

HOUSE....No. 213.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Fifty-
Five.

AN ACT

Concerning Burials and Burying Grounds.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:—

1 SECT. 1. Each city and town in the Commonwealth
2 shall provide one or more suitable places for a burial
3 ground, within which the bodies of persons dying
4 within their respective limits may be interred.

1 SECT. 2. No land other than that now used or
2 appropriated in any city in this Commonwealth for

3 the purpose of a burial ground shall be used by any
4 person or persons for the burial of the dead, un-
5 less permission is granted by the mayor and aldermen
6 of such city.

1 SECT. 3. No land other than that now used or ap-
2 propriated in any town in this Commonwealth for the
3 purpose of a burial ground shall be used by any per-
4 son or persons for the burial of the dead, unless
5 permission is granted by the town.

1 SECT. 4. For every interment made in violation of
2 sections two and three of this bill, the owner or
3 owners of the land so used shall forfeit not less than
4 twenty dollars, nor more than one hundred dollars, to
5 be recovered by indictment for the use of the city or
6 town in which such interment is made; but this sec-
7 tion shall be of no effect until such city or town
8 shall have complied with the sixth section of this act.

1 SECT. 5. Boards of health in any town or city in
2 this Commonwealth shall have the power to establish
3 such penalties for the violation of any regulations for
4 the interment of the dead, and respecting burying
5 grounds made by said boards, under authority of the
6 seventh section of the twenty-first chapter of the Re-
7 vised Statutes, as they may think proper. And the
8 board of health of any city or town is hereby author-
9 ized to forbid the use of tombs by undertakers, as
10 places of deposit for bodies committed to them for
11 burial, for the purpose of speculation: *provided, how-*
12 *ever,* that no one penalty for any one violation shall
13 exceed one hundred dollars.

1 SECT. 6. The same notice shall be given of any
2 penalties established under authority of the foregoing
3 section as is prescribed for giving notice of the regu-
4 lations for the interment of the dead, and respecting
5 burial grounds, in the eighth section of the twenty-
6 first chapter of the Revised Statutes ; and such notice
7 of such penalties shall be deemed legal notice to all
8 persons.

1 SECT. 7. Whenever the board of health, in any
2 town or city of this Commonwealth, shall order any
3 burial ground, tomb or tombs, or cemetery, to be
4 closed, which has heretofore been established, ap-
5 proved or used, and forbid the same to be thereafter
6 used for the purpose of interment, any person or per-
7 sons owning any tomb or tombs therein, aggrieved or
8 injured by such order, may appeal from the decision
9 or action of the said board of health, notice of such
10 appeal to be given to the said board of health four-
11 teen days previous to the entry of the appeal in court,
12 and said appeal must be entered within six months
13 from the date of the publishment of the order of
14 said board of health in the court of common pleas
15 which may be holden in the county in which such
16 burial ground, tomb or tombs, or cemetery, may be
17 situated: *provided*, that the order of said board of
18 health shall be obeyed until a legal decision on such
19 appeal shall be obtained. Said appeal shall be tried
20 in regular course, and before a jury of said court ;
21 and in case the jury shall find that any of the tombs
22 so closed in the said burial ground or cemetery were
23 not a nuisance, and were not injurious to the public
24 health at the time said tombs, burial ground or ceme-

25 tery, were so closed, then the judgment of the court
26 shall be given to rescind the order of the board of
27 health, so far as it covers or relates to the tomb or
28 tombs, cemeteries or burial grounds, which were found
29 not to be a nuisance or injurious to public health ;
30 and the costs of such appeal shall, in such cases, be
31 paid out of the treasury of the town or city in which
32 such tomb or tombs, burial ground or cemetery, lie,
33 and execution therefor shall issue in favor of the ap-
34 pellant or appellants. But if the verdict of the jury
35 shall sustain the order of the board of health, then
36 an execution shall issue for double costs against the
37 appellant or appellants, in favor of said board of
38 health, but for the benefit of such town or city.

1 SECT. 8. Any person or persons who shall wrong-
2 fully deface or injure any public or private burial
3 ground, or any walls, fences, monuments, trees, plants,
4 walks or other appurtenances thereto, or throw any
5 rubbish or offensive matters into, or commit any
6 nuisance within, any such burial ground, or in any
7 wise desecrate or disfigure the same, shall be liable
8 for every such trespass to a penalty of not less than
9 five, nor more than one hundred, dollars, to be recov-
10 ered by complaint before any justice of the peace
11 or police court within whose jurisdiction the offence
12 may have been committed, or by indictment before
13 any court competent to try the same ; and one-half of
14 said penalty shall go to the Commonwealth, and the
15 other half to the court in which the offence may have
16 been committed ; and it shall not be necessary to
17 prove the title to the land in order to sustain the

18 prosecution, but proof of use and occupancy for the
19 purposes of a burial ground shall be sufficient.

1 SECT. 9. No burial ground, tomb or cemetery, shall
2 be closed by order of the board of health of any city
3 or town for a longer time than one month, except
4 after notice given to at least one owner of each of the
5 tombs intended to be closed, or, in case of burial
6 grounds or cemetery, to three proprietors, if there be
7 so many, of the time and place of the hearing upon
8 the question of closing the same; and such notice
9 shall also be published in two newspapers printed in
10 the county, if there be so many, for two weeks pre-
11 ceding said hearing.

1 SECT. 10. This act shall take effect from and after
2 its passage: *provided, however,* that where any burial
3 ground, cemetery or tomb, has been closed by the
4 order of any board of health since January 1, 1853,
5 the appeal may be claimed, as herein set forth, any
6 time within six months next after the passage of this
7 act; but nothing in the foregoing sections of this act
8 shall prevent the inhabitants of any town in this
9 Commonwealth from using or erecting a tomb upon
10 their own land for the exclusive use of their own
11 family.

1 SECT. 11. All acts and parts of acts inconsistent
2 with the provisions of this act are hereby repealed.

