

This applies to cemetery companies incorporated before the 1st day of July, 1897, and this company was incorporated in 1893, and was, at the time of the application for reincorporation, "a valid and subsisting corporation."

Letters patent were granted reincorporating the company, under the name of the Humber Vale Cemetery Company Limited, on the 18th October, 1912.

The powers conferred are "to carry on business as a cemetery company and for the purpose to hold the lands now owned by the Humbervale Cemetery Company, and, if deemed necessary or expedient, to purchase or otherwise acquire and hold any additional lands for the purposes of the company, and with power to sell, alienate, and convey any of the said lands now held by the company and any other lands not required for the purposes of the company, if deemed necessary or expedient."

The last-mentioned company then, deeming it expedient and advisable to sell a portion of the land as not required for cemetery purposes, renewed negotiations with Ogden A. Winter, and a sale to him resulted. A conveyance has been executed of the part he purchased and a mortgage given by Winter to the company for the balance of the purchase-money.

I am not able to give effect to the contention of the plaintiffs in this action.

As to the objection to the by-law and the objection that the petition was not authorised, these are cured by sec. 27 of the Joint Stock Companies Act.

The defendant Winter has apparently acquired a large amount—perhaps the majority—of the stock of the company. Of that the plaintiffs have no right to complain.

It was objected that the plaintiffs are not shareholders or lot-owners so as to entitle them to bring this action. I make no finding upon that issue.

I appreciate the desire of the plaintiffs and lot-owners to see the cemetery ground large and extensive, as it was before the sale to Winter—but I may add that, according to the evidence, a great deal more care and attention could be given to the smaller enclosure than has been—and, beyond question, the smaller area is and will be sufficient for the burial during very many years of those whose friends will select the cemetery as a place of interment.

The order in council approved by His Honour the Lieutenant-Governor of Ontario, dated the 22nd day of September, 1914,