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## **Political devices behind the formation of the market**

### **The case of the funeral market in nineteenth-century France**

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#### **Introduction**

How does a market form for the supply of services initially provided by social and “extra-economic” institutions? Using the case of the history of funerals in France, this paper analyses how the market was formed during the 19th century. It examines the interaction between market and non-market stakeholders - Church, State and undertakers<sup>1</sup> (the first private funeral businesses) - in shaping the economic and political arrangements which led to the growth of the funeral business.

Analysing the dynamics of market formation has been for a long time one of the major research topics investigated by economic sociology. The emerging process of market exchange in specific areas has been related to various forms of “embeddedness” – networks, cultural values, political foundations – to describe the entanglement of market and non-market forces. Close to the subject tackled here (the death market), V. Zelizer, in her famous studies on the history of life insurance, suggested following the historical process of the changing social value of the child and the transformation of cultural meaning systems.

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<sup>1</sup> It is interesting and important to note that the English word « undertaker » is a literal translation of the French word « entrepreneur » but that it applies solely to the occupation of funeral management.

We propose here to throw light from another angle on this question of the entanglement of market and non-market realities in market formation by adopting a pragmatic approach to the economy of funerals. It is not only a question of examining how the commercialisation of funerals is brought about through a system of moral values which are congruent with the commercial order. It is more a question of following all those involved in the production of arrangements, devices and practices, which contribute, directly or indirectly, to the formation of the market.

The funeral economy in the nineteenth century is the subject of conflictual political and moral appropriations, notably in the context of the confrontation of Church and State. To understand how funeral merchants fit in to this complex and conflictual institutional context, we must follow them in the making of the arrangements governing the interactions between the various participants who conflict with each other and from which institutional compromises emerge. The point of these market devices is to incorporate these institutional compromises into the other essential problems of coordination which have to be resolved: value formation, regulation of competition, organisation of cooperation (Beckert).

In the context of this non-legitimate market, the analysis will show how market devices incorporate “calculation formulae” which convey a substantial political dimension. We suggest that this form of political calculation, as an institutional compromise slotted into a price-setting mechanism, was decisive for the merging of private business interests with the public management of death.

Beyond this, understanding the formation of the market requires us to take into account the continual reinvention of this “frame-setting” through the course of economic and political interaction. We suggest that this movement spread out at two levels: on the one hand, the entrepreneur’s skill in making most of the profit from the calculation formulae ; on the other hand, the peripheral actors’ attempt, as they were excluded from this primary hybrid form of funeral organization (public-private), to intrude into the organization to develop competition at the margins.

The pragmatic approach to market formation is notably inspired by the work of M. Callon through his focus on socio-technical arrangements (STA) in shaping calculation activities and formatting economic interactions. My approach follows complementary proposal of considering how these founding market devices, as a “dynamic configuration” of material and narrative elements, inevitably included market infrastructure and political aims. In the case of

the funeral market, market devices were built from a series of intertwined economic and political compromises resulting from the interaction between multiple participants in this area. Beyond this, my objective is to observe to what extent market devices framed the interplay of local actors in the concrete activity of funeral services. This brings us to a question that is less well explored in literature, i.e. the “market devices” at play.

The case of the funeral market offers a privileged insight into how public utilities open to specific forms of market, in which market devices closely link politics and markets, both in their structure/framework and in their “infringement” of the framework. Thus, I agree with Depeyre and Dumez (2008) on the idea that an understanding of the market, of its forms of regulation and its dynamics, requires looking into the features that connect it with a family of markets, here the municipal utility family. Furthermore, funeral services are especially exposed to moral controversies, notably with respect to their economic management and the ensuing profits.

## **Methodology**

Our analysis is the fruit of several years’ empirical research into the funeral market and funeral parlours . The historical material used for this study comes from several types of sources:

- *the legal literature of the 19<sup>th</sup> and 20<sup>th</sup> centuries*: the funeral question was the subject of considerable political but also legal debate spanning two centuries (1804-1993). This debate gravitated around a series of conflicts and judicial precedents with respect to the running of the funeral service monopoly. A large corpus of texts and analyses of legal experts (theses, articles, treaties or practical manuals on funeral law), drafted by jurists (Gaubert 1875; Taudière 1906; Chaillot 1995) or lawyers (Rubat du Merac 1905; Théodore-Vibert 1905) , gives an account of these controversies, notably during the main legislative upheavals affecting the organisation of funeral services (1804, 1905, 1993)(Balard 1856; Girault 1910) .
- *texts and works on funeral businesses*: the competitive practices in the context of the urban funeral business in the 19<sup>th</sup> and 20<sup>th</sup> century are described through polemical texts produced by the entrepreneurs themselves (e.g. “*The mysteries of the funeral services in the city of Paris*”, “*The Vampires*”, etc.) . These testify to the opening hostilities between funeral companies in competition for the Parisian funeral service monopoly.

- *historical documentation relating to the main funeral company* (PFG: *Pompes Funèbres Générales*) also constitutes an important source of information (PFG union archives, internal reports on the company's history, etc.) .

- *historical second-hand sources* come from the works of historians having studied the archives of the municipalities and funeral companies of Paris and its surroundings (1874-1996), notably the state-run company in Paris and the companies belonging to the PFG group (Bellanger 2008; Bertherat and Chevandier 2008). Finally, there is the monumental work performed by Kselman on the history of the treatment of death and of the funeral business in France in the 19<sup>th</sup> century (Kselman 1993) .This historical reconstruction forms the backdrop to a sociology of the funeral market and the funeral profession in the contemporary period. It notably encompasses a study of the restructuring of the market as it was opened up to competition (1993).

The qualitative analysis of this material is based on the identification of “heterogeneous devices” – descriptions or formulae, regulations, contracts and tacit agreements, social associations, socio-technical arrangements – which structure the relationships between the different actors taking part in the inter-organisational patterns of local markets (production units, town halls, concessions and agencies). The analysis of political and economic conflicts in the funeral trade was central to this work as it directly exposed these devices. The analysis particularly concerned: a) arguments engaged in the context of political debate associated with the production of regulatory mechanisms (laws, decrees, regulations) governing the organisation of funeral services; b) opposition and negotiation at the local level which accompanied municipalities' choice of organisational models for funeral services; c) the study of conflicts and court decisions concerning property rights associated with the funeral trade (19<sup>th</sup> – 20<sup>th</sup> centuries).

## **1. A political market device**

The 19<sup>th</sup> century was the scene of the growth of the funeral industry in France, with the appearance and the expansion of companies specialising in funeral services and supplies, referred to as “*Pompes Funèbres*”<sup>2</sup>. Until then, the Church ruled over offering all the supplies for the procession to the church, a trade sometimes shared at the margins by guilds like the

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<sup>2</sup> This also refers to the “pomp” of the funeral ceremony, and not only (as in England), preparation of the dead for burial and management of the funeral.

“town criers” guild (“*crieurs-jurés*”)<sup>3</sup> in urban centres. We shall devote the first part of this paper to examining the institutional framework which underlined the interactions between market and non-market stakeholders - Church, State and entrepreneurs.

### 1.1. *The stakeholders of the funeral business*

Who were the main protagonists of the funeral trade and what were their claims ? We begin here by characterizing the principal stakeholders involved in the market formation at the beginning of the 19<sup>th</sup> century.

- The Church : the Church was the dominant actor of the production of material and symbolic goods for funerals. Under the *Ancien Régime*, burials had become a substantial source of revenue for the clergy and the parish vestry councils («*fabriques* »)<sup>4</sup> . Dispossessed of its goods and its privileges during the Revolution, it sought to compensate for its considerable losses. As the Revolution drew to a close, the funeral question constituted a bartering tool in the context of the concordat when the alliance between Church and State<sup>5</sup> was re-established.
- The public authorities (State, Prefect, Municipalities) : a legacy of the Revolution was to establish the power of public authorities in the way funeral services were organised. The egalitarian ideal worked toward the institution of a civic funeral ceremony and the elimination of social distinctions among the dead. But the incapacity of the government to put in place the necessary infrastructures to cope with the adequate disposal of the dead led it to gradually rehabilitate the traditional institutions.
- The entrepreneurs : they were in fact the direct heirs of the corporations (« town criers », candle-makers, coffin-makers). During the revolutionary period, they had worked alongside the municipalities to cope with the critical burial crisis in Paris and other French cities, by supplying the funeral material. They also sought to develop a

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<sup>3</sup> The guild of “town criers” (“*crieurs-jurés*”), appeared in the 13th century at Paris and was in charge of announcing deaths as well as supplying the necessary cortege equipment.

<sup>4</sup> The word “vestry” is used by the historian McManners (1981) as the equivalent English word for the French *conseil de fabrique*, or *la fabrique*, which was the church organisation at the parish level which dealt with the church administration of material matters. There were roughly 3,600 in the 19th century.

<sup>5</sup> This law indeed stemmed from the concordat of 27 Messidor year IX (16 July 1801) signed between Napoleon and Pope Pius VII with the aim of re-establishing religious peace by declaring Catholicism to be the main French religion.

trade in the decorations and other accessories required for the ceremonies, working alongside the other institutional parties involved.

- The Charitable Associations: these were widespread in the form of lay fraternities (*Confréries de Charité*) in country areas or as charitable organisations attached to hospitals in the towns. They were constituted as charitable mutualist organisations, one of whose missions was the burial of the poor.

The story begins with the legislation of 1804 when the “property rights” and rules for sharing between the different protagonists were formally established, i.e. when a formal institutional framework was set up. The Year XII Prairial decree, introduced in June 1804 under Napoleon<sup>6</sup>, established a political compromise between all the protagonists: in order to compensate the Church for its losses, it gave exclusive rights to the ceremonial side of funeral organisation (*pompes funèbres*) to the vestries (*fabriques*)<sup>7</sup>, at the same time confirming the municipalities as the co-regulatory authority notably outside the Church (the transporting of the body to the cemetery) and also authorising the undertakers to develop their trade both as the contract holder of the monopoly but also as a competitor for peripheral services.

This political exchange was set up through a breakdown of the service into three areas: the “internal service”, covering the offer of goods and services associated with the religious ceremony (candles, wall hangings, priests, etc.), and for which the authority in charge was the clergy; the “external service” covering the organisation of the funeral cortège through the town and as far as the cemetery; and the “free service”, which designated the supplies and accessories (wreaths, flowers, etc.) sold by companies at freely-set prices.

The 1804 law thus constitutes the key distributive partition of tasks between the Church, the State and private industry, through a splitting up of the supply side of funeral goods and services. At the same time it provided the base of a vast enterprise of competing “qualifiers” for goods, an enterprise which subsequently turned out to be extremely conflictual. The coffin, the draperies, the medallions and insignia, the carriage (later the “hearse”), but also the prayers, the ordering of who should take part, and where, in the procession, all these, and many more, became part of the long list of “ancillary” services and goods provided by the three purveyors (religious, public and “free”). This classification also serves to “map out” the spaces, the places and the moments associated with funerals: the body moving through the

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<sup>6</sup> This Napoleonic law was directly inspired by the tried and tested organisational funeral régime which had been negotiated with the institutional actors and introduced in Paris by the prefect N.Frochot in the preceding years.

<sup>7</sup> More exactly to the vestries (*fabriques*) and the consistory councils (*consistoires*), being the administrative local councils of the Catholic and the Protestant churches.

streets of the town came under the competence and responsibility of the mayor, but once it had passed over the threshold of the church, it became the responsibility of the vestry; the furnishings provided “either at the door or inside the church (...) either at the door or the inside of the funeral home” is the responsibility of the vestry, whereas the carriage, the porters, and all the furnishings attached to the carriage (with its “draperies, white or black velvet, fringes, silk trimmings, tassels and other accoutrements”) were the responsibility of the municipality; the coffin itself formed part of the basic obligatory package, but its internal lining (cushioning and scenting) was one of the “optional extras” provided by the “free” commerce. This whole distribution of services was in fact eminently political: the “external service” covered the minimum service (coffin, porters, and the individual grave) which demonstrated the equality of all citizens confronted with death, and this applied whatever the religious affiliation (which was termed the “internal service”) whereas the “free service” served to embellish the procession with levels of decorum and pomp<sup>8</sup> as befitted the wealth of the deceased.

Set up in 1804, this mapping out of the rights of property over the production of material and symbolic goods will continue to evolve over the course of the following centuries: first, through the way in which those taking part profit from their prerogatives, extending the catalogue of goods on offer in each category and falling out between themselves on who has a right to what; then, through the major institutional changes brought about by the separation of the Church and State (1905) which modified the distributive balance between the three protagonists (Trompette 2009). In this article, we shall examine the way in which this political device was taken over and reconstructed by local participants, particularly in urban centres, where there was a greater concentration of mortality.

### *1.2. Coordination and arrangements between participants at the local level*

The Prairial decree set out the framework for negotiations between civil and religious administrations by sharing out attributions and powers with respect to the administration of tariffs. But it remained largely indeterminate as to the way local actors put this legal

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<sup>8</sup> But this supplementary right, to which we shall return, was annexed to the principle of redistributing the profits for the service of the poor.

framework into practice and invented their own compromise and arrangements<sup>9</sup>. At municipal level, the actual implementation of this co-management led to lengthy negotiations about the concrete conditions relating to the organisation of the service, the definition of the three categories and the setting of prices. In Paris and its suburbs, as well as in other major French cities, the following decades witnessed the emergence of a broad range of organisational set-ups for the administration of funerals: sometimes the vestries grouped together into unions, or the organisation was entirely or partially abandoned to the municipal authorities, or there was a leasing arrangement with a company covering all or part of the service. For example, following the withdrawal of the vestries in Lyon, the city organised a limited transport service awarding the supply of the coffin and the other services to undertakers. In Besançon, the vestries managed the supplies and services for visitation of the body and transport to the church, while transport to and digging at the cemetery were carried out by an undertaker delegated by the municipal authorities, etc. Each solution was the result of local political history, including the conflicts between the clerics and the republicans, the relations between civil and religious administrators, but also aspects specific to the population (proportion of destitute within the municipality or between adjacent municipalities). The testimonies provided by historians describe this progressive construction as punctuated by various failures and changes, organisational schemes and forms of regulation as well as the appearance of so-called real funeral businesses, taking over from the former corporations (town criers, candle-sellers, etc.).

It is indeed within this institutional context that recourse to a private company began to emerge as a solution that was especially favoured by the different protagonists because it allowed for economic balance as part of a political trade-off (Trompette 2009). Within major cities like Paris and its suburbs, Angers, Tours, etc., the historical analysis of the negotiations between institutional stakeholders and undertakers at local but also national level<sup>10</sup> reveals how the undertakers managed to set up as efficient trade mediators. Given the context of uncertainty and the possible changes to legislation<sup>11</sup>, the private businesses could guarantee

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<sup>9</sup> The law of 1804 established property rights but left it free to local institutional actors to implement them or not. In most of the country (which was semi-rural and rural), the vestries (*fabriques*) gave up their monopoly as it wasn't profitable. The organisation of burials in the countryside relied on community solidarity, that is: neighbours, family & next of kin, priest or charity brotherhoods.

<sup>10</sup> The setting up of a municipal undertaking service had to be approved by the Ministry of the Interior following a presentation of the organisation's system and the tariffs applied.

<sup>11</sup> The vestry monopoly was the result of political bartering and remained highly controversial within the context of the debate on secularism, notably between 1879 and 1905. The leasing solution meant that the parish

they made a profit while the parish or municipal councils could not. Referring to the first discussions between Mr. Jeramec, representing the company *Pompes Funèbres Générales* (PFG), and the municipality of Angers, Kselman reports that “he [Mr. Jeramec] demonstrated to episcopal officials that the *fabriques* (vestries) of Angers would suffer serious losses in revenue after the new decree was implemented. (...) He proposed that the undertaker add a list of options beyond the items agreed to by the vestries (*fabriques*) and the city council, on the sale of which he would remit 25 percent to the parishes” (Kselman, 1993, p. 266). The profit mechanism set up by the private operators was simple: they added superfluous accessories (at their own prices) to the offer of goods, awarding the parish councils with a commission on these supplies, albeit very much lower than the commissions offered for the main categories of services (classes) which they administered. Cushions, drapes, flowers and various accessories enhanced the pomp of funerals while the profits were redistributed between the entrepreneur and the vestries (*fabriques*). Thus the undertaker (concessionaire) applied a delegated calculation or rather, in this case, a “delegated profit”<sup>12</sup>: “(...) the lay undertakers saved the clergy the embarrassing task of collecting fees for services, while providing the parishes with sufficient funds for maintaining the cult; (...) cities profited from the system by freeing themselves of the charge of burying the poor” (Kselman, 2003, p. 272). By adapting the goods on offer, the concessionaire guaranteed profits that were then redistributed to all the stakeholders (setting up a win-win situation). The institutional stakeholders were hence freed from any direct confrontation with the regulation activity. Furthermore, this profit/distribution mechanism reconciled the two regulation principles opposing the clergy and the elected officials: “Finally, in proposing a cooperative arrangement between parishes and PFG, Riobé (the local PFG director in Angers) did not neglect an argument that had become a standard of the Paris funeral profession early in the century: commercial funerals not only provided families that could afford them with the opportunity to celebrate their dead with the desired pomp but also guaranteed that some of the proceeds from this service would pay for the decent burials of the poor.” (Kselman, 1993, p. 272) Here, the tax on the ostentatious spending of the rich benefited the poor (free funerals, parish charity work, etc.). This moral justification supported the model whereby public funeral service management was delegated to private businesses in the 19<sup>th</sup> century.

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vestries or municipalities were freed from the heavy investments needed to guarantee a dignified and lasting public service during periods of crisis (e.g. epidemics, political crises, etc.): horses, hearses, wall hangings and personnel represented some of the biggest investments .

<sup>12</sup> We have borrowed this notion from F. Cochoy, who here describes the action of delegating the rational activity of calculation and selection, in a context of consumption, to qualified persons (brokers, consumer associations, etc.) or to devices (indicators, standards, labels, etc.).

### 1. *The system of « class » categories: and how profits were distributed*

The concession model (leasing solution) is therefore going to become the most widely used model, in which the vestries (*fabriques*) and the municipal authorities delegate, « under their tutelary supervision », the running of funeral services, including the free service offered to the destitute. The control still exercised by the institutional authorities over the undertakers concerned the contract conditions (*cahiers des charges*) which fixed the product tariffs and the percentage amount to be paid to the vestries. This activity of co-regulation and control was « mediatised » by a particular system of « packaging » the product into a series of « classes ». The product on offer by each undertaker was in effect packaged into « classes » (ranging in number from three to about ten, depending on the town concerned) which were thus graded according to the degree of funeral « pomp » to be bought by the family of the deceased person. This « menu of packages » was meant to simplify the task for grieving families compared with offering them an interminable list of individual items. But it also allowed those running the trade to fix in advance the share of the spoils: « the degree of luxury must be carefully graded, in such a way that the correlation between two services (or packaged « classes ») be as clear and complete as possible » (Gaubert). This carefully graded offer of « classes » therefore limited the freedom of the entrepreneur to compose (or for the client himself to compose) his own « basket of merchandises »<sup>13</sup> The system of packaged « classes » on offer did not only have the advantage of « structuring » (at least partially) the content of the basket. One should also note that the price differences between the classes were considerable – 6 francs for the ninth class, and 2288 francs for the first class in Paris in 1852 (cf. annex 2). Even if it is very clear that this is a very long way from the egalitarian absolutism of the Revolution, this range of tariffs – or price lists of the packages – none the less serves the general interest which concerned the public authorities, namely the guaranteeing of a minimal standard of service for every citizen. For the price range is constructed in such a way that the ostentatious satisfaction of the richest (3-4%) would serve to benefit the poorest (50 to 60%) and particularly the destitute who represented a sizeable proportion of burials.<sup>14</sup>

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<sup>13</sup> « The law also required that families be presented with only one bill and assumed that they would choose the same class for both the religious services and the funeral procession »(Kselman, p.236).

<sup>14</sup> « that is a heavy burden, for the number of free burials is much greater than one would imagine, and in 1873, there were 25,017 whereas paying burials were only 18,561 » Du Camp, ?.(1874), « Les cimetières de Paris », *Revue des deux Mondes* 2: 812-851.

#### 1.4. *A combination of heterogeneous values*

One can analyse this framework of regulations (the segmentation into three parts and the various cortège classes) as a market device which regulates the articulation of economic and political interests and which supports the coordination of the various actors in the funeral economy. But one can also observe that the framework organises an axiological compromise allowing cohabitation or even a congruence between value systems and legitimacies which were initially opposed to each other.

Funerals are in effect one of the privileged arenas in which one finds focussed the political and value conflicts which animated relations between State, Church and civil and political society in the nineteenth century. On the one side you find the revolutionary project which was forged in a fight against the clericalisation of funerals and against the continuation of social inequalities as epitomised in the sumptuous pomp of the grandiose funeral cortège.<sup>15</sup> Even with its secularist pretensions attenuated, the political power maintained an egalitarian mission, if only through the institution of a civil funeral service. On the other side, the Church had been rehabilitated as a legitimate actor in the production of symbolic goods, burial remaining linked to the cult of the dead and this reflected what was still a profoundly « religious » society (Isambert). Finally, the coming of a more personalised conception of death from the end of the 18<sup>th</sup> century (Vovelle) suggests, through the deployment of funeral « pomp », the manifestation of sumptuousness as an expression of honour rendered to the deceased person. It was through the purchase of multiple furnishings and other trappings which were considered a proper way to signify the deceased person's rank in society and the respect which was due to him that an economy of homage in bourgeois society was displayed.

The analysis of the negotiations between institutional stakeholders and undertakers show that, albeit both legitimate, these three principles were for long far from being compatible. The sumptuous funerals of the great of this world, where the treatment of the dead was a reflection of their nobility and social distinction, were very much frowned upon by the republicans, although it meant that the parishes could reap in substantial amounts of profit. Conversely,

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<sup>15</sup> One must remember to what point during the Revolution (under the Convention), the institution of civic funerals was animated by a superior principle, that « of imposing funereal dignity through the sole majesty of the law, without pomp, without splendour and to the absolute exclusion of all religious thought », Gaubert, B. (1875) Manuel pratique des pompes funèbres. Marseille, Marius Lebon. But this revolutionary absolutism would finally be abandoned once it became clear that the organisation of funerals could not be dissociated from the social and religious attributes that surrounded the cult of the dead.

cheap and sometimes free burials for the poorest, according to the principle of public service, put a heavy burden on the parish vestry councils owing to the high rate of urban and industrial migrations.

The solution which they invented through the composition of “classes” of funeral services, which the individual entrepreneur could embellish by adding supplementary ornamental “special offers”, was a way of solving a basic economic and political equation: the sumptuousness of bourgeois pomp was converted into a form of death tax to serve the poorest, whereas the symbolic emphasis on degrees of distinction at least provided substantial income for the vestries and the entrepreneurs. Analysing the “classes” as a central device of the co-regulation system shows how it functions as a mechanism of “value distribution” between the parish vestries (*fabriques*), the municipalities and the undertakers. This sophisticated price-setting device incorporates the calculation formulae geared both to the profit sharing and to the defence of the common interest.

## **2. A political device in action: the art of filling the basket and sharing out the value**

The Prairial decree can be considered as an institutional “act” that supported the political formation of the funeral service market. It provided the foundation for the traditional actors and the new market stakeholders (undertakers, agencies) to build their own business arrangements. The following analysis now offers a closer examination of how, during the different periods, these arrangements were transformed, reinterpreted, rebuilt through their business activity and how it could be transformed by the competitive practices of businesses at a local level.

### *2.1. The development of competition*

In comparison with public companies (run by municipal government) or parish unions, the private business concession model became widely popular as a means of reconciling public service requirements with the parish vestries' need for income. Throughout the 19<sup>th</sup> century, the funeral businesses developed in town and city centres as part of this highly administered funeral management system with the intention of increasing their share of the funeral profits. As this space opened up to business, competition between funeral parlours grew fiercer. The awarding of contracts within cities became the arena of heated battles between undertakers. In Paris, Bobée, Baudoin, Lesmaistre, Vafflard, etc., making in all six funeral parlours, sprang

up one after the other between 1811 and 1871. Owing to the fierce competition for the awarding of contracts, the commissions granted to the vestries led to ferocious overbidding that reached as much as 83.5% in 1852<sup>16</sup>.

This state of affairs drove funeral companies to seek a way to increase their profit margins. Kselman (1997) describes the very tough negotiations between the undertakers and the vestries over the definition of the cortège classes on offer. The concessionaire sought to reduce the share of the religious service proportionally to that of the external service, for which the commissions were very much lower. To achieve this, he curried favour with the elected authorities (prefects and mayors) by stressing the financial burden incurred by burying the destitute. But the speculative commercial sense of the undertaker went well beyond this. It related particularly to the contents of the basket of merchandise, which had been agreed upon by the concessionaire or his representatives in the various municipal authorities, sometimes in consultation with the bereaved families concerned. The commercial process consisted of adding a supply of supplementary accessories to the basket which the families were going to buy, and often these were products for which the town halls or the vestries would not be taking a “cut”.

Extracts from a brochure by L.Vafflard, Director-general of the Burial Company, for the attention of the inhabitants of the City of Paris:

“Not wishing that the rules and regulations of the Pompes funèbres become the object of trafficking and haggling whereby the inexperience and momentary disturbed state of families will render them the defenceless victims of the company's agents, the legislator had fixed the prices of the various “classes”, leaving the families only with the choice between these classes and the possibility of reducing their cost by cutting out a few details. But in practice the good effects of this precautionary measure have been nullified by the right accorded to the company to add to these fixed offers other decorative objects, or fancy ornaments which are paid for as an extra and for which the vestries (*fabriques*) receive hardly no commission either. It is natural that the undertaker and his agents seek to multiply, as much as they possibly can, the use of these additional ornaments and do all in their power to exploit to this end the vanity or the piety of the families. Hence, considerable payments made every single day to funeral pomp, and which hardly profit anyone except the company”(Balard 1856).

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<sup>16</sup> Sources: Maison Balard tract, dated around 1860 (Paris archives).

“If one objects that certain of these so-called additional objects are now of common use and that no cortège can be considered complete without them, we would reply: what is the point for a family which has paid 100 francs to put draperies on the door of the deceased person's home that you should add to this 247 francs worth of further accessories? That on top of this 100- franc drapery which is supposed to be clean you should place a band of drapery which costs 3 francs a metre; and that by the side of this band you add another one, which you call an antique drapery, and that on top of these piled-up draperies you place other decorations and a medallion in velvet with the deceased person's age embroidered on it? Are these objects really necessary? (...) Moreover one should note that the prices of these objects don't follow the price hierarchy of the tariffs for the classes, so that you pay as much for these objects in a lower class as you do for a higher class” (Balard 1856).

Funeral drums, funeral crepe, military emblems, trophies, wreaths of artificial flowers, medallions, extra carriages, table cloths, etc. all of these brought something special to the cortège but at the same time lined the pockets of the concessionaire. Under the influence of the undertakers, the growth of the “pomp” of funerals accompanied the broader commodification of funerals with an increasingly vast range of products.

A consequence of this outburst of haggling on these accessories was that the careful political and economic balancing act that the 23 Prairial decree of Year XII had achieved was now called into question. Conflicts between the municipalities, the vestries and the undertakers led to legal judgements (lower-court and appeal-court rulings, recommendations and judgements up to the level of the *Conseil d'Etat*) for arbitration and interpretations of the law. “Over a seventy-year period, the operation of the *pompes funèbres* monopoly led to so many procedural wrangling that it is impossible to put even an approximate number on the disputes.” The legal judgements generally came down in favour of the vestries: thus, many of the accessories on which they had received no payment were reintegrated by the law into the profit-sharing arrangements. “Legal rulings, even when their wording was general and not specific, declared that the monopoly was applicable to flowers, wreaths, announcement cards, gloves, crepe furnishings, and even the decoration of drums and horses...”. It is clear however that this constant redefinition of territorial boundaries (between the internal service, the external and the “free”) did not succeed in stabilising the competitive game, but simply reshuffled the cards, with the undertakers keeping an essential margin for manoeuvre in how they played their cards.

### 2.1. *Competition at the outer margins of the monopoly*

The art of optimising income from luxury goods mainly depended on the relationships cultivated with the family of the deceased. This relationship was controlled by the undertaker, but could be challenged by another private actor, the “funeral agency”. Funeral agencies were private companies developing their business at the outer limits of the monopoly by selling free funeral ornaments (so-called “free supplies”), and these agents were generally in direct competition with the official representatives. The strategy of these private agencies was to offer families their services as “funeral clerks”. They acted as “brokers” of the funeral organisation, dealing directly with the town’s official on the family’s behalf, with the aim of optimising their own business. Representing the funeral agency, the broker came forward as the monopoly’s right-hand man, arguing the necessity to protect the customer from spending on “objects that had no real meaning and were overpriced...”.

“The funeral agencies were set up to serve as intermediaries between individuals, on the one hand, and funeral companies and *church* vestries, on the other: from among the crowd of bereaved family, they immediately discovered a clientèle happy to no longer have to worry about organising the proceedings through to “the beyond”. They were welcomed by the church vestries who saw them as gifted businessmen able to increase the prices that the living were willing to pay out of the savings of the deceased, in order to ensure their name would live on in an appropriate manner. This third associate, this avid business man, the agent, immediately became the broker of the association. He created the new profession of “hunter of the deceased ....and the dying” (Théodore-Vibert 1905)

This incursion from agencies – acting on the family’s behalf – prolonged and complicated competitive strategies. The art of organising the funeral (or making up the set of luxury objects) was no longer a profitless game but used to optimise the distributed interests. In fact, the funeral agency was generally much less visible than the official undertaker acting on behalf of the municipal authorities with whom deaths were registered and the funeral arrangements finalised. To conquer their place in the market, the funeral agencies therefore developed commercial alliances with the other principal market participants, beginning with the vestries to whom they awarded substantial commissions on all accessories sold.

“A funeral agency cannot wait for customers; it has to go out after them. It cannot settle for waiting for the deaths to occur but must energetically seek out the dying. Yes indeed, that’s how it happens. A good “agency” clerk visits the churches, gets to talking with “the verger,” “the beadle,” “the sexton,” “the chairkeeper,” “the holy-water distributor” and all informed “churchfolk” whom he thinks might be able to inform him about church customers, those who have been sick... and those who are likely to become so again” (Théodore-Vibert 1905).

Concessionaires and agencies were therefore directly competing with each other in the area of free supplies. This competition also served the interests of other employees of the town-hall – the *ordonnateur*<sup>17</sup>, the pallbearers and grave-diggers – all those involved with the cortèges who systematically received gratuities for serving the interests of the rival companies. Many historical documents – letters of complaint, public protest signs, lawyers documents – all attest to the unseemly infighting that went on between the funeral agencies and the officially delegated undertakers and reveal the underside of the funeral business. Unsavory stories abound of the extraordinary lengths that people of all sorts would go to to influence vulnerable families and fill up their basket! For both market actors – the concessionaires as well as the funeral agencies – the main target was the composition of the “basket of merchandise” and the distribution of commissions between complicit partners at the expense of the mourners. There was even a name in the profession given for this sort of underhand dealing: “fixing the funeral”: “régler les funérailles”. This system of sharing funeral income between rival actors fostered a trend to constantly add to the range of products in the basket of goods available.

### *2.3. The alliance between municipalities and the undertakers*

The inroads made by these private agencies changed the three-way game between the vestries, the municipalities and the undertakers. For the vestries, the competition between the concessionaires and agencies resulted in a speculation on commissions in their favour. For the municipalities, the agencies undermined the ability of the town’s funeral official (*ordonnateur*) to reconvert profit to cover the cost of burying the destitute. Thus, the municipalities adopted a hands-on approach and set up alliances with the concessionaires to act as a barrier to the development of the private market.

This alliance between municipalities and concessionaires against the development of the private market was going to be reinforced and gain considerable strength at the end of the nineteenth-century, in an institutional context which underwent major changes. As of 1879, indeed, legislation on funerals was regularly discussed within the context of reforms on secularisation and separation of Church and State. After long debates accompanying the

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<sup>17</sup> The town's funeral official, a relatively high-level office, whose job was to plan and guide the processions across the town.

successive reform projects, the law of 1905 led to the transfer of the funeral service monopoly from the vestries to the municipal authorities, with the aim of providing a neutral, public service. Compared with the previous system, the boundaries of the three areas (i.e: “internal/religious service”, “external/municipal service”, free supplies) had been considerably modified, with the scope of the monopoly being significantly downsized<sup>18</sup>. This new distribution of property rights was to accompany the appearance of even more intense competition between the town’s funeral official and agencies in cities. The threat constituted by the development of private competition reinforced the institutional stakeholders’ interest in working closely with the official concessionaires : in comparison with a public company which would be run directly by municipal government, the concessionaire showed a better ability to face up to the competition from traders on the outer margins of the monopoly.

As for the preceding period, this new legislative framework ratified an institutional compromise between the non-commercial actors (Church and State) and the commercial actors, as in the same way it fixed the outline agreement (*accord-cadre*) on the basis of which the local actors were going to make their arrangements and organise their coordination. But here again, the agreement tended to be negotiated, twisted and reinvented by the protagonists in the field. Even for the agreement itself, twenty years of negotiations and jurisprudence were to be necessary to draw a new dividing line between the goods and services of the « external service » and those which could be sold freely, concerning the funeral cortège, the carriage and the coffin. To take an example, the « trimmings » on the coffin: if they are on the outside (screws, trims, rings, handles, draperies, mouldings, etc.), they are part of the « external service »; but if they are on the inside of the coffin (cushions, padding, mattress, salts, etc.), these are open to market forces. Any drapery which might be used on the exterior and on the interior of the coffin presents a big problem! The same ambiguity occurs in the treatment of the deceased: placing the body in the coffin is not the job of the external service, but closing the lid, yes! In practice, it can be said that in this second century of the funeral market, there would be a fierce competition between the municipal funeral officer (*ordonnateur*) and the agencies. Both the agencies and the concessionaires would fight over their dealings with the bereaved families and use their commercial skills to fill the merchandise basket so as to maximise their own profits!

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<sup>18</sup> At the end of some fierce bargaining in which liberals were opposed by a lobby upholding a powerful public system, the funeral was finally entrusted to a public monopoly, but the latter lost many accessories to the benefit of private businesses.

## Conclusion

The analysis of the market emergence phase has shown the extent to which the funeral trade was entangled with political elements. Legislation establishing « property rights » was itself the result of a political compromise between institutional actors – the Church and the State – in a struggle to achieve financial and symbolic control over funerals. In terms of service organization and income distribution, this framework nevertheless authorized complex and varied combinations and interplay on the market. We agree here with E. McFall, in her analysis of the political history of the life insurance market, that the idea that this founding institution is less driven by a consistent theoretical model than by a series of intertwined economic and political compromises<sup>19</sup> resulting from the interactions between multiple participants in this action space: political exchange between Napoleon and the Church, co-regulation between parish council and municipal administration in the government of funerals, but also legitimisation of the “pomp” feature of funerals, on which the profitability of the funeral business, undermined by the weight of free burials for the poor, depended.

These are the institutional conditions that both directly and indirectly help to form a class of entrepreneurs leaning on the monopoly or operating at its margins.

A pragmatic view of this institutional compromise reveals that this central market device, i.e. the system of the “cortège classes”, functioned as central mechanisms of value definition and value distribution. This sophisticated price-setting device incorporated the calculation formulae geared to both profit-sharing and the defence of the common interest. It constituted the first step in the process of market formation. Indeed, the strength of undertakers resided in their ability to optimize this calculation formula to balance political contradictions and to organise the distribution of revenues from funeral affairs in a mechanism which is positive overall.

To understand the second step of the market formation, i.e. the growth of competition, we need to observe this market device “in action”, constantly renegotiated in the inventive practices of business. Thus, we have observed how the different participants in the funeral organization – and thus the funeral business – handled this calculation device by bringing in more and more tactics and commercial tricks to their advantage. It also constitutes the sub-

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<sup>19</sup> “Certainly, the legislation that emerged in the UK prior to 1945 seems to owe less to a coherent theoretical model than to a series of working compromises growing out of the interaction of a range of political and quasi-political, market, quasi-market and non-market participants”.

structure of increasing speculation around the range of available goods, which was encouraged by the variety of alliances set up and the competition between actors. This uncertainty was fueled from two quarters: directly by the development of companies through the marketing of accessories; and indirectly by the political strategies aiming to ensure that the municipalities or vestries had an income in order to stabilize their positions. This complex interactive model underlies the development of local urban markets in the ensuing expansion phase.

In other terms, beyond the entanglement between market and non-market elements, we can consider that the formation of the market proceeds from the interplay inside and outside the legal framework, despite the latter's tendency to regulate economic interactions. The "cortege class" system, was a "source of overflowing" by giving rise to speculation of undertakers and competition of small funeral businesses at the margins of the monopoly. These "overflowings" contributed toward the rise in competition which provoked in return new sets of interrelated regulations. Putting this particular historical episode into perspective with the long history of the funeral market during these two centuries, we can observe how these dynamics operated through the progressive move from monopoly to market liberalization.

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