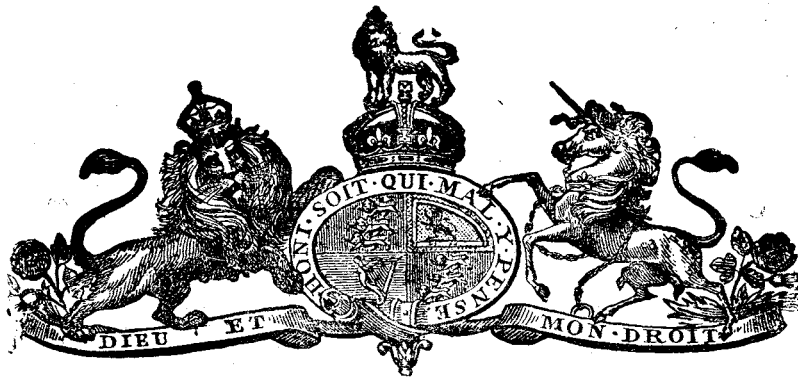


T A S M A N I A.



1919.

ANNO DECIMO

GEORGII V. REGIS.

No. 43.

ANALYSIS.

- |  |  |
|--|--|
| 1. Short title   | 6. Council may provide proper places for reception of remains. |
| 2. Interpretation.   | 7. Council may lay out disused ground as a public square, &c.  |
| 3. St. David's burial ground to vest in Corporation of Hobart.<br>Compensation to be paid to trustees. | 8. Council may place seats therein.                            |
| 4. Provision as to removal of remains and monuments.   | 9. Expenses.   |
| 5. Reinterment of remains.   | 10. By-laws.   |
|  | 11. Indemnity.   |



AN ACT to vest the disused Burial Ground, known as St. David's Burial Ground, in the Mayor, Aldermen, and Citizens of the City of Hobart, and to confirm a certain Agreement entered into between the Trustees of the property of the Church of England in Tasmania and the Corporation of the said City, and for other purposes.

A.D.  
1919

[24 December, 1919.]

WHEREAS the Trustees of the property of the Church of England in Tasmania and the Mayor, Aldermen, and Citizens of the City of Hobart, have entered into the Agreement, a copy of which is set out in the schedule to this Act, subject to the ratification thereof by the Parliament of Tasmania : PREAMBLE.

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And whereas it is desirable to ratify and confirm the said agreement, and to vest the said disused burial ground in the Mayor, Aldermen, and Citizens of the City of Hobart, to be available for the benefit, enjoyment, and use of the inhabitants of the said City, and that the Hobart City Council should have the control, regulation, and management thereof, and keep the same in good order.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

**1** This Act may be cited as "The St. David's Burial Ground Vesting and Improvement Act."

Interpretation.

**2** In the construction and for the purposes of this Act—

"The Council" means the Hobart City Council:

"The said disused ground" means the disused burial ground known as St. David's Burial Ground, a description whereof is set forth in the agreement forming the schedule hereto:

"The Trustees" means the trustees of the property of the Church of England in Tasmania.

St. David's  
burial ground  
to vest in  
Corporation of  
Hobart.

**3**—(1) The agreement set out in the schedule hereto, as modified by this Act, is hereby confirmed, and shall be read as part of this Act.

(2) On the passing of this Act the said disused ground shall, by force of this Act and without the necessity of any conveyance or transfer, vest in the Mayor, Aldermen, and Citizens of the City of Hobart and their successors for an estate in fee simple, for the purposes of this Act, freed and discharged from all estates, interests, trusts, obligations, contracts, licences, charges, rates, and rights-of-way or other easements.

Compensation to  
be paid to  
trustees.

(3) Immediately after the passing of this Act the Council shall pay to the trustees the sum of Four thousand five hundred Pounds as full compensation for all the estate and interest of the trustees in the said disused ground and in full consideration of all claims and demands which the trustees may have against the Council or otherwise, in respect of the vesting of the said disused ground in the Mayor, Aldermen, and Citizens of the City of Hobart in manner aforesaid, and the rights of all other persons whomsoever in the said disused burial ground, and in the graves, tombs, vaults, monuments, tombstones, and other memorials therein shall wholly cease, except in so far as the same may be preserved or varied by this Act.

Provision as to  
removal of  
remains and  
monuments.

**4** At least Three months before human remains, vaults, monuments, tombstones, or other memorials are removed by the Council, the following steps shall be taken:—

1. A statement shall be prepared sufficiently describing by the names and dates appearing thereon, the vaults, monuments, tombstones, and other memorials intended to be removed, and such other particulars as may be necessary so far as these can be deciphered:

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- ii. Such statement shall be deposited at the office of the Town Clerk, at the Town Hall, Hobart, and shall be open to inspection by all persons : A.D. 1919.
- iii. An advertisement of the intention to remove or change the position of any such remains, vaults, monuments, tombstones, or other memorials, shall be inserted Four times at least, at intervals of not less than Two weeks, in One daily newspaper published in Hobart, and One daily newspaper published in Launceston, and such advertisement shall give notice of the deposit of the said statement, and of the hours within which the same may be inspected :
- iv. A copy of such advertisement shall be placed upon the door of St. David's Cathedral, Hobart, and shall be delivered or sent by post to any person known or believed by the Council to be a near relative of any person whose death is recorded upon any such vault, monument, tombstone, or other memorial.
- 5** From and after the expiration of Six months from the appearance of the First of such advertisements as aforesaid, the Council may, at its own expense, cause the remains of any persons interred or deposited in the said disused ground to be reverently removed and interred or deposited in some other cemetery in or near the City of Hobart, or in some other portion of the said disused ground which may be set apart by the Council for that purpose, in such manner as the Council may determine. Reinterment of remains.
- 6** The Council may build upon or under any part of the said disused ground such ornamental structure or vaults for the reception of any such remains as shall not have been removed from the said disused ground as the Council deems appropriate. Council may provide proper places for reception of remains.
- 7** The Council may lay out the said disused ground as a public square or garden, and may construct streets, avenues, and walks therein or through the same, and may use any portion thereof for the purpose of widening or improving any of the existing streets, and may enclose, drain, level, turf, plant, ornament, beautify, embellish, light, and otherwise improve the said disused ground, or such part thereof as the Council thinks fit, and may do all such work or things, and employ such officers and servants as may be requisite for the purpose aforesaid or any of them. Council may lay out disused ground as a public square, &c.
- 8** The Council may provide seats, shelters, and other conveniences for the use of the public in the said disused ground in such places and manner as it may think fit, and the Council may erect ornamental buildings upon the said disused ground for the purpose of adorning the same. Council may place seats therein.
- 9** The Council may, out of its municipal fund, defray the costs, charges, and expenses which it may from time to time incur in the execution of this Act. Expenses.

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By-laws.

- 10**—(1) The Council may from time to time make by-laws—
- I. For the management of the said disused ground :
  - II. For the government and control of persons frequenting the said disused ground :
  - III. Regulating the days and times of admission thereto or exclusion therefrom, and the terms and conditions of admission, with power to charge for admission, on such occasions and for such purposes as the Council considers proper :
  - IV. For the preservation or protection of shrubs, trees, plants, flowers, and all improvements :
  - V. For the removal of trespassers and persons causing annoyance or inconvenience :
  - VI. For the preservation of order and prevention of nuisances :
  - VII. Generally for regulating the use and enjoyment of the said disused ground pursuant to this Act.

(2) The Council may by any such by-law impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches ; but no such penalty for any breach shall exceed Ten Pounds, nor Five Pounds each day in case of a penalty for a continuing daily breach ; and the Council may by any such by-law authorise a constable, or any officer, servant, or person appointed by the Council, to remove or arrest persons offending against any by-law.

(3) All such by-laws shall be made in the mode prescribed by "The Hobart Corporation Act, 1893."

(4) All offences against any by-law may be prosecuted, and all penalties may be recovered in a summary way before any One or more justices of the peace in the mode prescribed by "The Magistrates Summary Procedure Act."

Indemnity.

**11** This Act shall be a complete indemnity to all persons for any act done pursuant hereto, and to all parties to the said agreement, for or in respect of their concurrence therein.

**SCHEDULE.**

AN AGREEMENT made the Thirtieth day of October One thousand nine hundred and nineteen BETWEEN THE TRUSTEES OF THE PROPERTY OF THE CHURCH OF ENGLAND IN TASMANIA (hereinafter referred to as "the Church Trustees" which expression shall include their successors and assigns) of the one part and THE MAYOR ALDERMEN AND CITIZENS OF THE CITY OF HOBART (hereinafter referred to as "the Corporation" which expression shall include its successors and assigns) of the other part. WHEREAS by proclamation under the hand of Sir Charles Du Cane Governor of Tasmania and its Dependencies dated the Twenty-second day of July One thousand eight hundred and seventy-two the burial ground or cemetery known as "St. David's Burial Ground" was closed for burials as from the First day of November of that year and since that date no burials have been permitted therein. AND WHEREAS the said burial ground is situate within the City of Hobart. AND WHEREAS the Church Trustees have agreed to hand over that portion of the said burial ground hereinafter described to the Corporation

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and the Corporation has agreed to take over and maintain the same (subject to Parliamentary sanction) and also to pay to the Church Trustees the sum of Four thousand five hundred Pounds in respect thereof on the terms and subject to the conditions hereinafter contained. NOW IT IS HEREBY AGREED AND DECLARED as follows:—

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1. This Agreement is made conditionally on the requisite sanction being obtained from Parliament by an authorising or confirming Act (hereinafter referred to as "the enabling Act.").

2. The Church Trustees agree to hand over all that piece of land containing five acres twenty perches and one half of a perch (more or less) situate in the City of Hobart and bounded as follows:—On the north-west by six chains ninety-nine links and one-half of a link north-easterly along Davey-street commencing at its angle at Harrington-street on the north-east by four chains one link and two-tenths of a link south-easterly along Salamanca-place on the south-east by three chains three links south-westerly along land now in the occupation of the Vacuum Oil Company Proprietary Limited again on the north-east by three chains thirty-six links and one-half of a link south-easterly along the lastmentioned land to the north-west boundary of a grant to William Thomas Parramore again on the south-east by five chains forty-one links and nine-tenths of a link south-westerly along the said land granted to the said William Thomas Parramore to Harrington-street thence on the south-west by nine chains twenty-six links north-westerly along that street to the point of commencement (hereinafter referred to as "the said lands") and the Corporation agrees to assume control of and to maintain the whole of the said lands and the monuments tombstones and other memorials erected thereon from the date of the enabling Act coming into operation.

3. The compensation to be paid to the Church Trustees shall be the sum of Four thousand five hundred Pounds payable in Hobart Corporation Debentures redeemable in Ten years and bearing interest at the rate of Five Pounds per centum per annum such debentures to be dated the day the enabling Act comes into operation.

4. It is mutually agreed between the Church Trustees and the Corporation that the latter will so far as possible use the said lands as a place of quiet recreation for the public under proper control and regulation and so that the same may in time become an ornament to the city: Provided that this clause shall not be deemed to confer any right on the Church Trustees to interfere in any manner with respect to the said lands or the management control or disposal thereof.

5. The Corporation shall at the request of any direct descendant or descendants of any person whose remains are interred in the said lands or whose name appears on any monument or tombstone therein or at the request of any person or persons having any proprietary right or interest in any grave therein at its own expense remove the same together with such monument tombstone or other memorial to a cemetery or other approved site in the City of Hobart or its environs to be agreed upon between such descendant or descendants or person or persons and the Corporation and there to re-inter such remains and re-erect such monument tombstone or other memorial as aforesaid: Provided that if any such descendant or descendants person or persons shall desire the remains to be removed to any other than the Queenborough Cemetery such descendant or descendants person or persons shall bear the cost of providing the necessary ground and in respect of removals to the Queenborough Cemetery the Corporation will without fee issue to such descendant or descendants person or persons the usual burial licence in respect to the site so substituted: Provided also that the right of any such descendant or descendants or person or persons to require such removal as aforesaid shall cease after the expiration of two years from the date of the enabling Act coming into operation.

6. Subject to the above restrictions the Corporation shall have full discretionary power and subject also to the provisions of the enabling Act to remove any such human remains together with such monuments tombstones or memorials as aforesaid to any cemetery in use for burial purposes and there to re-inter such remains and re-erect such monuments tombstones or memorials: Provided that

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all re-interments shall be carried out under the supervision of the Cathedral Chapter exempt from fees.

7. Subject to the previous provisions the Corporation shall have power and subject also to the provisions of the enabling Act to remove any fencing vaults monuments tombstones or other memorials on the said land which may be in a state of dilapidation and also may from time to time remove and collect such other monuments tombstones and other memorials and fill in such vaults as it may deem desirable.

8. No human remains vaults monuments tombstones or other memorials shall be removed unless and until the Corporation shall have given not less than thirty days' notice of their intention to remove the same by advertisement in a daily newspaper published in Hobart.

9. The Corporation undertakes the special charge and maintenance of all historical monuments on the said land and agrees to confer with the Church Trustees from time to time concerning their repair and maintenance or the removal thereof if deemed necessary. The Governor Collins' Sir Eardley Wilmot's Dr. Bedford's Archdeacon Hutchins' and Captain Kelly's shall be deemed historical monuments and such other monuments of similar historical association as shall be mutually agreed upon by the parties hereto.

10. The Corporation shall keep a proper record of all monuments tombstones and other memorials and the inscriptions thereon which shall be removed from the said lands and shall supply a certified copy thereof to the Church Trustees.

11. Nothing in this Agreement shall be deemed to derogate from the rights of any person or persons in or to the said graves tombs vaults monuments tombstones or other memorials in the said lands except in so far as such rights may be varied or abrogated by the enabling Act and if the enabling Act shall not receive the Governor's consent this Agreement shall become void and of no effect.

12. All expenses (except the charges of the solicitors to the Church Trustees) in connection with this Agreement or in the preparation and passing of the enabling Act shall be borne by the Corporation.

In witness whereof the Trustees of the Property of the Church of England in Tasmania and The Mayor Aldermen and Citizens of the City of Hobart have caused their common seals to be affixed the day and year first above written.

The Common Seal of the Trustees of the Property of the Church of England in Tasmania was affixed this thirtieth day of October One thousand nine hundred and nineteen by the authority given at a meeting of them and was so affixed by me as their Secretary in the presence of—

ROBERT WILKINS GIBLIN SHOBRIDGE and  
CLYDE HAMILTON Trustees.

G. H. BAILEY Secretary.

R. W. G. SHOBRIDGE.  
CLYDE HAMILTON



The Common Seal of the Mayor, Aldermen and Citizens of the City of Hobart was affixed hereto in the presence of—

JOHN G. SHIELD Mayor.  
W. A. BRAIN Town Clerk.

