

CASE LAWS INVOLVING CEMETERIES

(Tennessee Supreme Court Decisions)

Walter Hines v. State 149 SW 1058-1060 (1911)

Case argued and determined in the Supreme Court of Tennessee for the Middle Division. Nashville, December Term, 1911.

Cemeteries. Land devoted and used as a burial ground is held in trust for that purpose by the owner and his successors in title.

Where the owner of land definitely appropriated and devoted a small part thereof as a private family burial ground, and it has been used as such, the land cannot be conveyed or devised so as to interfere with such use, because such owner, his grantees, devisees, and heirs hold the title in trust for the benefit of those entitled to a right or easement of burial in it, who also have the right to visit the cemetery for the purpose of repairing, beautifying, and protecting the graves and grounds, and, for these purposes, they have a right of ingress and egress from the nearest public road, to be exercised at reasonable times and in a reasonable manner. Cemeteries. Land... Descendants of landowner devoting land to family burial ground are entitled to burial therein.

Where the owner of the land definitely appropriated and devoted a small part thereof as a private family burial ground, and it has been used as such, the right of burial extends to all the descendants of the owner, and they may exercise it when the necessity arises. Cemeteries. Land... Descendants... Purchaser takes land subject to burial rights in a lot devoted to private family burial ground, though there be no express reservation.

Where a small part of a tract of land has been devoted to a private family burial use by the owner, those thereafter purchasing the land take it subject to the aforesaid burial rights, without any express reservation in the deed or will under which they take; for such reservation is implied, and purchasers are charged with notice of the fact that the particular lot has been dedicated to burial purposes, and of the rights of descendants and relatives of those there buried. Burial lots, whether public or private, are not the subject of trade and commerce, and it is always presumed that they are not included in the sale of land which surrounds them. Cemeteries. Land... Descendants... Purchaser... Burial ground rights are not barred by statutes of limitations so long as graves are marked by monuments, gravestones, or otherwise.

The right to use a private burial ground as such is not barred by the statute of limitations, so long as it is kept inclosed ; or, if uninclosed, so long as the monuments and gravestones marking the graves are there, or other attention is given to the graves, so as to show and perpetuate the sacred object and purpose to which the land has been devoted; for possession by the living is not required, in such case, to prevent the

acquisition of title by the adverse possession of the owner of the fee, so long as the dead are there buried, their graves are marked, and any acts are done tending to preserve their memory and mark their last resting place.

Cemeteries. Desecration of private burial ground and graves therein, and wrongful obstruction of way thereto, are misdemeanors. The desecration of a private burial ground, and graves therein, and the wrongful obstruction of the easement of a right of way from the public road thereto, as against those entitled to use it, are misdemeanors, subject to punishment under the statutes applicable to offenses of that character.

It is the responsibility of law enforcement personnel with jurisdiction over the location of the cemetery to enforce these laws. For an interpretation of any Tennessee legal matters, and to receive the most up-to-date laws, please contact an attorney licensed to practice inthis state.

An Act to Amend SENATE BILL 2601 By Cooper J

(F) Refuse to provide care or maintenance for any portion of a grave site on which a monument has been placed, provided that installation has been in accordance with lawful rules and regulations of the cemetery;

<http://www.legislature.state.tn.us/bills/102/Bill/SB2601.pdf>