

The Commonwealth of Massachusetts

MEMORANDUM OF COMMISSIONER OF CORPORATIONS AND TAXATION PURSUANT TO GENERAL LAWS, CHAPTER 3, SECTION 7, AS AMENDED, WITH RESPECT TO PETITION OF EDWARD W. BAYLIES AND OTHERS (SELECTMEN) THAT CERTAIN CEMETERY ASSOCIATIONS IN THE TOWN OF MARION BE AUTHORIZED TO TRANSFER CEMETERIES, PROPERTY AND TRUST FUNDS OF SUCH ASSOCIATIONS TO SAID TOWN.

JANUARY 30, 1945.

To the Honorable Senate and House of Representatives.

The above-named petition was transmitted to me by the Clerk of the House on January 22, 1945.

North Marion Cemetery Association was organized as a corporation under Revised Laws, chapter 78, April 27, 1909.

Old Landing Cemetery Association was created by special act of the Legislature February 13, 1903. See Acts of 1903, chapter 78.

Marion Evergreen Cemetery was created by special act of the Legislature February 20, 1905. See Acts of 1905, chapter 87. The word "Association" does not appear to be a part of the corporate name and the bill accompanying the petition would seem in error in this respect.

No record is found in this Department of the corporate existence of "Friends (Quaker) Cemetery".

In my opinion the object sought by the petition cannot be accomplished under the General Laws but requires a special act if the Legislature shall deem it good policy to pass such legislation.

In view of the reference to trust property, it may be desirable to make provision for court sanction. See, for example, Acts of 1939, chapter 25, section 2.

It is further suggested that provision should be made for certification of acceptance of the act to the Secretary of State, since under section 1 of the bill the dissolution of corporations becomes contingent upon the act's taking effect. It is believed that the record of the existence of corporations should, as far as possible, be available at the office of the Secretary without the necessity of recourse to town records.

Respectfully yours,

HENRY F. LONG,

Commissioner of Corporations and Taxation.

Mr. Stetson of Middleborough presented a petition of Edward W. Baylies and others (selectmen) that certain cemetery associations in the town of Marion be authorized to transfer cemeteries, property and trust funds of such associations to said town. Towns.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Five.

AN ACT AUTHORIZING CERTAIN CEMETERY ASSOCIATIONS
IN THE TOWN OF MARION TO TRANSFER THE CEMETERIES,
AND OTHER PROPERTY AND TRUST FUNDS OF SAID ASSO-
CIATIONS, TO SAID TOWN.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the
same, as follows:*

1 SECTION 1. Each of the following-named cemetery
2 associations situated in the town of Marion, to wit:
3 North Marion Cemetery Association, Old Landing
4 Cemetery Association, Marion Evergreen Cemetery
5 Association and Friends (Quaker) Cemetery, or any
6 of them, may, by deed executed by the president and
7 treasurer of such association, thereunto duly author-
8 ized, convey and transfer to said town of Marion,
9 and said town is hereby authorized to receive, and
10 thereafter to hold and maintain, but for cemetery
11 purposes only, and subject to all rights heretofore
12 existing in any burial lots in such cemetery or ceme-
13 teries, the real and personal property of such associa-

14 tions, or any of them; and thereupon, and upon the
15 transfer of trust funds, as authorized by section two,
16 by any such association holding such funds, such
17 association shall be dissolved; and the cemetery of
18 such association shall be and become a public burial
19 place, ground or cemetery.

20 Any property devised or bequeathed to any of such
21 cemetery associations transferring its property under
22 authority of this act, under the will of any person
23 living at the time of the transfer aforesaid or under
24 the will of any deceased person not then probated,
25 shall, at the time when such devise or bequest be-
26 comes operative, be paid to said town instead of to
27 said association and thereafter be held upon the same
28 trusts.

1 SECTION 2. Any cemetery association mentioned
2 in section one, upon the transfer of its property there-
3 under to said town, shall also pay over to said town
4 all funds or other property held by it in trust for the
5 perpetual care of the lots in such cemetery or other-
6 wise, and said town shall thereafter hold such trust
7 property upon the same trusts as those upon which
8 such trust funds are now held by such cemetery asso-
9 ciation.

1 SECTION 3. All real and personal property, and
2 property rights, acquired by said town from any
3 cemetery association under authority of section one
4 shall be held and managed by said town in the same
5 manner in which cities and towns are authorized by
6 law to hold and manage property for cemetery pur-
7 poses; provided, that all rights which any persons
8 have acquired in any such cemetery or any lots therein
9 shall remain in force to the same extent as if this act

10 had not been passed and such transfer had not oc-
11 curred. The records of any such association shall be
12 delivered to the clerk of said town, and such clerk
13 may certify copies thereof.

1 SECTION 4. Interest and dividends accruing on
2 funds deposited in trust with any savings bank, un-
3 der authority of section thirty-seven or thirty-eight
4 of chapter one hundred and sixty-eight of the General
5 Laws, or with any other banking institution, for the
6 benefit of any such cemetery association or of any
7 lots therein shall, after such conveyance and transfer,
8 be paid by such bank to the treasurer of said town,
9 and said treasurer, under the direction of the ceme-
10 tery commissioners of said town, shall use the same
11 for the purposes specified by the donor of said funds
12 or by the will of the person bequeathing the same.

1 SECTION 5. Nothing in this act shall be construed
2 to authorize or require the diversion of any funds or
3 property given in trust for any specified purpose or
4 use to any other purpose or use, and said town shall
5 administer such property or funds in accordance with
6 the terms of such a gift or trust until otherwise ordered
7 by a court of competent jurisdiction.

1 SECTION 6. This act shall take full effect upon its
2 acceptance by a majority of the registered voters of
3 the town of Marion present and voting thereon at
4 the annual town meeting of said town to be held in
5 the year nineteen hundred and forty-five, or at a
6 special town meeting called for the purpose to be
7 held prior to December thirty-first, nineteen hundred
8 and forty-five.

