

MAINE STATE LEGISLATURE

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THE MICHIE COMPANY, Inc.
CHARLOTTESVILLE, VIRGINIA

Chapter 58.

Burying Grounds. Public Cemeteries. Mausoleums and Vaults.

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Burying Grounds.

Sec. 1. Incorporation.—Persons of lawful age may organize themselves into a nonprofit-sharing corporation for the purpose of purchasing land for a burying ground and for the purpose of owning, maintaining and operating a cemetery or cemeteries, as provided in sections 1 and 2 of chapter 54, and may proceed in the manner and, except as herein restricted with the powers provided in section 3 of said chapter. (R. S. c. 54, § 1.)

Cemetery corporations not regarded as charitable corporations.—It is obvious that in dealing with cemetery corporations the legislature has not regarded them as included within the statutory provisions relating to charities. It is provided in this section that they shall be organized as provided in §§ 1 and 2 of chapter 54. These latter are the clauses which prescribe the manner in which charitable corporations, and those created for purposes other than

profit, may be brought into being. If cemetery corporations had been regarded by the legislature as in fact charitable, no such provision would have been necessary. By saying in effect that they shall be organized as charitable corporations, it seems reasonable to assume that they were not viewed as such for purposes of statutory construction. In re Estate of Hill, 131 Me. 211, 160 A. 916.

Sec. 2. Ground fenced.—Such corporation, within 1 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 \$100; which shall be expended under the direction of the municipal officers in keeping the fence in repair. (R. S. c. 54, § 2.)

Sec. 3. Ancient or public burying grounds cared for. — 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 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, parish, religious society, individual, association or corporation shall be liable to a penalty of not more than \$25 for neglect to maintain such fence in good repair, and each said town shall be liable to a penalty of not more than \$10 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 or post of the American Legion against such negligent town, parish, religious society, individual, association or corporation. (R. S. c. 54, § 3.)

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 an action of debt, to any person suing therefor. (R. S. c. 54, § 4.)

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 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. All expenses and costs incurred in Piscataquis county while carrying out the provisions of this section shall annually be assessed, by the county commissioners of Piscataquis county, against the estates of said county. (R. S. c. 54, § 5. 1953, c. 316.)

Sec. 6. Grounds, inalienable and indivisible, except by unanimous consent; description recorded.—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 2 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. (R. S. c. 54, § 6.)

Cited in *McIntire v. Lauckner*, 108 Me. 443, 81 A. 784.

Sec. 7. Family burying grounds, exempt from attachment and inalienable.—When a person appropriates for a family burying ground a piece of land containing not more than $\frac{1}{4}$ 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. (R. S. c. 54, § 7.)

Cross references.—See c. 89, § 216, re fees to registry of deeds; c. 91, 28, re fees to town clerk.

Section not retroactive.—This section requiring a description of land appropriated for a family burying ground to be

recorded in the registry of deeds was not designed to be retroactive, and is not applicable to a reservation made prior to its enactment. *McIntire v. Lauckner*, 108 Me. 443, 81 A. 784.

Sec. 8. Lots in cemeteries exempt from attachment, levy and sale for debts.—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. Only 1 lot shall be so exempt for any 1 person. (R. S. c. 54, § 8. 1945, c. 378, § 52.)

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; 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 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 dwelling house or well than 25 rods against the written protest of the owner; provided that nothing in the provisions of 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. (R. S. c. 54, § 9.)

Section construed strictly.—This section is in derogation of private right and hence is to be construed strictly against the donee of the power to take private property against the will of the owner. Such power granted to or for a person or corporation is not to be extended beyond the plain, unmistakable meaning of the language used in the section. *Clark v. Coburn*, 108 Me. 26, 78 A. 1107.

“Adjacent” means adjoining or contiguous.—The term “adjacent” does not necessarily, nor even most frequently, mean “adjoining” or “contiguous,” but it is susceptible of that meaning in many connections, and indeed has been held not only by lexicographers, but by courts, often to have that meaning in various connections. It has that meaning as used in this section. *Clark v. Coburn*, 108 Me. 26, 78 A. 1107.

And section does not authorize taking of land across road from original cemetery.—As used in its connection in this section, the term “adjacent” must be held limited to lands adjoining, or contiguous, to the original cemetery. It follows that the section gives no power to take land on the opposite side of the road from the original cemetery. *Clark v. Coburn*, 108 Me. 26, 78 A. 1107.

Nor does it authorize establishment of new or additional cemetery.—This section grants the power, not to establish a new or even an additional cemetery to be opened and managed by the same corporation as an existing cemetery, but only to “enlarge” that cemetery. *Clark v. Coburn*, 108 Me. 26, 78 A. 1107.

The first sentence of this section relates only to proceedings by petition of ten voters for enlarging a public cemetery or burying ground. *Cushing v. Bluehill*, 148 Me. 243, 92 A. (2d) 330.

Meaning of “extension.”—The word “extension” when used in a statute of this type means an enlargement of the main body and usually the addition of something of less import than that to which it is attached. *Cushing v. Bluehill*, 148 Me. 243, 92 A. (2d) 330.

“Extension” means a stretching out, an enlargement in breadth, or continuation of length. *Cushing v. Bluehill*, 148 Me. 243, 92 A. (2d) 330.

Sec. 10. Notice.—Notice of a time and place for a hearing held under the provisions of section 9 shall be given by posting written notices thereof, signed by said officers, at least 7 days prior thereto, in 2 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 10 days before the day of hearing. (R. S. c. 54, § 10.)

The first part of the last sentence of this section prohibits the establishment, location and enlargement of any cemetery or burying ground under certain conditions well expressed in said section. Its meaning is clear and unambiguous. *Cushing v. Bluehill*, 148 Me. 243, 92 A. (2d) 330.

There is no ambiguity in the first part of the proviso clause and the meaning of the first part of the exception is clear and well expressed when the words therein used are given their ordinary meaning. *Cushing v. Bluehill*, 148 Me. 243, 92 A. (2d) 330.

Before the last two amendments to this section the legislature had made an exception as to the sale or disposition of lots within the limits of any existing cemetery or burying ground. The last two amendments, provided for an extension or an enlargement of an existing cemetery and it used the words “extension thereof away from any dwelling house or well.” The last amendment is indicative of legislative intent in that it sought to add to the exception already enacted with respect to the sale and disposition of lots in existing cemeteries the further right of enlargement or extension provided the enlargement or extension is away from any dwelling house or well. The word “thereof” after the word “extension” refers to an extension or enlargement of an existing cemetery. What the legislature intended, was that any extension or enlargement of an existing cemetery away from any dwelling house or well means that any enlargement or addition can be made to an existing cemetery or burying ground provided it (meaning the addition or enlargement) extends away or stretches out from the dwelling house or well. Such being the case, it would seem that no matter how far the extension of the cemetery is carried within its side lines it would never reach the house or the well and, furthermore, every point within its area would be further away from the house and well than was the nearest point of its base line and the extension necessarily must be away from the house and well both in direction and in distance. *Cushing v. Bluehill*, 148 Me. 243, 92 A. (2d) 330.

History of section.—See *Cushing v. Bluehill*, 148 Me. 243, 92 A. 330.

Sec. 11. Land taken, damages; town to vote at annual meeting.—If the municipal officers at the hearing held under the provisions of section 9 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. (R. S. c. 54, § 11.)

Sec. 12. Person aggrieved, remedy. — 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. (R. S. c. 54, § 12.)

See c. 96, § 34, re damages for ways.

Sec. 13. Private cemetery may become public; proceedings. — 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 1 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. (R. S. c. 54, § 13.)

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 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. 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. Trial justices shall have jurisdiction concurrent with municipal courts and the superior court within their respective counties; and of all fines provided for under the provisions of 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; but nothing herein contained shall be construed to compel any such city, town, cemetery corporation, 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.)

Cross reference.—See c. 54, § 9, re corporations without capital stock as trustees. **Section does not authorize creation of fund.** — While this section authorizes a

town to accept and hold forever a legacy for the benefit of any burial lot or ground, it does not authorize the town to create a fund or a part of a fund for any such

purpose. *Luques v. Dresden*, 77 Me. 186.

Applied in *Huston v. Dodge*, 111 Me. 246, 88 A. 888.

Sec. 15. Investment of funds.—As soon as may be, they shall invest the proceeds in the manner provided in section 120 of chapter 91, and the annual income only shall be expended in performance of the requirements of the trust. (R. S. c. 54, § 15.)

Sec. 16. Town's acceptance recorded.—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. (R. S. c. 54, § 16.)

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 120 of chapter 91. (R. S. c. 54, § 17. 1949, c. 66.)

Sec. 18. May pass by-laws.—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. (R. S. c. 54, § 18.)

Sec. 19. May accept trusts relating to burial lots.—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. (R. S. c. 54, § 19.)

See c. 91, § 117, re investment of trust funds.

Public Cemeteries.

Sec. 20. Incorporation of public cemeteries; exemption from attachment and taxation.—Any 7 or more persons may be incorporated, not for profit, in the manner provided in sections 1 and 2 of chapter 54, 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. Any cemetery corporation may accept and receive donations of money, general legacies and devises of real estate or legacies in trust, for the purpose of landscaping, general beautification and care of lots, memorials, avenues and plots in said cemetery, without being appointed or confirmed by any court as such trustee. (R. S. c. 54, § 20.)

Bequest held not exempt from tax.—Where a testator made certain bequests to a cemetery corporation for improvement of cemetery property, it was held that such bequests did not come within the

terms of the statute granting tax exemption to bequests to or for the use of educational, charitable, religious, or benevolent institutions. See in re *Estate of Hill*, 131 Me. 211, 160 A. 916.

Sec. 21. Deeds of burial lots recorded.—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. (R. S. c. 54, § 21.)

Sec. 22. Ownership and operation. — Every cemetery hereafter established shall be owned, maintained or operated by:

I. A municipality or other political subdivision of the state;

II. A church;

III. A religious or charitable society; or

IV. By a cemetery association incorporated as provided in section 1 or 20.

Every such cemetery shall be located in accordance with statutes already in force and effect, and only after consent for such location has been obtained from the municipality or other political subdivision where the same is proposed to be located, as well as from the bureau of health; and no cemetery, community mausoleum, crematory or columbarium hereafter established shall be maintained or operated for the purpose of private profit or gain, either directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining or operating the same, or of any holding company or development company employed to develop, build and dispose of the same. A cemetery lawfully established prior to July 24, 1937 may continue to be owned, maintained and operated under the form of organization adopted therefor. Any corporation organized prior to July 24, 1937 which is authorized or empowered to own, construct, maintain or operate cemeteries or burial grounds may lawfully own, construct, maintain or operate mausoleums, crematories or columbaria in connection therewith, in accordance with the laws existing and effective up to the time of July 24, 1937. (R. S. c. 54, § 22.)

Sec. 23. Sales for speculative or investment purposes.—The sale of cemetery lots and plots, or the sale of crypts in a community mausoleum or niches in a columbarium for speculative or financial investment purposes, or the conveyance of any portion of a cemetery already dedicated to burial purposes as security for debt, is prohibited; and every such conveyance, whether made by a person or by a cemetery association, or by a company or association owning and operating a community mausoleum, crematory or columbarium, or by any holding, development or subsidiary company, shall be void and of no effect. Whoever makes or attempts to make a sale or conveyance contrary to the provisions of this section shall be guilty of a misdemeanor and punishable as provided in section 36. (R. S. c. 54, § 23.)

Sec. 24. Care of cemeteries.—The proceeds of the sales of lots and plots in a cemetery shall be applied solely to the management, superintendence, improvement and maintenance of the cemetery and the avenues, paths and structures situated therein, for the purchase of additional cemetery land and for the accumulation of a permanent care and improvement fund. If any indebtedness of a fixed amount is incurred in the purchase of lands for such cemetery, or in making any improvement therein, a sum not exceeding 50% of the gross receipts from the sale of burial lots and plots may be applied to the liquidation of such indebtedness. All moneys received from the sale of personal property and surplus real estate of a cemetery shall be applied first to the liquidation of any fixed indebtedness incurred by it on account of the purchase or improvement of the lands dedicated to cemetery purposes, and any residue remaining after the liquidation of such indebtedness shall be deposited in the permanent care and improvement fund of the cemetery. The provisions of this section shall not apply to any cemetery now organized and operating. (R. S. c. 54, § 24.)

Sec. 25. Mausoleums, crematories, columbaria, etc. — Every community mausoleum, other than a structure containing crypts erected or controlled by a church or a religious society and used only as a repository for the remains of the clergy or dignitaries of such church or religious society, and every crematory, columbarium or other structure intended to dispose of, or hold or contain the

bodies or remains of the dead, shall be located only within the limits of a cemetery containing not less than 20 acres, which shall have been in existence and actually used for burial purposes for a period of at least 2 years immediately preceding the time of the erection thereof. (R. S. c. 54, § 25.)

Mausoleums and Vaults.

Sec. 26. Plans for burial structures presented to bureau of health for approval.—Before any person, firm or corporation shall build, construct or erect any such community 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 20 or more deceased human bodies for permanent interment, such person, firm or corporation shall present all plans for such construction to the bureau of health and shall obtain the written approval of such plans by said bureau before proceeding with the construction and erection of said mausoleum, vault or other burial structure. (R. S. c. 54, § 26.)

See § 38, re jurisdiction of courts.

Sec. 27. Crypts or catacombs, readily examined. — Any such community mausoleum or other burial structure shall be constructed of such materials and workmanship as will insure its durability and permanency as well as the safety, convenience, comfort and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science, and 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 bureau 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. (R. S. c. 54, § 27.)

See § 38, re jurisdiction of courts.

Sec. 28. Mausoleums built under the supervision of the bureau of health.—The bureau of health shall have supervisory control over the erection of any such community mausoleum and shall enforce compliance with the approved plans and specifications therefor. Such bureau shall determine the reasonable amount of compensation for such supervision, which compensation shall be paid by the cemetery association or other agency erecting such community mausoleum. No departure from the original plans and specifications shall be permitted, except upon approval of the said bureau of health evidenced in like manner and form as the approval of the original plans and specifications. (R. S. c. 54, § 28.)

Sec. 29. Mausoleums, crypts, etc., completed.—No community mausoleum, crypt or structure erected as aforesaid shall be used for the purpose of depositing therein the remains of any dead body until the same, or a component section thereof, is fully completed and the permanent care and improvement fund required by section 32 has been provided. (R. S. c. 54, § 29.)

Sec. 30. Sale of crypts in uncompleted mausoleum.—No crypt in a community mausoleum shall be sold or offered for sale before said structure, or a component section thereof, is fully completed. (R. S. c. 54, § 30.)

Sec. 31. Disposal of bodies in improper mausoleums, vaults, crypts, etc.—Whenever any mausoleum, vault, crypt or other structure containing 1 or more dead human bodies shall, in the opinion of the bureau of health, become a menace to public health and the owner thereof fails to remedy or remove the same to the satisfaction of the said bureau, any court of competent jurisdiction may order the owner of said structure to remove the dead body or bodies for inter-

ment in some suitable cemetery at the expense of such owner. If such owner cannot be found, such removal and interment shall be at the expense of the cemetery association in the cemetery in which such mausoleum, vault, crypt or other structure is situated. (R. S. c. 54, § 31.)

Sec. 32. Permanent care and improvement fund for mausoleums.—Every cemetery association or other agency establishing, maintaining and operating a community mausoleum shall create and establish a permanent care and improvement fund, distinct and separate from the permanent care and improvement fund of its cemetery, the income whereof shall be devoted to the care, maintenance and improvement of such community mausoleum. Such permanent care and improvement fund shall be created by applying to such fund at least 30% of the proceeds received, in full and installments, from the sales of crypts in such mausoleum. (R. S. c. 54, § 32.)

Sec. 33. Custodian of mausoleum fund.—The treasurer of the cemetery in which such community mausoleum is situated shall be the custodian of the permanent care and improvement fund established therefor in the preceding section and every such fund shall be held, administered and invested in the manner provided by law for funds in savings banks of this state. (R. S. c. 54, § 33.)

See c. 59, § 42, re investment of funds
in savings banks.

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

Sec. 35. Disposition of human bodies.—Except as otherwise provided by law, or in case of a dead body being rightfully carried through or removed from the state for the purpose of burial or disposition elsewhere, every dead body of a human being dying within the state and the remains of any body after dissection therein shall be decently buried, entombed in a mausoleum, vault or tomb, or cremated within a reasonable time after death. The permanent disposition of such bodies or remains shall be by interment in the earth, or deposit in a chamber, vault or tomb of a cemetery owned, maintained and operated in accordance with the laws of this state, by deposit in a crypt of a mausoleum, or by cremation. The remains of a human body after cremation may be deposited in a niche of a columbarium or a crypt of a mausoleum, buried or disposed of in any manner not contrary to law. No deposit of the bodies or remains of the human dead shall be made in a single chamber, vault or tomb partly above and partly below the natural surface of the ground, unless the part thereof below such surface is of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, waterproof and air tight, and capable of being sealed permanently to prevent all escape of effluvia, and unless the part thereof above the natural surface of the ground is constructed of natural stone of a standard not less than that required by the United States government for monuments erected in national cemeteries, or durability sufficient to withstand all conditions of weather. (R. S. c. 54, § 35.)

Penalties. Jurisdiction. Vested Rights.

Sec. 36. Penalties.—Whoever fails to comply with or violates any of the provisions of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory or columbarium, or to the disposal of dead human bodies shall, unless another penalty is provided under the provisions of this chapter, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 54, § 36.)

Sec. 37. Recovery of fines or penalties.—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. (R. S. c. 54, § 37.)

Sec. 38. Jurisdiction.—The superior court shall have original and concurrent jurisdiction in all cases under the provisions hereof; provided that judges of municipal courts and trial justices may cause the persons brought before them on complaint for violation of sections 26 or 27 to recognize 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.)

See c. 134, §§ 30-32, re provisions for protection of dead bodies, graves and monuments in cemeteries.

Sec. 39. Vested rights.—The provisions of this chapter shall not be construed as affecting any vested rights of any cemetery association or other agency owning, maintaining and operating a cemetery or crematory immediately prior to July 24, 1937. In so far, however, as said provisions do not violate any such vested rights, they shall, except as otherwise provided therein, apply to all such cemetery associations or other agencies. (R. S. c. 54, § 39.)