

PUBLIC INFORMATION

1951

SENATE BILL NO. 245

AN ACT TO AMEND THE
GENERAL STATUTES OF THE
STATE OF NEW JERSEY
RELATIVE TO THE
SCHOOL DISTRICTS

Enacted

1951

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Enacted

Enacted by the Senate,
January 10, 1951.
By the following Senators:
SENATOR J. J. COOPER

Enacted

Enacted by the House,
January 10, 1951.
By the following Members:

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SENATOR DAVID VAN ALSTYNE, JR. (CHAIRMAN): The meeting will come to order please. May I have your attention please? Ladies and gentlemen, I humbly apologize to all of you for keeping you waiting for so long, but it was a situation over which we on the Committee had no control at all. The Senate was determined to finish its business, and that we couldn't control. I thank you for your courtesy in waiting.

Will everyone who wishes to speak please come up here before we begin and put your name on this list? At the present time I only have four names of people who wish to speak.

(Several other individuals place their names on the list.)

All right. It is late and a number of people want to speak. I would appreciate it very much if when you speak, you would definitely confine your remarks to the subject at hand and make it as brief as possible. I don't want to shut anybody off. If you have any important matters that you want to mention, do so; but sometimes some people do talk too long.

I first would like to call on Mr. Lloyd J. Kelly, who signs himself as Past President of the New Jersey Monument Builders.

MR. LLOYD J. KELLY: Senator Van Alstyne, members of the Committee and ladies and gentlemen: In compliance with the Senator's request that I keep it brief, I want to just bring out a few points which the monument dealers in the State of New Jersey think are very important in relation to the subject under consideration tonight, the

Cemetery Bill.

First of all, in the opinion of the monument dealers, they think, inasmuch as private business is taxed, therefore, on the same basis of comparison, any private cemetery making a profit should be compelled to carry the burden of taxation to help carry the expenses of the operating functions of the State, except that the monument dealers feel strongly that all religious cemeteries should be excluded in this bill.

Secondly, the State, whether knowingly or not, has created a monopoly in the cemetery business; by that I mean where the cemeteries erect a bronze marker and eliminate the competition of all outside of the cemetery itself, in other words, the monument industry or anyone who would be interested in selling a bronze marker in a cemetery in which there would be a restriction. For instance, what we in the industry consider a nominal foundation charge might be \$15 in a particular location such as here within the confines of Mercer County; but if you were to erect a bronze marker, immediately that cemetery would make a charge of \$50 for the foundation which would entail very much less work, thereby excluding any possibility of the lot owner gaining any benefit of buying that marker at a cheaper price in competition against the cemetery.

Number three, cemeteries arbitrarily set rules and regulations without the consent of lot owners, and in many instances without the

consent - or even asking monument dealers to enter into a discussion as to what would be the best service to the people who own the lots.

In other words, we are never consulted in the majority of cases as to what would be beneficial to the lot owner on the selection of a memorial.

Number four, no monument dealer in this State can set a monument unless he first complies with the requirement of the cemetery that there be nothing owed on that lot. In other words, what the cemeteries make out of the monument men are bill collectors. We must help to collect that money and if it is not collected and not paid, there is no work done in relation to the cemetery foundation and therefore we can't erect our monument.

Number five, in many instances the cemeteries take the bread and butter from the monument dealers. For instance, where there is a monument to be moved, which certainly should be within the confines of the monument industry, they take it upon themselves and never call in a monument dealer to do the work for which he is specifically trained. If there were any damage on that, the lot owner in many instances would not know of it or it would not be brought to his attention.

Number six, they specifically state that at certain times the work can be done within the cemetery. In many instances, that works a hardship on the monument dealers. For instance, they can't set monuments in many of the cemeteries without permission. The general rule is that they don't want you working in the cemeteries on Saturday.

Naturally, if we have a particular job where the owners themselves are anxious to have the monument set, this would cause a delay. We would have to wait until Monday in order to set that monument and we certainly think that is most unfair.

Number seven, they compel monument men to pay for foundations in advance and many, many months may elapse before that work is done. I don't know of any other business where you have to pay months and months in advance for some work that is not completed.

Number eight, the uniformity of foundation work as to depth and time of completion certainly should be a part of the function of this seven-man committee which is set up in this act.

Number nine, in many instances the people are forced to put duplicate monument work which has become antique on a lot and the cost of duplicating these jobs works a tremendous hardship to the families. There is a modern type of lettering; yet you would have to follow the old line of lettering which would be quite expensive to the lot owner. Unfortunately in that respect that is a financial burden on the lot owner and that should be part of the regulations of this seven-man committee.

On the overall picture relative to the monument men, we feel that there certainly should be an act which would control cemeteries. If there were a committee set up, then we would have some redress and all of these hardships which have been created over a period of years and

inflicted upon the monument man would be discussed, and therefore, many of the pit-falls and many of the hardships would be eliminated so far as the industry of the State is concerned. I have listed many of the things which could be taken care of by this committee that is set up in this act.

Whether this particular act in its present structure be considered by you men or whether there be some amendments necessary to cover it from a different angle, I certainly think that the lot owner, the monument industry and everybody concerned would be benefited by the passage of some kind of act controlling the cemeteries of the State of New Jersey. Thank you!

SENATOR VAN ALSTINE: Mr. Kelly, do I gather that in principle you are in favor of Senate Bill 218, providing it had amendments?

MR. KELLY: I am, sir, with the exception --

SENATOR VAN ALSTINE: -- with the amendments that you suggest.

MR. KELLY: That is right, and the exclusion in the act relative to religious cemeteries.

SENATOR VAN ALSTINE: Thank you, Mr. Kelly.

I'd like to call on Mr. Wilson A. Shelbaker. Will you tell us the organization you represent, sir?

MR. WILSON A. SHELBAKER: I am part of the Monument Builders' organization of New Jersey.

Senator Van Alstyne and members of the Committee: Of course,

from the pyramids on down, monuments have been the great memorial in cemeteries. But with the growing increase of the bronze tablet or the flat marker that is now being used in cemeteries, it is going to be the end. A lot of notable people, who always have liked a memorial or monument that would stand out in the cemetery and mark their resting place, are not having it. It has come to the point where foundation costs have been increased so high, with other increased costs, that we have been compelled to give folks a much smaller stone all the time.

Now, in using these flat markers, the purpose of which was to save expense in moving cemeteries, we find that some cemeteries are providing higher bases under these markers and they are putting merely stone under them, and it doesn't seem to be covering the purpose for which they were intended.

Furthermore, if we put a marker in the cemetery, it costs maybe \$18 or \$15. If we want to deliver a bronze tablet, it costs \$25. In other words, some poor folks came to me where they could have bought a mark for \$15. They said to me, "Could you furnish a marker?" I said, "We are unable to because the cemeteries will restrict granite."

Furthermore, in the new sections, there seems to be less space for monuments. It won't be long until everybody will be having to have a plaque or flat stone on their graves unless this has a tendency to help the memorial people.

We don't compete. They sell lots; they send salesmen out. They can

to the house and they get a deposit. The people go in the cemetery and bury and they come in to me and they say, "We would like to have a marker." I say, "I'm sorry, but you are in the restricted section." They say, "How much would a bronze memorial cost?" We tell them, but we can't furnish them because they would have to pay a foundation cost. By the time they go to the cemetery they find that the cemetery will furnish it for the same price. Now, in some cases where they don't call on us, I have noticed or heard the cemeteries have charged up to a hundred dollars - one hundred and forty and one hundred and seventy-five - for a bronze marker. If we could make that much profit in the monument business, it would be wonderful.

There is no question but that the greatest profit seems to be in the cement. Sometimes I'd rather have the profit in the cement and the concrete than I would have to furnish the stone that went on top. It seems that a lot of dealers are afraid of the cemetery people that are here tonight. We know that if we say too much, we are liable to get a nice increase in our foundation cost. It takes a lot of nerve to stand up and say that. And that is a thing that we have to do. In other words, we don't feel that there should be any further increase on the public. It is high enough, and it is still growing higher. Of course, the cemetery business - owning the cemetery and selling the memorials and the whole works - seems to be a more successful business than the monument business. Thank you!

SENATOR VAN ALSTYNE: Any questions, gentlemen? You said that you represented the Monument Association?

MR. SNELBAKER: That is right - one of the associations.

SENATOR VAN ALSTYNE: Do I gather that you are in favor of this bill, with amendments, the same as Mr. Kelly?

MR. SNELBAKER: Well, I'm in favor of the bill.

SENATOR VAN ALSTYNE: With no amendments?

MR. SNELBAKER: With no amendments.

SENATOR VAN ALSTYNE: Thank you, Mr. Snelbaker.

The next person I would like to call upon is Mr. Virgil J. Zucchi. Will you tell us who you represent please?

MR. VIRGIL J. ZUCCHI: I am President of the New Jersey Marble and Granite Company of Merchantville.

Senator Van Alstyne and members of the Committee: I have attended several of these meetings and I have heard testimony about cemeteries not making money, so tonight I decided to just come in and say, "Yes, they are making money at the lot owners' expense and the monument dealers' expense." I have just one little item here that I ran across not too long ago. The party was interested in a bronze tablet. I said, "In that particular cemetery I am not allowed to sell it. You must buy through the cemetery. That is the setup. That is the way it is - controlled by the cemetery, and you must buy it there." The result was that they bought the bronze tablet there and four little corner plates to mark off the corners. The people had to pay \$245. Now the total cost

of that little bit of bronzse work was \$75. The total profit was \$170. There are thousands and thousands of similar cases all over the state. I just simply had to bring this out. I have definite proof and I will be glad to mail it to the Senate as evidence.

I am in favor of the bill, with amendments excluding the Catholic organisations or the religious organizations rather. I am definitely in favor of the bill. I think we need it.

SENATOR VAN ALSTYNE: With the exception of religious organizations.

MR. ZUCCHI: Yes.

SENATOR VAN ALSTYNE: Any questions, gentlemen?

SENATOR LITTELL: I'd like to ask a question.

SENATOR VAN ALSTYNE: Senator Littell.

SENATOR LITTELL: Is it your conviction that if this bill is adopted, it will be a money-saving proposition for many of our citizens in this State --

MR. ZUCCHI: Definitely.

SENATOR LITTELL: -- to place monuments on the graves of their beloved; is that the idea?

MR. ZUCCHI: It will definitely be a saving to the lot owners to be able to buy these things on the open market and not be funneled into the cemetery office to buy it as it is now. They have no choice; they must buy through the cemetery. Of course, some will say, "No such thing. You fellows can sell them, but it must be Gorham bronzse or Matthews bronzse." When we go to buy these things from Gorham or Matthews, we will

get a polite letter back saying the franchise is tied up in your area by such and such a cemetery and we can't sell it to you. It is a monopoly that is hard to beat. You can bat your brains out and get nowhere. A law is needed to break up the practice so that a lot owner can go to the cemetery, to the monument man or to his uncle or anyone - just so he can go out on the open market. If the cemeteries want memorial parks, that is all right so, as far as I'm concerned. Lots of people like memorial parks. But why on earth are the people forced to buy from the cemeteries? Why can't they buy their bronze tablet wherever they want on the open market? In many cases we are bawled out for selling a little bronze item. About a year or so ago I sold a little bronze vase, an eleven dollar item. I had it on display in my office. People wanted it. After it was put on the lot, the cemetery official phoned me and gave me a tongue-lashing - "Since when have you been selling bronze for our cemetery? That is our concession. Don't you ever sell another piece of bronze in the cemetery." That is irritating. We need a change in the law.

SENATOR VAN ALSTINE: Thank you, Mr. Zuehl.

SENATOR LITTELL: I just want to ask this further question on that particular point: I assume that the original philosophy of the cemeteries was that they wanted to keep a certain high quality of marker on the grave so that the cemetery would look good and would continue to look good over the years. I'm just assuming that. I am very naive about the whole thing. If that is true, is there any danger that if this is thrown

wide open to competition throughout the land, there could be inferior markers placed upon graves in cemeteries and that the cemeteries subsequently might not look so attractive as we'd like to see them?

MR. ZUCCHI: I'm glad you brought that up as a point, sir. If the United States standard grade of bronze is used, if it is so specified in their ruling that it must be United States standard bronze --

SENATOR LITTELL: Whose ruling?

MR. ZUCCHI: If that should be the cemetery company's ruling, if they should say, "We want United States standard, regardless of what company makes it, Gorham or Matthews or whoever it is, so long as it is United States Standard brand" -- that is the standard recommended by the government -- it is equal to what they have, if not better.

SENATOR LITTELL: Thank you.

SENATOR SHARP: I'd like to ask a question: If the cemeteries would make the specifications so that the uniformity that Senator Littell talks about would exist, but the competition was open so that you could meet the same requirements - in other words, anybody could sell them as long as they complied with the specifications, would that satisfy you? Your opposition is the fact you can't even compete.

MR. ZUCCHI: That is right.

SENATOR SHARP: If they let anybody buy it from anyone, as long as they meet those qualifications --

MR. ZUCCHI: -- as long as they meet the qualification that it

is United States standard bronze. There is no reason why the people must buy it through that one office. It should be on the open market. It is our profession. We as monument men understand the business well. We know what the people want. There is no reason why we can't sell them. There is no reason why the people can't go to their own bronze company, as long as it is United States standard bronze.

SENATOR SHARP: Is this objection found in non-profit cemeteries or only in commercial cemeteries? Do the non-profit cemeteries handle that in the same way?

MR. ZUGCHI: Today I would say about eighty percent of the cemeteries in New Jersey are practicing that sort of thing - eighty percent.

SENATOR VAN ALSTINE: You didn't get your question answered.

MR. ZUGCHI: It is not generally known. You fellows would have no way of knowing if we didn't tell you. We work in the cemeteries every day, year in and year out. We know the practices that are going on. We thought it was our duty to come here and tell you.

SENATOR SHARP: You ask that religious cemeteries be excluded. I am thinking of a cemetery where I live. I happen to be on the Board. Anybody can sell anything as long as the foundation meets a certain specification. We don't dictate from whom they shall buy.

MR. ZUGCHI: We wish we had some down our way like yours.

SENATOR SHARP: I was wondering whether that situation existed in the non-profit cemeteries. I don't know whether it does or not. I just wondered whether the non-profit cemeteries make you do the same thing -

if they sell monuments and make all these restrictions whereby you can't compete. Where every lot owner is a member of the Association and nobody makes a nickel outside of the superintendent and the fellows who work for them - nobody makes a dollar except the fellows who actually do the work -- that is the kind I'm talking about. Are those cemeteries making it hard for you in the matter of competition?

MR. ZUCCHI: No, unless they have these unreasonable rules in their new sections where they want the bronze plates in there and exclude everybody from putting them there.

SENATOR SHARP: If there is no exclusion --

MR. ZUCCHI: If there is no exclusion, that is all right. I think it should be that way, not only for myself and the monument men, but for the public. Millions of people in New Jersey are affected by it the same as by having telephones and gas and electric. There is a commission to control these things. We should have a commission to control cemeteries. I think they have gone beyond themselves and the situation is not straightening itself out. It is getting worse.

SENATOR VAN ALSTYNE: Thank you, Mr. Zucchi.

The next name on the list is Mr. John G. Dluhy. I think you spoke before. Do you want to speak again? You spoke two weeks ago.

MR. DLUHY: I would reserve the right, if I may, for a few minutes. I wanted to talk for the monument dealers. Two members already spoke for them. I have a few points to make and a memorandum to file

with you later if you will permit me. I will wait.

SENATOR VAN ALSTYNE: Mr. Baar, I believe you wanted to wait.

MR. BAAR: I would like to reserve my right until later.

SENATOR VAN ALSTYNE: I'd like to call on Mr. Charles Frank.

MR. CHARLES FRANK: I am Charles Frank of the Woodbridge Monument Works, Woodbridge, New Jersey, and I don't think that there is any non-profit cemetery. The officials usually vote themselves big salaries and they pay dividends on the stock and many cemeteries do sell stock, but it is hard to get because they pay seven, eight, nine and ten per cent dividends. This money that they are voting to themselves and the profit paid on the stock is money derived from the business in that cemetery.

Number one, you will get a 15 inch foundation and you will pay for six feet and I think something like that should come under the weight and measure law. If I pay for six feet and only get fifteen inches, I have been cheated on a measurement; the buyer of the monument has been cheated. They are paying me for six feet; I'm paying the cemetery for six feet, but the lot owner only got fifteen inches.

This state could increase its collection of taxes immensely. For instance, you have cemeteries that raise flowers and evergreens on tax exempt property in competition with the florist who does pay taxes, and if it keeps on, the florist won't be able to pay taxes because his business will get less. The cemetery will keep on doing business without paying

taxes, raising his evergreens. There are also cemeteries that manufacture monuments on tax exempt property and they even go so far as telling a prospective customer that buys a lot in that particular cemetery, "If you buy the monument from me, you have no \$75 dollar foundation charge. If you don't buy it from me, you have got a \$75 foundation charge." Where is this \$75 coming from? It is coming out of the profit made by the cemetery because the manager of the monument yard is also the manager of the cemetery. He is not going to lose the \$75; that \$75 is going to come from the cemetery money.

Now, some cemeteries even go so far as selling Christmas blankets, for which they will charge you \$8.50. You have got to buy it from them and here is how they bleed the public. They can go out and buy that Christmas blanket for \$3.50, but they are not allowed to go out and buy it. If they do go out and buy it, they will remove it from the grave immediately. Now in order to keep these florists with their Christmas blankets out, they say, "You cannot build a Christmas blanket on chicken wire because it costs money to get rid of the chicken wire." There are only three practical ways of making a blanket. You can get a burlap bag and put your limbs in there and you wire them fast. That is not acceptable. There is wire in them. This wire might come unloose and they might get a puncture in their tractors going around cutting the grass afterwards. Chicken wire is no good. You can't dispose of it. So they will take the twigs, bind them together and underloop them on

the grave. Let the wind blow it away. They don't care once they get the money for it. They say, "We had a storm and it blew away." They have them for \$8.50 and you can't buy a \$3.50 blanket.

SENATOR LITTELL: May I ask a question of Mr. Frank?

SENATOR VAN ALSTYNE: Senator Littell would like to ask you a question.

SENATOR LITTELL: You made certain general charges to the effect that certain cemetery associations are growing evergreens and are manufacturing or making stone monuments on the tax exempt property of the association.

MR. FRANK: And concrete vaults.

SENATOR LITTELL: Is there any concrete data that you want to give us on that to substantiate that report, if you please?

MR. FRANK: Last fall one of the Federal government investigators came around to several monument men and the Riverside Monument Company was investigated.

SENATOR LITTELL: Where?

MR. FRANK: At Lodi. The Princeton Cemetery at Princeton, New Jersey, is manufacturing concrete vaults on their premises and they sell them to different other cemeteries in competition with the vaultmen. In Beth Israel Cemetery --

SENATOR LITTELL: In Passaic?

MR. FRANK:--In Woodbridge, mostly people from New York are

being buried on our land, which is tax exempt. People from out of this state are buried there. Not only do they bury the people from New York and sell them the graves directly themselves, but they also sell to New York societies. So we are carrying the burden of exempting land, taking it out of taxation, and burying people from out of the state. On top of that, they will sell bronze markers which you are not allowed to sell. They will sell granite markers. They will raise evergreens. If they were raising evergreens to beautify the cemetery, I would have no squawk coming; I mean the cemetery roads or around the office. When they sell these evergreens and flowers to a lot owner and you have got to buy it from them, I think it is a monopoly and every bronze marker that is sold by a memorial park which will not allow a monument man to compete with them is taxation that the state is losing because if we sold the bronze marker, we would pay a tax. They are selling the bronze markers. They are taking the business away from us and you are not getting any taxes.

SENATOR LITTELL: Through you, Mr. Chairman, are there any other examples that would substantiate your statement? You have made several, for which I thank you very much. Are there any others? You mentioned the Princeton and Lodi cemetery.

MR. FRANK: I didn't come prepared with a list.

SENATOR LITTELL: But there is a substantial number?

MR. FRANK: Oh, yes, sure.

SENATOR LITTELL: There is a substantial number of cemetery

associations in this state who are using their tax exempt property for the purpose of doing things --

MR. FRANK: -- that should be done by somebody else who is paying taxes.

SENATOR LITTELL: -- in competition in the open market against other people who are paying taxes on their property.

MR. FRANK: If you had a lot in most of these cemeteries and you wanted to call a professional landscaper to beautify your lot, you wouldn't be allowed to do it. They have to do it, and in many cases they have got a bunch of shoemakers that maybe three months before didn't know how to dig up a tree or plant a tree. They are going to do your landscaping and you have to like it.

SENATOR VAN ALSTINE: Thank you, Mr. Frank.

I'd like to call on Judge Robert Carey.

MR. SILBER: The Judge would like to speak after me. He will follow up.

SENATOR VAN ALSTINE: What is your name?

MR. SILBER: Silber. I represent the Attorney General.

SENATOR VAN ALSTINE: Excuse me. I beg your pardon. I'm sorry I skipped your name. This is Mr. Osie M. Silber of the Attorney General's Department.

MR. OSIE M. SILBER: Senator Van Alstyns and members of the Committee and representatives of the cemeteries; Unfortunately, I was

unable to be here last Monday, but I was fortunate enough to be able to study the transcript of the testimony so that I am somewhat familiar with what transpired. I did note, without too much satisfaction, there were a great many objectors to this bill. Tonight as I listened to some of the speakers I found just the opposite feeling. So far, most all, if not all the speakers were in favor of the bill. There is one serious and unfortunate situation here, and that is we have represented about forty or fifty cemeteries when the state has between 1500 and 1700 cemeteries. Everyone who is here tonight has some personal reason. I say "personal" in the sense that they are representing a specific organization. It is unfortunate that the notice wasn't published in several newspapers so that we could have the public represented here and perhaps we would have to hire the Armory to house the people that would be here because this is not just a cemetery problem. By cemetery, I mean cemetery representatives. It is the problem of the people of the State of New Jersey. I speak for the Attorney General and in doing so, I speak for the people of the State of New Jersey.

As I studied some of the statements of the speakers of Monday two weeks ago, I could observe that these speakers were representing top-flight honest, bona fide cemetery organizations. Those organizations do not need this bill because they are operating what I term a hundred per cent. No one can find fault with an honest board of directors or an honest administration. But I did notice one very important thing, that

they all seem to forget that there are cemetery abuses that are existing in this state, perhaps not in your cemetery or in your cemetery. Most of you men here are unmindful of the tremendous number of complaints that are received daily by the Governor of the State and by the Attorney General's Office. I know whereof I speak because I am called upon to answer most of that correspondence.

There are a lot of cemeteries that are being operated in this state, as I said two years ago at the hearing, as a racket. I repeat that statement. There are a lot of cemeteries that are being run as a racket in this state. A large number of cemeteries are being run legitimately as bona fide, honest business organizations, trying to aid the people, not to aid themselves. When I listen to some of you men here this evening, I feel very pleased to know that some of you gentlemen agree with at least most of the thoughts expressed in this bill. This bill may not be the answer to everything, but it is an answer to a great many problems.

I notice some fault was found with the purpose of this bill. Well how can anybody find fault with paragraph seven? For those who do not have it in front of them, I want to read it. Bear in mind that we have worked for a couple of years. Senator Shershin has been the head of the Assembly Legislative Investigating Committee. He has heard testimony at perhaps a half dozen or perhaps a dozen meetings. And as a result of all of those meetings, there was a report filed with the Legislature and

in that report a great many abuses were listed. This was prepared with that thought in mind - correction of abuses. There are very few people who have no axe to grind in this entire assembly and I can name them - I, for one. I was instrumental in drawing this bill. Judge Carey was instrumental and the Law Revision Commission was instrumental. None of us has any personal interest. This bill was drawn, bearing in mind the most important recommendations which were made by Senator Shershin. He has no personal gain here. He is trying to do what we are trying to do - give the people of the State of New Jersey a square deal, not "x" cemetery or "y" cemetery or any individual cemetery.

Let us read what the real honest-to-goodness mission of this bill is: "The cemetery division shall have the power to supervise and regulate the establishment, maintenance and preservation of burial grounds and the proper operation of cemetery associations and corporations for the purpose of preventing unhealthful, unfair, unjust, destructive, demoralizing and uneconomic practices in the maintenance and operation of cemeteries and to prevent cemeteries from falling into disrepair and dilapidation and becoming public nuisances and burdens." Now, who in this room can find fault with that when we are trying to correct horrible abuses? How many of you men in this room know there are cemeteries in this state that I could take you within twenty feet of and you wouldn't even know there was a cemetery there that existed for years. You couldn't find a marker. There hasn't been a lawnmower in the cemetery for God knows how

many years. Is that what you want to continue? The State of New Jersey doesn't want it, the Governor doesn't want it, nor does the Attorney General's Office want it. Something has to be done about it.

How many of you men know about the high pressure tactics that are being used in the sale of lots--of plots in cemeteries? How much do you know as to the price being extorted from thousands of people? How many people know about all the salesman's lines that are handed to prospective customers as to what they are getting and then they find out they are billed for number one, number two, number three and number four?

Now let me ask you one important question: When a person buys a plot of ground or a single grave, does he or does he not get something more than the right to bury a body in that ground? Certainly when he pays \$250 and \$300 for one grave -- and in most of the cemeteries as I studied the report, the charges are perhaps \$50, \$75 and \$100, which is quite a large sum in the vast majority of the cemeteries. But how about the cemeteries that are charging \$250 and \$300 for an individual grave; don't you believe that the person paying that price is buying something more than a right to inter a body? When a person pays whatever sum it is, he doesn't want to be charged as he is being charged now by a large number of cemeteries. We want him to know what he is buying and we want him to know what he is getting. Just because cemeteries have operated for fifty or seventy or more years in a certain manner, and, as I read some of the objector's testimony, they are satisfied to have it continue. Where

these abuses have been manifest, they must be curbed.

I say to you that any cemetery represented here tonight operating on a legitimate basis has nothing to fear by this act, nothing whatsoever. This act can stand certain amendments, perhaps certain modifications. I don't think it is foolproof. I think since the act was drawn, certain ideas came in that will be helpful to the vast majority. Mind you, out of 1500 or 1600 cemeteries, what do we have here, notice sent to about forty cemeteries. Who were the people who have attended all these hearings? Do you think you folks represent the state? -- a very small percentage and then only the cemeteries, not the public. There isn't a man here representing his cemetery who isn't primarily interested in how this will effect his cemetery organization and he is not basically concerned with the one, two or ten thousand prospective lot owners and lot buyers.

I can't stress too strongly the tremendous amount of cemetery abuses existing at the present time. I suppose, to give some simple homey illustration, if you looked at your son's face and you see it's clean, you think all the boys' faces are clean. Maybe your cemetery is being operated as it should be. You have nothing to fear in this bill. This bill is not going to harm you. Some of the objectors were worrying about the tremendous expense. There will be no tremendous expense. There won't be any jobs here. Most of them will be dollar-a-year men or no salary at all with certain expenses. There will be a director here to

supervise and superintend what is going on - to keep the phony organizations right on the line. I would think that you gentlemen representing legitimate cemeteries would want to fight for this bill because the sooner you get rid of the trashy operators, the phony operators, those who sell their property, the better. The minute the land is sold, what is going to happen to those cemeteries? I say twenty years from now the State of New Jersey is going to have to step in there and spend large sums of money. You may say you'll like that better, but a small assessment - and it must of needs be a small assessment. That is all. There won't be any padded payrolls here. You will need a director and some miscellaneous expenses. If the 1500 cemeteries can't stand a very small assessment to carry this, then we have all wasted our time. I'm sure we haven't. We have worked for a few years and the main mission was to protect the 5,000,000 people of this state. It behooves the representatives of the cemeteries in the state to fight for the protection of the people, not just for your individual cemetery.

One of the big items is perpetual care. I observe a lot of the cemeteries have tremendous sums. One of the representatives - perhaps I can think of his name - said that fifty per cent of the sum realized went for perpetual care. Another one said twenty-five per cent. I think that is marvellous. I think that is wonderful. At least we know fifty years from today all of us will be gone, but there will be a fund from which they can carry on to see that those plots and those graves are maintained

in the fashion that they should be.

I am against having people surprised a year after they bury their dead by being told, "You are assessed so much," when they pay that \$200 or that \$300 for a piece of real estate, which wasn't worth \$100. But it was worth a lot more when the ground was landscaped and cared for. They are entitled to something more than a right just to put a body in that ground.

We are attempting to draw certain rules for all the cemeteries. You just can't have one rule for, let's say, Northern Jersey, one rule for Central Jersey and one rule for Southern Jersey. It is a series and a body of rules that are going to do the best for the largest number of organisations.

About four and one-half or five years ago, the Supreme Court passed new rules and all the lawyers were wondering how they would affect the practice of law. Everybody for the moment was up in arms. But I want to say that with improvements that took place over these last few years, all the lawyers are getting used to the new rules. We studied them. We understand them now. A lot of things may appear somewhat revolutionary because it is a change. It is a change from what had been carried on year after year with no sign of improvement.

I say that this bill has for its main mission the correction of existing abuses and I repeat again these abuses are going on every day. There is never a day that there isn't one or more letters received, not

alone from people in New Jersey, but from people in neighboring states who have plots in the cemeteries of our state. It is amazing. I'll just cite one illustration that comes to my mind. Some people bought a plot of ground. They never saw the ground. They bought it from a map. Misfortune struck and one of the family died. They couldn't locate that land. Even the representative of the cemetery couldn't locate it. There was a very good reason why. It was just wilderness. They never had gotten around to developing it. In other words, they sold a plot down here (indicating) and this (indicating) had been developed. They must have been a good half a mile away from the developed ground. I suppose the promoters never anticipated that the people who bought way down here (indicating) would be called upon to use their plot so soon. I had quite a hearing up in the office with the representatives of the cemetery. At the last moment to appease the family because they were really up in arms, they temporarily, if you will, allowed them to have the interment somewhere up in the developed property.

These are practices which should be stopped. When a person pays whatever charge he is called upon to pay, he is entitled to something. In most of the cemeteries here I'm sure that practice doesn't exist.

I say, let's study this bill. If there are some genuine, honest, bona fide corrections or amendments that will not just affect your cemetery, let's make them. We have five million people to be considered. They are the ones who are getting the rigging, not the cemeteries, the

public. And it is my job in a small way to protect those citizens. I don't have to worry about you cemetery representatives. You'll take mighty good care of yourselves. You always have. I am concerned about giving an honest, fair deal to the public.

It was Senator Shershin's thought, it was the Law Revision's thought, it was Judge Carey's thought - none of us had the slightest personal reason for this - to attempt to do the right thing by the citizen's of this state.

SENATOR VAN ALSTINE: Thank you, Mr. Silber.

I'd like to call on Judge Carey.

JUDGE ROBERT CAREY, of Jersey City, New Jersey: Gentlemen, I'm not going to take much of your time. I have been studying this problem while you have been busy with other things. I was down here four hours this afternoon waiting for the eight o'clock bell to ring.

Now to my mind this isn't such a difficult problem, but it is one of the most important problems that I think a legislative committee can give consideration to. In connection with that, I want to join in what you said about the Senator from Passaic. He has given wonderful service, hasn't he, in trying to build up this program to make for a better underground world for the ten million Jersey men who are sleeping down there right now. I can look at the picture that way. And the Deputy Attorney General, I know I have been with him on twenty or thirty occasions when we were trying to find out what the people wanted and

what they needed.

We have investigated everything in the New York situation where they have had the biggest problems on cemetery affairs of any state in the nation. They have adopted a most marvellous program as a result of what they have been battling for over there. They haven't finished the program yet. We have followed their program in the preparation of this bill that is before this Legislature right now in almost every respect. In New York they found out they couldn't control cemeteries by municipal ordinances and things of that sort. They found out that to control cemeteries and to keep them going right, protecting the dead that are in them, they had to have centralized power that could act when the occasion required, not a power to destroy or anything of that sort, but a power to lift up. As the Attorney General said, we have set up a system in this proposed bill, similar to that adopted for the courts in our state. There is very little difference, except this is a semi-religious bill. The other one is purely legal. But, as was suggested by the Attorney General, if it wasn't for the placing of supreme power somewhere, there wouldn't be any such justice as we have in New Jersey today. We are proud of it. It is the finest judicial system in the world, and you men have all helped play your part in giving it to us. I had that privilege myself in the Constitutional Convention with you.

We live in the most wonderful land in the world. I take it

that nobody in our land right in his heart is afraid of governmental control to the disinterest of anybody anywhere. Now let's look at it another way. Just look at the men and women in this room. They represent cemeteries and other such interests. How many do they represent? I've been looking up the records. We have 1700 cemeteries in the State of New Jersey today - 1700 of them. You will have listened in your hearings to about 20 men, maybe 10 more, representing 1700 cemeteries. The average individual doesn't waste any time thinking of these problems, and that is why it becomes a momentous legislative problem. It has got to be handled whether we want to or not. Here, look at the crowd here. There are four and a half million people living in our state at this moment, all of whom will be ready for the cemetery in a few years. Only this morning in the rain I passed Bayview Cemetery in the lower end of my town and I dropped in to just say hello to my father and my mother who are down there. My father started that cemetery sixty-five or seventy years ago. He was the first man to be buried in it. I didn't go down there because the cemetery means anything to me. I don't believe that the cemetery means death to anybody. I don't believe in death anyhow in the ordinary sense of the word. I believe that when we leave here, we get a transition at once to the joys of eternity and the rest is all just in passing and in sentiment. And we are all sentimental. That is a fine thing. The cemetery is the spot where we can exercise our sentiment. It never does us any harm to go there.

I own four plots now of my own, one of them in your county, right near where you live (addressing one of the Senators on the Committee). I may want to sleep up there where you are when I'm dead. It won't hurt me sleeping in the neighborhood of this particular Senator.

You know we are all here for the same purpose. Nobody has any axe to grind. I hope nobody is here to make money out of the dead. We are not ambulance chasers, any of us, are we, certainly not hearst chasers. There is no one in this room here to make profit out of his dead brothers and sisters throughout the land and out of the families of the dead.

Now, having that point of view, I want to say this: Let's look at this act just for a minute. Every line in it is the result of careful study. I have improved it somewhat with notes, which I will give to all you members of the Committee. If you want me to, I'll print a copy of my notes and send them to every member of the Legislature.

SENATOR VAN ALSTYNE: Thank you.

JUDGE CAREY: Not that it will do any good, but so they can see how we are thinking.

Let's go back to just what this control some of them have been kicking about develops. Who do the folks in this room think make the laws of the State of New Jersey? The Senators and the Assemblymen, eighty-one men, make all the laws of our state. The Governor may veto one but he can't make a law. There he stands on the outside. That is

all there are. Here on this Committee are only six of you, three of you lost by the rain and the worry and work of today. Three are enough. But that isn't the point. When you analyze it, everything is done as a rule by a few people. If I am sick, what do I do? Do I go hire a hundred doctors? No, I go to the nearest one I know who won't send me a bill for a long while and then I get treated all right, don't I? Now, here, who runs this state? Why everything is run by a board or something or other. Every school teacher in this state now stands subject to the rules and regulations of the Board of Education, don't they? They can't even remember the names of the men who are the head of the board today. Why should they? I don't remember, why should they? And that is so with everything.

In this act we say things have to be done. We have to give power to someone. Our cemeteries have been running along like a lot of babies without fathers and mothers, nobody to care for them. It is wonderful how well they have progressed. The trustees have been doing a good job for them. Let us take our hats off to every one of them. I have met hundreds of them. They are fine people, never making a dollar out of the management of their cemeteries, doing a wonderful job when there is something to be done. We put a provision in this act - we took this from New York with a few changes - which has been objected to by some people even here tonight, that nobody should begin an action at law against a cemetery company in this state, for law suits are the death of cemeteries. I have seen them die through the litigations of law. Right in your

county we have seen it, haven't we? We have seen it everywhere. Now,

I say this: let every man who has a complaint against a cemetery, which is a charitable trust in our state -- let every man who has a complaint take that before the Board. Let the Board hear him and then the Board can bring the parties to the complaint in before it and in ninety-nine cases out of a hundred the whole thing would be settled, wouldn't it, over night, without long and expensive litigation.

I have just finished in Passaic County a litigation of cemeteries that has run for ten years. Wicked, awful, sad! There is no excuse for it. Anyhow, there is no limit to the cost of it to everybody involved. That can all be stopped by the adoption of the bill that we have drawn. Anybody who has a complaint will know just where to go and take it.

He won't have to tramp off into a court and hire a half a dozen lawyers who don't know anything about it anyhow. No, he will take it right to the Board: the Secretary of State, the Attorney General, the head of the Health Department of the State and a Director selected by the Governor with the approval of whom? not the whole State, with the approval of twenty-one Senators. That is all, and that is all this is. We haven't climbed down the neck of any principle whatever that has anything to do with what we call democracy in the preparation of this bill.

Now there is only one other point that bothers me in the whole program. I tried to obviate that by an amendment which I have written here, which I suggest be considered. I say just this: Don't let this

thing go to sleep without some action. The dead who are dead may not know what you are doing, and yet they may. Who knows? Not us. We will never know until then, will we? We will never know until then. But let's get something done. We've been thinking over this for years. Nearly every speaker who has spoken here has admitted when he was asked a question or two -- I read all this testimony I didn't hear the other night -- as to whether something shouldn't be done for the cemeteries in a legal way, that there should be. Only at the last session, the last thing you did at the session was to turn to the president of one of the cemeteries and you asked him this question: Can't you prepare the improvements to the Cemetery Law so we can read them and see what you yourself admit should be the law of the state? And they said they would get it ready for you, didn't they, maybe in two weeks. I'm waiting for it.

SENATOR VAN ALSTINE: We have it.

JUDGE CAREY: It is all beautiful, but I didn't mean to talk as long as I have. There are so many things here. I'm going to leave a copy of my memorandum with each of you and I want each one of your Committees to have a complete copy of it. Then I'll get the list of the legislators. I'll print it and send a copy to every one of them. I want to see action in this matter. It doesn't mean a dollar to me and I tell you that frankly. I have relations with a dozen cemeteries. They make no money for me. I don't look at life that way any more.

I'm not a child. I'm going to be one of the next of this crowd to get down under the ground in one of the cemeteries. I know that. I have just celebrated my eightieth birthday. I'm young yet, don't worry about that and I even like the girls. But that isn't the point. I'm only here for a little while in the nature of things and I feel we ought to do the best we know how to help things become a little happier for everybody. We can throw our burden aside. We won't bother with this any further this year. You folks can't agree on it. It's your job to agree on something - your job. These folks can't legislate; they are not members of the Legislature. You are, and you have got to stand back of the Senator from Passaic and help him correct the bill in any respect that you want to correct it. Nobody can find fault with that.

I've even written a slight correction here which I think meets all the religious claims that have been suggested - every one of them. And nobody desires to interfere with any of the great religions of our land. Some of them have been represented here. I wouldn't want to see anything affect the Catholic Church or the Jewish Church or any other church. It would make unhappiness. They are doing wonderful work, all of them, and we've all got to tolerate each other, haven't we? That is what we must do. You men can write a slight amendment and put it right in this bill that will meet that picture completely, so that nobody can find fault with it and it won't disturb the law of the

state affecting cemeteries probably at all.

I'm going to thank you for letting me come here and be one of the speakers tonight. It's one of the few things that I have left in my life - to say a few words once in a while for something that is clean and something that is worthwhile. I'm going to be one of the first to go to the cemetery and I want my cemetery run right. I don't want any ambulance chaser making money out of my grave. Oh, no, and he won't if I'm around at that time.

And so it is, cemeteries are a necessary part of God's way. We find them all over the world from the earliest days. Everybody respects the sepulchre and the grave - they do - because they all know it is to be the fate of all of them in time. So, having that thought in mind, don't drop this thing, Senator, until you have a bill on the books that will read right. Don't run away from it because some of it may come from New York. It's all wonderful - wonderful where these things come from. I look down in Washington. I see a President there with his cabinet - only a handful in the cabinet. Some day it may have someone else there. I hope it does. But that is another matter. I mean you in the cabinet. There is a cabinet down there. It's the mouth-piece of a great administration, isn't it? All great work and good work has to be done in that fashion. Let's have a Board that we can trust, that won't run away from its duty, assisted by six citizens, three of whom shall represent the cemeteries, direct this. That is pro-

tection, isn't it, full and complete? What more can anybody ask?

God bless you, gentlemen, and keep on the job and get this thing finished. I want it finished before next year anyhow.

SENATOR VAN ALSTINE: Thank you very much.

Two people have reserved the right to speak later. One is Mr. Dlugy. Would you like to speak now?

MR. DLUGY: I would like to, sir.

SENATOR VAN ALSTINE: Can you make it brief?

MR. JOHN G. DLUGY, representing the monument dealers:

I know the time is limited; the hour is late. I want to speak now for the monument dealers, four of whom you have heard already. I won't touch on the matters which they did, except to say at the outset that they appeared here, I believe, as public-spirited citizens, members of a business. Although some people may think that they are solely interested in preserving their business, it is not so. But they appear as public-spirited citizens, knowing the abuses that are prevalent in some cemeteries in this state. They, themselves, as the sounding board between the lot owner and the cemetery, in the performance of their work, hear many of these things, and, therefore, they can be of some help to you in relating them.

Now they are solely interested in seeing and recommending to your group that this bill, which they and I, myself - and I've said it before - approve in principle, is made strong enough so that the purposes

that they have in mind will be preserved as well as the interests of the public. They have pointed out where under certain conditions monopolies have been created. And I believe that if you gentlemen want, I can produce some very interesting data that was obtained by a survey that was made by this association under some guidance from myself. It disclosed many interesting things about which the Attorney General spoke. Let me tell of one instance where I examined a set of bi-laws or regulations which indicates how a cemetery may through the use of unreasonable regulations exclude those men who are in a legitimate trade and paying taxes while the cemeteries are not. In this case they had a provision which said that an outsider, a monument man, can come in and erect a bronze marker, but to do that he must come in first and get approval of the actual object. He must bring along with him a certificate, and that certificate must state the content of the metal and show that it complies with the regulation and contains certain metallurgic contents and must show that that particular marker came not of a run of markers, but from a particular mould. How in God's earth can anybody live up to that? We had an actual situation where we tried to live up to it. We got in a metallurgist from out of the state to give us advice on it, and you'd be surprised at the cost to which they would have to have gone to do that.

I urge upon you that the right of burial isn't the only right. The right of choosing a monument, a memorial to the dead, is a right that

no one can take away, not even the cemetery. The right to see that the grave is properly decorated-- I admit it must be within certain bounds. You must bow to standardization. But you can't permit or the state should not permit these people through these arbitrary and unreasonable regulations to leave out somebody, and in some cases absolutely refuse to let them into the cemetery. Now we have evidence from some of our members that in fourteen cemeteries in this state - that may not be a great number when you consider 1500, but I think some of these are the large ones - they absolutely exclude, by one way or another, the monument men from coming into their cemetery and performing the work which they have under contract with the owner of the plot.

I read two letters that were sad. I have copies of them. If you want, I can give them to you. They were about a cemetery up in North Jersey where the mother of a boy who was killed in the service and the widow of a man who was likewise lost in the service had government markers that the government provides for the family. They could have had those put on the cemetery plot where these men were buried, but because of some rule of the cemetery because they didn't meet the proper design in some minor detail, they had to eventually knuckle down and buy a marker from the outfit that runs the cemetery. We certainly think that that should not be.

We strongly urge that if this commission or council is formulated, the section which is supposed to do it should specifically require in

its rules: one, that the regulations of a cemetery which are in existence be kept in force until a certain date, like in New York, where they may be examined and if found to be approved, then put them into effect. We feel that future regulations should likewise be carefully gone into, just like before the Board of Utility where they are approved. We feel if prices are published of the various services: the type of cement, as the gentleman before me said, the footing or whatever it is - all of these items should first be approved as to price. I don't say they should be uniform. It may be one thing in one part of the state and different in another, but they ought to be approved by this central body. They ought to be published so if I as a lot owner want to have some work done, I know what it will cost me. I can go there and not find myself in the position of that gentleman about whom I spoke to you last time, who, when he had to bury his wife, found that there were items that they claimed that he had to pay in addition to what he already had.

Now, gentlemen, there was one other thing which our members feel you should take cognizance of, and that is the provision in the act that at least three members of the council, which is the advisory group, should be active cemetery officials. We take that to require at least three men to be so appointed. We have no objection to the appointment of cemetery men. We feel that their experience is needed on such a Board for recommendation purposes, but we don't think that that ought

to be provided in the statute. That looks like almost the majority, one less than the majority, must be cemetery men, so that with another one they would have the majority. We feel the public should be represented. I speak for the City of Clifton and I speak for these gentlemen and I'm sure that the public would want it that way, so that men in different types of business would be represented. Monument men should be represented, cemetery men should be represented, undertakers should be represented because they are interested in this business. They have professions and businesses that are interrelated and taken up with the idea of cemeteries and the proper operation of them. So we feel that that ought to be changed so as to provide no limitation, and, if you do, then, of course, provide for the others to represent the other members of the public.

SENATOR VAN ALSTINE: Thank you, Mr. Blahy.

MR. BLAHY: May I leave this with the Committee? I promised a memorandum for the City of Clifton and I also have one for the monument dealers.

SENATOR VAN ALSTINE: Thank you, sir.

(Memorandum to the Committee, dated April 13, 1953, signed by John G. Blahy in behalf of the monument builders of New Jersey; and Memorandum to the Committee, dated April 13, 1953, signed by John G. Blahy in behalf of the City of Clifton, received as exhibits.)

SENATOR VAN ALSTINE: Mr. Baar asked the right to speak if necessary

MR. FREDRIC BAAR, Counsel for the N. J. Cemetery Officials Assn.: Senator Van Alstyne and members of the Committee: I would like to briefly repeat the stand of the Association of Cemetery Officials. Number one, with all due respect to the speakers tonight and at our last meeting, I respectfully submit that the facts are not as they were given to be. On the unwarranted assumption that the facts are correct, I submit that this bill in its present form or with any amount of improvement would not correct these situations if they existed.

Lastly, if I may repeat on behalf of the Association, we are ready -- and I think we have shown our good faith in at least making a start with the suggestions submitted this evening -- and we continue to stand ready to aid in whatever improvement these gentlemen may prove the law needs. Thank you.

SENATOR VAN ALSTYNE: By the way, I wish to thank you and your President for preparing and giving us this memorandum which I have given to the young lady and which will be made a part of the hearing tonight. I want to thank you on behalf of the Committee for those recommendations.

Does anybody else wish to be heard?

MR. CHARLES FRANK: There are two things that I left out which exist: Number one, a cemetery sells a lot twenty years ago and a woman dies. Her husband goes out and buys a monument and a marker. Twenty years afterwards the husband dies. The son goes out to buy a marker.

He's not allowed to duplicate the marker on the plot that was sold twenty years ago. The marker has got to be flush. It can't be matched any more. That is taking advantage of a contract entered into twenty years ago. They are not living up to that contract. Most cemeteries would say that the markers on the same lot must be the same throughout. Today they turn around and make an arbitrary law and say you can't duplicate that marker. That marker has to be flush. We have to keep our overhead down. That is arbitrary.

SENATOR VAN ALSTYNE: Does anybody else wish to be heard?

MR. WILLIAM BOORSTEIN: Gentlemen of the Committee, on behalf of the larger Jewish cemeteries in New Jersey --

SENATOR VAN ALSTYNE: Your name please?

MR. BOORSTEIN: William Boorstein, representing three of the largest Jewish cemeteries in New Jersey. May I have the privilege of filing a brief within ten days on their behalf?

SENATOR VAN ALSTYNE: Yes. Mrs. Smith will give you her name and address.

Does anybody else wish to be heard? If not, we'll close the hearing by calling upon Senator Shershin who introduced the bill. Senator Shershin, you should certainly be proud of the nice things that have been said about you and your altruistic attitude. You have the floor, sir.

SENATOR FRANK W. SHERSHIN: Senator Van Alstyne, members of the

Committee, and ladies and gentlemen who have been so kind as to attend this hearing: I might say by way of observation that in my ten years as a member of this House as well as the lower House, I've never seen, except in a few instances, such interest exhibited as has been exhibited by the proponents of this bill as well as those who spoke in opposition thereto.

I was hoping that perhaps some of the witness might testify to additional abuses, but in view of the fact that the record is barren with respect to them, I bring to the attention of the Committee two abuses which I feel are flagrant and should be corrected.

About four years ago, this very Legislature passed a bill which, mind you, gave permission to a cemetery organization to sell some of its dedicated lands, free of dedication, so those same lands could be used for industrial purposes. What is the abuse? A cemetery company is free from taxation, exempt from taxation, for years. The municipality wherein that cemetery lies gets no benefit whatsoever from a tax point of view. After the land has increased in value, the cemetery association sells the land at the then market price, but nowhere is there any return to the municipality for the years upon years, during which the municipality carried this tax load without a cent. That in effect is land speculation on a free ride. No one mentioned that particular abuse.

Another very glaring abuse is practiced in the sale of cemeteries.

At the inception of a cemetery, those who seek a permit get a license from the local board of health and then obtain another license from the State Board of Health. That is perfectly all right because the governing body may observe, may investigate, may check those who seek the particular license. But once the license is obtained - and mind you, this permit is a privilege, a personal privilege - these people who have a permit assign it from one to another, the municipality never having the right to check to whom finally the lands are sold. There is no prohibition in the law at the present time to assignments, neither is there anything in the law which permits assignments. Yet this practice is going on.

May I read from the report that was filed by the Committee that I had the pleasure to head on page five. This is what it says:

"In the one hundred years of operation of the State's cemetery laws it has always been recognized that cemeteries are in the nature of quasi public utilities. The policy of the State's control of their operation has never been questioned. It is only that the machinery for such control and operation is hopelessly inadequate. Our existing laws are powerless to prevent the public from being cheated and exploited." Now, listen to this because I think it has a very significant bearing on what has been said by the proponents as well as the opponents of this bill. See if this sentence in this report doesn't sum up the very arguments that both sides have given, and this report was filed in 1952.

"To correct this untenable situation, your committee recommends" - and this is what the opponents say - "that the cemetery laws of this State shall be rewritten," - that is in the report and this is what the proponents of the bill say - "and that there be created a State Cemetery Commission to properly supervise the activities of cemetery corporations."

So evidently the Committee sized the situation up. We have two factions, two groups, one on either side of this bill, both coming up with the recommendation that is given to you in this very report.

Fundamentally, cemeteries are engaged in an activity which is quasi public in nature, just like the bus companies, the telephone companies, the gas and electric companies. They are regulated. The original franchisees are regulated. Permission is given by the local municipalities and then officially granted by the Public Utility Commission. The expansion of bus lines, the rates of bus lines or any public utility are regulated by the Public Utility Commission. And if the operation of cemeteries is ipso facto, quasi public, they too should be regulated by a commission. Thank you.

SENATOR VAN ALSTYNE: I wish on behalf of the Committee to thank all of you people, first, for your courtesy in waiting until the Senate adjourned that we could have this hearing, and then for your interest in this very serious problem, and to assure you that everything you have told us two weeks ago and tonight will be taken fully into consideration when we sit down in committee to decide what we think should take place.

The meeting stands adjourned.

SENATOR SHERSHIN: Before you adjourn, may I say for myself and for all these people here, we owe you of the Committee a vote of thanks. Let me tell you people something you don't know. These three gentlemen haven't had their dinner yet tonight. They have continued from eleven o'clock in these Chambers without having gone out and they have continued with this hearing because they knew they had an obligation to meet. I think we ought to give them a rising vote of thanks.

(A Rising Vote of Thanks given the Committee.)

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RECOMMENDATIONS SUBMITTED BY JUDGE ROBERT CAREY OF JERSEY CITY, NEW JERSEY, TO THE SENATE COMMITTEE IN CHARGE OF SENATE BILL #218:

The first thirteen sections are O.K.

Section 14 is O.K., but will supplement it by some special provisions as to the investment, management and control of perpetual care fund.

Section 15 O.K.

Section 16. Add to this section:

"Such sales which may be made in the future for the purposes specified in this section shall be likewise subject to all the provisions of this section, and any rules or regulations adopted by the State Division of Cemeteries."

Section 17 should read as follows:

"No cemetery corporation shall sell any of its land to purchasers for the purpose of resale for the making of profit, and any such sale or sales may be at any time abrogated and cancelled by the order of the Division of Cemeteries; and such resales shall be and the same are hereby prohibited."

Line 6 in Section 19, after the word "Cemeteries", should read:

"upon application of the cemetery corporation or association involved, or any lot owner or lot owners in said cemetery; and any moneys recovered in any such suit shall become the property of the cemetery corporation or association involved."

Section 20 shall be amended to change the rate of money to be

raised for perpetual care.

"Upon and after the effective date of this act all sales of plots or graves shall include the cost of perpetual care, and a sum not less than ____ percent of the sales price shall be set aside by the cemetery corporation or association for said perpetual care and the maintenance of such plots or graves of the cemetery. No assessment or charge for perpetual care shall be made against present lot or plot owners except as may be provided by contract heretofore made, or rules or regulations of any cemetery at present in operation, or by rules and regulations to be adopted at any time by the Division of Cemeteries."

Section 21. O.K.

Section 22 O.K.

Section 23 should read:

"All unpaid assessments or legal charges against the cemetery lot owners shall be considered in full force and effect unless changed or modified in any case by order of the Division of Cemeteries."

Add to Section 24:

"However, where the perpetual care fund or maintenance fund is segregated and managed exclusively and entirely by the trustees of the cemetery, such segregation and management may be continued and permitted by the order of the Division of Cemeteries, particularly in cases where it can be demonstrated that such segregation is being honestly and efficiently managed and through such management can bring a higher

return to the cemetery than would result from investment by a financial institution."

Add to Section 25 the sentence.

"THE DIVISION OF CEMETERIES MAY APPEAR BEFORE ANY COURT AS A PARTICIPANT IN ANY CEMETERY LITIGATION PENDING, AND SHALL BE HEARD AS A PARTY LITIGANT IN ANY SUCH CAUSE."

Section 26 O.K.

Section 27 O.K.

Section 28 shall read:

"All charges to be made by cemetery corporations and associations shall be subject to the rules to be made by the Division of Cemeteries, and all prices to be paid for the acquirement of property by a cemetery shall be subject to the rules to be made by the Division of Cemeteries, and shall not be paid except with the approval of the said Division of Cemeteries."

Section 29 O.K., excepting the 10% charge (on page 8) should be 20%.

Sections 30, 31, 32 and 33 O.K.

In Section 35 add the word "but" after the word created at the beginning of the sentence "The Division of Cemeteries....". Add to the end of that paragraph:

"The Division of Cemeteries may adopt general rules affecting religious cemeteries, fixing exemption rights and privileges affecting

all such so-called religious cemeteries, but such exemptions shall be specifically fixed by the rule or order of said Division of Cemeteries."

Section 36 O.K.

ADDITIONAL AMENDMENTS RECOMMENDED:

(a) The type and style of any advertising of lots or plots shall be subject to such rules and regulations as the Division of Cemeteries shall make from time to time.

(b) Current loans from financial institutions shall not be deferred to repayment of other claims against the cemetery. This will prevent impairment of the privilege of borrowing necessary funds from time to time.

(c) The Division of Cemeteries is given full power to investigate any cemetery as to any matters relating to the past, the present and future, and shall be aided by the officers of any such cemetery or cemeteries at the call of the Division of Cemeteries.

(d) The trustees of the cemeteries may receive as the sole compensation for their services fees for attendance at meetings, subject to the fixing of the amount thereof to be paid to any trustee in any year.

(e) Requests to cemeteries may always be accepted and used to satisfy the terms and provisions of the bequest unless disapproved by the Division of Cemeteries.

(f) Cemeteries may engage employees for the purpose of making

and developing the sale of cemetery lots and plots, but all such employment shall be subject to the approval of the Division of Cemeteries.

(g) A cemetery corporation at its discretion may keep trust funds on deposit in a state bank, savings bank, trust company or national bank, or may invest them in such securities as are prescribed by law affecting and covering investments of banks, trust companies and savings banks, or by fiduciaries.

(h) In litigation or prosecution of claims involving cemeteries wherever the statute of limitation, the law of estoppel, or laches, is involved, it shall be the duty of the Attorney General to present this situation to the court, and no one shall be permitted to waive or release the cemetery company's rights under any such law or laws, except it be expressly approved or recommended by the Division of Cemeteries.

(i) (Crossed out.)

(j) No cemetery shall be authorized or permitted to issue alleged shares of stock in its own name or in the name of any agency of the cemetery, and any shares so issued, regardless of what they are called, shall be null and void for all purposes. No action at law or in equity shall be brought in this state for the recovery of any profits incident thereto or based thereon without the consent of the Division of Cemeteries after a public hearing.

(k) The limitations fixed by law as to the extent of land which may be utilized by any single cemetery shall continue until modified or

changed by legislation.

(l) All papers, records, books of account and kindred matters used by any cemetery company shall be kept and maintained in the State of New Jersey and shall at all times be subject to inspection by the Division of Cemeteries or any agent thereof.

(m) Nothing contained in this act shall be construed to change or modify any part or portion of the criminal law of this state.

(o) The findings of any court operating in the State of New Jersey in a proceeding in which a cemetery involved is not made a party shall not be binding upon the cemetery not made a party.

(p) Any grave digger operating as such in a cemetery actively operating in this state shall not abandon this labor relationship with the cemetery except for personal illness without first giving two weeks notice to the cemetery in order to avoid burial difficulties such as those which have just recently affected most of Long Island and a large part of New York State under penalty of \$100.00 fine for each day of such absence, the purpose hereof being to preserve the orderly burial of our dead.

(q) No sequestrators for a cemetery shall be appointed at any time, except with the approval of the Division of Cemeteries and after hearing before said board.

The following was received as an exhibit from John G. Dluhy, Esq.,
in behalf of the City of Clifton:

To: Senate Committee on
State Government Reorganization

Gentlemen:

I desire to present the following points and suggestions in the matter of the pending Senate Bill #218.

This memorandum will supplement my statement at the public hearings on this Bill. I represent the City of Clifton, which, during the last decade or more, has been involved in considerable litigation with one of the cemeteries in its confines.

From our experiences, we concluded many years ago that legislative changes were necessary in order to protect the municipalities and the public against certain practices involving cemetery operations. As far back as 1937, the Governing Body of our City authorized me to seek legislative changes. Several bills were introduced, the principal features of which were a prohibition against the speculative sale of cemetery lots and taxation of cemeteries operated as a profitable business.

Our litigation was successfully ended in a Court of Errors and Appeals decision in Clifton vs. State Board of Tax Appeals, 136 N.J.L. 213. The Court upheld the City's contention that the cemetery had no right to tax exemption because it was operated for profit under the guise of a non-profit association contemplated by the Rural Cemetery Act. It

will be noted from the recital of facts in that case that there were 7 active corporations involved in the use of the lands in question for cemetery purposes.

A reading of this case and those preceding the cited decision clearly show the abuses which are possible under the present cemetery laws.

We suggest that Senate Bill #218 is a step in the right direction and that the establishment of a cemetery division with power to supervise the operation of cemeteries, will be in the public interest.

We participated in the hearings before the Assembly Committee whose report was submitted to the Legislature in 1952. We are in substantial agreement with that Committee's report and urge that in the public interest, legislation is needed to accomplish and insure;

- (a) Proper care of existing or future cemeteries.
- (b) Control over the trust funds of cemeteries.
- (c) Taxation of cemeteries so that they pay their share of services rendered by government, or its subdivisions.
- (d) Payment for improvements installed by municipalities which benefit the cemeteries.
- (e) State approval should be required for new cemetery consents after hearing before the cemetery division to be granted only on the basis of necessity.
- (f) Cemetery franchises should not be transferable.

Insure proper care of Existing or future Cemeteries.

There is no provision in the Law at present for what is referred to as a perpetual care fund. The present Statute is inadequate. This is evidenced by the fact that some of the old cemeteries are in poor condition. It is apparent that the management of some existing cemeteries did not make adequate provisions for proper future care. The present Bill makes no provision for a compulsory care fund that takes care of existing cemeteries. It does provide for establishment of such a fund in future sales. However, the public is concerned with the proper care of cemeteries which are completely filled up as well as those which are not. It is obvious that where cemetery lots are completely sold out and the perpetual care fund is inadequate, the cemetery begins to look shabby and dilapidated. We suggest that the Bill be amended, and specific authority be given to the cemetery division to examine the care funds of existing cemeteries and if they are found to be insufficient, to require additional trust funds to be set aside.

Control over the Trust Funds of Cemeteries.

We believe the present Statute concerning trust funds to be inadequate. R.S. 8:2-38, etc., requires a "cemetery association" to file a report with the Banking and Insurance Department. From information we have received, it appears that cemeteries operated under the business corporation Act, do not file reports under the Statute and claim not to be subject thereto. We are in agreement that the cemetery division should

supervise the investment and use of trust funds of cemeteries and that such provisions should apply to all cemeteries regardless of whether they are formed under the Rural Cemetery Act or under a special act or under a business corporation Act or even if they are individually operated by natural persons.

Taxation of Cemeteries.

The present Bill makes no mention of taxing cemeteries although the Assembly Committee report recommended a franchise tax. We are in agreement with the suggestion of a franchise tax and suggest that such a provision be inserted in the present Bill. Cemeteries are necessary in a community and we therefore agree that they render a service. They, on the other hand, receive services from government agencies and consequently should pay for the privilege of operating this business. They ought to be no different than utilities, such as Public Service, the Telephone Company, Water Companies, etc. Since the municipalities render the greatest service, such as police protection, sewerage, roads, etc., the municipality ought to receive the greatest share of any franchise tax payable by the cemeteries.

Under the present legislative enactments, a cemetery is entitled to tax exemption, if it is a rural cemetery under Title 8 of the Revised Statutes. The Courts have held that lands of such cemeteries laid out into cemetery plots, are exempt from taxation and the remain-

ing undeveloped lands are likewise exempt if they are within reasonable contemplation for use for cemetery purposes. The latter rule usually results in a complete exemption of cemetery lands. The Tax Act, R.S. 8:4-3.9, also provides exemption to "cemeteries," and "graveyards and burial grounds" not exceeding 10 acres of ground. Under these Statutes, cemeteries claim that they are entitled to exemption regardless of the Act under which they may be formed and operate. Such claim was made in the Clifton case even though the cemetery was shown to be operated by business corporations under the guise of the Rural Cemetery Association, all controlled by the same people. The numerous decisions of the Courts, as well as the Division of Tax Appeals will indicate the difficulties surrounding attempts to tax cemeteries. It would be better to have a cemetery pay a franchise tax and be exempt from the levy of taxes by municipalities.

Cemeteries should pay for improvements, installed by municipalities, which benefit the Cemeteries.

There have been several decisions in this State where the Courts have held cemeteries exempt from payment of assessments for local improvements under the authority of R. S. 8:2-27. There is no reason why

cemeteries should not pay assessments for benefits to their lands. Normally, if a street improvement is made by a municipality, the abutting lands of the cemetery are benefited by a sidewalk, curb and pavement. There seems no logical reason why they should not be treated on the same basis as any other person or corporation. Even railroads and other utilities are required to pay improvement assessments where their lands are benefited by the installation of the improvement. We suggest a Statutory amendment to accomplish this purpose.

State approval for new cemetery consents after hearing before the Cemetery Division to be granted only on basis of necessity.

We believe that development of land in the metropolitan area has reached the point where vacant land in New Jersey is very valuable. Based on this premise, remaining lands in this State should be preserved for the best use of its citizens. Cemeteries serve a purpose, but cemetery lands should not be provided in this State beyond the needs of its citizens. New York State has legislation prohibiting the further establishment of cemeteries within New York City and a certain area surrounding the same.

We believe that the Bill should be amended to provide a proper standard governing the Division of Cemeteries in granting or denying consents for new cemeteries as well as for enlargement of existing ones. As heretofore indicated, the exercise of such power should be based on the need for additional cemeteries. Testimony in one of the Clifton

cases indicated that there are more than sufficient lands available for burial, for more than 100 years. Where such conditions appear, valuable lands ought not to be taken out of normal use and municipalities deprived of taxes thereon. The present Statute requires such consent from the municipality affected and establishes the State Department of Health to review a refusal of the local authorities to grant the permit. Apparently this Statutory scheme has not been a successful deterrent against the establishment of new cemeteries or the enlargement of the existing ones. We suggest that power be specifically given to the Division of Cemeteries, as in the case of the Board of Utilities, so that no permit will be effective until the Division of Cemeteries approves the same.

Cemetery Franchises should not be Transferrable.

In Clifton, we started off with two cemetery consents, to which we added a third consent for a part of premises of a cemetery in an adjoining municipality which extended into Clifton. The cemetery which became the subject matter of considerable litigation went into receivership. The new group which took over formed two new rural cemeteries. They then divided the cemeteries into two, giving them different names. So far as the public knows, we now have two cemeteries out of the original one. We also learned that the cemeteries holding title to the lands claimed the right to all the privileges of the cemetery as well as exemption from taxation. One of the questions raised in the litigation but not answered by the Court is whether the owner of a cemetery property

may convey the lands to another and by such conveyance transfer therewith the so-called cemetery franchise and all the privileges and immunities which go with it. We contend that such right does not exist but the law seems to be unsettled on the question. If the right to transfer a franchise should be permitted without restriction, we can imagine the following situation: A permit and acquisition of lands to the extent of 125 acres; a division of the tract into 5 parcels of 25 acres each and the establishment of 5 separate cemeteries. It is possible even of a division into more than 5 cemeteries. We would then have 5 or more cemeteries in the municipality even though the consent by the Governing Body contemplated only one. The municipality would then be compelled to police and contend with 5 or more separate managements, instead of the one which it approved.

As we said before, cemeteries perform a certain function in the State. For that reason, they should be specially treated and made subject to the same type of regulation as a public utility. The franchise granted by the State becomes a burden upon municipalities. The State should not permit transfer of the franchise except with prior approval of the municipality and upon conditions prescribed by the Division of Cemeteries. In order to carry out our views of the matter, we suggest that Section 7 of the Senate Bill #218 be amended by giving the Cemetery Division the express power to supervise and regulate cemetery franchises.

In conclusion, we would like to further point out that the

penalty clause in the Bill should be amended. Enforcement under the present provision is unwieldy and will therefore prove unsatisfactory. If violations of certain provisions of the Statute were made a misdemeanor, the Statute would act as a deterrent to those who would seek to violate its provisions.

The City's position is best summarized in a resolution which the Governing Body adopted on December 4, 1951, copy of which is annexed.

Respectfully submitted,

(signed) John G. Dluhy
JOHN G. DLUHY, Attorney for
the City of Clifton

April 13, 1953.

- - -

WHEREAS, there exist in the City of Clifton several cemeteries of which West Ridgelawn is one; and

WHEREAS, as a result of litigation between the City and the cemetery interests, it appears that West Ridgelawn Cemetery is controlled by various interlocking corporations, included among them being Cresthaven Cemetery Association and King Solomon Cemetery Association; and

WHEREAS, confusion exists in the public mind concerning the operation of West Ridgelawn Cemetery; and

WHEREAS, public concern has been expressed regarding the adequacy of perpetual care funds set aside and held for the preservation, improvement and embellishment of the cemetery; and

WHEREAS, upon advice of John G. Dluhy, City Counsel, the

Municipal Council has determined that the aid of the Governor and Legislature of this State is necessary in order to revise the cemetery laws and thereby prevent abuses which are claimed to exist.

NOW THEREFORE BE IT RESOLVED by the Municipal Council of the City of Clifton that a complete revision of the laws regulating cemeteries in the State of New Jersey is necessary and that such laws should embody the following principles;

1. That cemetery associations should be formed by filing a Certificate of Incorporation in the County where the lands are and not in the adjoining County.
2. That cemeteries should be under the supervision of a State Board.
3. That cemeteries should not be permitted to operate as profit organizations and if they do, they should be taxed in the same manner and to the same extent as other enterprises.
4. The law should require a definite amount of the sale of each lot to be set aside for current and permanent maintenance of cemetery lands.
5. The trust funds from all cemeteries, no matter how formed should be under the strict supervision of the State.
6. Transfer of cemeteries or the sale of large portions of cemetery lands should not be permitted except with the consent of the State; and

BE IT FURTHER RESOLVED that the Committee appointed by the

Assembly of the State of New Jersey to investigate cemeteries, of which Frank W. Shershin is Chairman, be requested to make its report for consideration at the next session of the Legislature and that the Governor and the Legislature of the State of New Jersey are hereby requested to effectuate a revision of the cemetery laws embodying the above basic principles; and

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Governor of the State of New Jersey, to Vincent E. Hull, Senator, and to Assembly Members elect, Frank W. Shershin, Emma Newton, John Junda and Arnold Smith.

Introduced by G. M. Meyer

Adopted: Dec. 4, 1951

F. G. deVido
Mayor

Attest: Edith M. Harrion
Acting City Clerk

A True Copy

Edith M. Harrion /s/

Acting City Clerk

The following memorandum was received as an exhibit from John G. Dluhy, Esq.,
in behalf of the Monument Builders of New Jersey:

To: Senate Committee on
State Government Reorganization

Gentlemen:

I represent the Monument Builders of New Jersey, an incorporated association consisting of active monument builders and dealers from every section of the State of New Jersey. I desire to present the views of the association in regard to the pending Senate Bill No. 218.

The directors of this association, as well as the members, have given considerable thought and study to the problem covered by the Bill. They have concluded to approve the substance of the Bill and authorized me to express their approval and to amplify their views on several phases thereof.

Before commenting on the provisions of the Bill I would like to point out that members of this association are really a "sounding board" with relation to the plot owner and the cemetery. After a burial the monument builder is consulted by the family for the purpose of erecting a memorial to the deceased. If there are any complaints from these people, the monument man usually hears them. As in all businesses most people adhere to the rules and regulations of fairness and decency, - but some do not. Wherever complaints have been made, they generally were traced to people in control who, for their own reasons, refused to adhere to the best

standards. Wherever there were such complaints, the monument builder usually was affected; either by an arbitrary exclusion from the cemetery, or by some device which had the same effect.

We acknowledge that our business is subject to the same fair competition as others, but we urge that the State should not permit cemeteries to arbitrarily or unreasonably deny the family of the deceased their choice of the person who will erect a suitable memorial on their grave plot, or countenance acts in restraint of trade and business.

Our association has made a survey of its members in order to ascertain some of the abuses in order that they may be of some help to the legislature in its study of this problem.

PERPETUAL CARE

Perpetual care should be included in the price paid for the lot. This will avoid the present practice of some cemeteries which make annual or other types of charges covering care of the plot. Some make annual charges per single grave; others have a charge called a "planting fund"; others have charges for caring for monuments, foundations, etc. We are informed of one cemetery in this State where a plot owner was asked to put up a fund of \$1000.00 to take care of shrubbery to be planted on his plot. It is our suggestion that the powers of the Cemetery Division be made broad enough so that they may pass upon the reasonableness of present charges on existing cemeteries, which charges for perpetual care should cover maintenance of the plot, including the monuments thereon. We wish

to point out that the last sentence of Section 20 of the Bill leaves the plot owner of an existing cemetery without any protection against unreasonable charges. It permits existing cemeteries to make charges where such charges are based on contract or rules and regulations in force at the effective date of this Bill which would be October 1st. This provision would amount to an "escape clause". We suggest that if this clause remains, there be added a provision that all existing charges, whether by contract or rule and regulation, be subject to approval by the Cemetery Commission, so that if the charges are found to be unreasonable the plot owner may recover any overcharge. The suggested provision would act as a deterrent against excessive charges against existing lot owners. We should also point out that the New York Cemetery Commission has extensively exercised such power in the public interest.

POWERS OF THE CEMETERY DIVISION

We agree with the principle of the Bill which sets up a Cemetery Division having complete supervision over cemeteries. We wish to add, however, that Section 7 should be amended so as to give the division the power to make reasonable rules and regulations to accomplish the purposes therein set forth. We also feel that the regulatory powers of the division should provide in positive language the sphere within which the division shall exercise its rule-making power. It should provide, for instance:

A. That present rules and regulations of cemeteries will continue for a specified time until approved or disapproved by the division;

B. That present rules regarding various services and charges shall continue for a specified time until the division shall either approve or disapprove them;

C. Contracts for perpetual care or charges under rules and regulations shall remain in effect as above, subject to approval of the division;

D. That all future charges covered by "A"- "B" and "C" shall not become effective until first approved by the division;

E. That all charges, present and future, shall be publicly exhibited.

Our reasons for requesting the above results from the experiences of our members in dealings with certain cemeteries, as well as the results of a survey which we made. Many cemeteries, either directly or indirectly, operate other businesses connected with the cemetery, such as the sale of floral pieces, decorations on the graves, bronze markers and monuments. In these cases, such cemeteries usually operate under a high pressure sales program, using the medium of the radio and other advertising. We know of instances in which sales were purportedly made under promise of resale at a profit. Recently, we learned that one group was advertising free insurance and free funerals. We suggest that cemeteries ought not engage in the monument business. They receive tax immunity and other privileges which are not given to the monument people with whom they are in competition.

Furthermore, such cemeteries form a monopoly by tie-in's with companies furnishing the materials. For instance, we know of cemeteries having agreements to purchase bronze from certain companies. Where this is the case, no monument dealer or other one outside the cemetery can purchase the bronze from this company. The company politely refuses to do business with the monument man because of the tie-in with the cemetery. The same holds true in some cases regarding monuments. For example, one cemetery requires a certain type of granite which must be cut by an employee of the granite people and not by the local man. Such arbitrary and unreasonable regulations, in effect, prevent the lot owner from doing business with a recognized and experienced monument builder. Invariably, this leads to higher costs to the public, because such practices are uncontrolled. In one case we found that a cemetery charged \$225.00 for a marker, whereas, the charge would have been \$125.00 if the particular monument builder consulted by the owner was permitted to erect it. We know of an ingenious rule used in a bronze marker cemetery which creates a monopoly for the cemetery and denies the plot owner the privilege to choose his monument dealer. Under that regulation, approval of the marker is required to be accompanied by a certificate from a metallurgist showing that the contents of the metal meet the specifications set forth in the rule, and that it is not one of a series of markers run off at one time. An attempt was made to comply with this regulation and the cost to the lot owner was found to be unwarranted. This device com-

pelled the owner to deal with the cemetery at its price.

In another case a cemetery refused permission to install a bronze marker upon the grave of a veteran because the marker provided by the United States Government did not comply with its design in a minor particular. As a result, the widow in one case, and the mother of the boy in the other, were compelled to buy their markers from the cemetery, even though they had a government marker available to them. These are only some of the cases which turned up in our investigation and survey. We know of instances where cemetery officials refuse to permit monument men to set foot on cemetery property, even though they had contracts with lot owners for the erection of monuments.

We suggest that the regulations contemplated by this Bill will act as a deterrent to the cemeteries and officials who are responsible for many of the abuses. If adequate regulations are put into effect, we feel sure that they will result in large savings to the public. On the other hand, if the present abuses are countenanced, without restraint, the plot owner will be at the mercy of the unprincipled officials of said cemeteries. We do not deny that the cemetery has a right to require a reasonable standardization of markers, stones and services in its cemetery. On the contrary, we assert that the lot owner has an equal, if not greater, right to the choice of the monument man or other person to render the service desired by the owner. We see no justification for cemeteries or its officials refusing to allow monument men chosen by owners to install

bronze markers or stone memorials. We are informed that approximately 14 cemeteries refuse to permit monument builders to erect bronze markers in their cemeteries.

There are two further points which we would like to make, namely, that the statute make it a misdemeanor to violate any of its provisions. The present penalty provision, in our opinion, is inadequate and unwieldy. We believe that enforcement of the act will be greatly facilitated if violations are treated as criminal acts. We would like further to point out that there is no objection to the appointment to the Advisory Council of officers of active cemetery organizations. However, we see no logical reason for requiring at least three members of the council to be officers of cemeteries. We feel reasonably certain that appointments to the Council will include active cemetery officials on the ground that their experience will be helpful to the cemetery division. On the same premise monument builders have a great interest in the advancement of cemeteries and considerable experience because their business is interrelated with that of cemeteries. We suggest that the Bill ought not to retain the present requirement, but if it should, the Council representatives should include Monument Builders.

In summary, we would like to emphasize that we are in agreement with the idea of the Bill, namely, that a division be created for the supervision and control of cemeteries. Our survey has shown various diversified abuses. We feel certain that these can be multiplied many

times. We urge the legislature to consider that under existing law there is no forum before whom the lot owner may go. If he is denied a right by some arbitrary official or as a result of an unreasonable regulation, his only remedy is in the courts. Because the cost of court proceedings is usually prohibitive, the member of the public is compelled to forego his rights. If this division is created, it will:

A. Provide a central point where a lot owner or any other person dealing with a cemetery may go to redress a wrong;

B. The lot owner will know in advance what the price of a lot or any service connected therewith, will be. This should result in large savings to the public and likewise prevent monopolies and undue restraints upon monument builders and other persons whose businesses are interrelated with that of cemeteries.

Respectfully submitted,

(signed) John C. Dluhy

JOHN C. DLUHY
Attorney for Monument Builders
of New Jersey

Apr. 13, 1953

Suggestions submitted by the N. J. State Association of Cemetery Officials, Inc., signed by Russell J. Zesch, President.

NEW JERSEY STATE ASSOCIATION OF CEMETERY OFFICIALS, INC.
1689 STUYVESANT AVENUE - UNION, NEW JERSEY

April 13, 1953

Senator David Van Alstyne, Chairman
Committee on State Government Reorganization
State House, Trenton, New Jersey

Dear Senator Van Alstyne:

In compliance with your request of March 30, 1953, the New Jersey State Association of Cemetery Officials is privileged to submit herewith some suggestions directed toward the improvement of the present laws dealing with the operation of cemeteries in this State.

As was indicated in open testimony at the public hearing held on the afore mentioned date in connection with Senate Bill #218, our Association does not feel that Senator Shershin's approach provides the answers to the many problems facing the cemeteries of this State. We do feel however, that the solution may be found in codification, revision, and perhaps amendment of the present statutes.

In the opinion of this Association, pending a complete and detailed study of all the statutes affecting cemeteries, there are three considerations which merit immediate attention. We believe that the provisions of 8:2-38, should be broadened so that the trust funds of all cemeteries are required to be reported annually to the Commissioner of

Banking and Insurance, either in the form of a complete audit by a Certified Public Accountant, or in such other form as may be prescribed by the Commissioner. Furthermore, we feel that the provisions of 8:2-39, providing for the examination of trust funds once in every two years should apply to all cemeteries maintaining such funds.

We also believe that every cemetery doing business in this State should hereafter be required to create a permanent maintenance fund by setting aside in trust a sum equal to not less than 10% of the gross sales price of each lot or grave which may hereafter be sold.

In connection with the third point, the Association reaffirms its historic position of opposition to any form of speculation in connection with the sale of cemetery lots. The transfer or conveyance of a cemetery lot by its owner, should be permitted only after it has first been offered, in writing, to the cemetery. In any event, however, the resale price should not exceed the original price paid therefor, together with simple interest at the rate of 2% per annum from the date of original purchase.

The New Jersey State Association of Cemetery Officials, through the medium of its legislative committee, will sometime later this year complete a comprehensive and intensive study of the New Jersey statutes affecting cemeteries. The findings of this group, together with such recommendations as they may have, will, of course, be at the disposal of your committee or any other committee of the legislature concerned with such matters.

This Association appreciates the courtesy extended to its spokesmen at the recent public hearing, as well as this opportunity to express positive views looking toward the improvement of the New Jersey cemetery statutes. It will welcome the privilege of future cooperation, to the end that the operation of the cemeteries of this State may be on a high ethical plane and always in the public interest.

Respectfully yours,

(signed) Russell J. Zesch

Russell J. Zesch
President

Suggestions submitted by Archie H. Ormond, Esq., representing Fairmount Cemetery Assn., in Newark, N.J., and Mr. Marius Grosse, representing Rosedale Cemetery in municipalities of Orange, West Orange & Montclair, N.J.

ORMOND & DIPPEL
Counsellors at Law
National State Bank Building
810 Broad Street

Newark 2, N.J.,
April 13th, 1953

Senator David Van Alstyne, Jr.
Chairman,
State Government Reorganization Committee
Trenton, New Jersey

Re: Senate Bill 218

Dear Senator Van Alstyne,

At the hearing on the above bill on March 30th Mr. Marius Grosse representing Rosedale Cemetery located in the Municipalities of Orange, West Orange and Montclair and I representing Fairmount Cemetery Association located in Newark voiced objections to the above bill and stated that in our opinion the desired improvements in cemetery practices could well be obtained by some amendments to the present cemetery law, and you asked that we submit to your Committee suggestions as to the respects in which we thought the present law might well be amended. We make the following suggestions:

1. That the cemetery act be amended to compel all cemeteries in the State to make adequate report to the Department of Banking and Insurance of their finances and the provision which they have made and are making for perpetual care of the plots sold.

2. That the cemetery act be amended to forbid the sale or resale of cemetery plots or graves for speculation purposes.

3. That the cemetery act be amended to establish a standard of reserve provision for perpetual care to be required of all cemeteries on all sales of lots.

The drafting of such amendments should be done by or under the supervision of the Attorney General of the State.

Yours very truly,

(signed) Archie H. Ormond

Archie H. Ormond

Request was made that the following letter written by David Schiffman
be incorporated in the record:

MAIN INVESTMENT COMPANY OF PASSAIC
1102 Main Avenue
Clifton, N.J.

April 8, 1953

Hon. Frank W. Shershin, Chairman
Committee on Cemetery Regulation
State House
Trenton 7, New Jersey

Dear Senator Shershin:

During the past five years, I have done everything humanly possible in an effort to right the great and unjust wrong that is being perpetrated upon the citizenry of the State of New Jersey by the owners of cemetery properties.

I am fully aware of the power of the cemetery owners in this State, but I feel that eventually decency and justice will overcome the slipshod method of cemetery operation as it exists in New Jersey today.

Since your committee is now holding public hearings in an effort to right the wrong, and since the "dead cannot speak", I take it upon myself, as a humble citizen calling out of the wilderness and speaking for the dead, and also for all of us who are alive, asking and pleading that the State set up necessary safeguards and regulations for the protection of the common people. Particularly am I concerned about the looseness in the handling of the monies in what is called the "perpetual fund."

"Perpetual fund" monies are taken by the owners of the cemetery

with a promise that these monies will be used for the perpetual care of the graves; and one is led to believe that when all the plots on a cemetery tract are sold, that this "perpetual fund" will at all times be sufficient to take care and maintain each particular grave. But this is not so. "Perpetual fund" monies are now used by the owners of the cemetery in their general fund, and are used to pay employees and other carrying charges. It certainly seems reasonable that these monies should be set up in a trust fund, under strict state supervision, and that these monies should be permitted to accumulate and grow and to be used for no other purpose than to maintain the graves.

We certainly do not want to see any cemetery, when all the plots have been sold, become a wilderness or an eye-sore, and with no one to take care of those plots of land where some beloved one lies. These monies should not be permitted to be kept in the names of the individual owners, as they are now kept; these monies should not be permitted to be controlled or used by the individual cemetery owners, as they see fit, as is now done, and these monies should not be used by the cemetery owners for the payment of salaries, wages, bonuses, dividends and for capital improvements, as is now done.

It is my opinion, and I have lived with this subject for many years, that these monies should be used and earmarked for one general purpose, to wit: perpetual care of the individual graves.

The interest derived from these monies should be kept in the

fund, because unless the fund accumulates in proportion and in the same manner as the sale of graves increases, there will never be sufficient funds to properly take care of the individual graves, which will lead to abandonment of a cemetery when all the plots are sold.

I urge that you consider having these funds deposited with the State of New Jersey, as trust funds, and that the State of New Jersey, through some regulated, authorized agent, as the Commissioner of Banking and Insurance or State Treasurer, be authorized to supervise and control the spending of these particular funds.

In fairness to the people of the entire state, I ask that you give this problem your very serious consideration, with a view towards eliminating the "quick money" cemetery owner and promoter.

Thank you very kindly.

Respectfully yours,

(signed) David Schiffman

David Schiffman

Letter submitted in behalf of Beth Israel Cemetery Association of Woodbridge,
New Jersey, by William Boorstein, Esq.:

WILLIAM BOORSTEIN
Counselor at Law
549 Broadway
Bayonne, N.J.

April 23rd, 1953

The Honorable Senate Committee
On State Government Reorganization
State House
Trenton, New Jersey

Re: -Senate Bill No. 218

Gentlemen:-

May I respectfully submit the following on behalf of my client, Beth Israel Cemetery Association of Woodbridge, New Jersey, in answer to charges specifically made against it by Mr. Charles Frank of the Woodbridge Monument Works of Woodbridge, New Jersey, at the hearing held before your honorable Committee on April 13, 1953.

Beth Israel emphatically denies that it grows evergreens or that it compels any plotowner to purchase bronze markers from it. It is prepared to support this statement by affidavit, if so requested, and challenged Mr. Frank to repeat his said charges under oath. Furthermore, it charges that Mr. Frank has received the great majority of his orders from Beth Israel for furnishing the granite bases for the bronze markers placed in its cemetery, besides receiving other orders from its plotowners.

When Beth Israel last revised its Rules and Regulations relating

to outside contractors, including monument dealers, it invited and consulted with them - including this very same Mr. Frank - and jointly, they worked out a set of Rules and Regulations satisfactory to all concerned.

With regard to the charge that non-residents are owners of and buried in Beth Israel Cemetery, that can be said of any cemetery anywhere in the United States. In fact, before New Jersey had many Jewish cemeteries worthy of the name, say prior to 1927, the Jewish community buried its dead in Long Island and Staten Island, New York, and this practice continues to a great extent to the present day. The vast majority of burials in the Baron Hirsch Cemetery in Staten Island, are from Hudson County, New Jersey. This is the first time that the practice has been challenged. No cemetery anywhere in the United States, to our knowledge, has ever laid down a rule or made it a practice to bar sales to or burials of non-residents; nor has any State ever laid down a requirement that as a condition for tax exemption, the cemetery must not engage in this practice. The mere statement of the charge contains its own refutation. Nevertheless, it may be stated as a fact, that Beth Israel is making a great part of its sales to New Jersey residents.

Respectfully submitted,

(signed) William Boorstein

WILLIAM BOORSTEIN
Attorney for Beth Israel
Cemetery Association of
Woodbridge, New Jersey

Memorandum on behalf of Beth-El, Cedar Park and Beth Israel Cemeteries,
submitted by William Boorstein, Esq.:

RE:-

BILL S. 218 BEFORE SENATE
 COMMITTEE ON STATE GOVERN-
 MENT REORGANIZATION.

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MEMORANDUM ON BEHALF OF
BETH-EL, CEDAR PARK, and
BETH ISRAEL CEMETERIES.

The following comments and suggestions are respectfully submitted in connection with the above mentioned Senate Bill, pursuant to permission granted by the Committee at the hearing held on April 13th, 1953.

I

REVISION OF THE PRESENT CEMETERY LAWS.

It cannot be seriously denied that the statutes pertaining to cemeteries, which have not been overhauled since the Revision of 1877 (Approved April 9th, 1875), require complete re-modification.

Legislative procedure would equally dictate that the new Revision should be the result of the combined efforts of the Legislative Committee appointed therefor, working in close cooperation with representatives of the New Jersey Cemetery Association. This procedure is accepted practice in our State, as witness similar cooperation with the New Jersey Bankers Association and the New Jersey Building and Loan League in connection with Revisions and other legislation affecting the business of said corporations. It utilizes the vast experience of the cemeterians and their legal counsel, who are well versed in this highly specialized and technical field.

We therefore respectfully suggest that the New Jersey Cemetery Association be invited to submit a draft revision, which it will gladly present, as a point of departure in the mutual effort to evolve a final re-codification which will be workable and will further the highly useful ends a cemetery establishment was intended to accomplish.

II

THE PRIME OBJECTS OF A CEMETERY AND HOW THEY MAY BE ACCOMPLISHED BEST

The primary objects of "God's Acre" would appear to be the maintenance of a permanent resting place for the remains of the deceased, to which his loved ones may resort, and which they may adorn and embellish.

Permanency is attained best through the medium of a corporation having perpetual existence.

The elimination of the alleged "profit feature" of the cemetery establishment - (which does not in fact exist in these days of vastly increased costs of operation, particularly in those cemeteries whose major source of revenue, namely unsold burial plots, has entirely or mostly disappeared through sales) - is best attained by requiring all future cemeteries to incorporate under the new Cemetery Act and prohibit their formation as stock companies under the General Corporation Act.

Permanent maintenance and care may best be attained by requiring the cemetery to set aside in a permanent trust fund, a fixed percentage of the proceeds of all future sales of plots, the principal to remain inviolate except for special cause to be shown on application to the

Chancery Division of the Superior Court.

A special problem arises in this connection with respect to Jewish cemeteries. In contrast to the Catholic and other religions which have their own cemeteries in the ownership and under the management of the Church, an exclusively Jewish cemetery in the ownership or under the management of a Synagogue or other religious society is a rarity, especially in New Jersey. As a consequence, Jewish Congregations and burial societies purchase large blocks of burial plots in Jewish and non-sectarian cemeteries, which plots they resell to their members. Therefore, since they sell in direct competition with the cemetery association, there would appear to be no valid reason why they should not be equally required to pay the same percentage of the proceeds of resale into the cemetery's permanent maintenance fund. It is therefore proposed that on any resale by a Congregation or other religious society to its members, or in fact on a resale by anyone other than the cemetery, the seller should be required to deposit the same percentage of sales proceeds on such resale in the cemetery's permanent maintenance fund as a condition precedent to the plot transfer becoming legally complete and effective.

The supervision over and examination of the permanent maintenance and other trust and special funds is best committed to the Department of Banking and Insurance, where these powers have long resided and still remain (R.S. 8:2-38 et seq.); except that all provisions therein relating to such funds should be made equally applicable to all cemetery owners,

whether incorporated or not, and whether formed under the present Rural Cemetery Act or otherwise. That Department is best equipped and qualified for these purposes by reason of its long experience with cemeteries, banks, insurance companies, small loan companies, building and loan associations and similar financial institutions.

Without in anywise intending to reflect upon the honest intentions and integrity of outside contractors, such as monument dealers, etc., it must be confessed that once the monument, planting or other embellishment has been placed upon the plot, the interest and responsibility of the contractor, at least as far as the cemetery is concerned, comes to an end, and the headache of the cemetery commences. For, if any fault should develop which will endanger the monument or other embellishment, become unsightly, or dangerous to or entrench upon the rights of other plotowners - and, as is frequently the case, the surviving spouse and children of the decedent have either died, moved away, or just do not care - the burden falls upon the cemetery authorities to place things in proper order. Certainly, if the cemetery authorities are to have this responsibility, they should, in order to protect themselves and the particular plotowner and all other plotowners against these contingencies, have the corresponding right to ward off these eventualities by means of reasonable and uniform rules and regulations. This power is now conferred upon the cemetery by R.S. 8:1-6 and 8:2-10.

THE USE OF CEMETERY LAND FOR NURSERY AND OTHER PURPOSES INCIDENTAL TO THE CEMETERY ESTABLISHMENT.

It is well recognized and established that "cemeteries have always been and are used primarily for the burial of the dead, but portions of cemetery properties have likewise been used for numerous other incidental purposes, such as greenhouses, nurseries ... In many instances these and other practices have received judicial approbation." Wing v. Forest Lawn Cemetery Ass'n., (Cal.) 101 P (2d) 1099.

Once we deprive the cemetery of the right to carry on these activities, such as growing and/or furnishing shrubs, evergreens, trees, and other plantings; installing foundations and furnishing plaques -, all of which are incidental and closely related to the main purposes of the cemetery establishment -, we thereby cut it off from those sources of revenue which are needed to enable it to fulfill its trust of permanently maintaining "God's Acre". For, once all burial plots in the cemetery have been sold and there are no further proceeds of sales, from whence is the cemetery to obtain the wherewithal with which to maintain the trust - unless the State itself is to subsidize or take over the trust.

IV

ANY CHANGE IN THE TAXING POLICY WILL STILL FURTHER PAUPERIZE THE TRUST.

The present taxing policy of this State exempts from taxation, cemetery lands in actual use or in contemplation of being used for burial purposes in the reasonable future. If the State were to withdraw or

narrow this exemption, where would the taxes come from? Would it tax the plotowner, the estate of the decedent buried therein, or his relatives? Certainly, the tax dollars cannot be taken from the sales proceeds because they will be held in trust for the payment of the purchase price of the cemetery lands, and the improvement, embellishment and perpetual care of the cemetery -, and in fact, said proceeds are not even sufficient today to cover those purposes. Are we to still further pauperize the trust?

The monument dealers have argued that tax exemption should be withdrawn from cemeteries which sell plots to or permit burials of non-residents. No cemetery anywhere in the United States, has ever laid down a rule or made it a practice to bar sales to or burials of non-residents; nor has any State ever laid down a requirement that as a condition for tax exemption, the cemetery must not make such sales or permit such burials.

V

TO SADDLE THE CEMETERY ENTERPRISE WITH A
CEMETERY BOARD, CAN ACCOMPLISH NO USEFUL
PURPOSE, BUT WILL DO MUCH HARM.

Whatever ills may now be said to exist can very well be cured by legislation, without the necessity of imposing a regulatory body, such as a cemetery board, upon the cemeteries.

True it is, that cemeteries have sometimes been referred to as "quasi-public utilities", but that label certainly was never intended to signify that cemeteries are in the same class and on an equal footing with and subject to the same treatment as telephone, telegraph, transportation, dairy, gas and electric, or pipe line companies - all corporations

organized on a large scale for profit, and only for profit. The cemetery is neither organized nor operated for profit. The vast majority of cemeteries in New Jersey are not stock companies, and even those which are such, have not paid any dividends in years and are having great difficulty in meeting their expenses of operation, and can hardly be tagged as "profit organizations".

The present trend is away from governmental controls. Only two states out of the entire forty-eight have legislated cemetery boards into existence. New York adopted the plan over four years ago, with results far from satisfactory, with an annual deficit of about \$100,000.00. No other state has seen fit or proper to follow her example. In California, the cemetery board consists of five members "appointed only from persons who have had, immediately preceding their appointment, a minimum of five consecutive years' experience in this State in the active administrative management of a cemetery corporation or as a member of the board of directors thereof for this period and shall at the time of their respective appointments have the actual and full authority of a president, general manager, or executive vice president." (Chapter 19 entitled "Cemeteries", Article 2 section 9626 of the Business and Professions Code).

There is absolutely no necessity for such a Board in the State of New Jersey, and the creation thereof will not in anywise further the objects of the cemetery establishment.

1. A cemetery board cannot regulate and supervise disrepair

and dilapidation of the cemetery any better than can the cemetery organization - unless the State were to subsidize the trust.

2. A cemetery board cannot any better than the cemetery organization, increase or maintain the cemetery's revenue sufficient for the maintenance of the trust.

3. Where will the cemeteries, particularly those which have entirely sold their plots or which are completely filled with burials, obtain the funds with which to support the board? They already have all they can do to maintain the trust.

4. Supervisory power over maintenance funds, and other trust and special funds is already vested in the appropriate Department, namely, the Department of Banking and Insurance. To burden the cemetery with the additional supervision is but useless duplication, placing upon the cemeteries an unnecessary expense added to their already financially overburdened condition.

5. For any fraud committed or other improper conduct by the cemetery association in its dealings with plotowners, it is equally amenable to the civil and criminal law, as is any other individual or business enterprise.

6. Finally, to require the already heavily overburdened cemeteries to operate under the control of a cemetery board, will result in no benefit to anyone and will create an unbearable hardship upon the cemetery enterprise.

Respectfully submitted,

(signed) William Boorstein

WILLIAM BOORSTEIN

Attorney for BETH-EL,
CEDAR PARK and BETH
ISRAEL CEMETERIES.