

MAINE STATE LEGISLATURE

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FIFTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
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CHAPTER 20.

BURYING-GROUNDS.

SEC. 1. Persons of lawful age may incorporate themselves for the purpose of purchasing land for a burying-ground, as provided in sections one and two of chapter fifty-seven, and may proceed in the manner and with the powers provided in section three of said chapter.

Incorporation.
R. S., c. 15, § 2.

--organization.

SEC. 2. Such corporation, within one year after its organization, shall make a substantial fence around the burying-ground, and keep it constantly in repair, under a penalty not exceeding one hundred dollars; which shall be expended under the direction of the municipal officers in keeping the fence in repair.

Grounds to be
fenced within
one year.
R. S., c. 15, § 3.

SEC. 3. Each town, parish or religious society, to which any ancient or public burying-ground belongs, shall keep a substantial fence around it in good repair; and for neglect, shall forfeit not exceeding one hundred dollars, to be applied as prescribed in the preceding section by said officers of such town or the treasurer or committee of such parish or society.

Towns and
parishes to
fence ancient
burying-
grounds.
R. S., c. 15, § 4.

SEC. 4. If such officers, treasurer or committee, neglect so to apply such fines, they each forfeit the amount thereof, in an action of debt to any person suing therefor.

Penalty for
neglect of
town or par-
ish officers.
R. S., c. 15, § 5.

SEC. 5. When any persons appropriate for a burying-ground a piece of land containing not more than half an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced or otherwise substantially marked, and occupied as a burying-ground; and they shall cause a written description of it, under their hands, attested by two disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies, or by the clerk of the town where it is situated.

Grounds to be
fenced, and
inalienable
and indivis-
ible, except by
unanimous
consent.
R. S., c. 15, § 6.
--description
to be recorded
by town clerk.

SEC. 6. When a person appropriates for a family burying-ground a piece of land containing not more than one-fourth of an acre, causes a description of it to be recorded in the registry of deeds of the same county, or by the clerk of the town where it is situated, and substantially marks the bounds thereof or encloses it with a fence, it shall be exempt from attachment and execution; and no subsequent conveyance of it shall be valid, while any person is interred therein; but it shall remain to him and his heirs as a burial place forever.

Burying-
grounds,
exempt from
attachment,
and inalien-
able.
R. S., c. 15, § 7.
See c. 117,
§§ 18, 20.

SEC. 7. Lots in public or private cemeteries are exempt from attachment and levy on execution, and from liability to be sold by executors and administrators of insolvent estates, for the payment of debts and charges of administration. But only one lot is so exempt for any one person.

Lots in ceme-
teries exempt
from attach-
ment, levy
and sale for
debts.
R. S., c. 15, § 8.

SEC. 8. The municipal officers of any town, may on petition of ten voters, enlarge any public cemetery or burying-ground or incorporated cemetery or burying-ground within their town, by taking land of adjacent owners, to be paid for by the town or otherwise as the municipal officers may direct, when in their judgment public necessity requires it, *provided*, that the limits thereof shall not be extended nearer any dwelling-house than twenty-five rods, against the written protest of the owner, made to said officers at the time of the hearing on said petition. Nor shall any person, corporation or association establish, locate or enlarge any cemetery or burying-ground by selling or otherwise disposing of lots so that the limits thereof shall be extended nearer any dwelling-house than twenty-

When town
officers may
enlarge public
cemetery.
R. S., c. 15, § 9.
1893, c. 197.

CHAP. 20.

five rods against the written protest of the owner, *provided*, that nothing in this section shall prohibit the sale or disposition of lots within the limits of any existing cemetery or burying-ground, nor the extension thereof away from any dwelling-house.

Notice to be given.
R. S., c. 15, § 10.

SEC. 9. Notice of a time and place for said hearing shall be given by posting written notices thereof, signed by said officers at least seven days prior thereto, in two public places in said town; and a copy of such notice and of the petition shall be served on the owners of the land at least ten days before the day of hearing.

Land taken, damages how determined.
R. S., c. 15, § 11.

SEC. 10. If the municipal officers at such hearing grant the prayer of the petitioners, they shall then determine what land shall be taken, and assess the damages suffered by each person thereby, make a written return of their proceedings, specifying the land taken and the damages awarded each person, and file the same with the town clerk; and such cemetery or burying-ground shall not be enlarged, pursuant to such return, until so voted by the town at its next annual meeting.

—town to vote thereon at annual meeting.

Person aggrieved, remedy for.
R. S., c. 15, § 12.
See c. 23, § 20.

SEC. 11. Any person aggrieved by the amount of damages awarded, may have them determined by written complaint to the supreme judicial court in the manner provided respecting damages for the establishment of town ways.

How private cemetery may become public.
R. S., c. 15, § 13.

SEC. 12. Any private cemetery or burying-ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated, may, by vote of such town within one month after the recording of such agreement by the town clerk, become public, and subject to the law relating to public cemeteries or burying-grounds; *provided*, that such agreement is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying-ground.

—proviso.

Towns and cemetery corporations may accept title to private burying-grounds.
R. S., c. 15, § 14.
1885, c. 311.

SEC. 13. Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding half an acre, to be forever held, kept and used for a private or family burying-ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying-ground, are forever inalienable and indivisible, and exempt from liability for debt. Such city, town, corporation, company or trustee may also accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same, or, in default of such specification, as required by law, and as in cases of public charity. Any city or town without giving bond therefor may be appointed by the probate court, testamentary trustee for the purpose of holding forever in accordance with the provisions of this section and the terms of the devise any fund devised for the purposes aforesaid, in any will probated after January one, eighteen hundred ninety-two.

—lot and fixtures exempt from liability for debt.

—towns may hold funds in trust for repair of grounds.
7 Me., 192.

—city or town may be appointed trustee for purpose of holding fund.
1893, c. 251.

Investment of funds.
R. S., c. 15, § 15.
1903, c. 5.
See c. 4, § 83.

SEC. 14. Every trust fund authorized by the preceding section shall be safely invested in United States, state, county, city or town securities, or deposited in savings banks; and the annual income only, shall be expended in performance of the requirements of the trust.

Town's acceptance, where recorded.
R. S., c. 15, § 16.

SEC. 15. A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee, and recorded in the registry of deeds with the conveyance.

SEC. 16. Any person owning or interested in a lot in a public burying-ground of a city or town, may deposit with the treasurer of such city or town, a sum of money not exceeding five hundred dollars, for the purpose of providing for the preservation and care of such lot, or its appurtenances, which sum shall be entered upon the books of the treasurer, and held in accordance with the provisions of the ordinances or by-laws of such city or town, in relation to burials.

SEC. 17. A city or town may pass such ordinances or by-laws, as may be necessary for the purposes of the preceding section and not repugnant to law, and may receive such money for said purposes, and may allow interest thereon, at a rate not exceeding six per cent a year.

SEC. 18. When any person owning or interested in a lot in a public burying-ground in a city or town deposits with the treasurer of such city or town, a sum of money for the preservation or care of such lot as provided by the preceding section, said city or town may accept a conveyance of such lot for the uses and upon the trusts which may be set forth in said conveyance, and may bind itself to keep and perform the agreements, uses and trusts contained in the deed of conveyance of such lot.

PUBLIC CEMETERIES.

SEC. 19. Any seven or more persons may be incorporated in the manner provided in sections one and two of chapter fifty-seven, for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries; and the property of such corporations and the shares of stock therein, are exempt from attachment and taxation.

SEC. 20. Deeds of burial lots in any public cemetery may be recorded in the registry of deeds for the county or district where such cemetery is situated.

Note. Provisions for protection of dead bodies, graves and monuments in cemeteries, c. 125, §§ 31-33.

CHAPTER 21.

DRAINS AND COMMON SEWERS.

SEC. 1. Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers, forfeits for each offense four dollars to the town.

SEC. 2. The municipal officers of a town, or a committee duly chosen by the town, may, at the expense of the town, construct public drains or sewers along or across any public way therein; and through any lands of persons or corporations, when they deem it necessary for public convenience or health; but neither the municipal officers of the town, nor such committee, shall construct any public sewer therein until the same shall be authorized by vote of said town, and an appropriation made for the purpose; and when constructed such sewers shall be under the control of the municipal officers. (a)

SEC. 3. Before the land is so taken, notice shall be given, and damages assessed and paid therefor as is provided for the location of town ways. (b)

(a) 56 Me., 410; 67 Me., 53; 74 Me., 272; 82 Me., 355; 83 Me., 582; 86 Me., 538; 95 Me., 310, 315.

(b) 51 Me., 524; 67 Me., 53; 86 Me., 538; 95 Me., 310.

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Cities and towns may hold money in trust for cemetery purposes. 1887, c. 145, § 1. See c. 4, § 82.

May pass by-laws. 1887, c. 145, § 2. See c. 4, §§ 83, 93, ¶ 1.

Cities and towns may accept trusts, relating to burial lots. 1897, c. 216, § 1. See c. 4, § 81.

Incorporation of public cemeteries; exemption from attachment and taxation. R. S., c. 55, § 11.

Deeds of burial lots, where recorded. 1897, c. 216, § 2.

Highways not to be opened without consent. R. S., c. 16, § 1. 92 Me., 493.

Towns may lay drains. R. S., c. 16, § 2. 1901, c. 268.

—but not unless authorized by vote of the town.

—expense and control thereof.

Notice, damages. R. S., c. 16, § 3. See c. 23, §§ 8, 16, 19, 20.