

*Laws of Her Majesty's Province of United Canada*, passed in the year 1856. Quebec: Stewart Derbyshire and George Desbarts, 1856.

20 Victoria – Chapter 128

**An Act to amend and consolidate the several Acts, incorporating the Mount Royal Cemetery Company. Assented to 1st July, 1856.**

Whereas it is expedient to amend and consolidate the several Acts now in fore in this Province incorporating the Mount Royal Cemetery Company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- I. From and after the passing of this Act the Act passed in the session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the Montreal Cemetery Company*, and the two Acts passed in the Session held in the sixteenth year of Her Majesty's Reign, and intituled, respectively, *An Act to amend the Act to incorporate the Montreal Cemetery Company, and for other purposes therein mentioned, and An Act to amend the Act incorporating the Mount Royal Cemetery Company*, shall be and the same are hereby repealed.
- II. The present Stockholders, being severally the proprietors of a Lot or Lots in the said Cemetery for which they shall have paid to the said Company the sum of Five pounds Currency or more, and such others as may hereafter become Shareholders, having paid to the said Company for a Lot or Lots in the said Cemetery the sum of Five pounds Currency or more, and their successors for ever, shall continue to be and are hereby constituted a body politic and corporate in fact and in name by the name of "The Mount Royal 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 (saving always the *droit d'indemnité* of the Seigneur) any lands or immoveable property within the Island of Montreal, but without the present limits of the city, not exceeding two hundred arpents in extent, and may also take and hold move-able 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.
- III. The Capital Stock of the said Company shall be divided into shares of Five pounds Currency each; and each shareholder, except those who have already entered their names in the Books of Subscription heretofore opened by the Company, shall, before he shall be considered a shareholder, enter his name in the Book or Books of the Company to be kept for that purpose, and shall after his name enter in the said Book or 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, Methodists, Congregationalists, Baptists or Unitarians.

IV. There shall be an annual General Meeting of the Company and an Election of Trustees on some two days in each year appointed or to be appointed from time to time by the By-Laws of the Company; and the Trustees shall always remain in office, as shall the Trustees now in office, until the end of the day appointed for the election of their successors and until the appointment of their successors as hereinafter mentioned, but shall always be re-eligible if qualified as shareholders.

V. Twenty-one Trustees shall be annually elected to manage the affairs of the said Company in the following manner: A Public Meeting of all the Shareholders shall be called once a year by advertisement in one of the Newspapers published in the City of Montreal, announcing the time and place when and where such Public Meeting will be held, or in such other manner as may be provided for by the By-Laws of the Company; and at the said meeting the Chairman and Secretary who shall then be appointed for that purpose shall ascertain the number of shares held by persons of each of the religious denominations aforesaid: and the shareholders of each such denomination shall be entitled to elect a number of Trustees bearing such proportion to Twenty-one as the shares held by persons of such denomination shall bear to the whole amount of the Capital Stock; 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. At the said 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; and 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 shares they shall respectively hold at the time of the Election: Provided nevertheless that if on the day appointed for the election of the successors of the Trustees then in office, the members of the several religious denominations or of either of them shall neglect to elect a Trustee or Trustees, or to return the names of such Trustee or Trustees to the Chairman or Secretary, then and in that case the Trustee or Trustees representing the religious denominations so neglecting to elect shall remain in office until his or their successors be appointed.

VII. The day, hour and place of all Annual General Meetings, 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 as fixed by the By-Laws of the Company made or 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.

VIII. 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 By-Laws of the Company vested or to be vested in the Trustees; 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 shall also elect a Treasurer and Secretary, 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 Trustee 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.

IX. 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 by advertisement or otherwise as is now or shall be hereafter by the By-Laws of the Company provided for; the power and authority of the said Trustees to make By-Laws to extend to the making of By-Laws for the management of the affairs of the Company generally, — the regulation of the sale and subdivision of Lots, — the collection and recovery of Debts due to the Company, and the forfeiture of Lots not paid for according to the terms of any agreement in that behalf, or of the By-Laws of the Company made or to be made concerning such forfeiture; and such By-Laws being so submitted may be allowed or disallowed, amended or altered at such meeting: and such By-Laws only as shall be finally allowed thereat, as well as the By-Laws of the Company now in force, shall be binding on all members of the Company until repealed or altered in like manner.

X. 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.

XI. 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.

XII. The said Company shall furnish graves for the poor be-longing to the several denominations mentioned in the third section of this Act 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 of the said Company shall have power to make broken or irregular Lots of less or more than one hundred superficial feet, and to charge for the same in proportion to the superficies thereof.

XIII. All the funds of the said Company, except in so far as it may be deemed expedient by the Trustees to make investments thereof as hereinafter mentioned, 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. The said Trustees are hereby nevertheless authorized and empowered to make investments from time to time in Provincial Stocks or public Securities or in such other way as they may deem expedient of such portions of the funds of the Company as they may deem requisite for the purpose of creating a fund in aid of fees to defray wages and other expenses incurred in the management of the affairs of the Company.

XIV. 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 made or to be made in that behalf.

XV. The whole Cemetery shall be under the management of the same Chief Gardener or Superintendent, and subject to the general regulations now in force or which are or shall be prescribed by any By-Law made or to be made for 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 such 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 Cemeteiy; but nothing herein contained shall be held to exempt the members of any such denomination from contributing to all

the expenses of the Company for the purposes mentioned in the thirteenth section, or from the payment of the rates or fees therein mentioned.

XVI. 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 or assignment be before a Notary or Notaries, but may be made in writing and executed before two witnesses in the form of Schedule A to this Act annexed, which shall be a valid conveyance thereof: Provided nevertheless that no such conveyance shall be valid and effectual until the same shall be entered or enregistered in a book or books to be kept by the Company for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him or them to the said Company upon the Lot or Lots so conveyed or assigned; and no hypothec or incumbrance shall in any wise subsist upon any such Lot, nor shall any other registration of the conveyance or assignment be requisite to its validity.

XVII. The Trustees shall have full power to collect all payments or instalments due on Lots heretofore subscribed for, with interest thereon from the dates at which the said payments became due, or in their discretion to forfeit and declare forfeited the Instalments paid and all right to the Lots so subscribed for.

XVIII. In the event of the consecration of the said Cemetery or any part thereof, by any religious denomination holding property therein, such act of consecration shall not be held to invest the said religious body with any exclusive powers of jurisdiction either spiritual or temporal within the said Cemetery, saving the powers invested in such religious bodies under the provisions contained in the fifteenth section of this Act.

XIX. No religious denomination shall be entitled to elect one Trustee, unless the members of such Religious denomination are subscribers of twenty shares of the Capital Stock of the said Company.

XX. The real estate of the said Company, and the lots or plots, when conveyed by the Company to individual proprietors, shall be exempt from taxation or assessment of any kind, and not liable to be seized or sold on execution, or attached, or applied to the payment of debts by assignment under any Bankrupt or Insolvent Law.

XXI. Any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone or other structure placed in die Cemetery aforesaid, or any fence, railing or other work for the protection of the said Cemetery, or of any tomb, monument, grave-stone or other structure aforesaid, or of any lot within the Cemetery aforesaid, or shall wilfully destroy, cut, break or injure any tree, shrub or plant within the limits of the said Cemetery, or play at any game or sport, or discharge fire arms (save at a military funeral) in the Cemetery aforesaid, or who shall wilfully or unlawfully disturb any persons assembled for the purpose of burying any body therein, or who shall commit any nuisance in such Cemetery, shall be deemed guilty of misdemeanour, and shall upon conviction thereof, before any Justice of the Peace, or other Court of competent jurisdiction, be punished by a fine of not less than one pound nor more than ten pounds, according to the nature of the offence, and in default of payment of the said fine shall be liable to

imprisonment in the common gaol of the District of Montreal, for a period of not less than fifteen days nor more than thirty days; and such offender shall also be liable to an action of trespass to be brought against him in any court of competent jurisdiction, in the name of the said company, to pay all damages which shall be occasioned by his unlawful act or acts; which money, when recovered, shall be applied under the direction of the Trustees, to the reparation and reconstruction of the property destroyed or injured; and members and officers of the Company may be competent witnesses in such suits.

XXII. The said Corporation shall make regulations for ensuring that all burials within the said Cemetery are conducted in a decent and solemn manner.

XXIII. No body shall be buried in any Vault under any Chapel or other building in the said Cemetery.

XXIV. The said Corporation shall make all proper and necessary 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.

XXV. 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 *Côtes 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.

XXVI. 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 (he 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 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.

XXVII. 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 arbitrators, or a majority of them, specifying the amount awarded and the cost 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.

XXVIII. 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.

XXIX. This Act shall be a Public Act.

Schedule A.

Form of Conveyance and Assignment.

For value received from \_\_\_\_\_, of \_\_\_\_\_, I, \_\_\_\_\_, of \_\_\_\_\_, do hereby convey and assign unto the said \_\_\_\_\_, present accepting \_\_\_\_\_, that certain Lot of land in the Cemetery of the Mount Royal Cemetery Company, Parish of Montreal, designated on the plan of the ground and in the books of the Company as Lot No. \_\_\_\_\_, Section \_\_\_\_\_, containing \_\_\_\_\_ superficial feet, together with all the rights and privileges thereunto belonging, subject however to the By-Laws and regulations from time to time made by the Company.

Witness our hands hereunto subscribed, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

Witnesses, }  
\_\_\_\_\_ }