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No. 80.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to incorporate the "*Mount
Hermon Cemetery.*"

Received and Read a first time, Monday, 12th
February, 1849.

Second Reading, Monday, 19th February, 1849.

MR. CHAUVEAU.

PRINTED BY LOVELL AND GIBSON.

80

BILL.

An Act to Incorporate "*The Mount Hermon Cemetery.*"

WHEREAS the practice of burying in Preamble.
populous cities is objectionable, and
other provision for the interment of the dead
is desirable :—And whereas the persons here-
5 inafter named, and others have joined an As-
sociation called the Quebec Protestant Cem-
etery Association, for the purpose of estab-
lishing a rural Cemetery near the city of Que-
bec, and have prayed that they and their
10 successors be incorporated under the name
of "*The Mount Hermon Cemetery,*" for
the purpose aforesaid :—And whereas it is
proper to provide for the permanence of the
establishment, the decent preservation of the
15 ground and continued protection to the re-
mains there committed to the earth ; Be it
therefore enacted, &c.

And it is hereby enacted by the authority of Persons incor-
porated.
the same, That George O'Kill Stuart, Esq.,
20 Mayor of Quebec; and James Douglas,
Jeffery Hale, John. Musson, John Gilmour,
Henry S. Scott, James Gibb, Christian Wur-
tel, and Robert Cassells, Esquires, Direc-
tors of the said Association, and such others
25 as now are or may hereafter become share-
holders in the undertaking aforesaid, and their
successors forever, shall be, and they are
hereby constituted a body politic and corpo-
rate, in fact and in name by the name of
30 "*The Mount Hermon Cemetery,*" 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,
35 contract and be contracted with; sue and be
sued, plead and be impleaded in all courts
and places whatsoever, and shall have full

Property.

power and authority to take, have, hold and retain as proprietors, with power to add to the same to an extent not exceeding two hundred acres, all that tract of land in the Fief and Seigniorship of St. Michel, in the banlieue of the City of Quebec of about thirty-two arpents in superficies, bounded in front by the Cap Rouge Road, in the rear partly by the Cime du Cap, and partly by the north-west boundary of lot number twenty-two and the extension thereof towards the north east, to a point at or near the Cime du Cap, near to which there is a spring; on the north east, by land, formerly in the possession of Messrs. Wood and Gray, and on the south west by Sillery Road; and also all that other tract of land lying on the south east of the lot above described, bounded on the north west by the lot aforesaid and adjoining thereto, towards the north east and south east by the Cime du Cap, and on the south west by the north east side of Earl Street,

and may also hold and take movable property for the purpose hereinafter mentioned: Provided always, that the said immovable property shall be held and used as a Protestant Cemetery, and for no other purpose; forever.

Number of shares.

II. And be it enacted, That the Capital Stock of the said Association, shall be five thousand pounds, divided into one thousand shares of five pounds each, to be held by Protestants only, and that each proprietor shall be entitled, at all meetings of the members of the said Association, to one vote for each share he may hold up to ten, but no member shall have more than ten votes, and at all meetings of the proprietors, all questions shall be decided by the majority of votes then present: And no person shall be allowed to vote by proxy, unless in cases of

Votes.

Proxies.

absence from the City and Parish of Quebec, and unless such proxy be a Proprietor or Shareholder in the said Corporation, and produce written authority; Provided always, 5 that any female may vote by proxy, such proxy being likewise a Stockholder.

III. And be it enacted, That the persons above named, and their successors elected according to the Articles of the said 10 Association, shall be Directors of the said Association, three of whom shall retire annually, those retiring first in succession who have the least number of votes, after which the three Directors shall retire annually who 15 have been elected longest without re-election, and the said Directors shall be nine in number, each being a Proprietor of at least five shares, and when any vacancy in the office of Director occurs by death, resignation, removal from 20 Lower Canada, or otherwise, it shall be the duty of the Directors in office to call a meeting for the purpose of supplying such vacancy.

Election of Directors.

Three to retire annually.

Their qualification.

Vacancies in the office, how filled.

IV. And be it enacted, That there shall 25 be a General Meeting of the Association, and an election of Directors on some day in each year, in the month of March, to be fixed by the Directors for the time being, for the appointment of three Directors, after ten days 30 notice of such meeting by public advertisement: and the Directors shall also summon a Special General Meeting of the Shareholders, on a requisition made to them for that purpose, signed by at least ten Shareholders, 35 representing amongst them not less than one hundred shares of the Capital Stock, and all notices of Special General Meetings shall specify the object for which they are called.

General Meeting in March to elect Directors.

Special General Meeting, how called.

V. And be it enacted, That the manage- 40 ment of the affairs and property of the said Corporation shall be vested in the said Directors, and any three Directors shall form a quorum of the Board, and

Quorum of Directors and how to vote.

any majority of such quorum, at meetings duly convened by a notice to all the Directors, may exercise all the powers of the Directors; Provided that no Director shall have more than one vote, at any meeting of Directors, 5 and the President or Chairman shall be chosen by the Directors, and in case of an equal division of votes, the question proposed shall be held to be negatived.

Directors to keep a book recording the proceedings, &c.

VI. And be it enacted, That the Directors shall cause books to be kept, in which minutes of all their proceedings shall be recorded, as also monetary statements of the affairs of the Association, and they shall prepare, ten days before the Annual Meeting of the Shareholders, an Annual Report and detail of their proceedings, and of their receipts and expenditure, which report shall remain on the file with the Secretary or clerk or other officer, and shall be 20 open to the inspection of any Shareholder; and the account and statements to be made by the Directors shall be so made up to the thirty-first of December of each year, to be laid, as soon as possible, before a Com- 25 mittee of Audit to be composed of three Shareholders, who shall examine the accounts and report at the first annual meeting, and the said Auditors shall be three Shareholders, to be appointed at every Annual 30 General Meeting on motion, to act for the then ensuing year.

Accounts and statements to be made up and audited.

Stock how called in.

VII. And be it enacted, That the Directors may call in such portion of the stock subscribed before or after the passing of this 35 Act as they may see fit, by calls not exceeding one pound for each share, payable when and where they may direct, provided that fifteen days notice thereof be given in two newspapers, published in the said City, but 40 nothing herein contained shall exonerate any existing liability to the said Association, but, on the contrary, such liability shall be enforced in the same way, and the said Cor:

poration may enforce the payment of calls, and sums now due and called for, as is hereinafter prescribed, with respect to future calls and liabilities, but no proprietor in the
 5 said Corporation shall be in any manner whatsoever, liable for, or charged with the payment of any debt or demand due by the Corporation beyond the amount of his, her, or their subscribed share or shares in the
 10 Capital Stock of the said Corporation.

Liability limited to stock.

VIII. And be it enacted, That any Shareholder refusing or neglecting, or who shall have refused or neglected to pay any or either of the instalments on his shares, at the
 15 time or times required by the notice of the Directors, shall incur a forfeiture of his stock, at the discretion of the Directors, after thirty days notice of their intention to declare such forfeiture, and they may proceed to the sale
 20 thereof if the arrears are not paid up before the sale thereof.

Forfeiture of stock.

IX. And be it enacted, That the said Association may receive donations, devises, legacies and bequests for the purposes of the
 25 said Association, and for making, maintaining, and keeping in good order the lots and burial places in which the exclusive right of burial or of placing any monument or tablet may have been granted.

Donations and bequests may be received.

30 X. And be it enacted, That the said Corporation may, if they have any surplus funds after making the outlay and expenditure authorized by this Act, and paying dividends as aforesaid, invest the same in public securities, or appropriate the same to such public
 35 use, purpose or benefit, as they may think proper; such purpose to be approved of at a Special General Meeting.

Surplus fund to be invested or appropriated to some public use.

X. And be it enacted, That the shares in
 40 the stock of the said Corporation shall be assignable, but only with the consent and approval of the said Directors, by delivery of

Shares to be transferable.

the certificates to be issued to the holders of such shares, respectively and by assignment in the form following :

Form of transfer.

" I, A. B. in consideration of the sum of
paid me by C. D. do hereby 5
sell and transfer to the said C. D.
share in "*The Mount Hermon Cemetery*," to
hold to him the said C. D. subject to the
same rules, regulations and conditions as the
same are now held by me. Which assign- 10
ment I do hereby accept. Witness our hands
this day of in the year
;"

But calls to be first paid up.

Evidence of transfer.

or in any other convenient form to be pre-
scribed by any By-law of the said Corpora- 15
tion ; and that by such assignment, the party
accepting such transfer shall thenceforth be-
come, in all respects, a member of the said
Corporation in respect of such share or
shares in the place of the party so transferr- 20
ing the same ; but no such transfer shall be
valid or effectual until all calls or instalments
due on the shares purporting to be transferred
and all debts or moneys due to the said Cor-
poration thereon shall have been fully paid 25
up and discharged ; and a copy of such trans-
fer extracted from the proper book of entry,
and purporting to be signed by the Secreta-
ry, clerk or other officer of the said Corpo-
ration, duly authorized thereto, shall be suf- 30
ficient *prima facie* evidence of every such
transfer in all Courts in this Province.

Directors to dispose of Stock.

XI. And be it enacted, That the Direc-
tors shall have full power to dispose of
such part of the stock of the said Corpo- 35
ration as may remain to be disposed of,
or as may from time to time be added to
or fall into the general mass, either by for-
feiture or otherwise, on such terms and
conditions and to such parties, being Protes- 40
tants, as they may think most likely to pro-
mote the interests of the said Corporation ;
and they shall also have full power to make

To make calls.

such calls for money from the several proprietors of shares, for the time being, as is hereinbefore provided for, and to sue for, recover and get in all such calls, whether
 5 already made or hereafter to be made, and to cause and declare the said shares to be forfeited to the said Corporation; in case of non-payment, on such terms and in such way as they shall see fit to prescribe by any
 10 By-law, and in any action to be brought to recover any money, due on any call, made before or after the passing of this Act, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient
 15 to allege that the defendant is a holder of one share or more in the said stock (stating the number of shares) and is indebted to the Corporation in the sum to which the calls in arrear shall amount (stating the number and
 20 amount of such calls) whereby an action hath accrued to the Corporation by virtue of this Act; and it shall be sufficient to maintain such action to prove by any one witness that the defendant, at the time such call was
 25 made, was a Shareholder in the number of shares alleged, and that the calls sued for were made and notice thereof given in conformity with the provisions of this Act or the Articles of Association, and it shall not be
 30 necessary to prove the appointment of the Directors nor any other matter whatsoever; that the said Directors shall and may use and affix, or cause to be used and affixed the common seal of the said Corporation to any
 35 documents which in their judgment may require the same, and any act, deed or contract bearing such seal and signed by the President or Chairman (or by any two Directors,) and countersigned by the Clerk or
 40 Secretary, shall be held to be the act or deed of the Corporation; that they may appoint and employ such agents, gardeners, superintendents and other officers and servants of the said Corporation under them as
 45 to the said Directors may seem fit, and may fix the remuneration of such officers and ser-

Declaration in suits for calls.

Evidence of.

How contracts and deeds, are to be executed by the Corporation.

Directors to employ gardeners, &c.

vants and remove them at pleasure, and may make any payments and enter into contracts for the execution of the purposes of the said Corporation, and for all other matters necessary for the transaction of its affairs; may 5
 keep and hire hearses and mourning coaches, with the requisite horses for conveying 10
 corpses, mourners and other persons to and from the Cemetery, the same to be free of toll of any kind on all occasions, going and 10
 coming, and fix the rates for the use thereof, and may exercise all acts of ownership over the land, property and effects of the said Corporation; may institute and defend, in 15
 the name of the said Corporation, all suits at law, and shall and may have power to do all things whatsoever which may be requisite or necessary to give effect to the objects of the Corporation, and to vest the 20
 property and funds of the said Association in the Corporation hereby erected; that they shall declare dividends of the profits of the said Corporation, when and as often as the state of the funds thereof may permit, but 25
 not in any case to exceed eight *per centum* *per annum* on the Capital Stock actually paid into the funds of the said Corporation; and 30
 they may appoint when special meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and of 30
 the manner in which the Shareholders may call or require such special meetings to be called: And they shall have power to make 35
 By-laws and Regulations for the solemn and decent interment of the dead, for the govern-
 ment and control of the officers and servants of the said Corporation respectively; and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said 40
 Corporation, in all particulars and details thereof, whether hereinbefore specially enumerated or not, and the same also at any time to alter, change, modify and repeal, 45
 which said by-laws, rules and regulations shall be submitted for approval, rejection or

May hire horses and mourning coaches, and the same, to attend funerals free of toll.

May institute and defend actions.

Declare dividends.

Which are not to exceed eight per cent.
 They may prescribe mode of calling special meetings.

They may make By-laws.

To be approved of by the Shareholders.

alteration by the Stockholders, at the next general meeting, or at a special meeting to be called by the said Directors, and when and as so ratified and confirmed shall be put
 5 in writing and duly recorded in the minutes of the said Corporation, and be binding upon and observed and taken notice of by all members of the said Corporation: And any copy
 10 of the said By-laws, or any of them, under the hand of the Secretary, clerk or other officer of the said Company, and having the seal of the Corporation affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts in this Province.

Certified copies of By-laws, *prima facie* evidence.

15 XII. And be it enacted, That the said Capital Stock may be increased from time to time to the amount of ten thousand pounds should a majority of votes at a special meeting of the Stockholders called for that purpose, composed of persons representing at
 20 least two-thirds of the Capital Stock, consider it necessary, by the admission of new members, or by the addition to the stock of the members then composing the said Association, upon such terms and conditions and in
 25 the manner to be approved and agreed upon; and the capital to be raised by new shares shall be in all respects part of the Capital Stock of the said Association; and
 30 every Shareholder of such new stock shall be a member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who are now shareholders, in proportion to the inter-
 35 rest or number of shares which he, she or they may acquire, and to the amount of calls paid thereon; and shall also be liable to the same obligations, and stand interested in all the profits and losses of the said undertaking
 40 in proportion to the sum he, she or they shall subscribe and pay thereto as effectually as if such other or further sum had been originally raised as part of the said sum of five thousand pounds.

Capital Stock may be increased to £10,000.

Ground to be surveyed.

To be divided into lots.

To be embellished.

And Chapels erected.

Directors to set apart portions of the Cemetery, and sell therein exclusive rights of burial.

And also the right of erecting monuments, and placing tablets in the Chapel.

No lods et ventes.

XIII. And be it enacted, That the said Directors may cause the said tract of ground, and such other tracts of ground as may be acquired under the authority of this Act, for the purpose, of the said Cemetery, to be surveyed and divided into lots, a plan of which shall always remain in the possession of the said Directors, and be subject to the inspection of any owner of the said lots, or of any exclusive privilege; and the said Directors may cause the same to be ornamented and improved, and build or cause and permit to be built such chapel or chapels thereon, as may be necessary for the purposes of the said Association.

XIV. And be it enacted, That the said Directors shall set apart such parts of the Cemetery as they think fit, for the purpose of selling the same, or of granting an exclusive right of burial in any part of the Cemetery so set apart, and they may sell and dispose of in perpetuity or for a limited time, the exclusive right of burial in lots of ground as well as the said lots in the Cemetery, to Protestants and for the burial of Protestants therein only, at public competition or by private agreement, of such dimensions as they may see fit, and on such terms and conditions as they may think proper: Provided always, that it shall be in the discretion of the Directors to allow of the interments of others; and the said Association may likewise sell the right of placing any monument or gravestone in the Cemetery, or any tablet or monumental inscription on the walls of any chapel or other building within the Cemetery; and upon the sales of the said lots there shall be no lods et ventes or mutation fines due or payable to the Seigniors: And provided always, that no body shall be buried in any lot, or in any place wherein the exclusive right of burial, shall have been granted by the Association, except with the consent of the owner for the time being, of such lot or exclusive right of burial.

XV. And be it enacted, That no body shall be buried in any vault under any Chapel of the Cemetery, or within fifteen feet of the outer wall of any such Chapel.

No burials under, or close to Chapels.

5 XVI. And be it enacted, That the grant of any lot or of the exclusive right of burial in any part of the Cemetery, either in perpetuity or for a limited time, and of the right of one or more burials therein, or of placing therein
10 any monument, tablet or gravestone, may be made in the form in the Schedule to this Act annexed, or to the like effect: Provided always, that nothing herein contained is to prevent the Association from inserting such
15 other provisions as the interest of the Association may require.

Lots, and exclusive right of burial in any part of the Cemetery may be granted.

XVII. And be it enacted, That a Register of all such grants shall be kept by the Clerk of the Association, and within fourteen days
20 after the date of any such grant, an entry or memorial of the date thereof, and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant,
25 so as the situation thereof may be ascertained, shall be made by the said Clerk in such Register; and such Clerk shall be entitled to demand such sum as the Association think fit, not exceeding the prescribed sum, or if
30 no sum be prescribed, two shillings and six pence for every such entry or memorial; and the said Register may be perused, at all reasonable times by any Grantee or Assignee of any right conveyed in any such grant,
35 upon payment of the prescribed sum, or if no sum be prescribed, the sum of one shilling, to the Clerk of the Association.

A Register of grants to be kept.

Fees to Clerk, on entries therein.

XVIII. And be it enacted, That the said plan of the Cemetery shall be made upon
40 a scale sufficiently large to show the situation of every lot and burial-place in all the parts of the Cemetery, so set apart, and in which an exclusive right of burial has been

Plan of the Cemetery to be made, on which the burial places are to be numbered, and numbers entered in a book.

granted, and all such lots and burial-places, shall be numbered, and such numbers shall be entered in a book to be kept for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial, in any such place of burial has been granted by the Association; and no place of burial, with exclusive right of burial therein shall be made in the Cemetery, without the same being marked out in such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept by the clerk or other officer of the said Association, under the direction of the said Directors.

Exclusive rights of burial, personal estate, and may be assigned or bequeathed by will.

XIX. And be it enacted, That the exclusive right of burial in any such place of burial, shall, whether granted in perpetuity or for a limited time, be considered as the personal estate of the grantee, and may be assigned in his life-time, or bequeathed by his will, but neither the same, nor any of the said lots shall be seized or attached for debt; and the said lots, may be assigned in like manner.

An entry of bequest by will, to be inserted in the Register.

XX. And be it enacted, That an entry of such portion of every Will, whereby the said lot or lots or exclusive right of burial within the Cemetery is or are bequeathed, with a certificate of the same being a true and perfect extract, so far as respects such lot or lots and such exclusive right of burial, signed by the person having the legal custody thereof, shall within six months after the death of the testator, be made in the said Register, and until such entry no right shall be acquired to any lot or lots or the exclusive right of burial aforesaid; and for every such entry the clerk of the Association shall be entitled to demand such sum as the Association may prescribe, and if no sum be prescribed two shillings and six pence.

XXI. And be it enacted, That every such assignment shall within six months after the execution thereof, if executed in Lower Canada, or within six months after the arrival thereof in Lower Canada, if executed elsewhere, be produced to the Clerk of the Association, and an entry or memorial of such assignment shall be made in the Register by the Clerk of the Association, in the same manner as that of the original grant; and until such entry or memorial, no right of burial shall be acquired under any such memorial; and for every such entry or memorial the clerk shall be entitled to demand such sum as the Association may prescribe, and if no sum be prescribed, two shillings and sixpence.

Assignments to be entered in Register.

Fees to Clerk on entry.

XXII. And be it enacted, That every person who shall play at any game or sport, or discharge firearms, save at a military funeral, in the Cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the Cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the Cemetery, shall forfeit to the Association for every such offence a sum not exceeding *five pounds*.

And on persons playing, shouting, and making disturbances, &c., in the Cemetery.

XXIII. And be it enacted, That every person who shall wilfully destroy or injure any building, wall or fence belonging to the Cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall or fence thereof, or put up any bill therein, or on any wall or fence thereof, or wilfully destroy, injure or deface any monument, table, inscription or gravestone within the Cemetery, or do any other wilful damage therein, shall forfeit to the Association for every such offence, a sum not exceeding *five pounds*, and the penalties imposed by this and the foregoing section may be recovered before any Justice of the Peace or Magistrate, in a summary manner without any written information

Penalty on persons doing damage, &c., within the Cemetery.

being required, and any servant, agent or other officer who may detect the offender in the act of committing any of the said offences, may arrest him and take him before any such Magistrate or Justice of the Peace, who upon conviction may commit the offender to the Common Gaol of the District, for a period not exceeding thirty days in default of payment of the penalty: Provided always, that over and above the said penalties the said association may recover the damages sustained.

The Association may remove monuments erected without their authority.

XXIV. And be it enacted, That the said Association may take down and remove any gravestone, monument, tablet, or monumental inscription which shall have been placed within the Cemetery without their authority.

A public Act.

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

SCHEDULES

TO WHICH THE FOREGOING ACT REFERS.

Form of Grant of Right of Burial.

By virtue of "*An Act to incorporate the Mount Hermon Cemetery,*" We, the said Mount Hermon Cemetery, in consideration of the sum of _____ to us paid by _____ of _____ do hereby grant unto the said _____ the lot or exclusive right of burial, (or the right of burying _____ bodies, as the case may be,) or the right of placing a monument, tablet or grave stone in (here describe the ground intended for the exclusive burial or for placing a monument, tablet or grave stone, as the case may be, so as to identify the same, and if a lot or place of exclu-

sive burial, add numbered on the plan of the Cemetery, made in pursuance of the said Act,) to hold the same to the said in perpetuity, (*or the period agreed upon,*) for the purpose of burial, (*or as the case may be.*)

Given under our Common Seal, (or under our hands and seals (*as the case may be,*) this day of in the year of Our Lord

Form of Assignment of Right of Burial.

I, A. B. of in consideration of the sum of paid to be me by C. D. of do hereby assign unto the said C. D. the lot or exclusive right of burial in (*as the case may be,*) (*here describe the place,*) and numbered on the plan of the Cemetery, made in pursuance of "*An Act to incorporate the Mount Hermon Cemetery,*" which was granted to me, (or unto A. B. of ,) in perpetuity, (*or as the case may be,*) by the said Mount Hermon Cemetery, by a deed of grant, bearing date the day of and all my estate, title and interest therein, to hold the same unto the said C. D. in perpetuity, (*or as the case may be,*) for the remainder of the period for which the same was granted by the said Company,) subject to the conditions on which I held the same immediately before the execution hereof.

Witness my hand and seal this day of of

Signature [L. S.]