

1996

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Paul A. Robinson

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### Recommended Citation

Robinson, Paul A. (1996) "Historic Cemeteries as Contested Grounds," *Northeast Historical Archaeology*: Vol. 25 25, Article 4.  
<https://doi.org/10.22191/neha/vol25/iss1/4> Available at: <http://orb.binghamton.edu/neha/vol25/iss1/4>

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## Commentary—

### Historic Cemeteries as Contested Grounds

Paul A. Robinson

Historic cemeteries very often are anything but tranquil resting places. As Garman and Bell point out, cemeteries in the past were active places where graves could be moved under a variety of circumstances. In the present various and often competing interests are evident in discussions concerning the treatment of these places. The convergence of different interests, whether economic, archaeological, religious, political, or social, can lead to unpredictable and perhaps ironic consequences. Thus follows the central question framed by Garman: "Are laws [in Massachusetts and Rhode Island] designed to protect Euroamerican cemeteries actually making it easier to effectively destroy them?" And connected to this, Garman poses a moral dilemma: "Should archaeologists become involved in such investigations?"

I suggest in this commentary that it is important, useful, and, at times, legally required for archaeologists to be involved in burial projects, whether in the delineation of boundaries, helping to restore order after an accidental discovery, or in moving graves when necessary. I want also to point out, however, that archaeology is only one of many interests at stake in these projects, that these interests are not necessarily of equal weight, and that in some cases archaeology neither is nor should be the primary interest. Although I find much to admire in the work of Garman and Bell, I cannot agree with their assumption (stated more strongly by Bell) that cemeteries are "destroyed" if archaeological recording does not take place. Archaeological information is certainly lost, but from the perspective of a local community or the next of kin the cemetery is not necessarily destroyed.

Under some circumstances it may be perfectly appropriate for removal and reburial to take place supervised primarily by the next of kin, or a responsible community. In the past,

as illustrated by both the Westerly and Harwich examples, graves were moved frequently—by the family in Westerly and by the church in Harwich. I wonder if the Harwich congregation in 1991 was simply attempting to carry out a continuing obligation to respectfully move the dead (not destroying the cemetery) so that the living could conduct their everyday affairs. If such were the case, the intervention of the state, even if conducted at no cost by volunteer archaeologists, could understandably be viewed, as one congregation member put it, as "nonsense," as outside interference in what might have been, and in fact had in the past been, a community matter.

I understand that state law and ideas about the importance of archaeological information compelled the Massachusetts Historical Commission to intervene. I only wonder if it might have been possible to soften state involvement by recognizing the historical circumstances and the community values that may have guided the congregation in undertaking the removal. In this regard it would be interesting to know—directly from congregation members, unfiltered through archaeological observers—how the congregation reached its decision to move the graves.

Sometimes cemeteries, in the view of descendants, are unjustly destroyed. In Westerly the Lewis cemetery was removed against the wishes of the Lewis family, but for the "public good," in keeping with state law and local ordinance. Although Garman was able to collect information about the cemetery, information that most certainly would have been lost without the 1992 law, the fact remains that the cemetery was destroyed and we archaeologists participated with the town in its destruction. The Rhode Island law states that historic cemeteries, marked or unmarked, are not to be removed "unless there is no prudent or feasible alternative [to moving them] or removal

is only for the public good and not for commercial expediency." The law provides for the town or city council to conduct hearings and make a determination about whether other alternatives are possible and whether removal is for the "public good." In the Lewis cemetery case the interests of the few (the family) were overruled by the interests of the many (the town council). During removal, one descendant stood well off to the side in an obvious state of agitation. Another relative, although resigned to the removal, wrote in a letter to the town's attorney that "I am quite concerned [about the removal] because of the previous desecration of the original Lewis burying ground. . . . the Moore Company covered the burial ground over and made a tennis court out of it. I believe that the earliest Westerly settler, John Lewis, is buried there under the asphalt" (March 7, 1995, Thomas A. Lewis to John C. Levanti).

While the Rhode Island legislation establishes a process for moving cemeteries, it is not easy nor is it frequently taken. Since the law was enacted in 1992, only one cemetery, the Lewis cemetery, has been moved. Most consultations between the RIHPHC and other parties have successfully preserved cemeteries. Thus, while the burial law does provide a process for cemetery removal, the law more often acts as a deterrent. In the Westerly case, the town decided that the cemetery had to be removed and hired the Public Archaeology Laboratory (and PAL assigned Garman to the project) to determine how many graves remained in the cemetery and to participate in the removal of human remains. I learned from this case, as Garman points out, that the archaeological supervision required by the law needs to be more rigorously structured in the future so there is no confusion during the removal about who is in charge and what needs to be done.

Most consultations since 1992 have resulted in cemetery preservation, in part because the permitting process is difficult and time-consuming, but also because the law enables local people to become involved in the preservation of their town cemeteries. In a number of cases, developers have agreed to preserve cemeteries because of public support for cemetery preservation. The burial law,

through a public hearing process, provides a forum for the public to express displeasure (or support) over cemetery removal. Currently, residents of one eastern Rhode Island town, armed with the state burial law, are questioning the town's desire to put a leach field in the middle of the town burying ground, i.e., some town residents are outraged at the prospect of people in the Town Hall flushing toilets into the old common burying ground.

I agree with Bell that archaeologists can have an important role to play and with Garman that we need to consider carefully when to get involved. When assisting in boundary delineation or in attempts to clean up after an accidental discovery, we most often are involved in minimal disturbance; frequently our efforts contribute significantly to the preservation of cemeteries. When removal is the issue, I would have to agree with Garman that our role facilitates the destruction of a cemetery. I disagree, however, that the law makes removal easier. There should be no surprise about this, nor, in my opinion, does any amount of "data recovery" or reburial change the fact that a cemetery was removed and destroyed. I would only say that each archaeologist must decide whether the information gained provides sufficient justification for participating (sometimes against the wishes of the descendants) in the removal process. For myself, I work for a state office, and even though I deplore the disturbance of human remains, I am bound to follow the process that sometimes justifies removal in terms of "the public good."

Paul Robinson is the Principal State Archaeologist in Rhode Island. His major research interests and publications are on the Native American history and archaeology of Narragansett Bay and Southeastern New England.

Paul Robinson  
Rhode Island Historical Preservation and  
Heritage Commission  
150 Benefit Street  
Providence, RI 02903