

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

H. P. No. 498

H. D. No. 100

House of Representatives, Feb. 11, 1925.

Referred to Committee on Legal Affairs and 500 copies ordered printed. Sent up for Concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Burnham of Kittery.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE

AN ACT Relating to Burying-grounds.

Be it enacted by the People of the State of Maine, as follows:

Section 1. R. S., c. 21, Sec. 13; 1921, c. 103; relating to 2 burying-grounds, amended. Section thirteen of chapter 3 twenty-one of the Revised Statutes, nineteen hundred and 4 sixteen, as amended by chapter one hundred three of the 5 public laws of nineteen hundred twenty-one, relating to 6 burying-grounds is hereby amended by striking out all of 7 said section and substituting therefor the following section:

'Sect. 13. Any city, town, cemetery corporation, trust 2 company, or trustee may accept any conveyance of land, not 3 exceeding half an acre, to be forever held, kept and used

4 for a private or family burying-ground for the grantors and
5 such of their heirs and relatives by blood or marriage as the
6 conveyance shall designate. Such lot and all erections
7 thereon, including the erection and maintenance of the same,
8 and fixtures thereto suitable for its use or adornment as a
9 burying-ground, are forever inalienable and indivisible, and
10 exempt from liability for debt. Such cemetery corporation,
11 trust company, or trustee may accept, and any city or town
12 shall accept and forever hold any donation, legacy or sum
13 of money as decreed by probate court for insuring proper
14 care, attention, or perpetual care to any burying-lot or
15 -grounds and the avenues thereof and the monuments there-
16 on. Such trustee becomes bound to perform the duties ap-
17 pertaining to the trust as specified in the writing or decree
18 creating the same, or in default of such specifications, as
19 required by law, the decree of court as in cases of public
20 charity. Any city, town, cemetery corporation, or trust
21 company, without giving bond therefor, may be appointed
22 without notice by the probate court trustee and shall not be
23 required to return an inventory or account therefor, for the
24 purpose of holding forever in accordance with the provi-
25 sions of this section and the terms of the devise, any fund
26 devised for the purposes aforesaid, in any will probated
27 after the first day of January, eighteen hundred ninety-two.
28 And any such city, town, cemetery corporation, trust com-
29 pany, or trustee, failing to furnish proper care and atten-
30 tion to any burial lot, or the perpetual care whereof as

31 provided for as above, shall be subject to a fine of not less
32 than fifty, nor more than one hundred dollars, to be re-
33 covered by complaint or indictment. The judges of mu-
34 nicipal and polite courts and trial justices within their re-
35 spective counties shall have original and concurrent juris-
36 diction with the supreme judicial and superior courts; and
37 of all fines provided for by this section, and recovered on
38 complaint, one-half shall go to the prosecutor and one-half
39 to the county where the trustee or the town committing the
40 offense is situated, but nothing herein-contained shall be con-
41 strued to compel any such city, town or cemetery corpora-
42 tion to expend in any one year upon any such lot, more than
43 the income from any such fund.'

Sect. 2. All acts or parts of acts inconsistent with this
2 act are hereby repealed.

STATEMENT OF FACTS

Towns, in many instances, refuse to accept legacies for the care of burial lots, and in cases where cities, towns, cemetery corporations, trust companies, or trustees, will not accept such a legacy, it becomes necessary to appoint an individual as trustee, and when that is done, under the law as it now stands, he is required to return an inventory and also to render an account. By so doing it creates an absolutely unnecessary expense and is not in accord with the spirit of the will, or the intention of parties.

It would seem that in accordance with the spirit of the times, looking into the past and viewing the future, when all else fails, that it should be a duty incumbent upon cities and towns to carry out the intention of the will and the desires of the testator in properly caring for and protecting the last resting place of a deceased. It is quite apparent that our law as it now stands does not do so.