
Memorial Society

Newsletter

October 1999

66 Marlborough St., Boston, MA 02116, (617) 859-7990, tollfree 888-666-7990

Annual Meeting

Saturday, November 6, 1:30 p.m.,
Story Chapel, Mount Auburn Cemetery,
580 Mount Auburn Street,
Cambridge, MA.

There will be a panel discussion on organ donation, including Dr. Francis Delmonico, Director, Transplant Service, Massachusetts General Hospital; Funeral Director John J. Kaslauskas; and a member of the clergy. We hope to cover both practical and ethical considerations involved in the decision to donate and what happens afterwards.

Following the program tours of the Mt. Auburn Crematory will be offered to interested members. Refreshments will be served.

Directions by car: From the west, follow Rte. 2 east to the Fresh Pond rotary, continue on Fresh Pond Parkway to Brattle Street. Turn right. The cemetery is on your left just after you join Mt. Auburn Street. Parking on the grounds.

From the Mass. Pike: Take Storrow Drive west, cross the Eliot Bridge in Cambridge, bear left to Mt. Auburn Street. Cemetery is 500' on your left. Parking on the grounds.

By Public Transportation: Take No. 71 bus from Harvard Square. Buses run about every 12 minutes, and the ride takes 10 minutes or less.

New England Traditional Funerals

Although it is accepted unthinkingly by the majority of Americans, the full-scale American funeral, complete with embalming and wake at a funeral home, is relatively new in our history. To the Maine writer Sarah Orne Jewett (1849-1907), our elaborate modern obsequies would have seemed strange and ostentatious. Jewett lived in South Berwick all her life and wrote about the people who lived there and in the surrounding communities. Her stories are full of descriptions of the care of the dead. One of the best-known, "Miss Tempy's Watchers," is about two women who keep watch in the house of a newly dead neighbor, talking and snacking companionably in the kitchen while Miss Tempy lies laid out upstairs. That was the custom in nineteenth-century rural Maine, where funeral practices had remained much as they had been when the first settlers arrived and where the services of the undertaker were still largely unknown.

When someone died family or friends would prepare the body and watch over it until a coffin could be made and the grave dug. Friends and neighbors would gather at the house, where there would be a funeral service and perhaps some hymns sung; then the coffin would be loaded onto a wagon and driven slowly to the graveyard, with the mourners walking behind.

Here is an excerpt from *Deephaven* (1877), describing the walking funeral of a poor man who has committed suicide:

"...The funeral exercises were over, and the man with whom we had just been speaking led to the door a horse and rickety wagon, from which the seat had been taken; and when

the coffin had been put in, he led the horse down the road a little way. and we watched the mourners come out of the house two by two. We heard some one scold in a whisper because the wagon was twice as far off as it need have been. They evidently had a rigid funeral etiquette, and felt it important that everything should be carried out according to rule. We saw a forlorn-looking kitten, with a bit of faded braid round its neck, run across the road in terror and presently appear again on the stone-wall, where she sat looking at the people....There were perhaps twenty of the mourners, and there was much whispering among those who walked last. The minister and some others fell into line, and the procession went slowly down the slope."

The funeral of a respected citizen of Dunnet Landing in *The Country of the Pointed Firs* (1896), though better attended, is no more elaborate:

"The services had taken place at one o'clock, and now, at quarter past two, I stood at the schoolhouse window, looking down at the procession as it went along the lower road close to the shore. It was a walking funeral, and even at that distance I could recognize most of the mourners as they went their solemn way. Mrs. Begg had been very much respected, and there was a large company of friends following to her grave....I could see the sorrowful, large figure of Mrs. Todd as I stood at the window. She made a break in the procession by walking slowly and keeping the after-part of it back. She held a handkerchief to her eyes, and I knew, with a pang of sympathy, that hers was not affected grief."

Pending Legislation

Several bills of interest are pending before the Massachusetts legislature. Two bills, H33 and S394, would exempt all Boards of Registration from portions of the open meeting and public records laws. We just last year (with the help of the Attorney General's office) got the Boards of Registration to obey the open meeting and public records laws, so now they want an exemption. S394 has lots of other sections, most good some bad. One bad section would give the Boards of Registration the power to directly fine a person for or enjoin "unlicensed practice." Under present law the Attorney General or DA prosecutes unlicensed practice, providing a worthwhile check on excessive zeal by a Board. The Funeral Board has defined the "Profession and Business of Funeral Directing" to include 19 different services including retail or wholesale casket sales and "Arranging for the the disposition of flowers used in funerals". The Funeral Board in Oklahoma, which has the power proposed in S394, has enjoined the one retail casket seller in the state from continuing business -- the risk of mischief is not just theoretical.

Welfare Funerals

The amount the state pays for funeral and burial of indigent persons, \$1,100, has been unchanged since 1983. A bill is pending to increase the amount to \$2,000, something long overdue. The bill, H4215, needs some redrafting. It includes an obsolete list of services to be provided; cremation isn't even mentioned, and an "outside box of pine wood" is listed even though almost all cemeteries have for decades required a concrete box. The only reason the present law works at all is that the funeral directors have been generous and the state has been flexible.

choosing not to enforce the required list of services; otherwise the direct out-of-pocket cash expenses would be more than the \$1,100. Some funeral directors suggest that the list of required services should just be eliminated and the survivors be allowed to choose the goods and services up to the dollar limit. What do you think? Please let us and your legislators know your wishes: the present situation is untenable.

Stealth Legislation

An outside section or rider attached to the House appropriations bill would authorize for-profit cemeteries in the state, something forbidden since 1934. The outside section was added as a floor amendment by Rep. David T. Donnelly of Boston and Brookline. He refused to respond to our written request to explain why and on whose behalf he introduced the amendment. Perhaps one of our members from his district could get to the bottom of this. Since similar language did not appear in the Senate appropriation bill, we believe the section will not appear in the final version of the Appropriations bill, but if it does, we hope the Governor will use his line-item veto power.

Preneed funeral contracts

We recommend against purchasing a preneed contract except when a person is about to go on Medicaid. In determining Medicaid eligibility an irrevocable preneed funeral contract of any "reasonable" amount is not a "countable asset."

Kinds of contracts

Preneed funeral contracts can be purchased only from funeral establishments and come in four flavors. They can be revocable or irrevocable and price-guaranteed or not. If you are purchasing an irrevocable contract it makes sense to purchase the price-guaranteed version. If you are considering buying a revocable, not price-guaranteed contract a more conservative decision would be to put your money in a savings account, or you could invest it more aggressively.

Funeral Trust vs. Insurance funding

Preneed funeral contracts can be funded either by funeral trust or by insurance. In the case of an irrevocable contract entered into for Medicaid planning purposes, it doesn't make much difference which is chosen. If the contract is revocable there is an enormous difference in how much refund you get if you later decide to cancel. In the case of a funeral trust you get back a minimum of 90% of the money in the trust, including the income it has earned.

One of our members learned the hard way how much less you get back when you cancel an insurance-funded, price-guaranteed, preneed funeral contract. At age 45 in 1988 she purchased a contract for \$5,723; in 1997, needing cash, she cancelled the contract. She got back only \$3,340. If, instead, the contract had been funded by a funeral trust earning 4%, she would have received 90% of \$8,146 = \$7,331. She would have had to pay income tax on the earnings as they accrued, \$606 if her tax rate was 25%, but the funeral trust would still have been a much better deal.

Qualified Funeral Trust

One advantage funeral establishments claim when pushing insurance rather than trusting as a funding mechanism is that you don't have to pay income tax on the accrued income in the insurance policy but do on the trust income. That was true until recently, but now the IRS allows the election of Qualified Funeral Trust (QFT) status. If you choose a QFT the income tax at a fixed 15% rate is paid out of the trust income, not by the person setting up the trust. The New England Funeral Trust, used by many funeral establishments, will set up QFTs. A QFT is not appropriate for a contract set up for Medicaid planning, since the Medicaid recipient's tax bracket will almost certainly be zero.

State Regulation of Preneed Funeral Contracts

Massachusetts oversight of such contracts is by Regulation and not by Statute. The Regulation, 239 CMR 4.0, is promulgated by the Board of Registration in Embalming and Funeral Directing. The Board has jurisdiction over persons registered by it and can suspend or revoke the registration. Its rules cover funeral trusts and who can sell preneed contracts pretty well, but almost all regulation of insurance-funded contracts is left to the Massachusetts Division of Insurance.

If a funeral establishment and its operator surrender their registration as, for example, when retiring and closing the business, the Board no longer has any jurisdiction. In a recent case such a surrender occurred voluntarily in order to settle a complaint before the Board. The operator of the business wouldn't or couldn't account for the preneed trust money.

There seems to be a bank account but no records as to who the beneficiaries are. No accusation of theft or conversion has been made, but what now? This case illustrates why preneed should be governed by Statute with criminal penalties for violations.

The Board's decision in a series of three complaints against a funeral establishment's handling of preneed contracts is pending as this newsletter goes to press. The complaints are all the same -- that the establishment failed to honor price-guaranteed contracts, saying that the casket specified was no longer available and charging the survivors hundreds or thousands of dollars for a substitute. The Board's decision to hold a formal hearing was made in August 1998. The hearing was held in January 1999 with final briefs to be filed by March 19th. We view the decision in this case as very important -- what is the use of making a preneed contract if the survivors are going to be hassled anyway?

There is no guarantee fund to protect purchasers of preneed contracts. A funeral director in Wakefield, Mr. Morrison, several years ago stole almost \$200,000 of preneed money. He served a year in jail, but purchasers were out of luck. Other states have guarantee funds; we should too.

The Board of Registration has the authority to audit how funeral establishments handle preneed contracts but has never done so. The Board's attorney says that they do not plan to as they do not have a staff member with the necessary skills. The Board has just one inspector to cover all 700 or so funeral establishments in the state.

The Sensible Alternative to Prepaying: The Totten Trust

One of the questions most frequently asked of us is how to save money for funeral expenses so that it is available at need. For a variety of reasons, we strongly advise against prepaying a funeral director (though we just as strongly advise that you preplan, which means deciding what your wishes are and how much it will cost to carry them out). Instead, we suggest you set up a Totten Trust account at your bank. This is a little-known kind of trust account that allows you to set aside a sum of money specifically for funeral expenses, to be payable to a designated beneficiary at the time of your death. Talk to someone at your bank about it.

People who are "spending down" in order to qualify for Medicaid may establish a Totten Trust account, but according to the Massachusetts Division of Medical Assistance the amount set aside in that case is limited to no more than \$1500.

Retail and Handmade Coffins

According to *Funeral Monitor* there are no longer any retail casket stores in Massachusetts. However, it is possible to buy a handmade pine coffin in Massachusetts or southern New Hampshire. Cabinetmaker Davis Griffith of Marblehead will bring to the annual meeting an example of the fine pine coffin he will make to order. Horace Bailey of Pine Tree Products, Bow, New Hampshire, who came to our annual meeting two years ago, offers three models of unlined, native pine coffins at \$325-\$550. Also in New Hampshire is The Frugal Yankee Coffin Company of Sunapee, offering two basic models: The Plain Pine Box (\$350) and The Really Coffin-Shaped Coffin (\$450). You may

also buy a plain pine casket from Anderson-Bryant Funeral Home in Stoneham, MA.

FTC Funeral Rule Review

At the urging of our national organization (FAMSA) and the AARP, the FTC has initiated a review of the Funeral Rule. The major changes we seek are to abolish the non-declinable fee and to extend the Rule to cemeteries, casket retailers and monument dealers.

George Foy's Article Published

George Foy, who spoke at our 1977 annual meeting about his experience of caring for the body of his infant son, wrote a moving article which was published last spring. "Burning Olivier: The Brief Life and Private Burial of an Infant Son" appeared in the July 1999 issue of *Harper's*.

Horse's Mouth Department

In February the *Funeral Monitor* (a trade publication), noted that the only direct-sales casket store in Massachusetts had closed after making only one sale in 18 months. Commenting that shopping for caskets is not likely to become popular anytime soon, editor-in-chief Alan Severson adds: "What remains in place is the more compelling law of capitalism, i.e. the pressure of lower prices and better service exerted by an increasingly savvy shopper in a competitive funeral market of more and more consumer options -- including the increasingly acceptable option in U.S. culture of

not choosing to consume death care or products at all." (February 1999, p. 3)

The Moslem Funeral Service: A Tradition of Simplicity

Peter Stefan of Putnam & Mahoney Funeral Parlors in Worcester has participated in a number of Moslem funerals and wrote this description, which he has kindly allowed us to print:

1. When death occurs in a hospital or nursing home, many family members assist in making a removal. The body is taken to a funeral home or the residence of the deceased for preparation.
2. Preparation consists of washing the body (men for men, women for women). The body is then wrapped in sheets with no stitching. The face is left uncovered. Ties of the sheeting material are wrapped around the neck, ankles and wrists to contain the spirit. The body is usually taken to the mosque or straight to the cemetery after prayers are said at the residence or funeral home. If the body goes to the mosque, prayers are also said there.
3. Cemetery. At the cemetery, the family follows in procession. Sometimes a family member will ride in the back of the hearse on a prayer pillow and read prayers all the way to the cemetery. When going to the Islamic cemetery, no casket or cement container is required. Some regular cemeteries (Forest Hills in Boston) require a cement container and at least a pine box. In Worcester we can put the body into a cement container. The earth is packed around the body, and the cover is put on.

Prior to burial the ties are opened to allow the spirit to leave.

When going to the Islamic cemetery the body is brought on a stretcher and placed in the earth by the family. Bricks are built up around the head and a sheet of plywood is placed to prevent earth from being put on the face. Sometimes a shelf is dug out in the grave and the body is placed on the shelf.

Books

We have a limited stock of *Facing Death and Grief: A Sensible Perspective for the Modern Person*, by George N. Marshall (Prometheus Books, 1981). A concise but comprehensive overview, this book includes chapters on dying, grief, the history of funeral practices, types of funeral services, children and death, the legal aspects of dying, and other topics as well as sample preplanning forms and appendices on the right to die and anatomical gifts. Copies will be available at the annual meeting for \$2, or you can order one from us by mail for \$5.

Also available is the new edition of *Caring for the Dead* by Lisa Carlson, executive director of FAMSFA (Funeral and Memorial Societies of America). We will have some copies at the annual meeting for \$15, or you can order one by mail from FAMSFA, P.O. Box 10, Hinesburg, VT 05461. FAMSFA's price for memorial society members, including postage, is \$17 (regular mail) or \$18.20 (priority mail).

MEMORIAL SOCIETY LITERATURE AVAILABLE

The following items are mailed to all new members and are available to existing members for a small printing and mailing charge. Please check beside any you would like to order.

- "Smoothing the Way" – a series of pamphlets on burial, cremation, body donation, veteran's benefits and other topics related to death care. \$3.00
- Massachusetts Health Proxy. \$1.00
- Planning forms – information for your survivors. \$1.00
- "Reading a General Price List," with sample GPL. \$1.00
- 1998 Price Survey
- Guidelines on Caring for your Own Dead

NOMINATING REPORT

President – John Van Dusen (Lawyer, Marblehead)
Vice President – Jan Buhrman Osness (Librarian, Martha's Vineyard)
Treasurer – Byron Blanchard (Engineer, Lexington)
Clerk – Paula Blanchard, (Writer, Lexington)

Board members in addition to above:
Harry L. Jacobs (Retired psychologist/physiologist, Wayland)
George S. Richardson (Physician, Nahant)
Susan Twist (Church Administrator, Boston)

PROXY

(Please vote by proxy if you do not plan to attend the Annual Meeting. Complete this form and send it to: The Memorial Society, 66 Marlborough Street, Boston, MA 02116.)

PROXY VOTE: (Fill in only if you will not attend the Annual Meeting on Saturday, November 6, 1999.)

I hereby authorize the Clerk of the Society to vote for:

- | | | |
|---|-----|----|
| (1) The Slate of Officers as proposed | Yes | No |
| (2) Such matters as may lawfully come before the meeting. | Yes | No |

Signature:

Date:

VOLUNTARY CONTRIBUTION FORM

Yes, I would like to support The Memorial Society. The one-time membership fee covers only a portion of the Society's expenses. Your inclusion of a tax-deductible contribution is greatly appreciated.

Contributions: () \$5; () \$15; () \$25; () \$40; () \$60; () \$100; () Other

Thank you very much for your consideration.

The Memorial Society. Inc.
66 Marlborough St.
Boston, MA 02116

Annual Meeting Notice
Saturday, November 6, 1999, 1:30 P.M.
Story Chapel, Mount Auburn Cemetery
580 Mount Auburn St.
Cambridge, MA

Topic: Organ Donation