

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1848.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1848.

11 Victoria – Chapter 56

**An Act for the incorporation of the Saint John Rural Cemetery Company. Passed 30th March 1848.**

Whereas from the great increase of the Population of the City and County of Saint John, the want of a suitable place for the Burial of the Dead is much required;

I. Be it therefore enacted by the Lieutenant Governor, legislative Council and Assembly, That Robert Jardine, the Honorable Robert L. Hazen, Beverly Robinson, James Pettingell, Solomon Hersey, William G. Lawton, George P. Peters, John M. Walker, William Parks, Charles Drury, Adam Jack, and LeBaron Botsford, their associates, successors and assigns, be and they are hereby declared to be a Body Politic and Corporate, by the name of "The Corporation of the Saint John Rural Cemetery Company," and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly of this Province.

II. And be it enacted, That the capital stock of the said Corporation shall consist of the sum of three thousand pounds, and shall be divided into twelve hundred shares of two pounds ten shillings each, and be paid in such sums and at such time or times as the Directors of the said Corporation shall from time to time appoint; and every shareholder in the said Corporation shall have and be entitled to have a Certificate under the Seal of the said Corporation, and signed by the President and Secretary thereof, certifying his property in such shares as shall be expressed in the certificate.

III. And be it enacted, That whenever any assessment shall be made, it shall be the duty of the Treasurer to give notice thereof in two or more newspapers printed in the said City of Saint John, requiring payment of the same within thirty days; and if any shareholder shall neglect or refuse to pay to the Treasurer the amount of such assessment upon his share or shares at the time prescribed, it shall be the duty of the Treasurer to advertise such delinquent share or shares for sale at public auction, giving at least ten days notice of the time and place of such sale; and such share or shares upon which the assessment or assessments, or instalment thereof, shall then remain unpaid, shall be sold to the highest bidder, and such sale shall be a legal transfer of the share or shares so sold, to the purchaser or purchasers thereof, and shall be recorded accordingly in the Book so to be kept by the Directors for that purpose as aforesaid, and such purchaser or purchasers shall be entitled to receive a certificate in the form prescribed in the fifth section of this Act.

IV. And whereas a piece of land containing one hundred and ten acres, and lately belonging to the late James Peters, Junior, and Henry Gilbert, Esquire, situate in the Parish of Simonds, in the County of Saint John, has been secured for the purpose of a Burying Ground, and with the exception of a portion which has been laid aside for the Church of England, shall be forever free, to

all denominations of Christians, to be divided into Lots and sold to such individuals as may be willing to purchase the same, and which said land is described as follows, to-wit: Beginning on the north eastern side of the Marsh Road at the north west corner of lands owned by Thomas Trafton, thence north forty seven degrees thirty minutes west along the Marsh Road, twenty chains ninety one links to the south western line of Wiggin's Marsh, thence south forty degrees east to edge of Upland, thence along the edge of Upland and Marsh to the south west line of Jarvis' Upland, thence south forty degrees east twenty three chains to the old Westmorland Road, thence along the old Westmorland Road thirty seven chains south westerly to the north eastern line of Thomas Trafton's farm, thence north forty degrees west twenty seven chains and fifty links to the place of beginning; Be it therefore enacted, That the said land above described, be and hereby is declared to be exempted from all rates, assessments and taxes so long as the same shall remain dedicated to the purposes of a Cemetery.

V. And be it enacted, That all persons who shall hereafter become proprietors of Lots in the Cemetery aforesaid, of a size not less each than one hundred and fifty square feet, shall thereby become members of the said Corporation, and shall have and be entitled to have a Certificate under the Seal of the Corporation, signed by the Secretary, in the form following:—  
Saint John Rural Cemetery Company.

No. —

This is to certify, that A. B. is the proprietor of Lot number \_\_\_\_, containing \_\_\_\_ square feet, on \_\_\_\_\_ Avenue, (or Path,) in the Saint John Rural Cemetery Company, situate in the Parish of Simonds, in the County of Saint John, subject to the rules, regulations and bye laws of the said Corporation, and for which he has this day paid the sum of \_\_\_\_.

[L.S.] In testimony whereof, the Seal of the said Corporation is hereunto affixed, the \_\_\_\_ day of \_\_\_\_\_, A. D. 18 \_\_\_\_.

C. D., Secretary.

And such Certificate shall constitute a valid instrument of transfer of such Lot or Lots as may be expressed therein, and shall be held by the, purchaser or purchasers thereof for the use of Burial only, subject, nevertheless, to all the bye laws of the said Corporation.

VI. And be it enacted, That a general meeting of the stockholders and proprietors of the said Corporation shall be held at the City of Saint John, on the first Monday in May in each and every year, for the purpose of choosing twelve Directors for the management of the said Corporation; which Directors, so chosen, shall remain in office for one year, or until others are chosen in their stead, and shall, at their first meeting after their election, choose one of their number President of the said Corporation; provided always, that not less than five Directors do form a quorum for the transaction of business; and in case of the absence of the President, the Directors shall have power to appoint one of their number Chairman for the occasion.

VII. And be it enacted, That the Directors for the time being shall and may appoint a Secretary and Treasurer, and such other officers, clerks and servants as they, or the major part of them, shall think necessary for executing the business of the said Corporation, and shall allow them (out of the funds of the said Corporation) such compensation for their respective services as to them shall appear reasonable and proper; and the Directors shall likewise exercise such other powers and authorities, for the well regulating the affairs and managing the business of the said Corporation, as shall be prescribed by the bye laws.

VIII. And be it enacted, That every person owning a share in the capital stock of the said Corporation, and every proprietor of a Lot of not less each than one hundred and fifty square feet, shall be a member of the said Corporation, and entitled to vote at all meetings of the said Corporation, and members may give as many votes as they may own shares, and absent members may vote by proxy, such proxy being a shareholder, and producing sufficient authority in writing from his constituent; provided nevertheless, that no stockholder, by himself or proxies, shall have more than one hundred votes.

IX. And be it enacted, That the shares of the said Corporation shall be assignable and transferable according to such rules and regulations as may be established in that behalf, but no assignment or transfer shall be valid and effectual unless the same shall be entered and registered in a Book, to be kept by the Directors for that purpose.

X. And be it enacted, That in case of any vacancy among the Directors by death, resignation, disqualification, or otherwise, then and in either of such cases, the said Directors shall and may fill up such vacancy by choosing one of the shareholders or proprietors of Lots of not less each than one hundred and fifty square feet, and the person so chosen by the Directors shall serve until another is chosen in his room.

XI. And be it enacted, That the several shareholders in the said Corporation shall be members of the same until they be repaid (out of the funds of the said Corporation) the amounts by them respectively invested, together with interest on the same at the rate of eight per centum per annum, when they shall cease to have any interest in the said Cemetery; and the property shall from thence be vested in Robert Jardine, Henry Gilbert, John M. Walker, George P. Peters, James Pettingell, William G. Lawton, LeBaron Botsford, William Parks, Adam Jack, and Edward B. Peters, (being the present proprietors of Lots in the said Cemetery,) and all future proprietors of Lots of not less each than one hundred and fifty square feet.

XII. And be it enacted, That from and after the payment to the several shareholders of the amount so invested by them respectively, together with interest, as in and by the eleventh section is provided, the proceeds of all sales of Lots, after deducting the annual expenses of the said Cemetery, shall be forever devoted and applied to the preservation, improvement, embellishment and enlargement of the said Cemetery, and for no other purpose whatsoever.

XIII. And be it enacted, That if any person or persons shall wilfully destroy, mutilate, injure or remove any tomb, monument, grave stone, or other structure placed in the Cemetery aforesaid,

or any fence, railing, or other work for the protection or ornament of any tomb, monument, grave stone, or other structure aforesaid, or shall wilfully destroy, remove, cut, break, or injure any tree, shrub, or plant, within the limits of the said Cemetery, or shall play at any game of sport, or discharge any gun or other fire arm, save at a military funeral, within the said Cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the Cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the said Cemetery, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof before any Justice of the Peace, be punished by a fine of not less than one pound nor more than five pounds, or be committed to the Common Gaol for the space of not more than ten days, according to the nature and aggravation of the offence; and such offender shall also be liable in an action of trespass to be brought against him in any Court of competent jurisdiction, in the name of the Corporation of the Saint John Rural Cemetery Company, to pay all such damages as shall have been occasioned by his or their unlawul act or acts; which money, when recovered, shall be applied by the said Corporation to the reparation of the property destroyed or injured as above; and members of the said Corporation shall be competent witnesses in such suits.

XIV. And be it enacted, That the Lots in the said Cemetery shall not be levied upon or taken in execution, but shall be altogether free from seizure at the suit of any person or persons whomsoever, and that the property in any such Burial Lots, or part thereof, shall not prevent any confined debtor from receiving support under the Law in force for the relief and support of confined debtors.