

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Sec. 64. Return of doings of committee.—The members of the committee shall make return of said warrant and their doings thereon, to the superior court in the county, after having completed the service; which, being accepted by the court and recorded in the registry of deeds in the county of registry district where the land is situated, within 6 months, shall be a legal assignment and location of such reserved proportions, for the uses designated. Thereafter the land so set off and located shall be under the care and oversight of the trustees of the ministerial and school funds of the town, with all the powers and subject to the duties prescribed in this chapter, including the power to sell and convey the same. (R. S. c. 53, § 64. 1961, c. 317, § 159.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and deleted “next” preceding “superior court” in the present first sentence.

Chapter 58.

Burying Grounds. Public Cemeteries. Mausoleums and Vaults.

Burying Grounds.

Sec. 2. Repealed by Public Laws 1963, c. 318, § 1.

Sec. 3. Ancient or public burying grounds cared for.—In any ancient or public burying ground in which any Revolutionary soldiers or sailors or soldier or sailor who served in the United States army, navy or marine corps in any war 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 or soldier or sailor who served in the United States army, navy or marine corps in any war 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 shall be liable to a penalty of not more than \$100 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 on said graves. The penalties shall be recovered in a civil action brought in the name and for the use of any chapter of the Daughters of the American Revolution or post of the American Legion against such negligent town, parish, religious society, individual, association or corporation. (R. S. c. 54, § 3. 1961, c. 317, § 160. 1963, c. 318, § 2.)

Effect of amendments. — The 1961 amendment deleted “above provided for” formerly following “penalties” and substituted “a civil action” for “an action of debt” in the last sentence of this section.

The 1963 amendment deleted the former provisions at the beginning of the first

and third sentences relating to maintenance of fences, substituted “ancient or public burying ground” for “such burying ground” in the first sentence, substituted “\$100” for “\$10” in the third sentence, and deleted “as aforesaid” formerly following “trimmed” near the end of such sentence.

Sec. 4. Neglect of town or parish officers.—If such officers, treasurer or committee neglect so to apply such fines, they each forfeit the amount thereof, in a civil action, to any person suing therefor. (R. S. c. 54, § 4. 1961, c. 317, § 161.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of debt” in this section.

Sec. 5. Ancient or public burying grounds in unincorporated places cared for by county commissioners. — 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 burying grounds to be kept in

proper condition and any bushes therein to be cut. All expenses and costs incurred in any county while carrying out this section shall annually be assessed, by the county commissioners, against the estate of said county. (R. S. c. 54, § 5. 1953, c. 316. 1961, c. 318. 1963, c. 318, § 3.)

Effect of amendments.—Prior to the 1961 amendment the last sentence of this section was applicable only to “Piscataquis County”.

The 1963 amendment deleted “shall cause the same to be suitably fenced and thereafter maintained; they also” and “aforesaid” from the first sentence.

Sec. 9. Public cemetery enlarged.—The municipal officers of any town may on petition of 10 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. The limits thereof shall not be extended nearer any improved land used for recreational purposes or dwelling house or well, from which the water is used for domestic purposes, than 25 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 improved land used for recreational purposes or dwelling house or well than 25 rods against the written protest of the owner. 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 improved land used for recreational purposes or dwelling house or well.** (R. S. c. 54, § 9. 1957, c. 247.)

Effect of amendment.—The 1957 amendment made this section, which formerly appeared as two sentences, into four sentences and inserted the words

“improved land used for recreational purposes or” in the present second, third and fourth sentences.

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.—Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding $\frac{1}{2}$ 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 trusts 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. 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 \$50 nor more than \$100, to be recovered by complaint or indictment. The district court and the superior court shall have concurrent jurisdiction. Of all fines provided for under this section and recovered on complaint, $\frac{1}{2}$ shall go to the prosecutor and $\frac{1}{2}$ to the county where the city, town, cemetery corporation, trust company or trustee committing the offense is situated. Nothing herein contained shall be construed to compel any such city, town, cemetery cor-

poration, trust company or trustee to expend in any 1 year upon any such lot more than the income from any such fund. (R. S. c. 54, § 14. 1963, c. 402, § 94.)

Effect of amendment.—The 1963 amendment divided the former last sentence into three sentences, substituted the present third sentence from the end for “Trial justices shall have jurisdiction concurrent with municipal courts and the superior court within their respective counties” and deleted “the provisions of” preceding “this section” in the present next to last

sentence.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 15. Investment of funds. — Cemetery trust funds of any cemetery corporation or association, trust company, church, religious or charitable society, or other trustee, shall be invested in the manner provided in chapter 90-A, section 21, and, unless the instrument or order creating the trusts prohibits, may be combined with other similar trust funds in the manner provided in chapter 90-A, section 19, and the annual income only shall be expended in performance of the requirements of the trust. (R. S. c. 54, § 15. 1957, c. 405, § 10. 1959, c. 330, § 3.)

Effect of amendments. — The 1957 amendment changed the reference from “section 120 of chapter 91” to “section 21

of chapter 90-A”.

The 1959 amendment rewrote this section.

Sec. 17. Cities and towns may hold money in trust for cemetery purposes.—Any person owning or interested in a lot or lots in a public burying ground of a city or town may deposit with the treasurer of such city or town a sum of money for the purpose of providing for the preservation and care of such lot or lots, or their appurtenances, which sum shall be entered upon the books of the treasurer and invested and held in accordance with the provisions of section 21 of chapter 90-A. (R. S. c. 54, § 17. 1949, c. 66. 1957, c. 405, § 11.)

Effect of amendment. — The 1957 amendment changed the reference from

“section 120 of chapter 91” to “section 21 of chapter 90-A”.

Mausoleums and Vaults.

Sec. 34. Unauthorized cemetery, etc., enjoined or abated. — Any cemetery, community mausoleum or columbarium established, maintained or operated in violation of or contrary to this chapter is declared to be a nuisance, which may be abated or enjoined as such by the civil action of any citizen of this state. (R. S. c. 54, § 34. 1963, c. 414, § 42.)

Effect of amendment. — The 1963 amendment deleted “the provisions of” formerly preceding “this chapter” and

substituted “by the civil action” for “at the suit.”

Penalties. Jurisdiction. Vested Rights.

Sec. 37. Recovery of fines or penalties. — All fines or penalties provided by section 36 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 the superior court. (R. S. c. 54, § 37. 1963, c. 414, § 43.)

Effect of amendment. — The 1963 amendment substituted “section 36” for “the preceding section” near the beginning of this section and substituted “the

superior court” for “any justice of the superior court in term time or vacation” at the end of the section.

Sec. 38. Jurisdiction.—The superior court shall have original and concurrent jurisdiction in all cases under this chapter. Judges of the district court may cause the persons brought before them on complaint for violation of sections 26 or

27 to recognizance with sufficient sureties to appear at the next term of the superior court and, in default thereof, shall commit them. (R. S. c. 54, § 38. 1963, c. 402, § 95.)

Effect of amendment.—The 1963 amendment divided the section into two sentences, substituted “this chapter” for “the provisions hereof” at the end of the present first sentence and substituted “Judges of the district court” for “provided that

judges of municipal courts and trial justices” at the beginning of what is now the second sentence.

Application of amending act.—See note to § 14.

Chapter 59.

Banks and Banking.

Sections 1-A to 1-P. The Bank Commissioner. Organization. Powers.
 Sections 19-A to 19-L. Savings Banks.
 Sections 154-A to 154-G. Mutual Trust Investment Company Act.
 Sections 157-A to 157-Z-36. Savings and Loan Associations.
 Section 199-A. Sale of Negotiable Checks on Money Orders.
 Sections 246-248. Nominees.
 Sections 249-260. Motor Vehicle Sales Finance Act.

The Bank Commissioner. Deputy.

Sec. 1. Repealed by Public Laws 1961, c. 385, § 2.

The Bank Commissioner. Organization. Powers.

Sec. 1-A. Declaration of policy.—It is declared to be the policy of the state that the business of all financial institutions shall be supervised by the department of banks and banking in a manner to maintain and promote safe and sound financial practices; the strength, stability and efficiency of financial institutions; the security of deposit and share funds; reasonable and orderly competition; and the development and expansion of financial services advantageous to the public welfare. (1961, c. 385, § 1.)

The doctrine of noninterference by a state with the operations of a national bank protects the bank only from such legislation as tends to impair its utility as an instrumentality of the federal government. A national bank is subject to the laws of the state in which it is located in respect of its affairs if such laws do not interfere with the purpose of its creation, tend to impair or destroy its efficiency as a federal agency, conflict with the paramount laws of the United States, or discriminate against such national bank. *State Trailer Sales, Inc. v. First Nat. Bank of Pittsfield*, 158 Me. 481, 186 A. (2d) 370.

Sec. 1-B. Definitions.—The following words and phrases used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

I. Banking business. “Banking business” means

A. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association or corporation whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, a receipt or other writing; provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal; or

B. The loan of money for profit by a corporation except as a reasonable incident to the transaction of other corporate business or when necessary to prevent corporate funds from being unproductive.