

## CAP. CXVIII.

## An Act to amend the Act incorporating the Mount Royal Cemetery Company.

[Assented to 22nd April, 1853.]

Preamble.

**W**HEREAS the Trustees of *The Mount Royal Cemetery Company* have petitioned for an extension of their powers, and it is expedient to grant the prayer thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Company shall have full power and authority to designate and establish, take, appropriate, have and hold the requisite land adjoining the site of the Cemetery, adapted and required for the purposes of the said Company, and for the more easy ingress and egress to and from the said Cemetery, from the City of Montreal and from the Côte des Neiges road, according to the provisions hereinafter contained for acquiring the same; and to dig, take, and carry away stone, gravel, sand, earth, and other like materials from any adjoining or neighbouring lands, and also to cut, make and keep in repair upon such adjoining or neighbouring lands, such ditches, drains and water courses as may be necessary for the effectual draining and carrying off the water from the said Cemetery, and the roads leading thereto; and for the purposes aforesaid, the said Company and their agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies corporate or politic.

Company may lay out and take land and materials for a road to or from their Cemetery, cut ditches, &c.

May enter lands for such purposes.

Compensation to be made and to be settled by arbitration of the Company, if the parties interested cannot agree.

II. And be it enacted, That if the owner or owners, occupier or occupiers of any lands which the said Company may be desirous of acquiring for the purposes aforesaid or from which materials are to be taken, shall, upon demand made by the Trustees of the said Company, neglect or refuse to agree upon the price or amount of damages to be paid for such land, and the appropriation thereof to the use of the said Company, or for the exercise of any such powers as aforesaid, it shall and may be lawful for the said Company to name one arbitrator, and for the owner or occupier of such land so required, or with regard to which such power is intended to be exercised as aforesaid, to name another arbitrator, and for the said two arbitrators to name a third, to arbitrate upon, adjudge, and determine the amount which the said Company shall pay before taking possession of such land, or exercising such power as aforesaid: and upon such sum being ascertained, due attention

attention being had by the arbitrators in ascertaining the same to the benefits to accrue to the party requiring compensation, it shall be lawful for the said Company to tender such sum to the said party claiming compensation, who shall thereupon execute a conveyance to the said Company, or such other document as may be requisite, and the said Company shall, after such tender, whether such conveyance or document be executed or not, be fully authorized to enter upon and take possession of such land to and for the uses of the said Company, and to hold the same, or to exercise such powers as aforesaid, in such and the like manner as if such conveyance thereof or other document had been executed as aforesaid: Provided always, That if such owner or occupier shall neglect to name an arbitrator for the space of twenty days after having been notified so to do by the said Company, or if the said two arbitrators do not agree upon such third arbitrator within twenty days after the appointment of the second arbitrator, then upon the application of the said Company, or of the other party, a Circuit Judge shall nominate the second or third arbitrator, in lieu of the one so to be appointed and named, but not appointed or agreed upon by the party or the two first named arbitrators as aforesaid; and any award made by the majority of the said arbitrators, shall be as binding as if the three arbitrators had concurred in and made the same.

Proviso: if any such party fails to name his Arbitrator.

Award of two to be good.

III. And be it enacted, That whenever any lands or grounds required by the said Company, for the purposes aforesaid, are held or owned by any person or persons, bodies politic, corporate, or collegiate, whose residence may not be within this Province, or unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unable to treat with the said Company for the sale thereof, or to appoint arbitrators as aforesaid, it shall and may be lawful for the said Company to nominate one indifferent person, and for a Circuit Judge, having jurisdiction in the District of Montreal, on the application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named, before proceeding to business, or in the event of their disagreeing as to the choice of such other person, to be appointed by any such Judge as aforesaid, before the others proceed to business, shall be arbitrators, to award, determine, adjudge, and order the respective sums of money, which the said Company shall pay to the respective parties entitled to receive the same, for the said lands or damages as aforesaid, and the decision of the majority of such arbitrators shall be binding; which said amount so awarded, the said Company shall pay or cause to be paid to the several parties entitled to the same when demanded: And in any case under this Act, where there shall be no deed conveying the property in question to the Company, a record of the award or arbitration shall be made up and signed by the said

Provision where lands belong to a Corporation, or to a party unknown or absent, &c.

Award may be registered where there is not a Deed.

Costs of Arbitration by whom to be paid, &c.

said arbitrators, or a majority of them, specifying the amount awarded and the costs of such arbitration, which may be settled by the said arbitrators or a majority of them, which record shall be registered in the Registry Office for the County of Montreal; And that the expenses of any arbitration under this Act, shall be paid by the said Company, and by them deducted from the amount of such award, if the Company shall, before the appointment of their arbitrator, have tendered an equal or greater sum than that awarded by the arbitrators, and otherwise by the opposite parties, and the arbitrators shall specify in their award by which of the parties the said costs are to be paid.

Public Act.

IV. And be it enacted, That this Act shall be a Public Act.

## C A P . C X I X .

An Act to confer Equity Jurisdiction upon the several County Courts in Upper Canada, and for other purposes therein mentioned.

[Assented to 23rd May, 1853.]

Preamble.

**W**HEREAS it is expedient to extend the jurisdiction of the several County Courts in Upper Canada to certain matters cognizable in the Court of Chancery of Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the jurisdiction of the said County Courts respectively shall extend to the several matters hereinafter enumerated, and that the said County Courts respectively shall possess the like power and authority in respect of the matters hereinafter enumerated as by law is now possessed by the Court of Chancery of Upper Canada.

County Courts to have Equity Jurisdiction in certain matters.

To what cases the Equity Jurisdiction of County Courts shall extend.

II. And be it enacted, That it shall be lawful to and for any person seeking equitable relief, to enter (personally or by Attorney) a claim against any person from whom such relief is sought, with the Clerk of the County Court of the County within which such last mentioned person resides, in any of the following cases, that is to say:

Partnership accounts.

1. A person entitled to an account of the dealings and transactions of a partnership (the joint stock or capital not having been over two hundred pounds,) dissolved or expired, seeking such account.