

Laws of Her Majesty's Province of United Canada, passed in the year 1847. Montreal:
Stewart Derbishire & George Desbarats, 1847.

10 & 11 Victoria – Chapter 67

An Act to incorporate The Montreal Cemetery Company. 28th July, 1847.

Whereas it hath become necessary to the health of the City of Montreal that a Public Cemetery should be established near to but without the limits thereof, upon the plan now adopted by the inhabitants of many of the great Cities in Europe and America; And whereas the persons hereinafter mentioned, and others, inhabitants of the said City, have associated themselves for the purpose of establishing such Cemetery, and have prayed that they and their successors be incorporated and divers powers conferred on them for the purpose aforesaid: 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, 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 John Samuel McCord, John Torrance, John Smith, William Murray, The Honorable James Ferrier, Benjamin Holmes, J. H. Maitland, The Honorable George Moffatt, David Brown, John Redpath, Honorable John Molson, Benjamin Lyman, John Mathewson, John Birks, Henry Vennor, and A. A. David, all of the City of Montreal, and such others as now are or may hereafter become subscribers in the undertaking hereinafter mentioned, and their successors for ever, shall be and are hereby constituted a body politic and corporate, in fact and in name, by the name of The Montreal Cemetery Company, and by that name they and their successors shall have perpetual succession and a common seal, with power to alter and make new the same at pleasure, and may by that name contract and be contracted with, sue and be sued, plead and be impleaded in all Courts and places whatsoever, and shall have full power and authority to take, purchase and acquire by any title whatsoever, and to hold, possess and enjoy without letters of mortmain (but saving always the *droit d'indemnité* of the Seigneur) any lands or immoveable property within the Island of Montreal, but without the limits of the City, not exceeding two hundred arpents in extent, and may also take and hold moveable property for the purposes hereinafter mentioned; Provided always, that such immoveable property shall be held and used solely for the purpose of a Public Cemetery and Garden and the necessary and convenient roads and access to the same.

II. And be it enacted, That the Capital Stock of the said Company shall be divided into shares of five pounds each; and that each proprietor of one share shall be entitled to have conveyed to him and his assigns and legal representatives for ever, by the said Company, one hundred superficial feet English, of ground in the said Cemetery, and so in proportion for any greater number of shares, at the rate of one hundred superficial feet for each share.

III. And be it enacted, That so soon as may be after the passing of this Act, the persons hereinbefore named, or any majority of them, shall cause books of subscription to be opened in

the said City of Montreal, and shall by advertisement in at least one newspaper published therein in each language, inserted at least three times in such newspapers, give public notice of the time and place at which the said books shall lie open to receive subscriptions: Provided always, that the persons who have before the passing of this Act subscribed in any book or list of subscriptions to the said undertaking, shall, during three days after the said books shall be so opened, be entitled to subscribe therein for the same amount and in the same order in which they had before the passing of this Act subscribed to the said undertaking; And provided also, that each subscriber shall, after his name, enter in the said books that one of the several religious denominations hereinafter mentioned to which he chooses to be deemed to belong, that is to say: Members of the Church of England, Presbyterians, Wesleyan Methodists, Congregationalists, Baptists, Unitarians, and Jews; and that no subscription shall be valid unless thirty-three shillings and four pence at least per share be paid in at the time of subscribing.

IV. And be it enacted, That so soon as the sum of three thousand pounds or upwards shall have been subscribed for, it shall be lawful for the persons aforesaid or a majority of them, to call by advertisement as aforesaid, a public meeting of all the subscribers, at a time and place in the City of Montreal to be announced in such advertisement, at which meeting some one of the subscribers shall be chosen to act as Chairman, and some other to act as Secretary.

V. And be it enacted, That twenty-one Trustees shall be elected to manage the affairs of the said Company in the following manner: at the said meeting the Chairman and Secretary shall ascertain the amount subscribed by persons of each of the religious denominations aforesaid, and the subscribers of each such denomination shall be entitled to elect a number of Directors bearing such, proportion to twenty-one as the sum subscribed by persons of such denomination shall bear to the whole amount of the Capital Stock subscribed, and the Chairman and Secretary shall declare such proportion; Provided, that each one of the said denominations shall be entitled to elect at least one Trustee, and that if by such proportion there be a fractional number equal to more than half the number which would entitle any denomination to elect another Trustee, such denomination shall be entitled to elect such other Trustee, but if the fractional number be less than this it shall not be reckoned; and if any question shall arise as to the number of Trustees to be elected by any of the said religious denominations, the same shall be decided by the Chairman and Secretary, or if they differ, then by the majority of the persons present at the meeting voting according to the scale hereinafter provided.

VI. And be it enacted, That at the said first meeting a day and hour shall be appointed (not less than three days nor more than one week from the day of such meeting) when the members of each religious denomination shall meet at some place in the said City to be also named, for the purpose of electing by a majority of votes the number of Trustees to which such denomination may be entitled, being members of the said Company, and whose names shall be returned to the Chairman or Secretary appointed at the first meeting, who shall enter them in the books of the Company.

VII. And be it enacted, That at every future annual election of Trustees the same general rule of election shall be followed, the several religious denominations being entitled to elect a number of

Trustees proportionate to the amount of Stock they shall respectively hold at the time of the election.

VIII. And be it enacted, That there shall be an Annual General Meeting of the Company and an election of Trustees on some two days in each year to be appointed from time to time by the By-laws of the Company; and the Trustees shall always remain in office until the end of the day appointed for the election of their successors, but shall always be re-eligible if qualified as Stockholders.

IX. And be it enacted, That the day, hour and place of all Annual General Meetings after the first, and of the meetings of the members of the several religious denominations for the election of the number of Trustees to which they may be entitled, and the persons or officers who shall preside at such meetings, and the mode of proceeding thereat, shall be fixed by the By-laws of the Company to be made in that behalf, and not being contrary to the provisions, and being in accordance with the intent and spirit of this Act; and it shall not be necessary that the general meeting or elections be on the same day in every year, provided they be not more than fourteen nor less than ten calendar months from each other; and by such By-laws provision may be made for another meeting or election in case of failure to meet or elect on the days first appointed.

X. And be it enacted, That the whole management of the affairs and property of the Company shall be vested in the Trustees for the time then being, elected as aforesaid, and any seven of the said Trustees shall be a *Quorum* for the transaction of business, and any majority of such *Quorum* may exercise all the powers hereby or by the Bylaws of the Company vested or to be vested in the Directors; and the Trustees shall as soon as may be convenient after the election in each year, elect one of their number to be the President of the Company, and another to be Vice-President thereof, and the President if present, (or if he be not present, then the Vice-President, or if he be not present, then some Trustee to be chosen for the occasion,) shall preside at all meetings of the Trustees, and shall in case of equality of votes have a double or casting vote unless it be otherwise provided by the By-laws of the Company; and the said Trustees may empower the President or any other Director to sign and seal with the common seal of the Company, and any Officer of the Company to countersign any *Acte*, Instrument or Document in the name and on behalf of the Company, and any *Acte*, Instrument or Document so signed and sealed shall be deemed to be the *Acte* of the Company; and the said Trustees shall have power to treat for and acquire immoveable and moveable property for the Company; and to lay out and manage the same, subject always to such By-laws as may be made touching such management; and shall have such other powers, not inconsistent with this Act, as being hereby vested in the said Company, shall by the By-laws thereof be assigned to and vested in the Trustees.

XI. And be it enacted, That the said Trustees shall have full power from time to time to frame By-laws for the government of the Company and of the members and Officers thereof, and to submit the same to a general meeting of the Company to be called by the Trustees, after such notice as is hereinbefore required for the first meeting; and such By-laws being so submitted may be allowed or disallowed, amended or altered at such meeting; and such By-laws as shall be finally allowed thereat shall be binding on all members of the Company until repealed or altered in like manner.

XII. And be it enacted, That at all meetings of the Trustees the votes shall be given *per capita*; but at all meetings of the members of the Company they shall be given by the members present thereat, according to the following proportion, that is to say: each member shall be entitled to one vote for each share he may hold up to ten, but no member shall have more than ten votes.

XIII. And be it enacted, That the Company shall have power to keep hearses and mourning coaches, with the requisite horses and other articles for conveying the corpse and mourners and other persons to and from their Cemetery, and to charge such reasonable rates for the use thereof as shall be from time to time fixed by the Trustees.

XIV. And be it enacted, That after having acquired the ground required for the said Cemetery, the Trustees shall cause the same to be surveyed, and a plan thereof and of the mode proposed for laying out the same, to be prepared by some sworn Surveyor, and shall cause such Surveyor to lay off a portion thereof for the members of the Company being members of the Church of England, and bearing the same proportion to the whole area of the Cemetery as the sum then subscribed by members of the said denomination shall bear to the whole sum then subscribed, such portion to be vested in the Bishop administering the Diocese of Quebec according to the establishment of the Church of England, or the Bishop administering any other such Diocese in which the said Island of Montreal may be included for the time being, and another portion thereof for the members of the Company being of the Jewish persuasion, which shall bear the same proportion to the whole area of the Cemetery, as the sum then subscribed by members of the said denomination shall bear to the whole sum then subscribed; and the portions so laid out and approved by a majority of the whole of the Trustees for the time being, shall be assigned and kept for the use of the said denominations, respectively, and may by them be consecrated or set apart as burial grounds, in such manner as by the rites and customs of the said denominations may be required, but shall not be fenced in or separated from the remainder of the Cemetery, except in accordance with the general regulations to be made in that behalf, and shall be subject in all respects to such general regulations, and all monies to be received for lots sold in the said portions shall be paid over to the general funds of the Company, and such lots shall be sold at the same rates as lots in other portions of the Cemetery.

XV. And be it enacted, That the said Trustees shall also cause the said Cemetery to be divided into lots; and that each member of the Company shall, on the payment of the first instalment of the sum he shall have subscribed, be entitled to select (the right of selection following the order of subscription, if the payment of the first instalment on the sum subscribed, and the selection be made within the time to be fixed for that purpose by the Directors, but otherwise in the order of the payment of such instalments) at the rate of one lot of one hundred superficial feet for each share for which he shall have subscribed and paid the instalments as aforesaid: Provided, that no person not being a member of the Church of England or of the Jewish persuasion shall select a lot in the portions of the Cemetery assigned to the members of these denominations.

XVI. And be it enacted, That any party having subscribed for and selected more than six lots, may dispose of and assign any two or more lots to any other party (subject to the provisions of the next

preceding section, as to the portion of the Cemetery assigned to members of the Church of England or of the Jewish persuasion,) but no less than two lots shall be so assigned to any one party, nor shall the price to be paid for the same exceed the sum paid for the same by subscription, and the legal interest thereon.

XVII. And be it enacted, That the said Company shall furnish graves for the poor free of charge, on the certificate of a Minister or Clergyman, of the denomination to which such poor belong, that the relations of the deceased are poor, and cannot afford to purchase a lot in the said Cemetery; and the Trustees may sell any lot of any size whatsoever less than one hundred superficial feet, to any party; but no party being the proprietor of a lot containing less than one hundred feet shall thereby become a member of the Company or have any vote in the management of the affairs thereof.

XVIII. And be it enacted, That all the funds of the said Company shall be appropriated and applied solely to the purchasing, laying out, fencing, ornamenting and keeping up the said Cemetery, and roads and access to the same, and for the other purposes authorized by this Act, and the defraying of the necessary expenses of the Company, and no dividend or profit of any kind shall be paid by the said Company to any member or members thereof; and the price of all lots sold and of all rates or fees received for the use of any part thereof, or of any property of the Company, shall go into the general fund of the Company and be appropriated and applied as aforesaid.

XIX. And be it enacted, That the said Trustees shall have power to employ such surveyors, architects, gardeners, superintendents, clerks, and other officers and servants as they may think necessary, and to pay them such remuneration as may be deemed proper, subject always to any By-laws to be made in that behalf.

XX. And be it enacted, That the whole Cemetery shall be under the management of the same chief gardener or superintendent, and subject to the general regulations which shall be made by the Trustees as to the laying out, planting and ornamenting of the Cemetery: Provided always, that the members of any religious denomination may on ground belonging to members of the Company of their own persuasion, and with the consent of such members, erect a Church or Chapel thereon, at the expense of the members of such persuasion, and have the same consecrated or set apart for Divine Service, according to the rites and ceremonies of such persuasion, and may have their own manager for all purposes connected with the burial of their Dead and with the keeping of their Registers, and for all other purposes, saving and excepting the laying out, planting, or ornamenting of the Cemetery, but nothing herein contained shall be held to exempt the members of any such denomination from contributing to all the expences of the Company for the purposes mentioned in the eighteenth section, or from the payment of the rates or fees therein mentioned.

XXI. And be it enacted, That the lots in the said Cemetery shall be held to be immoveable property, and shall be inherited or may be devised or assigned and conveyed accordingly, saving only that it shall not be necessary that such conveyance be before a Notary or Notaries, but any form of conveyance under the hand and seal of the owner or executed in the manner required for

Actes of the Company if by the Trustees to any party, and stating the number of the lot as it stands in the books of the Company, and that the same is thereby conveyed to some party, shall be a valid conveyance thereof; and no hypothec or incumbrance shall in any wise subsist upon any such lot, nor shall any registration of the conveyance be requisite to its validity, except that it be entered in the books of the Company.

XXII. And be it enacted, That the Trustees shall have full power, by notice given in the manner provided for calling general meetings, to call for instalments on the sums which shall then have been subscribed for as aforesaid, and to appoint the time and place where the same shall be payable; and if the same shall not then be paid, the right of the subscriber and any instalment he may have previously paid shall be forfeited, and he shall be held not to have subscribed, unless the Directors shall think it expedient to remit such forfeiture, which they may do in their discretion, if the instalments be paid, with the interest, within one year after the day when it ought to have been paid.

XXIII. And be it enacted, That in construing this Act, words importing the masculine gender or the singular number only, shall be deemed to include more than one person or thing, and females as well as males, unless there be something in the context repugnant to or inconsistent with such construction; and if there be any omitted case or matter, touching which it is necessary that provision be made in order to give full effect to this Act, and to the true intent and object thereof, such provision may be made by any By-law of the Company not inconsistent with or repugnant to this Act: Provided always, that no By-law of the Company shall be repugnant to the laws of Lower Canada except in so far as the same are modified by this Act.

XXIV. And be it enacted, That this Act shall be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and others whom it may concern, without being specially pleaded.