



ANNO SECUNDO

# VICTORIÆ REGINÆ.

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## Cap. v.

An Act for enabling the General Cemetery Company to raise a further Sum of Money; and for amending the Act relating to the said Cemetery.  
 [14th May 1839.]

**W**HEREAS an Act was passed in the Third Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for establishing a General Cemetery for the Interment of the Dead in the Neighbourhood of the Metropolis*: And 2 & 3 W. 4. c. 110. whereas by the said Act the General Cemetery Company were authorized to raise by Subscription a Sum of Money for making and maintaining the said Cemetery and the Works belonging thereto, not exceeding in the whole the Sum of Forty-five thousand Pounds; and the said Company were further authorized, in case such Sum should be found insufficient for the Purpose, to borrow and take up at Interest any further or other Sum of Money not exceeding the Sum of Fifteen thousand Pounds by Mortgage on the Credit of the said Undertaking: And whereas the whole of the said Sum of Forty-five thousand Pounds has been subscribed for and raised, and the said Sum of Fifteen thousand Pounds has been borrowed, in pursuance of the Powers of the said recited Act: And whereas it is expedient that the said Company should be empowered to raise an additional Sum of Money, and that some of the Provisions of the said Act

[Local.] Z should



Provisions  
and Powers  
of recited Act  
extended to  
this Act.

should be extended, amended, and enlarged, and that further and more effectual Powers should be granted to the said Company; but the Purposes aforesaid cannot be effected without the Aid and 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, That all the Powers, Provisions, Authorities, Directions, Penalties, Forfeitures, Remedies, Regulations, Rules of Interpretation and Construction, Clauses, Matters, and Things contained in the said recited Act (except so far as the same are hereby repealed, varied, altered, enlarged, or otherwise provided for,) shall extend and be construed to extend to and shall operate and be in force for the Purposes of this Act as fully and effectually to all Intents and Purposes as if the same had been repeated and re-enacted in this Act and were made Part thereof; and the said recited Act and this Act shall, as to all Matters and Things whatsoever, except as aforesaid, be construed as One Act.

Repealing so  
much of re-  
cited Act as  
regards the  
Limitation  
of Actions.

II. And be it further enacted, That so much of the said recited Act as enacts that no Action, Suit, or Information, nor any other Proceeding, should be brought, commenced, or prosecuted against any Person for any thing done or omitted to be done in pursuance of that Act unless Ten Days previous Notice in Writing should be given by the Party intending to commence and prosecute such Action, Suit, or other Proceeding to the Defendant, nor unless such Action, Suit, or Information or Proceeding should be brought or commenced within Six Calendar Months next after the Act committed, or within Six Calendar Months after the doing or committing Damage should have ceased, nor unless such Action, Suit, Information, or Proceeding should be laid and brought in the County or Place within which the Matter or Dispute or Cause of Action should have arisen, and the Defendant or Defendants in such Action, Suit, Information, or Proceeding might plead the General Issue, and give that Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the Acts were done or omitted to be done in pursuance and by the Authority of that Act, shall be and the same is hereby repealed.

Amending  
References  
to recited  
Act.

III. And whereas in the Form of the Mortgage Security, as well as in the Form of the Grant of the exclusive Right of Burial, and also in the Forms of Information and Conviction, contained in the said recited Act, and thereby directed to be used, the said Act is stated to be an Act passed in the Second Year of the Reign of His Majesty King *William* the Fourth: And whereas the said recited Act did not receive the Royal Assent until the Eleventh Day of *July* One thousand eight hundred and thirty-two, which was in the Third Year of the Reign of His said Majesty, and consequently the said Act is an Act of the Third Year of the Reign of His said Majesty, and not an Act of the Second Year of the said Reign, as incorrectly stated in the said Act: And whereas it is expedient to guard against any Doubt which may arise in consequence of such incorrect Statement; be it therefore enacted, That when and so  
often



often as it shall be necessary to have recourse to or to use any of the Forms contained in the said recited Act it shall be lawful to refer to the said Act as an Act passed in the Third Year of the Reign of His late Majesty King *William* the Fourth, any thing in the said recited Act to the contrary thereof in anywise notwithstanding.

IV. And be it enacted, That it shall be lawful for the said Com-  
 pany and they are hereby authorized and empowered from Time to  
 Time, by an Order of any General or Special General Meeting of  
 the said Company, to raise and contribute amongst themselves, or by  
 the Admission of new Subscribers, or in part by each of those  
 Means, any further Sum or Sums of Money not exceeding in the  
 whole the Sum of Forty-five thousand Pounds, and for that Purpose to  
 issue such and so many Shares, not exceeding in the whole Eighteen  
 hundred Shares of Twenty-five Pounds each, and to demand such  
 Price for the same, as the said Company shall think expedient;  
 and the said Company are hereby authorized to fix the Amount of the  
 Calls upon such Shares, and the Time or Times when the same shall  
 be made, and to enforce the Payment of such Calls when made; and  
 such new or additional Shares so to be created by virtue of this  
 Act shall be Personal Estate, and transmissible as such, and shall or  
 may be transferred or assigned from Time to Time, and shall and  
 may be forfeited for Nonpayment of any of the Calls made thereon,  
 in such and the same Manner as is provided in and by the said recited  
 Act with regard to the Shares therein mentioned and to the Calls to  
 be made thereon; and all Persons who shall severally subscribe for  
 One or more of the said new or additional Shares, and shall pay such  
 Sum or Sums of Money as shall be fixed by the said Company as the  
 Price of such new Shares, and their several and respective Executors,  
 Administrators, and Assigns, shall be and they are hereby declared  
 to be Subscribers to and Proprietors of the said Undertaking to the  
 Amount of the nominal Value of the Shares so subscribed for and  
 paid for by them, in the same Manner and as beneficially to all  
 Intents and Purposes as the original Subscribers, or their respective  
 Successors, Executors, Administrators, or Assigns, are Proprietors in  
 respect of their original Shares; and such new Subscribers and Pro-  
 prietors shall be deemed to be and are hereby declared to be thence-  
 forth united to and incorporated with the said Company, and shall  
 respectively be entitled to and receive a proportional Part of the  
 Profits and Advantages that shall and may arise and accrue from the  
 said Undertaking, and shall have a Vote or Votes in respect of such  
 new Shares at all Meetings of the said Company of Proprietors to  
 be held in pursuance of the said recited Act, with Power and Autho-  
 rity to appoint Proxies in their Room or Stead, in such Way and  
 Manner and to the same Extent to all Intents and Purposes as is and  
 are enacted and provided in and by the same Act with regard to the  
 original or present Proprietors of the said Undertaking; and all such  
 new Shares so to be created as aforesaid shall be considered as Part  
 of the general Capital Stock of the said Company, and be under  
 and subject to the same Provisions, Regulations, Directions, and  
 Management in all respects and to all Intents and Purposes as if  
 the

Power to  
 raise addi-  
 tional Sums  
 of Money by  
 Subscription.



the same had been Part of the original Capital Stock of the said Company.

Power to apply the reserved Fund in Payment of Debts.

V. And whereas in pursuance of the Provisions of the said recited Act a Tenth Part of the net Profits of the said Undertaking hath been set aside to form a reserve Fund for Payment of the Money raised by Mortgage of the said Undertaking under the Authority of the said Act: And whereas, such reserve Fund being insufficient for the immediate Payment of the Money so raised by Mortgage as aforesaid, it is expedient that a Part of the Monies to be raised under the Authority of this Act should be applied for that Purpose; be it therefore enacted, That it shall be lawful for the said Company, or their Trustees or Trustee, to sell out and convert into Money the several Stocks, Funds, and Securities constituting the reserve Fund, and to apply the Monies to arise or be produced thereby, and also any other Monies belonging to the said Fund, and also a sufficient Part of the Monies to be raised under the Authority of this Act, in paying off and discharging all and every the Sum and Sums of Money already taken up and due and owing on the Security of the said Undertaking and the Interest thereof respectively.

In case Mortgages are paid off the Company may raise the Amount again.

VI. And be it enacted, That nothing in this Act contained shall extend or be deemed or construed to extend to prevent the said Company, when and as soon as the Whole or any Part of the Money already raised by Mortgage of the said Undertaking shall have been paid off, from again taking up and borrowing from Time to Time, when and as they shall think it expedient so to do, on the Security of the said Undertaking, any further Sum or Sums of Money under the Authority and in pursuance of the Provisions contained in the said recited Act, so always nevertheless that the said Company shall not in any Event borrow upon Mortgage or Assignment in such Manner or to such Extent as that more than the Sum of Fifteen thousand Pounds in the whole shall be owing at one Time on Mortgage or Assignment of or as a Charge on the said Undertaking.

Fund for Repayment of Money borrowed to be set aside before Dividends are declared.

VII. And be it enacted, That so long as any Money which may have been borrowed or taken up by the said Company upon a Mortgage of the said Undertaking shall be due and owing on the Security thereof, the Directors of the said Company shall and they are hereby required, previously to declaring any Dividend out of the net Profits of the said Undertaking, to set apart One Tenth Part of such net Profits to form a Fund for the Purpose of discharging such Mortgage Debt, and the remaining Nine Tenth Parts only of such Profits shall be divisible between the Proprietors of the said Company; and that when and so soon as the whole of the Money which may at any Time have been borrowed or raised upon Mortgage of the said Undertaking shall have been paid off, then the whole of the net Profits shall be divisible among the Proprietors, until any Sum or Sums of Money shall again be borrowed upon the Security of the said Undertakings, when One Tenth Part of such net Profits shall again be set apart as herein-before directed, so that at all Times during the Subsistence of any Mortgage on the Security of the said



said Undertaking Nine Tenths only of the net Profits of the said Undertaking shall be divisible between the Proprietors of the said Company.

VIII. And be it further enacted, That it shall be lawful for the said Directors and they are hereby required from Time to Time to lay out and invest in the Names of Three Trustees, for and on the Behalf of the said Company, such Trustees to be nominated by the Directors, such One Tenth Part of the net Profits, as and when the same may be set apart as aforesaid, in the Three Pounds *per Centum* Consolidated or Reduced Bank Annuities, or both or either of such Stocks, as the said Directors shall deem expedient, and from Time to Time to lay out and invest the Dividends and Interests arising from such Stocks or Funds in the same Stocks or Funds, and in order that the same may accumulate at Compound Interest, until the Fund so formed shall, either of itself or with the Aid of other Monies to be provided by the said Company for that Purpose, be sufficient to pay off the whole of the Money borrowed or for the Time being owing on the Security of the said Undertaking, when the Fund so accumulated shall be sold out, and the Proceeds thereof, together with such other Monies as aforesaid, shall be distributed between the several Mortgage Creditors of the said Company in discharge and satisfaction of their said several Mortgage Securities: Provided always, that nothing herein contained shall prevent the said Company from paying off and discharging at any Time, with the Consent and Approbation of the Person lending the same, any Sum of Money borrowed upon the Security of the said Undertaking, so that the reserve Fund be not thereby broken in upon.

Reserved Fund to be invested, and the Dividends to be also invested, until a certain Event.

Proviso.

IX. And whereas it is by the said recited Act enacted, that it shall not be lawful to bury any Corpse within any Vault under the Chapel, or within any Vault or Catacomb which may be erected within any Part of the said Cemetery, unless the same shall be inclosed in a Coffin of Lead, or otherwise inclosed in Pitch, of Half an Inch in Thickness, between an interior and exterior Coffin of Wood: And whereas it is desirable and expedient that the said recited Provisions should be enlarged and extended; be it therefore further enacted, That it shall be lawful for the said Company to bury any Corpse within any Vault under any Chapel, or within any Vault or Catacomb within the said Cemetery, if inclosed in a Coffin formed of Stone, Asphaltum, or other Substance or Material equally efficient as if formed of Lead or Pitch and Wood as aforesaid.

Extension of the Provisions respecting the Burials in Vaults.

X. And be it further enacted, That if any Person shall play at Foot-ball, or any other Game or Sport, or discharge Fire Arms other than at a Military Funeral, in the said Cemetery, or shall let off or fire any Cracker, Squib, or other Firework, or shall blow any Trumpet or Horn, or shout or holla, or make any other Noise, or shall indecently expose his Person, or shall use any obscene or indecent Expression, or shall write or describe any indecent Language or Figure upon any Wall, Tomb or Tombstone, Post or Pavement, or write upon or otherwise deface or mark with Pencil, Chalk, Paint, or any other Material whatsoever any Tomb, Tombstone, or Monu-

For preventing Nuisances in the Cemetery.

[Local.]

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ment,



ment, or commit any Nuisance whatever within the said Cemetery or any Part thereof, or in any Chapel, Colonnade, Vault, or Building therein, every such Person shall forfeit and pay for every such Offence any Sum not exceeding Forty Shillings nor less than Five Shillings.

Forms of Information and Conviction :

XI. And be it further enacted, That all Justices of the Peace before whom any Person shall be informed against or convicted of or in respect of any Offence against the said recited Act or this Act may cause the Information (whenever an Information shall be taken in Writing or in Print) and the Conviction respectively to be drawn up according to the following Form; or any other Form or Forms to the same Effect, as the Case may require ; (that is to say,)

Form of Information.

‘ County } **BE** it remembered, That on the Day of  
 ‘ to wit. } *A. B.* of  
 ‘ informeth me *C. D.* One of Her Majesty’s Justices of  
 ‘ the Peace for that *E. F.* of  
 ‘ [*here describe the Offence, and the Time and Place when and where*  
 ‘ *committed*], contrary to an Act passed in the Third Year of the  
 ‘ Reign of His Majesty King *William* the Fourth, intituled [*insert*  
 ‘ *the Title of the said recited Act ; or, as the Case may be,*] contrary to  
 ‘ an Act passed in the Year of the Reign of Her Majesty  
 ‘ Queen *Victoria*, intituled [*here insert the Title of this Act*], which  
 ‘ hath imposed a Forfeiture of for the said Offence.  
 ‘ Taken the Day of before me, *C. D.*’

Form of Conviction.

‘ County } **BE** it remembered, That on the Day of  
 ‘ to wit. } in the Year of our Lord  
 ‘ *E. F.* is convicted before me *C. D.*  
 ‘ One of Her Majesty’s Justices of the Peace for  
 ‘ for that the said *E. F.* after the passing of a certain  
 ‘ Act of Parliament made and passed in the Third Year of the Reign  
 ‘ of His late Majesty King *William* the Fourth, intituled [*here set*  
 ‘ *forth the Title of the said recited Act*], and of another Act made and  
 ‘ 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  
 ‘ in the Parish of [*here state the Offence*], for which  
 ‘ Offence I do adjudge the said *E. F.* to have forfeited  
 ‘ [*if the Offence is to be subject to a Fine*] the Sum of [*insert a*  
 ‘ *Penalty*], together with the Sum of for Costs [*if any*  
 ‘ *given ; or if to be imprisoned, then*] do adjudge the said *E. F.* to be  
 ‘ committed to [*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 the Day and Year first above written.  
 ‘ *C. D.*’

Expences of this Act.

XII. And be it further enacted, That all the Costs, Charges, and Expences of and incident to the obtaining and passing of this Act, and all other Costs, Charges, and Expences relating to and concerning the same, shall be paid out of the Funds of the said Company in preference to all other Payments whatsoever.

XIII. And

XIII. And be it further enacted, That this Act shall be deemed Public Act. and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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