The Cemeteries Clauses Act 1847 (except sections 23 to 25 27 to 36 44 52 to 57 and 60) and the Lands Clauses Acts are (except where expressly varied by this Act) incorporated with and form part of this Act and in construing the incorporated Acts for the purposes of this Act the expressions "the undertakers" "the promoters of the undertaking" "the company" and "the commissioners" mean the Corporation. Incorporation of general Acts.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated Interpretation.

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herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction and for the purposes of this Act the expression—

"The borough" means the borough of Bournemouth;

"The Corporation" means the mayor aldermen and burgesses of the borough acting by the council;

"The council" "the town clerk" "the treasurer" and "the borough fund" and "the borough rate" mean the council the town clerk the treasurer and the borough fund and borough rate of the borough;

"The cemetery" means the cemetery by this Act authorised.

Power to take lands and to make cemetery.

4. Subject to the provisions of this Act the Corporation may enter upon take and hold for the purposes of this Act all or any part of the lands and property shown on the deposited plan and described in the deposited book of reference and in the schedule to this Act (in this Act called "the cemetery lands").

The Corporation may make and maintain a cemetery for the burial of the dead (herein-after called "the cemetery") with chapels entrances lodges and all necessary and proper works and conveniences connected therewith on the portion of the cemetery lands shown by a boundary coloured pink on a plan thereof signed by the Right Honourable the Earl of Morley Chairman of Committees of the House of Lords one copy whereof has been deposited in the Office of the Clerk of the Parliaments and another copy has been deposited in the office of the town clerk and the Corporation may on the remaining portion of the cemetery lands make all necessary and convenient accesses to the cemetery and may thereafter maintain the same Provided that no part of the cemetery shall be constructed within three hundred yards of any house now standing of the annual value of fifty pounds or of any garden or pleasure ground occupied therewith except with the consent in writing of the owner lessee and occupier thereof Provided further that the cemetery shall be fenced in with good and sufficient banks or other fences not less than six feet in height.

Period for compulsory purchase of lands.

5. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Time for sale of superfluous lands.

6. In construing section 127 of the Lands Clauses Consolidation Act 1845 for the purposes of this Act the prescribed period for the sale of superfluous lands shall be ten years from the passing of this Act.

Power to stop up roads.

7. The Corporation may stop up all roads lanes ways or paths streams drains and watercourses gas and water pipes within the limits of the cemetery lands acquired under the compulsory powers of this Act and may extinguish all rights of way in over or affecting any such roads lanes ways paths streams drains watercourses gas and water pipes and may appropriate the soil and site thereof to the purposes of this Act.

Corporation to fix charges.

8. The Corporation may fix and settle and receive such fees and payments in respect of interments in the cemetery including fees to the clergyman minister or other person conducting any religious service at such interment as the Corporation shall think fit and also the sums to be paid for the exclusive right of burial either in perpetuity or for a limited period in the cemetery and for 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 for the right of erecting and placing any monument gravestone tablet or monumental inscription in the cemetery and may from time to time revise and alter such fees payments and sums as aforesaid and a table showing such fees payments and sums and all other fees and payments in respect of interments in the cemetery shall be printed and published and shall be affixed and at all times maintained on some conspicuous part of the cemetery.

Right of burial to be assignable or may be bequeathed by will.

9. The exclusive right of burial either in perpetuity or for a limited period in the cemetery or in any vault or place of burial therein shall be deemed to be personal estate of the grantee and may with the consent of the Corporation be assigned in his lifetime or may be bequeathed by his will.

Byelaws for the purposes of the Act may be made by Corporation.

10. The Corporation may make such byelaws as they shall see fit for all or any of the following purposes with respect to the cemetery :—

For the prevention of the posting of bills or placards and the writing stamping cutting printing drawing or marking in any manner of any word or character or of any representation of any object on any building erection monument tombstone wall railing fence tree lamp post walk pavement or seat or elsewhere in the cemetery or on the outside thereof or any wall gate post fence or other thing belonging thereto ;

For the preservation of order and good conduct among persons frequenting the cemetery ;

For regulating times of admission thereto ;

For the prevention or restraint of acts or things tending to the injury or disfigurement of the cemetery or anything in or on the same ;

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For regulating the admission of carriages to the cemetery;
For preventing the admission of dogs to the cemetery;
and generally as to all matters connected with the good order of the cemetery and the use of the rights of interment therein.

No interments until byelaws approved by a Secretary of State.

11. Sections 182 to 185 of the Public Health Act 1875 except so much thereof as relates to byelaws made by a rural authority shall with the substitution of a Secretary of State for the Local Government Board apply to all byelaws to be made under the powers of this Act and no interment shall take place in the cemetery until byelaws for carrying out the objects herein-before mentioned shall have been duly confirmed.

Restricting use of cemetery.

12. Subject to the provisions of this Act the cemetery to be provided under the provisions of this Act shall be deemed to be provided exclusively for the interment of the bodies of persons dying within the borough or who being burgesses of the borough at the time of their death shall have died without the borough and the members of their families ordinarily resident with them but the Corporation may admit to be buried therein the bodies of any other persons upon such terms and conditions as to fees and otherwise as they shall in their discretion think fit.

Agreements with burial boards, &c.

13. The Corporation may from time to time make and carry out arrangements with any burial board or any parochial or other local authority having power to make arrangements for providing burial grounds or for regulating burials for and with respect to the appropriation of any part of the cemetery to be used exclusively as a burial ground for any parish or other district and the burials therein and the fees and charges for such burials and all incidental matters.

Power to consecrate.

14. It shall be lawful for the bishop of the diocese upon the application of the Corporation to consecrate any portion of the cemetery for the purposes of interment according to the rites of the Church of England and the portion so consecrated shall be defined by suitable marks.

Cemetery to be burial ground for ecclesiastical districts.

15. From and after such consecration as aforesaid the portion so consecrated shall be deemed the burial ground of each ecclesiastical district or portion of an ecclesiastical district within the borough and every incumbent of any such ecclesiastical district shall by himself and his curate or such duly qualified persons as such incumbent may authorise perform the duties and have the same rights and authorities for the performance of religious service in the burial in such consecrated portion of the remains of parishioners or inhabitants of the ecclesiastical district of which he is such incumbent and the parishioners and inhabitants of such ecclesiastical districts shall

have the same rights of sepulture in such consecrated portion as they respectively would have had in the burial ground or burial grounds in and for their respective ecclesiastical districts subject nevertheless to the provisions herein contained.

Other clergymen of the Church of England may be allowed to officiate.

16. Any clerk in holy orders of the Church of England not being prohibited by the bishop of the diocese nor under ecclesiastical censure may at the request of the executor of the will of any deceased person or of any other person having the charge of the burial of the body of any deceased person and with the consent of the Corporation perform the said burial service over such body in the consecrated part of the cemetery.

Fees to officiating clergy.

17. The Corporation shall on each burial within the cemetery at which any religious service is performed pay to the incumbent clergyman minister or other person conducting such service the following fees (videlicet) :—

	£	s.	d.
On an interment in a common grave - - -	0	5	0
If in selected site additional - - -	0	10	6
On an interment in a brick grave - - -	0	10	6
If in selected site additional - - -	0	10	6
On an interment in a vault - - -	1	1	0
If in selected site additional - - -	0	10	6

Provided always that the Corporation may from time to time increase or reduce such fees as they think fit.

Register of burials to be kept.

18. All burials within the cemetery shall be registered in a register book to be provided by the Corporation and kept for that purpose according to the laws in force by which registers are required to be kept by the rectors vicars or curates of parishes or ecclesiastical districts in England and such register book shall be so kept by some officer appointed by the Corporation to that duty and in such register book shall be distinguished in what parts of the cemetery and if the whole of the cemetery is not consecrated for interments according to the rites of the Church of England whether in the portion so consecrated or in the portion not so consecrated the several bodies (the burials of which are entered in such register book) are buried and such register book or copies or extracts therefrom shall be received in all courts as evidence of the burials entered therein and copies or transcripts of such register book verified and signed by such officer as aforesaid shall be from time to time sent to the registrar of the diocese to be kept with the copies of the other register books of the parishes within such diocese and the said register book so far as respects searches to be

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made therein and copies and extracts to be taken therefrom shall be subject to the same regulations as are provided by an Act passed in the seventh year of King William the Fourth intituled an Act for registering births deaths and marriages in England so far as such regulations relate to register books of burials kept by any rector vicar or curate.

Power to apply funds to cemetery purposes.

19. The Corporation may from time to time apply their borough fund and borough rate to the purposes of this Act.

Certain provisions of Public Health Act 1875 extended and made applicable to this Act.

20. All the provisions of the Public Health Act 1875 as to borrowing and reborrowing of moneys by a local authority for the purpose of defraying any costs charges and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or that Act and as to the repayment of moneys borrowed shall extend and be applicable to the Corporation with respect to the costs charges and expenses to be incurred by them in carrying this Act into execution including the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act and the carrying this Act into execution shall be deemed to be one of the purposes of the Public Health Act 1875 and the Corporation shall be empowered to borrow money accordingly.

When accounts to be balanced and audited.

21. The Corporation shall keep proper accounts of all sums received and expended by them in carrying this Act into execution and such accounts shall be balanced up and examined and audited at the times at which the other accounts of the Corporation are balanced and audited under the Municipal Corporations Act 1882 or under any other Act for the time in force relating to the audit of the accounts of the Corporation.

Restriction on taking houses of labouring class.

22. The Corporation shall not under the powers of this Act without the consent of the Local Government Board take ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Cemetery lands exempt from provisions of Bournemouth Park Lands Act 1889

23. From and after the passing of this Act the whole or such part of the lands described in the schedule to this Act as shall be taken for the purposes of this Act if part only is taken shall be exempted from the operation of section 19 of the Bournemouth Park Lands Act 1889 and the provisions of that Act shall cease to have effect as regards such lands Provided always that no part of the said lands shall be so taken without the consent of the Attorney-General.

Costs of Act.

24. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act and otherwise in relation thereto (as the same shall be taxed and certified by the taxing officer of the House of Lords or the House of Commons) shall be paid by the Corporation out of moneys borrowed under the authority of this Act or out of the borough fund and borough rate.

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The SCHEDULE referred to in the foregoing Act.

That portion of the allotment numbered 59 on the map annexed to the award made in pursuance of an Act passed in the forty-second year of His Majesty George the Third intituled "An Act for dividing allotting and "inclosing certain commonable lands and waste grounds within the parish of "Christchurch and parish or chapelry of Holdenhurst in the county of Southamp-"ton" and allotted as a turf common for supplying turves which portion contains fifty acres or thereabouts and is distinguished by the colour dark green on the plan thereof deposited with the clerk of the peace for the county of Southampton with reference to this Act.

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