



3 3009 00113 8868

STATE OF NEW JERSEY

FINANCIAL REPORT

of the

ASSIGNMENT COMMITTEE

ON THE MEMBERSHIP AND REVENUE SOLIDARITY

COMMISSION

REPORT

1953

Division of State Affairs

Records and Archives

TREASURY

Members of the Committee

Paulo W. Sincalini, Chairman

George F. Kluge

Ernest R. Wilson

1953

Office Staff, Confidential to the Committee

Marion F. Quinn, Secretary

New Jersey Legislative Council

1953

1952

STATE OF NEW JERSEY  
FINAL REPORT  
of the  
ASSEMBLY COMMITTEE  
ON CEMETERIES AND MAUSOLEUMS

Members of the Committee

Frank W. Shershin, Chairman

George F. Neutze

Emmert R. Wilson

\* \* \*

Osie M. Silber, Counsel to the Committee

Margaret E. Coonan, Secretary

New Jersey Legislature

Assembly

1952

LETTER OF TRANSMITTAL

Assembly Chamber  
State Capitol  
Trenton, New Jersey  
March 31, 1952

Honorable Lawrence A. Cavinato  
Speaker of the Assembly  
Trenton, New Jersey

Mr. Speaker: The Assembly Committee on Cemeteries and  
Mausoleums created by Assembly Resolution No. 2, 1950, herewith submits  
a report of its investigations and findings.

Respectfully submitted,

Frank W. Shershin, Chairman

George F. Neutze

Emmert R. Wilson

**Final Report of Assembly Committee on Cemeteries and Mausoleums**

**Text of Resolution Creating Committee**

**Assembly Resolution No. 2 Passed by the Assembly, February 6, 1950**

**A RESOLUTION creating an Assembly committee to make a study of the laws concerning cemeteries and mausoleums and to report thereon to the Assembly.**

**BE IT RESOLVED by the House of Assembly of the State of New Jersey:**

**1. There is created an Assembly committee, to consist of three members of the Assembly to be chosen by the Speaker thereof, whose duty it shall be to make a study of the laws concerning cemeteries and mausoleums.**

**The committee may hold hearings in any part of the State and is empowered by its subpoena to compel the attendance of and examination of all individuals, associations, copartnerships, corporations formed under any special or general statute or act who own, operate and maintain cemeteries, burial grounds and mausoleums, and the production of books, papers and records, and may draft necessary assistants from any State departments.**

**3. The committee may sit during any recess of the Legislature or after any adjournment thereof, shall conclude its work as soon as practicable and shall report to the Assembly the result of its study and its recommendations.**

## PROCEDURE FOLLOWED

Your Committee has been at work on this problem for a period covering the two legislative sessions of 1951 and 1952. From the beginning, the Committee's aim was to secure a complete picture of the cemetery situation in New Jersey and to measure the adequacy of the State's existing cemetery laws to deal with this situation. To secure this needed data, the Committee made use of every means available to it short of an on-the-spot investigation for which no funds were provided.

Two public hearings were held at which all interested parties were given an opportunity to be heard. Hundreds of pages of testimony were read and analyzed by the Committee, in addition to the briefs that were submitted by various groups in response to an invitation from the Chairman. A complete list of the witnesses heard and briefs filed is attached to this report.

At the beginning of the Committee's work, special counsel from the Attorney General's staff was assigned to aid it. Written complaints of individual lot and plot owners, and from the public at large, were directed to the Committee's counsel. These were studied and reported to the Committee.

In the belief that every cemetery organization should be given an opportunity to have the facts of its operation and policy presented for the record, the Committee undertook to secure these facts through a written questionnaire. The interim report of this Committee filed at the 1951 session of the General Assembly furnished a full description of this undertaking and it will not be repeated here except for some general comments as to its success.

The response to the questionnaire which was sent to local taxing authorities was entirely satisfactory. It furnished the Committee with statistics on the number of cemeteries in the state, gave the assessed valuation of cemetery lands and the tax revenues derived therefrom. The resulting data is on file in the New Jersey State Library.

In addition, these local tax authorities supplied the names and addresses of the cemetery organizations in their taxing districts. Every one of these organizations was sent a lengthy questionnaire designed to provide the Committee with such information as: rules and regulations of cemeteries; charges of cemeteries for various services; perpetual and annual care charges; investment and supervision of care funds; maintenance costs of cemeteries; salaries of cemetery officials and employees, and meetings of plot and lot owners and forms of notices thereof.

Despite months of work and the mailing of 3,700 letters and follow-up letters, less than 50% of the cemetery organizations responded to this opportunity to submit data for the use of the Committee. Of those which did respond, many failed to answer the most important questions asked. As an example, in one county in which there are 40 cemeteries, all were sent the Committee's questionnaire but only 17 returned it. Of the 17, 5 answered the question on percentages of lots paying perpetual care, 7 answered the question as to yearly revenue from perpetual care and 9 answered the question as to the cemetery's yearly maintenance costs. Because of the incomplete returns, it was not possible to give a complete detailed statistical analysis of the cemetery situation

in New Jersey. The Committee felt that full opportunity had been given the cemetery associations to submit the information requested. Even though the response was not 100% complete, the Committee felt that enough concrete data had been developed upon which it could base the specific suggestions and recommendations that are contained in this report.

### The Record

In all fairness, it must be stated that many hundreds of the cemeteries which did not answer the questionnaire are so small and poorly organized that they are in no position to supply the answers to a detailed questionnaire of the type used by the Committee. Many of these cemeteries have been in existence for a long time, the plots are all filled and all too frequently, because of lack of funds, the cemetery grounds are in a bad state of repair. The grass is uncut for months at a time, headstones have fallen over and the general atmosphere is one of neglect and decay. There is little point in attempting to obtain complete data on cemeteries of this type. This is particularly true in view of the fact that the Committee has concentrated its efforts upon developing specific suggestions and recommendations concerning large cemetery associations which have been organized by private individuals or groups.

Your committee has found that certain abuses now practiced by cemetery operators of this State are made possible by deficiencies in existing cemetery laws. In particular, attention is directed to the following:

1. Bulk sales of lots are made for resale at promotional prices.
2. Care charges are almost universal where the cemetery is not a religious one.

3. Many cemeteries do not segregate care charges from other income.  
Even when they do, the care funds are frequently not invested according to standards acceptable for trust funds.
4. Permanent care funds are not supervised by the State.
5. Lotholders and ploholders do not receive adequate notice of meetings.
6. Unreasonable cemetery regulations are enforced which result in restraints on the lotholder's choice of monument materials, markers, etc.
7. Overcharges are made for opening of graves and for use of cemetery facilities.
8. Many cemeteries are operated as purely business ventures and, as such, do not bear their proportionate share of the tax burden.
9. Present statutes concerning exemptions for cemetery property are in conflict and need to be clarified.
10. The present cemetery act is archaic and needs to be revised and codified.

#### The Remedy

It is clear that the present New Jersey cemetery laws need drastic revision. Having undergone overlapping changes in a period of over one hundred years, the laws are outmoded and ineffectual in the light of current problems. The flagrant disregard of the public interest on the part of some cemetery organizations has been possible because of statutory inadequacies with the result that legislative correction of cemetery abuses has become inevitable. Your committee feels that this legislation must provide some form of supervision since this seems to it the only effective means of coping with the situation.



In the one hundred years of operation of the State's cemetery laws it has always been recognized that cemeteries are in the nature of quasi public utilities. The policy of the State's control of their operation has never been questioned. It is only that the machinery for such control and operation is hopelessly inadequate. Our existing laws are powerless to prevent the public from being cheated and exploited. To correct this untenable situation, your committee recommends that the cemetery laws of this State shall be rewritten, and that there be created a State Cemetery Commission to properly supervise the activities of cemetery corporations.

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.

#### Suggested Features of New Jersey Cemetery Law

The Committee proposes the following as essential features of a new New Jersey cemetery law:

1. Create a State Cemetery Commission under the Department of Health to be charged with supervising the activities of cemetery corporations.

2. To defray the expense of administration and examination, every cemetery corporation shall pay into the State Treasury the sum of five dollars per acre or fraction thereof for tax exempt property but in no event is the amount paid to exceed five hundred dollars.

3. In addition, each year there shall be imposed a franchise tax upon each cemetery corporation to be distributed equally between the State and the municipality in which the cemetery is located according to the following proposed schedule:

Up to \$100,000	-	1%
Next 100,000	-	2%
Next 100,000	-	3%
Next 50,000	-	4%
All over 350,000	-	5%

4. There shall be paid to the municipality wherein any cemetery is located the sum of one dollar per interment for the entire preceding calendar year.

5. All existing laws pertaining to exemptions of lands used for cemetery purposes should be clarified.

6. (a) A permanent maintenance fund shall be created for each corporation, and at least ten percent of the amount of all sales of plots or lots must be deposited in a permanent maintenance fund.

(b) Cemeteries having sold large blocks of graves to burial societies, fraternal societies or others for re-sale to members of such societies shall be authorized to assess against said societies or fraternal

organizations an annual maintenance charge provided such charge is commensurate with the cost of maintenance and improvement and provided that all such charges shall first have been approved by the Cemetery Commission.

7. Each year every cemetery corporation shall file with the Cemetery Commission a complete audit of the permanent maintenance fund. The Cemetery Commission, upon failure to receive such information, may direct an audit to be made and assess the charges therefore.
8. Each cemetery corporation shall annually file with the Cemetery Commission a copy of its proposed rules and regulations and schedule of charges together with a statement showing the basis upon which they were made. The cemetery corporation must at all times have a copy of its rules, regulations and charges conspicuously posted in each of its offices.
9. Each cemetery corporation shall prepare a schedule of prices for graves and plots and shall file a copy thereof with the Cemetery Commission. Another copy shall be posted conspicuously in each of the cemetery offices.
10. From and after the passage of a new law, a plot owner shall not resell his plot unless he offers the cemetery corporation an opportunity to buy it back at the original price plus two per cent simple interest from the date of purchase.  
  
If the corporation rejects the offer within thirty days, the plot owner, upon obtaining the approval of the Cemetery Commission, may sell his

plot to any other purchaser.

A penal statute shall be enacted for violation of these provisions.

On all prior sales, owners without permanent maintenance contracts shall pay into the corporation's permanent maintenance fund the sum of ten per cent of the gross sales price.

11. Each year a notice of the annual meeting for the election of trustees shall be filed with the Cemetery Commission at least fourteen days prior to the meeting date.

Each notice of meeting shall be advertised in at least one newspaper circulating in the municipality within which the cemetery is located.

Such notice shall be posted in the office of the cemetery corporation.

12. Provision shall be made for creditors of a cemetery corporation to have representation on the Board of Trustees, but not in excess of one-third control of the entire board, until the whole indebtedness is discharged.

13. The certificate of incorporation of each cemetery corporation shall be filed with the Secretary of State.

14. All sectional maps showing the layout of lots and grave sections shall be recorded with the County Clerk and a copy filed with the State Cemetery Commission.

15. No condemnation of lands for cemetery purposes (as provided in 8:2-5 R. S. 1937) shall be permitted without approval first having been obtained from the Cemetery Commission.

16. Recognition shall be given to the fact that in many instances the operation of cemeteries is a business venture and present statutory provisions

should be redrafted in the light of this finding.

17. The present cemetery law should be revised and codified.

### Conclusion

The provisions recommended above are designed to give practical expression to the interest that all the people of New Jersey have in the maintenance and operation of the cemeteries of this State. We have tried to make recommendations in the light of present day realities and with the dual purpose of correcting existing abuses and providing against those which will arise in the future. It is our belief that the Cemetery Commission which we recommend will provide protection for the public and the legitimate and honestly operated cemetery organizations of this State. We submit that the adoption of legislation embodying the features we have set forth will effectively eliminate existing cemetery abuses and provide up-to-date machinery to guard against future exploitation of the public.

Witnesses Heard at Public Hearings,  
October 13, 1950 and December 14, 1951

Dluhy, John G., Counsel for the City of Clifton and representing the  
Monument Builders' Association of New Jersey

Milton, Charles J., representing the New Jersey Association of Cemetery  
Officials

Gassert, Frederick J., Counsel for the Roman Catholic Archdiocese of Newark

Rafferty, Honorable John J., New Jersey Legislative Council, Roman  
Catholic Dioceses, Newark, Paterson, Trenton and Camden

Mueller, Hugo, Secretary, New Jersey Association of Cemetery Officials

Schiffman, David, Lot owner in King Solomon Cemetery

Kurzrok, Ernest, Lot owner, West Ridgelawn Cemetery, Clifton, New Jersey

Grosso, Marius, Rosedale Cemetery in West Orange, Orange and Montclair

Frank, Charles, Woodbridge Monument Works

Carey, Honorable Robert, East Ridgelawn Cemetery

Silber, Osie M., Esquire, Deputy Attorney General, State of New Jersey,  
Counsel to the Committee

Kingsley, William, State Supervisor, Corporation Tax Bureau, Department  
of the Treasury

Scott, Walter R., State Registrar of Vital Statistics

McDonough, Roger H., Director, Division of the State Library, Archives  
and History

Sullivan, James M., Chief, Consumer Credit Division, Department of Banking  
and Insurance

Smith, Honorable Arnold M., Assemblyman, Passaic County

Ek, Carl, Staff Writer and Associate Editor, Passaic Herald News

Webb, W. H., Mount Pleasant Cemetery, Newark, New Jersey

Hammell, Ward N., Atlantic City Cemetery

**Burke, William F., Fairview Cemetery, Fairview, New Jersey**

**Hellring, Bernard, Restland Cemetery, East Hanover Township, New Jersey**

**Kelly, Lloyd J., President, New Jersey Monument Builders' Association**

**Narol, Aaron, 11 Commerce Street, Newark, New Jersey**

**Weiner, Murray, Restland Memorial Park, Newark, New Jersey**

**Frees, John T., Treasurer, Laurel Memorial Park, Atlantic City, New Jersey**

**Witnesses Heard at Executive Session,  
March 5, 1951**

**Silber, Osie M., Esquire, Deputy Attorney General, State of New Jersey,  
Counsel to the Committee**

**Carey, Honorable Robert, East Ridgelawn Cemetery**

**Memoranda Filed with the Committee**

**New Jersey Association of Cemetery Officials**

**Memorandum submitted to express the views of the Association;  
by Charles J. Milton, the Association's representative**

**New Jersey State Legislative Council, Roman Catholic Dioceses of Newark,  
Paterson, Trenton and Camden**

**Brief to Legislative Committee on Cemeteries submitted by  
John J. Rafferty, Esquire, Executive Secretary**

**Carey, Honorable Robert, East Ridgelawn Cemetery**

**Suggestions to the Assembly Committee considering the  
advisability of amending or revising the cemetery laws  
of the State (New Jersey)**

**Dluhy, John G., Counsel for the City of Clifton and representing the  
Monument Builders' Association of New Jersey**

**Memorandum in the matter of investigation of cemeteries in  
the State of New Jersey, supplementing oral statements**