

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 141

An Act to incorporate the Toronto Necropolis. 10th August, 1850.

Whereas John McMurrich, Alexander McGlasher and John Shaw, inhabitants of the City of Toronto, have, by petition, set forth that owing to the increase of the inhabitants of the said City, and the small portions of land at present allotted for burying grounds free from sectarian control, it is desirable that a Cemetery be established in the vicinity of the City, as well for strangers as inhabitants of the City, of whatsoever sect or denomination they may be, and that the said Petitioners may be incorporated for that purpose: 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 Power Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said John McMurrich, Alexander McGlasher and John Shaw, their heirs, devisees or assigns are hereby constituted a body corporate by the name of the Toronto Necropolis.

II. And be it enacted, That the said Corporation may acquire, take and hold a parcel or tract of land, within the said City or in its vicinity, not exceeding fifty acres, which land, when acquired by the said Corporation or their grantees, shall be used exclusively as a Cemetery, or place for burial of the dead, and for this purpose it shall be surveyed and subdivided into lots of a convenient size, respectively designated and numbered, and with such walks, paths and avenues as may be deemed advisable, and a map of such survey shall be filed in the office of the Registrar of the County of York; and when the said Corporation shall have acquired an indefeasible title in fee to the premises, free and clear of all incumbrances, and shall have filed the said map in the office aforesaid, the said Corporation may sell, convey or otherwise dispose of the said lots (reserving a section which shall for ever be devoted free of expense for the benefit of the stranger and those who may be unable to purchase,) to any person or persons on such terms and conditions, and subject to such By-laws of the Corporation, and at such prices as shall be agreed on, to be used and appropriated exclusively for the burial of the dead; which conveyances shall be under the Seal of the Corporation and signed by the Secretary thereof.

III. And be it enacted, That the said Corporation may enclose, lay out, improve and embellish such land, in such manner, and may erect such buildings thereon, as the nature of the establishment may require, and may also further take and hold such personal property as may be necessary and proper for attaining the objects, and carrying into effect the purposes of the said Corporation.

IV. And be it enacted, That it shall not be lawful for the said Corporation at any time to make, do, commit, or cause any act, matter or thing whatsoever, whereby the said Cemetery and the land

and premises appertaining thereto, or any part thereof, can or may be in any wise impeached or encumbered in title, charge, estate or otherwise.

V. And be it enacted, That all lots of ground when conveyed and designated, and numbered as lots by the said Corporation, shall be indivisible, but may be held and owned in undivided shares.

VI. And be it enacted, That any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone or other structure placed in the Cemetery aforesaid, or any fence, railway or other wall for the protection or ornament of the said Cemetery, or of any tomb, monument or grave-stone or other structure aforesaid, or shall wilfully destroy, cut, break or injure any tree, shrub or plant or flower within the limits of the said Cemetery, or commit any other kind of trespass, or play at any game or sport, or discharge fire-arms (save at a military funeral) in the said Cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the said Cemetery for the purpose of burying any body therein, or who shall commit any nuisance therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, before a Justice of the said City of Toronto or County of York, or other Court of competent jurisdiction within the said City or County, be punished by a fine not less than ten shillings, nor more than ten pounds currency, 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 such Corporation, to pay all such damages as shall have been occasioned by his unlawful act or acts, which money when received shall be applied by the said Corporation to the reparation and restoration of the property destroyed or injured as above, and the members of the said Corporation shall be competent witnesses in such suits.

VII. And be it enacted, That it shall be the duty of the said Corporation to put up and maintain in at least three conspicuous places within the limits of the said Cemetery a printed notice containing the words of the preceding section.

VIII. And be it enacted, That the said Corporation may take and hold any grant, donation or bequest of property upon trust, to apply the same or the income thereof for the improvement or embellishment of the said Cemetery, or for the erection of any tomb, monument or grave-stone, fence, railing or other erection, or for the planting and cultivation of trees, shrubs, flowers or plants in or around any cemetery lot, or for improving the said premises in any other manner or form consistent with the design and purposes of this Act, according to the terms of such grant, donation or bequest.

IX. And be it enacted, That the said Cemetery shall be and is hereby declared exempt from all public taxes, rates or assessments, and shall not be liable to be sold on execution, or be applied in payment of debts due from any individual proprietor or proprietors, but they and their heirs or devisees or assigns may for ever hold the same entirely and totally exempt therefrom as long as the same shall remain dedicated to the purposes of a Cemetery, and during which time no public street, road or avenue shall be laid through the Cemetery or any part of the lands held by the said Corporation for the purposes aforesaid, except by special permission of the Legislature.

- X. And be it enacted, That the said Corporation shall appoint a Secretary to the same, with power to dismiss and re-appoint or appoint another at pleasure, and are hereby authorized to make By-laws, and to repeal or alter the same, such By-laws not being inconsistent with any existing law, for the management of its property, the regulation of its affairs, and the transfer of the shares, right or interest of the Members of the said Corporation.
- XI. And be it enacted, That no body shall be buried in any vault under any Chapel, or other building in the said Cemetery, or within fifteen feet of the outer wall of any such Chapel or building.
- XII. And be it enacted, That every part of the said Cemetery shall be inclosed by walls or other sufficient fences or railings of the height of eight feet at least.
- XIII. And be it enacted, That the said corporation shall keep the said cemetery and the buildings and fences thereof in complete repair and in good order and condition out of the moneys to be received by them in virtue of this Act.
- XIV. And be it enacted That the said Corporation shall make all necessary and proper sewers and drains in and about the said cemetery for draining it and keeping it dry, and they may from time to time as occasion requires cause any such sewer or drain to open into any existing sewer with the consent in writing of the persons having the management of the street or road and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.
- XV. And be it enacted, That if the said Corporation at any time cause or suffer to be brought or to flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place, any offensive matter from the said cemetery whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of twelve pounds ten shillings currency.
- XVI. And be it enacted, That the said penalty, with full costs of suit, may be recovered by any person having a right to use the water fouled by such offensive matter by a civil action in any court of competent jurisdiction; provided always that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within six months after it has ceased.
- XVII. And be it enacted, That in addition to the said penalty of twelve pounds ten shillings (and whether the same be recovered or not) any person having right to use the water fouled by such offensive matter, may sue the said corporation in a civil action in any Court of competent jurisdiction for any damage specially sustained by him by reason of the water being so fouled, or if no special damage be alleged, for the sum of two pounds ten shillings for each day during which such offensive matter is brought or flows as aforesaid after the expiration of twenty-four hours from the time when notice of the offence is served on the said Corporation by such person.

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XVIII. And be it enacted That the said Corporation shall make regulations for ensuring that all burials within the said cemetery shall be conducted in a decent and solemn manner.

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