

P U B L I C H E A R I N G

on

SENATE BILLS NOS. 365 and 429
[Revising the New Jersey Cemetery Act]

before

SENATE COMMITTEE ON BUSINESS AFFAIRS

Held:
August 17, 1966
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator A. Donald Bigley [Chairman]

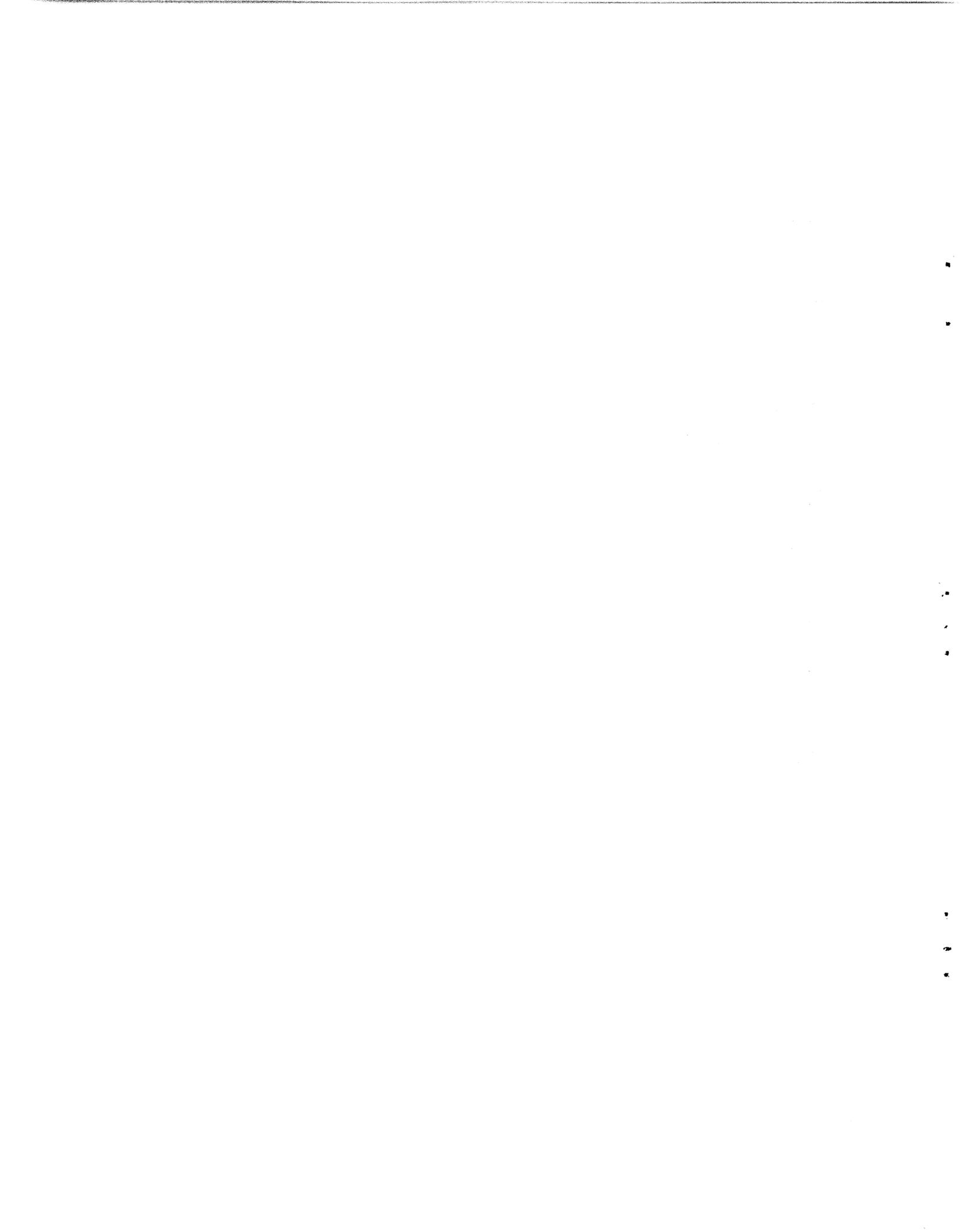
Senator Maclyn S. Goldman

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SENATOR A. DONALD BIGLEY [Chairman]: Ladies and gentlemen, we will get started on the continued hearing of the Business Affairs Committee on S-365 and S-429. I am sorry for the delay. We had a little trouble locating our witness list, but we managed to get it. I might say this: Just looking around the room, I recognize some faces that were here at the last hearing and in the interest of aiding the Committee and, of course, the Legislature, I would request that, if possible, you limit your remarks so that we don't have a repetition of the various viewpoints on these bills and that you bring out any new testimony that you think the Committee should have in order to arrive at their decision. I think that would greatly aid us in arriving at a determination on these particular pieces of legislation.

Of course, as I stated before - it is just a word of caution - this isn't a contest where the Committee is going to judge the matter on the responses from the audience. We are just interested in getting all of the testimony that is pertinent to this problem so at the Committee's leisure they will be able to sit down and study the record. As you can see, there are only two members of the Committee here. But, of course, during the summertime, it is impossible for everybody to arrange their schedule to be at these hearings.

So with those words, we will call Senator Jamieson who is on the list as a witness and requests to testify.

C R A W F O R D J A M I E S O N: I am former Senator
Crawford Jamieson of Mercer County.

Mr. Chairman, I am here representing the Greenwood Cemetery, which is the largest traditional cemetery in the Trenton area, having been chartered in 1874. Greenwood is an active member of the New Jersey Cemetery Association and joins with the Association in favoring the passage of S-429.

At the last hearing the opposition to the passage of this bill, the triumvirate of funeral directors, vault and monument dealers put great stress on abuses by cemeteries in the 1920's. They also produced an obsolete sales pamphlet supposedly used in the sale of pre-need cemetery lots. It was clearly inferred that this pamphlet was current. When actually, it had not been used for over a decade. In fact, everything produced by our opponents deals with the past not the present. As we have said time and again, there is nothing we can do about the past. We are here to forge a regulatory law, designed to protect the public, a regulatory law that is welcomed by the cemeteries of this State.

Our attempts to draft such a law, in concert with the Attorney General's Office, have been clouded by a costly undertaker's propaganda campaign featuring the tactic of the "big lie."

Now let us for once look at the facts. Let us look at who actually is guilty of perpetrating the high cost of dying today, not yesterday, but today.

In their campaign of the "big lie," the funeral

directors have charged cemeteries with preying on the public at the time of great emotional stress. This is utterly ridiculous on its face.

Everyone in this room knows that the first person contacted at the time of death is the funeral director. The first person to talk and advise the family at the time of death is the funeral director.

The truth is that in every single case, the cemetery has absolutely no contact with the family at the time of grief. The funeral director makes all the arrangements.

What motives have the funeral directors for their blatant attempt to mislead the public and this Committee? What motive do they have for attempting to prevent cemeteries from selling lots in advance of need when the family is not under the strain of grief, and when they can think clearly?

The facts I am about to present will prove conclusively that the undertakers are not concerned with the family, or their welfare, only with their own interest.

Did you know that the undertakers of this State, in union with the monument and vault dealers, have begun an invasion of the cemetery business that if successful could cost the public hundreds of thousands of dollars a year?

These self-styled guardians of the public interest are not content to control 90 per cent of the burial business, they now want 100 per cent. If they are allowed to continue this total monopoly, I can safely predict the cost of dying will skyrocket in the next few years.

The plain fact of the matter is that scores of New Jersey

funeral directors already are in the cemetery business. I will cite you instances of this practice: The Laurel Memorial Park in Atlantic City has been taken over by Jeffries and Keates, Funeral Directors; the Broad Street Methodist Cemetery in Bridgeton has a regulation that all installations of memorials and arrangements must be made through the Rulon-Brooks Funeral Home in Bridgeton, which also owns the Brooks Memorial Works across the street from the cemetery and the West Side Memorial Company.

Bradbury Vault Company operates Evergreen Cemetery in Camden. A cemetery in South Jersey now under investigation for shallow burials is Cedar Green Cemetery in Clayton. The leading officer is William Barclay, a funeral director. Brown Mortuary in Margate is associated with a cemetery in Mays Landing. Charles Brandt of the Charles Brandt Funeral Home is a member of the Board of Directors of a cemetery in Stewartville. William Hope and Son, memorial dealer, is connected with a cemetery in Burlington. Additionally, the Orlofsky Monument Company manages the Workmen's Circle Cemetery in Newark.

Do you know that most undertakers own cemetery plots which they sell at a huge profit to the bereaved at time of tragedy? Do you know that the cemetery records show that in over 90 per cent of the funerals where the family does not own a plot bought in advance of need, it is the funeral director who makes the plot sale.

Records show that in almost every case the funeral director either sells a plot he owns outright, or else takes a substantial commission from the cemetery, without

the bereaved family knowing he has acted as a sales agent. Cemeteries not paying these commissions are boycotted.

I submit this move by the triumvirate to gain a total monopoly of the burial business may be a violation of the anti-trust laws, and should be corrected at once.

While the undertaker pockets most of the money, who has the responsibility for caring for the grave? Not the undertaker. The funeral director's responsibility lasts anywhere from 3 hours to 3 days. The cemetery's responsibility continues forever.

Who has to pay for the continuous maintenance, grass cutting, fertilizer, and spraying of the lawns and plots? Not the undertaker.

Who has to pay for the continuous snow removal, costly repair of roads and walks over the years and decades? Not the undertaker. Who has to maintain the garages, chapels, mausoleums? Not the undertaker.

Who has to provide a staff of trained people to service the thousands of visitors that come year after year to visit the graves of their loved ones? Not the undertakers.

Who has to provide constant protection against vandalism and who pays for damage done by vandals, which is a regular occurrence at our cemeteries? Not the undertakers.

Let me show you who really gets rich from the high cost of dying, and then let's see who really serves the public:

I have here case histories of recent burials. I

could present thousands. Let me read just a few.

First, the case of a New Jersey man whose wife died this very month, and who requested the simplest funeral - no viewing, no flowers, no services, no use of any of the funeral director's related services or facilities. He asked for the least expensive items available.

The total bill came to \$955, of which the cemetery received \$80 for the grave and \$75 for interment service and of which the funeral director received \$880, for the simplest possible funeral where he was the sole mourner. I present this bill. [Mr. Jamieson submits bill to the Committee.]

In this case an F. H. Hill gray cloth casket was used, for which the funeral director paid \$39 and for which he charged the widower \$390.

Another item was a #28 Durastone Concrete Vault, for which the funeral director paid \$85 and the widower paid \$195. [Let me say that the funeral director never saw or handled the vault. For a ten-cent phone call he had it delivered and installed at the cemetery.]

In addition, the funeral director charged \$280 for miscellaneous services, which are estimated to have taken a few hours. The widower did not take advantage of such income-producing niceties as hair dresser, flower car, family car, car for clergy, and prayer cards, which are all itemized on the order form. This man will testify if you Senators desire to hear him.

I have here two bills for two funerals in the same

family and I will present them to the Committee. The total is \$4,172.21. The undertaker received \$3,592 for a few days' responsibility. The cemetery received \$589.25 and has a permanent and continuing responsibility. This also included an extra lot incidentally. You may think that \$4,172 for two funerals is exorbitant even for a wealthy family, but in this instance \$4,172 had to be paid by an average working couple and this is a common occurrence in New Jersey. As to the second of these two funerals, this unfortunate man and woman were awakened in the dark of the night and notified that their son was killed in an automobile accident. Numb with grief and at the complete mercy of the undertaker and despite a special plea for moderation, they received a bill for \$1,800.

There is much to be learned from this typical case. First, the Funeral Directors Association not only discourages families from planning funerals and memorials in advance of need, but now they want to prevent cemeteries from selling plots in advance. The second thing we learned, and even more shocking, are the methods used by the Funeral Directors Association, to make sure there is no competition to lower the price for the public.

Gentlemen, the public is being exploited by the collusion of the funeral directors, monument dealers and vault manufacturers. I join with the cemeteries in taking the position that the citizens of New Jersey should not be forced to pay such exorbitant sums for funerals.

The citizens of New Jersey should not be prevented,

but in fact should be encouraged to make funeral arrangements in advance instead of in time of grief. The citizens of New Jersey should be encouraged to buy their cemetery plots in advance of need, and the citizens of New Jersey should have the right to purchase memorials and monuments from their cemeteries or from the monument dealer or from the funeral director or from any source that they please. That is the American way. That is the fair way. And that is what the citizens of New Jersey will demand. The Cemetery Association wants to encourage the family to buy in advance from any source they please and the funeral directors, monument and vault dealers want the public to buy in time of grief and only from themselves. This is the real issue, the freedom of choice.

Members of the Committee, how do you think the undertakers are able to keep these prices so sky high? It is very simple. The New Jersey Funeral Directors have a firm policy, never to show any of their actual wholesale prices in writing. All prices are coded. One of the best-kept secrets in the funeral business today is the wholesale price of caskets.

Any funeral director in the State of New Jersey who dares to advertise his price is barred from the Golden Circle of the New Jersey Funeral Directors Association. They fear advertising because advertising fosters healthy, open competition. Healthy, open competition would drive the prices of funerals down drastically, and benefit the public.

In their bill, S-365, they would bar cemeteries from

advertising or even soliciting for the sale of a lot by phone.

As a perfect example of this, I show you an advertisement from the Walter B. Cooke Funeral Home of New York, advertising funerals from \$250. How many persons in this room ever purchased or heard of a bill for a funeral for this amount? I doubt if there are any because the funeral directors of New Jersey will not advertise their prices. Undertakers make profits of from 300 to 400 per cent on the sale of caskets alone.

There is little doubt that the single most responsible thing for the high cost of dying not only in New Jersey, but throughout the country, is the shocking profits made by funeral directors in the sale of caskets.

To prove my assertion, I will insert into the record a page from the undertaker's bible entitled "A Complete Guide to Funeral Service Management," written by Wilber M. Krieger, a Director and Trustee of the National Foundation of Funeral Service, and a recognized authority in the business. I will present the book. It is obvious that I couldn't have one for each of you. It costs \$12.50. But I have a photo copy of the page I am now referring to, which I will present.

Under the chapter "How to Price Your Service and Merchandise" is found the recommended scale of profit in the sale of caskets. I offer copies to the committee for the record. This shows that a casket bought at wholesale for \$69 should be sold for \$489; one for which the undertaker pays \$157 is sold for \$878, and so on. Perhaps the Committee

should examine the advisability of fixing the prices on caskets, funerals and related merchandise.

Incidentally, let me stress that this is a book used today in the funeral business, not eleven years ago, but today. Let me read you some interesting passages from this undertaker's bible: This passage under the chapter "Sound Merchandising is Essential" demonstrates the lengths the undertakers will go to show the greaving public their most expensive caskets hours after a loved one has passed away. Under the paragraph "Avenue of Approach" the undertaker's bible carefully instructs the best manner to exhibit the high-priced merchandise in the following manner:

"We know that 85 per cent of all the people are right-handed; thus the turn to the right is a perfectly natural direction for them to go. It is preferable, if you can so arrange the room, that you have a clearly wide aisle leading to the right. This makes it easy for people to follow their natural inclinations and to have easy access. Thus, the buyer who wants something better, or the buyer who gives no reaction at all, should be directed to the right. Along this wide aisle you should place your better units."

This bible of the merchants of the mortuary also explains how to discourage persons from buying cheaper caskets under a paragraph title "resistance lane." The book states, "We have still another use of our control factors when it comes to the arrangement of a room. We have already

stated that most people naturally turn to their right. Therefore, it stands to reason that a lesser number will turn to the left. Consequently after you have placed your higher units along the wide aisle leading to the right, then you place your lower units along a narrow aisle leading to the left. This offers easy access, but in an unnatural direction. We refer to this narrow aisle to the left as 'resistance lane.'

And what about the public? What does the public want? In an attempt to determine this one of our large cemeteries in the last week circulated an opinion poll among its lot owners who had an interment in the last two years. One thousand questionnaires were sent out. As of today, 250 have replied.

The questionnaire asked the following two questions: Should cemeteries be permitted to sell lots in advance of need? Over 90 per cent replied yes.

It also asked: Should families be permitted to buy a monument, vaults, and markers from cemeteries? Again over 90 per cent replied in the affirmative.

Now I do not have copies of all those questionnaires for rather obvious reasons, but I do have the original answers and a compilation of them right here that the Committee can look at if they choose to. [Mr. Jamieson submits information to the Committee.]

Members of the Committee, it should be obvious that the public today wants the right to purchase from a source of its choice. The funeral directors are attempting to tell

them they cannot. The people of New Jersey will not stand for this obvious attempt to establish a monopoly at their expense.

After a review of the abuses heaped upon the unsuspecting public by the undertakers, I, and the New Jersey Cemetery Association urge this Committee to call on the Attorney General to conduct a full-scale inquiry into the entire burial and funeral business in New Jersey.

He has the power of subpoena. He can compel the production of hidden books and records. He can establish how much profits are made and by whom. He can determine the high cost of veteran's funerals, borne by widows who almost always receive free grave space.

The public interest demands that this investigation be held at once. The cemeteries of the State welcome such an inquiry, and we challenge the triumvirate to join with us in seeking such an investigation. The cemeteries of this State have nothing to hide. Can the triumvirate say the same? Can the triumvirate stand the light of a public inquiry? I do not think they can. Thank you, gentlemen.

SENATOR BIGLEY: Senator, I have a few questions I would like to ask. Senator, does your cemetery sell graves to funeral directors directly?

MR. JAMIESON: I don't know.

SENATOR BIGLEY: Do you pay commissions to funeral directors?

MR. JAMIESON: My cemetery?

SENATOR BIGLEY: Yes, the Greenwood Cemetery.

MR. JAMIESON: I don't know. I think so. One of my partners, Senator, is more active in handling the Greenwood Cemetery account.

SENATOR BIGLEY: I asked that question because you have asserted that the funeral directors by reason of an unofficial boycott demanding sale's commissions on graves -- and I would be interested in knowing that.

MR. JAMIESON: I think that is true. But you were asking me specifically --

SENATOR BIGLEY: Well, I asked you specifically because you did say that you are representing the Greenwood Cemetery. Of course, you can't speak for others.

MR. JAMIESON: I will answer your question by letter, Senator. For that matter from a whole group of cemeteries, we can produce checks to show that we pay commissions. We have to. Cemeteries have to. Now I am not certain of the exact facts in Greenwood so I won't answer you, but I will by letter.

SENATOR BIGLEY: I think in fairness we should point out that this book also - I just read it hurriedly while you were testifying - just uses figures which, of course, are a compilation, I guess, of the national average. They say that the profits to the funeral directors should be 20 per cent of their gross volume.

MR. JAMIESON: You mean the book says that?

SENATOR BIGLEY: Yes.

MR. JAMIESON: Twenty per cent of its gross?

SENATOR BIGLEY: They broke it down 19 per cent,

merchandise cost; 61 per cent, overhead; and 20 per cent, profit, before taxes. That was also in here. I am sure some of the other witnesses will bring it out. In fairness, we should point that out.

MR. JAMIESON: I'll take 20 per cent.

SENATOR GOLDMAN: On page 2 you make the allegation that undertakers have begun an invasion of the cemetery business.

MR. JAMIESON: Yes.

SENATOR GOLDMAN: And are you proving that by the instances with regard to Laurel Memorial Park, Broad Street Methodist Cemetery --

MR. JAMIESON: Well, I proved it by -- I think there are six or eight here. And I go on to say that the invasion of the cemeteries also is what Senator Bigley was talking about, namely, buying plots in other cemeteries that they own themselves and selling them without going into the business.

SENATOR GOLDMAN: Well, you are citing some few instances.

MR. JAMIESON: One of the cemetery managers who is here, I think, and is going to testify, in his cemetery alone, which is in your area, Senator, in Essex, I believe, undertakers buy many lots, a lot of lots, and he had 49 transfers from undertakers to people that bought from them last year.

SENATOR BIGLEY: Forty-nine out of what though, what percentage?

SENATOR GOLDMAN: That is what I am trying to get at.

MR. JAMIESON: What percentage of his total sales?

SENATOR BIGLEY: Yes.

MR. JAMIESON: I don't know that, but it is a big volume. That is an instance, Senator, where the undertaker had bought the lots and then sold to the family of the person he was burying.

SENATOR GOLDMAN: Senator, what I am trying to get at is the fact that at the last hearing - of course, we haven't read the testimony - but there have been many general allegations attempting to paint a picture and it is very difficult to get the real picture from just these general allegations.

Now, for instance, you state that Laurel Memorial Park in Atlantic City has been taken over by Jeffries and Keates. What do you mean by "taken over"? Actually does Jeffries and Keates own and control Laurel Memorial Park entirely?

MR. JAMIESON: Yes.

SENATOR GOLDMAN: You know that as a fact?

MR. JAMIESON: Well, I had these facts checked. I didn't want to make statements in here with names without checks. I had a letter first on this and I had it checked again yesterday for the final draft of this thing or else I wouldn't have put it in. I said, "I want to know if those facts are absolutely true or I won't put them in my statement." That is why we want an investigation. We are not afraid. The Attorney General can get all the facts.

SENATOR BIGLEY: You made a statement that cemetery

records show that in over 90 per cent of the funerals where the family does not own a plot in advance of the death, the funeral director makes the plot sale.

MR. JAMIESON: Yes.

SENATOR BIGLEY: Now is that true in Greenwood?

MR. JAMIESON: I believe so.

SENATOR BIGLEY: That percentage, 90 per cent - and you pay a commission on 90 per cent of your sales then?

MR. JAMIESON: Yes.

SENATOR GOLDMAN: Senator, --

MR. JAMIESON: Well, there are a few pre-need sales in a place like Greenwood.

SENATOR BIGLEY: You limited it to those where they didn't own a grave.

MR. JAMIESON: Where they didn't own, yes, and at time of death.

SENATOR GOLDMAN: On page 3 of your testimony, Senator, you say that Brown Mortuary is associated with a cemetery in Mays Landing. Associated in what way? Do they control this cemetery?

MR. JAMIESON: Yes, associated in the way of controlling it.

SENATOR GOLDMAN: You say that most undertakers own cemetery plots which they sell at a huge profit to the bereaved at time of tragedy. Do you know how many undertakers we have in New Jersey?

MR. JAMIESON: I don't. Thirteen hundred somebody has told me.

SENATOR GOLDMAN: Would you say then that better than 650 owned cemetery plots?

MR. JAMIESON: Yes.

SENATOR GOLDMAN: You also say that "Records show that in almost every case the funeral director either sells a plot he owns outright or else takes a substantial commission from the cemetery without the bereaved family knowing he has acted as a sales agent. Cemeteries not paying these commissions are boycotted." How many cemeteries boycott?

MR. JAMIESON: I understand quite a number. That is if the undertaker won't cooperate, they tell him to go somewhere else?

SENATOR GOLDMAN: Well, --

SENATOR BIGLEY: Wouldn't your other cemetery as a member of your Association give him the same answer as your cemetery, for example?

MR. JAMIESON: Probably.

SENATOR BIGLEY: So where can he go - that's the point - if you stand united in either insisting that the funeral directors are not going to resell these graves for a profit as you allege?

MR. JAMIESON: I don't quite get that question. May I say this, Senator. I am not a cemetery expert. I am a lawyer or try to be and we will have a witness here that will explain and answer that question.

SENATOR BIGLEY: All right, very good. Thank you, Senator.

SENATOR GOLDMAN: One more question: Senator Jamieson,

the next statement that the public is being exploited by the collusion of funeral directors, monument dealers and vault manufacturers - do you have definite proof of that?

MR. JAMIESON: Yes.

SENATOR GOLDMAN: What do you mean by collusion?

MR. JAMIESON: Well, they work together. What page is that on?

SENATOR GOLDMAN: If I work together with a Senator, I am in collusion with him?

MR. JAMIESON: No. I don't meant it that way. I mean it in the stronger sense of the word "collusion."

SENATOR GOLDMAN: Well, what do they do? What proof do you have that these three entities meet and collude?

MR. JAMIESON: Well, they certainly colluded in their drawing and support of S 365, didn't they, Senator? Excuse me, I shouldn't ask you a question.

SENATOR GOLDMAN: We are talking now about the operations of their business. You say the public is exploited by collusion of these three business enterprises. What proof do you have that they meet in concert and set a pattern to amount to collusion? And when they collude, what figures do they arrive at? I don't mean exact dollars and cents.

MR. JAMIESON: Well, I think, for instance, there is an exorbitant price charged the family of a deceased for a vault. Nobody publishes what the vault costs and the vault is just socked on the bill at \$150 or \$200. It costs \$55 to \$85 as I understand. I have seen bills, lots of them.

SENATOR GOLDMAN: When you make an allegation, Senator, of collusion, this is a serious offense and unless the Committee has some concrete and definite evidence of the same, we will have to treat the statement as either hearsay or generalization.

MR. JAMIESON: Well, I tell you, Senator, I think it is a fair charge that I made and another witness will have more information to support that and again I say, I am sure the Attorney General would find it is true if we had an investigation.

SENATOR BIGLEY: Thank you very much, Senator.

MR. STERN: Mr. Chairman, may I ask a question through you?

SENATOR BIGLEY: Mr. Stern, we can't go into back and forth questions because, number one, we are not set up for it accoustically - the girls can't get it on the record because, of course, these mikes are dead - and, number two, it is not our purpose to have an adversary proceeding so to speak.

I am going to call names from last week's list. If these gentlemen are here, I would ask them to indicate whether they still want to testify.

Russell Zesch.

MR. ZESCH: Yes.

MR. TOOLAN: Mr. Chairman, could I direct the Committee's attention to one thing that is in our bill that has not heretofore been commented upon. In our bill, that is 429, we have an absolute prohibition against anybody in the cemetery business engaging in the funeral directors

business. In the literature put out by the funeral directors, they have appealed to their membership on the theory that if the cemeteries are permitted to sell markers and vaults, the next step would be to go into the cemetery business. I want you to know our bill excludes that, but their bill, 365, does not exclude anybody in the undertaking business going into the cemetery business or anybody in the cemetery business going into the undertaking business.

SENATOR BIGLEY: We are aware of that, Senator.
Thank you.

R U S S E L L Z E S C H: Mr. Chairman, my name is Russell Zesch. I am a Past President of the New Jersey Cemetery Association, and Past President of the American Cemetery Association. I am also currently Director of the American Cemetery Institute.

In terms of New Jersey, I have been in the cemetery business since 1938, for more than 20 years as Secretary and General Manager of Mount Hebron Cemetery in Upper Montclair.

I am coming to you in effect to represent what amounts to 95 per cent or more of the cemeteries in the State of New Jersey. These are essentially the non-profit small cemeteries of this State or those with a religious affiliation. We as an Association, as a group of individuals, have for many years been cognizant of the fact that legislation is needed. I feel a sense almost of personal affront at Mr. Stern's statement a couple of weeks ago when he

commented on the fact there was interest on this only since when? - 1957, 1958 - I would call his attention to the fact that I testified here in 1951 or 1952 on a similar occasion, that I worked almost continuously since that time on this matter. We worked with two Attorneys General and I don't know how many Deputies on this thing.

It is a complex problem and there is one thing I think everybody in the room can agree on and that is that the present statutes are hopelessly archaic. What we have been working toward is a situation where we would have the type of legislation that will prevent the cemeteries from becoming, first, a public nuisance and, ultimately, a public charge.

There is a curious situation existent here in that cemeteries are the only area in which the matter of time or time limit doesn't exist. Perpetual trusts, for example, in nearly every line of endeavor are barred by law and cemeteries are perhaps the single, specific exception to this. So we sell something; we obligate ourselves for perpetual care or care forever. Now the implication of this is pretty awesome. It means that at any given day, we are attempting to predict what economic conditions are going to be 50 or 100 or 150 years hence. Actually, there is no man alive, as you well know, who can do justice to that type of a job.

This is something, however, that the people speaking for the opposition are apparently completely unable to comprehend and perhaps this is to have been expected in

the sense that their business is a relatively short-term proposition - a matter of days where we are talking about scores of decades perhaps.

So at the beginning here let us say that what we are striving for is some type of equitable legislation that will be in the public interest. You have had a great deal of opposition publicity in the press and otherwise that would tend to give the impression that all cemeteries are large, wealthy, affluent institutions. Stop and think for a moment and think as you drive through the countryside how many of these are actually little church grave yards or small non-profit associations, and incidentally most of them established for many, many years. Speaking for Mount Hebron, for example, we are 104 years old and proud of it. But one thing all these cemeteries, whether they be new or old, share in common today and that is that there is a pressing need for additional revenue. Perhaps the older cemeteries have fallen victim to this more than the more modern ones.

Now there are only three possible answers to this problem. One is a tremendous escalation of funeral costs. There has been enough of that already. The second is that the cemeteries get involved in some sort of business which will provide collateral sources of income. Most other businesses have been forced into this. Think of diversification as it moves on in large corporations. And the third alternative is the one that none of us want and that is where the cemeteries ultimately will be cared for

or, at least, subsidized with public money. This is not the American tradition of the cemetery.

One of the major problems that we face in this business is that we have to staff our cemetery for peak loads. Nobody can predict over any given short period of time what the exact requirement for service is going to be. There is a tremendous day-to-day fluctuation. Now we can absorb a good part of the cost of what would be waste labor if we can involve ourselves in some of these ancillary services. The problem becomes increasingly acute. Why? Because labor costs are sky rocketing and, incidentally, cemeteries are behind most industries in this field. We haven't felt the real impact of this. We are going to. On the other hand, the ability to increase income is necessarily restricted, as it should be, in terms of trust funds, for example. We are able to put what? - 60 per cent, at most, of our funds in so-called limited legals. The actual experience indicates that in most cemeteries it is considerably less than this. You could find instances where trust funds are entirely in public bonds of one type or another.

We think 429 is going to provide a reasonable approach to this problem. We also think that 365 would increase the problem and probably accelerate the decline of the cemeteries. Now, why? First of all in the very early part of that bill, you will notice when they define what constitutes minimum maintenance that they include in there the very small matter of taking care of mausoleums

and monuments and shrubbery. These are things actually which historically the owner has been charged with. There has never been a dollar paid to most cemeteries unless there are special endowments against the lots to provide income to do this service. And what would be the real impact of this thing? Well, simply this, a wealthy individual who put up a mausoleum 50 years ago and spent a great deal of money on it, but put no endowment on it, today would be automatically then assured of care on this. But last year or five or ten years ago, there was another individual came into the cemetery and he couldn't even afford a marker on his grave. Yet a portion of what he paid to the cemetery would now of necessity have to take care of this elaborate structure we spoke of earlier. In other words, it just does not make any sense. People who are in a position to afford to put up this sort of thing certainly should be in a position to care for it.

I have an instance in my own cemetery that might tend to corroborate this sort of thing. If we were given an impossible assignment like this - and it would be impossible - we would run into something of this sort. We had a mausoleum probably 70 years old. The family at one time were wealthy. When the last person died, she left for the care of that mausoleum the total sum of \$500. Well, we did some checking and at that time which was some 12 or 14 years ago, perhaps a little more, the repair bill alone was seventeen hundred and sixty odd dollars. We, of course, declined the endowment, the projected endowment. What am I leading to here? That mausoleum presently has 12 bodies in it. The interior is

falling down. It is only a question of time when the exterior starts to open up and now we have a health problem, which means that even at best today we are going to have to go in and literally raze that building, take it down, take the bodies out and inter them in the ground. There is something radically wrong. But the responsibility for the care of these things belongs as it always has been with the owners, not with the cemetery.

Incidentally, it might be of interest to note that nearly every cemetery today before they will permit the erection of a mausoleum will require a very substantial endowment. We at Mount Hebron require 25 per cent of the contract price in trust before any work at all is done on that. We don't intend to be caught a second time.

There is another factor that we must not overlook - this is a factor that is becoming increasingly apparent not only to cemetery operators, but also to members of the church - and that is the need for the economy of space, particularly in the urban areas. It is no longer feasible to take large tracts of land in an urban area and tie them up for purposes such as this. It has gotten far too expensive for one thing. Now cemeteries the country over have been over a considerable period of years devising means to accomplish this. For example, perhaps 25 or more years ago it was found that it was perfectly feasible to make two or possibly even three interments in the same grave space by digging deeper. This, of course, is dependent upon some factors, subterranean factors, but it was a means to an end,

and currently today I would suspect in our area we are running from 33 to 40 per cent, possibly as high as 50 per cent in some cases, of interments being made this way. This has the effect of increasing the usability of that land by an equal percentage.

More recently, we have been having a new type of community mausoleum built, often referred to as a garden crypt mausoleum where in a given area crypts can be, shall we say, built up six, seven, eight or perhaps higher and obviously the number of interments in any square foot of area of the cemetery is vastly increased.

Still more recently there have been developed - and this is a point of issue here right now and might be one of the reasons for the existence of bill 365 - the so-called turf-top crypt or lawn crypt. A word of explanation probably would be helpful here. In this instance what happens is that an entire area in the cemetery, an acre or more, would be stripped to a depth of five or six feet, seven feet in some cases, and a complete drainage system is put in under ground. Then before that is back filled, there are inserted these crypts, two deep, made of concrete. Of course, with this type of facility available, they can be set so that they are only two inches apart. Now the effect of this is to more than double the utilization of land. Why? - because each one of them will be used for two interments and we are able to increase by perhaps 40, maybe as much as 60 per cent, the number of units that can be put into a given area. Where in Mount Hebron - and this would be above the

average - we would lay out 4 by 10 feet for a single grave, one of these could be installed in a 3 by 8 area - instead of 40 square feet, 24 square feet. These things all mitigate to the advantage of the public in that prices can be brought down or at least held stable over a period of time.

Now Bill 429 would permit this type of activity and Bill 365, regardless of what they attempt to say, will virtually eliminate it. Sure, there is no direct prohibition against it, but there is an inferred prohibition. We will get to that in a moment. It is the same thing with pre-need selling. I am sure somewhere along the line someone is going to get up here and say, "We never had any intention of eliminating pre-need selling." They don't say that in so many words here to be sure. But what is the fact of the matter here? Without the ability to call attention to the facilities which we have, without the power to solicit some type of interest of the public in the whole concept of pre-need purchasing, how under the sun do we get the message across to the public? This is not the type of thing that people casually walk down the street on a sunny afternoon and wander in and inquire how much a burial lot costs. Oh, sure, it happens occasionally, but it is not a usual thing. They would make the cemetery dependent upon walk-in business and I wonder what percentage this would actually represent.

Now this principle of pre-need purchasing is something that has been one of the great improvements in the cemetery

concept in the last couple of decades. It has been accepted the country over as being in the public interest. Why suddenly we should have a complete reversal form in this State is completely obscure to me. Just think, even the use of an instrument as vital to our existence today as a telephone, we would be precluded from using. I could not call you gentlemen up and say, "Would you be interested possibly in coming down and seeing something that we are doing? We are building a new mausoleum and I would like to have you look at it." Under 365, we are precluded from it. I can't put an ad in a newspaper with a picture of, and I am talking about an actual building under construction, showing what an improved facility this is going to be for our community and for our county as a matter of fact. It is a work of art in many respects. But I can't call your attention to it.

Somebody has commented on the constitutionality. I subscribe to that thought. This whole business of pre-need purchasing actually is not very different from the life insurance concept. There are a couple of aspects that are immediately apparent here. If we can sell you and interest you in something when you are at the peak of your earning ability, when you can budget this over a period of time, certainly this is a great deal simpler than having to buy this on the spur of the moment and come up with a very substantial sum of cash. And in the meantime, of course, you have a guarantee of something available for use if the unforeseen should happen. One of the very

nastiest jobs that anybody in my position or in fact anybody managing a cemetery has is to have to work at time of need with a family. We say "at time of need." A death has occurred suddenly, unexpectedly. In our particular case because we are a non-sectarian cemetery it means that a funeral in this instance is going to take place within from 48 to 72 hours. It means the family has to come up here, upset, and in perhaps bad weather and this is not window dressing at all - it happens every year - and make a decision or if the spouse is too badly broken up, the children have to come up. We have had occasions of this. What happens? They make a choice in their best judgment and mother or father is subsequently unhappy. The solution - a removal to another area. The cost - very, very substantial. Not in their interest, certainly not in the cemetery's interest.

I said from 48 to 72 hours. Let's get for a moment into the Jewish cemetery area, however. This can be as little a time as eight hours in the case of an Orthodox interment, which put in its basic terms means that you come from the death bed to the cemetery to buy a grave. Is this in the public interest?

The cemetery is involved with these people, not only during this period, but when it is over. The funeral director is involved with them during this period, period.

Now cemeteries are operating today in a 1966 economic climate. We are competing for labor. We are competing for materials. Fringe benefits come into the

picture - all the ingredients necessary to a successful business. Yet Bill 365 would in essence deprive us of the use of all the tools to meet this competition. But the people sponsoring the bill use these very tools day in and day out. We cannot hope as cemeteries to operate in this second half of the 20th century if we are going to be reduced to using the methods and facilities of the 1900's. It just cannot be done. Any business, as you are well aware, that can't keep pace with the times is doomed and certainly we as cemeteries are no exception. It is difficult to see how legislation such as 365, which would virtually assure such a result, can even be publicized as being in the public interest.

The economic problems of the cemeteries fall into two distinct classes. There are those that are current, today's problems, tomorrow's problems, and these are actually at a crisis stage right now. Some type of trans- fusion is needed. The obvious answer to that is to improve income by engaging in collateral materials and services. The additional income should result then in an upgrading of the entire operation and in the long pull result in improved lot sales and ultimately an improvement then in our trust funds.

The long-range problem is one that has been with us for a long, long time and the solution revolves about the building of trust funds. Now this sounds very good. But it is an extremely slow process. We think that the 429 approach is a far more equitable one than would be

true in the case of 365. The opposition makes much of the fact that in 365, 25 per cent of lot sales would be required to be placed in trust and only 10 per cent is required under 429 as now drawn. Let me note here that the 10 per cent under 429 is a minimal amount and hopefully many cemeteries even at the beginning could do better than this. More hopefully yet as time went on, most cemeteries might be able to do better. If you take the entire 25 per cent right across the board, the operations in many of these cemeteries can be very seriously handicapped because of this additional burden and if they are to maintain even a level type of care, then it can mean only one thing and that is that the cemetery must increase its lot prices. In other words, the public is going to pay for it again.

The effect of 365 actually, if you think about it for a moment, is to make the current lot purchaser pay for all the past deficiencies of the cemetery and its management. This is the money that is being taken and put aside to care for not only that lot, but all the other lots that were sold many years before. On the other hand, we feel that 429 will make provision for these long-term gains, but in addition with the mandatory surcharges that would be applied to the current users of the facilities - I am thinking now of those that would be involved in interments or purchase of monuments and foundation work and so forth - these people would have built into their charge not at the whim of a board or anything but by law a surcharge and they would have to assume at least a portion of the

cost of the maintenance of the facility that they are going to use.

I can't help but re-emphasize again the fact that this whole business of trust funds is a slow, long process, and further, remember, that only the income can be used. For example, on an annual basis if you were to increase your trust funds by \$25,000, this would make available on an average today approximately \$1,000 a year in usable income. That \$1,000, gentlemen, is not sufficient even to keep pace with additional labor costs today. But more important than that, even taking 365 figures, to produce that \$25,000 endowment, we would have to make \$100,000 of lot sales in the course of one year. Then they would take away the right to advertise, the right to solicit business. Somebody didn't know what they were doing. And that, incidentally, is characteristic of the entire 365 bill. It is carelessly drawn. It is drawn by people who do not know the cemetery business. I doubt if any cemetery in the State today has a volume as large as \$100,000. Inflation continues unabated. Our problem is going to become increasingly acute.

The cemetery image in this State and I am afraid the country over is not today an enviable one. Let's admit that. Too many of them are run down, in disreputable condition. They are a public nuisance in many, many cases. And in many cases they have become a public charge and if they are not now, they will be in the very near future. We have instances in this State where cemeteries have had to

be razed, if you like, wiped out, converted at public expense. Many of these have fallen, as I say, by the wayside and there are going to be others in the not too distant future. To continue the present situation or more particularly to enact 365 will virtually insure that ultimately all cemeteries will become a public charge.

We submit if Bill 429 is enacted, it will provide at least the beginnings of a solution to a problem in which every citizen in the State of New Jersey directly or indirectly has a stake. It is another way of saying we submit the enactment of Bill 429 is in the public interest.

I am very appreciative of your listening to me here. This is something that has been close to my heart for a very, very long period of time and I would assure you that I have talked with many, many people the country over who know this business and know it well and they would say very, very much what I did today. Thank you very much.

SENATOR BIGLEY: Mr. Zesch, this figure that we got this morning where 90 per cent of the sales where there isn't an existing grave in the family are made through funeral directors - does that hold true in your cemetery?

MR. ZESCH: Will you clarify that question? If you mean of total sales, I must answer no. If you mean at-need sales --

SENATOR BIGLEY: At-need sales we are talking about.

MR. ZESCH: Again I would have to answer no. In other words, the funeral director might bring the family to the cemetery, but we have an inflexible rule that we then deal with the family directly.

SENATOR BIGLEY: Do you pay a commission to the funeral director?

MR. ZESCH: We do not. We have never paid commission.

SENATOR BIGLEY: You have never paid a commission to the funeral director?

MR. ZESCH: That's right. I would not say this was not impossible in the future, however, to qualify it. I mentioned a moment ago that we are building a mausoleum. We very likely are going to have to engage in some type of aggressive sales. We have never used salesmen before. But the very nature of this-- and this touches on something else, if I may enlarge on it. There has been some criticism about paying commissions. The thing somebody forgot to say here was - if we go ahead and put a quarter of a million dollars into a structure and we feel that we can't liquidate this for 20 years, it means that the ultimate cost of that structure is probably nearly \$400,000 to us because of the loss of income on the invested funds. In many instances it might be much better to pay commissions of 25, 30 or even total advertising costs of 35 per cent and be able to liquidate this investment in a period of 5 years. At that time, the moneys that have come in are in the position of being able to earn additional income. So these things have to be weighed. There is nothing wrong per se with paying commissions.

SENATOR BIGLEY: Would you know how many cemeteries presently, today, in New Jersey employ outside salesmen?

MR. ZESCH: It would be a guess at best.

SENATOR BIGLEY: Well, your best "guesstimate" then.

MR. ZESCH: Perhaps 25.

SENATOR BIGLEY: Twenty-five cemeteries?

MR. ZESCH: Others may disagree with me here. It is a guess.

SENATOR BIGLEY: The majority of them depend on the advertising which your cemetery uses?

MR. ZESCH: I would say that this would be true. In many cases - take the religious or church-affiliated cemeteries which may be half the total. This is a very difficult figure to arrive at. The probability here is they do little or no advertising of any kind. It is a built-in clientele, you might say.

SENATOR GOLDMAN: Mr. Zesch, much has been said about the need of pre-need selling.

MR. ZESCH: Correct.

SENATOR GOLDMAN: From your experience has there been any abuse or pressure methods used in the sale of these lots?

MR. ZESCH: I don't think there is any question about that, Senator. I do not think though this has been true for a considerable number of years. This is a place where the Association itself put a great deal of pressure on them.

SENATOR GOLDMAN: How far do you think cemeteries should be authorized in going into the sale of pre-need lots?

MR. ZESCH: May I read you about a dozen lines here. These could be my thoughts. They come from a far better authority. This is called "Modern Cemetery Management."

It was published by the Catholic Cemeteries of the Archdiocese of Chicago. This is a well-recognized book. Incidentally the cemetery operation in the City of Chicago is probably one of the largest in the United States.

[Reading]

"Which of the goods and services utilized in cemeteries may actually be provided by the cemeteries? Certainly these should include: 1. Graves and crypts. 2. Total interment and entombment service. 3. Placement of burial vaults. Installation of foundations for markers. Installation of lawn-level grave markers. Special handling of individual lots. Care and maintenance of the entire cemetery and crypt lettering.

"Regarding auxiliary services available through cemeteries and outside suppliers and subject to the charter or other legal limitations, the cemetery has a right at least equal to that of others to provide these services for its people: 1. Manufacture and/or sell burial vaults. 2. Sell vases, cut flowers, potted plants and seasonal decorations. 3. Sell individual grave markers and other memorials.

"Three basic considerations support the preceding view. These commodities as listed affect the appearance and maintenance of the cemetery. Secondly, lot owners rightly expect such services or goods to be available from the cemetery. And, thirdly, these commodities offer a source of income to defray operating expenses and without these added funds it might be necessary to increase basic service charges and/or grave prices."

That would be my feelings.

SENATOR BIGLEY: Do you subscribe one hundred per cent to that statement?

MR. ZESCH: One hundred per cent to that.

SENATOR GOLDMAN: I mean more specifically, in the over-sell or boiler-room method that has been described here and which might be characterized as an abuse and since you advocate pre-need selling of plots, I'm talking about, --

MR. ZESCH: Precisely.

SENATOR GOLDMAN: -- how far do you think a cemetery should be permitted to go in the sale of these plots? You mentioned the word "aggressive" before. Do you think that there should be aggressive sales - aggressive methods rather?

MR. ZESCH: Aggressive to the point of bringing this to the attention of the prospective purchaser. I would point out here that under either of these bills, as far as that went, the salesman would be licensed and under the direct control of a public Commission. And I think this would go a long way toward correcting anything that you might be inferring here.

SENATOR GOLDMAN: S-429 authorizes the sale of monuments and so forth, but it precludes engaging in the mortuary business. Why do you select one over the other? Why shouldn't they be precluded from selling memorials and go into the mortuary business?

MR. ZESCH: That is a good question. I would like to turn it inside out if I may though and point out why it is not practical on any scale to go into the mortuary business.

We are an unusual state here in that up until this point we have a restriction on the size of cemeteries. One hundred and twenty-five acres is very, very small and I suspect that the average size may be a quarter of that. These are small organizations. They would not be set up or equipped to handle a mortuary business as a practical matter.

SENATOR GOLDMAN: A statement has been made that the undertakers of this State in union with the monument and vault dealers have begun an invasion of the cemetery business. Do you subscribe to that statement?

MR. ZESCH: I would say there is very definite evidence of this. I had not heard until this morning the specific instances noted here. But I might say to you that across the country in the last year that there was somewhere in the area of ten times as many funeral directors went into the cemetery business as cemeteries went into the mortuary business.

SENATOR GOLDMAN: In view of the fact that the cemetery business is such a bad business and most cemeteries are in bad shape financially, can you explain why funeral directors would want to go into a bad business?

MR. ZESCH: Well, frankly, I cannot. There would appear to be just one answer and I am not sure this is the correct one. Most of the instances of this are not within this State. You have had a few mentioned this morning. But where this has gone on on a larger scale, particularly in the western states, this is a built-in integrated type

of business. In other words, it becomes profitable by its very size if you wish. The large operations here have a controlled market. But why anybody in the State of New Jersey today would want to go into the cemetery business, I confess I am at a loss to explain. I don't know.

SENATOR GOLDMAN: A statement has been made that records show that in almost every case the funeral director either sells a plot he owns outright or else takes a substantial commission from the cemetery without the bereaved family knowing he has acted as a sales agent. Cemeteries not paying these commissions are boycotted. Do you subscribe to that statement?

MR. ZESCH: This has not been my personal experience. I wouldn't doubt that it might happen, but that is speculation.

SENATOR BIGLEY: Thank you, Mr. Zesch.

Mr. Foley, we will take you now because you have another engagement.

A D R I A N M. F O L E Y, J R.: Mr. Chairman and Senator Goldman, permit me first to state for the record my name, Adrian Foley. I am an attorney at law in the State of New Jersey. I am here this morning on behalf of the New Jersey Funeral Directors Association and its affiliates.

First of all, I apologize for having no written script. I am sorry that I do not. I would be glad to supplement my remarks in written form for the Commission's benefit.

I am mindful of the Commission's request that we not

be redundant and not repeat points previously made. I had intended to devote myself primarily to a statement, a statement of my conviction as to the need, the efficacy of 365. This conviction is predicated upon the information I have received by studying matters previously submitted to this Commission and to past Commissions.

In view, however, of some of the remarks previously made, I must address myself briefly to the two previous speakers. First of all, I should say that the conviction of the funeral directors as to the need of 365 is predicated upon the belief that the law of this State clearly enunciated not once, but numerous times, and as recently as 1961 by Justice Francis, who reiterated the position of the court, is that the trust fund theory, that the nature of a cemetery has been inviolate since the inception of our first Constitution and should remain so. This is implicit in the dramatic and drastic remedies made available to cemeteries.

Essentially this Commission is studying two bills. One is designed to perpetuate the law of this State and I could quote from the many cases, except that I know that the Commission has been provided with not only excerpts but the full text of the Terwilliger Case as well as the Frank v. Cloverleaf and these specifically are the points of reference. The one bill is designed to perpetuate what has been, and we maintain should be, the law of this land. The other bill is designed to overturn, to reverse, to completely do away with what has been bedrock law.

Now unfortunately a great deal of these proceedings

have devoted themselves to something completely inappropriate to your purposes and that is dramatic, and I might say in some instances flagrant, abuses of the privilege of speech to attack the funeral directors, albeit, the funeral directors are specifically exempted from the provisions of the bill sponsored by the Cemetery Association. I can only surmise that this attack must be one designed to get away from the primary purpose of this Commission, which is to examine into the question of the need for regulation of cemetery associations. Funeral directors, as the Commission well knows, are already the subject of regulation.

Now a great deal of the remarks of Mr. Jamieson, a respected friend and advocate, were devoted - I might say the entire thrust of his argument was devoted to pre-need sales and the funeral directors apparent opposition to pre-need sales. I would direct his and your attention to the statement, a copy of which you have, made by Mr. Failla of Hoboken, the Director of the New Jersey Funeral Directors Association, and specifically at page 2, where, not to bore you with the text, after reciting the history of the pre-need law in this State enacted in 1957 at the behest of the funeral directors, he makes the specific statement, and this is at page 2, the second full paragraph, that the funeral directors are not opposed to the pre-need sale of cemetery plots and S-365 does not prohibit the sale of graves in advance of need.

So all of this furor devoted to pre-need sale, it seems to me, is inappropriately directed toward the funeral

directors.

Now there was mention made also of the fact that funeral directors are engaged in the sale of plots. I respectfully submit that the provision of 365, entitled 8A:6-10, which is found on page 28 of the printed text of the bill, obviates this problem because it is in effect a prohibition against the sale of cemetery lots by other than an authorized cemetery. So that there be no doubt about the New Jersey Funeral Directors' position on this point, if the provisions of 8A:6-10 are not deemed to be a complete prohibition, we would gladly endorse and subscribe an amendment which would preclude the sale of cemetery lots by funeral directors.

Of course, I wish to state and reiterate that my representation is of the funeral directors and of no one else. I do not purport or attempt to represent any others or speak in any others' behalf. But it strikes me that the question of pre-need and sale of cemetery lots is and should remain that of the cemetery.

There was some mention also made by my good friend Crawford as to anti-trust being involved. I did not read the notice of this hearing that carefully, but I take it that this Commission does not wish me to address myself to that problem.

I would like to comment just very briefly on the last witness, Mr. Zesch. I should like to compliment him on his candor. I should like to endorse many of his statements. The 95 per cent which is his figure, and I accept it, of

the cemeteries in this State which are essentially non-profit and in many cases religiously affiliated cemeteries are not affected by, in any adverse way, we contend, 365 and in fact the memorial parks which comprise the 5 per cent, which would make the entire whole, and only of those memorial parks those which have indulged in the abuses described at the last session, are those which call for and require the supervision that 365 attempts to impose.

I would suggest to Mr. Zesch that a forum, a proper forum, for an investigation into the need for utilization of existing cemetery space, a recommendation for the preservation of available cemetery space, a survey of the costs and perhaps the surcharge that Mr. Zesch mentioned, a surcharge to be borne by current owners, is not only available but directed in 365. And in 365 the only restriction would be that a survey would be made, instigated by the Attorney General or by the Board itself, and furthermore that a person wishing to apply for such a surcharge would come in the usual manner and present the facts which would lead to that conclusion, just as --and I know both the members of the Commission are familiar with our Public Utilities Commission and its operation, a similar forum would be provided in this case. If a rate increase is needed in a public transportation system, the facts are presented and the need is honored. Similarly before a Commission appointed under 365 the same showing of facts would be made and presumably the same relief would be granted.

Again, mindful of the time and we have many other people to listen to, I will not burden this Commission longer except to say that the sincerity of my belief and my remarks, I hope will be accentuated when I join with Mr. Jamieson and say that at an appropriate forum, at any appropriate inquiry made at the behest of a private citizen or the Attorney General or the Legislature itself, the funeral directors would be most happy to demonstrate and demonstrate conclusively the manner in which they conduct their chosen profession. I take it that it is Mr. Jamieson's and the thrust of those proponents of the Cemetery Bill that this admittedly is not the forum for such speculation. But on behalf of the New Jersey Funeral Directors' Association may I say that we welcome any such inquiry under the proper auspices. Thank you.

SENATOR BIGLEY: Thank you, Mr. Foley.

Richard Braverman.

MR. TOOLAN: May I address the Committee a moment? I know the nature of Mr. Braverman's testimony and I had copies of the document that he will use and refer to.

SENATOR GOLDMAN: Will you take the microphone, please?

MR. TOOLAN: I said that I am familiar with the testimony that Mr. Braverman is about to give and he has an exhibit here and I had a number of these exhibits in my briefcase and this morning leaving my home I picked up the wrong briefcase and I do not have these copies available. I have them coming here by a taxi and I hope that before

Mr. Braverman gets through, I will be able to make copies of these exhibits available to the Committee so that you have the figures before you because there is a great mass of figures.

R I C H A R D B R A V E R M A N: My name is Richard Braverman. I am a Public Accountant, formerly with H. Braverman and Company. We merged into a national firm of Certified Public Accountants, Touche, Ross, Bailey and Smart, and I am with the New Jersey office.

Now, first of all I would like to mention that we represent Federal authorities, State authorities, in various investigations, funeral dealers, cemeteries of all types, memorial parks, the traditional tomb-stone type, combination memorial park and tomb-stone, and that our firm has no personal interest in any legislation. I am only here to try and bring up some facts and cast some light on matters touched upon, but perhaps not probed into as deeply as the Committee might like.

Now, a few weeks ago, a couple of weeks before the last hearing, Hollywood Memorial Park, which we audit, asked me to see what would happen to them under S-365. By what would happen, I mean how they would fare financially. Would they be able to survive? I frankly didn't know and I had never seen the bill before. But after looking at it we started to make a study of it and it was necessary to go into the past to a certain extent. I might say that this took a lot less time than it might otherwise have taken in view of the fact that the Court of Chancery had appointed

our former firm as auditors of this memorial park back in 1938 and in the Union Cemetery Association matter in 1929. Therefore, we had a lot of the historical records that were needed to get a picture of not only Hollywood but the cemetery operations in the State of New Jersey.

I might further say that so far as the perpetual care is concerned, every deed since the inception of this company has been checked and perpetual care has been put in on every lot that has been deeded.

Now I have six copies of these reports which I will give you a little later. I am sorry they are not here. However, I think that it is important to cover for a few minutes what is in here and then you can study over the reports at your convenience.

This is a projection of what would happen to the Hollywood Memorial Park in the next 40 years and I tried to deal with facts and make reasonable assumptions rather than deal in semantics.

Now the assumptions that I have made are that under S-365 receipts will be limited to at-need sales of lots, openings for burials and income from the perpetual care fund. There has been some comment on the idea that pre-need sales are not prohibited. Quite true, they are not prohibited. But Section 8A:8-2 says: "It shall be unlawful for any cemetery company to offer or offer to sell any lot, . . . except as follows:" Then the only way they can sell is if a prospective purchaser communicates to the cemetery his desire to make such a purchase. I wish to point out that we have audited cemeteries that employ no sales force

and they don't make one sale during the entire year.

No one communicates to them the desire to make a purchase.

However, we were fortunate in the case of Hollywood that Hollywood Memorial Park has a man out at the cemetery. He spends all his time out there and he does not solicit by telephone but waits there until people come up to him and ask him to buy a lot. We have the records of how much he has sold for the last five years. I call that at-need. It really doesn't mean that there is an immediate need there, but it would tie in with the sales that would be made under 365 where there would be no solicitation by outside salesmen or telephone or anything else, a man right up there at the cemetery making sales as the prospective purchaser communicated with him. These total sales averages less than \$20,000 a year and they add up to less than 100 spaces a year. But for purposes of the report we have estimated that Hollywood will sell under S-365 100 lots at \$200 a space or lot, which is a little bit more than what they are now getting, or a total of \$20,000 from the sales of lots a year.

Now what does this salesman get? He gets a 25 per cent commission. But whether we call it a commission or whether we call it \$5,000 a year salary for sitting up there showing people around and making sales, that's what it is. That's the figure \$5,000 and I think that is very small. Now that is their first source of income under the new bill and it is right in line with what they have been doing in the past and it was easy to determine.

The second source of income, openings for burials. This was a little more difficult to compute. However, we went back to 1939 when Hollywood first started making burials and I have the tabulation of the number of interments that they have made each year since then. I also know how many lots have been sold and unused. To give you the summary, Hollywood has sold 54,671 lots; 10,862 burials have been made. That leaves 43,809 yet to be used. Now sold, but not used, which means that in the future they are going to get the opening on these burials, and we computed mathematically how many they would get for the next 40 years by making various assumptions which are in the report - Hollywood is in a good shape here too in that they are going to have, according to our calculations, at \$125 an opening which is the current rate, over \$80,000 of income the next 40 years. I have it determined by years here. That is the second source of income.

The third source of income which they would have would be income on the perpetual care funds and we have assumed here a rate of 4 per cent on their investments. That rate may be a little low right now, but in the past in most of the years that Hollywood has operated, it has been high, and I expect interest rates to fall back again and average out around 4 per cent. As a matter of fact, they did not even get a yield of 4 per cent over the years because the trust funds were very conservative. The trustees did not want to be criticized. They invested \$250,000 in 2 1/2 per cent Treasury Bonds about 20 years ago. Their

yield was 2 1/2 per cent and the growth of principal went backwards. Those bonds are worth around 88 against 100 that they put in there. But they do have a \$300,000 perpetual care fund now and at 4 per cent they would have \$12,000 a year income to start off. Now that means the first year of operation under the S-365, they would have a total of \$112,000 income and I will only go over the first year because the other years and the whole 40 years after the first five years we figured it in five-year segments since it is more or less a projection and just a guide for the Committee to go by.

The costs and expenses were as follows: We have already talked about the \$5,000 paid to the salesman or the person who was up there supervising the sales. They would have about 600 openings a year and under the new act they would put in \$10 an opening so that there would be \$6,000 put into the perpetual care fund on burials. If they sell \$20,000 worth of lots, they would put in 25 per cent of that or \$5,000 into the care fund. That's a total of \$16,000 of variable expenses, variable because they depend upon the amount of lots that are sold and on the number of burials that they have.

Then they have constant expenses of \$134,000. What is this money for? \$62,000 for cemetery salaries to properly maintain the cemetery, to take care of the 600 or more burials, to make repairs, mow the grass and so forth. They have administrative salaries of \$21,000 for three people to maintain all the record-keeping, manage the cemetery, keep all

the books and records that are necessary on all the 50,000 people who have bought graves there and who constantly ask questions.

Then there is the cost of improving lots, \$6,000, selling expenses, taxes and license. By taxes, I mean primarily payroll taxes. Rent, repairs and maintenance, insurance, office supplies, telephone, utilities, professional fees, depreciation and replacement of equipment, miscellaneous expenses. They are all tabulated here. They are all based on actual expenses for last year. We have even reduced them because I think about \$7,000 of economies could be introduced if this law passed and it became a question of survival.

When we get all done, we have a total of variable and constant expenses of \$150,000 as against \$112,000 of receipts. That means that there is an excess of costs and expenses over receipts of \$38,000 for Hollywood the first year they operate under the bill.

Now what does all this mean? What do we care about Hollywood for anyway? That's just one cemetery. What bearing does that have on these bills? It has this bearing, gentlemen: As I said before, Hollywood is in a favorable position compared to other cemeteries in the State. Some cemeteries operate at the break-even point. Break even, they take in nothing and they spend nothing for the public in maintenance and that's it. They are not losing any money because the place is abandoned. We are interested in the public interest. The only thing we have to do is provide for

the maintenance in the future. I am talking strictly from an accounting standpoint and don't wish to get involved with abuses and things of that nature. I think we will always have abuses. Both bills are trying to correct that. What I am interested in is: Can any cemetery operate under 365 or are they all doomed to financial failure?

Let's take a look at a few things. First of all, Hollywood's land is completely paid for. When they started in 1938 they assumed the indebtedness on the land. It took them about twenty-three to twenty-four years to pay that off. That was how quick the pre-need program paid off the land. But it is paid for now. So they are in an enviable position. Now they have only 4,925 grave spaces left, but these are virtually completely developed, not entirely. There will be some development on them. But Hollywood spent over a million dollars in developing this cemetery or, say roughly, \$20,000 per acre or \$20 a space. I think to do a proper job that's about what it costs for a cemetery to put in development and improvement. But that has practically all been paid for. There will be major repairs and things of that nature. So the land is paid for and the development has been made on the 4,925 spaces.

Also it has a perpetual care fund of \$300,000. So it is starting off with \$12,000 a year income there. I don't know what the state of the perpetual care funds are in the State. I have seen some of them. The Banking and Insurance Department supervises them. They have all the figures. Maybe there are two or three cemeteries in the State that have a

couple of million dollars in their perpetual care funds, but I don't think that that is even adequate. But there has been no mandatory law in the State. Both bills would cure that and they do have \$300,000.

Now probably most important of all is they have 44,000 lots that have been sold and the income hasn't come in yet on those lots. We have computed between \$80,000 and \$100,000 for the next 40 years. Very few cemeteries in the State will have that source of income. They won't have it because they did not sell pre-need.

Fifth, Hollywood is in Union Township. It is within 20 miles of New York. It is a few miles from Newark and Elizabeth. It is in a center of very large population and, therefore, it can probably count on more at-need sales and because of its beauty will get more at-need sales than other cemeteries.

So on all counts I think that Hollywood is in a strong position and yet under our projections which are based on historical facts, current prices and what I think are the most reasonable assumptions that can be made, they will lose the first five years under the bill \$160,000. Of course, their losses will continue for the 40 years. Sometimes up a little, sometimes down, but always a loss. That is its future.

Now when you get these reports, please study them over. I will be glad to elaborate on anything in here.

Now let's say they do have a \$38,000 loss the first year. How are they going to make that up? How are they

going to break even? Those hundred lots that they sell, they will have to get an additional sales price of \$50,667 on those hundred lots. What does that mean? Instead of charging \$200, they will have to charge \$507 more or a total price per lot of \$707. Twenty-five per cent of that will go into the care fund, leaving \$38,000 net receipts to the cemetery. I don't count anything further in the commissions. Let that man sit out there and instead of getting 25 per cent commission, let him just get the \$5,000 if they can keep him up there. They still without paying out a single penny in commission will have to run the price of the lot from \$200 to over \$700. That's the public interest of 365.

Now there is another way that deficit can be met, several other ways. Let's take a look at another one. Let's assume that they sell pre-need. By pre-need, I don't mean sitting up at the park there waiting for people to approach you to make a sale. I have audited enough companies to know that under circumstances like that though there is no prohibition against pre-need, the hard economic reality of the matter is that there will be very few or no sales other than the hundred that we have forecast.

Let's say that they are regulated, that no deceitful, fraudulent remark may be made, that nothing misleading in the sales approach is made, that they are regulated by the Board as 429 states that they will be, and that sales are conducted on a high ethical plane. All right, let's say that we pay 25 per cent commission. If only 400 lots

are sold at \$200 a lot, that is a gross sales increment of \$80,000. \$20,000 goes to the various salesmen for commissions, \$20,000 more to build up the care fund. That leaves \$40,000 to cover the deficit in the cash for the cemetery. My point is simply this, that by selling pre-need it is good for the cemetery. It brings in \$40,000 on 80,000 sales and the rest of the money, half of it goes into the care fund.

Now is it just good for the cemetery? No, it is good for the people too because instead of charging over \$700 - and I have no doubt because I have appeared before the Public Utilities Commission to get rate increases for public utilities - and I have no doubt that based upon the facts and the projections, \$700 per grave would be allowed by that Board.

What would the public pay here on the pre-need program? They would pay \$200. So the public saves over \$500 on the sale of the lot. Now this is one cemetery. We could have worked up the figures on a hundred or a thousand. The cost would have been prohibitive. In every case the figures would have been a little different. But I think the essence of the thing is there. The picture would be even worse. If ten sales are made and the overhead of a cemetery is only \$50,000, the cost of those units would be \$5,000 a unit instead of \$700 and so on. It depends on the volume. Your unit cost depends on the volume. Funeral directors know that. The ones that have the volume bring the cost down. If your funeral home costs \$50,000 to operate and you have

five funerals a year, you have to charge \$10,000 a unit. Nobody has so few units, I hope, but because of the few number of units they have, their cost is high. They are selling at need. The cemeteries don't want to do that. They want to bring the unit cost down and I think they can do it under 429.

Now even with the pre-need program, it is very difficult to get sales personnel and there is no guarantee that they will even sell \$80,000 of lots. Many have sales forces throughout the country and their sales are negligible. I frankly don't know why. It is a very hard commodity to sell, despite the merits of it. It is the last thing that people think of - death. Therefore, there is no guarantee that lot sales would bring sufficient revenue even from a pre-need standpoint because most cemeteries are not as fortunate as Hollywood. They have land to pay for. They have development. They don't have income from the perpetual care fund and so forth. Therefore, they need additional revenues. These additional revenues are set forth in their bill. In most of the other states they are able to sell these other items, and I think it is more logical to let them have some revenue from these items inasmuch as they have all the future cost of maintenance.

Now we talked about a \$38,000 cash loss. That is not the real loss. The real loss is sort of like a life insurance company. A life insurance company takes in cash and it pays out disbursements. At the end of the year the difference is not profit if they have taken in more income than

they have had disbursements. They have to provide for future costs and one of the big items on their income statements is additions to reserves to provide for future death benefits and claims. That's a very big item. I don't know a cemetery in the country that shows that on its income statement. We didn't show it here. We just showed the cash receipts and the cash disbursements. But let's look at this for a moment. The insurance company has fixed costs. They know that when a person dies, they are going to have to pay \$10,000 in a death claim or \$100,000 or whatever the policy says. The cemetery will have to pay too. Its cemetery payroll right now in Hollywood is over \$60,000 and it will get bigger over the years instead of smaller. It isn't like an insurance company where the future costs are fixed. They are going up all the time and there is no time limit on them. They are going to have to pay perpetually these costs. Therefore, on their income statements all throughout the country it would be proper accounting to show an item "Additions to Reserves for Future Costs of Maintenance." This is not now done and has not been taken into consideration in this report. This will have to be actuarially determined and will differ in every cemetery. Therefore, it isn't enough that cemeteries take in enough cash to take care of current expenses. They have to take in more receipts than disbursements to take care of future costs.

Well, you might say, "That's what the perpetual care fund is for." True - that will help. If you have \$1,000,000

in your perpetual care fund at 4 per cent, that will provide \$40,000 a year. That isn't enough. I don't think \$80,000 is. And those care funds certainly cannot be built up without pre-need sales.

I think I have touched briefly on the points that I wanted to make without being too redundant. The cases - court decisions are all based on the 1877 law. The people who drafted that law used their wisdom and knowledge of events at that time. They did the best job that they could. Unfortunately we have 90 years of experience now collectively, 90 years of facts. Pre-need selling is a concept of the last 40 or 50 years. I think that if these same people took a look at the facts, they would permit a cemetery to do what is in 429. I think the Chancery Court to some extent recognized this by permitting cemeteries to only pay 10 per cent on the land instead of the 50 per cent as specified in the statute.

We are here today not to rehash the abuses or talk about what the law is. We are in an enviable position. We can talk about what the law ought to be and with that in mind I have tried to present whatever information that I could, based upon our studies, to help the Committee decide what the law should be. I would like to say that it would be impossible for a new cemetery to start off in this State under S-365 for they certainly would not generate enough sales to return the capital necessary to provide for the cost of land, development and all the other costs of operation. Just as Ostrow said there was no new cemetery in

New York since 1949, there would never be a new one here unless a maniac came to the State and tried to start one. Thank you.

[Mr. Toolan distributes exhibits to members of the Committee.]

SENATOR GOLDMAN: Mr. Braverman, I think you said your projected expenses were going to be \$140,000 against income of \$112,000.

MR. BRAVERMAN: Yes, if you look at page 3 of the report.

SENATOR GOLDMAN: Of what report?

MR. BRAVERMAN: The one that has just been put in front of you.

SENATOR GOLDMAN: Does that include any moneys to any bondholders?

MR. BRAVERMAN: Not in the case of this company because the bondholders have been paid in full. There is no indebtedness in this cemetery to retire. All the indebtedness was retired after about 23 years.

SENATOR BIGLEY: What were they paid, Mr. Braverman?

MR. BRAVERMAN: They were paid the principal amount of their bonds plus interest, the principal amount as determined by the courts.

SENATOR BIGLEY: What was that?

MR. BRAVERMAN: The cost of the land, the 60 acres, ran around \$600,000 plus interest or around \$10,000 an acre.

SENATOR BIGLEY: That is what they received?

MR. BRAVERMAN: That's what the bondholders received.

SENATOR BIGLEY: What did they pay for the ground?

MR. BRAVERMAN: I don't know. They bought the land prior to 1909 and I don't know what they paid for it.

SENATOR BIGLEY: You did the audit for Hollywood last year.

MR. BRAVERMAN: Yes.

SENATOR BIGLEY: Under the present law, did they lose money?

MR. BRAVERMAN: Hollywood's figures under the present law are on page 3, the actual figures. Now they did have pre-need sales in there. However, they did not show taxable income for last year. I might further say that if the reserve that I talked about for future costs had been shown in the income, they would have had an even greater loss.

In connection with that, if you turn to page 7, I have tabulated pre-need and at-need sales and the total and they did have pre-need sales of \$62,000 -- Sorry. I was reading the '61 figure -- \$74,250 in addition to the at-need sales of \$15,500. However, those pre-need sales would all be eliminated under the new bill inasmuch as they were sales made by solicitation with prospective purchasers.

SENATOR GOLDMAN: How much money was spent to sell in '65? I am speaking about the \$74,000 figure on page 7.

MR. BRAVERMAN: I would say roughly about 25 per cent.

SENATOR GOLDMAN: Mr. Braverman, do you audit any other cemeteries at the present time?

MR. BRAVERMAN: Yes, we audit several other cemeteries

in the state and out of the state.

SENATOR GOLDMAN: And generally would you say the figures run proportionately the same?

MR. BRAVERMAN: Which figures do you mean?

SENATOR GOLDMAN: The figures as advanced in your brochure here.

MR. BRAVERMAN: The picture is much the same throughout the country. Other states are selling other items besides lots. I think they are all permitted to sell pre-need lots. However, the picture is much the same and the sales commissions run around the same throughout the country. Of course, the more items that you sell, the less percentage it is necessary to pay the salesman on any one item. For instance, Hollywood used to pay less commission on lot sales when they sold markers and other items. Their commissions ran in the neighborhood of 15 per cent.

SENATOR GOLDMAN: Do you audit any monument companies or marker companies?

MR. BRAVERMAN: Yes. We audit some monument and some combination memorial park and monument.

SENATOR GOLDMAN: How do you feel about the fact that the cemeteries were permitted to sell these extraneous items or these other items, I should say? What effect did it have on the monument business, for instance? Are you prepared to answer that question?

MR. BRAVERMAN: I do not care to speculate on a business that I know very little about.

SENATOR BIGLEY: We will get you off of that. Why

does Hollywood only have \$300,000 in their perpetual care fund at this time?

MR. BRAVERMAN: Hollywood has under the court jurisdiction put in 6 per cent on its lot sales.

SENATOR BIGLEY: Since when?

MR. BRAVERMAN: Since the beginning.

SENATOR BIGLEY: 1939?

MR. BRAVERMAN: Yes, I believe so.

SENATOR BIGLEY: Of course, I don't know the price of your lots. You have sold approximately what?— 54,000 lots.

MR. BRAVERMAN: Yes, I can answer that. When they started off the price of the lots was very small. Now I did not take an average cost or selling price of the lots, but I think it is around \$70 to \$75 and if we multiply that by 50,000 spaces, you have around three and one-half million dollars, times 6 per cent would give you \$210,000 and they have around \$300,000 in the fund. So it would check out pretty well.

SENATOR BIGLEY: But \$200 is only a recent figure.

MR. BRAVERMAN: Actually their sales price now is \$175 and their average is \$185, but I wanted to show Hollywood on the high side. I wanted to make it as much income as possible to avoid criticism.

SENATOR BIGLEY: Thank you very much.

MR. TOOLAN: Can I make a comment about monument dealers in other states?

SENATOR BIGLEY: We are going to give you a chance,

Mr. Toolan. We will have you this afternoon and we will let you talk all you want. We are going to adjourn at 12:30 for lunch. There is a woman here who perhaps would be not too long.

MR. STERN: May I ask that Mr. Braverman, the last witness, be requested to remain until after I have completed my testimony?

SENATOR BIGLEY: You mean you think he is going to answer you?

MR. STERN: No. I have certain things I want to say only in his presence.

SENATOR BIGLEY: All right, if he so desires, but with that announcement he probably wants to hear what you are going to say.

Miss Natansam.

M I S S N A T A N S A M: In March my only brother died and he always thought of buying a plot, but when you are well and alive you don't get one. He looked, but he never bought any.

SENATOR BIGLEY: Let's find out where you live.

MISS NATANSAM: I live in New York City.

He died very suddenly and very mysteriously in the hospital where he was only four days. The hospital was one he was connected with and used to be one of the finest in New York City, one of the best, but unfortunately it has deteriorated a great deal.

SENATOR BIGLEY: Well, was he buried in New Jersey?

MISS NATANSAM: Yes.

SENATOR BIGLEY: Where was that?

MISS NATANSAM: Riverside Cemetery, New Jersey. Mr. Abraham Weiner or Winer, he calls himself, is the owner and President of the cemetery. And the weather was bad and my sister and I are the only ones left.

SENATOR BIGLEY: Let me ask you a few questions. Maybe we can get to the heart of your testimony. Did you buy this grave yourself?

MISS NATANSAM: Yes.

SENATOR BIGLEY: When?

MISS NATANSAM: On March 7, 1966.

SENATOR BIGLEY: You bought it this year?

MISS NATANSAM: Yes, this year.

SENATOR BIGLEY: How much did you pay for it?

MISS NATANSAM: \$185 plus \$51 for the digging of the grave and the care for one year where they have to put topsoil on.

SENATOR BIGLEY: How did you buy that? Did they contact you or did you contact them?

MISS NATANSAM: I contacted them because my father died many years ago - he was very young - and we wanted my brother buried as near as possible to my father.

SENATOR BIGLEY: Your father was buried there, is that correct?

MISS NATANSAM: Yes. And we called the cemetery office on the phone because the weather was bad and we were too grief-stricken to go out there in person. But we never thought that we were going to be cheated and that he was

going to fool us. So we told him that we wanted the grave as near to my father's grave as possible and, of course, we expected a nice grave. They told us they had one and that we must pay in cash,- I didn't like that- that they wouldn't accept a check. I kind of thought there was something wrong because after all we can't run away with a grave. Certainly we had no intention of fooling them. We never dreamed that he would give us the grave that he did.

So when the funeral took place -- we bought it on Monday - Wednesday the funeral took place -- and we had to pay cash before we even went to the grave. So my sister and I went into the office. We did not see Mr. Weiner. He never showed himself. I never could talk to him. He wouldn't even talk on the telephone. We paid \$236, \$185 plus \$51 for the digging and the care of the grave for one year.

When we got to the grave - it's called the Sons of Solomon's plot - we nearly passed out. It was disgraceful. I have pictures here. I have been corresponding with Mr. Oliver for ten weeks. There was a battle on. I wanted them to give us a new grave or I wanted the body moved. Did I lose the pictures? What did I do with the pictures?

SENATOR BIGLEY: I saw the pictures.

MISS NATANSAM: You saw the pictures. It looks like a sand pile. There isn't a path on that particular plot. In order to get from one grave to the other, you have to step on the graves. It is disgraceful. It looks like a garbage dumping ground. Well, we nearly died when we saw it. We had a fit. But what could we do? I couldn't carry my

brother home. And we had to bury him.

Well, a week later I inquired from Mr. Leskowitz's office in New York whom I should contact in Jersey to make them make good for the wrong they did us. Well, he gave me the name of the Attorney General, Mr. Sills, and the Deputy Attorney General, James Oliver. Well, I wrote him some letter and he answered me within three days and asked me if I would give him permission to send the exact copy to Mr. Weiner. I immediately answered him and said yes, send the exact copy to him.

I called up the office and spoke to the woman who sold me the grave over the telephone and I said, "Of all the graves you had, just because we called up on the telephone that was the only grave you could sell us?" I said, "I want another grave or we are going to move the body and I want a refund for all expenses because this is a fraud." I told her I was going to make them a lot of trouble. She said, "Well, we can't give you another grave. We have too many other graves to sell." I said, "So you picked two suckers to buy a grave we didn't see. We trusted you and you took advantage of our trust in you." Well, they were very nasty and hung up on us. They couldn't talk to us. So I contacted Mr. Sills and he referred my letter to Mr. Oliver and here is the final conclusion of this ten-week battle. He tells me: - I might say this is a letter from Mr. James Oliver to me on May 17, 1966.

[Reading]

"This will supplement my letter of May 9, 1966,

regarding your inquiry concerning Riverside Cemetery.

The cemetery has agreed to do the following:

"The cemetery will disinter and reinter the body of your brother after having obtained the necessary approval from the next of kin and from the Board of Health, that the charges incurred for this removal be paid in the following manner: one-half by the cemetery and one-half by the next of kin. It is my understanding that the total charges will approximate \$120. In the event that the casket is broken, it may be necessary to insert this casket in an outer box which will be \$40 extra. If this outer box becomes necessary, this amount will be paid by the next of kin.

"It is my understanding you have already paid the following charges: \$185 for the purchase of the grave, \$32 for interment fee, and \$19 for the first year of annual care. As to these charges, the cemetery will credit \$185, the purchase price of the grave, to the charges in the purchase of any new grave in any new lot in this cemetery by you. The cemetery cannot credit you for the \$32 interment fee as this fee covers services that have already been performed. As to the \$90 charge, which is for the first year of service on the presently occupied grave, the cemetery cannot credit this amount to the new purchase of another lot, but the Cemetery Association has informed me that they would apply this amount to the care of the other grave. The Cemetery Association, however, may have to deduct from this amount whatever sum

may be necessary for the charges that would be incurred by the cemetery to fill in the grave that your brother now occupies.

"As to the purchase by you of any new spaces in the cemetery, this purchase may be handled in this way."

He mentioned several people who didn't want to have anything to do and you couldn't do any business with them and they have hindered and obstructed every -- in fact, I am making negotiations in another cemetery - I don't want my brother buried there - to move the body. He has cost us about \$500 of expenses besides \$555 for other graves, about \$1,000 he is costing us to spend. He mentions names of people that are so common and low that I don't want to waste my breath or time to talk to them because you can't do a thing with them.

"If you purchase graves from this society and desire to have your brother reinterred in one of these spaces, I would suggest that you contact one of the officers --" Well, that's silly. "In the event that you are unable to make arrangements for the purchase of graves from this society and desire to purchase graves directly from the cemetery, I would suggest you contact Mr. Weiner," which will never happen because I don't want any part of Mr. Weiner - Winer.

"Please be advised that the only function of this office at the present time is to attempt to negotiate an amicable settlement in behalf of both you and the cemetery association."

This is really the finale of it. He isn't going to do any more. I don't need him anyhow.

"Please be advised that in the event that this agreement cannot be negotiated amicably, the above proposal does not in any way prejudice the rights of any one of the parties at this stage of the proceedings. Further, please be advised that I feel that this office has done everything possible to assist both parties in the settlement of this matter. We cannot make ourselves available to participate any further in these negotiations. Therefore, I would suggest that both you and the cemetery association make every attempt to enter into this settlement with a spirit of cooperation. I have been assured by the cemetery association of their utmost endeavor in this regard. Consequently at this time I can see no reason why this matter cannot be amicably settled on those proposals as set forth above.

"Yours very truly,

"James Oliver, Deputy Attorney General."

He sent a copy of this letter to Mr. Weiner. But I wouldn't even bother with him because there isn't a person that has a good word for him.

SENATOR BIGLEY: Well, --

MISS NATANSAM: No, I want to tell you something and too I want to contradict this here gentleman that told all the things that the cemeteries do for the people. If you were to have a survey made of Riverside Cemetery and ask each and every one who has relatives buried there - when they pay for annual care, you never get it. You have to fight to

get the care.

SENATOR BIGLEY: Let me ask you this now. We get an awful lot of general statements.

MISS NATANSAM: Yes, I know. Just ask me.

SENATOR BIGLEY: On your father's grave, were you paying for annual care?

MISS NATANSAM: We did, but then they never took proper care. See, we have ivy. We had bushes first and then they died and we have ivy on it. I used to take care of it and we did most of the time, but there wasn't satisfaction. You see there was a Mr. Grimm, a very fine gentleman who died several years ago who was manager of the cemetery, and when he was manager whatever you paid for, you got. But since he died, you don't get a thing. This Mr. Weiner is a real Shylock. He is just out for the money. He won't even talk to anyone and he doesn't do a thing. I have heard many people - of course, we have had this trouble and people hear about it and they talk with you because I go to the cemetery often to visit my father's grave, especially my brother's grave since he died lately because he was very dear to me and he was my only brother -- I musn't talk about him. I can't live without him. He means so much to me. He was a doctor and he was a priceless treasure. And I want to tell you something, everybody says they pay for things and they never get a darn thing done. He told a pack of lies there. It isn't true. This here Weiner - Winer - he don't like the name of Weiner so he calls himself Winer, Mr. Abraham Winer - he has a swanky apartment on Central Park West.

SENATOR BIGLEY: I just wanted to get your complaint --

MISS NATANSAM: He's very rich.

SENATOR BIGLEY: [Continuing] -- because we are going to go to lunch. Your complaint was that you bought a grave over the telephone and when you arrived in your opinion it wasn't suitable. Is that correct?

MISS NATANSAM: It wasn't suitable. It was disgraceful. I wouldn't bury a dog in it. I told him I would bury him free and he could keep the money.

SENATOR BIGLEY: Thank you very much.

MISS NATANSAM: That is all. I am going to after we remove my brother's body - you see, my brother died very mysteriously and suddenly - and I am going to order an autopsy which I am going to have the authorities do because I am not satisfied how he died in the hospital.

SENATOR BIGLEY: Thank you very much.

MISS NATANSAM: I want to tell you something. I wish I could help you in making a survey of the Riverside Cemetery.

SENATOR BIGLEY: You have been very helpful this morning.

MISS NATANSAM: Thank you very much.

SENATOR BIGLEY: We will recess until a quarter to two then.

[Recess for Lunch]

Afternoon Session

SENATOR BIGLEY: We will resume the hearing.

Is there a Stanley Mahresjewski present? [No response.]

How about Ralph Ardolino?

R A L P H A R D O L I N O: Mr. Chairman and Senator Goldman, my name is Ralph Ardolino. I am an elected public official in my borough of West Long Branch and am serving my third term as ---

SENATOR BIGLEY: Could you talk a little closer to the mike.

MR. ARDOLINO: I will get right on top of it. Can you hear me?

SENATOR BIGLEY: I can, but I don't know about the rest of you. Do the best you can.

MR. ARDOLINO: I have been in the monument business for 37 years and I have also been the Vice President and a trustee of Glenwood Cemetery in West Long Branch for many years.

SENATOR BIGLEY: What cemetery is that?

MR. ARDOLINO: Glenwood Cemetery in West Long Branch. I have heard two days now, going into the second day, many people come here and give their opinions of these bills and I must admit that whoever happened to be speaking seemed to be speaking from a slanted point of view, depending on which side they are on. I am going to try to be as unbiased as I possibly can and give you some of the observations or some of my thoughts on the cemetery problem.

As a cemeterian for over 20 years, I will be the first one to admit that there should be some relief for some of the cemeteries who need relief. Unfortunately I do not include the 5 per cent, mainly memorial parks, in this category. I feel that I am speaking for a small, rural cemetery such as you may have back in your home town. Most of these small rural cemeteries don't even know of these proceedings. They haven't been invited here by the large Cemetery Association or Funeral Directors' Association or Monument Association. They seem to be the forgotten people here. I think that they need protection from the larger, profit-minded individuals who I have heard comprise 5 per cent of the cemeteries of the State of New Jersey. I do not, however, include Mr. Russell Zesch of Mount Hebron Cemetery or Mr. Clayton Braatz of Fairmount Cemetery in the City of Newark. I think that both of those gentlemen are dedicated, honest servants of the public by managing the cemeteries in a very, very good business-like manner. They definitely are not in the 5 per cent that need relief through this bill.

I can't say so much for the accountant that was here before. I don't recall his name. I have been erecting monuments in and around Hollywood Cemetery for 37 years and I never dreamed that they were in such bad financial condition. I don't know why they want to be in the cemetery business if they are starving to death. I don't know why all these people want to be in the cemetery business. I think if they are properly managed without

excessive drainoffs wherever they may occur that they can survive.

I do feel that those who do not have the ability to pre-sell their graves and to get extra income do need some relief. I think they need some relief in possibly a perpetual care charge on opening a grave or on a cemetery foundation or maybe on the placement of a vault. Here is where I think they could get some additional revenue without raising the cost of the grave.

I think that in Fairmount Cemetery the last memorial we placed there, the foundation was, let's say, \$100 and the perpetual care on the memorial that was placed on that foundation was maybe 25 per cent of it. I am not sure of the figures. But whatever it was, knowing Mr. Braatz and knowing that the money would be spent properly, I, for one, didn't object and never would object, providing it is going for the proper purpose and that is to help maintain the cemetery, but not in commissions or land deals or anything like that that you have heard floating around here.

I repeat that each person who has come up here or most of the people who have come up here have been slanted in their views one way or the other. I am trying to give it right straight down the line as much as I possibly can. I have been both in the monument business and I am a public servant, not in business in the cemetery. I don't see why the cemetery should be considered a business to begin with. They are not businesses. I am a public servant in my home community, trying to operate a cemetery at no profit.

I strongly urge you to consider the good points of S 365 because I think there are more good points in that bill for the public interest than in the opposing bill. Thank you.

SENATOR GOLDMAN: What more good points are there in 365 than in 429?

MR. ARDOLINO: I think that 365 would give more restraint to certain types of cemetery operators that we have heard spoken about.

SENATOR GOLDMAN: You say would give more restraint in what

MR. ARDOLINO: In limiting their salesmanship. Shall we say salesmanship?

SENATOR GOLDMAN: You mean the sale of lots?

MR. ARDOLINO: Yes. I don't say that they should not be allowed to sell pre-need, but I think they should be put under heavy restraint in selling pre-need.

SENATOR GOLDMAN: How far would you let this restraint go?

MR. ARDOLINO: I think that a Cemetery Commission would be able to determine what is proper and what is not proper. For instance, Senator Goldman, the gentleman who was here, while I don't agree with all of his thoughts, but Mr. Ostrow was here and he claimed or said that the New York Cemetery Director did restrain Pine Lawn Cemetery from spending too much money on advertising. That is the type of restraint that they should have and maybe even more than that.

SENATOR GOLDMAN: You mean that there should be a limit on what they can spend on promotions?

MR. ARDOLINO: Definitely. Otherwise the "boiler room" tactics that you heard of may appear in New Jersey.

SENATOR GOLDMAN: I don't know your official title. Is it Councilman or Commissioner?

MR. ARDOLINO: Commissioner - Police Commissioner.

SENATOR GOLDMAN: Now, Mr. Commissioner, you say you have been in the monument business and you are in the cemetery business and I assume that -- How many years were you in each business?

MR. ARDOLINO: I am in my 37th year in the monument business.

SENATOR GOLDMAN: And how many years in the cemetery business?

MR. ARDOLINO: Twenty-five or twenty-six.

SENATOR GOLDMAN: And you have had considerable experience.

MR. ARDOLINO: Yes. My only experience has been with rural, non-profit cemeteries, not memorial parks.

SENATOR GOLDMAN: Would you subscribe to the statement that if cemeteries are forbidden from selling monuments that they would go out of business?

MR. ARDOLINO: Well, they haven't up to this date.

SENATOR GOLDMAN: They haven't up to now?

MR. ARDOLINO: No.

SENATOR GOLDMAN: Or the other extra-curricular activities, flowers and ---

MR. ARDOLINO: I think that the cemeteries should be permitted to do what the law says and that is to procure, preserve and sell land for the burial of the dead. And I think that they should have enough income from these purposes and related services in the cemetery, such as placement of vaults, foundation, opening of graves, etc., so that they could survive sufficiently without, of course, some of the drainoffs that we have heard here. Whether they are true or not, I can't vouch for.

SENATOR GOLDMAN: When you use the words "excessive drainoffs," drainoff from what? What do you mean by that?

MR. ARDOLINO: Well, one place where it could happen is in a land deal where a cemetery -- I have no definite knowledge now. Mr. Stern may have, but I do not have any definite knowledge of a land deal. But I have heard where there were relatives on the Board of Trustees where they would sell cemetery ground for a small sum and then later on buy it back for a considerably larger sum.

SENATOR GOLDMAN: Did you hear the testimony of Mr. Braverman this morning, the accountant for Hollywood Cemetery?

MR. ARDOLINO: I did.

SENATOR GOLDMAN: And did I understand you to say at the beginning of your statement that there were some statements he made that you don't agree with?

MR. ARDOLINO: I do not. I can't see how an accounting firm back in 1938, knowing that a cemetery has its perpetual care funds in 2 1/2 per cent bonds, would allow

it to stay in 2 1/2 per cent bonds. They certainly didn't do their duty in advising the trustees or the trustees of the cemetery didn't do their duty in leaving it there. Everything else has spiraled. Why shouldn't their perpetual fund income spiral?

SENATOR GOLDMAN: You think that in the present market they should have sold those bonds?

MR. ARDOLINO: I think that they should have gotten rid of them and bought bonds that the State Department of Banking and Insurance allows them to buy at a greater income.

SENATOR GOLDMAN: Well, would you think the fact that he said the market value is about 88 per cent now would have made it a bad time to sell? Would you buy that?

MR. ARDOLINO: I can't speak for Mr. Braverman, but I don't think everything seems just right in that regard.

SENATOR GOLDMAN: Just one or two more questions: A statement was made this morning that undertakers in this State have begun an invasion of the cemetery business. Do you subscribe to that statement?

MR. ARDOLINO: Senator Goldman, I have heard that statement and I didn't feel that the person who made the statement knew everything about what he was saying.

SENATOR GOLDMAN: You don't agree with that statement?

MR. ARDOLINO: Well, I would like, if possible, to maybe clarify it for you.

SENATOR GOLDMAN: Surely.

MR. ARDOLINO: It may not be happening in New Jersey nor in New York State, but nearly all over the country most of the promotional cemeteries have their own mortuaries right on their grounds with their own funeral directors. They are permitted by law to do these things. They sell everything, a pre-package, pre-need monument, preacher or rabbi, whatever the case may be, grave site, coffin, everything - funeral services. They sell it pre-need on an insurance basis and the funeral director, if he has gone into the cemetery business, has only gone there as a matter of self preservation.

SENATOR GOLDMAN: Having been in the cemetery business for, I think you said, 27 years, do you know whether or not this statement is correct: Most undertakers own cemetery plots which they sell at a huge profit to the bereaved at the time of tragedy. Is that correct?

MR. ARDOLINO: In this respect, Senator Goldman, I know of one memorial park in my area, the operators of which when they first started encouraged the funeral directors to buy tracts of ground because they needed the money with which to open up other sections of their cemetery. They needed capital in other words. So they encouraged the funeral directors to buy this ground, knowing full well that the funeral director couldn't use it all for himself. Now he either had to sell it back to them or sell it to his families and that is what is happening. Now there may be isolated cases where funeral directors have bought portions

or sections of cemeteries, but I know of none in my locality, which is Monmouth County. I also know of no funeral directors receiving commissions for the sale of lots. I am not a lawyer, but I would think that that might be illegal for a cemetery to give a commission to a funeral director who doesn't work for the cemetery.

SENATOR GOLDMAN: So you don't agree with that statement?

MR. ARDOLINO: Absolutely not. I can't speak for the memorial parks in Monmouth County, but only for the traditional cemetery, they don't get it.

SENATOR BIGLEY: Does your cemetery sell pre-need now?

MR. ARDOLINO: Only to the extent that people -- we are not an aggressive cemetery. I personally have sold in the last four or five months probably 24 grave lots pre-need.

SENATOR BIGLEY: Do you advertise?

MR. ARDOLINO: No, we do not advertise. We do use the goodwill of the funeral directors in promoting our cemetery by way of mouth. A statement was also made here that funeral directors sell 95 per cent of the graves. I believe that is what somebody said.

SENATOR GOLDMAN: Ninety.

MR. ARDOLINO: Well, how could they help but do it. When somebody in the family dies, who else would they look to but a funeral director to buy their lot? If they don't own a lot already, they either have to have a friend

who knows someone who operates a cemetery or the next best one to whom they would go with any confidence would be their funeral director.

SENATOR BIGLEY: Well, in your cemetery when the funeral director brings the family in, do you pay him a commission when you sell a lot?

MR. ARDOLINO: No, we do not. We can't afford to. We can't afford to do that. We sell our graves for \$100 apiece and we can't afford to take any off the top of that.

SENATOR GOLDMAN: Do you know whether he makes a service charge to the purchaser?

MR. ARDOLINO: No funeral director that I know of does that. I would like to add one more thing if I may have a few more minutes of your time, please. If there had been a strong law back in the 1930's Glenwood Cemetery would not be saddled with a partly-completed community mausoleum which it is now saddled with. The trustees of the cemetery at that time allowed some promoters from out of state to make a deal with them so that they could build a community mausoleum on ground owned by Glenwood Cemetery and they gave them the right to call it Glenwood Mausoleum. Now in a short period of time there was a horde of salesmen that skimmed the top off of all the better families in our area and sold crypt space in a masuoleum that hadn't been started yet. They sold so many crypts that they eventually did have to start the mausoleum, but when the sales became lesser and

lesser and when the profit in the commissions became lesser and lesser, one Monday morning we woke up and found out that they had skipped and we have a partly-completed mausoleum on our hands. When I say our hands, I was not a trustee at that time, but I have inherited this and I have some pictures of this partly-completed mausoleum that I would like to leave with you on my way out.

SENATOR BIGLEY: Do you know if those promoters, as you call them, are still in the cemetery business in the State of New Jersey?

MR. ARDOLINO: I do not, Senator. The State of New Jersey at that time didn't require them to be under bond. I don't know whether they do at this time. They came in here of their own free will and they just went to work selling crypt space.

SENATOR BIGLEY: What do you have in your perpetual care fund in your cemetery?

MR. ARDOLINO: The perpetual care fund, incidentally, was drained by this mausoleum. We have now approximately \$60,000 in our perpetual care fund over the last ten years.

MR. TOOLAN: May I ask one other question through you, Mr. Chairman? How many acres in your cemetery?

SENATOR BIGLEY: We are not going to get into an adversary thing. But what is the size of your cemetery?

MR. ARDOLINO: It's a small cemetery. It is probably 25 acres in total. But it is the traditional cemetery that you will see in everybody's town. It is not a real small cemetery. We have maybe 150 burials a year. If you were to

take all of these small cemeteries and put all of the land together, you would far outstrip the 5 per cent that we are speaking of here. So the 5 per cent that has been mentioned here is plainly not a majority. They may be more powerful financially and have a larger voice, but they are not in the majority of the cemeteries in the State of New Jersey.

SENATOR GOLDMAN: Is your cemetery in good financial standing?

MR. ARDOLINO: No, sir, because of this mausoleum. We are getting out of the woods though. If given enough time, we will.

SENATOR GOLDMAN: You made a statement in your testimony that you would raise funds from sources like, you said extra openings.

MR. ARDOLINO: No. When a grave is opened in a cemetery, there is a charge of anywhere between \$50 and \$75, depending on the content of the ground that has to be dug. The only person who could justify that cost would be the Superintendent of the cemetery. Now let us say that the charge is \$75. I think that the cemetery should be permitted to charge an additional \$10 and take this money and put it in their perpetual care fund. By the same token in those cemeteries where they handle the vaults, they should be justified in making a small charge there to put in their perpetual care fund a little over and above their actual cost, and the same way on a foundation or on a bronze marker. I know that Mr. Braatz

does it. He has a percentage charge of his foundations. I don't know whether Mount Hebron Cemetery does it or not. But several cemeteries in the State of New Jersey have devised this way of having extra income and they are doing pretty well.

SENATOR GOLDMAN: Do you have any bondholders in your company?

MR. ARDOLINO: We do not. The bondholders have long gone, back in the 1800's.

SENATOR GOLDMAN: What is the gross of the income of your company?

MR. ARDOLINO: I am not the bookkeeper, Senator, but I would say probably --

SENATOR GOLDMAN: Approximately.

MR. ARDOLINO: [Continuing] -- maybe eight or nine thousand dollars a year. We don't hold a candle to Hollywood Memorial Park. There were some big figures given out this morning. I won't dispute them, but I think if they sold that many graves, there should be a considerable amount of money laying somewhere - in the perpetual care fund no doubt.

SENATOR GOLDMAN: There probably is. Thank you.

SENATOR BIGLEY: Charles Frank.

P E T E R M A L N A T I, J R.: My name is Peter Malnati, Jr., and with your permission I will read a statement which Mr. Frank has written. This is Mr. Frank right here.

My name is Charles Frank and I reside in Woodbridge, New Jersey. I have had my own monument business for 40

years. I am 75 years old. I am retired. Gentlemen, I am sincere in saying to you, "To heck with the monument man, the vault man, the undertaker and the cemeteries." The people and the cemetery itself must come first. Gouging the public must come to an end. The best bill by far is S-365. There is room for a little improvement. The reason we need a good cemetery law is that the Attorney Generals in the past, regardless of the thousands of complaints they have received and the findings of the investigation around 1950 - the Attorney General has not, I believe, written one letter to stop a violation of the present cemetery law. A cemetery in Middlesex County has been known to him for five years. The violation itself has been going on since 1897. A letter to the cemetery would have stopped the cemetery officials from putting 50 per cent of the selling price of each grave into their pockets. For five years I have been trying to get them into court, but all I have received are delays and postponements. The Supreme Court decision in Frank v. Cloverleaf states that care money shall be invested in accordance with 8:2-35. The fact that the money has not been handled in the manner prescribed by the Supreme Court, I believe, makes the cemetery guilty of contempt of court. This too could have been corrected by writing a letter to the Cloverleaf Memorial Park five years ago. Both cemetery bills leave big loop-holes for a racket. The racket I am referring to has been going on for at least 50 years. It has been brought before the courts many times and all they got was a slap on the wrist. This loop-hole can be easily

plugged. All they need is an amendment to the cemetery bill which forbids the cemeteries from buying any land without it being appraised by three appraisers, using the middle figure for the purchase price under the law of eminent domain if necessary. The Cloverleaf Memorial Park and all other cemeteries that are manufacturing memorial bases should be stopped from doing so immediately. This, too, I believe could have been stopped by the Attorney General by using the decision of Frank v. Cloverleaf. This decision states that a cemetery is a charitable trust and forbidden to compete with private enterprise.

My final complaint is the overcharge for monument installation and the refusal of the cemetery to replace stolen vases in violation of their own rules that they saw fit to abide by in the past. I am furnishing you with a cemetery rule book for Cloverleaf Memorial Park and I refer you to pages 6 and 7. All memorial parks have used this rule book for over 20 years.

My final recommendation is that I believe the cemetery should be allowed to sell cemetery lots off cemetery grounds because if they were not allowed to do so it would be practically impossible to start a new cemetery as income would be coming in too slow for old and new cemeteries. But I do recommend that the present commissions paid be no more than 20 to 25 per cent of the selling price of the cemetery land instead of 40 to 50 per cent.

If you check you will find that all the best cemeteries in the State never sold anything. They are better kept and

better off financially in spite of the fact that the graves sell for half the price of commercial cemeteries.

What you heard up until this point is what I was going to say at the last hearing if called upon. After sitting here all day I came to the conclusion that I now know why we sometimes get bad legislation. The reason is a legislative committee does not put the witnesses under oath. Without all the truth, a good bill is impossible. All information should be taken under oath. I heard a paid witness testify that no new cemeteries had been organized in New York since 1949 because there was no profit in the cemetery. Well, I have not heard where the deceased are scattered about the streets of New York. I have not heard that they are being thrown into the river or that they are being cremated. Meaning what? - that they had too many cemeteries all because there was no control over them, causing many people to go into the cemetery field because only a few burials per week made a lot of money for the operators. When New York State passed a cemetery law they came to New Jersey because of the wide-open field we have. Because of the wide, uncontrolled field, we have 40 cemeteries too many in the most populated areas. I have heard a figure of \$100 a grave mentioned by Mr. Toolan. This is so in small church cemeteries and a few traditional cemeteries. Cemetery income in some cases is \$450,000 per acre and if at this time the cemeteries are not selling a half acre per year, as I said before, there are too many cemeteries.

If you let the cemeteries sell monuments, vaults

and flowers, are these allied industries going to be exempt from paying property tax? After all, it would amount to unfair competition. Does this Committee know how much money good traditional cemeteries have in their care fund compared to the promotional type cemetery? Good traditional cemeteries sell graves from \$100 to \$150 and in some cases one-half of it goes into the perpetual care fund. I am speaking of such good cemeteries as Hazelwood Cemetery, Rahway; St. Mary's, Rahway; St. Gertrude's, Rahway; Evergreen Cemetery; Rosehill Cemetery, Hillside; St. Mary's, Westfield; St. Stanislaus' and Van Liew Cemetery, New Brunswick. None of these cemeteries ever sold anything except services and my understanding is that they do not want to sell anything but services. The cemeteries I mentioned are all within an 11-mile half circle or an area of twenty-five cemeteries. Five have sold and would like to sell. Ten of them are now religious. How well off financially are these cemeteries that sell nothing but graves and services? Does this Committee know how many cemeteries went bankrupt in the last 20 years? Do they know how many became financially independent or how many became millionaires through the operation of the cemeteries?

Some commercial-type cemeteries are selling graves from \$150 to \$350, meaning that the income per acre is anywhere from \$300,000 to \$450,000 without selling commodities. A cemetery must be self-sustaining through the sale of graves and services. Cemeteries must not be allowed to have captive customers. Lot owners must not be put in a position

that they feel compelled to buy from the cemetery for fear that they will not get the best care for their plot. If cemeteries are allowed to sell granite memorials, the traditional cemeteries will become regimented so that there will only be a couple of designs available. Cemeterians are not qualified to erect complicated memorials. So rather than lose the disfavor of the cemetery, they will not go to the memorialist who can design, carve and erect it.

If there is the slightest doubt that S-365 is the best bill, then you should hold both of them in abeyance pending a real investigation.

I want to repeat once more that if the cemeteries are going to be allowed to sell commodities with or without the Cemetery Commission, God help the bereaved people of our State. What do cemeterians know about various types of architecture such as Modern, Romanesque, Renaissance, Byzantine, Moorish, Roman, Greek? Nothing! Are the bereaved people going to have to take something they really don't want because they are in an embarrassing position? I say let the memorialist be a memorialist and let the cemeterian be a cemeterian. They must run a cemetery from the sale of the lands and services to the lot owners. The cemetery cannot be put in a position where it must depend on income from the sale of commodities. What are they going to do for the upkeep of the cemetery when the cemetery is filled and there is no income from any source?

That concludes Mr. Frank's statement.

SENATOR BIGLEY: Thank you very much.

SENATOR GOLDMAN: Just one question: Did Mr. Frank write that statement?

MR. FRANK: I certainly did, every word of it.

SENATOR GOLDMAN: Now your complaint is that the other witnesses haven't been put under oath. Is that what you said?

MR. FRANK: Yes, sir.

SENATOR GOLDMAN: You are not under oath now, are you?

MR. FRANK: I didn't say I didn't want to be.

SENATOR GOLDMAN: But you are not under oath, is that correct?

MR. FRANK: That's right.

SENATOR GOLDMAN: Your statement is correct, isn't it?

MR. FRANK: That's correct.

SENATOR GOLDMAN: That's all.

SENATOR BIGLEY: Is Lamont Calder here?

[No response.]

Mr. Stern.

H O W A R D S T E R N: Thank you for allowing me to speak again. I will be as brief as possible.

I have no statement. As a matter of fact, the things that I am going to speak about really originated here today in the room. After the little discussion that just took place about being under oath, I want to say that we tried in so far as possible, at least I did on the first occasion, to provide you with materials that originated with the cemetery. We are going to try to do that right now so that there will be no question of the factual veracity of that which we are presenting.

I sat here, as did others, listening to Mr. Braverman. I was shocked, and the kindest thing that I can say - and I am not going to sit here and just characterize it - is that it was totally misleading. Now I didn't know that Mr. Braverman was going to be a witness here today and so I am not prepared with sufficient copies of what I am about to present to the Committee. I do, however, have two copies, one of which I will retain and speak from, the other of which I will give to the members of the Committee and at a later date will provide adequate copies.

Now I think that what we are about to go through here will answer many of the questions that I have heard raised by the members of the Committee, particularly some of your more recent questions, Senator Goldman.

If we could turn, by way of comparison, to page 3 of the exhibit which you received this morning from Mr. Braverman - now the exhibit that I have just given to the Committee is a financial statement for this same cemetery,

Hollywood Memorial Park, Inc., as of December 31, 1962, obviously, a financial statement which was not prepared for the purposes of this hearing and which actually reflects what went on in Hollywood Memorial Park in the year 1962.

There also appears on the statement certain handwritten numbers. I don't know how they got there. I assume that some accountant put them there and they appear to be comparative figures for the year 1961.

Now throughout these hearings, the thrust of the argument made by the memorial park people has been - we need this money - we have to sell these collateral products, these commodities, in order to survive financially. Now let us see if that is actually so.

One other fact to keep in mind - it was in June of 1961 that the Supreme Court rendered its decision in the case of Terwilliger v Graceland and Hollywood, so that this statement is made at a time when the cemetery was specifically and by injunction prohibited from selling any commodities. There is a small carry-over of some three thousand odd dollars of moneys coming in from markers, apparently from time sales made prior to the entry of the injunction.

Now what is the significance of these figures? It is interesting - these are their figures. This is what they report in their own books.

In Schedule B, Exhibit B, we can take some basic figures. They show that they received - this is B 1 - eighty-six thousand odd dollars from the sale of graves - \$86,000, sale of graves. Now it is interesting to note that though

the sale of graves in Hollywood produced \$86,000, the gross revenue was \$221,000. We also note that only the insignificant figure of thirty-six came in from marker sales. That was a carry-over.

You may note that grave openings produced in one year close to \$78,000. There is also another very significant figure. Note the foundations, \$42,595. Will you note the fact that on page 3 of Mr. Braverman's exhibit prepared for this hearing, they don't show any income from foundations? Is it possible that the specialists in the cemetery field simply overlooked this income?

Now there is another significant feature there on foundations. You notice that in '61 the income from foundations was \$20,000; but in '62, it jumped to \$42,000. The reason for that was that Hollywood and many of the other cemeteries where we obtained injunctions immediately that they stopped selling markers practically doubled their foundation charges. But we don't complain about it and as a matter of fact, we believe that the charges provided for in 365 would continue to provide this level of income which has been conveniently overlooked.

Now let's find out whether or not when a cemetery uses commercialized methods in the sale of graves - we are just talking about graves in this financial statement - when they use commercial methods, does the cemetery association really make money. Now here is a gross of \$221,000. If you turn to the first page of Exhibit B, you will see that the net income on the \$221,000 gross was only \$37,000. The

difference between the net and the gross - \$37,000. Now where did the money go? It is distributed in two areas. One is under the heading Expenses. One is under the heading Cost of Operations.

Sitting at the desk back there, I did a little calculating. Let me throw a few of these expense figures at you - what it costs to sell \$86,000 worth of graves in a commercial operation - and then the Committee may ask itself whether the cemetery benefited. I think Mr. Braverman threw out a figure of a \$60,000 payroll. In preparing the exhibit for today's hearing, he had enormous problems: Number one, he obviously tried to cut down on the receipts, page 3. He left out a forty or fifty thousand dollar item even if I ignore the nine or ten thousand for grave coverings. Number two, he also apparently didn't feel that it was appropriate to exhibit all the expenses of the cemetery and let's see what they were as actually recorded on the books. Was there a fifty or sixty thousand dollar payroll or was it greater?

The park payroll was \$54,000. I am giving round figures drawn from this exhibit.

SENATOR GOLDMAN: Which exhibit are you referring to?

MR. STERN: Under cost of operations, they list park payroll, \$54,000.

SENATOR GOLDMAN: What page?

MR. STERN: Schedule B-1, under cost of operations. I don't know that the pages are numbered. Oh, I'm sorry. You are looking at the wrong exhibit, Senator Goldman.

I'm talking about the one that I produced. As of 1962 - I don't know what the figures are now; I don't happen to have conveniently last year's financial statement from this cemetery - park payroll is \$54,000; commissions, \$28,818. Now that looks pretty substantial to start with based upon grave sales of \$86,000. Now if you turn back to the previous page under expenses, we find that we are not finished with payroll-type items. We now have survey salaries, \$1300; salaries for administration, \$15,000; rents, \$6250. We stop for a moment. What the devil is a cemetery paying rent on? They are paying rent on what they describe in their pamphlet as the executive offices down at 60 Park Place in Newark. Advertising, \$514; undefined selling expenses, another \$3,000; office expense, \$4800; printing and stationery, \$1200; telephone, \$2200; sales salaries - there are five different categories of salary compensation on these books - \$5900. I find a total of \$123,706 approximately attributable directly to the cost of sales. It is utterly fantastic.

Now if you look through the exhibit which I have provided to the Committee, you will also find other interesting things. They had 20 salesmen on the payroll. Aside from the moneys they paid by way of salaries, they made advancements to salesmen, apparently unearned advancements, if I remember the figure without finding the page, something in the order of \$30,000, as I recall it. By the way, those advancements exceeded the amount that went into the perpetual care fund that year, just the advancements, aside

from salary.

Now we say that a cemetery that can throw off this much real income - forget about what they call net income - let's talk about money coming into the till regardless of how dispersed, regardless of whose pocket it winds up in -- a cemetery that can throw off this much money without selling a monument, without selling a marker, without selling a vault, without selling anything they are not allowed to sell - and there was a specific injunction obtained here so we know they weren't selling, and, believe me, we were watching them - they didn't sell at those times - they did pretty well. But they have a very peculiar attitude toward such things as profit. For example, if you go to the back, Exhibit E, they have a small mausoleum operation. Apparently it was small that year anyhow. It made a gross profit of \$2600, out of which they paid \$2400 in commissions. Again we ask - who is making the money - the people running the place or the cemetery association, which is after all the corpus of a charitable trust and which is supposed to be receiving this money?

We have previously pointed out to the Committee - annexed to that memorandum there were certain advertisements whereby salesmen were offered four, five and six hundred dollars a week. At least, they were given that prospect. Right while we are sitting here, there are ads appearing in the paper. I have before me - and I will present it to the Committee - a reprint of an ad, August 8, 1966, Newark Evening News, Monday, August, the 8th, "Cemetery salesman,

memorial park, experienced man seeking a future as sales manager, excellent income for the man who has the ability, ambition and who can produce. Over a million population in our area. No competition. Earning potential up to \$20,000 per year." Now that is what is going on right at this moment.

Within the last sixty days, an outfit from Maryland moved into New Jersey offering services to cemeteries, promotional services. We are not talking as was suggested here this morning about what happened in the distant past. We are talking about what is going on right at this moment, American Cemetery Magazine, an ad in June of 1966. But, as I say, we don't want you to rely on our opinions. We are fortunate enough to have their typical financial statement. There it is. Read it and see whether or not these commercial operations are in bad shape or whether it is as we say that the people who are running the cemetery are getting rich and the cemeteries are starving because the money is being improperly diverted.

I will give you another example. You heard about the sale of vaults and how they are purchased for \$90 and sold for \$150 with certain overhead. I have here some photographs of what are known as double interment crypts in Beth Israel Cemetery. Now those crypts - they are double-deck. In other words, you put two people in, one on top of the other in a little concrete box. Those crypts occupy the space of one grave which normally, I understand, sells for about \$200. I am also advised that the cost of producing

that double crypt, if you want to call it that, cannot exceed \$100. So we have a grave that has a selling price of \$200 and a crypt that costs \$100 to build. Beth Israel is selling them - if I am off, it is not by more than \$50 - for \$1395. Locust Wood Cemetery in Camden is selling similar installations for \$1500. And I guess if we look further, we would find other examples. So we are not talking about a one-third gross markup; we are talking about 500, 700, 1000 per cent, which to us is an indication of that which would occur if the cemeteries got their hands on the sale of these collateral commodities.

Hollywood, similar to others, has an interesting history which indicates the kind of an operation it is. In my written statement that I gave to the Committee, I said that Hollywood was originally started by two promoters who were, shall we say, invited to leave the State of New York. A long time ago Hollywood put out a brochure called, "The Story of a Wonderful Idea." And they describe in here the manner in which these promoters could offer you a grave in Rosedale Park, in George Washington Memorial Park, in Maple Grove Memorial Park, in Hollywood Memorial Park. These are all the same promoters. They are running these on a chain system. This is not our idea of the manner in which cemeteries are supposed to be run in this State.

Now we will leave that financial statement with the Committee and I will provide additional copies so that the full Committee may have the benefit of them. We charge,

and very specifically so, that based upon their own financial records, the document which was delivered to you this morning is a hoax and a fraud and we say so very specifically. We say that it intentionally omits very substantial items of prospective income. It intentionally distorts the expense picture. We say further that the entire concept that they must have these sales is designed to produce income, not for the cemetery, but for the promoters. Thank you very much.

SENATOR BIGLEY: Mr. Stern, did you see this exhibit that they gave us?

MR. STERN: I was provided with a copy by Senator Toolan, yes.

SENATOR BIGLEY: Of course, you are aware, which I think we picked up in a question, that this was based on 365 becoming law.

MR. STERN: Well, even on that assumption, they still -- Back in '62, their own records show they received -- was it \$44,000? -- for foundations. 365 in no way diminishes that income. And as a matter of fact, 365 provides for the receipt of other items of income. Was it Mr. Zesch who testified this morning who had a book here and he recited various services? Until he got down to the part where he said that they should sell commodities, it was a pretty good catalog of what they ought to be doing and that listing involved on each item the receipt of income. And Bill 365 provides very specifically for formulae for the production of income for the cemetery at each point that

the cemetery is involved in doing something. Here, even assuming that it is a projection based upon 365, it is not a valid projection and they know it is not because the receipts portion is misleading. If you believed what was here, you would have to believe that the cemetery would be limited to the sale of lots and the making of interments in terms of opening the grave. Now they certainly perform a great many services beyond that.

At this moment they are charging \$75 at Hollywood to place a bronze marker on the ground and they are charging \$100 if you have a granite slab underneath it.

SENATOR GOLDMAN: Mr. Stern, with regard to pre-need sales, in your opinion what do you think should be the limitation on the cemetery? Would you confine them to pure walk-on or would you let them spend a certain percentage for promotion? Or do you have any other theory of what they should be allowed in order to sell in the cemetery?

MR. STERN: It is our belief that the function of the Committee should be to provide the greatest protection and the healthiest atmosphere for the greatest number of cemeteries and, therefore, for the public. The greatest number, by far, of cemeteries do not involve themselves with solicitation outside of the confines of the cemetery. I would say that there may be an area in the bill in which advertising is totally eliminated which is too severe. I do not think that a prohibition on outside salesmen is too severe and we have tried to present to you a realistic

appraisal of what it means in terms of money going out of the cemetery and this is another example of it.

SENATOR GOLDMAN: Do I take it then from your statement, that you mean that they should be confined to walk-ons or through friends of friends?

MR. STERN: It is my belief that upon a rational basis we would have to reach the conclusion that outside salesmen have no proper function, but because they are there, perhaps we may administer half a cure and limit the amount that they are going to take out by way of commissions. In other words, we don't think there is real validity in a solution which involves even a minimizing of the commissions, but that this type of rationalization may go on simply because they exist.

SENATOR BIGLEY: Well, is it working in New York where apparently they are limiting commissions?

MR. STERN: Well, it is certainly not as bad as in New Jersey where the sky is the limit. This is not the only cemetery where we have financial statements and by and large where you have this commercial type of operation, there is a great deal of money coming in, but the profits or the blue ink figure for the cemetery is minimal.

It seems to us that a Cemetery Board could determine, for example, whether or not a cemetery was in such a situation as to require an even greater deposit than is provided for in the perpetual care fund.

There is another aspect of this that hasn't generally been touched upon that is awfully important and that is

this: Many of these cemeteries, including Hollywood, are because of their eagerness to have quick money come in, very rapidly selling off their basic commodity and once they exhaust it, I don't know where we go from there. Now we can't come in with 365 or a bill by any other number and cure the financial condition of every cemetery in the State and we don't think that it is quite legitimate to sacrifice another entire industry because they unilaterally have placed themselves in a poor financial situation.

SENATOR BIGLEY: Thank you, Mr. Stern.

Is Mr. Babock here, Louis Babock?

MR. STERN: He is not here.

SENATOR BIGLEY: How about Gerald Adler?

G E R A L D A D L E R: Mr. Chairman, my name is Gerald Adler. I'm an Attorney, admitted to the Bar of the State of New York. I practice law in the State of New York and I was for the years 1956 through 1962 the State Director of the Division of Cemeteries of the Department of State of the State of New York. I succeeded a gentleman whom I understand was here at your last meeting, Mr. Theodore Ostrow.

Before I became the State Director of the Division of Cemeteries, I was the Assistant Director for a number of months. And prior to that I was an Assistant District Attorney in the County of Kings in the Homicide Division. And some say that the transition from Homicide to Cemeteries was a comparatively simple one.

I am here today at the invitation of Mr. Stern. And I am to be paid a fee for my appearance. I say that in order to clarify any possible misunderstanding.

As I sat in this chamber today there is one clause which continually popped up and stood out and that was the phrase "cemetery business." The phrase "cemetery business" is a term no longer used in the State of New York. It is a term which never should have been applied to cemetery functioning in the State of New York, in the State of New Jersey, or, for that matter, in any part of the United States of America, because many years ago the Supreme Court of the United States, in a decision which has been repeated over and over again by the Attorney General of the State of New York in the course of his enforcement of the cemetery law of that State made it very clear that cemeteries function in

the public interest, they are not businesses, and any man who associates himself with a cemetery on the basis that it's a business is detrimental to that business and is not concerned with the public welfare.

As a matter of fact, by coincidence, in going through my files, I found a copy of an old brief in which the Attorney General of the State of New York, with the assistance of Mr. Ostrow, who is here, made the following statement in a proceeding then pending in the Supreme Court of the State of New York against a cemetery whose name I would like to leave out at the moment but which I will make available to the Committee should it so desire. And they said as follows:

"Furthermore, the mere thought of a cemetery operating as a business enterprise contravenes and is abhorrent to every expression of public policy or accepted usage we have found with respect to cemeteries in our State."

This was a clear statement made by my predecessor, the State Director, made by the then Attorney General, and which formed the basis of a message to the Legislature of the State of New York by the then Governor Dewey.

When they enacted this law, it came about following an intensive investigation. They visited cemeteries, they questioned people, they found conditions of disrepair, they found conditions such as you heard described today by this lady here who was torn by mental anguish when she couldn't get to the graveside of a relative because there was no path and because it was overgrown.

Now, gentlemen and ladies, the function of a cemetery is to maintain and operate a cemetery, and to provide burial space. That's the function of a cemetery. They have the duty and the responsibility of maintaining in repair every part of that cemetery.

In other words, folks, if I buy a grave in a 100 acre cemetery, I'm entitled to have that entire cemetery in a proper state of repair.

I only mention this for another reason. This particular bit of cemetery law which has been called Senate Bill 429 - if I were the cemetery operators, I would say, well, boys, this is something if we can get this across, this is like having no cemetery law.

365 is a little better in that it gives some protection to the public. But if I were these people I would say we withdraw tonight 429 and give us 365 because we will still be getting away with more than any other state in this country, because this law here, the way it's written, gentlemen, permits cemeteries to dispose of cemetery lots. If they want to get rid of a portion of that cemetery they have to make a petition, very simple in nature, to what I consider a most ineffective form of cemetery board.

You've created a cemetery board here without sufficient teeth, unless you give that cemetery board power to maintain these cemeteries properly. And here's what I mean.

If I buy a lot in a 100 acre cemetery and if I am

interred there with my family, I don't expect one day that a cemetery official will come along and say, we've got 60 acres in the back, we don't need it. You are buying a lot in a cemetery of 100 acres. You are entitled to that protection.

I've heard a great deal of talk here about these cemeteries needing additional income. Additional income for what? Additional income for the maintenance of the cemeteries? Or additional income to maintain huge staffs of personnel? Additional income to line the pockets of managements that are not prepared to operate these cemeteries in the public good?

Cemeteries have a function. They have to maintain them. If they are in a bad financial state they should have the right to apply for the right to levy charges for maintenance. That right should only be granted after a review by an accountant.

And I heard some figures being thrown around here today. If in fact the quotations are as Mr. Stern says, it's all the more reason why the cemetery board should be created, but it should be created with an effective administration.

In the State of New York we have an accounting staff assigned to the cemetery board. Every year the cemetery submits a report and it's reviewed. And every time a cemetery wants to raise a price, they've got to submit a financial statement and they've got to show an actual need. And those books are audited by qualified

accountants. Conferences are held and a determination is made. And there is no dilly-dallying, there's no phoney arithmetic, because an accountant reviews it intelligently and he sees where the money goes and he wants to know where the money goes.

And another thing, folks, a cemetery is supposed to operate on a non-profit basis, on a non-profit basis.

I hear a great deal of talk here about we're not going to have any more cemeteries formed. Now, folks, as one gentleman said, there are no bodies in the streets. And there will not be during your lifetime and the lifetime of your children and your children's children, because studies have been made in neighboring states and in the State of New York, I guarantee you, there are enough cemetery plots there for a good hundred years and maybe more, and probably in this state for 200 years because you haven't had any control.

If these people want to form new cemeteries they can go out tomorrow morning, in the State of New Jersey, and form another cemetery, and issue certificates of indebtedness. They can buy the land for whatever price they can get it for and they can issue certificates of indebtedness, the way your law reads now, practically in any amount. And that's the real problem.

The real problem is, are we going to discourage future cemetery operators. And I say, absolutely. Absolutely discourage future cemetery operators. Why should \$600,000 be taken out of a 60 acre cemetery which

now has maybe four to five thousand graves to sell? And, by the way, I don't know why any cemetery which has sold off 55 acres needs one salesman to sell off the balance of four or five acres.

Now, you know, an acre brings about 1200 graves. Now, they've sold off 55 acres. They have seventy or eighty thousand graves sold off. The families of those people will come in automatically. Their friends and neighbors will come in automatically and buy the remaining graves. They don't have to spend five cents for commissions. That's done in many cemeteries in the State of New York.

On the beginning of any promotional cemetery operation they're pushing sales. There's no question about it. They'll give you all forms of inducement when they start a new cemetery - low interment rates, of course, - nobody to be buried as yet - we might as well make it as attractive as possible.

A cemetery has two scales - the scale when it's selling - the volume of sales go up; then, later on, the volume of interments start to go up. But those interment rates should not go up, if that cemetery at the inception lived up to its responsibility of providing adequate care. And adequate care is only provided by setting aside sufficient sums of money.

Now, in the State of New York they have what they call a current maintenance fund and a permanent maintenance fund. They have a perpetual care fund. Perpetual care, gentlemen, is when somebody makes an endowment. It's a pure

trust, as you call it here. Permanent maintenance is the amount of money that's set aside in a special fund for investment as described by statute. And I might as well say, don't ever let go of that protection of perpetual care funds. Don't ever let them invest too much of that money in non-legals because there are no geniuses in the stock market and there are no geniuses in the mortgage market, and you better protect that money with top-grade securities, as little as they may have at this date. And I am sure not too many of them have a heck of a lot. I haven't seen their reports but they haven't set aside too much because they were too busy with the promotional end of it.

In the beginning, folks, they are trying to sell and they want to pay off the certificate holders. These certificate holders have made an investment. They want to get it back. That's why they're in the business, even though the law says that cemeteries should be operated on a non-profit basis.

Now if the cemetery had properly set aside money for its perpetual care, they would be able to have low rates for everything. There is no reason why a cemetery must make a profit on opening a grave. It should open it on a non-profit basis. So why do they have to make a profit in the State of New York today on some of the cemeteries? You know, we have cemeteries that open a grave for \$20.00 and we have cemeteries that open a grave for \$100. Why? Because the one that was set up for

\$20.00 had responsible management at one point that set aside a proper and adequate fund so that later on there was sufficient income coming in from this perpetual care fund to take care of the cemetery ground and they didn't have to hit the public over the head.

You know, don't forget, after you sell the grave, gentlemen, you have a captured customer. That man can't go anywhere else. He doesn't call the cemetery every few weeks and say "What's your price for being buried this week?" You know you don't call up and say, "I think I'm going to kick off in about a month or two, I'd like to pay you now. Open up the grave."

You don't know the part until your family comes there and they've got to pay the price.

Now, I think it would be one of the greatest dangers for this State, which I think is ahead of some of the other states, even ahead of New York, in that it's Supreme Court has already met the test and said cemeteries shall not engage in the monument business or the marker business.

I don't mind telling you, it's very interesting for me to come here today. I haven't been in the Division of Cemeteries now for about three years. I've met a New York operator here. I've met a big operator from the bronze business. They are watching this very carefully. There is big money involved here. But you have a responsibility only to the public.

I'm not here to lecture you. I hope you don't consider me presumptuous. I come from a neighboring

state. But New York state is also interested, and I don't speak for the State of New York. But we were interested when I was the State Director of Cemeteries. I had contact with many of your New Jersey cemetery operators at that time. Some wanted to have sales offices in New York of one form or another. We insisted that if they wanted to have a sales office in New York, they would have to agree to comply with some of the regulations of the State of New York. And rather than do so, they folded up their shops.

On the other hand, I also had some nice relations with some of your cemetery people. People would come to the office of the Cemetery Board with their complaints. You don't have that now. That little old lady didn't have to come here. She should have had a cemetery board which had an investigator on its staff who would have gone out to that cemetery and said, "What's going on here? What type of a violation are you perpetrating on this woman?"

In the State of New York they have practically a thousand complaints a year from the average member of the public. Some wellfounded, some not so good, but generally the people are satisfied.

At this stage of the game, of course, in New York cemeteries find themselves operating properly. They have been made to function properly. And the cemetery operators will tell you that they are living with that law and that law makes this law look like a creampuff.

Frankly speaking, the cemetery men ought to grab 365. I don't even think it's strong enough but it's a step in the right direction. At least it gives the so-called cemetery board - and I say "so-called cemetery board" because I don't feel that you should have a board made up of people who are cemetery operators. It should be a board made up of three state officials with a director or an executive secretary with an appropriate staff. And there should be some provision for some charge against these cemeteries to defray the cost of the administration of this cemetery board. It's not that great an expense. And if it did cost the State of New Jersey a few thousand dollars each year to give the public this service, you would get it back in blessings, everyone of you, including the Governor.

Cemeteries have never engaged in the monument business. They have been stopped. They've been prohibited from doing it in the State of New York. In the State of New Jersey, as I say, you have a bill against it. Why should they have that monopoly? For what purpose? To maintain a large office staff to administer the sale of monuments? It certainly will not inure to the benefit of the lot holder. That is the test. Will the lot holder benefit? They certainly wouldn't here. Plus the additional test - this is the United States of America, monument business is recognized as a private industry. Cemeteries are always considered something tied in with the public welfare, almost like a utility, but moreso in that

it has tax exemption. I don't know of anybody in this room that has a tax exemption. I don't know of a business in the country that has a tax exemption. But the cemeteries do. You've got to really tighten up, gentlemen, and see that they operate their shops properly. Don't give them this right for monuments. I'm surprised they have even asked for it. I think they are foolish for having even put it in here because you know what they did? They woke up the entire monument industry and they woke up allied industries who said, "What are you fellows trying to do? You've had a wonderful picnic over the years. If you're in bad shape now, it's because you are either poor operators or because you've been exploiting it."

Why are they crying for this cemetery law right now? They are crying for a weak cemetery law. Give them something a little stronger with this 365. I can read into 365, on this rates and charges part, where the cemetery board could go a little further. That's on page 11, 8A:3-18. In 8A:3-18 they do it in the inverse. You know, in the State of New York the cemetery board does not set the prices for graves, by the way. A lot or a plot price, that's set by the cemetery. The theory is that the law of supply and demand will take care of that. I happen to disagree with it, as time has gone on, especially in certain cemeteries in the metropolitan area where there are now not many graves left to be sold and the price has gone sky high. In the rural areas and other parts of the State of New York they can still go along

with this particular program but it's on the books that way and it's almost impossible to get any stronger statutes than they have right now.

But the charges made by the cemetery companys are also excluded from the cemetery board's right to establish it. But I feel that the rest of that paragraph which permits the public to come in and make a complaint that the charges are unfair - I think that under the word "unfair" that could be extended to read "unreasonable" by a court. And I think that based upon this particular section, you are going to get a little bit of control, a little bit of control. I think it really should read directly that the cemetery board shall have the right to fix the charges. But, if you can't get that, this gives you some control.

I, therefore, recommend 365 based upon a comparison of these two bills.

I say to you, neither one is too strong but certainly this statute right here, 429, has so many loopholes, gentlemen, that I could spend four days here explaining to you the dangers to the public in 429 alone. But at least 365 gives you something where you can go to the people of this state and say, "We're trying to protect you." And you will also be protecting the people of the State of New York because your people have been selling to residents of the State of New York. Some people consider New Jersey practically another borough, certain parts of it. Newark is so close to Manhattan

and the Bronx, and so forth, so people have been buying over there. Those people need protection also.

8A:3-18 has possibilities. The section about giving them the right to sell vaults, by the way, that's really a joke. Since when are they going in the vault business? Since when should a cemetery be interested in the undertaking business?

There is only one thing that they are permitted to sell in the State of New York that even resembles a vault, and I would like to clarify this for you. You know a grave sinks, gentlemen. It has a number of sinkings, sometimes four or five. The ground settles and the top of the box goes in, the sides go in, and so forth. Some people buy strong outer cases made of copper and bronze and steel. But some cemeteries have a set of concrete slabs and, with the permission of the State Cemetery Board, they are allowed to stock a few of them. And if the individual wishes to, they can be sold this through the cemetery. Many of the undertakers will handle the sale for the cemetery. It goes to about \$35 or \$40. It's concrete. It's set in and the box is set on top of it and it's fitted across. The purpose is to prevent grave sinkage only. And that should be the only basis on which anything should be allowed to be sold by a cemetery and only when they have an actual need for it. But they shouldn't be allowed to go into private business. Under what basis? It's contrary to law and it's contrary to history.

I will certainly be willing to answer any questions that you gentlemen care to put to me.

SENATOR GOLDMAN: There has been set up a certain sum, or you spoke about it here, for minimum care. One bill has 50 cents and one bill has \$1.25. Are you familiar with that?

MR. ADLER: I've read both these sections.

SENATOR GOLDMAN: Which do you think is the proper sum?

MR. ADLER: Now here's the way to look at that question. This requires a little careful study.

In the State of New York, as I said, they deduct from the cost of sales the first 15% - that goes for current maintenance. I don't believe in that word too much because basically it goes to the general fund of the cemetery. But then they take another 10%.

Now cemeteries require a particular amount of money based upon the type of cemetery it is to maintain an acre. The estimates vary anywhere from \$1200 an acre to \$2,000 an acre, depending on whether it's a lawn type cemetery or whether it's a cemetery with a great many monuments in all.

I don't think your problem is whether or not it should be 50¢ or whether it should be \$1.25. The question is, what is the need of the particular cemetery. There should be a minimum but that minimum should be flexible with the board having the right to direct that it be made greater, if the need of that cemetery is

greater.

Now, you take this fellow that sat down here before, the accountant, and he has already sold out most of his cemetery, he's only got \$300,000. You know what we would make him do in the State of New York? especially when he has no certificate holders? Every dollar that he takes in from the sales of a lot should go into a perpetual care fund for the care of that cemetery ground.

I don't agree very much at all with this theory of taxing a man after he's dead an extra \$10.00 for the care of the cemetery by adding it on to his interment charge. That's been done in but one case in the State of New York. And that was done in a cemetery that was sold out. There wasn't much we could do at that point. We had to preserve the cemetery and help clean it up. And we said, all right, your interment charge will be \$100. Of that \$100, \$15.00 will be put into the perpetual care fund.

Now this shouldn't be done. This is putting the burden on the public when it belongs upon the cemetery. It was intended at all times throughout history that the money received from the sale of lots, that a portion of that should be used for the perpetual care of the cemetery.

Now, I don't know how bad the situation is here in New Jersey cemeteries. I don't know how much land they have left to sell. If you have a 200 acre cemetery and it has only sold 10 acres, then this 10% might be sufficient,

or this 50¢ per square inch. It might be sufficient. But if you have that same cemetery practically all sold out, you may never have enough. Get the point?

So that board must have power to exercise its discretion based upon a study in each particular case. Just as I say to you, the rates in cemeteries vary for that reason. If a cemetery is operating at a profit, it shouldn't be entitled to an increase just because it loses money on interments. A cemetery could lose money on grave openings, for example, and make a fortune on foundations. Is there any reason to up the price on the interment? For what purpose?

SENATOR GOLDMAN: You have read the make-up suggested with respect to the number on the boards in each of these bills?

MR. ADLER: Yes.

SENATOR GOLDMAN: One calls for a 6 man and one calls for a 7 man.

MR. ADLER: Yes.

SENATOR GOLDMAN: That, basically, is the difference.

MR. ADLER: Yes. If I had to choose between the two, it would be the six because otherwise you wouldn't have a chance to have government exercise its proper authority.

Let's be honest about it. How would --

SENATOR GOLDMAN: You say you would prefer a six-man board?

MR. ADLER: I would prefer a three, actually, made up of three government officials. Now, as I said, in the State of New York we have the Secretary of State, the Commissioner of Health - I think you are wise in this state, instead of the Commissioner of Health, to have the Commissioner of Banking or Superintendent of Banking - the Commissioner of Health and the Attorney General. Those three were the Board.

SENATOR GOLDMAN: Mr. Adler, you said you would prefer a six rather than a seven.

MR. ADLER: Because of the way you've got it set up here.

SENATOR GOLDMAN: Now, you've been speaking in terms of 365 -

MR. ADLER: Is that the one that has the seven?

SENATOR GOLDMAN: -- and that has the seven.

MR. ADLER: Well, that's the one, then. Forgive me.

My point is this. Let me take a look at that. I think - yes, I want the seven-man board because otherwise you create a stalemate situation with three cemetery officials.

SENATOR GOLDMAN: And would you make a firm statement that cemeteries do not have to sell monuments to stay in business?

MR. ADLER: Positively not. And I think it's a disgrace for them to even ask for it. And by the way, as I said, once again, Senator, they are all using the

word "business" here. We really shouldn't use that word. This is a public trust, a charitable trust, non-taxable. It's supposed to function for the benefit of the public. All right, the larger cemeteries are formed by promoters. They'll get their money out. They've got these contractual obligations. There is not too much you can do with it, although I don't mind telling you that in the State of New York, by conference and otherwise, they've managed to reduce many of those certificates of indebtedness. Some of these cemeteries probably have certificates but if they gave them every buck that came in from now on until the last grave was sold they still couldn't get paid off.

I don't know the actual facts here. Some of my friends around the room are smiling.

SENATOR GOLDMAN: Mr. Adler, I think you said before, in your opening, that you haven't been associated with the cemetery - you used the term, three years. Is that correct.

MR. ADLER: No. My term of office terminated approximately three years ago.

SENATOR GOLDMAN: There has been much testimony before us that cemeteries are in very bad financial plight. In view of the fact that you haven't been --

MR. ADLER: In which state, Senator?

SENATOR GOLDMAN: In New Jersey. Basically, we are not interested in what is happening in other states. Do you subscribe to that statement and, if you do, how

do you know?

MR. ADLER: I don't know what their financial plight is. If they are in financial plight - and I know we are talking now about promotional-type cemeteries - they are in financial plight due to poor management.

Now I don't know what they mean by financial plight. Are we talking about a cemetery such as was described here this afternoon by the accountant or are we talking about cemeteries which are --

SENATOR GOLDMAN: The 90 per cent of the cemeteries.

MR. ADLER: Ninety per cent of them are in financial plight because the money was taken out. Somebody ran off with the money and they are in financial plight. I am not saying they stole it. They took out more than they should have taken out. In New York State we got there in time. The cemeteries are in better financial position there today than ever before. I don't think the cemetery operators resent the Cemetery Board anymore over there. They found they could live with it.

SENATOR GOLDMAN: One last question: As an expert in the cemetery - quotes around the word business - how far would you let cemeteries go in spending on pre-need sales?

MR. ADLER: Let me say at the outset, I think pre-need sales are good.

SENATOR GOLDMAN: Are good or are they necessary?

MR. ADLER: I think they are good. I think they are good for the public. I think that it is good for a

family to be realistic about future needs. I see no harm in pre-need sales. I think it is a good thing.

As to how much they should promote, this becomes a question. You have to realize that if no part of the sale price money is going to be left for the cemetery to take care of it, the sale is not doing the cemetery any good. Therefore, it has to be limited. It is very hard to pick a number.

I can tell you right now that in the State of New York, every time a financial statement comes in at the end of the year or an application is made during the year, that that is an item that is looked at very carefully. Just what are they doing with the money? They do it for this reason: Suppose you sell a grave for \$100 and assume you have a certificated operation where they are entitled to get paid and they are taking money. As a rule it works this way - first, you take 15 per cent off for the current maintenance fund and that goes to the general fund of the cemetery. Then you take your minimum of ten, although many cemeteries are giving more today, some voluntarily and some by order. Then you take off the cost of sales. Of that which remains, we don't let them take more than one-half. So the remaining part goes into the general fund of the cemetery and that cemetery, therefore, has a chance to survive. But if you are operating under a certificated operation or a bond operation or a land shaft certificated operation and every time they sell a hundred-dollar plot and they pay the salesman \$40 and they keep \$60,

of course, that cemetery is going to be in a bad plight and in a bad way because they have to wait for the burials or the annual care charges.

SENATOR GOLDMAN: Would you limit them to a walk-on sale for pre-need?

MR. ADLER: No, I wouldn't limit them to a walk-on sale.

SENATOR GOLDMAN: How much would you let them spend - 5 per cent, 10 per cent, 6 per cent, 8 per cent? We have all pretty much come to some conclusion they should be allowed to have pre-need sales. Now it is going to be our function ---

MR. ADLER: In the State of New York only a cemetery employee - and by the way, I don't think this licensing means very much - only a regular cemetery employee can sell a lot. So you have a man who has a basic salary - he may get an additional commission on top of it - but I don't think they work for the most part on commission alone. So that is not the main inducement. A cemetery salesman does many functions at the average cemetery in New York today.

You are asking me as to what I think the limit should be percentage-wise for commissions to be expended for sales?

SENATOR GOLDMAN: Well, any promotion, advertising, sales.

MR. ADLER: Now I am going to assume we are talking about a cemetery that has a great deal of land to sell

because I have a different attitude about one that is practically sold off.

SENATOR GOLDMAN: I heard your attitude on the other.

MR. ADLER: I would say it should be limited to 25 per cent.

SENATOR GOLDMAN: That would include commissions, advertising --

MR. ADLER: The works.

SENATOR GOLDMAN: And even instructions on how to sell.

MR. ADLER: With the right to the Board to say, "Now stop, boys; you've gone far enough."

SENATOR BIGLEY: Mr. Adler, in your experience with the New York Board, why do you say they ought to have three public officials? These gentlemen had other functions to perform. Exactly what did they do with the Board except review your work?

MR. ADLER: Well, here is the way it works: The Director of the Division, which was myself, made the determinations in the first instance, excepting as to matters involving rates and charges where a determination was made by the Board, after you submitted to them a complete report. Application would come in for increased interment charges, annual care charges, some other things along that line. There would be an audit done. A report would be made by an accountant. That report would come to me as the Director. I would review it and I would prepare a

written report based upon that. I might modify some recommendations. I might recommend other things. I might tie in something with it. I might say, "O.K. We'll give you an additional \$10 for grave openings, but we want you to put another 5 per cent into the permanent maintenance fund."

SENATOR BIGLEY: I can see that, but ---

MR. ADLER: Then this order would start circulating among the members of the Board. It would first go to the law man, the Attorney General. He would check it out for legality. See, in my instance, I happened to be a lawyer. My successor is not. But the Attorney General would check it out for legality. It would then circulate to the Secretary of State and the Commissioner of Health.

Now there would be a monthly meeting of the Cemetery Board at which time the Director would bring to the Board problems which have come up - matters of policy, unusual situations, not the every-day functioning of the office. He would put these problems to the Board for their recommendations. They could have an advisory board made up of three cemetery men if they wanted to. That to me would be a better system than having the cemetery men on the Board, itself. I would have three State officials responsible to the people, without prejudice, elected or appointed by the Governor, whoever they may be, if they are cabinet members.

SENATOR BIGLEY: Thank you.

SENATOR GOLDMAN: One final question, Mr. Chairman:

Mr. Adler, are you for or against the transfer of large blocks of graves?

MR. ADLER: Large blocks of graves - you mean for resale to somebody?

SENATOR GOLDMAN: No, for sale - a large block of graves.

MR. ADLER: Only to a fraternal group.

SENATOR GOLDMAN: You would confine it to a fraternal group.

MR. ADLER: Only to a fraternal group. In other words, let's assume there was a Masonic Lodge.

SENATOR GOLDMAN: I have it.

SENATOR BIGLEY: Thank you very much, Mr. Adler.

MR. TOOLAN: Mr. Chairman, can I ask two questions through you to the witness?

SENATOR BIGLEY: All right. It's getting late in the day, so we'll let you go, Senator.

MR. TOOLAN: My first question is whether or not in New York cemeteries have a right to sell markers, bronze markers?

MR. ADLER: Not by statute. However, let me add to that. When the State Cemetery Board came into being, they found a situation existing where markers were being sold and it was continued with restrictions upon the cemetery, however, to prevent them from discriminating against monument dealers. There was a great deal of to-do about that subject. In fact, the United States Government was involved; the Anti-Trust Division was involved with James

Matthew and Company, which happens to be a big bronze dealer. They permitted it, but there is no statutory authority for it.

SENATOR BIGLEY: But they are doing it?

MR. ADLER: They countenance it. It hasn't been tested.

MR. TOOLAN: Suggestions were made about an advisory board. I would like to know whether there is an advisory board in New York and if there is, how often the advisory board has met with the members of the Commission.

MR. ADLER: There is no advisory board at the present time in the State of New York.

MR. TOOLAN: Was there ever?

MR. ADLER: There was at one time.

MR. TOOLAN: How often did they meet with the Board?

MR. ADLER: They used to meet, I believe, quarterly at one time. There is none today.

SENATOR BIGLEY: Why were they abolished?

MR. ADLER: Well, my own opinion was they were found to be of no help. Frankly speaking, gentlemen, many of these cemetery men know nothing more beyond their own cemetery and sometimes they don't even know that, and they have gotten a great deal of help from the State Cemetery Board as a result of its creation. As a matter of fact, I heard a man testifying here today and he kept saying, "I just don't know - I don't know."

SENATOR BIGLEY: Thank you very much.

Mr. Welshons, please.

MR. TOOLAN: I wonder if we might put Mr. Braverman back on for a couple of minutes - I think that is about all we would need - before Mr. Welshons.

SENATOR BIGLEY: Mr. Braverman is his accountant, isn't he?

MR. WELSHONS: If you would, I would like Mr. Braverman to have an opportunity to answer some of the charges --

SENATOR BIGLEY: Technical questions on your operation?

MR. WELSHONS: [Continuing] -- before I go on.

SENATOR BIGLEY: All right.

RI C H A R D B R A V E R M A N: I won't take the time of the Committee to answer in kind to Mr. Stern. So far as I can see, however, his understanding of the matter consists in making accusations.

Now his only point, forgetting for the moment the validity of it, is that we left off some 30 or 40 thousand dollars of foundation and installation income. If he had but taken a moment and read the very first assumption on page 2, and I will read it to him because apparently he lacks that power, "Under proposed act S365 receipts will be limited to at-need sales of lots, openings for burials and income from perpetual care funds," -- Now when I was asked by Hollywood to make a projection as to how they would fare under that, I specifically asked counsel in Hollywood what sources of receipts would we have? Those are the three sources of receipts. They are spelled out there. And if we look at page 9 of Senate Bill No. 365, it states: The charter of a cemetery company is organized

for one or more of the following purposes: the procuring and holding of lands to be used exclusively for a cemetery or place for the burial of the dead, - that comes from the old bill - interment, operation of a crematory, operation of a mausoleum, operation of a columbarium, the care and preservation of the land. "f" is the last one. I would like to know where under that bill the cemetery has the power to make charges for installations and foundations, keeping in mind that the old statute, anything that was not specifically in there, was considered ultra vires and beyond the powers of a non-profit, charitable trust. So that is why the receipts were left off because there wouldn't be any under this ambiguous bill.

As far as the disbursements go, these are actual costs and expenses figures. He says the rent is high. We cut it down in the \$38,000 loss on page 3. They have to have an office to maintain their records whether it is on the cemetery or in town. What is the difference? If they put up a building it would probably cost them \$4,000 a year to make the amortization and principal and clean it and keep it up.

I don't have a copy of his 1962 report. Perhaps we prepared it, perhaps we didn't. I wasn't given a copy of it. I gave him a copy of my report for him to study over, but I didn't get any copy. However, I intend to get one and I intend to study it over and answer every point in written memorandum to the Committee.

SENATOR BIGLEY: Thank you, Mr. Braverman.

Mr. Welshons, please.

MR. STERN: May I refer to the part of 365 which provides the answer to Mr. Braverman's question. You look at page 14, S-365, and you will find the list of the charges that the cemetery ---

SENATOR BIGLEY: One minute, Mr. Stern. You are not getting on the record, Mr. Stern. I don't know whether you want to. I think the Committee is aware of the difference in opinion as to what is covered by 365 and what is not.

MR. STERN: I have one question. I wonder whether the Committee might ask Mr. Braverman to authenticate the document which I submitted to the Committee.

SENATOR BIGLEY: I think we can take notice that it is prepared on their stationery and I have read their limitations so far as what they are verifying and it is signed by the firm.

H. A. WELSHONS: I am H. A. Welshons, President of Hollywood Memorial Park that you have heard so much about today. I have been in the cemetery business for 38 years, 28 of those in Hollywood in Union, New Jersey. I feel that I am representing here today some 50 to 60 thousand people, citizens of New Jersey, who own their family burial plots in Hollywood.

I would like to say at the beginning I have a prepared script here, but since there have been some statements made that are pretty wild, I would like to just start off as a prelude and tell you a little bit about Hollywood Memorial

Park. Hollywood Cemetery from which came Hollywood Memorial Park was started in 1909. At that time certificates were issued. The records are so old on it or so inadequate that in 1929 there was a court case on Hollywood and the certificate holders at that time claimed that they had paid \$150,000 for the land and for the certificates. At least that was the amount that the court accepted. They asked to have a value placed on those certificates and the court at that time set a value of something like \$527,000 or \$547,000. I can't recall because I wasn't around.

This didn't mean anything really because Hollywood Cemetery hadn't any money. My associate who has since passed on and I came into the picture in 1937 and began negotiations with Hollywood Cemetery and began the operation of Hollywood Memorial Park on September of 1938. Now up to that time the certificate holders had never received a penny of money. The cemetery itself was in miserable condition, both financially and the appearance of the property. At that time 70 odd acres that we began to develop was a mud hole. It was actually a swamp. You couldn't even get into the thing at the beginning. We built one little three-acre tract and a road into it and sold that way for several years.

Now from the very day that we started almost - I told you it was September, 1938 - we have been under the supervision of the courts of New Jersey and under investigation by the Attorney General's office. The Attorney General - at that time it was a Mr. Andrew Markey - visited us in either January or February of 1939, six months after we

started. He did it because these gentlemen who are opponents today had visited him and asked him to. They were sure we were real shady operators as they call us and fast-buck boys and a few of the other terms that have been used around here.

The Attorney General's office during 1939 made a complete examination of our books. This was the first time. We have been examined so often and been in court so often that if you want to know that is where \$200,000 to \$300,000 of our money has gone, just in court trials that we have had over the years.

Now I don't think there is any cemetery in the State of New Jersey that has been more carefully watched by the courts of our State than Hollywood.

There were two things brought up I would like to clear up and then get into my script. One of these is: Why do we pay rent on an office? We couldn't build an office on the property in the early days. It took us years to get it to the point that we could and when we got it to that point, we never had any money because we did have to pay off the certificates. They are all paid off today, but that was only accomplished - oh, about three or possibly five years ago the last certificate was paid off.

Now Mr. Braverman forgot to tell you, but I guess you didn't ask him, but we figured out that over the years these certificate holders who had put their money in in 1909 hadn't received as much as 6 per cent on their money. This is the excessive profits that Mr. Stern talks about.

Now as to the other things - why we only have \$300,000 in our care fund. The amount that we were to set aside was set by the court. The Chancery Court of this State did that because they recognized that these certificate holders were entitled after some 40 to 50 years to begin to get their money, so that 20 per cent was paid to the certificate holders. From the very day that the certificates were paid off, we have been putting 10 and 15 per cent into the care fund. Now I don't know whether you men are as confused as I am after sitting here through two days of this testimony. But I don't really believe the real issues behind this battle between the two groups have been brought out at all. I think that the main difference here is in a philosophy of sales, that the funeral director, the monument dealer and the vault manufacturer want to do business with people only at the time of death, at the time of greatest emotional strain, and that the cemeteries don't. Therefore, they sort of are getting a little worried about us.

Now I had proposed to show you here with some facts and some figures just what before-need selling can mean to the public. I believe after all they are the people we should be concerned with here and not with businessmen and whether they may or may not lose a few dollars of their profits.

Now in order to do this, I would like to point out that as a memorial park, and it's been made very clear here by Mr. Stern that this is his particular interest and his particular target, I would say this to you that I think

Mr. Stern at the other hearing two weeks ago made a very stirring and dramatic speech which would have been excellent had it been made 25 years ago because having been in the cemetery business 38 years, this was the kind of talk that we heard when memorial parks first started. He has frankly stated that he is out to discredit the memorial parks. Well, I think that history proves over the last decade that the public has completely discredited him and his group. I say that for this reason: You gentlemen may not know that in the past quarter of a century 95 per cent of all new cemetery property opened up in America has been memorial park type. Millions of families in this country have chosen the memorial park type of property as the place that they want their family burial plot. There have been very few monument cemeteries opened up. Now in order to give you this picture, if I may be permitted, I want to go back, say, 40 years ago to the inception of memorial parks.

Forty years ago the cemeteries of the country were traditionally the eyesores of any community. This wasn't due to lack on the part of the cemetery personnel. It was due to the customs of the times. At that particular time the monument dealers would sell a person any size monument the traffic would bear. They never consulted the cemetery. They just came in with their trucks or wagons which I suppose some of them had then and would put up a six- or an eight-foot tall monument and right beside it maybe would be a little one that was only a foot high. But they jammed that piece of property with stones of every shape, size and form. The result was that our cemeteries, I repeat, were the eyesores

of our communities. It was at that time that the memorial park idea came into existence. And that was simply this, the feeling that the cemetery, the final resting place, should be a place of beauty. It should be a place of lakes, with trees, flowers, shrubs, beautiful lawns. In order to accomplish this, a flush-bronze marker was substituted for the big and unsightly tombstone. Now this marker which was placed perfectly flush with the ground had several very big advantages. Number one I have just mentioned. It did allow us to transform overnight a place that had traditionally been the ugly place in the area into a place of park-like beauty. The second big advantage of the marker, however, was almost more important. In those days you could buy a flush-bronze marker for \$50 as opposed to several hundred dollars that it would cost for even a rather modest tombstone. So this effected a savings to the family of hundreds of dollars. Then the third advantage was that by being able to use power mowers, the care costs were not nearly as great in this type property as in the tombstone cemetery where they had to use hand lawn mowers to cut around the tombstones.

Well, now, it was the result of those three things that caused the public to instantly accept memorial parks as a better way of caring for their loved ones when they passed on.

Now the monument dealers, of course, didn't like this and have been fighting us ever since because any time a person purchases a lot in a memorial park, he no longer is a

potential customer for a several hundred dollar tombstone.

The next step forward I am not going to elaborate on as much as I had intended to in the interest of time, but it was the idea that a man and wife should purchase their family lot in advance of need, that this was the time to do it, when they could sit down together in their own home when they were calm, when they could make a business decision about it the same as they would about buying their home or buying their family car or any other of the things that a man and wife do together.

Now insurance statistics show that two-thirds of the time a man will pass away ahead of his wife. Therefore, by his making this provision in advance of need, he is saving his widow from going out on the saddest day of her life to perform the task. This the memorial parks believed was a worthwhile advantage.

Let's get down to some facts and figures and see whether the public has been hurt or helped by our program in Hollywood. You have heard Mr. Braverman say that we have sold 54,000 grave spaces, that is single spaces, over a period of some 28 years. Now the great majority of these were sold in the first 20 years of our existence. We sold those -- Well, let me do it the other way. Today our minimum price is \$175 a grave. These families bought on an average of \$75 a grave. Not only did they save by making their purchase in advance of need an average of \$100 per grave site, but we sold those to them on a payment plan. They could put as little as \$5 down and \$5 a month. We carried insurance

on the head of the family so that in the event of his death prior to the completion of the payments all remaining payments were cancelled and the widow received a paid-up deed.

I ask you gentlemen to consider whether our families were hurt or not by that sort of a thing?

Now I have here - I am trying to rush - a typical list, and I might say to you that I am not quoting from things 20 and 30 and 40 years ago. I took this list just from the interments that were made in Hollywood in the past two months, that is, in June and July. I will just read quickly two or three illustrations. You can look at the whole thing if you care to.

Here is interment number one. The family purchased the lot in 1938. They paid \$50 for the grave. Had they waited until the death which was on the 8th of July, it would have cost them \$175. Is this hurting the public?

The next one was bought in 1939, October 3rd, \$50. Their interment was the 27th of June of this year.

A jump down here - here is one bought in 1943, at a price of \$62.50 for the grave. That grave today is \$175.

I am not going to take your time to go further. You may look at this if you care to go into that. You have been very patient around here today.

SENATOR BIGLEY: I would like to hear if you have anything to say about the perpetual care fund.

MR. WELSHONS: Well, we will get to that if I may

go on this way.

I might add that these lots over this period of time were sold at an average of 20 per cent, not 40 as Mr. Stern states, and as we will prove to you in due course.

Here are some figures that I think are tremendously important for the Committee. This plan of building more beautiful properties and of reducing the over-all cost by eliminating the cost of an expensive monument and also by giving people time to purchase just as they do their insurance policy with years to pay for it has been so popular that, as I mentioned to you before, 95 per cent of all new properties opened have been memorial park type. Now I believe our own 50,000 citizens who bought this, not at a time of emotional upset, but at a time when their minds were clear and they could think properly, is a pretty good indication that we can't be such terrible people as we have been pictured here. But let's go and give you a little greater evidence than that and I am going to read this because I think it is that important.

The National Cemetery Association made a survey in 1960 and showed that there were 3,450 memorial parks and traditional cemeteries who had converted the great percentage of their remaining acreage into memorial park type property. Now that represents - I wouldn't want to guess, but if I were to make a guess - 30 to 40 million people in this country who have sat down in their homes across one end of the country to the other with some cemetery salesman and decided to buy and then paid for it on a payment plan. I

think the greatest evidence I could give you that certainly it wasn't such a terrible amount of high-pressure selling involved is that in the great, great majority of those cases, the cemetery takes a ten-dollar bill as a down payment or a five and then the payments are scattered out over the months. Now the people of the United States would have stopped the memorial park movement long ago by one of two simple expedients if what we were doing was detrimental as you are being led to believe it is: They would have either never bought in the first place because don't forget they weren't all upset-- Many of them after the first interview in their home would then make an appointment and come out to the property and select their lot so that this was something that might take a period of two or three weeks. Then if they found it had been misrepresented to them and they quit making their payments, they would only have had a ten-dollar bill invested in most cases, but they did pay. I might add here that our payments are made to the First National State Bank of Newark. We have been having payments made there for over 20 years. If anybody in this room knows anything about that bank, you know that they would never all these years continue to collect our payments if there were even 2 per cent complaints or 1 per cent complaints. But they are very happy with the business and continue to be.

I would just like to say here that it isn't the public that is against memorial parks; they would have stopped buying long ago if it was. It is these gentlemen and they don't want them for a very good reason. I think I have demonstrated

why the monument dealer doesn't want them and I will try to demonstrate here as quickly as I can why the undertakers and the vault manufacturers don't want us.

Now let's consider a typical family who would have purchased, say, four graves in Hollywood back around 1938 or '40. They would have paid \$50 for that grave and they would have paid \$50 for their marker to go on it, a total of \$100. Had they waited until today, they would have paid the price of \$325 for it. Does this sound like a shady operation on our part? Does it sound greedy or overpriced?

Now, if you will, contrast this method of purchase with that advocated by the triumvirate who want to do business only at the time of death, at that time when people are always emotionally upset when it can be softly suggested to them that this is the last thing you can do for the departed and you certainly want to do the best you can afford.

Now I leave it to your own judgment as to when the high pressure selling exists. Does it exist when a cemetery salesman sits down with a family in their own home to calmly discuss this, long before the event is going to happen, or does it exist at the time of greatest emotional upset in the casket selection and vault selection rooms of these men who are against the public making preparations in advance of need?

Here are some further facts to refute some of the statements made at this meeting. Let's consider the vault manufacturer who admits he sells only to an undertaker and whose answer to you, Mr. Bigley, when you asked him why that

was, was no better answer than, "That's the way we have always done it." Now I can give you a better and much truer answer. Up until 1957 cemeteries sold vaults. And as the Secretary of the Funeral Directors Association, Mr. Failla, boasted here at this meeting, in 1957 their Association succeeded in getting a law passed which effectively stopped the sale of both vaults and markers on an advance of need basis. Now prior to that between 1955 and 1957, Hollywood Memorial Park sold both vaults and markers to its lot owners. Our typical sale was two vaults, two what are known as individual markers for the individual graves, and one large family memorial for the lot. We charged \$604 for that. This was in 1955 to '57. Today those same five pieces of merchandise if purchased in the market and sold would be sold by the undertakers and by the bronze people at a cost of \$1200. I might point out that we sold that at \$604 on a payment plan the same way with insurance and so on. Now part of this increase in price is due to inflation, but chiefly it is due to this law which the undertakers boast about having passed. And I would like to leave it to your judgment as to who was protected by that law. Was it the public or was it the undertakers? Also, have our lot owners who purchased at half of today's price been hurt or rather those lot owners of ours and every other property who haven't been able to purchase since 1957 the ones who have been hurt?

Now Mr. Stern in answer to a question by one of you gentlemen said he didn't know for sure just what an undertaker

paid for a vault, but he thought that they paid about \$85 and sold it for \$150. Well, he very cleverly quoted to you here almost the highest price paid and the lowest selling price. And I might add that the Secretary of the Funeral Directors Association corroborated that; in fact, I think he said he paid \$90 for his vaults. Well, I would like to point out to those gentlemen that if they are paying those prices, they had better come and see me because I still today am able to buy a vault just as good as their vault and better than lots of them for \$55 and I have my invoices and cancelled checks here which you may look at to prove that. I might add further that a vault similar to the vault that I purchase, and that purchase incidentally is only to take care of commitments on the sales that were made between '55 and '57 - I might say that the type vault I sell, the funeral director today sells for \$200, \$250 and \$300.

Additionally I say to you that either Mr. Stern or the vault manufacturer could have given your Committee the true answer as to why vault manufacturers sell only to undertakers. It is right here in Mr. Stern's own talk. If I can have a minute, I will get it for you. This is a talk given in Atlantic City to the National Concrete Burial Association, well, either on June 20th or somewhere between the 20th and the 22nd.

MR. TOOLAN: What year?

MR. WELSHONS: I can't find it on here. You will have to ask Mr. Stern.

MR. STERN: 1966 and there was no written script; it

was an extemporaneous talk.

MR. WELSHONS: Well, that's fine. But this, nevertheless, is what you said, Mr. Stern. [Reading] "A discussion on what's behind cemetery operators' current attitudes and policies by Howard Stern of Paterson, New Jersey, counsel for the New Jersey Association of Concrete Vault Manufacturers, opened the Convention on the following morning. Said Mr. Stern, 'If you sell to a cemetery you are shortsighted. The time will come when they will not need you as a supplier and you will be contributing to your own demise. It is good to have as group-established policy no sales to non-profit cemeteries.'" There was much fuss made here about collusion. Now I am no attorney and I certainly don't want to get into that field. But that's the statement and you men decide about it.

In other words, I suggest that the members of this Committee are being asked to prolong a monopoly that is costing tens and even hundreds of thousands of dollars to the citizens of New Jersey each year.

Now let's go to the area of the sale of markers by cemeteries, Mr. Stern stated here that in his opinion cemeteries had not been hurt financially by their being restricted from selling markers. He, of course, conveniently overlooked the fact that the public has been hurt tremendously and can only buy at the time of need today. Now he wasn't even close on his assumption as to the cemetery and he of all people should know it. I submit to you the following figures in proof of the damage done to Hollywood: In the

three years prior to the restriction against our selling markers, Hollywood, selling in open and fair competition to the monument dealers, showed an average excess of receipts over costs of \$16,126 a year, which the cemetery had available for its general upkeep and the benefit of the lot owners. This figure is after deducting all costs including commission costs.

Now, Mr. Stern was attorney for the plaintiff in that case and as that had access to our books. So he certainly knew how much damage had been done to us.

This money since then, of course, has gone into the hands of these public-spirited, and I say also faint-hearted, monument dealers. I say "faint-hearted" because their plea is that the cemetery has an unfair advantage over them. I might point out to you that I know of no monument dealer or marker dealer, and there is a distinction, in this entire state that ever attempted to sell anybody a marker - that's all I have had experience with, not monuments, of course - before need. But there is nothing to stop them. There is nothing to stop them from doing it today. If they really were as public-spirited as they claim to be, they would go out and give people the opportunity to purchase a marker today and pay for it on a payment plan and have that all done at the time of death..

But what do we do? Since we are not allowed to sell - we have cooperated in every way we could - we publish a list of our interments every week. Any accredited monument dealer can come in and get it and call on these people for

at-need markers. Now they all come in to get that. But they make no attempt to sell anything but that.

I wonder if you know what happens when they do go out to sell. Here is a woman who has just lost her husband and within a day - and I say a day, gentlemen - there are anywhere from three to maybe as high as a dozen of these marker dealers who descend upon her. Out of that group, one of them working on her while she is still all emotionally upset sells her a marker. This is the only way anybody can buy a marker in this State today.

Now there was something said here by somebody about the cemeteries not replacing stolen vases and urns. That is what is usually stolen. I don't know what any other cemetery does, but while we make nothing out of the actual sale of a marker, our lot owners if a vase is stolen - and there has been quite a lot of that in the last few years - seem to hold us responsible. So as a matter of good public relations we replace it. Now these vases the monument dealers sell for \$35 to as high as \$75. When he makes the sale, whether it is a marker or a vase, he brings it into the property and he drops it off and that is the end of it as far as he is concerned. He has made his profit and he goes to the next customer. In the last year and a half we have replaced 145 of those. They are interested in knowing where our money goes to.

I would like to point this out as a final thought. In selling a bronze marker, the monument dealer acts only as a middleman. He isn't an artisan as Mr. Frank in his

statement spoke about. He merely writes out an order and sends it to any one of a dozen bronze manufacturers and when it arrives at his place he brings it over to the cemetery and drops it off. This is the extent of his work on that. I can see on monuments that there is a difference and a man must be an artisan on a monument, but certainly not on bronze markers.

Now, quickly we will just come to the florists. We even had a florist in here and he sat here and said that the cemeteries could adversely affect the florists' business. Now I can understand that the vault men and the monument men and the undertakers who only do business with bereaved families could have some worries here. But the florist seems to forget there is such a thing as weddings or anniversaries or birthdays or anything else - it is only the cemetery that is causing him trouble. So I would like to give you some figures on that. We don't sell flowers and we don't sell plants, but once a year at Christmas time we sell grave covers. Now we sell only one - that is we have one style - and that sells for \$8. Incidentally, we purchase all the materials from a local florist to make them. The florists in our area sell them from \$8 to \$20. In the Christmas Season of 1965, Hollywood sold 2,011. The total number placed in Hollywood was 5,976. Therefore, outside florists placed two-thirds of our lot owners' grave covers. This is the best example I can give you of what happens when there is clean and open competition between the cemetery and outside businessmen. Both

memorial parks and traditional cemeteries depend considerably on their sale of Christmas grave covers for income. The reason they depend on that and the reason we need these other sources of income is a double one. You see in a cemetery you must be prepared for what we call a peak load. There might be as many as 10 or 12 funerals in a day and then the very next day no funerals. But you must have the help there to take care of it when that time comes. Now these other allied jobs that we are trying to get help us keep our workmen employed in the slack time. We must give them full-time work. Everybody wants that today. And if we don't have that, we have to put them on part-time work.

Finally, as an example of the ridiculousness of the florist's statement, I would be willing to show you gentlemen, if you came to the property, one funeral where there are more flowers which have been sold by the outside florists than we sell in a whole year. So that gives you an idea of the ridiculousness of that.

Finally, I would like to read to you something to rather sum this up that was written by a man much greater than I am, talking about this same situation. This is the Right Reverend Monsignor Francis J. McElligott, Director of Catholic Cemeteries for the Chicago Archdiocese. This was when he appeared before an Illinois Commission. He said as follow - and by the way, these are excerpts - he said much more, but I have tried to cut it down:

"Attempts are being made to create the impression that certain cemetery activities such as the merchandising of

grave vaults and grave markers, are somehow illegal - in some way extra-curricular commercial enterprises.

"The fact is clear and evident that the grave vault and the grave marker are so closely related to the grave and the deceased interred therein as to make them a positive composite entity. You can have ham without eggs, you can have beer without pretzels, you can have corned beef without cabbage, but I defy anyone to find an adequate, useful purpose for a grave vault or a grave marker without a grave. Their very description is indicative of the intimate relationship each bears to the other.

"To what end does a marker or vault exist? To what purpose can they be put except in connection with a grave? It is like saying that your home and the lot on which you built it are utterly unrelated.

"Why should the public in selecting a vault or marker find it impossible to obtain it in connection with the grave of which it is a part? What is the strange fiction that would, like some atomic cyclotron, split apart integral units, stating that a grave, vault, and marker must - not may - must be obtained from separate sources?

"If someone decided that cemeteries may not obtain and place memorials because commercial interests are involved, is it not equally reasonable for someone to decide that placing landscaping is a commercial endeavor? It certainly has a far less intimate relationship with the grave than the marker.

"If this strange new approach that cemeteries should

do nothing but make a specific burial with everything but the grave completely and exclusively furnished from outside sources, then must we also expect that cemeteries may never again build roads, erect fences, construct buildings?

"If we must keep the people whom we serve chained to out-dated and unimproved methods of purchase and distribution of grave markers and grave vaults, we can have little effect on reducing the costs of death.

"One final point I would like to make. In the Catholic cemeteries of Chicago, we conduct a program of visiting families in their own homes, advising them how to prepare prudently for the time when death occurs. We encourage them to pre-plan their desires, needs and expenses so that the time of death in a family may not result in confusion, hurried anguish, and emotional overspending. We encourage people to buy in advance of need, specifically because they will spend more wisely and not be slaves of ignorance and misinformation that help keep the cost of dying high. We do it because we believe it is a purposeful endeavor for the good of the people, for in the final analysis, it is the people we serve that determine the course and the nature of cemetery activities. If the public's interest in better service and better facilities at lower cost is to be thwarted by resistance to better ways of doing things, then the common good must inevitably suffer at the hands of individual self-interest. I sincerely hope that this never happens."

Now all I have to say in conclusion of a rather long day is that it seems to me, gentlemen -- It may sound like I don't like the funeral directors. That isn't true. Over the years I have met many of them and I say as a group they are a pretty nice bunch of men. I don't hold the same brief for the monument dealers because of the fact - I don't know whether you know it or not - but anybody in this room can become a bronze dealer. They call themselves monument dealers, but they are selling bronze. A bronze dealer if he has about \$200 doesn't have to do anything only register himself in the State here that he is selling bronze and he can get a few circulars from the different bronze manufacturing companies and he can really work out of his car if he wants to.

I have a feeling, and I am trying to be as sincere as I know how, that the real problem here is that times have changed and changed tremendously and these three groups are fighting that change. They are almost in the position of the buggy manufacturer who fought the automobile or of the iceman who fought the electric refrigerator. They don't want change. They want to keep doing business as they did 40 years ago and the greatest evidence I can give you of that is that practically everything they have told you here are things that happened 30 or 40 years ago. They don't seem to realize that we are living in an age of medicare, that we are living in an age of social security, that we are even living in a former Republican stronghold under a Democratic administration here. Things are changing and I think that

what is necessary - and I never believed anything more sincerely -- I don't think they are a bunch of terrible people and I don't think the great majority of funeral directors think that the cemetery people are. Some of the paid professionals here seem to think that. But I suggest to this Committee that what is important because you have certainly been subjected to both sides of an argument and name-calling and every other thing - I think the most important thing this Committee could do would be to call for a complete investigation of this entire burial industry, all four of us that are in it, and with that I thank you and I am ready for questions.

SENATOR BIGLEY: Mr. Welshons, you quoted - I guess it is the priest in charge of the archdiocese burial program. Do you know if Chicago is the same, for example, as certain areas in New Jersey where they are required to bury in a religious cemetery?

MR. WELSHONS: Do you mean where --

SENATOR BIGLEY: Where the members of the Catholic faith, for example, can't go anywhere else but to the cemetery run by the diocese.

MR. WELSHONS: In Chicago that is the case, yes. But they still go out to the families and sell before need. They still sell markers. They still sell vaults to them.

SENATOR BIGLEY: How can they make a point that they can save them money and do the public good because they are selling to people whether they sell them before death or at the time of death? You have to go to the same source.

MR. WELSHONS: Just the figures that I showed you here, Senator, where the people who bought in Hollywood over a period of 20 years, it only cost them \$75 a grave. Now had they not bought, but had waited until now to buy, it would cost them \$175 a grave. They were helped, weren't they, by that?

SENATOR BIGLEY: What are your plans for your perpetual care fund. As I understand Mr. Braverman says you have about \$300,000.

MR. WELSHONS: That's right.

SENATOR BIGLEY: You have about 4900 lots to go.

MR. WELSHONS: Well, let me correct that. Mr. Braverman is talking about the lots that are developed. We do have some five to six thousand in addition to that that are undeveloped. So our total that we have to go is around eleven thousand. That is the first thing.

Now the second thing that I want to say to you is that at \$300,000 - we are not happy with that at all and we are building it up as fast as we can. As I mentioned, the minute we had our indebtedness paid off we more than doubled the amount in the care fund since then. Had we been able to continue selling vaults and markers, we would have a lot more in there. About our fund, as I pointed out, it was set by the court. This was court ruling of what we were to put in.

SENATOR BIGLEY: A minimum or a maximum?

MR. WELSHONS: The maximum that we were to put in, the maximum.

SENATOR BIGLEY: In the perpetual care fund?

MR. WELSHONS: Yes, until the indebtedness was paid off. The court somehow thought that that was more important than the care fund.

Now the other thing I might say to you is this, that that fund is administered in a perpetual trust with the First National State Bank of Newark as trustees. The only thing that we as a cemetery have to say about it is that if they gave us a choice of two different buys of say two different types of stock, we could say, "Well, we prefer A to B."

SENATOR BIGLEY: Who determines how much goes in each year? The bank doesn't tell you that, does it?

MR. WELSHONS: It is on the basis of sales.

SENATOR BIGLEY: Whose determination is it that you put 25 per cent of your lot sales and \$10 of your opening?

MR. WELSHONS: That we do what?

SENATOR BIGLEY: Your projection was, wasn't it, you are putting 25 per cent of sales --

MR. WELSHONS: No, don't forget that all of that projection is if Bill 365 became law.

SENATOR BIGLEY: Oh, you are not even putting that much in there?

MR. WELSHONS: No, we are putting 10 and 15 per cent in now.

SENATOR BIGLEY: Ten of what, ten of the lot sales?

MR. WELSHONS: Of the price of the lot.

SENATOR BIGLEY: Fifteen of the opening?

MR. WELSHONS: No, no. We are putting in 10 per cent

and an extra 5 - in other words, 15 all together into the thing.

SENATOR BIGLEY: Where does the extra 5 come from?

MR. WELSHONS: From the sale.

SENATOR BIGLEY: From the sale of the lot?

MR. WELSHONS: Yes.

SENATOR BIGLEY: Do you put any of your opening income into it?

MR. WELSHONS: No. We can't. There just isn't enough left over at the end of the year. That is the whole point to this hearing as far as the cemeteries are concerned.

SENATOR BIGLEY: That is what is concerning me, that you are going to run out of lots based on your present sales even with your extra 6,000 lots in a period of ten years. Then what is going to happen to your ---

MR. WELSHONS: How was that? We would run out in ten years?

SENATOR BIGLEY: If these figures are correct, you are selling about 600 lots a year.

MR. WELSHONS: No, no. You are confused I believe Senator, between interments and sales.

SENATOR BIGLEY: Well, I am looking at sale of lots 1961 through '65, page 7, and it shows 1965, 541 spaces sold and this I don't understand.

MR. WELSHONS: Maybe I could explain it to you.

SENATOR BIGLEY: What do those spaces mean?

MR. WELSHONS: A space is one grave.

SENATOR BIGLEY: That is \$185.

MR. WELSHONS: \$175 to \$200.

SENATOR BIGLEY: In 1965 the total spaces he said that were sold were 541 with an income of ---

MR. WELSHONS: Oh, I'm sorry. I see what you mean. I thought you were using the projection working under 365. The 459 were sold on a pre-need basis. The 82 were sold at the property.

SENATOR BIGLEY: How many did you sell that year?

MR. WELSHONS: The total of the two figures.

SENATOR BIGLEY: 541.

MR. WELSHONS: Whatever it comes to, yes, 541.

SENATOR BIGLEY: And on page 5 you have apparently unsold and ready for sale 4,925. Now is that spaces or lots?

MR. WELSHONS: That's spaces.

SENATOR BIGLEY: All right. That is what I was saying. And you said you had another 6,000 spaces that weren't developed?

MR. WELSHONS: Yes.

SENATOR BIGLEY: So you have roughly ten or eleven thousand spaces.

MR. WELSHONS: That's correct.

SENATOR BIGLEY: Based on your sales last year, you are going to run out of spaces in ten years.

MR. WELSHONS: Yes, just about.

SENATOR BIGLEY: What are you going to do with the perpetual care fund?

MR. WELSHONS: We will have enough if we are allowed to sell these other things. If we are not, if it is just

going to be the income from the sale of lots, we certainly won't have enough.

SENATOR BIGLEY: You won't have it because you are getting roughly \$12,000 income now at 4 per cent.

MR. WELSHONS: That's right.

SENATOR BIGLEY: And you are putting 10 per cent ---

MR. WELSHONS: We are going to have to hope for a tremendous bull market in the next ten years unless we can get some other income. That's the point.

SENATOR GOLDMAN: I take it from that statement then that you feel that you have to sell vaults or markers to stay in - I don't want to say business - the profession.

MR. WELSHONS: I don't think you should say profession either, but to stay in the cemetery field.

SENATOR GOLDMAN: You have to sell vaults or markers?

MR. WELSHONS: Definitely.

SENATOR GOLDMAN: There have been some statements made here. Because of the lateness of the hour if you can answer these questions yes or no, it will help, excepting the last question. They say in memorial parks your graves are seven feet or seven and one-half feet instead of the traditional necessary nine feet. Is that correct, yes or no?

MR. WELSHONS: No.

SENATOR GOLDMAN: Do you put markers ---

MR. WELSHONS: Wait. I must qualify that for you, Senator. When I said no, I meant, no, it is not necessary they be nine feet. I don't know of any nine-foot caskets. You need them if you are going to put up a big monument.

SENATOR GOLDMAN: Do you put markers directly on the grave?

MR. WELSHONS: Yes, sir.

SENATOR GOLDMAN: Do they sink? Are they always sinking?

MR. WELSHONS: Usually four to five times and have to be refilled and reset.

SENATOR GOLDMAN: Now there has been a statement made here, not at this session but last session, by a gentleman who operates a cemetery to this effect: In talking about both bills, 429 and 365, he found that both bills didn't have any real merit. Do you subscribe to that statement?

MR. WELSHONS: I do not. I would like to point out that I as a member of the Legislative Committee for the Cemetery Association have sat I think three times in the Attorney General's office working on Bill 429. We have spent hours and hours discussing it and it is in our opinion a bill that will save the cemeteries.

SENATOR GOLDMAN: Do you subscribe to Mr. Adler's statement that 365 is better for the cemetery people?

MR. WELSHONS: No. You don't want me to elaborate.

SENATOR BIGLEY: I have one question I forgot.

MR. WELSHONS: I would love to elaborate on that.

SENATOR BIGLEY: You probably haven't seen this financial statement furnished us by Mr. Stern for quite some time, but under Advances to Salesmen, there is one listed for a Mr. Brandsten in the sum of \$15,203.92. Perhaps you could

explain that.

MR. WELSHONS: I could explain that whole list to you.

SENATOR BIGLEY: He is the outstanding one.

MR. WELSHONS: I think Mr. Braverman could explain it much better, but I will explain it to you this way: All those figures carried on there are figures of advances over the years. I am getting in a field that I really shouldn't be in of accounting. We had a peculiar accounting setup where the government allowed us to deduct a certain amount on each lot as it was sold as a cost even though we hadn't developed the lot yet in the year that it was sold. So we always had a tax loss and those advances kept building up over the years. We didn't advance that kind of money in one year. We advanced that over a period of maybe 15, 18 or 20 years, but they were carried on the books that way until such time as we didn't have a tax loss on our ground that we could then take that off as a business expense.

SENATOR BIGLEY: Do you owe this Mr. Brandsten \$15,000?

MR. WELSHONS: No. He owes us.

SENATOR BIGLEY: He owes you \$15,000?

MR. WELSHONS: Yes, whatever the advance is is the amount he owes us over and above the commissions he earned over the years. He was with us for a period of at least 15 years, maybe closer to 20, and during those years what would happen is this: A salesman sells on a straight commission as you know and a sale would be made. We would pay the

commission on it and maybe six months later the man was out of work or something and he had to cancel. Now that then went as a charge against that salesman, a charge against his account because the account hadn't paid out. So his commission was charged back against him. It kept being put on the books because he could never make enough sales to pay it back. It wasn't actually an out-of-pocket advance. Do you follow what I am trying to say? It was as a result of cancellations. Everybody that purchases doesn't wind up paying. However, thousands of them have.

SENATOR BIGLEY: Is he still with you?

MR. WELSHONS: No.

SENATOR BIGLEY: Did he pay the money back?

MR. WELSHONS: No. I wish he were with us so he could pay it back. The man is quite an invalid incidentally for your information and isn't able to work.

SENATOR BIGLEY: What has been your policy over the years with this perpetual care fund since you have been associated with Hollywood?

MR. WELSHONS: In what respect?

SENATOR BIGLEY: We know you are under court order, or you were, to pay the certificate holders. Had you been putting any money in the perpetual care fund prior to the court order?

MR. WELSHONS: Oh, from the very first lot we ever sold, we put it in. The court order came before we were in business more than - oh, we had been in business maybe three years, something like that.

SENATOR BIGLEY: At the time you were selling markers, was any of that income going into the perpetual care fund for the markers or for the graves?

MR. WELSHONS: No. It went in as Mr. Adler explained -- You see the cemetery has a double problem. It has the problem of maintaining its property on a current basis and that requires money. Actually Hollywood has only gotten to the point in the last three or four years where the income from the interments plus the bronze markers was sufficient to maintain the operations at the property. Just about the time we got to that point, we lost the income from the bronze markers. In the first years of a cemetery's existence, all of its money goes into development. You are developing the ground. Then you are selling lots on a pre-need basis and you must maintain that ground after you have developed it but you are receiving very few interments. I think in 1939, our first year - I had the figures somewhere - I think - it was about 10 or 12.

SENATOR BIGLEY: It was 23.

MR. WELSHONS: It took years and years and years for that to build up sufficiently to really mean anything. All those years you have to maintain the property out of current income.

SENATOR BIGLEY: What bothers me, is this perpetual care fund theory valid? Can it operate and can it be successful? You pay your bondholders off even without your markers. You have been able to stay afloat last year.

MR. WELSHONS: Well, Senator Bigley, all cemeteries

along with many, many other businesses in this country today and everybody who is on pension and everyone else are victims of the inflation that we have had over the last almost 25 years. \$300,000 in a care fund for a property of less than 70 acres if you will think back to say 1930 would have sounded like a tremendous sum of money. It is just the fact that costs of everything are going up so tremendously and that is the only reason we are here. We are not trying to profiteer on anybody and you know the interesting thing about it is that the people who know that better than anyone else are our opponents. They are out on our properties all the time. They of all people know we are not profiteering and not making money.

SENATOR GOLDMAN: Mr. Welshons, you said in the early part of your testimony that in the sale of markers or whatever it was, some other allied product, you were just a middleman.

MR. WELSHONS: No. I said the monument dealer or the marker dealer, whichever you want to call him - they are one and the same - is a middleman.

SENATOR GOLDMAN: Is it true that during the litigation the court found that prices the cemetery operator charged were in excess by one to two hundred per cent of the actual price a memorial could be purchased for in the open and competitive market?

MR. WELSHONS: That is completely and absolutely untrue. I don't know where that is. That reminds me, there was a statement made by, I think, Mr. Stern. In fairness

to him I should have permission to ask him this first:
Did you, Mr. Stern, say that foundation charges had doubled
after the Terwilliger Case?

MR. STERN: I said it appeared from a statement
prepared by your accountant that your income from found-
ations doubled and I told the Committee from my personal
knowledge that many of the memorial parks' foundation
charges doubled after the Cloverleaf Case.

MR. WELSHONS: That's another insinuation.

MR. STERN: It is not an insinuation. It is based
upon depositions that I have taken.

MR. WELSHONS: The charges that we make for foundations --
and Mr. Stern who was in the Terwilliger Case - this was
one of the things he attacked in that case, claiming that
our charges were too high. Our charges, by the way, run
from \$50 to \$125, depending on the size of the marker. The
court upheld those charges as being reasonable. Those
charges, although that was back in 1961, I believe have not
been increased. Yet we have had to give since 1961 three
wage increases to our help since that time. So this is to
try to offset the fact of unreasonable charges.

SENATOR BIGLEY: Thank you very much.

Ladies and gentlemen, it is quarter to five and
there are still a number of witnesses who have indicated
a desire to testify. I have no alternative but to fix
another date because I think even if we stayed until probably
7:00 or 7:30 this evening, we might not finish. I am going
to fix as the next hearing date two weeks from today,

August 31st, at 10:00 o'clock.

MR. JAMIESON: Before you close, because I may not be able to be here, may I answer a couple of questions you asked me today about Greenwood Cemetery.

The answer is, yes, undertakers in every case are paid a commission.

The other answer is that 90 per cent of their interments are need sales and they weren't positive that they were all from undertakers, but practically all.

SENATOR BIGLEY: That is at Greenwood Cemetery.

MR. JAMIESON: Thank you.

As long as I am on my feet, I would like to make one statement for half a minute. I was shocked by Mr. Stern's statement that the report Mr. Braverman gave you was a fraud. Now that is a horrible thing to say to a reputable accountant, whose father incidentally I knew as Chief Accountant for the New Jersey Banking and Insurance Department. He is a C.P.A., a graduate of Lawrenceville, Rutgers, and Harvard Law School, although he doesn't practice. He is a representative of a big, international accountancy firm. It is a shocking thing to call him a fraud. It shows the wildness of some of Mr. Stern's statements.

