

C A P. X X V I I .

An Act to amend the act respecting vital statistics.

[Assented to 21st December, 1895.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Article 3059f of the Revised Statutes, as enacted by the act 56 Victoria, chapter 29, section 1, is replaced by the following :

R. S., 3059f, replaced.

“ **3059f.** The Lieutenant-Governor in Council may declare that this subsection shall not apply to any territory in which statistics are already obtained in a manner approved by the Board of Health, and may make the regulations necessary for the said Board to have access to such statistics.”

Lieutenant-Governor may declare subsection not applicable to certain territory, &c.

C A P. X X V I I I .

An Act to amend the law respecting cemeteries and interments and disinterments.

[Assented to 21st December, 1895.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. The following articles are added after article 3372 of the Revised Statutes :

Arts. added after R. S., 3372.

“ **3372a.** Whenever it is required to establish a cemetery or change the site of a cemetery in a parish or mission, the petition of the freehold inhabitants or of the *fabrique*, the trustees or other administrators of the parish or mission, as the case may be, to the bishop or administrator of the diocese, must propose one or more lots of land recommended by the Board of Health of the Province of Quebec.

Petition must propose lots for cemetery recommended by Board of Health.

“ **3372b.** If,—within the thirty days following the reading from the pulpit in the parish church, on a Sunday or holiday,

If during thirty days after certain notice or letter,

(a) Of a notice that the existing cemetery in a parish or mission has been condemned by the superior ecclesias-

tical or diocesan authority, as dangerous to public health, on the report of the Board of Health of the Province of Quebec; or

(b) Of a letter from the bishop or administrator of the diocese, ordering the establishment of a cemetery in a parish or mission which has none.—

Inhabitants neglect to present petition for establishment of cemetery, Board may request establishment.

The majority of the freehold inhabitants of such parish or mission neglect to present, to the Roman Catholic bishop, or, in case of the absence of the bishop or vacancy in the office, to the administrator of the diocese, a petition praying for the establishment of a new cemetery in such parish or mission, in conformity with article 3371, and proposing one or more lots of ground recommended by the Board of Health of the Province of Quebec, it is lawful for the said Board to request the bishop or administrator of the diocese to establish a new cemetery in such parish or mission on a lot of land indicated by it.

Bishop may approve or select lot himself.

2. If such lot, so proposed, is approved by the bishop, or if in the above case the bishop or administrator of the diocese, of his own accord, selects a lot of ground approved by the Board of Health, as the site of the cemetery of the parish or mission,—it is the duty of the *fabrique*, which may be compelled thereto by *mandamus* at the instance of any freehold inhabitant of the parish or mission, to acquire the said lot, within the delay fixed by the bishop or administrator of the diocese, and to apply to the commissioners, so that they may authorize the church-wardens to levy, upon the catholic freeholders of the parish or mission, the sum required for the payment of the said lot of land and the establishment of the said new cemetery, and the church-wardens shall, for that purpose, follow out all the prescriptions of article 3408.

Duty of *fabrique* thereafter.

3. If the parish or mission has no *fabrique*, the provisions of this article, with reference to the *fabrique* and church-wardens, apply with the same effect to the trustees or other administrators of such parish or mission.”

Article applies to trustees, &c, if no *fabrique*.

R. S., chapter 4, title 9, replaced.

2. Chapter fourth of title ninth of the Revised Statutes, as amended by the acts 52 Victoria, chapter 36, and 53 Victoria, chapter 44, section 1, is replaced by the following :

“CHAPTER FOURTH.

INTERMENTS AND DISINTERMENTS.

INTERPRETATION.

Interpretation.

“**3458.** The words : “Board of Health,” employed in this chapter, mean “The Board of Health of the Province of Quebec”.

SECTION I.

INTERMENTS.

§ 1. *General Provisions.*

“ **3459.** No interment shall be proceeded with before the officer appointed for the registration of acts of civil status has been handed a certificate establishing the cause of death, as provided by article 3059e.

Interments not to be proceeded with before certificate of death produced.

2. An act of burial must be prepared, by the person charged with the same, in conformity with the provisions of the title *Of acts of civil status* of the Civil Code.

Act of burial.

“ **3460.** No interment shall be made elsewhere than in a cemetery lawfully established, saving in the cases which are otherwise provided for by law.

Interments to be in cemetery.

“ **3461.** The body of no person shall be interred or embalmed before the expiration of twenty-four hours, at least, counting from the death.

Bodies not to be interred, &c., before certain interval.

2. This article shall not affect the regulations made for that purpose by the Board of Health, under chapter third of title seventh of these Revised Statutes, or by municipal corporations under their charter.

Application of article limited.

“ **3462.** The Roman Catholic ecclesiastical authority shall alone have the right to designate the place in the cemetery in which individuals of such faith shall be buried ; and, if the deceased, according to the canon rules and laws, in the judgment of the Ordinary, cannot be interred in ground consecrated by the liturgical prayers of such religion, he shall receive civil burial in ground reserved for that purpose and adjacent to the cemetery.

Interment of Roman Catholics regulated by religious authorities.

§ 2. *Regulations for Interments.*

“ **3463.** In cases where it is not otherwise provided, the coffin is deposited in a grave and covered with at least three feet of earth ; but the Board of Health may, in special cases, dispense with the application of this article.

Depth of earth on coffin.

Proviso.

“ **3464.** No interment shall take place in a church or chapel in use for religious purposes, without a special authorization granted by the superior ecclesiastical or diocesan authority.

Authorization required for burials in churches, &c.

2. In cases in which such permission is granted, the body must be placed in a coffin containing at least five pounds of chloride of lime, or quick-lime, and such coffin must be placed in a grave and covered with at least four feet of earth or enclosed in masonry of at least eighteen inches in thick-

Precautions for burials in churches.

ness if in stone or at least twenty inches in thickness if in brick, both brick and stone being well covered with cement.

Certain powers not affected.

3. This article shall not affect the powers granted to municipal corporations by their charter.

Bodies of persons dying of certain diseases not to be buried in churches, &c.

“**3465.** In addition to what is or what may be prescribed by the regulations of the Board of Health respecting the bodies of persons dying of contagious diseases, the body of no person who has died of asiatic cholera, typhus, small-pox, diphtheria, scarlet fever, scarlatina, typhoid fever or glanders can be interred in a church or chapel, or deposited in a public vault.

Such bodies to be transferred directly to cemetery.

2. The body of any person dying of any of the diseases enumerated in this article must be transferred directly from the place of death to the cemetery.

Ecclesiastical authority may prohibit entry of bodies into churches in certain event.

“**3466.** The local ecclesiastical or diocesan authority may, at any time, prohibit the entry of bodies into churches under their control, whenever it deems that the entry of bodies into the church may be prejudicial to the public health.

Situation of public vaults.

“**3467.** Public vaults shall not be built elsewhere than in cemeteries.

Bodies not to be put into public vaults, and to be buried, before certain time. Provisions for burials in private vaults.

“**3468.** No body can be deposited in a public vault before the first of November, and all the bodies that are deposited therein must be interred before the first of May.

“**3469.** Interments in special or private vaults can only be made in the following manner :

(a). By depositing the coffin in a grave and covering it with three feet of earth ; or

(b). By enclosing the coffin in masonry at least twelve inches thick, if it is in stone, and at least eighteen inches thick, if it is in brick, both brick and stone being well covered with mortar ; or

(c). By surrounding the coffin on all sides with a layer of cement of four inches in thickness. For that purpose a casing must be built, so that the inside measurements of the case will be eight inches larger in length, width and height than the coffin to be enclosed therein, the walls of the case to be in burnt brick, cemented, and to be four inches in thickness. The bottom of the cases in the lower range is made in cemented brick or concrete. The lower cases serve as the bottom for the upper cases. The coffin is deposited in the case so built on four stone blocks of four inches in height, so as to have a free space of four inches on all faces, and such space is filled in with cement up to the height of the walls in brick.

" **3470.** No coffin shall be opened from the time of the registration of the death until the interment, unless for the purposes of justice, or unless permission has been given by the local ecclesiastical authorities or by the mayor, or, in his absence, by a justice of the peace of the place, upon an affidavit showing the necessity for so doing.

Coffins not to be opened without permission.

2. If it is the body of a person who has died of any of the diseases mentioned in article 3465, the opening of the coffin shall be allowed only for the purposes of justice and by taking the precautions prescribed by the Board of Health.

If bodies of persons dying of certain diseases.

" **3471.** The superior ecclesiastical or diocesan authority may, whenever deemed desirable in the interests of decency or of the public health, prohibit interments in the cemeteries, churches or chapels under its control.

Prohibition of interments in certain cases, in certain places.

The infringement of this prohibition renders any person taking part in such interment liable to the fine imposed by article 3479.

Penalty.

SECTION II.

DISINTERMENTS.

§ 1.—*Interpretation.*

" **3472.** In this section the word: "church-wardens" comprises every officer of a church or congregation having the management of any cemetery, by whatever name he may be known.

Interpretation.

§ 2.—*Proceedings for Disinterments.*

" **3473.** On a petition, accompanied by affidavits attesting the truth thereof, being presented to any judge of the Superior Court, in term or in vacation, by any person praying for leave to disinter one or more bodies interred in any church, chapel or cemetery, with a view to the erection, repair or sale of a church, chapel or cemetery, or with a view to the re-interment of such body or bodies in another part of the same church, chapel or cemetery, or in another cemetery, or with a view to the reconstruction or repair of the tomb or coffin in which a body has already been interred, and indicating, in the case of a proposed removal of any body or bodies, the part of the same church or chapel or cemetery, in which it is proposed to deposit such body or bodies, the judge may order or permit that the body or bodies be disinterred as prayed for.

Order for leave to disinter to be given by judge of Superior Court upon petition accompanied by certain formalities.

2. The order granting the petition, sealed with the seal of the Superior Court and signed by the prothonotary, shall, for the person in possession or having the charge or custody of such church, chapel or cemetery, be sufficient authority to allow the proposed disinterment.

Order sufficient authority.

Permission to be previously obtained before application for order.

3. Before obtaining the order or permission of the judge to proceed to any such disinterment in any Roman Catholic church, chapel or cemetery under this article, the petitioner must show that he has obtained permission from the superior ecclesiastical authority of the diocese in which it is situated.

If bodies of persons dying of certain diseases.

4. In the case of the disinterment of the body of any person who has died of any of the diseases mentioned in article 3465, the petitioner must show that permission has been granted by the Board of Health, and the judge shall allow the disinterment only subject to the precautions prescribed by the said Board for the protection of public health.

Permission of judge required.

5. It is forbidden to proceed to any disinterment in any church, chapel or cemetery without the permission of a judge obtained as aforesaid.

Bodies may be moved from old cemetery to a new one on permission of judge of Superior Court.

“**3474.** Whenever in any parish or mission, it is determined by the competent religious authority to remove an old cemetery or to open a new one, any judge of the Superior Court, in term or in vacation, upon petition to him presented by the parish priest or missionary, and by the majority of the church-wardens of the church or congregation to which such old cemetery belongs or to whose use it is applied, may grant permission to cause all or any of the bodies buried in such old cemetery to be removed to such new cemetery.

Parish priest, &c., to keep register of bodies removed.

“**3475.** The parish priest, minister, missionary or church-wardens of such parish or mission, as the case may be, shall cause a register to be kept of all bodies removed from such old cemetery, shewing as far as may be, the names and surnames of the persons whose bodies have been so removed, as well as the names and surnames of those who applied for such removal, or shewing that they were removed by order of such priest, minister or missionary, and of the church-wardens of such church or congregation.

Register to be certified.

“**3476.** The register is certified by the priest, minister or missionary of the church or congregation to which such old cemetery belongs.

Disinterments not to take place between certain dates.

“**3477.** No disinterment of more than one body at a time is allowed between the first of June and the first of September of any year.

SECTION III.

PENALTIES AND GENERAL PROVISIONS.

Penalty for certain offences.

“**3478.** Any person committing any infraction or contributing to the commission of any infraction of the provi-

sions of articles 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 3469, 3470, 3471, 3473 and 3477, shall incur a fine not exceeding three hundred dollars, which may be recovered, with costs, by action brought before the Superior Court of the district, and from the judgment of such court there shall be an appeal to the Superior Court sitting in Review, the judgment whereof shall be final.

2. Every infringement of articles 3463, 3467, 3468, 3469 and 3471 shall further entail an additional fine, which may be recovered in the same manner, not exceeding twenty-five dollars for every day that such infringement shall last.

Penalty for certain other offences.

“**3479.** The suit may be brought :

Who may sue.

1. By the Board of Health of the Province of Quebec ;
2. By the municipal council of the locality ; or
3. By the *fabrique* of the parish or mission.

The fine shall, in all cases, belong to the Crown.

Fine belongs to Crown.

“**3480.** In the case of churches or cemeteries not belonging to Roman Catholics, the expression : “ superior ecclesiastical or diocesan authority,” or “ the local ecclesiastical or diocesan authority,” or “ the superior ecclesiastical authority,” or “ the competent religious authority ” in articles 3464, 3466, 3471, 3473 and 3474 mean the authorities, officers, trustees, administrators, managers or cemetery companies having, by law or custom, the administration of such churches or cemeteries, and the said articles shall be interpreted as if they had been made for the case of such churches and cemeteries.

Interpretation of certain words when non-roman catholic churches or cemeteries are in question.

“**3481.** This chapter shall not apply to the measures prescribed by judicial authority or officers of justice either as regards interments or disinterments, when it is necessary to secure or promote the ends of justice.”

Chapter not to apply to certain measures, &c.

3. Article 5255 of the said Revised Statutes is amended by adding after the word : “ section,” in the eleventh line, the words : “ has been approved by the Board of Health of the Province of Quebec, and ”.

R. S., 5255, amended.

4. Article 5260 of the said Revised Statutes is amended by adding after the word : “ desirable,” in the eighth line, the words : “ and that the land proposed for such exchange has been approved by the Board of Health of the Province of Quebec,” and by replacing the words : “ subject to all conditions and restrictions which may be deemed advisable,” in the ninth and tenth lines, by the words : “ subject to the provisions of articles 3475, 3476, and 3477.”

R. S., 5260, amended.

Arts. added
after R. S.,
5263.

5. The following articles are added after article 5263 of the said Revised Statutes :

Approval of
site for non-
catholic ce-
meteries.

“**5263a.** No non-catholic cemetery, whoever may be the proprietor, administrator or manager thereof, can be established unless the site thereof has been approved by the Board of Health of the Province of Quebec.

Replacing of
condemned
cemetery and
delay there-
for.

“**5263b.** Whenever a non-catholic cemetery, whoever may be the proprietor, administrator or manager thereof, has been condemned by the Board of Health of the Province of Quebec as dangerous to public health, the proprietors, and administrators of such cemetery shall, within six months after having been notified of such condemnation, replace such cemetery by another cemetery the site whereof has been approved by the Board of Health of the Province of Quebec, and after the expiration of such delay, no interment can take place in such condemned cemetery, and the removal of the bodies from the old cemetery to the new one, if effected, must be so effected in accordance with the provisions of articles 3475, 3476 and 3477.

Penalty for
infringements
of two preced-
ing articles.

“**5263c.** Whosoever infringes or is accessory to any infringement of the provisions of the two preceding articles, is liable :

1. To a fine not exceeding three hundred dollars, which may be recovered, with costs, by suit before the Superior Court of the district, and an appeal from the judgment of that court shall lie to the Superior Court sitting in Review, whose judgment shall be final ;

2. To an additional fine of twenty-five dollars per day for every day such infringement shall continue, which fine may be recovered with costs by suit before a court of competent jurisdiction in the district, and an appeal from the judgment of the Superior Court shall lie to the Superior Court sitting in Review, whose judgment shall be final.

Who may sue.

“**5263d.** The suit may be brought :

1. By the Board of Health of the Province of Quebec ;
or

2. By the municipal council of the locality.

Fine belongs
to Crown.

The fine shall, in all cases, belong to the Crown.”

Coming into
force.

6. This act shall come into force on the day of its sanction.