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No. 88.

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3d Session, 3d Parliament, 13 Victoria, 1850.

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## BILL.

An Act to incorporate the *Cataraqui  
Cemetery Company.*

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Received and Read a first time, Wednesday, 12th  
June, 1850.

Second Reading, Wednesday, 19th June, 1850.

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Mr. SMITH (of Frontenac.)

88

## BILL.

### An Act to incorporate the Catarauqui Cemetery Company.

**WHEREAS** it hath become necessary to the health Preamble.  
of the City of Kingston that a Public Cemetery  
should be established near to, but without the limits  
thereof, and the persons hereafter named have associated  
5 themselves together 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, and it is expedient to grant  
the prayer of the said Petition; Be it therefore enacted  
10 &c.

And it is hereby enacted by the authority of the same,  
That Thomas Kirkpatrick, Alexander Campbell, Samuel Certain persons incorporated.  
Rowlands, J. J. Burrowes, M. A. Strange, William Fer-  
guson, — McLeod, George L. Mowat, Thomas A. Corbett,  
15 J. B. Hinds, H. J. Martin, W. A. Gedd and such others  
as are now and 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  
20 of "The Catarauqui Cemetery Company." Corporate name.

II. And be it enacted, That the capital of the Company Capital limited.  
shall be £2000, which shall be divided into shares of  
£25 each, and shall be transferable on the Books of the  
Corporation, in such manner as the Corporation shall by  
25 its By-Laws direct.

III. And be it enacted, That it shall be lawful for the What land the Corporation may hold.  
said Corporation to acquire, take, and hold a lot or tract  
of land within the township of Kingston, not exceeding  
two hundred acres; and to sell, or otherwise, dispose of  
30 such land or lots to be used exclusively as a Cemetery  
or place of Burial for the dead; Provided always, that Proviso.  
the deed of sale of any lot in the said Cemetery or place  
of Burial shall be in the form of the Schedule A to this  
Act annexed; And provided also, that the real estate of Proviso: exemption from taxation, &c.  
35 the said Corporation, and the said lots when conveyed  
by the Corporation to individual proprietors, shall be  
exempt from assessment and taxation, and shall not be  
liable to be sold under execution, or to be subject to be  
applied to the payment of debts by any bankrupt, insol-  
40 vent or other law.

Application of capital.

IV. And be it enacted, That all moneys received for or on account of the said Capital Stock, shall be first applied by the said Corporation, to the payment of the purchase money of the land which may be acquired by the Corporation; and any residue thereof, together with at least one half of the money obtained for sales of lots, shall be applied to improving or embellishing such land as a Cemetery or Burial Ground. 5

Commissioners for receiving subscriptions.

V. And be it enacted, That the said Thomas Kirkpatrick, and Alexander Campbell shall be Commissioners to receive subscriptions to the said Capital Stock; they shall open Books at such places, and after having given such notice, as they deem expedient; they shall, when the sum of one thousand pounds currency shall have been subscribed, call a meeting of the subscribers to elect from amongst the Stockholders five Directors; and such election shall be made by such Stockholders, at such time and place as such Commissioners may have appointed,—each share represented personally or by proxy, entitling the Stockholder owning it to one vote: The Commissioners shall certify under their hands the names of the parties elected Directors, and shall hand over to them the Books, Papers, Moneys, and other effects of the said Corporation, which may be in their hands; the Directors then chosen shall fix the time and place of their first meeting and a new election of five Directors, shall afterwards be made annually on the same day of the week, in the same month as such first election may be made on the Directors in office fixing the day, and calling the meeting accordingly. 10  
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Election of Directors, &c.

Powers of Directors.

VI. And be it enacted, That the Directors or a majority of them, shall call in the capital stock by such instalments and at such times as they or a majority of them shall deem fit; giving fifteen days' public notice in a public newspaper, of such times of payment and amount of instalment required; and shall manage and control all the affairs of the said Corporation until the capital stock be extinguished, and a Board of Trustees appointed as hereinafter provided. 35

Original stock may be extinguished: who shall be members of the Corporation afterwards.

VII. And be it enacted, That whenever the original Stockholders in the said Corporation shall have been reimbursed, either by sale to them of lots in the said Cemetery, or otherwise, in the amount of stock originally taken and paid for by them, or earlier, the said Stockholders may, if they shall see fit, surrender and extinguish their Stock in such manner as the Board of Directors shall prescribe; and all persons who, then, or thereafter, shall be or become proprietors of lots or parcels of ground conveyed to them, or their predecessors in title, by the said Corporation, shall become and be members of the said Body Corporate. 40  
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VIII. And be it enacted, That the estate, property, and affairs of the said Corporation shall, after the said capital stock is extinguished, be managed by five Trustees, a majority of whom shall constitute a quorum capable of doing business; the persons constituting the Board of Directors at the time of the extinguishment of the said Capital Stock, shall constitute the first Board of Trustees, and shall remain in office until the election of a new Board; the proprietors of lots shall select from amongst themselves five Trustees on the first Monday in January in every year, to hold office until their successors shall in like manner be elected: Notice of the election shall be given in three several newspapers published in Kingston; and shall be by ballot: Provided always, that each lot shall entitle the proprietor thereof to one vote, and such vote may be given in person or by proxy; the Trustees may fill any vacancy from amongst the proprietors of lots, should any occur during the year of office: The annual meeting of the proprietors of lots shall be held on the first Monday in January, in every year, when the Trustees going out of office shall make a full Report of the management, condition and fiscal concerns of the Corporation.

Trustees to be appointed after the extinguishment of the stock.

Proviso.

Annual Elections, Reports, &c.

IX. And be it enacted, That it shall be lawful for the said Corporation to appoint such Officers and Servants of the Corporation as they shall think expedient, to make and frame By-Laws for the Government and control of the said officers, and also to make and frame all other By-Laws, Rules, and Regulations for the management of the business of the Corporation in all its particulars and details whether herein specially enumerated or not, and the same at any time to alter, modify and repeal; Provided that no such By-Laws shall interfere with the rules in the Schedule A to this Act annexed, nor be inconsistent with any other of the provisions of this Act; and any copy of the said By-Laws purporting to be under the hand of the Clerk or Secretary of the said Corporation shall be received as *prima facie* evidence of such By-Laws in all Courts in this Province.

Corporation to appoint officers, make By-laws, &c.

Proviso, as to By-laws.

X. And be it enacted, That all lots when conveyed and designated as lots by the said Corporation shall be indivisible, but may be owned and held in undivided shares. One half of the proceeds of all sales shall be applied towards the payment of the purchase money of the land acquired by the said Corporation, and the residue shall be applied to preserving, improving, and embellishing the said land as a Cemetery, and to the incidental expenses of a Cemetery establishment; and after payment of such purchase money, the proceeds of all future sales shall be applied to the preservation and improvement of said Cemetery and incidental expenses thereof, and to no other purpose whatever.

Lots to be indivisible.

Application of proceeds of sale of lots.

Punishment of  
persons defac-  
ing Tombs, &c.

XI. And be it enacted, that any person who shall wilfully destroy, deface, injure, or remove any Tomb, Monument, Grave Stone, or other structure placed in the Cemetery aforesaid, or any fence, railing, or other work for the protection or ornament of the said Cemetery, or of any Tomb, Monument, Grave Stone, or other structure aforesaid; or any plot or parcel of ground within the Cemetery, or shall wilfully destroy, cut, break, or injure any tree, shrub, or plant within the said Cemetery, shall be guilty of a misdemeanor, and may upon conviction before a Justice of the Peace, or other competent authority, be fined any sum not less than  
nor more than and  
in default of payment, of such fines, such person, may be committed to jail for any period not less than  
days or more than month; 15  
and may also be sued by the said Corporation for any such trespass whether committed in a private lot or otherwise; and in any case in which the Corporation is a party, the members of the said Corporation shall be competent witnesses. 20

Corporation  
may take pro-  
perty to a cer-  
tain amount by  
devise, &c.

XII. And be it enacted, That it shall be lawful for the said Corporation to take and hold donation, grant or devise, or bequest of property upon trust, not exceeding in value the sum of £ currency, to apply the same or the proceeds or income thereof to the improvement or embellishment of the Cemetery, or of any lot or lots therein. 25

Public Act.

XIII. And be it enacted, That this Act shall be a Public Act. 30

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## SCHEDULE A.

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### *Form of Deed of Lot in Catarauqui Cemetery.*

KNOW ALL MEN BY THESE PRESENTS, that the *Catarauqui Cemetery Company*, in consideration of the sum of pounds to them paid by of in the the receipt whereof is hereby acknowledged, do hereby grant, bargain and sell to the said

his heirs and assigns that lot of land in the Cemetery of the said Corporation called "The Catarauqui Cemetery" situate in the Township of Kingston, in the County of Frontenac, in Canada West, delineated and laid down on the registered map or plan of the said Cemetery, as lot No. and containing superficial feet, more or less, to have and to hold the above granted premises to the said his heirs and assigns for ever, subject however, to the limitations and conditions, and

with the privileges specified in the rules of the said Cemetery, on the back hereof indorsed, and the said the *Cataraqui Cemetery Company*, hereby covenant with the said his heirs and assigns, that they are actually and lawfully seized of the land hereby granted, that they have a right to sell the same for the purposes expressed in the rules hereon indorsed; that the said premises are free from incumbrances, and that they will warrant and defend the same to the said his heirs and assigns for ever.

In testimony whereof, the said Corporation have caused this deed to be signed by the Chairman of their Trustees for the time being, and sealed with their corporate Seal, the day of  
A. D. 185.

*Rules to be Indorsed on Deed.*

1. All lots shall be held in pursuance of the Act of incorporation, and shall not be held or used for any other purpose than as a place of burial for the dead.

2. The proprietor of each lot shall have a right to enclose the same by any railing not composed of wood, or by a wall not thicker than one foot, nor more than two feet in height above the surface.

3. Proprietors shall not allow interments to be made in their lots for a remuneration.

4. No disinterments shall be allowed without permission from the Corporation.

5. The Proprietor of each lot shall have a right to erect any stones, monuments or sepulchral structures therein, and to cultivate trees, shrubs and plants in the same; but no trees growing within any lot shall be cut down or removed without the consent of the Trustees.

6. If any trees or shrubs situate on any lot shall, by means of their roots, branches or otherwise, become detrimental to the adjacent lots or avenues, or dangerous or inconvenient to passengers, it shall be the duty of the Corporation, and they shall have the right to enter the lot and remove such trees or shrubs.

7. If any monument, effigy or enclosure, or any structure whatever, or any occupation, in or upon any lot, shall be determined by the Trustees to be improper or offensive, or injurious to the appearance of the surrounding lots, the said Trustees shall have the right to enter upon such lots and remove the said offensive or improper object or objects.

8. It shall rest with the Trustees to lay out and alter the walks and avenues, and to make rules and regulations for the government of the grounds, with which rules and regulations all proprietors of lots shall comply.

9. Proprietors of lots and their families shall be allowed access to the Cemetery at all times, subject to the rules of the Corporation, as they may be adopted by the Trustees.