

CHAPTER XII

MANAGEMENT OF BURIAL GROUNDS

1. The care of all burial grounds vested in the Representative Body is hereby entrusted to the clergy and churchwardens of the several churches to which the same are respectively annexed, but subject to the control of the Representative Body; and in order to protect the same, the officiating member of the clergy and churchwardens may prevent trespass or other unlawful use of, or interference with, the same, and act on behalf and in the name of the Representative Body in any proceedings requisite for the purpose. Any costs and expenses incurred by the Representative Body in such proceedings shall be paid to it by the said member of the clergy and churchwardens, or, if the select vestry shall have approved such proceedings, shall be charged to the account of the parish. In this Chapter, the terms 'clergy' and 'officiating member of the clergy' shall not include a deacon serving in an internship.
2. In every case where there is a road or avenue specially appropriated by deed or otherwise to any such burial ground, the care and protection of the same is hereby entrusted to the same parties as by this Chapter are charged with the conservancy of the burial ground itself.
3. Where, by faculty or prescription, the members of a family have acquired a right to be buried in a particular place in any such burial ground as aforesaid, such right shall, in conformity with the provisions in that behalf of the Irish Church Act, 1869, be acknowledged, and effect shall be given to the same by the officiating member of the clergy and churchwardens charged with the care thereof.
4. (1) When members of a family have been buried in a particular place, although it may have occurred not in the exercise of a right, the officiating member of the clergy and churchwardens shall nevertheless guard against interfering with such use of such place, unless on grounds of imperative public convenience or necessity.
(2) Except in cases where such right or user exists, the officiating member of the clergy and churchwardens shall determine the place of sepulture.
5. No corpse shall be buried within 12 feet of the fabric of the church, except in a vault hitherto lawfully used for sepulture, and having its sole entrance from outside the walls, or in a vault or substantially built enclosure adjacent thereto, which at present exists.
6. The select vestry of the church to which the burial ground is annexed may appoint a grave-digger, who shall be entitled to such reasonable fee as the select vestry may appoint for digging a grave, unless the same be otherwise provided for, with the consent of the select vestry.
7. The officiating member of the clergy and churchwardens shall have power to permit headstones, flatstones, railings, and vaults to be erected and made; and shall be entitled to charge such fees for the erection of the same, and for burial in such vaults, and in those already made, and in graves, respectively, as the select vestry shall appoint, with the consent of the diocesan council: Provided that no inscriptions be allowed unless the same shall have been approved by the officiating member of the clergy, with an appeal to the ordinary.
8. All fees receivable under this Chapter, except the grave-digger's fee shall be received by the officiating member of the clergy and churchwardens, or by such person as they shall authorise, and shall be expended in keeping the church and burial ground in good order and repair, and any surplus shall be applied by the select vestry to such use as it may think fit, subject to the provisions of section 24 of Chapter III, and an account of all such receipts and expenditure shall be furnished to the Representative Body on demand.
9. In the case of cathedrals, not having churchwardens, but having cathedral boards or cathedral select vestries, such cathedral boards or cathedral select vestries shall, as to such cathedrals and the burial grounds attached thereto, have and exercise all the same duties, powers, and authorities as are hereby assigned to churchwardens; and for the purposes of this Chapter the deans, or, in their absence, the sub-deans, of such cathedrals shall be considered to be the officiating members of the clergy thereof.
10. Any person aggrieved by the refusal of the ordinary, officiating member of the clergy, churchwardens, or the select vestry, to grant any permission in respect of burial grounds shall have the right to appeal to the Diocesan Court, which court shall have full authority to hear and determine such appeal; and an appeal from said court shall in all cases lie to the Court of the General Synod, which shall have full authority to hear and determine the same.
11. Nothing in this Chapter contained shall be taken to interfere with any right existing on the 17th May 1873.