

New Zealand.

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1908, No. 12.—*Local.*

AN ACT to provide for and regulate certain Burials in, and the ultimate Closing of, the Cemeteries at Symonds Street, in the City of Auckland, and thereafter to maintain the same as a Public Reserve. [25th September, 1908.]

WHEREAS in the interests of public health it is desirable to close the whole of the cemeteries situated at Symonds Street, in the City of Auckland, and to prevent the same being used for any further burials therein (except as herein mentioned) from and after the thirty-first day of December, nineteen hundred and nine: And whereas by Order in Council made and issued under the provisions of the Cemeteries Act, 1882, dated the first day of September, nineteen hundred and five, it was ordered that burials in the said cemeteries should be wholly discontinued: And whereas a sufficient cemetery not within the limits of any borough or town district has been provided and has been prepared for the interment of the dead as required by the said Act:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Auckland (Symonds Street) Cemeteries Act, 1908.

Provisions of Act to apply to lands in First Schedule.

2. The provisions hereof shall only affect and extend to the lands described in the First Schedule hereto, being the same as are also described in the said Order in Council bearing date the first day of September, nineteen hundred and five.

Limitation of further burials in lands included in First Schedule.

3. (1.) Where any person has prior to the thirty-first day of December, nineteen hundred and nine, been buried in any part of the land mentioned in the First Schedule hereto (not being in that part thereof described in the Second Schedule hereto), any survivor of that person who on that date has attained the age of fifty years and is within the degrees of relationship of husband, wife, parent, child, brother, or sister to that person may be buried in the same plot of ground with that person.

(2.) Except as aforesaid no person shall at any time after the thirty-first day of December, nineteen hundred and nine, be buried in the said lands or in any vault or other place of burial therein, and whether or not the same have been at any time purchased with the right or for the purpose of enabling burials to take place therein.

(3.) The provisions of section seventy-four of the Cemeteries Act, 1908, shall not apply to the said lands.

Penalty for breach of Act.

4. If any person after the said thirty-first day of December, nineteen hundred and nine, buries or seeks or attempts to bury any body, or in anywise acts or assists in or suffers or permits the burial of any body in the said lands mentioned in the said First Schedule, or in any part thereof, or in any vault therein (except such body comes within the provisions of section twenty-three hereof), he shall upon conviction before any two Justices be liable to a fine not exceeding one hundred pounds.

Lands in First Schedule vested in Corporation.

5. The said lands mentioned in the said First Schedule hereto shall, from and after the said thirty-first day of December, nineteen hundred and nine, be vested in the body corporate called the Mayor, Councillors, and Citizens of the City of Auckland; and the same, with the exception of the part thereof described in the Second Schedule hereto, shall thenceforth be held and maintained by the said body corporate in good order as a public reserve open to the public under such regulations as may from time to time be made by it under the powers hereinafter conferred.

Erection of baths and reservoir.

6. The said body corporate is hereby authorised and empowered to use the piece of land described in the Second Schedule hereto as and for the purpose of the erection, maintenance, and use thereon of public baths, and as a storage reservoir for water.

Legal estate of lands mentioned in First Schedule to vest in Corporation.

7. The legal estate in the whole of the said lands mentioned in the First Schedule hereto shall, from the said thirty-first day of December, nineteen hundred and nine, be vested in the said body corporate, and without payment being made by or any liability therefor being imposed upon it to any Trustees or other persons in whom the said land, or any part thereof, or any right of burial therein, is now or at any time prior to the said date was vested, and all moneys and assets of any and every kind held by any such Trustee or Trustees on the said thirty-first day of December, nineteen hundred and nine, on account of or in connection with the said lands, or any part thereof, shall also by virtue hereof pass to and become the property of and vested in the said body corporate, and

shall be paid and handed over by such Trustee or Trustees to the said body corporate; but the said body corporate shall not make use thereof for any purpose except in maintaining and keeping up the said part of the said cemetery as a public reserve, nor shall the said body corporate charge, incumber, or alienate such lands, or any part thereof, by mortgage, sale, lease, or otherwise.

8. The said body corporate may from time to time preserve, maintain, and keep the said lands and their walls and fences, and all monuments, tombstones, enclosures, buildings, erections, walks, and shrubberies therein and belonging thereto, in a cleanly and orderly state and condition, and with such object, and for carrying out the purposes of this Act, may, with respect to so much of the said lands as is not included in the Second Schedule hereto, make by-laws for—

By-laws for upkeep of lands mentioned in First Schedule.

- (a.) The management and preservation thereof, and of every or any part thereof :
- (b.) The government and control of all persons, horses, carriages, and vehicles using or frequenting the same :
- (c.) Regulating the time of their admission and exclusion :
- (d.) The preservation of plants and trees therein :
- (e.) The exclusion of dogs or any other animals therefrom, and their destruction if intruding therein :
- (f.) The prevention of any nuisance therein or thereon, and generally regulating the using of the same.

9. Such by-laws shall be made in the manner in which the said body corporate or the Council thereof is authorised to make by-laws, and shall be made under its seal.

Manner of making by-laws.

10. Such by-laws shall be painted on boards, or printed on paper or calico and pasted on or affixed to boards, and hung up or affixed and continued at one or more of the principal entrances into the said lands, so as to give notice thereof to the public, and such boards shall from time to time be renewed as often as the by-laws thereon, or any part thereof, are obliterated or destroyed.

By-laws to be publicly exhibited.

11. Such by-laws when so published and affixed shall be binding upon and be observed by all persons, and shall be sufficient to justify all persons acting under the same; and for proof of the making, publication, and affixing of such by-laws it shall be sufficient to prove that a printed copy or painted board containing a copy of such by-laws was affixed and continued in manner by this Act directed, and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be.

Validity of by-laws

12. The provisions of sections twenty-seven, twenty-eight, and thirty-nine of the Cemeteries Act, 1908, and any other provisions thereof that may conflict in any way with this Act, shall from the thirty-first day of December, nineteen hundred and nine, cease to operate or have effect over or in respect of the said lands mentioned in the First Schedule hereto, and every part thereof.

Repeal.

13. The said body corporate shall have power to prosecute all persons who at any time do or cause to be done any damage to any building, monument, tombstone, shrubbery, plantation, or enclosures of and in the said lands described in the First Schedule hereto, or who are guilty of any indecency or misbehaviour therein, or who offend in any way against the provisions of this Act.

Prosecution for offence.

Penalty.

14. Every person who—

- (a.) Wantonly or wilfully destroys or does or causes to be done any damage to any monument, vault, tombstone, building, erection, railing, fence, shrubbery, tree, or plant in the said lands mentioned in the First Schedule hereto (excluding therefrom the part thereof mentioned in the Second Schedule hereto), or to any wall or fence thereof; or
- (b.) Wilfully or unlawfully disturbs any persons lawfully assembled in the said last-mentioned lands or any part thereof,—

shall, upon being convicted thereof, be liable for every such offence to a fine not exceeding twenty pounds, or, at the discretion of the convicting Justices, to imprisonment for any period not exceeding three months.

Compensation recoverable for damage done.

15. Every person who does or causes to be done any injury to any monument, vault, tombstone, building, erection, railing, shrubbery, tree or plant, or wall or fence of or in the said last-mentioned lands, or any part thereof, whether the same is done wilfully or wantonly or otherwise howsoever, is liable to pay a reasonable sum of money by way of damages and compensation therefor, which said sum of money shall be recoverable in any Court of competent jurisdiction by the said body corporate or any person injured by such damage.

Penalty for misbehaviour.

16. Every person who is guilty of any indecent conduct or language in or upon the lands mentioned in the said First Schedule hereto (excluding therefrom the part thereof mentioned in the Second Schedule hereto), or commits any nuisance therein, or plays at any game or sport, or discharges firearms therein, or daubs or disfigures any wall or fence in or around the said lands, or puts up any bill on any such wall or fence, is liable to a fine for every such offence not exceeding ten pounds.

Power of arrest.

17. The said body corporate, or any officer or servant of the same, and all such persons as he shall call to his assistance, may seize and detain any person who commits, or is in the act of committing, an offence against any of the provisions of this Act, and whose name and place of abode is unknown to such body corporate, officer, or servant, and may convey such person before some Justice without other warrant or authority than this Act.

Jurisdiction of Justice.

18. In case such person refuses to satisfy the Justice as to his name and place of abode, such Justice is hereby empowered and required either to proceed immediately to the hearing and determining the complaint in the same manner as if heard by summons before two or more Justices, or to order such person to be detained in custody until he is brought before two or more Justices to be dealt with in the ordinary course.

Penalty on owners for allowing cattle to trespass.

19. The owners of any cattle, horses, swine, or goats found trespassing in or upon the said lands mentioned in the said First Schedule hereto (excluding therefrom the part thereof mentioned in the Second Schedule hereto) shall be liable to a fine not exceeding five pounds in respect of every head of cattle, horses, swine, or goats so found trespassing, without proof of special damage, and notwithstanding that actual damage cannot be shown or proved.

20. Every person who offends against any of the provisions of this Act is liable, where no other penalty is provided, to a fine not exceeding ten pounds. General penalty.

21. One moiety of the money arising from any fine imposed by this Act, when recovered, shall be paid to the said body corporate, and the other moiety to the use of the informer or person prosecuting. Disposal of fines.

22. All moneys, fees, and fines recoverable under this Act or any by-law made in pursuance thereof may be recovered in a summary manner as provided by the Justices of the Peace Act, 1908, before any two or more Justices of the Peace; and any proceeding had and taken in a summary way in pursuance of this Act shall not be removed by *certiorari* or other process into the Supreme Court or other Court. Recovery of fines.

23. Nothing in this Act shall be construed to divest, alter, or affect the right, title, or interest of any person in or to any burial-places in the said existing cemeteries or burial-grounds, or in or to any vault, tomb, monument, headstone, grave-fence, or any other matter or thing of a like kind therein, with free right of ingress and egress as they respectively now have in, from, and to the same, or to affect such right to or to visit such burying-place as they now have therein, save that no future interment of any body therein shall take place after the said thirty-first day of December, nineteen hundred and nine, save and except as mentioned in section three hereof. Right of entry to burial-grounds.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL that parcel of land in the Suburbs of Auckland bounded towards the north-east by St. Martin's Lane; towards the east by Section No. 3 for a distance of 314 links, by part of Allotment No. 13, Allotment No. 12, a road-line, and Allotments Nos. 11 and 10; towards the south by Allotment No. 19; and towards the west by Symonds Street: as the same is delineated on the plan in the Survey Office, Auckland.

Also all that other parcel of land in the Suburbs of Auckland bounded towards the north by Karangahape Road; towards the east by Symonds Street; towards the south by East Street; and towards the west by Allotments Nos. 16, 15, 14, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 2, 1, 30, 29, 28, 27, 26, 25, 23, and 24.

SECOND SCHEDULE.

ALL that piece or parcel of land in the Auckland Land District, containing by admeasurement 2 roods 21·67 perches, more or less, being the eastern portion of the Jewish Cemetery, part of Allotment No. 24 of Section 7, Suburbs of Auckland, in the Parish of Waitemata: bounded towards the north-east by Karangahape Road, 358·91 links; towards the south-east by Symonds Street, 177·05 links; towards the south-west by Allotment No. 23 (Presbyterian Cemetery) of Section 7 aforesaid, 358·91 links; towards the north-west by other portion of Jewish Cemetery, part of Allotment No. 24 of Section 7 aforesaid, 177·05 links: as the same is more particularly delineated on plan No. 14594, deposited in the office of the Chief Surveyor at Auckland.