

PUBLIC HEARING

On

SENATE BILL NO. 218

Establishing and concerning a Division of
Cemeteries within the Department of
Law and Public Safety

Before

N.J. Legislature.

SENATE, STATE GOVERNMENT REORGANIZATION COMMITTEE

Members Present:

David Van Alstyne, Jr., Chairman
Samuel L. Bodine
Edward J. O'Mara
W. Howard Sharp
Richard R. Stout

Absent:

Kenneth C. Hand
Alfred B. Littell

Monday, March 30, 1953
Senate Chamber
State House

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Hearing Division

New Jersey Civil Service Commission
State House, Trenton, N. J.

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SENATOR DAVID VAN ALSTYNE, JR. (CHAIRMAN): The meeting will come to order. First, I wish to thank you, who are interested in this bill, for coming to this hearing. I am Senator Van Alstyne, Chairman of the State Reorganization Committee, to which this bill, Senate 218, was referred. I would like to introduce my colleagues on the Committee: Senator Sharp, Senator O'Mara, Senator Bodine and Senator Stent.

We don't want to shut anybody off. We want to hear what you have to say, but this is an evening meeting and we wish you would address your remarks entirely to the bill and make them as brief and concise as possible. I think that is fair to all concerned. We have a custom here in the Senate of permitting the Senator who introduces the bill to speak first. Therefore, before I call upon anybody else, we will give Senator Shershin, who introduced Senate 218, the privilege of the floor.

SENATOR FRANK W. SHERSHIN: Senator Van Alstyne and members of the Committee: I thank you for the opportunity of appearing before this Committee holding the hearing. I'd like to give a little background as to the reason for the bill. The bill, Senate 218, is the result of two years' study by a special committee created under Assembly Resolution Number 2 on February 6, 1950. The Committee worked for two years and filed with the Assembly and sent out copies to all members of the Legislature a report, and I would like to file this report with this Committee if I may.

SENATOR VAN ALSTYNE: Will you give it to Mrs. Smith as an exhibit?

(Final Report of the Assembly Committee on Cemeteries and Mausoleums, created by Assembly Resolution No. 2, passed by the Assembly February 6, 1950, received as an exhibit.)

SENATOR SHERKSHIN: During the hearings that were conducted by the Committee, testimony was taken at six or seven hearings, all of which are recorded and on file in the State Library. As a result of the testimony which was submitted, the report was prepared. I have here also a chart which I would like to offer as an exhibit for the benefit of the Committee, which is based on a survey made by the Committee and shows that of the 564 municipalities in the State, 521 municipalities reporting, the percentage of cemetery land as against the total assessed valuations in the counties and indicates what cemeteries are paying taxes and what cemeteries are tax free. It shows of all the cemeteries in the entire State, there is a total taxation paid of \$11,888.62. I would like to offer this chart in evidence as well.)

(Chart indicating assessed valuations and property taxes paid by New Jersey Cemeteries and Graveyards for 1950 received as an exhibit.)

SENATOR SHERKSHIN: The bill itself, as I said, is based on the report. The report points out some of the abuses as found by the Committee in the operation of cemeteries. It makes recommendation for the creation of a Division of Cemeteries under the Department of Law and Public Safety. The report itself is filed with the Attorney General, who assisted the Committee in the hearings that were held.

Mr. Osie Silber of the Attorney General's Office will be unable to be here tonight and so will many others who would like to have been

here, but because of the Jewish holidays are unable to attend tonight's hearing. I respectfully ask the Committee, if these folks desire to be heard at some future time, that the Committee set another date for them to be heard.

The bill was prepared by Mr. Silber of the Attorney General's Office and by the Department of Law Revision in compliance with the report submitted by the Committee. I know that perhaps the bill is not the solution of the problem as it is presently written. There may have to be some amendments or some changes. But in substance it carries out the recommendations of this Committee which studied two years the cemetery situation of the State of New Jersey. I respectfully ask that the Committee take into consideration the recommendations and I have other copies for the members of the Committee which I would like to leave with you for study.

SENATOR VAN ALSTYNE: Thank you.

SENATOR SHERSHIN: With these remarks, I would like to conclude.

SENATOR VAN ALSTYNE: Thank you, Mr. Senator. Members of the Committee, have you any questions to ask of the Senator? If not, we will proceed. I'd like to call, in the order the names are signed here, upon Mr. Ormond, representing the Fairmount Cemetery Association of Newark. Mr. Ormond, you have the floor.

MR. A. H. ORMOND: Senator Van Alstyne and members of the Committee: I represent the Fairmount Cemetery Association of Newark, which

was organized by special charter of the Legislature in 1855. It has been of long standing and is a very well known cemetery in the City of Newark. We are primarily first of all opposed to this bill because we think there is no necessity for creating a commission of the sort that is set up in this bill for the purpose of regulating cemeteries. It seems to be taking a long step from the present state of the law with regard to cemetery associations to put them all under some kind of a commission which has extreme powers of regulation of all their functions and has the right of visitation and regulation and tells the cemetery associations what they can and they cannot do.

We are at the present time under the present legislation subject to supervision by the Banking Department and it seems to us that some amendments to the Cemetery Act, if it is necessary to have any further regulation of cemeteries than is at present provided, would be proper to give that department perhaps more power of supervising the finances and the financial management of cemetery associations. We do not believe that the abuses which are indicated by some of the language in the bill are found in many cases. The bill, for instance, says in the seventh section that it is "for the purpose of preventing unhealthful, unfair, unjust, destructive, demoralizing and uneconomic practices in the maintenance and operation of cemeteries." We don't believe that that is a fair statement of the condition of the cemeteries generally in this State. We and others believe that we are well operated, well run. Our finances

are kept in order and we provide for the maintenance and perpetual maintenance of our grounds, which is one of the things that it intends to direct. We think that the matter of giving the power to control practices and the activities of the associations, to say whether they shall or shall not bring suit or whether they shall or shall not be sued, is going pretty far in an attempt to regulate and perhaps wipe out some abuses of which we do not think there are so many. That is the position that we take on this bill. Thank you, gentlemen.

SENATOR VAN ALSTYNE: Thank you, Mr. Ormond. Do you gentlemen of the Committee wish to ask any questions?

I'd like to call on Mr. Marius Grosso representing the proprietors of the Rosedale Cemetery.

MR. MARIUS GROSSO: The cemetery that I represent is in Essex County, New Jersey. It covers portions of three municipalities: West Orange, Orange and Montclair. We have been in business for 113 years. We all have the greatest respect for Senator Shershin. We realize that he has devoted a great deal of time and energy to his investigation of cemeteries, but we feel that the passage of this bill is not in the public interest. We all admit that there are several cemeteries in this State which themselves have not acted in the public interest. But the truth of the matter is that most cemeteries are run by honest, capable and altruistic people and we believe the bill is devoted to exceptional circumstances.

Our own cemetery is not profit making. More than 40,000 people have been buried in it. It is governed by a Board of Managers made up of lot owners and only one of these managers receives a salary; that is the secretary-treasurer who receives a nominal salary of \$1800 a year. We do not employ salesmen. We do not pay commissions. We do not permit the resale of cemetery lots and fifty percent of all sales go into a perpetual care fund. We now have a perpetual care fund of \$330,000 and it is a pleasure to come back here representing the cemetery 113 years after its creation and report that we are doing such a good job.

We oppose this bill primarily because of the commission features and the reason that we oppose it is that we know if this bill is adopted we will not be able to do the same good job that we are doing now.

We all are aware of the experience in New York where a commission was started and the cost of running it is now astronomical.

I do not want to go through all the sections of this bill, but I would like to comment on two very unusual features. The first is the provision - I believe it is Section 19 - which provides in effect that if anybody in this State illegally gets cemetery funds, suits for its recovery by the cemetery cannot be instituted unless this State Commission approves of it. We feel that is very much against the interest of the public and is likely to lead to all sorts of abuses. On the other hand, if a member of the general public has a claim against the cemetery, he is not permitted to recover on it until he makes what is known as an attempt to adjust the claim through this State Commission.

that is a very effective way of depriving him of any remedy because it could very well mean that he would have to junket back and forth from his home to Trenton instead of bringing a very simple action in the courts.

We all hope sincerely that this bill will never be passed.

SENATOR VAN ALSTYNE: Thank you, Mr. Grosso. Would any member of the Committee like to ask a question? Well, I'd like to ask you, Mr. Grosso, is there any way in which you think you'd like to have this bill amended or do you think the bill should be defeated in toto?

MR. GROSSO: I feel it should be defeated in toto because of this Commission arrangement. I think it vitiates the entire bill. I would favor some changes in the general cemetery law.

SENATOR VAN ALSTYNE: Mr. Ormond, may I ask you the same question? You spoke against the bill. Are you against the bill in toto or have you any specific amendments to suggest?

MR. ORMOND: We agree with Mr. Grosso's stand on that point. We think the commission makes it desirable to have the entire bill rejected. We do feel that there might be some amendments made to the act, but that those amendments could be done rather simply in order to achieve most of the ends, or at least the valid ends, of this bill.

SENATOR VAN ALSTYNE: Now, unless the Committee disagrees with me, may I suggest that you and Mr. Grosso might send to this Committee a brief statement with your suggested amendments to the present act so we can have your ideas.

MR. GROSSO: I'd be glad to.

SENATOR VAN ALSTYNE: Would you be willing to do that, Mr. Ormond?

MR. ORMOND: We would be very glad to do that.

SENATOR VAN ALSTYNE: Senator Bodine would like to ask a question of Mr. Grosso.

SENATOR BODINE: What provisions do you have now for perpetual care?

MR. GROSSO: Fifty percent of every lot sale goes into a permanent reserve fund, and we also have, as I mentioned, built up over the years a fund of \$330,000 which is invested by expert investment counsel and the books of the cemetery are audited by Price Waterhouse. I sent a copy of our audit to Mr. Shershin in connection with this investigation. Does that answer your question?

SENATOR BODINE: Do you also receive voluntary contributions or benefits for the perpetual fund?

MR. GROSSO: We do.

MR. ORMOND: Might I say since we are classed together that that is the case of our cemetery association. We have already set up funds of a million dollars and over to guarantee the care of the cemetery and we have from time to time carried into the permanent endowment fund our surplus funds and every lot that is now sold is sold to provide for perpetual care.

SENATOR VAN ALSTYNE: Thank you, sir. Any other questions?

I'd like to call on Mr. Frederick J. Gassert, representing the

Roman Catholic Archdiocese of Newark.

MR. FREDERICK J. CASSERT: Mr. Chairman and Senators: The Roman Catholic cemeteries of New Jersey are owned and operated under the provisions of Title 16, Chapter 15. Those of the Roman Catholic Church are operated under Revised Statutes 16:15-2 as diocesan corporations and 16:15-11 as parish corporations. All of the cemeteries, whether they be diocesan or parish cemeteries are operated as a facility, for lack of a better word, and for use by and for the communicants of the Roman Catholic faith and their operation is entirely an intricate part of the organization of the Roman Catholic Church in the legal corporations for its functioning in civil matters. They are not operated commercially and there is no question of profit involved. None of the Roman Catholic cemeteries are cemetery associations under Title 8 and very few, if any, of the provisions of this title apply to cemeteries operated by religious corporations. As a matter of fact, apparently in recognition of both the historic right of religious burial and in recognition of this right, based and founded in the constitution, the right to practice one's religion examination of Title 8 will indicate that there has been no attempt by the Legislature through the years to interfere with it, at least the internal management of cemeteries operated by religious faiths, whether they be Protestant, Jewish or Catholic. The only parts of Title 8 that actually affect cemeteries operated by religious faiths are those which have to do with the restriction on size and the necessity of applying to

local board of health and if we are refused, to the State Board of Health for permission to set up these cemeteries. These are regulations which have to do generally with questions not having to do with the operation of the cemetery itself, which is the purpose to which the bill addresses itself.

The entire area of cemeteries operated by the Roman Catholic Church are used for burial purposes, past, present and future, except areas for roads, etc.; and operational reports on the cemeteries are to the trustees of the parish and to the trustees of the diocese, respectively. Religious corporations, as you know, are exempted from the filing of tax returns by the United States Treasury Department. Trust funds are reported to the trustees and are supervised by them as to investment. There are no stockholders or no meeting of stockholders. Maintenance costs vary with the cemeteries and in some cases are paid out of general parish funds because of the lack of sufficient funds for cemetery operations. The trustees and officers of the civil corporations of the religion operating these cemeteries receive no salary or compensation as officers or trustees of the respective cemeteries. The cemeteries' superintendents and employees receive compensation for their work. Cemeteries pay the cost of roads and sewers, and the charges for burial, opening graves and digging graves vary and are matters of public information on inquiry. Only the cemeteries operated by the Archdiocese of Newark, six in number, have provisions for perpetual care. These funds are under supervised investment. In addition, of course, the entire

resources of the parish and of the diocese are available for maintenance of the cemetery. Our inquiry made during the hearings conducted by Senator Shershin indicates that no Roman Catholic cemeteries have sold any land dedicated for cemetery purposes. In some few instances, under threat of condemnation, portions of cemetery land have been conveyed when taken or desired for public use.

Our objection to the bill in its present form can be very briefly and succinctly stated. It is because the bill does not follow the recommendations contained in the Committee's report which reads as follows on page 5:

"It is the recommendation of this Committee that cemeteries belonging to or operated by religious organizations, Protestant, Catholic, Jewish, or any other faiths, be excluded from the supervision and regulation of the State Cemetery Board. As was pointed out in testimony, in the case of some of the largest religious groups, burial in their cemeteries is limited to members of their own sect and burial within the confines of his sectarian cemetery is a tenet of the churchmember's belief. Of course, those religious cemeteries which are recommended for exclusion from the operations of the proposed law are limited to those of duly organized religions."

The form of the proposed act reads as follows in paragraph 35: "This act shall apply to all cemeteries now in existence or hereafter to be created. The Division of Cemeteries may make rules and regulations

providing for exceptions in the case of cemeteries operating as strictly religious cemeteries owned and managed by a recognized religious organization."

I think the comparison of the statement in the Committee's report and paragraph 35 indicates that for some reason as to which we are deeply concerned, the Committee's recommendation was not followed in the drafting of the bill. Paragraph 35 completely aborted the purpose contained in the report. Why that was done we don't know. If it was done because of some legalistic apprehension as to the bill in its present drafted form or the bill as introduced meeting constitutional requirements, I go back to what I said about the fact that the operation of cemeteries by the religious faiths not being under any of the provisions of Title 8. Title 8 in all of its provisions has to do with the operation of cemeteries by cemetery associations. The right to cemeteries is contained in Title 16 and then specifically given to Roman Catholic dioceses and parishes in 16:15-2 and 16:15-11. I think that the granting of the right to operate cemeteries as contained in Title 16 is the definite indication of the right of the practicing of one's faith, to meet the requirements of that faith, to meet the discipline that a member of that faith accepts, and that that right is given there. Rather than the necessity of including all cemeteries in any draft of the bill, there should be consideration given to the fact that any inclusion of cemeteries operated by religious organizations under the clauses contained--the regulatory clauses contained in the proposed draft would, I believe,

gentlemen, be a matter of not meeting constitutional requirements. I think that the legislature in keeping away from the powers granted in Title 16 has recognized the constitutional right of the religious faiths to have their own cemeteries and to operate them free of regulations contained in Title 8.

In any event, for this hearing tonight we rest our objection to the inclusion of paragraph 35. The provision there is neither mandatory nor does it in any way meet the recommendation contained in the Committee's report. Thank you very much.

SENATOR VAN ALSTYNE: Thank you, Mr. Cassert.

SENATOR O'MARA: May I ask the mayor a question? Mayor Cassert, do I understand your position to be that the bill as drafted and especially paragraph 35 does not follow the recommendation of the Committee which studied this and which I understood you to say recommended the exclusion of religious cemeteries from the operation of the act?

MR. CASSETT: That is correct, Senator O'Mara. We have been with this for a long time with Senator Shershin. I should like to add my personal commendation to all of the work that Senator Shershin has done.

SENATOR O'MARA: I wanted to get your position clear, Mayor. May I, Mr. Chairman, ask if it is possible to hear Senator Shershin's views on that particular point.

SENATOR VAN ALSTYNE: Senator Shershin.

SENATOR SHERSHIN: If it please the Committee, I claim no authorship to the bill itself. The bill was drafted by the Revision Com-

mission as well as the Attorney General and submit to me after it was completed and was to follow the recommendations of the Committee report. However, I take it is looking at paragraph 35 that perhaps it was the thinking of the Attorney General and the members of the Law Revision and Bill Drafting Commission that it shall be the function of the Division to be created, the Division of Cemeteries, to determine whether or not there is a bona fide cemetery operated by a bona fide religious organization because in the hearings that we held under the Committee we found that there might be a cemetery that would sell out to some organization that might be a brotherhood but not actually a religious organization. As I see paragraph 35 where it says that the Division of Cemeteries may make rules and regulations providing for exceptions, there is no mandatory provision to make exceptions, but under this bill they could adopt rules and regulations where they found that they had a bona fide religious organization operating a cemetery, they could except that organization, but the burden of proof to establish that the organization was a bona fide religious organization would be upon the cemetery so conducting its business.

SENATOR O'HARA: Senator, do you agree with Mayor Gansert that this bill as drawn, especially with reference to paragraph 35, does not follow the recommendations of the Committee which recommended as Mayor Gansert said the exclusion of cemeteries conducted by religious organizations?

SENATOR SHERSHIN: There is no question about it; the language does not agree.

SENATOR BODINE: Are you the author of the report of your Committee?

SENATOR SHERSHIN: I am, sir.

SENATOR VAN ALSTYNE: Suppose paragraph 35 was amended to the general idea that it was made mandatory of the Division of Cemeteries to exclude cemeteries from the operation of this law, providing they found that they were owned and managed by a recognized religious organization. In other words, if they made it mandatory, instead of permissive, would you have any objection?

MR. GASSERT: I would not think if there was a limitation for these specific purposes that we have any objection. But the provision as I understood it as you suggest it, Senator Van Alstyne, would be mandatory and the only requirement contained in there would be the establishment of the fact that the cemetery was operated by a legitimate religious faith; is that correct?

SENATOR VAN ALSTYNE: That would bring your point of view and Senator Shershin's point of view together. Any other questions?

MR. GASSERT: May I say this finally: Certainly there is nothing in the wording of paragraph 35 presently that would give us any assurance that the limitation would be as subscribed.

SENATOR SHERSHIN: Excepting, however - if I may be heard on this - if the word "may" were changed to the Division of Cemeteries shall

make rules - that would bring into conformity Mayor Cassert's objection and the recommendations of the Committee.

SENATOR O'HARA: That I doubt very much, Senator.

MR. CASSERT: Exception would not define it sufficiently.

SENATOR VAN ALSTYNE: Thank you, Mayor Cassert.

I'd now like to call on Judge John J. Rafferty, Executive Secretary of the New Jersey Legislative Council representing the Catholic Archdiocese of Newark, Dioceses of Trenton, Paterson and Camden.

MR. JOHN J. RAFFERTY: Mr. Chairman and gentlemen of the Senate Committee: I'd like to point out at the beginning that Mr. Cassert is here on his particular point of view. Mr. Cassert supervises legal matters for the cemeteries of the Archdiocese of Newark. My position, however, extends not only to the Archdiocese, but also to the Diocese of Trenton, the Diocese of Paterson and the Diocese of Camden, so that I speak for the Catholic Church in New Jersey on these matters. Now I shall try not to reiterate what Mr. Cassert has said. I would like to point out -- of course, it is now admitted that this bill does not follow the report and our position is that the bill should not be reported for the reasons which were given to the Assembly Committee and which have been briefly stated by Mr. Cassert. I had intended to criticize the bill page by page because there are some points which show inconsistency in draftmanship, which show the draftsman of the bill had in mind perhaps the commercial cemetery, those cemeteries which come under Title 8, whereas

the religious cemetery, the really religious cemetery, does not come under either the commercial act or under Title 8. I would like to point out generally that the religious cemetery is based on Title 16 of our Revised Statutes. 16:1-4, referring to all religious organizations, whatever persuasion they may be, sets out the powers of these religious organizations and amongst others it says that they shall acquire lands on which may be erected cemeteries or burial places and these church corporations shall have the management, direction and control of all the civil and temporal affairs of the congregation, church or parish. Then Title 16 is broken down through its sections according to a particular religious congregation, and the Roman Catholic congregations come under Section 15. As Mr. Cassert has pointed out 16:15-2 and 9, 10 and others lay down the organization of the diocesan unit and of the parish unit of the Roman Catholic Church. 16:15-11, reiterating or echoing, as it were, 16:1-4, giving an entire administrative scheme, says that the diocese shall acquire lands for cemeteries and burying places and shall have the general management, direction and control of all the civil and temporal affairs of the diocese and so also with the parish. The parish unit is set up in somewhat the same way. In Title 16 we have a complete and exclusive and an overall legislative arrangement for the erection, for the management and for the doing of all business, temporal and civil, of all religious organizations in this State. And prominent among these items, it is specifically mentioned that they shall have control of their cemeteries and of their burying places.

Now, as I view this bill -- and I'm going to be short and what I say I trust Senator Sherwin will not take in any sense as any personal criticism of him. I'm talking about the bill and about nothing else. I look on Section 7 of the bill as a direct intrusion of the civil government into the internal affairs of church organizations because it provides that the Cemetery Division shall have the power to supervise and regulate the establishment, maintenance and preservation of burial grounds and their proper operation. Well now, gentlemen, that language certainly is all-inclusive. Here we have a public agency which will have the power under this bill to supervise and regulate the maintenance and the management of these cemetery associations. It provides that they shall see that the cemeteries don't fall into disrepair. May I ask you reasonably, gentlemen, who is going to determine what is disrepair? What a public body such as this Cemetery Division might consider disrepair might not be regarded as disrepair. What this Division deems demoralizing and uneconomic practices may not be demoralizing and uneconomic to a religious body. For instance, today and for decades the idea has been sowed in this state that there shouldn't be headstones in cemeteries. Many people believe that headstones are annoying. They bring ideas of death to you. They are depressing. Well, suppose this Cemetery Division says, "We think that is true. It is demoralizing to the people. There shall not be any more headstones in cemeteries." That, gentlemen, I submit is giving a public body entirely too much

power. Who is this State Division to say that is an unreasonable practice in the maintenance of a religious cemetery? That may be unreasonable to a State Division, may not be unreasonable to the parish which erects and constructs the cemetery and maintains and operates it. So I say that here we give entirely too much power to a public body.

It speaks of preventing nuisances. We have had a law of nuisance in our law ever since we have had a law. Everybody knows what a nuisance is. There isn't any real question about it, especially in the minds of lawyers. Why give this commission the power to do that.

They say we must have detailed maps of all of our cemeteries with the avenues and lanes and streets marked out. Why, gentlemen of this Commission, this would bankrupt us. Parishes in the State of New Jersey from one end of the state to the other have cemeteries laid out. Some have been laid out for a century. Some, of course, have been laid out more recently. If every parish is obliged to hire an engineer and a surveyor to go out and lay this cemetery in avenues and streets and file one copy with this Division and file one for public inspection, you must appreciate that that would cost us a tremendous amount of money and it is entirely unjustified. May I ask why we should post our maps for public inspection? We are not a public cemetery. We are a religious cemetery. Those who are buried in the cemetery are members of that religion. People buried in that cemetery are buried there as a matter of religious obligation. I am a Catholic. I hope and pray I

shall be buried in what we call consecrated ground. None other may be buried in consecrated ground, other than my faith. It is not a public cemetery. Why should we be required to go to all this trouble and expense in the first place, and in the second place give these maps and surveys for the benefit of the general public who has no interest in it at all? The general public, except for the Catholic population, has no interest in it at all.

Mr. Cassert has already pointed out there are only six Catholic cemeteries in this state that have permanent maintenance funds. They are six of the large cemeteries in Essex County in the Archdiocese of Newark. Even there, these funds under Title 16 that I have referred to are regulated by strict diocesan control. There must be an annual report to the diocesan authorities. The money must be kept separate under diocesan regulations. There is no need whatsoever for the public to come in and supervise these investments. There is no justification whatsoever for it.

In Section 14 of the bill reference is made to every cemetery association, corporation or other owner of a cemetery. Now there they deliberately bring the religious cemetery into the act. They are inconsistent about it because on page 5, lines 8 and 9 they refer to Title 8 and Title 8 doesn't deal with us at all. It deals with cemetery associations such as these gentlemen who preceded us here tonight represent. They come under Title 8. They are organized cemetery associations or corporations. We are not so organized. Our cemeteries are a part of

the parish. Just as much as the church is, just as much as the school is, it is a part of the parish unit. The maintenance and repair of the church cemetery is done, as Mr. Cassert said, out of cemetery church funds. Special collections are taken for the care of cemeteries. Special committees, special societies arrange for the care of cemeteries. Yet Section 15, following 14, says each year every cemetery corporation shall file an audit. Well now, ~~it~~ refers to every cemetery association, corporation or other owner. I suggest it indicates that the Committee didn't quite understand what it was doing. In 15 it doesn't require "other owners," so there is an inconsistency. If you will check Sections 17, 19, 25 and 28, you will see the same omission. They refer to cemetery corporations here and they bring in the religious corporation by the words "or other owner of a cemetery."

Now in Section 20 it says: "From and after the effective date of this act all sales of plots or graves, etc." Now, gentlemen, in our religious organization there is no such thing as a sale of a cemetery plot. Never has a cemetery plot been sold. The only thing that occurs is that a given person purchases the right of burial in a given plot. He doesn't own that plot. He can't own the plot. It belongs to the church. But he has the right of burial in that plot. Now, is this Division going to construe that as a sale? I don't know what they will do. It may be said that the intentment of the act is such a transaction is a sale. If that is a sale, then we have to arrange for the collection of money for perpetual care. We have to set up a perpetual care fund and we have

to do a lot of other things that should not be done, we respectfully submit. Now, going immediately to Section 24, I do not agree with what is being said. Going back to 14 again, it says that every cemetery association, corporation or other owner shall maintain a special trust fund. That means that every one of our cemeteries must immediately go about and get money and set up a special trust fund for the maintenance and care of these cemeteries. We just can't do it because the money just isn't there. But under this act we are obliged to take out money that we would use for schools or colleges or hospitals or churches or rectories or convents and set it up in a trust fund that produces nothing except income. We can't use it. We can only use the income. I suggest to you gentlemen that this bill can't possibly intend that, in view of the historic and traditional position of the religious cemetery. Now I promised you that I wouldn't go into so much detail and I'm going to quit at once. Section 26 says: "No new cemetery shall be established in this State without the consent of the Division of Cemeteries." What criteria is in this bill upon which the Division of Cemeteries is going to determine whether or not a new cemetery should be set up. This is placing an arbitrary, indiscriminate power in a public body to say whether or not for any reason at all a cemetery should not be set up. That just can't be, gentlemen. In our law there must be legislative standards upon which they will deny or approve. There must be some legislative reason why they will permit or not permit. So I

suggest to you that on that basis alone this bill is a bad bill.

Now, going immediately to Section 35, I do not agree with what Senator Sherwin has said, and I'm sure reflection on the part of Mr. Cabbert will bring him to my point of view on this matter. The only way to exempt a religious cemetery is to say so. There must be an express exemption if you are going to exempt them. The idea of saying all cemeteries come within this act, but the Cemetery Division may grant exceptions to religious cemeteries, is not sound. Gentlemen, to say in the first place that they may grant, again gives them a discretionary power which they should not have. To say, as has been indicated, that if a religious cemetery comes in and proves that it is a religious cemetery, it is exempted, is to put the burden on us and it shouldn't be done. We say we are a religious cemetery. Now if the State Division says we are not, they have a right to find out; they have the means to find out. Why should we be obliged with every cemetery that we have in this State to come into this Division and say, "Gentlemen, may it please you, here are our books and our records and our setup. Here is our parish. We are a religious cemetery," and have them determine whether we are or not. We have a right to a specific exemption traditionally by the laws of the centuries. I urge upon you, we have the right as a religious cemetery to exemption because burial in a religious cemetery is a religious right and to interfere with that religious right is an unlawful intrusion into the practice of one's religion.

I say to you gentlemen, in the first place the bill should

specifically exempt religious cemeteries. In the second place, what the Legislature is doing in Section 35 is abdication of its legislative function. The Legislature is saying, as Senator Shershin has indicated, "Well, we really don't know. We really don't know. But if the Division finds out, then they may or may not be exempted." That is a plain simple abdication of legislative power and the transfer of a legislative power to an administrative body. I urge upon you gentlemen, respectfully, that that should not be. I earnestly request that in view of the character of the religious cemetery, in view of the background of the religious cemetery, in view of the fact that burial in a religious cemetery, be it Catholic or Protestant or Jewish or of any other recognized religion, is a religious right and to intrude upon that right is an intrusion upon the religious sensibilities and upon the religious prerogatives of the people, this bill expressly say that religious cemeteries of religious corporations are exempt. If they are not, let the Division find that they are not.

SENATOR VAN ALSTINE: Thank you, Judge Rafferty. Does any member of the Committee have a question? If not, I'd like to call on Mr. Robert S. Snevily, attorney and trustee of the Fairview Cemetery of Westfield.

MR. ROBERT S. SNEVILY: I can add very little to what Mr. Grosso has said. Our cemetery is very similar to his, non-sectarian, non-profit sharing. We have substantial trust funds for the maintenance

of the cemetery. Twenty-five percent of every sale is placed in that trust fund. We are opposed to this bill in its entirety, mainly on the ground that we object to the council which is established, which gives really to one man, the director, a great deal of power over the cemeteries of the State. The advisory council which is established does have representation from the cemeteries, but they can only act in an advisory capacity, whereas the commission has full authority to control every cemetery in the State. It takes away all the initiative and all the ambition of the men in Mr. Grose's cemetery and in mine and in numerous others that work without compensation for the good of the community.

I object particularly to Section 19 of the act, which in my opinion takes away the constitutional right for a cemetery which is a corporation to sue or be sued without the consent of the council. Maybe I have misquoted that; maybe it isn't 19. "Where any monies or profit are found to have been received" - the word "found" in itself would indicate to me that there had been a judicial determination that there was money due. I strenuously object to that provision. There is no provision as to where the funds are coming from to pay for this Director of the Division. Undoubtedly some kind of a levy, assessment or tax is going to be made against these cemeteries, the amount of which is apparently going to be left to the Commission, which again is unfair.

We feel that any inequities, inequalities or any errors which may exist in the cemeteries as a whole may be cured by an amendment to

the Cemetery Act, which is Title 8, so far as it relates to general cemetery associations. We, therefore, oppose the passage of this bill at this time.

SENATOR VAN ALSTINE: Thank you, sir. Any questions, gentlemen?

SENATOR O'MARA: I would like to ask Senator Shereshin, if he doesn't mind, what is the basis of the provision in Section 19 that suits for the recovery of moneys or profits which have been made contrary to the laws of the State can only be instituted with the consent of the Attorney General?

SENATOR SHERESHIN: I don't read in 19 "consent of the Attorney General." As I say, Mr. Silber of the Attorney General's Office who helped draft this bill because of religious reasons could not be here tonight.

SENATOR O'MARA: Instead of saying "with the approval of the Attorney General," I mean to say "with the approval of the Division of Cemeteries." Why should the approval of the Division of Cemeteries be necessary?

SENATOR SHERESHIN: I can't tell you. In fact, it is not one of my recommendations.

As I say, it would take a great deal of the Committee's time, which I think is unnecessary, to explain some of the objections that were raised here today. While I'm on my feet, I might say if the Committee will take the time to read the testimony that was submitted to the Assembly Committee, you will find why recommendations are made for

filing maps, for instance. One of the gentlemen did say, "Why file maps?" Perhaps it doesn't mean that the maps should be filed with respect to religious cemeteries. But there is a specific reason for the filing of maps because where cemetery lands are laid out in map fashion, those lands are exempt, but lands which are not laid out for cemetery purposes and not dedicated must pay taxes. Tax officials have found it difficult to find maps when it came to assessing these lands operated by corporations or associations under Title 8. They couldn't find the maps in the cemetery offices; they were not recorded. That is the reason why there is a requirement for the filing of maps.

With respect to the argument about perpetual care funds, testimony also before our committee revealed that these perpetual care funds, although they represent trust funds, are not examined by the Department of Banking and Insurance - that the trust funds as a whole are managed by a little group, the committee or the trustees, and they have the right to take this perpetual care money and invest such funds as they see fit and proper, which should be legal investments. The testimony revealed that in no instance did the Department of Banking and Insurance ever check these trust funds and there is nothing in the law which says that they must be checked and that is the reason for the recommendation that the perpetual care funds here be checked by the Department of Banking and Insurance.

SENATOR BODINE: Was there any evidence that the perpetual

trust funds had been abused in any way?

SENATOR SHERMAN: There was no such evidence that we could find in the amount of investigation we did. We did not check the actual books - just the testimony that was given by the cemetery operators themselves. There were no funds appropriated to this Committee to make on-the-spot investigations and there is no allegation here that any trust funds were misappropriated. But being trust funds and being public funds, there is no reason why the perpetual care funds like banks or any other institution having trust funds or public funds shouldn't be checked by our Department of Banking and Insurance. The recommendation of the Department of Banking and Insurance was that they would like to have the opportunity to do the checking but there was nothing in the law that required them to make the check.

SENATOR VAN ALSTINE: I'd like to call on Mr. Henry D. Fairhurst of the Cedar Lawn Cemetery. In what town is your cemetery?

MR. HENRY D. FAIRHURST: In Paterson, New Jersey. When the young gentleman came by I specified I didn't want to speak. Certainly in view of all the oratory that has already gone on, I don't believe it is necessary. I would like, however, if it is in order, to submit this list of objections for the record.

SENATOR VAN ALSTINE: It certainly is in order. It will be received. Thank you, Mr. Fairhurst.

(Following is the statement of objections of Cedar Lawn Cemetery to proposed act establishing and concerning

a Division of Cemeteries within the Department of Law and Public Safety;)

1. The proposed legislation unquestionably contemplates the creation of a new agency of State government which will add materially to the general cost of government. Either this expense will be met from general taxation or by some form of tax or assessment on the cemeteries themselves. Since most cemeteries of this state perform a necessary and quasi-charitable function, giving them but a bare minimum of funds on which to operate; the latter alternative is impossible unless such taxes are imposed upon lot owners as a condition to their right to bury their loved ones. In either event the taxpayers of New Jersey should not be required to pay a tax on the fundamental right to bury the dead. All will be taxed as cemeteries serve all classes and the poor are not turned away.

2. The very extensive restrictions and controls proposed in the act would be unbearably burdensome for the average New Jersey cemetery. All but the largest of them have very small operating staffs, much of which is part time service, and only the largest of them would have the facilities to comply. Here again the essential nature of cemeteries has been overlooked. Cemeteries perform a critically necessary service and should not be made subject to restrictions and controls which are found to be necessary in the regulation of certain competitive businesses and industries operated for profit.

3. The proposed legislation would establish a state

regulatory body for cemeteries possessing extremely wide powers through its right to impose rules and regulations. In view of the specific and absolutely necessary service rendered by cemeteries and the quasi-charitable nature of their operations, such policing is entirely unwarranted. Legislation regulating cemeteries should specify in detail the precise authority to be exercised by any state agency or agencies.

4. The proposed legislation provides for exemption from control by reason of a religious affiliation. If there are valid reasons for the imposition of additional controls on cemeteries, then clearly, any such reasons are not removed by the mere fact of religious proprietorship. Discrimination of this type is illogical, unreasonable and offensive.

5. Any state agency which may be created to regulate cemeteries should be under the direction of and staffed by persons who have a working knowledge of cemetery problems and objectives and who have had actual experience in this field. The proposed legislation clearly does not do this. The "cemetery council" provided for in the proposed act, even though it might represent cemetery interests, is strictly an advisory and therefore impotent body.

6. Granting that state supervision of perpetual care funds of cemeteries may be desirable in the public interest, the solution to this problem lies in the revision of existing statutory law. The effect of the proposed legislation is to create duplicate and cumbersome control. This matter probably constitutes the main interest of the public in cemetery control and revision of existing law so as to include all

cemeteries subject to supervision by the Department of Banking and Insurance is the intelligent approach to the problem.

7. If it is the intent of the proposed act that a mandatory designation shall be made of specific depositaries for cemetery funds, then this feature of the act is ill-advised. It should be borne in mind that most of the cemeteries of the state are small and that the problems of such are unique in many respects. Any effort to restrict the investment of cemetery funds in this manner with consequent loss of income would be disastrous.

8. The codification or revision of existing cemetery laws is a desirable objective from the standpoint of cemeteries and the public alike. Where improvement can be made in this respect, there certainly can be no objection. Revision of existing legislation as to perpetual care funds is a case in point. However, it is quite obvious that this work does not require the enactment of the proposed legislation.

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Cedar Lawn Cemetery has been in existence since 1865. During the years of its existence there has been created and maintained an institution devoted to the public interest. For many years Cedar Lawn has been operated practically as a charitable institution. The Board of Directors and the officers and staff of the cemetery take pride in its present physical condition, its present financial position and the public service which it now renders in connection with the burial of the dead. Though a stock corporation, Cedar Lawn maintains a consistent policy of

distributing only a token dividend each year to stockholders.

Well over 95% of the gross receipts are set aside for the operation, maintenance and perpetual care of the cemetery. Almost 50% of the proceeds of sales of lots are permanently dedicated to perpetual care. Each of the present directors of the cemetery is either a lot owner or a member of a family having lot ownership. Cedar Lawn feels that the great majority of New Jersey cemeteries are motivated by the same objectives and ideals and are doing the best job that can possibly be done with limited funds.

Cedar Lawn Cemetery

Henry D. Fairhurst, President

SENATOR VAN ALSTYNE: I'd like to call on Mr. Carl Ek of the Passaic Herald-News.

MR. CARL EK: I would like to read this because I'm unaccustomed to public speaking.

At the beginning, I would like to make it clear that I am not an authority on cemeteries, but a newspaper man.

However, the Herald-News has been possibly more interested in cemeteries than most newspapers. This was due to our experience with the Ridgewood Cemetery promotion in Clifton, dating back to 1905, and Clifton's tax troubles with one of the later owners of part of this property.

Anyone who goes into New Jersey cemetery history is bound to

be intrigued by the situation he finds. Here we have the state giving away--free of charge--a franchise potentially worth millions. On top of this, the state throws in exemption from property taxation.

Having done so, the state loses interest. It does not know, and apparently cares less, who owns the cemetery. It is not concerned where the money from the sale of burial plots to the public goes.

The only time cemetery operations come to public attention, it seems, is when the owners fail to quarrelling among themselves or a conscientious municipal assessor gets fed up with the tax exemption and imposes an assessment on the cemetery property in his ballotist.

The state puts cemetery owners on their honor to operate non-profit, charitable institutions, even though it may not have the foggiest notion who they are. It's a fantastic situation.

The Herald-News has expressed these opinions:

First, that there is no reason why cemeteries should not be operated as businesses that make a profit.

Second, those that are run as profit-making businesses should pay taxes, as all business does.

Third, the state should regulate cemeteries to make sure that no one cheats. Regulation is no more a reflection on the honest cemetery operator than the law against embezzlement reflects on the honest bank clerk.

I would like to enlarge upon a few of these statements because I find that most people are skeptical of them. I said, for example, that

a cemetery franchise is worth a fortune, and I meant that quite literally.

The City of Clifton estimated a profit of \$4,800,000 would be made on a 80-acre plus cemetery within its boundaries. I quote from the brief filed in court by the city:

The property "completely sold out, will have 102,000 graves. Admittedly, the cost of a grave in this cemetery is a minimum of \$50 per burial plot. If all the burial plots are sold at that price, the total proceeds will amount to \$5,100,000. A recapitulation of the cemetery expenses shows that the aggregate cost is \$207,630. This amount covers the cost of all parcels, together with expenses directed to be paid for improvements, plus the amount ordered to be set aside for a perpetual care fund."

My own feeling is that in this case the city overestimated the profit.

The following is from a stock-selling prospectus issued by a New Jersey cemetery promoter, who, I must tell you, was chased out of business by the Attorney General:

"After exercising certain contracts, the corporation will control 177.73 acres of cemetery lands. From a study, it is estimated that these graves will sell for an average of not less than \$30 each, or a total amount of over \$9,043,500. It is estimated that after payment of all indebtedness, and the cost of development and upkeep, the potential increase in value will be not less than \$15,970,739. After

deduction of the call prices for all the authorized class A stock a potential value remains for each share of common stock in excess of \$125 a share."

Let's say the promoter in this case was over-optimistic.

This is what Vice Chancellor Egan had to say about another cemetery promotion:

"The cemetery business was conducted under an agreement (whereby) the promoters will have a net profit of \$4,809,380. For every dollar that was received, 50 per cent was to go to the development company; 10 per cent was to be set aside to create a perpetual care fund; and 40 per cent went to" a person who need not be named here.

I might also offer the comment made by a very frank and pleasant gentleman in the business. He visited us to discuss a cemetery case compromise. One of his proposals was to surrender his cemetery franchise rights to a 10-acre plot - that is an approximate figure but sufficiently close - a piece of property, incidentally, that he did not then own but which he apparently could have acquired by condemnation. He said to us, "That piece is worth a quarter of a million to me but I'm willing to give it up."

I think you can discount all of these statements. Nevertheless, they indicate that the money in cemeteries is not exactly small change.

I said previously that the state does not know to whom it gives a valuable franchise and tax exemption. I can best illustrate

that by personal experience.

A few days ago I tried to run down a story about a cemetery which apparently had a hand in pending legislation which would have bolstered its claim against the state for \$300,000. In a case like this, a newspaper man is supposed to find out who the beneficiaries - the owners - are. You would expect to read their names in your newspaper.

None of the state and municipal officials to whom I talked would tell me. They were able to make a guess, probably a very good guess, but they did not know for sure. They couldn't get up in court and testify who the owners were. I finally called the office of the state's counsel in a suit involving this cemetery. This gentleman, I had been told, had all the answers. He was most pleasant and co-operative, but he did not know - for sure - either.

In the case of this cemetery, the state sent it a request for information when Mr McDermogh was compiling information for use of the legislature. This cemetery, the beneficiary of the state's liberality, did not even give the legislature the courtesy of a reply.

I said also that the state puts cemeteries on their honor to operate as non-profit charitable institutions. This is essential to tax exemption. The 1947 constitution guarantees tax exemption for "any corporation or association organized and conducted exclusively for one or more such purposes and not operating for profit." One of those purposes is operating a cemetery. But the constitution is specific; it mu

not be "for profit."

Let me quote from a statement issued by one of our oldest cemeteries, one of the highest reputation, and deservedly so. It is a fine, dignified cemetery. Its statement makes these remarkable statements - and I quote fragments: "the quasi-charitable nature of their operations"...."for many years...has been operated practically as a charitable institution"...."Though a stock corporation...maintains a consistent policy of distributing only a token dividend each year."

It is difficult to see how these statements square with the principle of tax exemption in our state constitution.

That is an all-too-brief outline of why the Herald-News feels the regulation of cemeteries will be in the public interest. Having said that, I would like to enter one objection to the bill before you and stop. It has to do with the use of the phrase "perpetual care."

Perpetual, by every definition I have been able to find, means eternal, everlasting, forever. It does not mean one second less than whatever it is those words mean. It encompasses something that is beyond the mind of man to comprehend. It is a presumptuous invasion of a realm which is beyond mortals. Admittedly cemetery men are capable of performing miracles, but this one even they cannot do. They cannot give perpetual care. That being so, the phrase is a fraud and it has no place in the law.

I might add that in our state, the sum of six cents a square foot is considered quite enough to set aside from the sale price of a

cemetary plot to insure perpetual care. A single plot, I understand, is about 3 by 9 feet. That gives us \$1.62 to invest at a rate of interest to supply enough money to take care of that plot forever. Thank you.

SENATOR VAN ALSTYNE: Thank you, Mr. Ek. Any questions gentlemen? I'd like to call on Mr. W. R. Moreau representing the Maplewood Cemetery of Freehold and the Monmouth County Cemetery Association.

MR. W. R. MOREAU: Senator Van Alstyne and gentlemen of the Committee: It is with humility that I speak after these gentlemen because I can't give you any such astronomical figures. I am secretary and treasurer and superintendent of the Maplewood Cemetery of Freehold and also president of the Monmouth County Cemetery Association, which is made up of 24 little cemeteries of the county. All the officials of those cemeteries have been in trouble, including ourselves. So this Association was a result of our meeting each other occasionally and visiting each other's cemeteries and talking over our troubles. So like Topsy the Association just grew. A striking feature of these gathered when we have a meeting is that we are all past middle age. Some of us, including myself, have already entered the old age brackets. The thing that troubles us most is that we can't find our successors. For two years I have been urging my directors to find my successor and I have been hunting myself. We have advertised in the press and we haven't found him yet.

All the members of my own Board of Directors and all the official

of those various associations believe that a Cemetery Commission is unnecessary in New Jersey. All of them believe that a Cemetery Commission will be too costly. From sad experience all have found no profit in cemetery business. All will resent being taxed or being assessed and forced to pass such charges along to their plot owners. All favor a modification of New Jersey cemetery laws in such a manner as to make them constructive and for the public good. In speaking for these little cemeteries of Monmouth County, I believe that I am also expressing the feelings of 90 percent of the cemeteries of New Jersey, because 90 percent of them are unorganized.

Now I am a farmer. I was born on a 90-acre farm on the edge of Freehold. I am the third generation to have owned and lived there and I still own the farm. Most of my years of adult life have been spent in actual farming. When I was twelve years old, I started milking the cows and I milked them for a good many years after that, although I have had a few other interests than farming or have had in my lifetime. Without trying to boast of some of the things I have done, I do beg to refer to two experiences or two challenges of my lifetime in order that I may later set forth certain comparisons between those other experiences and the cemetery business.

The first of those other outside interests than farming is the cemetery business. I have been 33 years a director of the Haplewood Cemetery Company, which is a so-called profit-making corporation. It

less at the present time on annual business in the total amount of about \$10,000. That is our income from all sources, about \$10,000. Our expenses are just about the same, sometimes a little more, sometimes a little less. Some years we are in the red and some years we are in the black. I want to say that my cemetery assignment is the toughest of anything that I have had in my life. It was the toughest assignment outside of the farm.

When I was thirty-five years old I was induced away from the farm for four years. A stranger came to my door and induced me to accept a commission from the Federal Farm Loan Board as a land bank appraiser, and during the next five years I was in charge of appraisal work in New Jersey and New York State in the total amount of applications of approximately twenty millions of dollars, of which four millions of dollars were approved by the Federal Farm Loan Board over my recommendation either by my direct appraisal or by my review. I had to train the appraisers under me.

For twenty-five years I was a director of the Monmouth County Farmers' Exchange, the oldest and the largest farm marketing organization of New Jersey. Its business ran from one to two and one-half million dollars a year. It operated from thirty shipping points. It was not uncommon to ship a hundred carloads of potatoes out a day. When I became forty-five, I was called into a Director's meeting. The president was on the verge of death and I was drafted into the president's position

as president and general manager. I was unable to avoid that challenge. I had to captain the ship which was at the water's edge. During the next four years we marketed hundreds of carloads of potatoes at 45¢ a hundredweight, wheat at 60¢ a bushel, eggs at 20¢ and 30¢ a dozen. Two years after I entered the office of general management, 90 percent of the potatoes left the rails and were rolled by truck to their destination. Thirty of our shipping points became worthless - our railroad sites. The passage of the Wagner Act made it no longer possible to mix 12,000 tons of fertilizer by shovel by hand. Our warehouses became worthless. We had one hundred and fifty thousand dollars of our farmers' notes and the banks demanded our signatures. We refused to do so and the next four years I spent in holding twelve banks, the wholesale trade and fifteen hundred stockholders in line while I converted our assets into cash and paid our stockholders off more than their original investment.

I do not tell you this, gentlemen, in pride of what I have done. I don't ask for praise or sympathy. The next thing I want to say is that after closing that old, honorable corporation as a result of conditions far beyond human control, my nerves were shattered and I returned again gladly to my farm. But the trustees of the Maplewood Cemetery Company presented another challenge. The superintendent who had been superintendent for thirty years had grown old and he too was facing his death bed. I had been secretary of the Cemetery Company and treasurer for several years. I was the only one who knew the business or anything about it. I was again drafted into that position and I yet

have not been able to get out and take my rest to which I am entitled. I don't have to accept the small salary which they offer me to live.

Perhaps what I have said may qualify me in your esteem to express some opinion or to appraise the cemeteries of Monmouth County; that is, the ones near at home. Now, when I said that I feel that I am speaking for a thousand cemeteries, it is obvious that I couldn't cover twenty million dollars worth of farm properties in two states without having crossed a good many cross roads - back roads - country roads. And being cemetery conscious, I noticed and observed and talked with cemetery men over two states. So I know practically every cemetery in Monmouth County. And since forming this Association, I have gone to these cemeteries the same as I go to a farm to appraise it. I have driven through, I have walked through, observed all their physical properties, talked with the hired men in the cemeteries, talked with their officials and talked with plot owners. My honest conviction is that the whole cemetery business of Monmouth County is literally facing insolvency. Many of them are already liquidated, having sold all of their land. The money has been used for current expenses. Others are now being forced to use their land money for current expenses. They have told me so. The little church yard cemetery is too small in terms of land-bank phraseology to be an economic unit. They must go the way of the little red school. We must have in their place something in the nature of the township school or the consolidated school.

Now, cemeteries of the size of Maplewood Cemetery, of Fair-
lawn Cemetery at Red Bank, of the cemetery at Long Branch -- I just
forget the name -- cemeteries of that size and even some of the smaller
associations, many of which are the outgrowth of church cemeteries, but
have been separated from the church for the sake of efficiency and
finances -- those cemeteries of that class which are capable and large
enough to be economic units must survive to serve the rural communities.
Therefore, we feel that they must not be taxed out of existence and it
is only the last straw that broke the camel's back.

Before I close I want to read you one paragraph from a message
which we have published in the Freehold Transcript, the local paper,
entitled A Frank Message. When I say "we," I mean the Maplewood Cemetery
Company. The complete title is "A Frank Message to Plot Owners of
Maplewood Cemetery." I appreciate your time and I am only going to
read one paragraph here, but I am going to leave the full copy for your
observation and your study.

"Our largest item of expense is labor; next is equipment; and
next is taxes, which have increased 500% during the past 15 years; and
now cemetery legislation is pending in New Jersey, which if enacted, shall
increase them at least 250% more, placing taxes second to labor cost on
our expense account and requiring 8% of our gross income. We cannot be
too emphatic in saying that all of these problems are not only ours, but
in the last analysis, they are your problems. We must have the financial

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support, cooperation and fortitude of every one of you, or the ever increasing economic forces which militate particularly against cemeteries, shall eventually result in the financial ruin thereof and consequent neglect and final return to the wilderness. This is a national problem. Thousands of stones stand ambiguously in disgracefully neglected cemeteries and plots throughout our country as Forgotten Memorials to our dead.

"The only alternative is municipal cemeteries. Certainly politically managed cemeteries would be more costly and less efficient than under the present system, whereby public spirited citizens serve you for little, if any, compensation, profit or other reason than their community pride."

Thank you.

("A Frank Message to Plot Owners of Maplewood Cemetery," published in the Freehold Transcript May 15, 1952, received as an exhibit.)

SENATOR VAN ALSTYNE: Thank you, Mr. Moreau.

I'd like to call on Mr. Russell J. Zesch.

SENATOR SHERSHIN: I wonder if the gentleman would submit to one question from the Chair?

SENATOR VAN ALSTYNE: Will you submit to a question from Senator Shershin?

MR. MOREAU: Yes.

SENATOR SHERSHIN: Have you any idea how many cemeteries there are in Monmouth County?

MR. MORRIS: About 60. There may be two or three more.

SENATOR SHERSHIN: Our records indicate there are 90 cemeteries within Monmouth County.

MR. MORRIS: I am glad to know that. I appreciate that.

SENATOR VAN ALSTYNE: Mr. Russell Zesch.

MR. ZESCH: Because our organization has two spokesmen and in the interest of coherence, could I follow Mr. Baar, who will present a very short presentation first? Would that be possible?

SENATOR VAN ALSTYNE: All right, Mr. Zesch. We will call on Mr. Fredric Baar, Counsel for the New Jersey Cemetery Officials' Association.

MR. FREDRIC BAAR: Senator Van Alstyne and members of the Committee: The Association of Cemetery Officials is made up of some 80 representatives of cemeteries of all different types in this state. If you will permit me for three minutes by the clock, I would like to present the feelings in this matter of the Association rather than the individual cemetery.

Point number one: With all due respect to Senator Shershin and to the gentleman from the press, I submit for your consideration that the allegations of fact which constitute the basis of this bill, on which this bill must stand or fall, are false and misleading. I realize that time does not permit going into those now. I would offer to this Committee and Senator Shershin, if he would submit a written memo to this

Committee specifying the alleged instances of abuse, we of the Cemetery Association would be willing to reply with our names, explaining these special instances.

Number two: On the point of law of this proposed bill, the requirements of the laws of this state are not met in that there is no standard, no rule and no norm which will direct or limit this Cemetery Division in its activity.

Number three, and finally: I call your attention particularly to Section 22 of the proposed bill and I ask you if you will be kind enough to follow the language with me. I quote: "This act shall not of itself repeal any law now in effect in this State, except wherein such law shall be inconsistent with this act," -- and I emphasize the following words -- "or a rule or regulation of the Division of Cemeteries." I repeat, "except wherein such law shall be inconsistent with this act, or a rule or regulation of the Division of Cemeteries." I submit to you gentlemen that the only possible interpretation of this language is that this Cemetery Division will usurp the powers of the Legislature of this State. Any regulation effected or promulgated by this Cemetery Division will repeal, amend or wipe out the law of this State.

There are just one or two other points that I would like to make reference to. I understand time does not permit us to go into it. Sections 8, 9, 10, 14 and 15 require the filing of reports, maps, detailed schedules and accounts. Senator Shershin has said that these reports, etc. are not required by law. With all due respect to the Honorable Senator,

I submit he is wrong. Mr. Zeech will bring that out in his remarks.

By virtue of Sections 12 and 13 of the proposed bill, this Division of Cemeteries is empowered to draw new legislation, revise and codify the present law. I submit again to this Committee that this should be in the hands of a legislative committee where tradition and law have placed it.

Sections 27 and 28 of the proposed bill give to the Division of Cemeteries what is essentially an absolute and unlimited power. They are bound by no standard, no norm, and with the exception of a final paragraph in the bill where lip service is paid to review by the Superior Court, which would be present in any case, they are not susceptible to any review.

Section 23 of the proposed bill reads, and I quote: "All unpaid assessments or charges against cemetery lot owners, unless made pursuant to express contracts with said lot owners, are hereby abrogated." I submit to this Committee that legal rights and obligations can arise and be binding upon the parties by methods other than express contracts. This bill would in effect abrogate the rights of the parties involved.

Finally, Section 24 of the proposed bill reads in full: "The depository for moneys for the perpetual care or maintenance of cemeteries and cemetery lots and plots shall be a financial institution of the State of New Jersey." In order to clarify matters or to educate me, I would ask what the Senator means by "moneys," and, secondly, what he means by "a financial institution." Does "moneys" mean cash, actual

coin of the realm? Does it mean stocks or bonds or mortgages? Does it mean any or all of them? If it refers to securities, does it apply to negotiable or non-negotiable securities, or both, or either? I submit to this Committee that this is but one example, time not permitting bringing all of them out, of the many instances in which the proposed bill is vague and uncertain.

On behalf of the Association of Cemetery Officials, and as will be brought out by Mr. Zesch in his remarks, I would like to make one thing clear for the record. We are not down here merely to criticize and to say "no." We stand ready to admit that there are problems and problems which need solution. We submit and offer our aid and our assistance, our experience and our background to make whatever changes and amendments are needed and to make them in the manner which is now provided for, and rightly so, by law, and not by this so-called Cemetery Division, which would for all practical purposes be a law unto itself. Thank you.

SENATOR VAN ALSTYNE: Thank you, Mr. Baar. We appreciate your offer of assistance. You represent the New Jersey Cemetery Officials' Association. Would you please give Mrs. Smith your address?

MR. BAAR: Fredric Baar, care of Milton, McNulty and Augelli, 1 Exchange Place, Jersey City.

SENATOR VAN ALSTYNE: Thank you, sir. Now, I believe it is your turn to be heard, Mr. Zesch.

MR. RUSSELL ZESCH: Senator Van Alstyne and members of the

Committee: In the interest of time I'm going to read a summation here of the feelings of our Association. As has been pointed out, we represent some 80 of the major associations--major cemeteries, both corporate stock companies and lot owners' associations in this state.

Now, to date there has been a great amount of publicity given to one side of the issue which has been raised and is being presented to this Committee tonight. There have been numerous accusations directed toward the private cemetery of New Jersey and toward those of us who, as managers and executives, are concerned with the operation of such cemeteries. The members of the New Jersey State Association of Cemetery Officials, for whom I speak, have come here to present to this Committee for its consideration our side of the issue, and we submit the true facts of the situation which, as yet, have not been made known.

At the outset we contend that the bill proposed by Senator Sherishin has as its basis a series of unwarranted allegations which are completely false and misleading. In paragraph seven of Senator Sherishin's proposed bill it is stated that one of the purposes of the act is to prevent, and I quote, "unlawful, unfair, unjust, destructive, demoralizing and uneconomic practices." By this language the issue is stated. We who operate and manage the private cemeteries of New Jersey are ready and willing to meet that issue, to offer for your consideration the true facts which heretofore have received little or no attention.

Cemeteries and those concerned with their operation are as fully bound by the law and as amenable for misdeeds as any other business organization or individual in this state. The language of the proposed bill, by innuendo, implies that the private cemeteries are getting away with something - that they are permitted to indulge in unlawful practices such as are quoted above. So far the proponents of this bill have advanced no proof that any or all of the above-named practices are present today. Nevertheless, the private cemeteries of New Jersey have been subjected to charges and accusations without one iota of proof being advanced to support them. Those who claim that the operation and business affairs of the cemeteries are being conducted improperly have shown time and time again that they have little or no knowledge of the subject with which they are dealing. It is manifestly unfair to accuse the many and varied private cemeteries of negligence without competent proof of wrongdoing having been set forth.

The private cemeteries of New Jersey are run ethically and honestly. Those concerned with their operation are men, who, in the vast majority of instances, have devoted lifetimes to gaining the knowledge, experience and understanding absolutely essential if so vital a service is to be provided for the public at large.

Where are the unlawful conditions which the proposed bill would correct? Where in the present health laws of this state are there loopholes or inadequacies which permit the alleged abuses? What individ-

nals, associations or corporations are indulging in practices which are "destructive" or "demoralizing"? Where is there the injustice and unfairness which this act would correct? Just what purpose would be served by the establishment of a Board such as is proposed in Senator Shershin's bill?

A little known fact is that the private cemeteries of this state are not big business in any sense of the word. The majority of private cemeteries of New Jersey are operated by non-salaried trustees who take no profits therefrom. In most instances, the responsibility for the operation of the cemeteries is assumed by these same non-salaried trustees. Practically all of the moneys which are received by cemetery associations are immediately put back into the cemeteries in the form of improvement, care, labor, embellishments and general overhead.

It is worthy of note that the proposed Cemetery Division provided for in Senator Shershin's bill not only is empowered to promulgate any and all rules and regulations to cover cemetery operation, but apparently these rules and regulations have the force and effect of law, and, further, the Division appears to have the power of amendment, and, therefore, the Division would have the power of making the laws in this State merely by issuing rules and regulations. In addition, those people qualified to make such rules and regulations are given absolutely no voice. Section IV of the proposed bill provides for a "Council" of seven men, three of whom shall be cemetery officials. This "Council,"

according to paragraph seven, shall not in an advisory capacity and shall have "such powers and duties as may be conferred and imposed by this act or any other law." The proposed act confers no powers or duties. No other law of this state gives the representatives of the private cemeteries any right to be heard. In final analysis it amounts to this: Those having an interest in and understanding of the problems involved would be denied any and all right to participate in the solution of these problems and the formulation of the solution.

We wish it understood that our approach to this hearing is not one of negative character. The members of the association have recognized for some time the fact that the present cemetery laws in this state could afford improvement and, if need be, codification and revision. We have law on the books today which was enacted over the years, going back to 1847. Naturally, the complexity and various phases of cemetery operation have increased and multiplied to the point where some of the laws are no longer applicable or do not adequately serve their purpose. We are, therefore, willing to admit that there is a problem. We are ready and willing to join in taking the steps necessary to solve that problem. The Association feels that the establishment of a State Board of Control is most definitely not the solution.

Objections to establishment of a State Commission:

There is no need for any such Board of Control or Commission as proposed in Senator Sherman's bill. The present law, if properly

enforced, is adequate to deal with the problems arising out of the operation of the private cemeteries.

A Cemetery Commission made up of individuals who have no knowledge of or experience in that which they are to control and regulate would prove a failure.

There are as many types of cemeteries in New Jersey as there are cemeteries. The cemetery manager or executive of today is a varied type of individual, who must have some engineering knowledge, some experience in handling labor, some experience in selling, a smattering of bookkeeping, accounting, law, tax decisions, etc. Operation of the modern cemetery has become more and more complicated. The services provided by a cemetery are of a type which must be rendered with the utmost of discretion, tact and efficiency. No group of men could properly deal with and solve the numberless problems and difficulties which arise in the course of daily operation of the ^{many} kinds of private cemeteries.

What is needed today is proper enforcement of the present laws governing cemeteries and cemetery operations. On the assumption that these present laws could be improved by amendment or otherwise, then we of the Association wish to go on record as being in favor of such improvement on the condition that it is accomplished by recognized means as are provided for by the law of this state.

The proposed Cemetery Commission could not possibly accomplish that which it purports to be established to accomplish. The proposed

Board, as noted above, would be comprised of four state officials who, for all practical purposes, would have no intimate knowledge or understanding of the subject with which they seek to deal.

The proposed act implies that there are practices by cemeteries today which, without repeating the language of the bill, are improper and should be eliminated. Let us assume for the moment that there are such improper practices. How could the officials of the Board of Control deal more effectively with unhealthful conditions than the municipal and State Boards of Health which now have jurisdiction? How could the Board determine what is unfair in any given situation or set of circumstances without having any experience in what constitutes unfairness or injustice in cemetery operation? Senator Shershin's bill implies that the Board would, among other things, prevent uneconomic practices in the methods and operations of cemeteries. We certainly will admit that there are many uneconomic practices present today. It is indeed uneconomic that the majority of cemeteries in this state are losing money year after year or, at best, breaking even, with the present high costs of labor, materials and general overhead. To remedy this difficulty would the board supply the funds necessary to put these cemeteries on a paying basis, or, at least, allow them to break even? Where would the money come from? Senator Shershin's bill states further that it would prevent cemeteries from falling into disrepair and dilapidation. However, nowhere in the proposed bill is there any suggestion as to how

these things are to be accomplished.

The purpose of all of the above is to try to point out that the great number of problems and the great variety of cemeteries do not lend themselves to any magical rule or solution that will be effective in all situations. We have admitted that there is a problem. We have gone on record that we wish to aid in the solution of that problem. The Association submits to this Committee that what is needed is a proper enforcement of the present law and amendment to that law wherever it should prove necessary. We offer our aid and assistance in determining what parts, if any, of the present law should be changed, by amendment or otherwise.

The filing of reports required by the proposed act is unnecessary and would prove an unwarranted encumbrance.

Five sections of the proposed act require the cemeteries to file with the Division of Cemeteries numerous records, accounts, maps and reports. These sections are numbers 8, 9, 10, 14 and 15. With the exception of the complete audit of the permanent maintenance fund, the filing of the above-mentioned reports is already required by the laws of this State. Referring to a statement by Senator Shershin a few moments ago, in an attempt to answer it, all the cemeteries of the State which are organized under the Rural Cemetery Act are required by law to file a statement of their trust funds with the Department of Banking and Insurance and they are subject to audit once each second year. Those

are the cemeteries under the Rural Cemetery Act. It would serve absolutely no purpose needlessly to duplicate the filing which is required by the proposed act. In addition, the Association objects to the filing of records with the Division of Cemeteries inasmuch as all the records, with the exception of the complete audit referred to in Section 15, are in nearly all instances already on file with various State agencies authorized to keep such records. Moreover, the books, accounts and maps of all the private cemeteries of New Jersey have been and are now available for any inspection by proper and authorized persons. It is obvious that the provisions of the proposed act would serve no useful purpose, would involve a great deal of useless repetition and unnecessary expense.

The complete audit required by Section 15 would prove entirely too expensive for 90% of the cemeteries of this State. At present, the bookkeeping of these cemeteries is done by the manager or operator, in addition to all of his other duties. A complete audit of the type required by Section 15 would necessitate engaging a professional accountant at a cost which many cemeteries would be unable to bear.

Codification of the law, if necessary, should not be left to the discretion of a State Board of Control.

Paragraphs 12 and 18 of the proposed act would empower the Division of Cemeteries to act independently in codifying the cemetery laws of this State. We of the Association submit that if such codifi-

nation is necessary, it should be accomplished by means now provided for by law. That is to say, we believe that any work done along this line should be under the control of a legislative committee which would draw upon the knowledge of and confer with those actively engaged in the operation of private cemeteries. It is only by that method that we can arrive at an equitable solution of the problems which may exist.

Gentlemen, we submit that the enactment of the proposed law would not be in the best interests of the citizenry of this State.

Thank you!

SENATOR VAN ALSTYNE: Thank you, Mr. Zesch. Any questions, gentlemen?

I'd like to ask you this question, Mr. Zesch: I gathered from your testimony quite definitely you are not in favor of this bill in toto. I think you have made that quite clear. You did make it clear, however, that you did feel that there were certain amendments to present laws on the book that would be desirable.

MR. ZRSCH: Quite so, sir.

SENATOR VAN ALSTYNE: Would your Association be willing to send this Committee, addressed to me, your recommendations as to which laws should be changed and in what manner?

MR. ZESCH: Yes, given sufficient lapse of time, because it is an extremely complex problem. As you probably know, the cemetery laws of this state are dispersed through many different acts. It requires

considerable study. We have undertaken a part of that and we should be very happy to submit it as and when it may be required.

SENATOR VAN ALSTYNE: Could you do it in two weeks?

MR. ZESCH: We will make every effort so to do.

SENATOR VAN ALSTYNE: I'd like to call on Mr. Edward G. Everts, counsel, representing the Lakewood Cemetery of Saddle River Township.

(Discussion off the record.)

MR. EDWARD G. EVERTZ: Senator Van Alstyne and members of the Committee: My letter of March 28 addressed to you, Senator Van Alstyne, briefly and concisely sets forth the objections of our cemetery to this bill and I should like, with your permission, to have it made part of the record, and to furnish Senator Sharp, Senator O'Mara, Senator Bodine and the other members of your Committee a copy of it.

(Letter addressed to Senator Van Alstyne, written by Edward G. Everts, and dated March 28, 1953, received as an exhibit.)

I can say that this bill is highly stringent. It virtually legislates the cemeteries throughout our state, and especially the very well-run cemeteries, right into the Division of Cemeteries, perhaps without sufficient study and background. Now that might be questioned by Senator Shershin inasmuch as I know he made an ardent study of the whole situation. I think if you all, perhaps individually, analyze cemeteries as we know them -- and I can say that in Mr. Ormond's cemetery we have buried several generations of our family. I think it is a very fine

cemetary. I am very proud of it. I can say the same certainly for Haskensack Cemetary. We have some members of our family even down in Monmouth County.

I fail to see, speaking now as an individual, why we should have this complete invasion of the governmental field into the cemetary business. Apparently it is designed as perhaps a single-purpose act because of one flagrant abuse in the business.

I would like to stand on my objections which I have set forth in the letter.

SENATOR VAN ALSTINE: Thank you, Mr. Everts. Did you give that copy to Mrs. Smith for the record?

MR. EVERTZ: Yes, sir.

SENATOR SMERSHIN: May I ask that a copy also be sent to me?

MR. EVERTZ: Yes, I'll send you one.

SENATOR VAN ALSTINE: I'd like to call on Mr. John G. Dluhy - I think I have pronounced that correctly - representing the City of Clifton.

MR. JOHN G. DLUHY: I would like the Committee to know that I represent the City of Clifton, the home town of Senator Shershin, and my home town. It was in our town that we had considerable litigation regarding the East and West Ridgelaun Cemeteries. We have had some experiences with cemeteries in our municipality that have probably brought about requests by the public for legislation.

I can go back to 1937 when I appeared on several occasions in the Assembly at a time when an assembly bill was sponsored with the idea of obtaining some relief against some of the practices which you probably have heard about and which you probably will read from the testimony in the exhibits before the Assembly Committee. I think Senator Shershin has spoken about those and I believe that our memorandum plus the testimony that we gave before that committee would outline a good deal of those practices, without me having to refer to them here at this time.

However, we feel and we suggest to your committee that there are practices which should be studied and should be eliminated and some course of action taken. We feel, therefore, that this bill is a step in the right direction.

I represented an individual at the request of our governing body at the time of the hearings before the committee and there related one of the experiences of this man, who I thought represented the public for our purposes. I also represented the Monument Association, which had made a survey at my request, so that we were able to get information concerning some of these so-called practices in the State, not only in Clifton. So when I speak, I don't speak of our own situation only. One of the gentlemen spoke here and said that the laws on the books now are adequate. I don't think so. That, of course, is my own opinion, but I feel that from our own experience in Clifton we can show you that it is inadequate.

We had a cemetery that went into the hands of the receivers and we have had litigation over a period of twenty years and I have been in that litigation for a good number of years. We sought the help of the Attorney General's Office. We finally devised the idea that the one way to get at the root of the trouble was to use the taxing power and eventually we were able to get a decision in which the Court of Errors and Appeals held that the cemetery in this particular case was operated for profit.

Now, when we examined that situation, we found that a cemetery which had had a franchise back many years ago had gotten into difficulties. All of the property of that cemetery was sold to another corporation and the franchise went with those deeds. Now we find that this cemetery was divided into sections. We have not one rural cemetery corporation, but we have three. We have not only four corporations, but we have about seven, some of which are business corporations.

We attacked the problem another way. We thought because of some of the complaints, shall I say, about perpetual care, that we ought to examine into that and when we did we found that the Banking and Insurance Commissioner's hands are tied because of the wording of the statute. I think one of the gentlemen said truthfully that the statute requires every rural cemetery to file their report. As that as it say, when you make a survey of the cemetery situation -- I am not talking about church or religious cemeteries -- you find rural cemeteries

you find business corporations operating cemeteries and in one case that I knew of an individual or a family. So that you have cemeteries operated by special acts as well as rural cemeteries. And when that is the case, we find that these other groups are not required under this law to file statements of their investments and to be examined. When you take the statute itself, it merely provides for a nominal filing fee of \$3 or \$5, but it is a small amount, with the audit or statement of the finances. But it has no teeth. It doesn't provide what shall be done by the Banking Commissioner. It does provide in the event of illegal investment of funds, there shall be a right of action. Should not there be a policing agency of this state? Should not our Legislature formulate such a plan? I think we have come to that point in this state. We don't say anything about the old-line cemeteries. My experience has been that many of them--most of them have traveled the road that has been outlined here. But we find that the cemetery business in this state is changing just like it is in other states. We find other types of operations which have been alluded to here.

Now, that is something that has brought about the desire for legislation as far back to my memory as 1937, but when we get before the legislative bodies we find that we agree that we need some changes. We offer our help, but that is as far as we have gotten to my knowledge in 15 years. This is the first real attempt to get some legislation which would provide for policing of the cemetery business. Now, let's consider

our own court system. I am a lawyer and I believe most of the Senators on the Committee are. We find at the convention they decided to have a revision of the court system. We have now an administrative head of the courts and through that correlation of work and centralization we find that the system is operating better. Take the cemetery business. Where can you go if you have a complaint? The books are filled with cases, but should that be the situation? Should the state permit everyone or require everyone to go into court to protect his rights?

SENATOR O'MARA: I hope you won't mind my interrupting you. I'd like to get my mind oriented as you go along. Do you think the commission, which I understand you believe should be set up, should have the power to promulgate rules which would in effect repeal existing statutes?

MR. DLUHY: No, I would not go that far.

SENATOR O'MARA: The bill, however, says so.

MR. DLUHY: I agree with you, Senator. I don't agree with that provision. I have examined the bill thoroughly and I have some comments that I would like to make if the Committee members desire. However, I don't want to take the time here because I think following through on all these sections would take considerable time.

SENATOR O'MARA: I think I can speak for the chair and the other members of the Committee and say we would be glad to have your written suggestions. I am sure we would.

MR. DLUHY: Gentlemen, I did want to make one comment which I was leading up to. Now, when I said before there is no place you

could go to -- and as a lawyer I have had the experience with some clients. You take, as an instance, the adoption of a rule and a regulation by a cemetery association. I have examined some which in my opinion are unreasonable. Where can you go to have any check on that rule and regulation? There is no place. You must go to the court to try it. You know what happens. The cemetery people don't have the finances. They don't know where to go.

The instance of the public represented by this one man in Clifton is an instance that I think I ought to cite to you because he said he bought in a religious cemetery a plot which was owned by a society and he was told there was perpetual care. His wife died. He made arrangements or attempted to make arrangements for the burial. He found that the society said, "You must give \$40 for perpetual care." He said, "I paid for that, at least I thought so." He went to the so-called parent organization of the cemetery and he was told they could do nothing for him and there he was. He made this complaint before the Committee.

Now, we find one situation from the standpoint of cities we feel is an important consideration. We don't feel that the franchises of cemeteries should be bartered--should be sold on the side without some state organization approving or disapproving it on the same theory as a public utility. We feel that we must have cemeteries. We feel as we go along maybe cemeteries will become more and more important because of

additional requirements. But we don't feel that cemeteries should be sold, as was the case in the City of Clifton, lock, stock and barrel, and then have this conglomeration of corporations which nobody could figure out, not even a Philadelphia lawyer.

We feel that this legislation is a step in the right direction with some amendments. We feel that this Legislature should do something to remedy this condition.

SENATOR VAN ALSTYNE: Thank you, Mr. Duky. Any questions, gentlemen?

That concludes the people that desire to be heard at this time. Shortly after as Chairman I announced that the public hearing would be this evening, several people approached me and stated that because of religious holidays a number of associations that would like to be heard could not be represented. And I made the statement at the time that I thought in fairness to them we would adjourn this hearing to some appropriate time. I'd like to consult my colleagues here. What would you think about two weeks from tonight? Would two weeks from tonight be all right?

MR. EVERTZ: I think I was one in that category and I don't think that situation still pertains inasmuch as we have put our objections in in writing. I am thinking in terms of not having to go through another lengthy hearing.

MR. BAAR: Senator Van Alstyne, two things: I forgot to have this brochure entered in the record. It is a publication of the Association

of Cemetery Officials. He was here tonight.

SENATOR VAN ALSTINE: All right. He is with Mr. Silber.

(Brochure prepared by the N. J. State Association of Cemetery Officials entitled "Do You Know That" received as an exhibit.)

MR. BAAR: Secondly, on behalf of the Association, we feel at this time that we have presented our case as fully as it may be presented.

SENATOR VAN ALSTINE: Senator Shershin, what have you to say about it?

SENATOR SHERSHIN: I knew Deputy Attorney General Ossie Silber who was assigned to the Committee would like to address the Committee. That can be a matter of convenience. Any day that you want to make it your business to meet with him in Trenton, he is available. If he is the only other witness that has to be heard, I think we can arrange that even before our regular meeting or some evening.

SENATOR VAN ALSTINE: Senator Shershin, how would two weeks from tonight do?

SENATOR SHERSHIN: I don't even think you have to make it an evening meeting. I have no objection to that. We will be in recess, will we not? Will we be in recess or is that April the 13th?

SENATOR O'MARA: That is the day we recess.

SENATOR SHERSHIN: That is fine for me and I am sure it will be perfectly all right for Mr. Silber. Judge Carey, I think, wants to be heard.

SENATOR SPERSHIN: I think he wants to follow Mr. Silber.

SENATOR VAN ALSTINE: All right. I hereby declare that this hearing will recess until eight o'clock Monday evening, April the 13th, in this same Chamber. I wish to thank you all for coming and I thank you for the courteous way in which you have presented your case to the Committee. We will certainly take under full consideration everything you have said. The meeting stands adjourned.

**Assessed Valuations and Property Taxes Paid by New Jersey Cemeteries and Graveyards
for 1950 as Revealed by Information Supplied by Local Tax Assessors and Collectors (a)**

COUNTY	TOTAL NET PROPERTY VALUATION IN COUNTY (b)	ASSESSED VALUATION				
		OF ALL CEMETERIES	OF CEMETERIES PAYING NO TAXES	OF CEMETERIES PAYING SOME TAXES	ON WHICH TAXES WERE PAID	TAXES PAID
Atlantic	\$ 139,413,464	\$ 104,085	\$ 91,000	\$ 13,085	\$ 1,395	\$ 169.36
Bergen	575,802,644	1,754,159	1,353,560	400,599	78,631	5,574.18
Burlington	66,617,280	204,775	201,525	3,250	3,250	186.55
Camden	278,255,243	1,260,290	1,222,240	38,050	12,050	903.55
Cape May	59,807,576	20,650	20,650			
Cumberland	58,880,171	135,000	135,000			
Essex	1,437,772,595	5,853,100	5,853,100			
Gloucester	68,507,687	90,250	88,650	1,600	1,600	106.88
Hudson	1,036,680,974	3,093,500	3,093,500			
Hunterdon	40,365,784	83,550	83,550			
Mercer	278,464,899	749,775	679,690	70,085	10,685	681.87
Middlesex	250,768,927	548,865	472,289	76,576	36,900	2,840.33
Monmouth	199,991,277	444,560	433,550	11,010	3,010	150.93
Morris	152,796,138	326,893	322,193	4,700	4,700	278.44
Ocean	59,747,217	42,475	42,475			
Passaic	439,242,142	808,600	808,600			
Salem	56,416,061	94,890	94,890			
Somerset	82,246,318	71,100	61,600	9,500	9,500	123.40
Sussex	33,621,697	79,400	79,400			
Union	585,036,176	596,860	524,860	72,000	20,016	1,073.13
Warren	43,974,600	104,900	104,900			
TOTAL	\$5,944,408,870	\$16,467,677	\$15,767,222	\$700,455	\$181,737	\$11,888.62

- (a) Based on reports from 521 of 564, or 92.37% of tax districts of N. J. received in a questionnaire circulated to the assessors or collectors of all tax districts.
- (b) Annual report, Division of Taxation, Department of Treasury, N.J., 1950, pg. 30.

The following chart was offered as an exhibit by Senator Frank W. Sherman:

Copy of Exhibit submitted by W. R. Marcus, representing The
 Replanted Cemetery Company of Freehold, New Jersey: **benefits you receive**
 and in addition to what we are requesting for us to be received your plot
 when we now estimate that under our plan it would be about 1000
 years. We believe that the interest of most of you is not only in the
 appearance of the grave of your most loved one but also in your family
 plot and the cemetery as a whole. Therefore, please give consideration
 to the whole and not only to the part in which your special interest is
 focused.

Again at this time of year, we beg you to consider the problems
 of the management and employees, who must strive to serve you collectively
 and not individually. If your plot is endowed for perpetual care, your
 \$100.00 now invested in legal securities, yields an amount sufficient
 for us to buy about 2 hours of work for you each year in the present
 labor market, whereas, we must now your plots and paths leading thereto
 from 20 to 25 times each year, trim around your 7000 stones, trim your
 shrubbery, remove your dead flowers, keep 3 miles of street in order at
 all times for your use, refill and recess hundreds of sunken graves each
 year for you, render clerical services and receive many calls from you
 every day of the year and many nights.

Certainly it is obvious, that such service cannot be accomplished
 without the use of large and speedy power equipment; hand work is too
 costly; but notwithstanding our former appeals, last year many of you
 again dug holes in the sod for flowers and containers, placed flower bas-
 kets, fraternal emblems, flags, etc., laid wreaths and blankets of flower
 premiscuously upon graves and on all parts of your plots, as much as a
 week before Memorial Day, and did not remove many of them until more
 than a week thereafter. Thus for more than two weeks we could not get
 through with our power equipment, and meanwhile, heavy rains caused the
 grass to get ahead of us, and to hide from sight the hundreds of holes,
 wires, sticks, stones, etc., that you used for supports, and which caused
 many accidents, damaging our costly equipment and injuring our employees.
 Fortunately, no damage suits were brought against you or us. A month
 elapsed before we could again restore the cemetery to a presentable
 condition.

Please remember that a few well chosen flowers are sufficient as a
 memorial and to add beauty; quality, not quantity, contributes most in de-
 sign. Please plant flowers or place cut flowers, etc., within 1 foot from
 monuments; no bush of any kind should be planted in front of a monument;
 plant bushes only at the ends of monuments; and no bushes on corners or
 other parts of plots.

Of the 1800 who own plots, more than 200 of you have entirely aban-
 doned your plots to our care at our expense and yet you spend dollars upon
 flowers to decorate; a few others who care for your own plots, thereby in

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no way contribute to the badly needed financial support of your cemetery as a whole, nor pay for the many other services and benefits you receive, and in addition you make it more expensive for us to go around your plots than to now straight over them; and the infrequent casual care that you give, causes nearby plot owners to criticize us as well as you. Our annual care charges are below cost to us, but when we have attempted to raise them to more nearly cost price, so many of you stopped paying that we found we had reached the point of diminishing returns.

Hundreds of you, who have inherited burial rights in the plots of owners now deceased, have not filed your names, addresses, and claims of right, title and interest therein with the secretary in accordance with the law; consequently we have no way of contacting you excepting through the public press.

Our largest item of expense is labor; next is equipment; and next is taxes, which have increased 500% during the past 15 years; and now cemetery legislation is pending in New Jersey, which if enacted, shall increase them at least 250% more, placing taxes second to labor cost on our expense account and requiring 8% of our gross income. We cannot be too emphatic in saying that all of these problems are not only ours, but in the last analysis, they are your problems. We must have the financial support, cooperation and fortitude of every one of you, or the ever increasing economic forces which militate particularly against cemeteries shall eventually result in the financial ruin thereof and consequent neglect and final return to the wilderness. This is a national problem. Thousands of stones stand ambiguously in disgracefully neglected cemeteries and plots throughout our country as FORGOTTEN MEMORIALS to our dead.

The only alternative is municipal cemeteries. Certainly politically managed cemeteries would be more costly and less efficient than under the present system, whereby public spirited citizens serve you for little, if any, compensation, profit or other reason than their community pride.

Remember: You have dedicated your church as the house of your God; you have dedicated your cemetery lands as His also. We have given you one of the best cared for cemeteries in this state. May we have your support and good will to enable us to continue to serve you and our community at large?

copy

Exhibit offered by Edward G. Everts.

71.

March 20, 1953

Hon. David A. Van Alstyne, Jr.
Senator - Bergen County
State House
Trenton, N. J.

Re: S-218 (Sen. Sherman) Introduced February 16, 1953

Dear Senator Van Alstyne:

This Bill is highly objectionable for the following reasons:

1. It is most extreme and totally unrelated, either to the needs of cemeteries or of the public.
2. It greatly exceeds any shown need for regulation -- in fact, it threatens the actual future existence of cemetery institutions in this State.
3. It deprives the trustees of our many fine cemeteries of the benefits of the present Cemetery Acts and other acts, removing all independence of action and judgment concerning the promotion of the sale of ground, the right to fix reasonable charges for maintenance and services, and generally govern their own affairs.
4. It is confiscatory in that it abrogates existing contract rights or charges against plot holders, penalizing cooperative members of such associations.
5. It removes the rights of trustees and directors of access to the Courts, substituting therefor the clearance of claims through a proposed Cemetery Board.
6. It improperly delegates powers to a proposed commission, even to the point of repealing existing statutes by the mere adoption of a regulation (see paragraph #22).
7. It imposes exorbitant and harsh penalties for violation of vaguely described regulations of the proposed law or the regulations adopted pursuant thereto.
8. Inclusion of perpetual care in the sales price of a grave tends to make the cost of the plot prohibitive.
9. It prohibits fair agreements which could provide perpetual care on a realistic basis.

10. There is no necessity for the creation of a new body to supervise perpetual care and other funds of these institutions. Their reports now are furnished to the Banking Department.

Should it be deemed necessary to create a Cemetery Board, it is suggested that such a Board be composed of members having administrative cemetery experience, with only such public members as are considered necessary to reassure the public that its interests are properly safeguarded.

We represent Riverside Cemetery of Saddle River Township, New Jersey and know that many other fine cemeteries, both small and large, are diametrically opposed to this very drastic Bill and will so indicate in a public hearing for Monday night, March 30th, and even in greater numbers on any continued public hearing date to permit many to be there who can not attend on this Monday.

Yours very sincerely,

/s/ Edward G. Everts.