



After We Die

THE LIFE AND TIMES OF THE HUMAN CADAVER

NORMAN L. CANTOR

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*The Life and Times
of the Human Cadaver*



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After We Die

For Tamar, again



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||| No matter how healthily you eat,
||| how much you deny your sedentary desires in the name of fitness,
||| no matter how many sacrifices you make to the great god of
||| longevity,
||| you are going to die.

Simon Critchley, "How to Make It in the Afterlife"

||| I knew that everybody had to die sometime,
||| but I always felt that an exception would be made
||| in my case.

William Saroyan

Introduction

My stepbrother died in 1973 at age thirty-nine. He was a flamboyant criminal trial lawyer and, true to his character, he left unusual instructions for his funeral arrangements. He wanted a New Orleans-style funeral in Trenton, New Jersey. His widow was to wear white. During the wake in the funeral home, a Dixieland band was to play jazz. On the day of the burial, the band was to lead the procession out of the funeral home.

My stepfather, a traditional Italian *padrone di casa*, was scandalized. He objected strenuously to his son's unconventional funeral arrangements. The widow, my stepsister in law, wanted to fulfill her late husband's wishes. After soul-searching and counsel, the widow and the father agreed to implement all of my stepbrother's instructions. A Dixieland band provided the loud background music for the otherwise somber wake and funeral procession. I didn't like Dixieland jazz, but I certainly admired my stepbrother's characteristic flair, as well as his determination to leave his signature on the disposal of his remains. The recollections of that funeral, and of its star, are indelible.

That intrafamily disagreement over funeral arrangements tweaked my law-related curiosity. As a then young lawyer interested in medico-legal matters, I wondered who had legal control in such a funeral controversy. Who would have had the ultimate say if the deceased's widow and father hadn't reached an accommodation? And no matter who was

ultimately responsible, was there a legal duty to follow the decedent's instructions, no matter how bizarre? If there was such a duty, did that mean that cadavers have rights? What other rights could a cadaver have—beyond having its predecessor's wishes carried out? If cadavers have rights, who enforces them?

Twenty-nine years later, in July 2002, another funeral controversy rekindled my interest in the issues surrounding the disposition of corpses. Ted Williams, one of the all-time greats of major league baseball, died at age eighty-four. There was no memorial service. His son, John Henry Williams, arranged to have his father's corpse frozen in dry ice and flown to the Alcor Life Extension Foundation in Scottsdale, Arizona. Alcor, a cryonics facility, would arrange to have the body permanently frozen, ready for restoration whenever science mastered the technique of revivifying and restoring dead human beings. John Henry purportedly wanted to give his father "a new chance at life."¹

Ted Williams's daughter, Bobby Jo Ferrell, went to court to try to prevent the cryonic disposition that her brother was arranging. She relied on a 1996 will in which Ted Williams had asked to be cremated, with his ashes to be scattered over the Florida Keys, where he had spent so many happy times fishing. Ms. Ferrell believed that her father had never wanted to be frozen. She claimed that her brother only wanted to preserve her father's DNA in order to sell it to baseball fan parents who dream of having sons capable of batting .400 in the major leagues.

Al Cassidy, the executor of Ted Williams's will, was happy to be guided by a court as to what to do in the face of the family dispute. He waited for a judicial hearing. John Henry, acting together with another sibling, Claudia Williams, produced a handwritten scrap of paper on which Ted Williams had in 2001 purportedly indicated a wish for a cryonic disposition. After a handwriting expert verified Ted Williams's signature on the note, Al Cassidy entered into a court-supervised agreement that allowed the body to be permanently frozen at Alcor. Bobby Joe Ferrell relented, not because she thought that her father had really wanted to become a frozen remnant (a corpsicle), but because she had no more money to contest the case. No one else sought to rein in John Henry Williams.

Ted Williams's corpse (or at least its head) is now suspended in a large metal cylinder at Alcor.² Far from the Florida Keys, he hangs in

company with four or five other human remains suspended in the same cylindrical container in the same highly chilled atmosphere. In all, there are ninety-eight permanent residents at Alcor.

Many things about the story of Ted Williams's remains caught my attention. I wondered why I cared about the disposition of those remains. Death is death whether the body is buried, reduced to ashes, or frozen stiff. Yet my strong feeling was that the remains of Ted Williams should have been scattered over his beloved Florida Keys. I love warmth and sun and a tropical climate. I hate cold and ice. To me, Ted Williams would somehow *feel* better far from the Alcor freezer; I strongly identified his corpse with his former persona and its sensibilities. On the other hand, if a corpse could feel extreme temperature, had Ted really thought about being reduced to ashes at 1800 degrees Fahrenheit?

The Ted Williams story retriggered thoughts about related legal or quasi-legal issues. Which of the several interested parties really controlled the disposition of the corpse? The executor responsible for implementing the will? The son and daughter who believed that their father wanted to be frozen? The daughter who believed that he wanted to be cremated, as stated in his will? And even if someone could reliably discern Ted Williams's wishes, would those wishes be binding on the responsible parties? My stepbrother's wishes were modest, involving unusual accoutrements of an otherwise conventional cemetery burial. What if Ted Williams had indeed wanted cryonic disposition but his descendants believed that it was a futile waste of money, or sacrilegious, or just undignified? Would the responsible parties still be bound to implement his wishes even if the wishes were burdensome? What if Ted had wanted to have his corpse shot into space? In short, I continued to wonder about the legal principles governing the disposition of a human corpse, especially the question of self-determination concerning one's earthly remains. Can a corpse have legal rights? Is a corpse legally entitled to have prior instructions carried out? Or do the descendants of the deceased have their own right to govern the disposition of the human remains?

My research on cadavers was driven by more than jurisprudential questions. On a practical level I also wanted to know what range of dispositions is open to the persons who control the fate of human remains. This, in turn, meant learning what physical consequences accompany

each means of disposal—including sepulture, cremation, cryonic freezing, and mummification. Somehow it matters whether a buried corpse retains its shape and form or is transformed into a moldy, shapeless, shrunken mass. Is corporeal disintegration inevitable, and at what pace does it occur? What is left after decomposition? Some people believe that the fate of human remains is irrelevant to a now-dead person, so they are indifferent about postmortem bodily transformations. I am not one of them. Somehow it mattered (and still matters) to me whether my cadaver would stay pristine after being laid to underground rest.

In writing this book I learned, as expected, a lot about both the physical fate of human remains and the legal rules that govern a cadaver's disposition. The surprising lesson, though, was the extent to which custom and law attribute a quasi-human status, a sort of quasi-personhood, to the cadaver. That finding led to the book's subtitle, *The Life and Times of the Human Cadaver*. The tendency of custom and law to give quasi-human status to the cadaver is reflected in various ways in the chapters. People's attribution of human feelings and/or a live presence to the cadaver (sometimes via a connected soul or spirit) is described in chapter 2. The law's bestowal of enforceable legal rights upon the cadaver is considered in chapter 3. The intimate association between a cadaver and its predecessor also accounts for the common expectation of dignified and respectful treatment of a cadaver.

The dignity and respect that a cadaver's quasi-personhood entails are suffused with human values, but they are different from the level of dignity accorded to the living. Chapters 9–12 examine the boundaries of what I label "postmortem human dignity." They discuss the extent to which postmortem human dignity limits the choices of both the person trying to shape his or her own postmortem fate and the people ultimately responsible for the disposal of the corpse. Surely a person can donate his or her body to scientific research aimed at human betterment, but can a person agree to becoming fodder for military or police units interested in measuring the effects of new weapons on human flesh? Can a person agree to have his or her corpse dehydrated, plasticized, and hung in a public exhibition? In other words, when does the exploitation of a cadaver become an intolerable offense to postmortem human dignity? A British surgeon named Richard Selzer once dictated: "Upon the wall of some quiet library ensconce my skull. Place oil and a wick in my brain-

pan. And there let me light with endless affection the pages of books for men to read." He had a noble goal, but was Richard Selzer entitled to have a part of his corpse serve as a handy reading lamp? Or is it intrinsically undignified to make utilitarian, everyday uses of something as sacred as human remains?

Is it conceivable that people have unfettered control over the post-mortem disposition of their own bodies and body parts? Aren't there some uses of human remains that are inherently repulsive and intolerable—such as necrophilia, cannibalism, other forms of ingestion? In 2007 Keith Richards, of Rolling Stones fame, said (though he later claimed that he was joking) that he had mixed his father's ashes with cocaine and snorted them. He was quoted: "I couldn't resist grinding him up with a little bit of blow. My Dad wouldn't have cared."³ Does it matter whether a survivor who ingests part of a cadaver does so for therapeutic purposes, for titillation, or for symbolic absorption of the positive attributes of the deceased?

In the absence of premortem consent, can the corpse be exploited for reasons of medical knowledge, crime investigation, education, or public health? Could government confiscate body parts needed for transplantation to critically ill or injured people? Can entrepreneurs display cadavers in traveling exhibits aimed at educating the public or in works of art aimed at entertaining viewers? Is it acceptable to make a corpse a parent, as by extracting semen from a male cadaver or forcing a female cadaver to gestate a fetus to term?

Beyond the bestowal of various protections and rights, the quasi-human nature of the cadaver emerges in additional ways in this book. One is the tendency of people to seek perpetuation of their persona or memorialization of their lives by means of treatment of their remains. People sometimes seek to immortalize themselves by physical preservation of their remains, by expression in epitaphs, or by physical monuments (see chapter 6). Another human phenomenon that carries over to the postmortem context is socioeconomic differentiation. Cadavers, like living persons, have suffered racial and economic disadvantage in the accoutrements of funerals, in the locus of final disposal, and in the use (or nonuse) of grave markers (see chapters 5 and 6).

As I contemplated writing a book about the legal status of cadavers, I thought that many potential readers might share my fascination with

people's postmortem fate. After all, under the constraints of today's medical science, every one of us will become a corpse. In 2010, it is projected, 7,200 deaths will occur in the United States every day. Therefore, many moribund patients and concerned loved ones will be deliberating the fate of human remains.

Of course there were contraindications about the breadth of the reading public's interest in cadavers. Despite the inevitable postmortem fate lying ahead of them, many people have a strong aversion to considering their own mortality. They prefer not to deal with the dying process, death, or disposition of human remains. Only about 20 percent of people sign advance medical directives covering the treatment or nontreatment of serious conditions they may face after they lose the mental capacity to make their own medical decisions. Only about 40 percent prepare a last will and testament governing the postmortem disposition of their property, even though that disposition may strongly affect estate taxes and other matters of survivors' well-being. A much smaller percentage of people leave instructions about the ultimate disposition of their corpses.

People also tend to have a strong aversion to a human corpse. This phenomenon seems to stem from more than natural revulsion at the sight and smell of putrefaction. The mere presence of a cadaver tends to cause extreme awe and discomfort. Survivors generally hasten to call a funeral director to collect a deceased's body and remove it to a funeral home. In May 2006, residents of an apartment house in Zurich complained bitterly that corpses were occasionally transported in a closed body bag in their building's elevator. (The corpses were being transported from an apartment owned and used by Dignitas, a Swiss group that assists suffering, seriously ill people to commit suicide.) No resident suggested that the odor or noise was disturbing or that the elevators were overcrowded. Some residents just couldn't stand the fact that a human cadaver might share the same elevator during descent to the ground floor. The expelled suicide-assisting organization ultimately found refuge adjacent to a house of prostitution, where the neighbors did not complain about nearby cadaver traffic.

The common aversion to corpses seemed to bode ill for sales of a book about the physical disintegration, assorted uses and abuses, and legal status of the human cadaver. A ray of light suddenly appeared for books about cadavers in January 2007 upon the untimely death of celeb-

rity Anna Nicole Smith and the controversy about disposition of her corpse. Ms. Smith had never definitively expressed her wishes about the disposition of her remains. The executor of her estate (her former lawyer, lover, and putative father of her only living child) insisted that she wanted to be buried next to her beloved deceased son in the Bahamas. Supposedly Ms. Smith had even bought a double burial plot at the time she buried her son. Ms. Smith's estranged mother, her only adult kin, claimed that Ms. Smith should be buried in a family plot in her native Texas. Both sides conceded that—at least at one point in her life—Ms. Smith had expressed a wish to be buried near Marilyn Monroe in Los Angeles.

There it was—grist for the mill of this book. If only the book had been published by January 2007! What a chance to do the cable network shows! What an opportunity to become a high-paid legal consultant to one of the hard-pressed lawyers struggling to cope with the unfamiliar law of human remains! (A Florida appellate court ultimately upheld, as conforming to Ms. Smith's wishes, her burial in the Bahamas next to her deceased son.⁴)

Yet it really did not matter to me that this 2007 media frenzy over a celebrity's cadaver generated great public interest in the disposition of human remains. I couldn't help writing a book about cadavers. I can't claim, as my Hoboken neighbor Mark Leyner did in a book called *Why Do Men Have Nipples?*, that even as a child I subscribed to the *Journal of the American Society of Investigative Pathology*. Nonetheless, my curiosity about corpses, along with my legal inquisitiveness, were driving me to explore the world (or afterworld) of cadavers. Issues such as the moral limits of self-determination in cadaver disposal were spurring my passion for cadavers (as a literary topic).

A word about terminology. The dead human has many names and nicknames—"corpse," "cadaver," "remains," "body," "stiff," "newly dead," "neomort," "loved one," "deceased," "departed," and "decendent," among others. Similarly, euphemisms are frequently used to ease the harshness of some of the terminology relating to dead humans. Polite people talk about "passing away" rather than "croaking." Some people prefer to say "recovery" of human organs for transplant rather than "harvesting." A pathologist may refer to the material oozing from a decomposed brain as "frothy purge." I do not subscribe to such delicacy. I use a variety of terms interchangeably to refer to the dead human—

usually “body,” “cadaver,” “corpse,” or “remains.” Occasionally I use more unsavory words, such as “cremains,” as applied to human ashes. I mean no disrespect to the departed. I just prefer the freedom to use a variety of terms to describe the dead humans who occupy these pages. As a conciliatory gesture to the editors, though, I will henceforth refrain from using the term “corpsicle” in the context of cryonics.

The words “coffin” and “casket” are used interchangeably here. A coffin was originally a narrow, six-sided, wooden receptacle, wide at the shoulders.⁵ That version of a burial container “nicely corresponded to the shape of the human form before the advent of the junk food era.”⁶ Starting in the 1850s, burial practice moved to the rectangular, hinged-cover box known as a “casket.”⁷ I use “coffin” and “casket” interchangeably, as is frequently done in modern parlance.