ANNO SEXTO & SEPTIMO

VICTORIÆ REGINÆ.

****

Cap. lxvii.

An Act to establish a Cemetery for the Interment of the Dead near the Town and within the Borough of *Southampton*. [4th *July* 1843.]

WHEREAS the Population of the Borough of *Southampton* hath of late Years greatly increased, and the several Churchyards and Places of Burial therein are of very limited Extent, and insufficient for the Wants of the said Borough, and it is desirable that an additional Cemetery or Burial Ground for the Interment of the Dead should be provided within the said Borough, subject to proper Regulations for the Government thereof: And whereas the Mayor, Aldermen, and Burgesses of the said Borough of *Southampton* are the Lord of the Manor of *Southampton*, and Owners of the Fee of a large Tract of Land within the said Borough, called the *Southampton Common*, consisting of Three hundred and seventy Acres or thereabouts, and the Inhabitants being Householders within the said Borough paying Scot and Lot claim to be entitled to certain Rights of Common thereon; and it is expedient that a Part of the said Common should be set out and appropriated for the Purposes of such Cemetery as herein-after mentioned: 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

Land vested in the Corporation of Southampton for the Purposes of a Cemetery.

of the same, That a certain Piece of Land situate on *Southampton Common*, containing Fifteen Acres or thereabouts, being extra-parochial and situate near the South-west Corner of the said Common, bounded on the North, the South, and the East by a Trench recently dug, separating the same from Part of the said Common, and on the West by a similar Trench or by *Hill Lane*, shall be and the same is hereby declared to be vested in the Mayor, Aldermen, and Burgesses of the Borough of *Southampton*, and their Successors for ever, freed of and from all Rights of Common and other Rights in, over, and upon the same, for the Purposes of a Cemetery or Burial Ground, subject to the Provisions herein-after contained.

This Act to be carried into execution by the Corporation.

II. And be it enacted, That this Act shall be carried into execution by the Mayor, Aldermen, and Burgesses acting pursuant to the Provisions of an Act passed in the Session of the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to provide for the Regulation of Municipal Corporations in* England *and* Wales, and of the other Laws for the Time being in force affecting Municipal Corporations in *England*.

Bye Laws for the Purposes of the Act may be made by the Corporation.

III. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses from Time to Time to make such Bye Laws as to them shall seem meet for the Purposes of this Act, and that, except as herein otherwise provided for, the several Provisions of the Laws for the Time being in force affecting Municipal Corporations in *England*, relating to the making, promulgating, enforcing, and evidencing of such Bye Laws as may be made thereunder, shall, so far as Circumstances may for the Time being permit, extend to the several Bye Laws to be from Time to Time made in pursuance of this Act.

Accounts of the Receipts and Expenditure to be kept and published.

IV. And be it enacted, That the Mayor, Aldermen, and Burgesses shall cause true and regular Accounts to be entered in Books to be provided by them for that Purpose, of all Monies received and expended under the Authority of this Act, and shall cause such Accounts to be balanced up to and inclusive of the Thirty-first Day of *December* in every Year, and shall in the course of the Month of *January* in every Year cause such Account for the then preceding Year to be examined and audited, and shall in the course of the Month of *February* in every Year cause such Account for the then preceding Year, so balanced, examined, and audited as aforesaid, or a sufficient Abstract thereof, to be published Once in every Newspaper which shall for the Time being be published in the Town of *Southampton*, or in case there shall be no such Newspaper, then Once in some Newspaper which shall for the Time being be published in the County of *Southampton*, and circulated in the same Town.

Proper Accounts to be kept.

V. And be it enacted, That the said Mayor, Aldermen, and Burgesses shall cause proper Copies, Minutes, Accounts, and Entries of all Contracts, Appointments, Orders, and other Proceedings to be made and had in pursuance of this Act to be from Time to Time duly made; and that, except as herein otherwise provided for, the several Provisions of the Laws for the Time being in force affecting

Municipal Corporations in *England*, relating to the making, keeping, verifying, promulgating, allowing, disallowing, inspecting, and appealing of and against, and in any other Manner concerning, the Copies, Minutes, Accounts, and Entries of such Contracts, Appointments, Orders, and other Proceedings as shall be made and had thereunder, shall, so far as Circumstances may for the Time being permit, extend to the several Copies, Minutes, Accounts, and Entries to be from Time to Time made in pursuance of this Act.

Regulation of Officers.

VI. And be it enacted, That, except as herein otherwise provided for, the several Provisions of the Laws for the Time being in force affecting Municipal Corporations in *England*, relating to the Duties, Removal, and Appointment of, and to the Security, Accounts, Entries, Duties, Salaries, Allowances, Rights, and Remedies to be respectively taken, made, rendered, performed, paid, and had from, by, to, and against, and in any other Manner concerning, the Officers of such Corporations and their Sureties, shall, so far as Circumstances may for the Time being permit, extend to the several Officers appointed by and under this Act, and to their Sureties.

Corporate Officers not to be interested in Contracts under this Act.

7 W. 4. & 1 Vict. c. 78. s. 39.

VII. And be it enacted, That, except as herein otherwise provided for, it shall not be lawful for any Person, being the Mayor, or an Alderman or Councilman, or other Officer of the Municipal Corporation of the said Borough, to be interested or concerned or employed, directly or indirectly, as an Architect, Builder, Artist, Mechanic, Workman, Merchant, Trader, or otherwise howsoever, in any Part of the Work to be done or Materials to be supplied for the Purposes of this Act, for the doing or supplying whereof the Mayor, Aldermen, and Burgesses are hereby authorized to enter into Contracts, or in any Contract which shall be entered into by them in that Behalf; and if any one holding such Office shall be so interested, concerned, or employed in such Work, Materials, or Contracts as aforesaid, he shall thenceforward be disqualified from continuing to hold such Office, and also from being thereafter elected or appointed to hold any Corporate Office within the said Borough.

For what Contracts may be made;

VIII. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses to enter into Contracts with any Persons for the Execution of any Works directed or authorized by this Act to be done by the said Mayor, Aldermen, and Burgesses, and for furnishing any Materials for the same, or which may be required by the Mayor, Aldermen, and Burgesses; and every such Contract shall be in Writing, and shall specify the Works to be done and the Materials to be furnished, and a Copy thereof shall be entered into a Book to be kept by the Town Clerk for that Purpose.

how to be signed.

IX. And be it enacted, That every such Contract shall be under the Common Seal of the said Mayor, Aldermen, and Burgesses, and shall be signed by the other Parties thereto, and such Contracts shall be binding on the Mayor, Aldermen, and Burgesses, and Actions and Suits may be maintained thereon, and Damages and Costs recovered, by or against the Mayor, Aldermen, and Burgesses, or the other Parties failing in the Execution thereof; nevertheless, the Mayor,

Aldermen,

Aldermen, and Burgesses may, from Time to Time as they think fit, compound with any Person, on account of any Breach or Non-performance of any such Contract, for any Sum of Money which they may think proper, or they may remit any Penalties on account thereof.

Appointment of Officers.

X. And be it enacted, That the Treasurer for the Time being of the said Borough of *Southampton* shall be the Treasurer for the Purposes of this Act; and the said Mayor, Aldermen, and Burgesses shall from Time to Time appoint a Secretary, Collector, and such other Officers as they shall think fit, and may pay or allow such Secretary and other Officers, out of the Monies to be received by virtue of this Act, such Salary or Salaries as they may think proper, and shall have Power to remove such Officers at their Discretion.

Minutes and Entries, with the Accounts of Monies under this Act to be kept distinct.

XI. And be it enacted, That all Minutes and Entries to be kept and made under the Provisions of this Act shall be kept distinct from the Minutes and Entries of the Mayor, Aldermen, and Burgesses, and in separate Books to be appropriated for that Purpose; and the Accounts of the Monies received and expended by the Mayor, Aldermen, and Burgesses by virtue of this Act shall be kept under the distinct Head of "The Cemetery Account."

Power to borrow on Mortgage.

XII. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses from Time to Time to borrow at Interest, for the Purposes of the said Undertaking, any Sum of Money which, together with any Sum previously borrowed, shall not exceed the Sum of Seven thousand Pounds; and for securing the Repayment of the Monies so borrowed, with Interest, the Mayor, Aldermen, and Burgesses may assign over the Property of the said Undertaking, and the Profits arising or to arise from the Sale or Disposal of Graves, Vaults, and Privilege of Interment, or any other Sums of Money arising by virtue of this Act, or any Part thereof, and any other Property of the said Mayor, Aldermen, and Burgesses, to the Person who shall advance or lend such Money, or his Trustee, as a Security for the Payment of the Money so to be borrowed, together with Interest for the same.

Form of Mortgage.

XIII. And be it enacted, That every such Assignment or Mortgage shall be by Deed duly stamped, in which the Consideration shall be truly stated; and every such Deed shall be under the Corporate Seal of the Mayor, Aldermen, and Burgesses, and may be according to the Form in Schedule (A.) to this Act annexed, or to the like Effect.

Mortgages to be without Preference.

XIV. And be it enacted, That all Persons to whom such Mortgages or Assignments shall be made, or who shall be entitled to the Monies thereby secured, shall, in proportion to the Sums therein respectively mentioned, be Creditors on the said Undertaking equally one with another, without any Preference in respect of the Priority of advancing such Monies, or of the Dates of any such Assignments respectively.

XV. And

Money may be raised by Annuity.

XV. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses to raise all or any Part of the Money to be borrowed for the Purposes of this Act, by granting Annuities for Lives instead of Assignments as aforesaid, and for that Purpose for the said Mayor, Aldermen, and Burgesses to charge the said Undertaking with an Annuity to determine on a Life or Lives in being, in favour of any Person who shall advance to the Mayor, Aldermen, and Burgesses any Sum of Money for the Purchase of the same.

Form of Grant of Annuity.

XVI. And be it enacted, That every such Grant of Annuity shall be by Deed duly stamped, in which the Consideration shall be truly stated, and shall be under the Corporate Seal of the said Mayor, Aldermen, and Burgesses, and may be in the Form in Schedule (B.) to this Act annexed, or to the like Effect.

For preventing improvident Grants of Annuities.

XVII. And for preventing improvident Grants of Annuities, be it enacted, That the Price to be paid for any such Annuity shall not be less than the Price of a similar Annuity paid by Law for such Annuity granted by the Commissioners for the Reduction of the National Debt.

Annuities to rank after Mortgages.

XVIII. And be it enacted, That every Annuity so granted shall be paid out of the Funds arising by virtue of this Act according to the Grant of such Annuity, and shall have Priority after any Mortgages or Assignments granted under this Act.

Expences of Mortgages and Annuities.

XIX. And be it enacted, That the Expences of every Assignment or Mortgage and Grant of Annuity shall from Time to Time be defrayed by the Mayor, Aldermen. and Burgesses out of the Money raised by the same.

Register of Mortgages and Annuities to be kept, and to be open to Inspection.

XX. And be it enacted, That a Register of such Mortgages or Assignments and Annuities shall be kept by the Secretary, and within Fourteen Days after the Date of any such Mortgage or Assignment or Annuity an Entry or Memorial of the Number and Date thereof, and of the Names of the Parties thereto, with their proper Additions, shall be made in such Register; and such Register may be perused at all reasonable Times by any Person interested therein, without Fee or Reward.

Transfer of Mortgages and Annuities.

XXI. And be it enacted, That from Time to Time any Party entitled to any such Mortgage or Assignment or Annuity may transfer his Right and Interest therein to any other Person by Deed duly stamped, wherein the Consideration shall be truly stated; and any such Transfer may be according to the Form in the Schedule (C.) to this Act annexed, or to the like Effect.

Register of Transfers to be kept.

XXII. And be it enacted, That within Thirty Days after the Date of every such Transfer it shall be produced to the Secretary, and thereupon such Secretary shall cause an Entry or Memorial thereof to be made in the same Manner as in the Case of the original Mortgage or Assignment or Annuity, and for such Entry the Clerk may demand

demand a Sum not exceeding Five Shillings; and after such Entry every such Transfer shall entitle the Transferee, his Executors, Administrators, or Assigns, to the full Benefit of the original Mortgage or Assignment or Annuity in all respects; and no Party having made such Transfer shall have Power to make void, release, or discharge the Mortgage or Assignment or Annuity so transferred, or any Money thereby secured.

Interest on Mortgages to be paid half-yearly.

XXIII. And be it enacted, That, unless otherwise provided by any Mortgage or Assignment, the Interest of the Money borrowed upon every such Mortgage or Assignment shall be paid half-yearly to the several Parties entitled thereto.

Power to take up Money at a less Rate of Interest.

XXIV. And be it enacted, That if the Mayor, Aldermen, and Burgesses can at any Time borrow or take up any Sums of Money for any of the Purposes of this Act at a lower Rate of Interest than any Securities given by them, and which shall then be in force, shall bear, then from Time to Time it shall be lawful for them to borrow such Sums of Money as they shall think proper at such lower Rate as aforesaid, in order to pay off and discharge the Securities bearing such higher Rate of Interest, and to charge the Funds or Property herein-before referred to, or any Part thereof, with Payment of such Sum and such lower Rate of Interest, in such Manner and subject to such Regulations as are herein contained with respect to other Monies borrowed on Mortgage.

Mode of paying off Mortgages.

XXV. And in order that no undue Preference may be given in paying off any Mortgages or Assignments, be it enacted, That when and as often as the Mayor, Aldermen, and Burgesses shall, under the Provisions of this Act, be enabled and think it expedient to pay off One or more out of the Number of such Mortgages upon which the same Rate of Interest shall be payable, or a Part of the Money secured on any such Mortgage, they shall cause the several Numbers of such Mortgages to be written upon distinct Slips of Paper of an equal Size, and all such Slips shall be rolled or folded up in similar Form and put into a Box, and the Secretary shall, in the Presence of Twelve or more of the Members of the Town Council, draw separately out of the said Box One of the said Slips, and thereupon the Mortgage corresponding with the Number so drawn, or the Part of the Money due thereon so proposed to be paid off, shall accordingly be paid off by the Mayor, Aldermen, and Burgesses; and after every such Ballot the Mayor, Aldermen, and Burgesses shall cause a Notice, signed by the Secretary, to be given to the Person entitled to the Money to be paid off pursuant to such Ballot, and such Notice shall express the Principal Sum proposed to be paid off, and that the same will be paid, together with the Interest due thereon, at a Place to be specified in such Notice, at the Expiration of Six Months from the Date of giving such Notice; and at the Expiration of such Period the Interest of the Principal Money to be paid off shall cease, unless such Principal Money and Interest be not paid on Demand, pursuant to such Notice; but such Principal Money, and the Interest thereof to the End of the said Six Months, shall nevertheless be payable on Demand.

XXVI. And

Application of Monies to be borrowed.

XXVI. And be it enacted, That all the Money which shall be raised on the Credit of the said Undertaking shall be received by the Treasurer on behalf of the Mayor, Aldermen, and Burgesses, and shall be carried to the Credit of the said "Cemetery Account," and shall be applied by them, in the first place, in paying the Expences of obtaining and passing this Act, or incident thereto, and afterwards in making and maintaining the said Cemetery and other Works by this Act authorized to be made, and in otherwise carrying this Act into execution.

Service of Notice upon the Corporation.

XXVII. And be it enacted, That any Summons or Notice, or any Writ or other Proceeding, at Law or in Equity, requiring to be served upon the Mayor, Aldermen, and Burgesses under the Provisions of this Act, may be served by delivering the same personally to the Town Clerk, or in case, by reason of his Absence from *Southampton* or otherwise, personal Service on him shall be impracticable, then by delivering the same personally to the Mayor of the said Borough for the Time being, or in case, by reason of his Absence from *Southampton* or otherwise, personal Service on him shall be impracticable, then by delivering the same personally to one of the Aldermen for the Time of the said Borough.

Releases to Witnesses.

XXVIII. And be it enacted, That in all legal Proceedings under this Act it shall be lawful for any Three or more of the Council, by Order of the Mayor, Aldermen, and Burgesses, to grant general or other Releases for the Purpose of qualifying any Person in the Service of the Mayor, Aldermen, and Burgesses to give Evidence as a Witness; and every such Release or Discharge shall be under the Hands and Seals of the Parties giving the same.

Tender of Amends.

XXIX. And with respect to Actions brought in respect of any Proceeding under the Provisions of this Act, be it enacted, That if before Action brought any Party having committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this Act, or by virtue of any Power or Authority thereby given, make Tender of sufficient Amends to the Party injured, such Party shall not recover in any Action brought on account of such Irregularity, Trespass, or other wrongful Proceeding; and if no such Tender shall have been made it shall be lawful for the Defendant, by Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

Corporation empowered to construct a Cemetery.

XXX. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses to make and maintain a Cemetery or Burial Ground on the Piece of Land herein-before described, and for that Purpose to appropriate accordingly such Part thereof as shall from Time to Time appear to them desirable, and also to make and maintain such Roads and other Approaches thereto as they shall from Time to Time think necessary, and to lay out and embellish as well such Parts of the said Piece of Land as shall be so appropriaetd,

priated, or the Residue thereof, in such Manner as they shall think proper.

Cemetery not to be within 300 Yards of certain Property;

XXXI. Provided always, and be it enacted, That no Part of such Cemetery shall be within Three hundred Yards of any House now standing, and either of the annual Value of Fifty Pounds, or having a Plantation or ornamental Garden or Pleasure Ground occupied therewith, and being together of that Value, except with the Consent in Writing of the Owner, Lessee, and Occupier of such House.

to be inclosed;

XXXII. And be it enacted, That so much of the said Piece of Land herein-before described as shall for the Time being be appropriated as aforesaid shall be inclosed with Walls or other sufficient Fences.

and to be kept in repair.

XXXIII. And be it enacted, That the Mayor, Aldermen, and Burgesses shall keep the Cemetery, and the Buildings and Fences thereof, and such Roads and Approaches thereto as shall be made under the Authority of this Act, and shall drain and keep the same, in good Repair and Condition.

Power to make Sewers from the Cemetery.

XXXIV. And be it enacted, That it shall be lawful for the said Mayor, Aldermen, and Burgesses to make all necessary and proper Sewers, Drains, Wells, and other Conveniences in and about the Cemetery, for the Purpose of conveying the Water from the same, and keeping the same dry, and from Time to Time, as Occasion may require, to make Communications with any Branch or Main Sewer already made or hereafter to be made, with the Consent of the Commissioners or Persons having the Management of such Sewers, and of the Owners and Occupiers of the Lands through which such Communications may be made, doing as little Damage as possible to the Ground or the Streets or Places wherein such Sewer or Drain may be made, and replacing and closing the same, and otherwise making the same in the same State and Condition as it was previously to its being disturbed, or as near thereto as possible.

Penalty for corrupting Water.

XXXV. And be it enacted, That if the said Mayor, Aldermen, and Burgesses shall at any Time cause or suffer to be conveyed or to flow into any Stream, Reservoir, Aqueduct, Pond, or Place for Water, any Washing or offensive Matter from the Cemetery, whereby the Water therein shall be contaminated or corrupted, they shall forfeit for every such Offence the Sum of Two hundred Pounds.

Penalty to be sued for in Superior Courts within Six Months.

XXXVI. And be it enacted, That the said Penalty shall be recovered, with full Costs of Suit, in any of the Superior Courts, by Action of Debt or on the Case, by the Person whose Water shall be corrupted by such Washing or offensive Matter: Provided always, that the said Penalty shall not be recoverable unless the same be sued for within Six Months after the Offence in respect of which such Penalty shall have been incurred shall have ceased.

XXXVII. And

Daily Penalty during the Continuance of the Offence.

XXXVII. And be it enacted, That in addition to the said Penalty of Two hundred Pounds (and whether such Penalty shall have been recovered or not) the said Mayor, Aldermen, and Burgesses shall forfeit the Sum of Twenty Pounds (to be recovered in like Manner) for each Day such Washing or offensive Matter shall be conveyed or shall flow as aforesaid after the Expiration of Twenty-four Hours from the Time at which Notice of the Offence shall have been served on such Person by the Person whose Water shall be fouled or corrupted by such Washing or offensive Matter, and such Penalty shall be paid to such last-mentioned Person.

Consecration.

XXXVIII. And be it enacted, That it shall be lawful for the Bishop of *Winchester* for the Time being to consecrate such Part of the Cemetery as shall be set apart for the Burial of the Dead according to the Rites of the Established Church, and the Part so consecrated shall be used only for the Burial of the Dead according to those Rites.

Title to be approved before Consecration.

XXXIX. Provided always, and be it enacted, That it shall not be lawful for the said Bishop to consecrate any Land, unless the Mayor, Aldermen, and Burgesses shall show to his Satisfaction a good Title to the same.

Consecrated Ground to be separated from the unconsecrated.

XL. And be it enacted, That in order to prevent any Doubt or Difficulty hereafter as to Boundaries, such distinctive Mark or Separation shall be made between the consecrated and unconsecrated Portions of the Cemetery as may be required by the Bishop of the Diocese for the Time being.

Consecrated Ground not to be sold.

XLI. Provided always, and be it enacted, That it shall not be lawful for the said Mayor, Aldermen, and Burgesses to sell or dispose of any Land which shall have been consecrated or used for the Burial of the Dead.

Chapel in connexion with the Established Church.

XLII. And be it enacted, That it shall be lawful for the said Mayor, Aldermen, and Burgesses to construct, within such Part of the Cemetery as shall be consecrated, a Chapel for the Reception of the Dead immediately previous to Interment, and for performing therein the Burial Service according to the Rites of the Established Church, and also such covered Porches or Colonnades, Catacombs and Vaults, for private or public Burial Places, together with Lodges at the Entrance to the said Cemetery, and such other Buildings as the said Mayor, Aldermen, and Burgesses shall think proper.

Restriction against Removal of Bodies.

XLIII. And be it enacted, That no Corpse interred in the consecrated Part of the Cemetery shall be removed without the like Authority as by Law required for the Removal of any Corpse interred in the Churchyard belonging to a Parish Church, and that no Corpse interred in the unconsecrated Part thereof shall be removed without the Authority of the Mayor, Aldermen, and Burgesses.

Part of Cemetery for Dissenters.

XLIV. And be it enacted, That One Third of so much of the said Piece of Land herein-before described as shall for the Time being be appropriated as aforesaid, shall be set apart for the Burial of the deceased Persons not having been Members of the Established Church, and the Part from Time to Time so set apart shall be used only for the Burial of the Dead in such Manner in all respects except according to the Rites of the Established Church, as the Friends and Relatives of the deceased Persons to be interred therein shall think fit, and in default of any Direction by them then in such Manner as the Mayor, Aldermen, and Burgesses shall appoint: Provided always, that every such Burial shall be conducted in a decent and solemn Manner, and under such Regulations as the Mayor, Aldermen, and Burgesses shall from Time to Time think fit to impose.

Chapels for Dissenters.

XLV. And be it enacted, That it shall be lawful for the said Mayor, Aldermen, and Burgesses to construct within the unconsecrated Part of the Cemetery such Chapels as they may think necessary for the Reception of the Dead immediately previous to Interment, and for performing therein the Burial Service according to the Rites of any Church or Congregation, other than the Established Church, by any Minister of such other Church or Congregation duly authorized by Law to officiate in such Church or Congregation, or recognized as such by the religious Community or Society to which he may belong, and also such covered Porches or Colonnades, and Catacombs or Vaults, for private or public Burial Places, and such other Buildings, as the said Mayor, Aldermen, and Burgesses shall think proper.

Plan and Book of Reference to be kept.

XLVI. And be it enacted, That a Plan of the Cemetery shall be made at the Expence of the said Mayor, Aldermen, and Burgesses, upon a Scale sufficiently large to show the Place and Situation of every Vault and Place of Burial made therein; and all such Vaults and Places of Burial shall be numbered, and such Numbers shall be entered in Books to be kept for that Purpose, and such Books shall contain the Names and Descriptions of the several Persons interred in such Vaults and Places of Burial; and no Vault or Place of Burial shall be made in the Cemetery without the same being marked out in such Plan, and a corresponding Entry made in the said Book; and the said Plan and Book shall be kept by the Secretary to be appointed under the Powers of this Act, and all Persons shall be at liberty to inspect such Plan and Book on Payment of One Shilling for every such Inspection.

Sale of Vaults, Rights of Burial, &c.

XLVII. And be it enacted, That it shall be lawful for the said Mayor, Aldermen, and Burgesses, under such Regulations and Restrictions and subject to such Conditions as they shall from Time to Time think proper, to sell the exclusive Right of Burial, either in perpetuity or for a limited Period, in any Vault, Catacomb, or Place of Burial constructed within the Cemetery, and also the Right of constructing any Vault, Catacomb, or Place of Burial within the Cemetery, with the exclusive Right of Burial therein, in perpetuity or for a limited Period, and also the Right of single Interment in

any

any Vault, Catacomb, or other Place of Burial constructed by the Mayor, Aldermen, and Burgesses, or in the open Ground of the Cemetery, and also the Right of erecting and placing any Monument or Gravestone in the Cemetery, or any Monument or monumental Inscription on the Walls of the Chapel or other Place within the Cemetery: Provided always, that it shall not be lawful for the said Mayor, Aldermen, and Burgesses to make any Charge whatever, other than the Fee of Three Shillings authorized to be paid to the Incumbents of the respective Parishes as herein-after mentioned, for or in respect of the Interment of the Corpse of any Person being a resident Parishioner within the Limits of the Borough of *Southampton* in the open Ground, and in such Spot as shall be selected for that Purpose by the said Mayor, Aldermen, and Burgesses.

Form of Grant.

XLVIII. And be it enacted, That the Grant of the exclusive Right of Burial in any Vault, Catacomb, or Place of Burial, and of the Right of making any Vault, Catacomb, or Place of Burial, with the exclusive Right of Burial therein, either in perpetuity or for a limited Period, and of the Right and Privilege of erecting any Monument or Gravestone, shall be under the Common Seal of the Mayor, Aldermen, and Burgesses, and may be made in the Form in Schedule (D.) to this Act annexed, or to the like Effect.

Register of Grants to be kept.

XLIX. And be it enacted, That a Register of all such Grants shall be kept by the Secretary, and within Fourteen Days after the Date of any such Grant an Entry or Memorial of the Date thereof, and of the Parties thereto, and also of the Consideration for such Grant, and also a proper Description of the Vault, Catacomb, or Burial Place, or of the Piece of Ground described in such Grant, so as the Situation thereof may be ascertained, shall be made by the said Secretary in such Register, and such Secretary shall receive such Sum as the Mayor, Aldermen, and Burgesses shall think fit, not exceeding Two Shillings and Sixpence for every such Entry or Memorial; and the said Register may be perused at all reasonable Times by any Grantee of the said Mayor, Aldermen, and Burgesses, or any Purchaser or intended Purchaser of any Right conveyed in any such Grant, upon Payment of the Sum of One Shilling to the Secretary.

Rights of Burial, &c. to be assignable.

L. And be it enacted, That the exclusive Right of Burial or Interment in any such Vault, Catacomb, or Burial Place shall, whether granted in perpetuity or for a limited Period, be considered as the personal Estate of the Grantee, and may be assigned in his Lifetime, or bequeathed by his Will.

Form of Assignment.

LI. And be it enacted, That every such Assignment shall be by Deed duly stamped, in which the Consideration shall be duly set forth, and may be in the Form in Schedule (E.) to this Act annexed, or to the like Effect.

Assignments to be registered.

LII. And be it enacted, That an Entry or Memorial of every such Assignment shall, within Six Months after the Execution thereof if executed in *England*, or within Six Months after the Arrival

Arrival thereof in *England* if executed elsewhere, be made in the Register by the Secretary in the same Manner as that of the original Grant; and for every such Entry or Memorial the Secretary shall receive such Sum, not exceeding Six Shillings and Eight-pence, as the said Mayor, Aldermen, and Burgesses shall direct.

Probates of Wills to be registered.

LIII. And be it enacted, That an Entry or Memorial of the Probate of every Will, and of all Letters of Administration and Assurances whatsoever, by which the exclusive Right of Burial in any Vault, Catacomb, or Burial Place within the Cemetery shall be affected, and in case there shall be any specific Disposition of such exclusive Right of Burial in the said Will, an Entry of such Disposition, shall, within Six Months after the Probate of such Will or Grant of such Letters of Administration, and within Six Months after the Execution of such Assurances if executed in *England*, or within Six Months after the Arrival thereof in *England* if executed elsewhere, be made in the said Register in the same Manner as that of the original Grant; and for every such Entry or Memorial the Secretary shall receive any Sum not exceeding Six Shillings and Eight-pence, as the said Mayor, Aldermen, and Burgesses shall direct.

Vaults to be kept exclusively for the Parties entitled.

LIV. And be it enacted, That no Person shall be interred in any Vault, Catacomb, or Burial Place, the exclusive Right of Burial wherein shall have been granted by the said Mayor, Aldermen, and Burgesses, other than the Owner for the Time being of such exclusive Right of Burial, and any other Person to whose Burial therein satisfactory Evidence shall be produced to the Corporation that such Owner has consented.

Restriction on Burial in Vaults under the Chapels.

LV. And be it enacted, That it shall not be lawful to bury any Corpse within any Vault under any of the said Chapels, or in any Catacomb, unless the same shall be inclosed in a leaden Coffin of not less than Six Pounds Weight to each superficial Foot of Lead, or in a Coffin of some other Metal of proportionate Substance and Durability to be approved of by the Mayor, Aldermen, and Burgesses.

Corporation empowered to remove Monuments improperly erected;

LVI. And be it enacted, That it shall be lawful for the said Mayor, Aldermen, and Burgesses to take down and remove any Monument, Cenotaph, monumental Inscription, Gravestone, and other Erection which shall have been erected contrary to the Terms upon which Permission to erect the same was granted.

and Monuments out of repair.

LVII. And be it enacted, That in case any Monument, Cenotaph, Gravestone, or other Erection within the Cemetery shall at any Time be in such Want of Repair as to be ruinous and unsafe, it shall be lawful for the Mayor, Aldermen, and Burgesses to cause Notices in Writing, signed by the Secretary, to be given to the Person who shall for the Time being appear by the Register to be kept as aforesaid entitled to the exclusive Right of Burial in the Vault, Catacomb, or Burial Place with or to which such Monument, Cenotaph, Gravestone, or other Erection shall be connected or refer, requiri him to repair the same in order to prevent the Removal thereof; and

in

in case such Person shall be dead or out of *England*, or his Place of Abode in *England* shall be unknown, then to cause such Notice to be published once in the *London Gazette*, and also twice in Two of the *London* daily Newspapers, and twice in every Newspaper which shall for the Time being be published in the Town of *Southampton*, or in case there shall be no such Newspaper, then twice in Two of the Newspapers which shall for the Time being be published in the County of *Southampton* and circulated in the said Town; and in case such Monument, Cenotaph, Gravestone, or other Erection shall not be duly repaired within Three Months next after the Delivery or last Publication as aforesaid of such Notice, then it shall be lawful for the Mayor, Aldermen, and Burgesses, at any Time after the Expiration of such Three Months, at their Option, either to repair or to take down and remove the same; and in case they shall repair the same the Expence of such Repair, with full Costs of Suit, may at any Time thereafter be recovered by them from any Person entitled to such last-mentioned exclusive Right of Burial, by Action of Debt or on the Case in any of the Superior Courts.

Corporation to resume Possession of Vaults on Expiration of the Grant.

LVIII. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses to resume the Possession of any Vault, Catacomb, or other Place on the Determination of the Interest of the Grantee of the exclusive Right of Burial therein: Provided always, that in case of any Resumption of Possession by the said Mayor, Aldermen, and Burgesses, the Bodies which may have been interred in any such Vault, Catacomb, or Burial Place shall not be disturbed.

Appointment of Clerk and Sexton for the consecrated Portion;

LIX. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses, with the Consent in Writing of the several Incumbents of the Parishes within the said Borough, or of a Majority of such Incumbents, from Time to Time to appoint a Clerk and Sexton to act in the consecrated Part of the Cemetery, and to remove such Clerk or Sexton at the Pleasure of the Mayor, Aldermen, and Burgesses.

for the unconsecrated Portion.

LX. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses, with the Consent of the Ministers for the Time being of the several Congregations of Protestant Dissenters in *Southampton*, duly authorized by Law to officiate in such Congregations, or recognized as being such Ministers by the several Congregations to which they may respectively belong, or with the Consent of a Majority of such Ministers, from Time to Time to nominate and appoint a Clerk and Sexton in such Part of the Cemetery as shall not be consecrated, and to remove such last-mentioned Clerk or Sexton at the Pleasure of the Mayor, Aldermen, and Burgesses.

Wages of Clerks and Sextons.

LXI. And be it enacted, That the Wages or Stipends of all such Clerks and Sextons shall from Time to Time be fixed by the Mayor, Aldermen, and Burgesses.

Burial Service in the consecrated Ground to be

LXII. And be it enacted, That, except as herein otherwise provided, each of the several Incumbents of the Parishes within the said Borough shall and he is hereby required to perform or cause to be

performed by the Clergyman of the Parish from which the Deceased shall be removed for Interment in the Cemetery.

be performed, by some Clergyman of the Established Church whom he may from Time to Time appoint, the Burial Service according to the Rites of the Established Church over every deceased Person removed from the Parish of such Incumbent for Interment within the consecrated Part of the Cemetery, convenient Warning being given him thereof before: Provided always, that he shall not be required to perform or cause to be performed such Service on the Interment of any deceased Person over whose Corpse such Service could not lawfully be performed on its Interment in the Burial Ground of a Parish Church.

Provision for Cases of Persons not dying in such Parishes.

LXIII. And in order to provide for the Cases of any deceased Persons so removed for Interment as aforesaid, not having died within the Parishes from which such deceased Persons respectively shall be so removed as aforesaid, be it enacted, That the Duty of performing or causing to be performed such Burial Service as aforesaid on the Interment of such deceased Persons shall devolve on the said Incumbents in monthly Rotation, such Rotation to be from Time to Time settled as they or the Majority of them shall appoint by Writing under their Hands to be delivered to the Secretary, and a Copy whereof shall be hung up or affixed on some conspicuous Part of the Chapel in the consecrated Part of the Cemetery: Provided always, that whenever such Rotation shall not be so appointed as aforesaid, such Duty shall devolve on the several Incumbents of the Parishes of *Saint Mary Holy Rood*, *Saint Michael*, and *All Saints*, and the Incumbent of the united Parishes of *Saint Laurence* and *Saint John*, within the Borough of *Southampton* respectively, in the Rotation in which their respective Parishes are herein named, and shall commence accordingly from the Time of the Consecration of the consecrated Part of the Cemetery.

Other Clergymen to be allowed to officiate.

LXIV. And be it enacted, That it shall be lawful for any Clergyman of the Established Church, at the Request of the Executor of any deceased Person, or any other Person having the Charge of the Interment of any deceased Person, and with the previous Consent in Writing of the Incumbent, on whom according to the Provisions of this Act the Duty of performing the Burial Service on the Interment of such Deceased may devolve, to perform the Burial Service according to the Rites of the Established Church, on such Interment in the consecrated Part of the Cemetery.

Burial Services not to be performed in the consecrated and unconsecrated Parts at the same Time.

LXV. And be it enacted, That it shall not be lawful for any Dissenting Minister or other Person to perform any Burial Service in the unconsecrated Part of the Cemetery during any Part of the Time when the Burial Service is being performed in the consecrated Part thereof, or for any Clergyman of the Established Church to perform the Burial Service in the consecrated Part of the Cemetery during any Part of the Time when any Burial Service is being performed in the unconsecrated Part thereof; and in case any Clergyman, Dissenting Minister, or other Person shall act contrary to this Provision, he shall for every such Offence forfeit a Sum not exceeding Ten Pounds: Provided always, that nothing herein contained shall prevent Burial Services being performed at one and the same Time in the consecrated

crated and unconsecrated Parts of the Cemetery with the mutual Consent of the Clergyman and of the Dissenting Minister or other Person there and then officiating.

Fee to be paid for Interments.

LXVI. And be it enacted, That the Mayor, Aldermen, and Burgesses shall, on the Interment of every Corpse within the consecrated Part of the Cemetery, pay to the Incumbent by whom or by whose Deputy or with whose Consent the Burial Service at such Interment shall, according to the Provisions of this Act, have been performed, and the Mayor, Aldermen, and Burgesses shall, on the Interment of every Corpse within the unconsecrated Part thereof, pay to the Dissenting Minister or other Person who shall, according to the Provisions of this Act, have performed the Burial Service at such Interment, the Sums following; (that is to say,)

For every Corpse interred in a Vault or Catacomb, the Sum of One Pound and Six Shillings:

For every Corpse interred in a steened or Brick Grave, the Sum of Ten Shillings and Sixpence:

For every Corpse interred in the open Ground, the Sum of Three Shillings.

Accounts of Interments and of Fees to be made up half-yearly.

LXVII. And for the purpose of ascertaining the Amount of Fees payable to the several Incumbents, be it enacted, That the Mayor, Aldermen, and Burgesses shall cause Books to be kept, and Entries to be made therein of the Names of all deceased Persons interred within the consecrated Part of the Cemetery, and the Names of the Parishes from which such deceased Persons respectively shall have been removed, and the Mode of their Interment within the Cemetery, (distinguishing whether in a Vault or Catacomb, or a steened or Brick Grave, or in the open Ground,) together with the Dates of such Interments, and the Names of such of the said several Incumbents as, according to the Provisions of this Act, ought to have officiated thereat, and the Name of the Clergyman who actually officiated thereat, and shall Twice in every Year, that is to say, on the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, unless such Day shall fall on a *Sunday*, and then on the Day next following, cause an Account to be made up in such Books of all Fees, if any, payable to the said several Incumbents as aforesaid in respect of Interments during the then preceding Half Year ending on the Twenty-fifth Day of *March* or the Twenty-ninth Day of *September*, as the Case may be, distinguishing the Amount payable to each of them, and the Interments in respect whereof the same became payable; and such Books shall be at all seasonable Times open to the Inspection of the said several Incumbents, or any Persons claiming under or employed by them, without Fee or Reward.

Account of Fees to be rendered half-yearly by the Corporation.

LXVIII. And be it enacted, That the said Mayor, Aldermen, and Burgesses shall on the Twenty-fifth Day of *March* in each Year, or within One Month afterwards, deliver to each of the Persons who shall have been the several Incumbents on that Day, or to his Executors or Administrators, on Demand, a Copy or Extract of the said Account, showing the Fees which shall be payable to him as aforesaid between the said Twenty-fifth Day of *March* inclusive and the Twenty-

Twenty-ninth Day of *September* preceding exclusive; and the Mayor, Aldermen, and Burgesses shall on the Twenty-ninth Day of *September* in each Year, or within One Month afterwards, deliver to each of the Persons who shall have been the said several Incumbents on that Day, or to his Executors or Administrators, on Demand, a Copy or Extract of the said Account, showing the Fees which shall be payable to him as aforesaid between such Twenty-ninth Day of *September* inclusive and the Twenty-fifth Day of *March* preceding exclusive.

Fees to be paid half-yearly.

LXIX. And be it enacted, That the Fees payable to each of the said several Incumbents by virtue of this Act shall be paid half-yearly at the Time of the Delivery of such half-yearly Account as aforesaid, or at any Time thereafter, on Demand, to the Person who shall be such Incumbent on the Twenty-fifth Day of *March* and Twenty-ninth Day of *September*, or to the Executors or Administrators of such Person; (that is to say,) such Fees as shall accrue between the Twenty-ninth Day of *September* exclusive and the Twenty-fifth Day of *March* following, inclusive, shall be paid to the Person who shall be such Incumbent on the Twenty-fifth Day of *March*, and such Fees as shall accrue between the Twenty-fifth Day of *March* exclusive and the Twenty-ninth Day of *September* following, inclusive, shall be paid to the Person who shall be such Incumbent on the Twenty-ninth Day of *September*; and if any such Fees shall not be paid to the Party entitled to receive the same within the Period herein-before limited for the Payment thereof, it shall be lawful for such Party to recover the same by Action of Debt or on the Case in any of the Superior Courts.

Payment to be made to the Incumbent for the Time being, who is to account with his Predecessor.

LXX. And be it enacted, That if either of the said several Incumbents shall cease to be Incumbent, by Cession, Death, or otherwise, between the said Two half-yearly Days, such Person shall be entitled to receive so much of the Sum payable to the Incumbent for the Time being of the Parish of which such Person shall have ceased to be Incumbent, at the half-yearly Day which shall happen next after such Person shall cease to be Incumbent, as shall have accrued from the last preceding half-yearly Day, or from the Time when such Person became first entitled to receive the Fruits of his Living, as the Case may require, up to and inclusive of the Day at which he ceased to be Incumbent; and each of the said several Incumbents who shall receive from the Mayor, Aldermen, and Burgesses any Sum, to a Part of which any preceding Incumbent shall be entitled under the Provisions herein contained, shall pay such Part to him, his Executors or Administrators, and the Mayor, Aldermen, and Burgesses shall not be answerable to any Person other than the actual Incumbent for the Time being for the Payment of any Fees or Arrears of Fees by virtue of this Act.

Application of Monies.

LXXI. And be it enacted, That the Monies arising by Sale of Rights of Burial and otherwise in respect of the said Cemetery shall be received by the said Mayor, Aldermen, and Burgesses, and shall be carried to the Credit of the said "Cemetery Account," and shall be applied by them, in the first place, in Payment of the Expences of

keeping

keeping up and maintaining the said Cemetery, and of the Fees, Salaries, and Wages of the Officers and Servants connected therewith, and of the Fees payable to the Incumbents of the several Parishes as herein-before mentioned, also in keeping down the Interest of any Principal Monies which may be borrowed, and in paying any Annuities which may be granted by virtue of this Act, and in paying off such Principal Monies, and in paying any other Expences which may be incurred in carrying this Act into execution; and in case any Surplus shall remain after making due Provision for the several Purposes herein-before mentioned or referred to, and after Repayment of any Sums of Money which shall theretofore have been taken from the Borough Fund under the Provisions herein-after contained, the same shall from Time to Time be applied to the Purposes of the said Cemetery, and to the Improvement and Enlargement thereof, or to the Reduction of the Charges for Burials.

Provision for supplying any Deficiency in the Cemetery Account.

LXXII. And be it enacted, That in case at any Time there shall not be standing to the Credit of the said "Cemetery Account" a sufficient Sum of Money to answer any Payment hereby directed to be made for the Purposes of this Act by the Mayor, Aldermen, and Burgesses, they shall cause the Deficiency to be made good by the Transfer, from the general Account of the Borough Fund to the Credit of the said "Cemetery Account," of a sufficient Sum of Money, so that such Payment may be duly made as hereby directed.

The Corporation may transfer Sums to the Cemetery Account, with the Consent of the Treasury.

LXXIII. Provided always, and be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses at any Time to cause to be transferred from the general Account of the Borough Fund to the Credit of the said "Cemetery Account," and to be applied for the Purposes of this Act, any Sums of Money, not exceeding Four hundred Pounds in any one Year, for the Transfer whereof accordingly they shall previously have obtained the Approbation of the Lords Commissioners of Her Majesty's Treasury for the Time being, or of any Three of such Lords Commissioners, such Approbation to be applied for and obtained in the Manner pointed out by the aforesaid Act passed in the Session of the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, or as near thereto as Circumstances may for the Time being permit.

The Chapels and other Buildings exempted from all parochial and other Taxes.

LXXIV. And be it enacted, That the Cemetery hereby authorized to be established, and the several Chapels and other Buildings erected and to be erected thereon, and the Vaults, Graves, Catacombs, and Places of Burial made or to be made therein, shall be freed, exempted, and discharged of and from the Payment of all and all Manner of parochial Taxes, Rates, and Assessments to any Parish or Place whatsoever.

Penalty for damaging the Cemetery.

LXXV. And be it enacted, That if any Person shall in any Manner wilfully daub or paint, write or draw upon, or otherwise disfigure or deface, or paste or affix any Bill or other Thing, or play at Ball or Fives, upon or against, or obstruct, or pull down, cut, break, or dig into, or otherwise injure, the Cemetery or any Part thereof, or any Chapel, Building, Monument, Cenotaph, Tablet, Gravestone, Head-

Head-stone, Foot-stone, or other Erection, or Vault, Catacomb, or Grave, within the Cemetery or any Part of the same respectively, or any monumental or other Inscription upon or within the Cemetery or any Part thereof, or any Plan, Book, Notice, Vestment, Implement, Utensil, Article, or Thing within or belonging to or connected with the Cemetery or any Part of the same respectively, or any Tree, Shrub, Plant, Embellishment, Bank, Railing, Fence, Door, Gate, Post, Pillar, Wall, Sewer, Drain, Road, or Approach of or belonging to or connected with the Cemetery, or any other Part of the said Piece of Land herein-before described or any Part of the same respectively, or the Soil of the Cemetery or any other Part of the same Piece of Land or any Part thereof, without the Consent of the Mayor, Aldermen, and Burgesses first had and obtained, every such Person shall for every such Offence forfeit any Sum not exceeding Five Pounds, and shall also make Satisfaction for the Injury done by him as aforesaid: Provided always, that nothing herein contained shall prevent the Inhabitants of *Southampton* from exercising over such Part of the said Piece of Land herein-before described as the Mayor, Aldermen, and Burgesses shall for the Time being leave open to the Public all such Rights of Common and other Rights, if any, as such Inhabitants may lawfully exercise over the other Parts of the said *Southampton Common*.

Penalty for Nuisance in the Cemetery.

LXXVI. And be it enacted, That if any Person shall play at any Game, or discharge Fire-arms, other than at a Military Funeral, in the said Cemetery, or shall make any Noise to the Disturbance of any Persons assembled in the said Cemetery for the Purpose of interring any Corpse therein, or commit any Nuisance within the said Cemetery or any Part thereof, he shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds.

Provision for Damages not otherwise provided for.

LXXVII. And be it enacted, That in all Cases where any Damages or Charges are by this Act directed or authorized to be paid, and the Method of ascertaining the Amount thereof is not provided for, such Amount, in case of Nonpayment thereof, or of any Dispute respecting the same, shall be ascertained and determined by Two or more Justices; and when by this Act any Damage or Charges are directed to be paid in addition to the Penalty for any Offence, the Amount of such Damages and Charges, in case of Nonpayment thereof, or of any Dispute concerning the same, shall be determined by the Justices by whom the Offender shall be convicted of such Offence; and on Nonpayment of the Damages or Charges in any of the Cases aforesaid, on Demand, the same shall be levied by Distress, and such Justices shall issue their Warrant accordingly.

Justices to examine Parties and Witnesses.

LXXVIII. And be it enacted, That where in this Act any Question of Compensation or Damages is referred to the Determination of any Justice, it shall be lawful for such Justice to examine the Parties to such Question, and their Witnesses, on Oath, and to administer the Oaths necessary for that Purpose; and the Costs of every such Inquiry shall be in the Discretion of such Justice; and if either Party to any such Question fail to appear at the Time and Place appointed by the Justice for going into any such Question, without

without reasonable Excuse to the Satisfaction of such Justice, due Notice of such Appointment having been given to such defaulting Party, it shall be lawful for such Justice to proceed *ex parte*.

Distress against the Corporation; or against the Treasurer.

LXXIX. And with respect to any Sum of Money under the Provisions of this Act adjudged by any Justice to be paid by the Mayor, Aldermen, and Burgesses, for which no other Mode of Proceeding is provided by this Act, be it enacted, That if such Money be not paid by the said Mayor, Aldermen, and Burgesses to the Party entitled to receive the same within Thirty Days after Demand thereof in Writing, stating the Order of the Justice for the Payment of such Money, the Amount may be recovered by Distress, and the Justice by whom such Sum of Money shall have been ordered to be paid, or any other Justice, on Application, shall issue his Warrant accordingly; and if sufficient Goods or Effects of the Mayor, Aldermen, and Burgesses cannot be found whereon to levy such Sum of Money the same may be recovered by Distress of the Goods of the Treasurer of the Mayor, Aldermen, and Burgesses, and the Justice aforesaid, or any other Justice, on Application, shall issue his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer or left at his Residence.

Reimbursement of the Treasurer.

LXXX. And be it enacted, That if such Treasurer pay any Money under any such Distress as aforesaid he may retain the Amount so paid by him, and all Costs and Expences occasioned thereby, out of any Money belonging to the Mayor, Aldermen, and Burgesses coming into his Custody and Control, or he may sue for the same against the Mayor, Aldermen, and Burgesses by Process at Law.

Publication of Penalties.

LXXXI. And for the Purpose of providing for the due Publication of all Penalties and Forfeitures exigible under this Act, be it enacted, That from Time to Time the Mayor, Aldermen, and Burgesses shall publish the short Particulars of the several Offences for which any such Penalty is imposed by this Act, and of the Amount of every such Penalty, and shall cause such Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the Cemetery, and, where any such Penalties are of local Application, shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have reference; and such Particulars shall be renewed as often as the same, or any Part thereof, is obliterated or destroyed; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner herein-before required: Provided nevertheless, that in all Cases of Prosecution it shall be sufficient to prove that a printed Paper or painted Board containing such Particulars hath been affixed and published in manner aforesaid, and in case of its being afterwards displaced or damaged hath been replaced by another as soon as conveniently might be.

LXXXII. And

Defacing Boards used for the Publication of Penalties.

LXXXII. And be it enacted, That if any Person pull down or break or deface any such Board put up or affixed as required by this Act for the Purpose of publishing any Bye Law or Penalty, or shall obliterate any of the Letters or Figures thereon, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, and he shall also defray the Expences attending the Restoration of such Board, with a Notice thereon, and such Expences shall be recoverable as any Penalty by this Act imposed may be recovered.

Penalties to be summarily recovered before Two or more Justices.

LXXXIII. And for the Purpose of providing for the Recovery of Penalties or Forfeitures imposed by this Act, the Recovery of which is not otherwise provided for, be it enacted, That every such Penalty or Forfeiture may be recovered by summary Proceeding, upon Complaint made before One or more Justices; and on the Complaint being made to any such Justice he shall issue a Summons requiring the Party complained against to appear on a Day and at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person or by leaving the same with some Inmate at his usual Place of Abode; and either upon the Appearance, or upon the Default to appear, of the Party offending, it shall be lawful for any Two or more Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for any Two or more Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties may be levied by Distress.

LXXXIV. And be it enacted, That if forthwith upon any Adjudication as aforesaid the Amount of the Penalty or Forfeiture and of such Costs as aforesaid be not paid, the Amount of such Penalty and Costs, together with the Costs of the Distress, shall be levied by Distress, and any Two Justices shall issue their Warrant of Distress accordingly.

Imprisonment in default of Distress.

LXXXV. And be it enacted, That it shall be lawful for the Justices to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Distress to be issued for levying such Penalty or Forfeiture and Costs, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justices, for his Appearance before them on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if, before issuing such Warrant of Distress, it shall appear to the Justices, by the Admission of the Offender or otherwise, that no sufficient Distress can be had whereon to levy such Penalty or Forfeiture and Costs, they may, if they think fit, refrain from issuing such Warrant of Distress, and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to the Justices, then such Justices shall, by Warrant, cause such Offender to

to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture and Costs be sooner paid and satisfied.

Application of Penalties.

LXXXVI. And with respect to the Application of any Penalties or Forfeitures recovered by virtue of this Act, the Application whereof is not herein otherwise provided for, be it enacted, That the Justices by whom any such Penalty or Forfeiture shall be imposed shall award one Half thereof to the Informer, and the other Half to be applied for the Benefit of the Poor of the united Parishes within the Town and County of the Town of *Southampton*, and shall order the same to be paid over to the Overseers for that Purpose.

Penalties to be sued for within Six Months.

LXXXVII. And be it enacted, That no Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this Act for any Offence herein-before made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

Penalty on Witnesses making default.

LXXXVIII. And be it enacted, That it shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction under the Provisions of this Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person who shall be summoned as a Witness before any Justice touching any Offence committed against this Act, or any Matter in which such Justice shall have Jurisdiction by the Provisions of this Act, shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Transient Offenders.

LXXXIX. And with respect to Offenders whose Names and Residences are not known, be it enacted, That any Sexton, Officer, or Agent of the said Mayor, Aldermen, and Burgesses, and all Persons called by him to his Assistance, may seize and detain any Person who shall have committed any Offence against the Provisions of this Act, and whose Name and Residence shall be unknown to such Officer or Agent, and may convey him with all convenient Dispatch before some Justice, without any Warrant or other Authority than this Act, and such Justice shall proceed with all convenient Dispatch to the hearing and determining of the Complaint against such Offender.

Form of Conviction.

XC. And be it enacted, That the Justices before whom any Person shall be convicted of any Offence against this Act may cause the Conviction to be drawn up according to the Form in the Schedule (F.) to this Act annexed.

Informalities.

XCI. And be it enacted, That no Proceeding in pursuance of this Act shall be quashed or vacated for Want of Form, nor shall the same be removed, by Certiorari or otherwise, into any of the Superior Courts.

Distress, how to be levied.

XCII. And be it enacted, That where in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expences of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not unlawful for Want of Form.

XCIII. And be it enacted, That no Distress levied by virtue of this Act shall be deemed unlawful, nor shall the Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Parties may appeal to Quarter Sessions on giving Security.

XCIV. And be it enacted, That if any Person shall think himself aggrieved by any Determination or Adjudication of any Justice under the Provisions of this Act he may appeal to the General Quarter Sessions for the County in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless Notice of the Intention of Appeal be given within Twenty-one Days after Conviction, nor unless such Appeal be made within Four Months after the making of such Determination or Adjudication, and unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, and unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Court may make such Order as they think reasonable.

XCV. And be it enacted, That at the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant or levied by Distress upon his Goods to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

Rights of Timber preserved to the Corporation.

XCVI. And be it enacted, That the Mayor, Aldermen, and Burgesses shall, after the passing of this Act, have the like Property in and Right of Disposal of the Trees, Shrubs, and Plants now standing and growing in and upon the said Piece of Land herein-before described, or any Part thereof, and also in and of all such Trees, Shrubs, and Plants as shall at any Time hereafter be planted or grow in or upon the said Piece of Land, or any Part thereof, as they now

have in and of the Trees, Shrubs, and Plants standing and growing in and upon any other Part of the said *Southampton Common*: Provided always, that it shall not be lawful for the Mayor, Aldermen, and Burgesses to remove, fell, or cut, except so far as may be necessary for the proper Embellishment or laying out of the Cemetery, or in the Way of reasonable pruning or Culture, any Tree, Plant, or Shrub which may have been planted or set within the Cemetery, with the Consent of the Mayor, Aldermen, and Burgesses, by and at the Expence of any Person entitled to any exclusive Right of Burial in the Cemetery, or by and at the Expence of any Relative or Friend of such Person, and in case the Mayor, Aldermen, and Burgesses shall act contrary to this Provision they shall make good the Injury done, and also for every such Offence forfeit any Sum not exceeding Five Pounds.

As to Interments in the Churchyard of Saint Mary's.

XCVII. And whereas the Churchyard of *Saint Mary's* Parish in the said Borough is so filled as to render it impossible to find adequate Room for the decent Interment of Corpses therein; be it therefore enacted, That from and after the Consecration of the said Cemetery no Interment shall take place within the said Churchyard for a Period of Fourteen Years then next, except in Vaults or Brick Graves already constructed; and from and after the Expiration of such Period of Fourteen Years it shall be lawful for the Rector for the Time being of the said Parish of *Saint Mary's*, with the Concurrence of the Lord Bishop of the Diocese, to make Orders for suspending, for limited Periods, from Time to Time the Interment of the Dead within the said Churchyard of *Saint Mary's*, except in Vaults or Brick Graves, and a Copy of every such Order shall, within Fourteen Days from the making thereof, be affixed to the principal outer Door of the Church of the said Parish; and if any Person shall dig or attempt to dig a Grave in the said Churchyard during any such Period as aforesaid he shall for every such Offence forfeit the Sum of Fifty Pounds: Provided always, that in no Case shall Interments take place in any such Vaults or Brick Graves unless the Coffin containing the Corpse interred be so placed as that the upper Surface of such Coffin shall be at least Four Feet Six Inches below the Surface of the Ground wherein the Interment is made.

Penalty for digging Graves contrary to Prohibition.

XCVIII. And be it enacted, That if any Person shall dig or attempt to dig a Grave in *Saint Mary's* Churchyard contrary to the Provisions of this Act, or in any other Churchyard contrary to such Order as aforesaid, he shall for every such Offence forfeit the Sum of Fifty Pounds, any Law, Usage, or Custom to the contrary notwithstanding.

Sums to be paid on Burial of Corpse from the Ecclesiastical District of Shirley.

XCIX. And whereas there is at present a good and sufficient Burial Ground within the Ecclesiastical District of *Shirley* near to the said proposed Cemetery, and beyond the Limits of the Borough of *Southampton*; be it therefore enacted, That the said Mayor, Aldermen, and Burgesses shall charge for the Interments of all Corpses brought from the said Ecclesiastical District to be buried in the said Cemetery not less than the Sum of Twelve Shillings and Sixpence if buried in the open Ground, and Five Pounds Five Shillings if buried in a Brick Grave.

C. And

Interpretation of Act.

C. And be it enacted, That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

Words importing the Masculine Gender shall include Females:

The Word "Month" shall mean Calendar Month:

The Word "Person" shall include Corporation, whether Aggregate or Sole:

The Word "Oath" shall include Affirmation in case of Quakers, or other Declaration or Solemnity lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath:

The Word "Justice" shall mean Justice of the Peace acting within the Limits of this Act, and not interested in the Matter in question:

The Expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster*:

The Expression "the Established Church" shall mean the United Church of *England* and *Ireland* as by Law established:

The Expression "the Cemetery" shall mean the Cemetery constituted by virtue of this Act:

The Expression "the Mayor, Aldermen, and Burgesses" shall mean the Mayor, Aldermen, and Burgesses for the Time being of the Borough of *Southampton*:

The Expression "the Secretary" shall mean the Secretary for the Time being appointed by virtue of this Act:

The Expression "the Treasurer" shall mean the Treasurer for the Time being of the Borough of *Southampton*:

The Expression "several Incumbents" shall mean the respective Rectors and Vicars for the Time being of the several Parishes of *All Saints*, *Saint Mary Holyrood*, and *Saint Michael*, and of the united Parishes of *Saint Lawrence* and *Saint John*, and the Incumbent for the Time being of the Tithing of *Portswood*, all within the Borough of *Southampton*, and the respective Incumbents for the Time being of any Ecclesiastical Districts which may hereafter be lawfully established within the said Borough:

The Word "Incumbent" shall mean the Rector, Vicar, Perpetual Curate, or other Incumbent for the Time being of any Parish, Tithing, or Ecclesiastical District whatsoever for the Time being within the Borough of *Southampton*:

The Word "Parish" shall include Tithings and Ecclesiastical Districts for the Time being.

Public Act.

CI. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

SCHE-

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Form of Mortgage Deed.

By virtue of an Act passed, *&c.*, intituled, *&c.*, we, the Mayor, Aldermen, and Burgesses of the Borough of Southampton, in consideration of the Sum of paid to us by *A.B.* of for the Purposes of the said Act, do grant and assign unto the said *A.B.*, his Executors, Administrators, and Assigns, such Proportion of the Property of the said Undertaking, and the Profits arising or to arise from the Sale or Disposal of Graves, Vaults, and Privilege of Interment, or any other Sums of Money arising by virtue of the said Act, as the said Sum of doth or shall bear to the whole Sum which is or shall be borrowed upon the Credit of the said Undertaking, and also [*describe any other Property of the Mayor, Aldermen, and Burgesses which is to form Part of the Security*], to hold to the said *A.B.*, his Executors, Administrators, and Assigns, from this Day until the said Sum of with Interest at per Centum per Annum for the same, shall be fully paid and satisfied. In witness whereof we have hereunto affixed our Corporate Seal this Day of One thousand eight hundred and .

SCHEDULE (B.)

Form of Grant of Annuity.

By virtue of an Act passed, *&c.*, intituled, *&c.*, we, the Mayor, Aldermen, and Burgesses of the Borough of Southampton, in consideration of the Sum of paid by *A.B.*, do grant unto the said *A.B.* an Annuity or yearly Sum of to be issuing out of the Property of the said Undertaking, and the Profits arising or to arise from the Sale or Disposal of Graves, Vaults, and Privilege of Interment, or any other Sums of Money arising by virtue of the said Act, or [*describe any other Property of the Mayor, Aldermen, and Burgesses which is to form Part of the Security*], to be paid to the said during the Term of his natural Life [*or, as the Case may be*, to the said his Executors, Administrators, or Assigns, during the natural Life of *or* during the natural Life of and and the Life of the Survivor], upon the Day of and the Day of in every Year during his natural Life [*or, as the Case may be*, during the natural Life of the said *or* of the said and and the Survivor of them], the first Payment thereof to be made

made upon the Day of next ensuing the Date hereof. In witness whereof we have hereunto affixed our Corporate Seal the Day of in the Year One thousand eight hundred and .

SCHEDULE (C.)

Form of Transfer of Mortgage or Grant of Annuity.

I *A. B.* of in consideration of the Sum of paid to me by *C. D.* of do hereby transfer to the said *C. D.*, his Executors, Administrators, and Assigns, a certain Mortgage, Number [*or* a certain Grant of Annuity, Number *as the Case may be*], made by the Mayor, Aldermen, and Burgesses of the Borough of Southampton, in pursuance of an Act, intituled [*Title of the Act*], to bearing Date the Day of for securing the Sum of and Interest, [*or* for granting an Annuity of *as the Case may be; or, if such Transfer be by Endorsement*, the within Security,] and all my Right, Estate, and Interest in and to the Money thereby secured, [*or* the Annuity thereby granted,] and in and to the Property thereby assigned. In witness whereof I have hereunto set my Seal this Day of One thousand eight hundred and .

SCHEDULE (D.)

Form of Grant of Right of Burial, &c.

The Southampton Cemetery.

By virtue of an Act passed, *&c.*, intituled, *&c.*, we, "The Mayor, Aldermen, and Burgesses of the Borough of Southampton," in consideration of the Sum of to us paid by *A. B.* of do hereby grant and convey unto the said *A. B.* the exclusive Right of Burial and Interment [*or, as the Case may be*, the Right and Privileges of erecting, and the exclusive Right of Burial when made,] in all [*here describe the Vault, Catacomb, or Place of Burial, or for the Erection of a Monument or Gravestone (as the Case may be) so as to identify the same*], to hold the same unto the said *A. B.*, his Executors, Administrators, and Assigns, in perpetuity [*or for the Period agreed upon*] for the Purpose of Burial, *or as the Case may be.* Given under our Corporate Seal this Day of in the Year of our Lord .

SCHEDULE (E.)

Form of Assignment of Right of Burial, &c.

The Southampton Cemetery.

I *A. B.* of in consideration of the Sum of paid to me by *C. D.* of do hereby assign unto the said *C. D.*

C.D. the exclusive Right of Burial or Interment in all [*here describe the Vault, Catacomb, or Burial Place,*] which was granted to me [*or* unto *A.B.* of] in perpetuity [*or as the Case may be*] by "The Mayor, Aldermen, and Burgesses of the Borough of Southampton," by a Deed bearing Date the Day of and all my Estate, Title, and Interest therein, to hold the same unto the said *C.D.*, his Executors, Administrators, and Assigns, in perpetuity [*or* (*as the Case may be,*) for the Remainder of the Period for which the same was granted by the said Mayor, Aldermen, and Burgesses,] subject to the same Conditions as I held the same immediately before the Execution hereof.

Witness my Hand and Seal this Day of .

SCHEDULE (F.)

Form of Conviction.

} Be it remembered, That on the Day of
to wit. } in the Year of our Lord One thousand eight hundred and *A.B.* is convicted before me *C.D.*, One [*or* us *C.D.* and *E.F.*, Two] of Her Majesty's Justices of the Peace for the County of for that the said *A.B.*, after the passing of a certain Act of Parliament passed in the Year of the Reign of Her Majesty Queen Victoria, intituled [*here insert the Title of this Act*], on the Day of in the Year at the Parish of [*here state the Offence*], for which Offence I [*or* we] do adjudge the said *A.B.* to have forfeited [*if the Offence be subject to a Fine*] the Sum of [*here insert the Penalty*] together with the Sum of for Costs [*if any*] given; *or if to be imprisoned, then,* to adjudge the said *A.B.* to be committed to the [*naming the Gaol*] for the Space of [*insert the Time*], [*and if the Commitment be for Nonpayment of a Penalty, then add,* unless the said Sum of shall be sooner paid]. Given under my Hand and Seal [*or* our Hands and Seals] the Day and Year first above written. *C.D.* [*or C.D.* and *E.F.*]

London: Printed by George E. Eyre and Andrew Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1843.