

MAINE STATE LEGISLATURE

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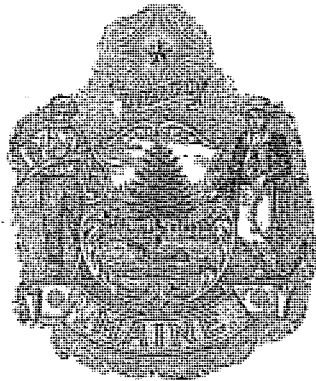
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THE
REVISED STATUTES

OF THE

STATE OF MAINE

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By the Authority of the Legislature

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CHAPTER 21.

Burying-Grounds.

Sec. 1. Incorporation. R. S. c. 20, § 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 sixty-two, and may proceed in the manner and with the powers provided in section three of said chapter.

Sec. 2. Grounds to be fenced. R. S. c. 20, § 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.

Sec. 3. Penalty for neglect to fence ancient or public burying-grounds. R. S. c. 20, § 3. 1905, c. 101. Each town, parish, religious society and any individuals, association or corporation, 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 such officers of such town, or the officers or committee of such parish or society, or by such individuals, association or corporation.

Sec. 4. Penalty for neglect of town or parish officers. R. S. c. 20, § 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.

Sec. 5. Grounds, inalienable and indivisible, except by unanimous consent; description to be recorded. R. S. c. 20, § 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.

108 Me. 447.

Sec. 6. Family burying-grounds, exempt from attachment, and inalienable. R. S. c. 20, § 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.

See c. 118, §§ 18, 20; 108 Me. 447.

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Sec. 7. Lots in cemeteries exempt from attachment, levy and sale for debts. R. S. c. 20, § 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.

Sec. 8. Proceedings by town officers to enlarge public cemetery. R. S. c. 20, § 8. 1907, c. 60. 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, or well from which the water is used for domestic purposes, 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 land so that the limits thereof shall be extended nearer any dwelling-house or well than twenty-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 or well.

108 Me. 27.

Sec. 9. Notice. R. S. c. 20, § 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.

Sec. 10. Land taken, damages how determined; town to vote at annual meeting. R. S. c. 20, § 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.

Sec. 11. Person aggrieved, remedy. R. S. c. 20, § 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.

See c. 24, § 20.

Sec. 12. Private cemetery may become public; proceedings. R. S. c. 20, § 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 agree-

ment is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying-ground.

Sec. 13. Towns and cemetery corporations may accept title to private burying-grounds; exemption from liability for debt; funds held in trust for repair of grounds; city or town may be appointed trustee of funds. R. S. c. 20, § 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 the first day of January, eighteen hundred ninety-two.

77 Me. 192; 111 Me. 252.

Sec. 14. Investment of funds. R. S. c. 20, § 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.

See c. 4, § 72.

Sec. 15. Town's acceptance, recorded. R. S. c. 20, § 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. Cities and towns may hold money in trust for cemetery purposes. R. S. c. 20, § 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.

See c. 4, § 71.

Sec. 17. May pass by-laws. R. S. c. 20, § 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

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for said purposes, and may allow interest thereon, at a rate not exceeding six per cent a year.

See c. 4, §§ 72, 98, ¶ 1.

Sec. 18. Cities and towns may accept trusts, relating to burial lots. R. S. c. 20, § 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.

See c. 4, § 70.

Public Cemeteries.

Sec. 19. Incorporation of public cemeteries; exemption from attachment and taxation. R. S. c. 20, § 19. Any seven or more persons may be incorporated in the manner provided in sections one and two of chapter sixty-two, 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, recorded. R. S. c. 20, § 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.

Construction of Mausoleums and Vaults.

Sec. 21. Plans for burial structures must be presented to state board of health for approval. 1915, c. 94, § 1. Before any person, firm or corporation, shall build, construct or erect, any mausoleum, vault or other burial structure, entirely above ground, or partly above and partly by excavation, with the intention and purpose that when so built, constructed and erected the same may contain twenty or more deceased human bodies for permanent interment, such person, firm or corporation, shall present all plans for such construction to the state board of health, and shall obtain the written approval of such plans, by said board, before proceeding with the construction and erection of said mausoleum, vault, or other burial structure.

Sec. 22. Crypts or catacombs, so constructed as to be readily examined. 1915, c. 94, § 2. All crypts or catacombs placed in a mausoleum, vault, or other burial structure, as described in the preceding section, shall be so constructed that all parts thereof may be readily examined by the state board of health, or any other health officer, and such crypts or catacombs, when used for the permanent interment of a deceased body, or bodies, shall be so hermetically sealed that no offensive odor or effluvia may escape therefrom.

Sec. 23. Penalty. Authority of court to enforce compliance with the law. 1915, c. 94, § 3. If any person, firm or corporation, builds, constructs or erects a mausoleum, vault, or other burial structure, as specified in section twenty-one, before obtaining the approval of the state board of health,

as required in said section, or if any person, firm or corporation, fails to hermetically seal all crypts or catacombs in which a dead body or bodies have been placed in such mausoleum, vault or other burial structure, according to the requirements of section twenty-two, such person, firm or corporation shall be punished by fine of not less than one hundred, nor more than five hundred dollars for each offense; and in addition to said fine, the court may order the person, firm or corporation, by whose authority said interment or interments were made, to hermetically seal within a reasonable time said crypts or catacombs containing said body or bodies, or if the said body or bodies, cannot be suitably and properly hermetically sealed in said crypts or catacombs, to remove the body or bodies, and bury it or them in some suitable cemetery; or the court may order the hermetical sealing of said crypts or catacombs, to be done under the direction of the board of health in the municipality where said mausoleum, vault or other burial structure is erected; and that the said person, firm or corporation shall pay all expenses attending the said work, or the removal of said body or bodies, and the burial of the same in some cemetery.

Sec. 24. Recovery of fines or penalties. 1915, c. 94, § 4. All fines or penalties provided by the preceding section may be recovered or enforced by indictment, and the necessary processes for causing the crypts and catacombs to be sealed, or the bodies to be removed and buried, and execution to recover the necessary expenses thereof, may be issued by any justice of the supreme judicial court, or the superior courts, in term time or vacation.

Sec. 25. Jurisdiction of courts. 1915, c. 94, § 5. The supreme judicial court and the superior courts shall have original and concurrent jurisdiction, in all cases under the provisions hereof, provided that judges of municipal and police courts and trial justices may cause the persons brought before them on complaint for violation of sections twenty-one or twenty-two to recognize with sufficient sureties to appear at the next term of the supreme judicial court, or superior courts, and, in default thereof, shall commit them.

Note. Provisions for protection of dead bodies, graves and monuments in cemeteries, c. 126, §§ 41-43.