



## CHAPTER x.

An Act to enable the Torquay Cemetery Company  
to enlarge their cemetery and for other purposes.  
[22nd May 1940.]

**WHEREAS** the Torquay Extramural Cemetery  
Company were incorporated by the Torquay  
Extramural Cemetery Act 1852 (in this Act called "the  
Act of 1852") and were authorised to construct a  
cemetery near Torquay in the county of Devon and for  
that purpose to raise a sum of eight thousand pounds  
and to purchase and hold certain lands in the parish  
and manor of Saint Mary Church in the said county :

15 & 16  
Vict. c. cl.

And whereas by the Torquay Cemetery Act 1929  
(in this Act called "the Act of 1929") the name of the  
said company was changed to "the Torquay Cemetery  
Company" (in this Act called "the Company") and the  
Company were authorised to acquire additional land  
and to enlarge their said cemetery to erect and main-  
tain a crematorium for the cremation of human remains  
a chapel and other buildings and works incidental to  
the said crematorium upon certain lands forming part  
of the unconsecrated area of their existing cemetery to  
raise additional capital by the issue of shares or stock  
and by borrowing and further powers were conferred  
upon the Company :

19 & 20  
Geo. 5.  
c. xiv.

And whereas it has been found that the lands  
authorised by the Act of 1929 for the site of the said  
crematorium chapel and incidental buildings and works  
would be insufficient in area and otherwise unsuitable

and inconvenient for the purposes thereof and it is accordingly expedient that the said cemetery should be further extended and enlarged subject to the provisions of this Act and that the Company should be authorised to purchase certain lands adjoining the said cemetery described in this Act and to erect and maintain thereon a crematorium for the cremation of human remains instead of upon the site authorised therefor by the Act of 1929 and that other provisions should be made as in this Act contained :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Citation  
and con-  
struction.

1. This Act may be cited as the Torquay Cemetery Act 1940 and this Act and the Act of 1852 and the Act of 1929 may be cited together as the Torquay Cemetery Acts 1852 to 1940 and shall be construed together as one.

Incorpora-  
tion of  
general  
Acts.

2. The following Acts so far as the same are applicable for the purposes of this Act and are not inconsistent with the provisions of this Act or the Act of 1852 or the Act of 1929 and subject to the provisions of this Act and those Acts are hereby incorporated with this Act (namely) :—

10 & 11  
Vict. c. 65.

The Cemeteries Clauses Act 1847;

8 & 9 Vict.  
c. 18.

The Lands Clauses Acts except the provisions thereof with reference to the purchase and taking of lands otherwise than by agreement and except section 127 of the Lands Clauses Consolidation Act 1845 relating to the sale of superfluous lands.

Interpreta-  
tion.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated therewith have the same respective meanings unless there be something in the subject

or context repugnant to such construction And in this Act—

“The Company” means the Torquay Cemetery Company;

“The Act of 1852” means the Torquay Extramural Cemetery Act 1852;

“The Act of 1929” means the Torquay Cemetery Act 1929;

“The additional lands” means certain lands within the manor of Saint Mary Church and the borough of Torquay in the county of Devon containing one acre two roods and eleven perches or thereabouts belonging or reputed to belong to Henry Lionel Meyrick Cary bounded on the north and north-east partly by the existing cemetery of the Company and partly by lands belonging or reputed to belong to the said Henry Lionel Meyrick Cary including part of the lands known as “Broomhill Plantation” on the east and south-east by the said existing cemetery on the south partly by lands belonging or reputed to belong to the Western Counties Brick Company Limited and partly by lands belonging or reputed to belong to the said Henry Lionel Meyrick Cary and on the west by lands also belonging or reputed to belong to the said Henry Lionel Meyrick Cary the said lands being part of the enclosure numbered 344 on the 1/2500 Ordnance map (second edition 1906) Devonshire sheet CXVI.9;

“The undertaking” means the undertaking of the Company as for the time being authorised;

“Existing” means existing at the passing of this Act.

4. The Company may purchase by agreement all or any part of the additional lands and subject to the provisions of this Act all the powers and provisions of the Act of 1852 as amended by the Act of 1929 which relate to the existing cemetery of the Company (except the provisions of sections 18 19 20 21 22 and 23 of the Act of 1852 and the provisions of that Act and the Act

Power to purchase additional lands for cemetery.

of 1929 relating to the acquisition of lands) shall extend and be applicable to the said lands :

Provided that no part of the additional lands shall be used for burials or interments or for any purposes other than those authorised by the section of this Act of which the marginal note is " Power to establish crematorium."

As to  
enclosing  
additional  
lands for  
cemetery.

5. Before any part or parts of the additional lands are used for the purposes authorised by the section of this Act of which the marginal note is " Power to establish crematorium " the Company shall enclose so much of the same as does not abut upon the existing cemetery by stone walls of the height of six feet at least.

As to  
enlarge-  
ment of  
cemetery.

6. Section 10 (Cemetery not to be within a certain distance of houses) of the Cemeteries Clauses Act 1847 shall not apply to the enlargement or extension of the cemetery by this Act authorised but no part of such enlargement or extension shall be made within three hundred yards of any existing house of the annual value of fifty pounds or of any garden or pleasure ground occupied therewith except with the consent in writing of the owner lessee and occupier of such house.

Power to  
establish  
crema-  
torium.

7.—(1) The Company may set apart a site for and build provide fit up equip and maintain a crematorium proper and sufficient for the cremation of human remains on the additional lands being unconsecrated lands.

(2) The Company may erect and build adjoining to or in connection with any crematorium constructed under the powers of this Act a convenient and suitable chapel for the reception of the dead immediately previous to cremation and for the purpose of performing burial services therein together with such porches gardens colonnades columbaria or niches for the disposal of ashes and other buildings matters and things for such purposes as the Company may think proper.

(3) (a) No cremation of human remains shall take place in any crematorium of the Company until the plans thereof have been approved by the Minister of Health and the Company shall have certified to the Secretary of State that such crematorium has been

completed is built in accordance with such plans and is properly equipped for the purpose of the disposal of human remains by burning.

(b) Every cremation of human remains in any crematorium of the Company shall take place in accordance with the provisions of sections 7 8 and 10 of the Cremation Act 1902 and any regulations made under that Act and those sections shall apply accordingly as though they were included in this Act with the necessary modifications. 2 Edw. 7.  
c. 8.

(4) The Company may demand and take such reasonable charges or fees for the cremation of any human remains in such crematorium as they think fit and such charges or fees shall be deemed to be a debt due to the Company from the estate of the deceased.

(5) The additional lands and the said crematorium and all buildings works and things erected or built thereon under the provisions of this section shall for all purposes form part of the undertaking.

8. From and after the establishment by the Company of a crematorium under the provisions of this Act section 59 (Disturbances and nuisances in cemetery) of the Cemeteries Clauses Act 1847 shall be read and construed as if the words " or cremating " were inserted therein after the word " burying." Amend-  
ment of  
section 59  
of  
Cemeteries  
Clauses Act  
1847.

9. The Company may apply to the purposes of this Act any funds or moneys which they now have or may hereafter have in their hands or any moneys which they have power to raise by shares or stock or by borrowing and which may not be required for the purposes for which the Company were authorised to raise or borrow the same. Power to  
apply  
funds for  
purposes  
of Act.

10. The Company may sell lease or otherwise dispose of in such manner for such consideration and on such terms and conditions as they think fit and in case of sale either in consideration of a gross sum or sums or of an annual rent or rents or of any payment in any other form the whole or any part of the additional lands which they may not require or which they may from any cause be unable to use for the purposes of the enlargement of their cemetery and which shall not have Power to  
sell &c.  
land not  
used for  
enlarge-  
ment of  
cemetery.

been consecrated and may sell or otherwise dispose of any rents reserved on any sale lease or disposition of such land and may make execute and do any deed act or thing proper for effectuating any such sale lease exchange or other disposition :

Provided that nothing in this section contained shall release the Company or any person purchasing or acquiring any lands from them under this section from any covenants restrictions reservations terms or conditions made payable by or contained in any conveyance or other deed or instrument by which any such lands may hereafter be conveyed to or otherwise acquired by the Company or any person from or through whom the Company may hereafter derive title to the same but all such covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be exercised enjoyed and enforced in like manner and to the same extent as if this Act had not been passed.

For pro-  
tection of  
Torquay  
Corpora-  
tion.

11. The following provisions for the protection of the mayor aldermen and burgesses of the borough of Torquay (in this section referred to as "the corporation") shall unless otherwise agreed in writing between the Company and the corporation apply and have effect (viz.) :—

- (1) Any crematorium and any buildings or works in connection therewith (including works of drainage) which the Company may construct under the section of this Act of which the marginal note is "Power to establish crematorium" (in this section referred to as "the said section") shall be constructed in accordance with such plans and elevations as shall be previously submitted to the corporation.

The provisions of this subsection shall extend and apply (mutatis mutandis) to any alterations or extensions of or additions to the crematorium or of or to any buildings or works (including drainage works) in connection therewith subsequently proposed to be made by the Company :

- (2) The Company shall before commencing to exercise the powers of the said section with

respect to the cremation of human remains provide to the reasonable satisfaction of the corporation suitable and sufficient waiting places for vehicles :

- (3) The Company shall before commencing to exercise the powers of the said section with respect to the cremation of human remains plant trees along the north-western boundary of the additional lands and within the wall to be erected along that boundary in accordance with the provisions of the section of this Act of which the marginal note is " As to enclosing additional lands for cemetery " and at all times thereafter maintain and when reasonably necessary replace and renew such trees.

12. The following sections of the Act of 1929 are hereby repealed (that is to say) :—

Section 7 (Power to establish crematorium);

Section 8 (Amendment of section 59 of Cemeteries Clauses Act 1847).

13. All costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company. Costs of Act.

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FOR

SIR WILLIAM RICHARD CODLING, C.B., C.V.O., C.B.E., Controller of His Majesty's Stationery Office  
and King's Printer of Acts of Parliament

**Ch. x.**

*Torquay Cemetery  
Act, 1940.*

**3 & 4 GEO. 6.**

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