



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 233

(Private)

An Act respecting La Compagnie du cimetière Saint-Charles

Introduction

**Introduced by
Madam France Hamel
Member for La Peltrie**

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Bill 233

(Private)

AN ACT RESPECTING LA COMPAGNIE DU CIMETIÈRE SAINT-CHARLES

AS La Compagnie du cimetière Saint-Charles is a legal person duly constituted under the Act to incorporate “*La Compagnie du Cimetière Saint Charles*” (1912, 3 George V, chapter 109) and as that company requests that its incorporating Act be replaced by this Act;

As that company was constituted to allow the *fabriques* of the parishes of Saint-Roch de Québec, Notre-Dame-de-Jacques-Cartier, Saint-Charles-de-Limoilou, Sainte-Angèle-de-Saint-Malo and Saint-Zéphirin-de-Stadacona, all situated in Ville de Québec, to erect and administer a cemetery for their common use and for the use of any other parish in Ville de Québec that could be admitted as a member of the company;

As the current member *fabriques* of La Compagnie du cimetière Saint-Charles are the *fabriques* of the parishes of Le Bienheureux-François-de-Laval, Notre-Dame-de-l’Annonciation, Notre-Dame-de-Rocamadour, Notre-Dame-de-Saint-Roch, Notre-Dame-de-Vanier, Le Sacré-Cœur-de-Jésus, Saint-Ambroise-de-la-Jeune-Lorette, Saint-André-Apôtre, Saint-Charles-Borromée, Sainte-Angèle-de-Saint-Malo, Sainte-Marguerite-Bourgeoys, Sainte-Monique, Saint-François-Xavier, Saint-Jean-Eudes and Saint-Sauveur;

As La Compagnie du cimetière Saint-Charles holds, administers and manages cemeteries in Ville de Québec;

As it is desirable that the objects and powers of the company be broadened so that it may preserve its funerary heritage and ensure the continued existence of the Roman Catholic cemeteries it holds, administers and manages;

As it is also desirable that the company have the powers necessary to achieve its objects;

As the general meeting of members of La Compagnie du cimetière Saint-Charles has approved by resolution the request to replace its incorporating Act;

As it is appropriate and in the public interest to grant the request;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

- 1.** La Compagnie du cimetière Saint-Charles continues its existence and the Act to incorporate “*La Compagnie du Cimetière Saint Charles*” (1912, 3 George V, chapter 109) is replaced by this Act.
- 2.** Saint-Charles cemetery is a Roman Catholic cemetery that is sacred property that cannot be the object of commerce. The interment spaces of the cemetery are and have always been the exclusive property of the company and may not be sold, but only conceded for a period not exceeding 100 years.
- 3.** The company may change its name by a by-law adopted by its board of directors and approved by the general meeting of members. The new name must respect section 9.1 of the Companies Act (R.S.Q., chapter C-38). The by-law must be sent to the enterprise registrar for approval. If applicable, the enterprise registrar files a notice of approval in the registry established under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45).
- 4.** The head office of the company is situated in Ville de Québec and may be moved to another location by a resolution of the board of directors.

CHAPTER II

MEMBERS AND DELEGATES

- 5.** The following are members of La Compagnie du cimetière Saint-Charles: the *Fabrique* of the parish of Bienheureux- François-de-Laval, the *Fabrique* of the parish of Notre-Dame-de-l’Annonciation, the *Fabrique* of the parish of Notre-Dame-de-Rocamadour, the *Fabrique* of the parish of Notre-Dame-de-Saint-Roch, the *Fabrique* of the parish of Notre-Dame-de-Vanier, the *Fabrique* of the parish of Sacré-Coeur-de-Jésus, the *Fabrique* of the parish of Saint-Ambroise de la Jeune Lorette, the *Fabrique* of the parish of Saint-André-Apôtre, the *Fabrique* of the parish of Saint-Charles-Borromée, the *Fabrique* of the parish of Sainte-Angèle-de-Saint-Malo, the *Fabrique* of the parish of Sainte-Marguerite-Bourgeoys, the *Fabrique* of the parish of Sainte-Monique, the *Fabrique* of the parish of Saint-François-Xavier, the *Fabrique* of the parish of Saint-Jean-Eudes and the *Fabrique* of the parish of Saint-Sauveur.
- 6.** In accordance with the company by-laws, the *fabrique* meeting of each member *fabrique* must designate a delegate, in addition to the rector, who is a delegate by right, to attend the general meetings of the company. To attend those meetings, the member *fabrique* must be represented by the rector of its parish or by the delegate.

7. A member *fabrique*, acting through its *fabrique* meeting, may revoke at will the mandate of the delegate it designated and replace that delegate.

8. The company may, on the conditions it determines, admit as a member any other *fabrique* of the diocese of Québec that is authorized for such purpose by the Bishop of Québec and by the *fabrique* meeting. On special approval given by the Bishop of Québec beforehand, the cemetery of the *fabrique*, including the related movable and immovable property, becomes the property of the company and all registers, contracts and other documents related to the cemetery must be handed over to the company.

9. As soon as it is admitted as a member of the company, a *fabrique* must assign to the company all rights and obligations with regard to its cemetery and transfer to the company the private trusts, called funeral trusts, that it established with a settlor for the purpose of preserving and maintaining the settlor's interment space and funerary works.

10. A *fabrique* may resign its membership in the company, provided it is authorized to do so by the Bishop of Québec. The movable and immovable property previously transferred to the company remains the property of the company.

11. The company is bound to authorize, in accordance with the conditions established by its by-laws, the burial, interment, placement in a mausoleum crypt or deposition in a niche in its cemeteries of the remains of deceased Roman Catholics who, at the time of their death, resided in the territory over which one of its member *fabriques* has jurisdiction or who died there.

CHAPTER III

OBJECTS AND POWERS

12. The objects of the company are to hold, manage and administer Roman Catholic cemeteries, including their movable and immovable property, regardless of whether the cemeteries own the property, and to receive and dispose of the remains, including ashes, of deceased persons. The company may provide funeral services of any kind, including but not limited to burial, disinterment, cremation, transportation, embalming, viewing of the deceased, placement in a mausoleum crypt, interment, deposition of ashes in a niche and any other mode of disposal of human remains that is recognized by the rites and customs of the Roman Catholic Church.

13. The company has all the powers, rights and privileges conferred on legal persons under the Civil Code of Québec (1991, chapter 64).

In particular, the company has the power:

(a) to acquire, establish, maintain, administer and manage Roman Catholic cemeteries, crematoriums, mausoleums, columbariums, viewing rooms, chapels, reception rooms, burial vaults, monuments, grave markers and funerary works, public vaults and other buildings and works in pursuit of its objects;

(b) to concede to a natural or legal person, including a private trust, called a funeral trust, for a period not exceeding 100 years, an interment space in the cemeteries it holds, administers and manages;

(c) to make agreements, in pursuit of its objects, with any person, partnership or cooperative;

(d) to acquire, establish, maintain, administer and manage any undertaking in the pursuit of its objects;

(e) to make arrangements, in pursuit of its objects, with a public authority, including arrangements for the deposition, in the unconsecrated section of the cemetery, of the remains of deceased persons of faiths other than Roman Catholic;

(f) to offer or sell goods and services relating to, resulting from or connected to death and the preservation of the remains of the deceased;

(g) to take and hold hypothecs as security for the sales price or for fees for the use of its goods and services;

(h) to hypothecate its property, other than cemetery land, or to otherwise encumber it with a charge in order to secure payment of its loans or the performance of its obligations;

(i) to lease or concede by all legal methods, including emphyteusis, interment spaces located in or on its immovables or in or on the immovables it controls, so that buildings or works suitable for the pursuit of its objects may be erected;

(j) to acquire by expropriation, with prior authorization of the Government and on the conditions it determines, any immovable property that is deemed necessary for the pursuit of its objects and is situated in the diocese of Québec;

(k) to act as a trustee with regard to private trusts, called funeral trusts, created strictly in order to ensure the upkeep and maintenance of interment spaces and funerary works in the company's cemeteries and the cemeteries it administers and manages; and

(l) to solicit, promote and obtain, in pursuit of its objects, any statute, ordinance, order, regulation or other authorization or legislative or administrative provision that may benefit the company directly or indirectly, and to oppose any proceeding or application that may directly or indirectly prejudice its objects and interests.

CHAPTER IV

BY-LAWS

14. The company may adopt the by-laws necessary for its organization and operation.

The company may also adopt by-laws concerning

(a) the terms and conditions applicable to burials and to the concession and right of use of an interment space, mausoleum crypt, niche, burial vault or chapel, a funerary work and the superficies of an interment space, a monument or other work or structure intended for the deposition of a deceased person's remains and the perpetuation of the memory of that person;

(b) the conditions respecting the concession and repossession of interment spaces, whether lots, burial plots, mausoleum crypts, niches, burial vaults or other sites for the deposition of human remains;

(c) the persons who may be buried and the remains that may be deposited in the cemeteries owned, administered or managed by the company, and in the interment spaces conceded;

(d) the devolution of conceded interment spaces for which the right of use remains valid and was not transferred on the death of the deceased concessionary and subsequent holders for lack of testamentary provisions;

(e) the monuments, grave markers, plaques, decorations, inscriptions and other funerary works in or on conceded interment spaces; and

(f) the terms and conditions relating to the maintenance, repair and restoration to its former state of any interment space in which human remains are buried or deposited.

CHAPTER V

ORGANIZATION

15. The affairs of the company are administered by a board of directors composed of seven persons elected by the general meeting of member *fabriques* for a term set by by-law. The director general of the company attends all meetings of the board of directors, but is not entitled to vote.

16. The officers of the company are the president, the vice-president and the secretary-treasurer. The president of the company must be chosen from among the rectors or priests who administer the member *fabriques*.

17. Apart from the board of directors, an executive committee composed of the president, the vice-president and the secretary-treasurer, with the director

general of the company in attendance, may exercise the powers of the board of directors delegated to the committee by by-law, subject to the restrictions contained in the by-law and subject to other by-laws that may be enacted from time to time by the directors.

18. The annual general meeting of members must be held within 120 days following the end of the company's fiscal year. General and special meetings of the member *fabriques* are called by the board of directors. The place of the meetings and the procedure for calling them are determined by by-law.

19. The Bishop of the Diocese of Québec or a person designated by him is the Visitor of the company and has authority over everything that relates to ecclesiastical law.

CHAPTER VI

EXERCISE OF POWERS

20. The rights and powers of the company are exercised by the general meeting of members, the board of directors and the executive committee in accordance with the internal management by-law. The exercise of certain powers may be conferred upon an officer designated in that by-law.

21. Decisions validly made by the company are binding on its member *fabriques*. The by-laws of the company apply to *fabrique* cemeteries for which the company is responsible as manager only.

22. The decisions of the general meeting of members, the board of directors and the executive committee of the company are made by the majority of votes, but the internal management by-law may enact that, in certain cases, decisions are to be made in another manner.

CHAPTER VII

MISCELLANEOUS PROVISIONS

23. The company is deemed to be the owner of all lands and immovables currently forming the Saint-Charles cemetery.

Any prior sale of an interment space, whether a lot, a burial plot, a mausoleum crypt or a niche is null by operation of law and is deemed to be a concession for a renewable period of 100 years.

24. Agreements entered into before 11 March 2005 between the company and the *fabriques* of parishes situated in Ville de Québec are deemed to be valid.

25. A concession of an interment space in a cemetery that is owned, administered or managed by the company ceases by operation of law at the expiry of the term; however, the concession may be renewed in the first 60 days following the expiry of the term. The renewal must be set out in writing and agreed between the concessionary or successor in title and the company.

The concession also ceases by operation of law if the concession fees or annual maintenance fees are not paid in the year following the acquisition or renewal of the concession rights or in the year following the expiry of the maintenance contract. Before it may recover the interment space, the company must, 60 days prior to the expiry of the term, send an expiry notice to the concessionary; if the concessionary cannot be reached, a notice must be affixed to the funerary work situated on the interment space.

26. The company may use as a cemetery any land it owns that has been declared acceptable for such use by the Minister of Health and Social Services. For the deposition of ashes, the company may use any immovable it owns.

27. Before disposing of land that has served as a cemetery, the company must obtain the requisite authorizations for the disinterment of remains and transfer the remains to another cemetery.

28. Since the company is a non-profit organization, the property it owns for the pursuit of its objects or to house its assistants and employees is property owned for the purposes for which the company was established and the company enjoys the privileges attached to such property.

29. The company must keep at its head office one or more registers containing

(a) a copy of its incorporating Act and of the by-laws made in the exercise of the powers conferred by that Act;

(b) the name and head office of each member *fabrique*, and the date on which membership began and, if applicable, ended;

(c) the name, address and occupation of each delegate of a member *fabrique* including in each case the date of the delegate's appointment and the date the delegate ceased to hold office;

(d) the debts secured by hypothec on its immovables, including in each case the principal sum, a summary description of the immovables hypothecated and the name of the creditor; and

(e) the private trust contracts, called funeral trust contracts, including in each case the identification of the interment space concerned, the name of the settlor, the name of the trustee or trustees other than the company and the amount paid by the settlor.

These registers constitute proof of the veracity of their contents, as do extracts bearing the seal of the company and certified by its director general or secretary-treasurer.

Subject to the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1), interested persons may consult these registers and obtain certified extracts from them, at a cost set by regulation.

30. This Act comes into force on (*insert the date of assent to this Act*).

