

law for similar services. And such certificate or the record thereof, shall, together with such plat, be *prima facie* evidence, in all cases, as to the lands covered by said plat.

SEC. 2. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved March 7th, 1887.

CHAPTER 168.

[H. F. No. 888.]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT FUNDS FOR THE CARE, MAINTENANCE, AND IMPROVEMENT OF CEMETERIES.

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Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That any association formed under the provisions of title five (5) of chapter thirty-four (34) of the general statutes of A. D. one thousand eight hundred and seventy-eight (1878), which shall have established and shall be maintaining a cemetery of more than twenty (20) acres in extent within five (5) miles of any city of over fifty thousand (50,000) inhabitants, may, by a two-thirds ($\frac{2}{3}$) vote of the trustees of such association, which vote may be taken at any regular meeting of such trustees, provide—in accordance with the terms of this act—for the establishment of a permanent fund, the income whereof shall be devoted to the care, maintenance, and improvement of such cemetery, which fund shall be known as the "Permanent Care and Improvement Fund" of such cemetery association.

Care of cemeteries.

SEC. 2. Upon such vote the trustees of such association shall proceed to choose by ballot and appoint by deed of the association, a board of trustees of such fund. Such board shall consist of not less than three (3) nor more than five (5) persons, (the exact number to rest in the discretion of the said trustees of the association)

Board of trustees.

Such trustees of said fund must be citizens and freeholders of the state of Minnesota during all the time they exercise the powers of such trust. Upon the election, appointment and qualification, as herein provided, of the said trustees of such fund, all the title to the funds included in said trust, and all the rights, powers, authorities, franchises and trusts whatsoever thereunto appertaining shall at once vest in them; or, in case of the failure of any of those so

Qualification of trustee.

chosen and appointed to qualify within thirty (30) days after their appointment, then the same shall vest in the one (1) or more who shall so qualify.

In case of the failure of any of those so chosen and appointed so to qualify within such time, the one (1) or more who shall so have qualified shall forthwith fill all vacancies in the said board of trustees of such fund by choosing and appointing by deed persons to be such trustees upon qualification. And such trustees of the fund shall have power in the same manner to revoke any choice and appointment, and to appoint any other person to be such trustee in any case where one (1) chosen and appointed shall fail to qualify as herein provided within thirty (30) days after appointment.

All appointments to fill vacancies and all revocations must be made unanimously.

Tenure of
office.

SEC. 3. The tenure of office of the trustees of such fund, shall be for life.

Trustee to give
bond.

SEC. 4. Before exercising, holding or having any of the powers, duties, rights, titles, authorities or franchises appertaining to such trust or to such trusteeship, each person chosen to be a trustee of such fund shall give to the cemetery association for which the trust is maintained, a bond in a sum not less than five thousand (5,000) dollars, and at least equal to one-third ($\frac{1}{3}$) the amount of the fund at the time of giving such bond, with good and sufficient sureties thereto, who shall justify in the aggregate in at least double the amount of such bond; the same to be conditioned for the due and faithful performance of his trust until July first (1st), of the next even numbered year after the year in which such bond shall be given, and until said trustee shall give a new bond as hereinafter provided.

Bonds to be
renewed.

Upon the first (1st) day of July in each even numbered year, each trustee shall give a new bond conditioned in the same way, the amount thereof to be determined by the same rule, and with sureties as above provided. Such bonds shall all be approved by a judge of the District Court for the judicial district in which the cemetery for which such trust exists, or some part thereof, shall be situate, and shall be filed with the treasurer of such cemetery association.

Any failure so to renew bonds within thirty (30) days after the time hereinbefore provided, shall be a sufficient ground of removal of any trustee within the discretion of competent jurisdiction, upon application of any person interested.

Vacancies.

SEC. 5. In case of the death, resignation, disability, or removal of any member or members of such board of trustees of said fund, the survivors or survivor of them

shall forthwith choose and appoint a trustee or trustees to fill such vacancy or vacancies in the same manner as above provided in case of an original vacancy.

SEC. 6. In case of the death, resignation, disability, or removal of one or more of the trustees of such fund, all the rights, titles, powers, authorities, franchises, and trusts whatever existing in such trustees at the time of such death, resignation, disability or removal, shall at once, without any further act or conveyance, vest in the survivor or survivor, until the vacancy or vacancies so occasioned shall be filled, when the same shall in the same manner vest in the board as so reconstituted.

Vested rights.

All newly appointed trustees shall, at once upon qualification succeed to an equal share in all the rights, titles, powers, authorities, franchises and trusts belonging to such board; and the same shall always be vested in the members of such board as actually constituted.

SEC. 7. In case of the death, removal, resignation, or disability of all the members of such board, the said rights, titles, interests, authorities, powers, franchises, and trusts, until the organization of a new board of trustees, shall vest in the District Court in which such cemetery or the greater part thereof shall be situate.

Vested rights.

In such case such board of trustees may be reconstituted by the said District Court, on application of any person interested on such notice to other persons interested as such court may order.

The trustees so appointed to and accepting such trust shall become vested with all the aforesaid titles, estates, interests, authorities, powers, franchises, and trusts belonging thereunto, upon qualification as hereinbefore provided.

In case of any vacancy or vacancies continuing in the board of trustees of such fund for the period of one (1) year, such vacancy or vacancies may be filled by the said District Court in like manner.

All trustees appointed by such court under the provisions of this section shall have all the rights, powers, authorities, and franchises as trustees appointed under the other sections of this act.

Any owner of an interest in any lot in the cemetery cared for by such trust, and any trustee of the association of such cemetery, and any trustee of the fund, shall be deemed to be sufficiently interested to make any application provided for in this section or in section four (4) of this act.

SEC. 8. The trustees of any such cemetery association may, in place and stead of appointing such board of trustees of such fund, designate any corporation organized under chapter one hundred and seven (107) of the general laws of the state of Minnesota for the year one thousand

Corporations may be designated as trustees.

eight hundred and eighty-three (1883,) and its successors as trustees of such fund. In event of the extinction of such corporation and its successors, or its or their failure or inability to perform the duties of such trust, or its or their removal from such trusteeship, proceedings may be had before the District Court aforesaid for the appointment of other such corporation as trustee, or of a board of trustees such as hereinbefore provided for, in the same manner as provided in section seven (7) in the case of a failure of trustee.

Appointments
-where
recorded.

SEC. 9. All instruments of appointment of trustees of such fund shall be recorded with the secretary of the association establishing the fund.

Funds- how
raised.

SEC. 10. From and after the vote to establish such permanent care and improvement fund by the trustees of any cemetery association as provided, in section one (1) hereof, twenty (20) per cent. of all the proceeds arising from the sale of cemetery lots by such association shall be paid over quarterly, on the first days of January, April, July and October in each year, to the trustees of such fund, until such fund shall reach the sum of four hundred thousand dollars (\$400,000,) or four thousand dollars (\$4,000) per acre of the cemetery thereby to be cared for. If at any time there shall remain in the hands of such association unexpended money over and above all liabilities of the association, the board of trustees of such association may by a two-thirds vote, appropriate the whole or any portion of any such unexpended moneys to such permanent care and improvement fund; *provided*, that such fund shall never, in any case, be allowed to exceed either five hundred thousand dollars (\$500,000,) or five thousand dollars (\$5,000) per acre of the cemetery thereby to be cared for. And when such fund shall reach such amount all appropriations and payments thereto whatsoever shall cease.

Principal to
remain intact.

SEC. 11. The principal of such fund shall in all cases remain intact and inviolate. But the trustees of such fund shall on the first of January and first of July in each year, turn over to the treasurer of such association all accrued income arising from such fund and the receipt of such treasurer therefor shall be a sufficient voucher in the hands of such trustees.

Use of income.

SEC. 12. Such income so paid over shall be used in the discretion of the trustees of such association, solely for the care, maintenance and improvement of such cemetery, its grounds and avenues leading thereto, except as herein provided. In event of any portion of the income so paid over remaining unexpended and unappropriated for one year after its being so paid over to the treasurer of such

association it shall be returned to the trustees of such fund, and become a part of the principal of such fund.

SEC. 13. The principal of such fund may be invested in the way in which savings banks of the state of Minnesota are permitted to invest their funds, and not otherwise.

Principal may be invested.

SEC. 14. The members of the boards of trustees of such permanent care and improvement fund shall each receive per diem compensation of five dollars (\$5) for each day actually employed in the duties of such trust, but no trustee shall receive more than one hundred dollars (\$100) as such compensation in any one year. The fees of such members of the board of trustees shall be paid out of the general funds of the cemetery association until such trust fund shall reach one hundred thousand dollars (\$100,000) or two thousand dollars (\$2,000) for each acre of the cemetery cared for thereby. Thereafter the same shall be paid out of the income of such fund. When a corporation shall act as trustee as hereinbefore provided, it may receive from the association for its services in the care of such fund, [out of the income of such fund,] not more than five (5) per cent. of such income.

Compensation.

SEC. 15. When such fund is in the care of a board of trustees, the secretary of the cemetery association shall act as secretary of such board, and shall keep a full record of their proceedings.

Secretary of board.

SEC. 16. The trustees of such fund shall annually, on the first (1st) day of November, make a full report of the condition of such fund to the trustees of the cemetery association, and such report shall always be kept by the secretary of such association, open to the inspection of any person owning any interest in any lot in the cemetery cared for by such fund.

Report of trustees.

SEC. 17. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved March 7, 1887.