

TRANSLATIONS AND OFFICIAL DOCUMENTS

The following documents were issued by the Ministry of Welfare in connection with the current controversy over the right of a temple to refuse permission to inter ashes in cases in which the religious faith of an applicant and the temple concerned are different.

Notice: Eikan Hatsu No 8 March 8, 1960
From: Chief, Division of Environment Sanitation
Bureau of Public Health
Ministry of Welfare
To: Chiefs of Departments of Sanitation of Tokyo and other Prefectural Governments and Designated Municipal Governments.
Subject: Interpretation of Article 13 regarding Cemeteries and Interment.

The administrators of cemeteries owned by religious organizations are reported to have refused to allow interment (*maisō*, *maizō*) requested by people whose faith is different from the religious organizations which own the cemeteries concerned. Aware that this is a problem related to religious affiliation and productive of undesirable effects from the standpoint of public health, as per Enclosure No. 1, we requested the Cabinet Legislative Bureau for an interpretation of

Article 13 (of the law) Concerning Cemeteries and Interment.

Enclosed is a copy of the reply. (Enclosure No. 2)

It is hoped that the application of the Law will be in accordance with this interpretation. [Notice] Eikan No. 88 (August 22, 1949) regarding Article 13 (issued by the Chief, Division of Environment Sanitation, Ministry of Welfare to Chief, Metropolitan Bureau of Public Health) is hereby recinded.

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From: Kazuo Yamanouchi
Chief, First Section
Legislative Bureau

To: Iku Omura
Chief, Division of Public Health
Ministry of Welfare

Subject: Interpretation of Article 13 of the Law concerning Cemeteries and Interment.

The following is in reply to your inquiry of December 24, 1959 (Ei Hatsu 1,280).

The Law concerning Cemeteries and Interment (Law No. 48, 1948, hereinafter referred to as "the Law") states in Article 13 that administrators of cemeteries, ash repositories and crematories shall not refuse requests for the interment in a grave of a body (*maisō*) or ashes (*maizō*), the interment of ashes in a crypt (*shūzō*) or cremation (*kasō*) without due reason, and that those who violate this article shall be punished in accordance with Article 21, paragraph 1.

The reason for this limitation on the administrators of cemeteries, ash repositories, and crematories is that if the administrators are permitted to reject without reason a client's request, then the inter-

ment in a grave of a body (Article 2, paragraph 1), the interment of ashes in a grave or crypt, or cremation (Article 2, paragraph 2) become difficult to enforce, ill-feeling is aroused among the bereaved and those related to the deceased, and problems of public health arise which may menace public welfare (cf. Article 1).

According to the intent of the Law, when a cemetery is owned by a religious organization, the administrator of [such a] cemetery has no right to refuse burial of a body or ashes in a grave, or interment in a crypt of ashes brought in by a bereaved person whose faith is different from the faith of the administering religious organization. Difference of faith can not be recognized as "due reason" [for refusal].

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Attention must be paid to the fact that interment in its literal sense means the act of burying a body or ashes in the earth (see Law Article 2, paragraph 1), with the consideration which social commonsense requires and does not include denominational rites and services which often accompany interment. In other words, Article 13 sets forth the principle of not refusing a client's request concerning interment (*maisō, maizō*) and should not be interpreted as requiring compliance with a client's wishes concerning the rituals [observed] at the time of interment. That is to say, such ceremonial matters are not the concern of the Article. This problem should be settled on the basis of an agreement between the client and the administrator

of the cemetery who has the right of control over the cemetery land.

A religious organization which owns a cemetery may set up regulations that in connection with interment the administrator shall perform the rituals of the religious organization [concerned]. Consequently, when a client, whose faith is different from the owner of the cemetery, insists on holding services of his own faith, the administrator of the cemetery has no obligation to meet the wishes of the client. Moreover, if both parties cannot reach an agreement on the method of service to be observed, the client may be obliged to withdraw the request for interment, but this has nothing to do with Article 13 itself.

Note: The above notification has not settled the matter. The argument continues. Ed.