

MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE
REVISED STATUTES

OF THE
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"Proprietary Medicine" means remedies that certain individuals, firms, associations, or corporations have the exclusive right to manufacture or sell.

"Apothecary" or "Pharmacist" means a person who prepares, dispenses, or sells drugs or medicines and authorized by the commission to conduct the business of apothecary.

"Apothecary store" means a place where drugs or chemicals or medicines are compounded, dispensed or sold, and registered by the commission.

"Secretary" means the secretary of the Maine board of pharmacy.

CHAPTER 24.

Burying-Grounds.

Sec. 1. Incorporation. R. S. c. 21, § 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 seventy, and may proceed in the manner and with the powers provided in section three of said chapter.

Sec. 2. Ground to be fenced. R. S. c. 21, § 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 of not more than one hundred dollars; which shall be expended under the direction of the municipal officers in keeping the fence in repair.

Sec. 3. Ancient or public burying-grounds to be cared for; penalty for neglect. R. S. c. 21, § 3. 1917, c. 166. Each town, parish, religious society, and any individual, association, or corporation, to which any ancient or public burying ground belongs shall keep a substantial fence around it in good repair; and in any such burying-ground in which any Revolutionary soldier or sailor is buried, the town in which said burying-ground is located shall keep in good condition and repair, all graves, headstones, monuments, or markers designating the burial place of said Revolutionary soldiers or sailors, and shall keep the grass suitably cut and trimmed on such graves during the summer season. Towns may raise and appropriate money for such purposes. Each said town, parish, religious society, individual, association, or corporation shall be liable to a penalty of not more than twenty-five dollars for neglect to maintain such fence in good repair, and each said town shall be liable to a penalty of not more than ten dollars for neglect to keep in good condition and repair all such graves, headstones, monuments, and markers, or failing to keep the grass suitably cut and trimmed as aforesaid, on said graves. The penalties above provided for shall be recovered in an action of debt brought in the name and for the use of any chapter of the Daughters of the American Revolution against such negligent town, parish, religious society, individual, association, or corporation.

Sec. 4. Penalty for neglect of town or parish officers. R. S. c. 21, § 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. Ancient or public burying-grounds in unincorporated places to be cared for by county commissioners. 1929, c. 171. The county commissioners of any county in which there is an unincorporated place or places wherein are any ancient or public burying-grounds, shall cause the same to be suitably fenced

and thereafter maintained; they also shall cause the burying-grounds aforesaid to be kept in proper condition and any bushes therein to be cut.

Sec. 6. Grounds, inalienable and indivisible, except by unanimous consent; description to be recorded. R. S. c. 21, § 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. 7. Family burying-grounds, exempt from attachment, and inalienable. R. S. c. 21, § 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. 126, §§ 17, 19; 108 Me. 447.

Sec. 8. Lots in cemeteries exempt from attachment, levy, and sale for debts. R. S. c. 21, § 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. 9. Proceedings by town officers to enlarge public cemetery. R. S. c. 21, § 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, 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. 10. Notice. R. S. c. 21, § 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. 11. Land taken, damages how determined; town to vote at annual meeting. R. S. c. 21, § 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

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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. 12. Person aggrieved, remedy. R. S. c. 21, § 11. Any person aggrieved by the amount of damages awarded may have them determined by written complaint to the superior court in the manner provided respecting damages for the establishment of town ways.

See c. 27, § 20.

Sec. 13. Private cemetery may become public; proceedings. R. S. c. 21, § 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.

Sec. 14. Towns and cemetery corporations may accept title to private burying-grounds; exemption from liability for debt; funds held in trust for repair of grounds; penalty for neglect. R. S. c. 21, § 13. 1921, c. 103. 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. And any such city, town, cemetery corporation, trust company or trustee, failing to furnish proper care and attention to any burial lot, the perpetual care whereof has been provided for as above, shall be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, to be recovered by complaint or indictment. The judges of municipal and police courts and trial justices within their respective counties shall have original and concurrent jurisdiction with the superior court; and of all fines provided for by this section, and recovered on complaint, one-half shall go to the prosecutor and one-half to the county where the city, town, cemetery corporation, trust company or trustee committing the offense is situated, but nothing herein contained shall be construed to compel any such city, town, cemetery corporation, trust company or trustee to expend in any one year upon any such lot more than the income from any such fund.

77 Me. 192; 111 Me. 252.

Sec. 15. Investment of funds. R. S. c. 21, § 14. 1923, c. 222. As soon as may be they shall invest the proceeds in the manner provided in section ninety-three of chapter five; and the annual income only shall be expended in performance of the requirements of the trust.

See c. 5, § 93.

Sec. 16. Town's acceptance recorded. R. S. c. 21, § 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. 17. Cities and towns may hold money in trust for cemetery purposes. R. S. c. 21, § 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 invested and held in accordance with the provisions of section ninety-three of chapter five.

See c. 5, §§ 92, 93.

Sec. 18. May pass by-laws. R. S. c. 21, § 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 invest and hold the same as provided in the preceding section.

See c. 5, §§ 93, 136, ¶ 1.

Sec. 19. Cities and towns may accept trusts, relating to burial lots. R. S. c. 21, § 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. 5, § 91.

Public Cemeteries.

Sec. 20. Incorporation of public cemeteries; exemption from attachment and taxation. R. S. c. 21, § 19. Any seven or more persons may be incorporated in the manner provided in sections one and two of chapter seventy, 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. 21. Deeds of burial lots, recorded. R. S. c. 21, § 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. 22. Plans for burial structures must be presented to state department of health for approval. R. S. c. 21, § 21. 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

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state department of health, and shall obtain the written approval of such plans, by said department, before proceeding with the construction and erection of said mausoleum, vault, or other burial structure.

Sec. 23. Crypts or catacombs, so constructed as to be readily examined. R. S. c. 21, § 22. 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 department 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. 24. Penalty; authority of court to enforce compliance with the law. R. S. c. 21, § 23. If any person, firm, or corporation, builds, constructs, or erects a mausoleum, vault, or other burial structure, as specified in section twenty-two, before obtaining the approval of the state department 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-three, such person, firm, or corporation shall be punished by fine of not less than one hundred dollars, 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. 25. Recovery of fines or penalties. R. S. c. 21, § 24. 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 superior court, in term time or vacation.

Sec. 26. Jurisdiction of courts. R. S. c. 21, § 25. The superior court 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-two or twenty-three to recognize with sufficient sureties to appear at the next term of the superior court, and, in default thereof, shall commit them.

Provisions for protection of dead bodies, graves and monuments in cemeteries, c. 135, §§ 46-48.