

The Committee of Council submit for the consideration of
His Honour the Lieutenant-Governor a Bill intituled

An Act respecting Cemetery Companies.

and advise that the same be transmitted by Message to the
Legislative Assembly.

Victoria, thirty-first day of October, A.D. 1923.

John Oliver
Presiding Member of the Executive Council.

Approved this thirty-first day of October, A.D. 1923.

W. S. ...
Lieutenant-Governor.

J.
Sent in to A.G. 1500-10.

J.P.

[Signature]

LIEUTENANT-GOVERNOR.

HON. ATTORNEY-GENERAL.

BILL.

No. 2.]

[1923.

An Act respecting Cemetery Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short Title.

- 1. This Act may be cited as the "Cemetery Companies Act." Short title.

Interpretation.

- 2. In this Act, unless the context otherwise requires:—
 - "Company" means a company incorporated under this Act and includes a company incorporated under the "Cemetery Companies Act" repealed by this Act: Expressions interpreted.
 - "Lot" includes plot and burial-site.

Formation of Company.

- 3. Any five or more persons may form an incorporated company under this Act for the purpose of establishing and maintaining a public cemetery without the limits of a municipality incorporated as a city or city municipality by or under any general or special Act of the Legislature. Formation of company.

- 4. (1.) The persons desiring to form the company shall:— Requirements.
 - (a.) Execute in duplicate an instrument according to the form in Schedule A; and
 - (b.) Subscribe therein for shares of the company to an amount sufficient for the establishment of the cemetery, and to pay to some person in trust for the company when incorporated not less than twenty-five per cent. of the amount subscribed; and

(c.) Transmit to the Registrar of Joint-stock Companies the instrument in duplicate and a receipt from such person for the amount so paid to him in trust.

Certificate of incorporation.

(2.) Upon compliance with those requirements the Registrar shall file one duplicate and issue under his seal of office a certificate showing that the company is incorporated and the place where the cemetery will be, and shall return the other duplicate certified as having been filed with him.

Effect of incorporation.

5. From the date of the certificate of incorporation the subscribers to the instrument, and such other persons as may from time to time become shareholders in the company, shall be a body politic and corporate by the name therein described, having perpetual succession and a common seal, with the powers and subject to the provisions in this Act contained.

Powers of Companies.

Power to sue and contract.

6. A company may sue and be sued, contract and be contracted with in its corporate name.

Powers as to real and personal property.

7. (1.) For the purposes of its cemetery a company may acquire, hold, improve, develop, manage, and dispose of any real and personal property, and may subdivide any land into lots of any size for burial-sites and sell and convey the same by deed according to the form in Schedule B.

(2.) No company shall sell or convey any lot unless payment in full therefor is made to the company.

(3.) The provisions of the " Land Registry Act " shall not apply to the subdivision by a company of any land for the purposes of a cemetery, nor shall it be necessary to register under that Act the title to any lot in the cemetery conveyed by the company.

(4.) No judgment, mortgage, or encumbrance shall subsist on any lot so conveyed by the company.

Lots to be indivisible, but may be held in undivided shares.

8. Every lot in a cemetery, when numbered and conveyed by a company for a burial-site, shall be indivisible, but may afterwards be held and owned in undivided shares.

Application of proceeds of sales of lots.

9. (1.) One-half of the proceeds of all sales of lots made by a company shall be first applied to payment for the land acquired by the company.

(2.) Subject to subsection (1) and to section 21, the proceeds of all sales of lots made by a company shall be applied to the preservation, improvement, and embellishment of the land as a cemetery and to the incidental expenses of the company, and to no other purpose whatever.

10. (1.) The land of a company used for a cemetery shall not at any time be assessed or taxed under this or any other Act at a higher value or rate than the assessed value and rate fixed at the time when the land was purchased by the company, and shall not be liable to be seized or sold on execution. Payment of taxes on land used for cemetery.

(2.) The company shall be deemed the assessed owner of such land, and shall be liable for all taxes payable in respect thereof to the extent and in the manner provided in this section.

(3.) Every company shall file with the Minister of Finance a subdivision plan showing the roads, paths, and lots in its cemetery, the area of each lot, the total area of the roads and paths, and the total area of the land in the cemetery; and upon the sale of any lot the company shall forthwith deposit with the Minister of Finance a capital sum which at four per centum per annum will produce a sum which bears the same proportion to the total amount of taxes in respect of the land in the cemetery at the assessed value and rate fixed at the time when it was purchased by the company as the area of the lot sold bears to the total area of the land in the cemetery, the area of the lot sold being increased for the purposes of this calculation by adding thereto an area which bears the same proportion to the area of the lot as the total area of the roads and paths in the cemetery bears to the total area of the land in the cemetery.

(4.) The money so deposited with the Minister of Finance shall be credited to a fund to be known as the "Cemetery Tax Fund," and shall be accounted for as part of the Consolidated Revenue Fund. The money shall bear interest, payable by the Minister of Finance, at the rate of four per centum per annum, and where the land is situate within a municipality the interest shall be paid over by him each year as taxes to the municipality, and where the land is situate in unorganized territory the interest shall form part of the Consolidated Revenue Fund.

(5.) No company shall be required to make any deposit in respect of any lot in its cemetery sold prior to the seventeenth day of April, 1920; nor shall any company be required to make any deposit in respect of any lot furnished under section 16.

Duties.

11. Every company shall, by walls or other sufficient fences, enclose every part of its cemetery, and, where the cemetery is within a municipality, the walls or other sufficient fences shall be of such height as the municipality may by by-law direct. Cemetery to be enclosed.

12. Every company shall, out of the moneys received by virtue of this Act, keep its cemetery, and the buildings and fences thereof, in good order and condition. Cemetery to be kept in good order.

13. Every company shall make and keep in good order and condition all proper and necessary sewers and drains in and about its Cemetery to be properly drained.

cemetery for keeping it dry; and may connect any such sewer or drain with an existing sewer, with the consent in writing of the persons having the management of the street or road, and with the like consent of the owner or occupier of the land in or through which the sewer or drain is intended to be made, doing as little damage as possible to the street, road, or land wherein the same is made, and restoring it to the same or as good condition as it was in before being disturbed.

Burial in vaults, etc., prohibited.

14. No company shall bury or permit the burial of a body under or within fifteen feet of any chapel or building in its cemetery, whether in a vault or otherwise.

Burials to be decently conducted.

15. All burials within a cemetery shall be conducted in a decent and solemn manner, and every company shall make regulations accordingly.

Graves to be furnished gratis for strangers and poor.

16. Every company shall furnish graves in its cemetery for strangers and for the poor of all denominations, free of charge, subject, in the latter case, to the production of a certificate of a minister or clergyman of the denomination to which the deceased belonged, or the Mayor or Reeve of the municipality where the relatives of the deceased reside, or of a Justice of the Peace, that the relatives of the deceased are poor, and cannot afford to purchase a lot in the cemetery.

Shares and Shareholders.

Shareholders.

17. (1.) The shareholders of a company shall consist of the subscribers of the instrument prescribed by section 4 and every owner of a lot in its cemetery which contains at least one hundred superficial feet.

Shares.

(2.) Every lot which contains at least one hundred superficial feet shall be deemed to be a share in the company.

Liability of shareholders.

18. Subject to section 31, the liability of a shareholder of a company shall be limited to the amount unpaid on any share held by him.

Shareholder's interest transferable.

19. Subject to section 8, the interest of a shareholder in a company shall be transferable.

Voting rights.

20. Every shareholder of a company shall be entitled at all general meetings to one vote for each share held by him up to ten, and an additional vote for every five shares beyond the first ten.

No dividend or profits to be paid to shareholders.

21. No dividend or profit of any kind shall be paid by a company to any shareholder: Provided that out of the proceeds of lots sold by it, the company may pay to a shareholder who does not desire to take land in the cemetery to the full extent of the amount of the shares subscribed for and paid by him, interest on the amount not represented by land in the cemetery at such rate as may be agreed

on, not exceeding eight per centum per annum, and may also repay to a shareholder the amount of the shares held by him and paid up and not represented by land in the cemetery.

22. Upon repayment to a subscriber as provided by section 21, he shall cease to be a shareholder in respect of the shares held by him to the extent of the amount so repaid, and upon such repayment in full he shall cease to be a shareholder, unless he holds a lot in the cemetery which contains at least one hundred superficial feet.

How subscriber ceases to be shareholder.

23. The amount owing to a company in respect of any share shall be payable as and when the directors may determine, and any share with the amount paid thereon may be forfeited for default in payment; but the directors may remit a forfeiture where the amount in default is paid with interest at such rate as may be fixed by by-law of the company, not exceeding eight per centum per annum, within one year after the day when that amount ought to have been paid.

Payment for shares or lots.

Directors.

24. The affairs and property of a company shall be managed by a board consisting of not less than three or more than nine directors, a majority of whom shall form a quorum.

Number and quorum.

25. Every shareholder shall be eligible as a director of a company.

Qualification.

26. The first directors of a company shall be chosen by ballot from among the subscribers to the instrument prescribed by section 4, and thereafter the directors shall be elected by the shareholders at the annual general meeting.

Election.

27. The directors of a company shall at their first meeting elect one of their number to be president of the company, and the president, if present (or if he is not present, then some director chosen for the occasion), shall preside at all meetings of the directors and the company, and in the case of an equality of votes shall have a second or casting vote.

President of company.

28. The directors of a company shall hold a general meeting of the shareholders on the third Monday in January in each year, before which they shall lay a full report of the affairs of the company.

Duty to hold annual meeting of company.

29. The directors of a company may pass by-laws for the development and management of its cemetery and the sale and conveyance of lots therein and for regulating the erection of tombs, monuments, or gravestones therein.

Power to pass by-laws.

30. The directors of a company shall record in a book kept for the purpose all their by-laws and proceedings and the proceedings at all general meetings, and any person may inspect such book and make extracts therefrom without payment of any fee.

Record of proceedings.

Personal liability
of directors.

31. The directors of a company shall be personally liable for any judgment recovered against the company.

Offences.

Violation of
ss. 11 to 14.

32. Every company which violates the provisions of sections 11, 12, 13, or 14 shall be guilty of an offence against this Act and liable, on summary conviction, to a penalty not exceeding fifty dollars.

Contamination
of water.

33. (1.) Where a company at any time causes or suffers to be brought to or to flow into the waters of any spring, river, stream, canal, well, reservoir, aqueduct, pond, or watering-place any offensive matter from its cemetery, whereby the water is fouled, the company shall forfeit for every such offence the sum of fifty dollars.

(2.) The said penalty, with full costs of suit, may, by a civil action in any Court of competent jurisdiction, be recovered by any person having a right to use the water; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence, or within six months after it has ceased.

(3.) In addition to the penalty of fifty dollars (and whether the same has been recovered or not), any person having a right to use the water may sue the company in a civil action for any damage specially sustained by him by reason of the water being fouled, or, if no special damage is alleged, then for the sum of ten dollars for every day during which the offensive matter has continued to be brought or to flow after the expiration of twenty-four hours from the time when notice of the offence was by such person served upon the company.

Damage to tomb-
stones and
structures.

34. Any person who:—

(a.) Wilfully destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, or other structure placed in the cemetery of any company, or any wall, fence, or other work for the protection or ornament of any such cemetery, or of any tomb, monument, gravestone, or other structure aforesaid, or of any lot within any such cemetery; or

(b.) Wilfully destroys, cuts, breaks, or injures any tree, shrub, or plant in any such cemetery; or

(c.) Plays at any game or sport in any such cemetery; or

(d.) Discharges firearms (save at a naval or military funeral) in any such cemetery; or

(e.) Wilfully and unlawfully disturbs persons assembled for the purpose of burying a body in any such cemetery; or who

(f.) Commits a nuisance in any such cemetery,—

shall, in addition to any other liability he may thereby incur, be liable in an action of trespass in the name of the company to pay

all damages occasioned by his unlawful act; and the money, when recovered, shall be applied by the directors for the reparation and reconstruction of the property damaged or destroyed.

Repeal.

35. The "Cemetery Companies Act," being chapter 32 of the Act repealed. "Revised Statutes of British Columbia, 1911," is repealed.

SCHEDULES.

SCHEDULE A.

(Section 4.)

"CEMETERY COMPANIES ACT."

INSTRUMENT OF INCORPORATION.

Be it remembered that on this day of , in the year of our Lord one thousand nine hundred and , we, the undersigned, met at , in the Province of British Columbia, and resolved to form ourselves into a company, to be called " Cemetery Company," according to the provisions of the "Cemetery Companies Act," for the purpose of establishing and maintaining a cemetery at . And we do hereby agree that the capital of the company shall be dollars, divided into shares of dollars each, each fully paid share entitling the holder to a lot in the cemetery containing not less than one hundred superficial feet. And we respectively agree to take the number of shares set opposite our respective signatures.

Full Name, Address, and Description.	No. of Shares.

SCHEDULE B.

(Section 7.)

"CEMETERY COMPANIES ACT."

DEED OF LOT.

Know all men by these presents that the Cemetery Company, in consideration of dollars paid to it by , of , the receipt whereof is hereby acknowledged, doth grant unto the said , his heirs and assigns, lot of land in the cemetery of the said company situate at , which lot is delineated and laid down on the map or plan of the said cemetery, and is therein designated as , and contains by admeasurement superficial feet; to have and to hold the same unto and to the use of the said , his heirs and assigns, for ever.

In witness whereof the common seal of the said Company was affixed hereto this day of , 19 , in the presence of—

VICTORIA, B.C.:
Printed by WILLIAM H. CULLIN, Printer to the King's Most Excellent Majesty.
1923.