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Cover Page Footnote

I thank the following people for their assistance with the Lewis Ground 2 project: project manager Deborah C. Cox (PAL Inc.); Michelle Ruberto Fonseca, consulting attorney for the town; John Levanti, Westerly Town Solicitor; David Gingerella of the Westerly School Building Committee; and Bob Zoglio of Gilbane Construction. Thanks also to project archaeologists Patricia Fragola, Burr Harrison, and Jennifer Macpherson (PAL Inc.). For assistance with the Harwich United Methodist Church project, I am grateful to Dr. Mitchell Mullholland, Director of UMAS; crew chief F. Timothy Barker; and assistant archaeologists John Murray and Elizabeth West of UMAS. Finally, thanks to Mary C. Beaudry, Edward L. Bell, Ann-Eliza Lewis, John P. McCarthy, Paul A. Russo, Duncan Ritchie, Evelyn Savidge Sterne, and an anonymous reviewer for comments on earlier drafts of this manuscript. The views expressed in this article are exclusively mine and in no way represent those of the University of Massachusetts Archaeological Services of The Public Archaeology Laboratory, Inc.

"This Church is for the Living": An Assessment of Archaeological Standards for the Removal of Cemeteries in Rhode Island and Massachusetts

James C. Garman

Legislation in both Rhode Island and Massachusetts sets standards for the removal of European-American cemeteries and the reinterment of human remains. In both states, some degree of archaeological investigation short of excavation is usually required. This paper compares the two bodies of legislation, evaluating the strengths and weaknesses of both systems. The focus then turns to two recent cemetery case studies, one at the site of a new school in Westerly, Rhode Island, and one at a church in Harwich, Massachusetts. The final section of the paper raises questions concerning the gaps between the intent of legislation and archaeological practice. What role should the archaeologist play in the removal of historical cemeteries? How do different statutory and regulatory processes affect the ultimate disposition of the project? Finally, can historical archaeologists and regulatory agencies become unintentionally complicit in the unnecessary destruction of historical cemeteries?

La législation du Rhode Island et celle du Massachusetts fixent des normes relatives au déplacement des cimetières euro-américains et à la réinhumation des restes humains. Dans les deux États, un certain degré d'investigation archéologique, avant l'excavation, est d'ordinaire requis. L'auteur compare les deux législations et évalue les points forts et les points faibles des deux systèmes. Il se penche ensuite sur deux cas récents de cimetière, l'un à l'emplacement d'une nouvelle école à Westerly (Rhode Island) et l'autre, à une église d'Harwich (Massachusetts). La dernière partie de l'article soulève des questions concernant les lacunes existant entre le but de la législation et la pratique archéologique. Quel rôle l'archéologue devrait-il jouer dans le déplacement des cimetières? Comment différents processus statutaires et réglementaires influent sur l'aboutissement d'un projet? Enfin, les archéologues de la période historique et les organismes de réglementation peuvent-ils devenir involontairement complices dans l'inutile destruction de cimetières historiques?

The land is now secured, trees set, avenues worked, park built . . . the whole containing one hundred and eighty lots. As we enter we are reminded of our mortality by the Declaration of Genesis, 3d, 19th: "For dust thou art and unto dust shalt thou return," neatly painted on signs on [the] front park. (Origins and By-Laws of East Harwich Cemetery 1875: 2)

The archaeology of death is a complex and compelling enterprise. Often the excavation of a cemetery represents the only avenue for the study of historically unknown (and unknowable) individuals. A plethora of recent excavations of African-American, pauper, and institutional cemeteries have allowed interpretation of lives otherwise obscured by a lack of documentary evidence (Elia and Wesolowsky 1991; Grauer and McNamara 1995; McCarthy 1990; Roberts and McCarthy 1995).

Most of the studies cited above share a common facet: the excavation of each cemetery

was required by federal legislation and accompanying Memoranda of Agreement among the parties involved in the cemetery removals. Questions raised in this article concern cemetery removals that are subject only to local or state permitting processes. What role does the archaeologist play in the removal of historical cemeteries? How do different statutory and regulatory processes affect the ultimate disposition of the project? Finally, can historical archaeologists and regulatory agencies become unintentionally complicit in the unnecessary destruction of historical cemeteries? In answering these questions, I shall argue that ethical considerations should prohibit archaeologists from involvement in the typically underfunded and inherently vague conditions that are the hallmarks of many cemetery removal projects.

This article first examines the laws pertaining to the removal and alteration of cemeteries in Rhode Island and Massachusetts, and

Figure 1. Historical Cemetery No. 88 in Warwick, Rhode Island. This small family graveyard has been pedestalled in the parking lot of a strip mall. Rhode Island laws protecting historical cemeteries were inspired by cases of unsympathetic landscaping such as this one.

the varying relevance of archaeology to those laws. Two case studies follow that briefly evaluate the results of the studies and the positive and negative aspects of the process. The paper concludes with reflections on the role of historical archaeologists as participants in the removal process and outlines conditions under which we might reconsider our role as facilitators of cemetery destruction.

The scope of this article is limited strictly to European-American cemeteries. Although both Rhode Island and Massachusetts list a range of post-contact Native American cemeteries, implications for archaeologists encountering these cemeteries derive more from federal, state, and tribal laws and regulations than from local legislation. Furthermore, the investigation of the African-American cemetery in Manhattan has raised (and answered) a new series of questions concerning the rights of descendants of those marginalized by European-Americans (cf. Harrington 1993).

Preservation in Place: The Desired Goal

Legislation in both Massachusetts and Rhode Island was written with the goal of pre-

serving cemeteries in place. Many project proponents, however, argue that preservation of a cemetery within a planned commercial development or residential subdivision is neither feasible nor prudent. In areas of stagnated economic growth, where taxpayers are eager for development, it may be relatively easy for proponents to convince local authorities that the removal of a cemetery is necessary to their project. Furthermore, given the high degree of mobility in contemporary American society, there may be few descendants or next-of-kin to object to the taking of a cemetery. In both states, legislation defines a legal process for the removal of cemeteries.

Rhode Island Burial Laws

Rhode Island procedures for the removal of historical cemeteries were defined by Rhode Island General Law (RIGL) 23-18 et seq. This law, which gained final approval in 1992, was passed in response to several notorious cases of cemetery removal and alteration. Among these cases was the "pedestalling" of a family burying ground in the parking lot of a commercial strip in Warwick (FIG. 1). The law transferred

the permitting process for removal of a cemetery from the state to the individual towns.

When proponents desire to move cemeteries, towns first are required to approve a general local ordinance reflecting the provisions of the state statute. Proponents and the town then must take three steps to apply to remove or alter the specific burying ground. First, the proponents must demonstrate that there is neither a prudent nor a feasible alternative to removing the cemetery. Second, the town must notify all interested parties, including the descendants of those interred in the cemetery, of the proposed alteration. Finally, the town, as the permitting agency, must "provide for due consideration of the rights of the descendants in reviewing the application."

Section (b) of the law then defines the process for investigating unmarked graves:

When an application for alteration or removal of an historic cemetery has been made and the boundary is unknown or in doubt, the city or town may require that the applicant, at its own expense, conduct an archaeological investigation to determine the actual size of the cemetery prior to final consideration by the city or town of the application to alter or remove.

The permitting authority is the city or town. Unless the presence of Native American graves is suspected in the cemetery, the Rhode Island Historical Preservation and Heritage Commission (RIHPHC) has no legal authority to request archaeological surveys for boundaries and extents of cemeteries. RIGL 23-18-11 does provide for archaeological excavation of human remains if there is sufficient scientific rationale and if the next-of-kin approve.

When the boundaries of the cemetery have been determined, the application to remove may be approved, provided the work is done "under the supervision of an archaeologist." Those aggrieved by the decision have the right to appeal in Superior Court, although no one has yet tested this provision. The ambiguous phrase "under the supervision of an archaeologist" is one that resonates through the Rhode Island case study described later in this article: that is, the removal of the Lewis Ground 2

cemetery in Westerly, Rhode Island, which was under my "supervision."

Massachusetts Burial Laws

Massachusetts burial laws prescribe procedures for the accidental discovery of human remains during construction (MGL ch. 38, s. 6B; MGL ch. 9 ss. 26-27C as amended) and prohibit the taking of burial places for public use without authority from the general court (MGL ch. 114 s. 17 as amended). Thus a proponent of a public project wishing to remove a cemetery must apply to the state legislature to receive approval. In a case where a cemetery contains both marked and unmarked graves, the Massachusetts Historical Commission (MHC) may request a survey to identify the extent of burials. Unless a project is federally permitted or federally funded, there is no legislative authority for the MHC to request archaeological excavation of a fully marked cemetery scheduled for removal. A proponent need only obtain a local permit, usually from the town Board of Health, before enlisting the services of a funeral director to move the marked remains.

When unmarked burials are discovered accidentally during construction, agricultural, or other activities, the law requires the Medical Examiner to "conduct an inquiry to determine whether the remains are suspected of being one hundred years old or more." If they are, then the Medical Examiner notifies the State Archaeologist. The State Archaeologist, in turn, completes a site evaluation, initiating a consultation process among the proponents, the State Archaeologist, and any interested parties. Unmarked burials under investigation may not be excavated by the funeral director; either the State Archaeologist or an archaeological team under special permit from the State Archaeologist is responsible for the removal of unmarked burials (MGL c.9, s.26A). As in Rhode Island, a survey may be required to determine the extent of the cemetery.

The primary distinction between the Rhode Island and Massachusetts laws lies in the different authorities involved in the regulatory process. Rhode Island's transferral of authority from the state to the towns was politically inspired. In an era of popular

Figure 2. East elevation of the Harwich United Methodist Church, Harwich, Massachusetts, showing the area of the proposed parish hall expansion.

resentment against federal and state regulations, it was believed that the law would more likely be enforced if the permitting authority was the municipality, rather than the state.

A comparison of the two bodies of legislation suggests that from a strictly archaeological perspective, the advantage to the structure of the Massachusetts laws is the State Archaeologist's authority in consultation. Note that the State Archaeologist in Rhode Island has authority only where potential Native American graves are present or where there is exceptional scientific value to excavating the remains. Thus in Massachusetts, an archaeologist (rather than a town official) has a lead role in the process.

Neither system is without flaws and loopholes. The archaeological investigation of the Harwich United Methodist Church in Harwich, Massachusetts, is one of many projects undertaken in compliance with unmarked burial laws; although it is not necessarily a

model investigation, it provides a useful case study in the politics of death.

Case Study 1: Harwich United Methodist Church

In 1991, the Harwich United Methodist Church (HUMC), a small congregation in East Harwich, Barnstable County, Massachusetts, filed project plans for a parish hall addition to the church that would extend into the church's burying ground (FIG. 2). The congregation proposed moving at least 17 marked graves to accommodate the proposed construction. The presence of unmarked graves in the area of the addition was suspected, but not proven. Active MHC consultation in the project resulted in a request for an intensive (locational) archaeological survey to identify the presence or absence of unmarked graves. As Project Archaeologist for the University of Massachusetts Archaeological Services

Figure 3. View southeast across Survey Unit A, the grave removal area, Harwich United Methodist Church, Harwich, Massachusetts.

(UMAS), I directed a survey of the immediate impact area and a smaller corner of the cemetery set aside for reinterment of remains (FIG. 3).

As the accompanying essay by Edward L. Bell of the MHC clearly indicates, church authorities were adamantly opposed to the state's intervention in the project. The amount of time and money necessary to locate the graveshafts and re-inter any remains represented a significant financial hardship on the congregation. A document prepared by the authorities at the time they distributed a Request for Proposals is clear on this point:

Every possible alternative has been examined and the determination has been made that construction of a Parish Hall at the rear of the present Church building is the only satisfactory direction to move, in order to solve the space needs problem.

Nobody has more reverence for the dead than this congregation, but this Church is for the living and must do everything in its power to provide for the present and future of its congregation. (HUMC Position Paper, May 1992: 2)

Because the church building committee had not anticipated the need for archaeological survey, limited funding was available and background research was restricted to a cursory review of documents filed in the congre-

gation's administrative offices. The project research design necessarily focused not on what the records might or might not indicate, but rather on the "truth" of what lay beneath the grassy surface of the yard. Thus by the time fieldwork began, the necessity of identifying unmarked graves had already transcended the approved research design and become a matter of the utmost expediency.

History of the Union Cemetery

Set within an odd-shaped lot adjacent to the Old Queen Anne Road in Harwich, the HUMC is the oldest Methodist church on Cape Cod, and possibly in New England. According to a booklet published by the church, the Reverend Jesse Lee organized a Methodist Society in the town in 1792. The existing church building was constructed in 1811 and dedicated in 1812.

An extensive burying ground stretches north of the present church, which prior to construction contained 212 headstones with dates ranging in time from 1797 to 1941. Two markers for members of the Eldredge family predate the construction of the church, suggesting that an earlier family cemetery stood on the site. The site continued to be used as a burial ground throughout the 19th century, acquiring the name "Union Cemetery" at an undetermined date.

The eternal rest of those interred within the Union Cemetery proved transitory. By the late 1850s, the congregation showed increasing concern about the shrinking amount of available space for burying the dead. A special committee recorded its inability to purchase land adjacent to the Union Cemetery (Origin and By-Laws of East Harwich Cemetery 1875: 1; emphasis in original).

In the Spring of 1858, Jonathan Buck and D. S. Steel of East Harwich, feeling that the place for the burial of the dead was not sufficiently large to supply the demands made upon it . . . made immediate application for land adjoining East Harwich grave yard, for that purpose; and as said land could not be procured "by them" *at any price*, concluded to purchase a piece of land a short distance north of the church, on Chatham and Brewster County Road.

On the first of November, 1858, "this beautiful level spot of land" (Origin 1875: 1) was divided into family plots measuring 18 x 26 ft (5.5 x 7.9 m), that were then offered for sale to members of the congregation. Between 1858 and 1912, congregation members exhumed the remains of at least 78 of their ancestors buried in the Union Cemetery, transferring them to new family plots in the East Harwich Cemetery (Origin 1875: 1)

Ninth day of Dec. 1858, the remains of Mr. Jonathan Buck and Lovell S., grandson of Jonathan Buck, were removed from East Harwich grave yard to the Cemetery, and on the 16th of the same month the remains of Eliza J., daughter of Danforth S. Steel were removed to the East Harwich Cemetery, and the monument now at the head of her grave was the first monument erected in the new cemetery.

No new interments were made in the Union Cemetery after 1941. By the 1990s spatial constraints had once again become a problem for the HUMC and the church sought to expand its mission by constructing a new parish hall and parking area.

Results of the Archaeological Investigations

Archaeological fieldwork at the HUMC took place in September 1992. Within the footprint of the proposed addition stood 14 head-

stones, commemorating 16 people; two footstones, commemorating at least four people; and a broken headstone, commemorating one person. Thus there seemed a possibility of encountering at least 21 graveshafts within the survey unit. Dates of interment ranged from 1800 to 1886; among the marked dead were an unusual burial of a father and his infant son and the remains of Private Simeon Cahoon of the 58th Regiment of Massachusetts Volunteers, who died in 1864 from wounds received at the Battle of the Wilderness.

After all marked burials were surveyed, the headstones and footstones were removed and a small backhoe began to strip topsoil from the proposed building footprint, exposing the B₁ subsoil interface. As the backhoe exposed the dark, organic outlines of graveshafts, field crew staked the features and plotted their locations on project plans. Machine stripping of the impact and reburial areas revealed 10 unmarked graves in the impact area, four unmarked graves in the reburial area, and a range of features including monument bases, a robbed builders' trench for an unidentified structure, and postholes.

At the end of three days of fieldwork, the HUMC building committee was in a quandary about how to proceed with their construction plans. Our recommendation was for a program of confirming the presence of human remains in the unmarked graveshafts (Garman 1992: 11), a recommendation the church building committee was unwilling to undertake. The project then entered an extensive consultation phase between the MHC, the HUMC, and the archaeologists, culminating in a long and occasionally frustrating meeting at the site. After rejecting every archaeological alternative presented at this meeting, the congregation's building committee unveiled a new blueprint with a structural footprint designed to avoid all unmarked graves. The MHC concurred with this design alternative, recommending construction of "a temporary high-visibility fence or [that] some other delineation be placed between the area required for construction and the unmarked graves" (MHC to HUMC, 29 December 1992). As provided by law, the church was permitted to move the marked remains with only the supervision of a funeral director.

Evaluation

Admittedly intrigued by the possibilities of recording the exhumation of a marked cemetery and its inhabitants, UMAS project personnel offered to volunteer archaeological services when the church moved the known interments. The church rejected this offer and proceeded with the removal; archaeologists lost a valuable opportunity to gain all but the most rudimentary information concerning demographics and the treatment of the dead on mid-19th-century Cape Cod. Once the undertaker had removed the remains from the cemetery, the church reinterred them in a mass grave.

Even more disturbing than the exhumation was a local newspaper report that construction of the parish hall had disturbed some of the marked or unmarked graves (Lantz 1994: A-2). The reporter investigating the situation noted that fill removed from the church excavation and deposited in a new residential subdivision contained a human skull and pelvis.

Church deacon Reginald Nickerson took the bones for reburial. He said that the remains apparently had been buried in a section of the graveyard where maps showed no gravesites. "We were very careful and did everything we could," he said. "But it's an old, old cemetery. It dates back to the early 1800s, so something like this is possible."

The unsettling report of skeletal remains traveling through Harwich in the bed of a dump truck suggested three possible scenarios:

- the archaeological survey missed graves;
- the funeral director's exhumation was incomplete; or
- the construction contractor exceeded the line of excavation and compromised marked graves that were supposed to be avoided.

Given that the archaeological survey stripped both impact areas to subsoil, the first scenario is unlikely. Furthermore, photographs of the exhumation seem to show a relatively thorough effort on the part of the funeral director. The third possibility is the most likely.

Despite the diligence of the consulting archaeologists and the MHC, the ultimate results of the consultation process were disappointing. The MHC could not request the archaeological excavation of the unmarked graves since the building committee had provided a plan for avoidance. In the absence of tighter control measures, such as archaeological monitoring or the erection of a construction fence, the worst possible scenario—the disturbance of human remains—ensued.

If the Harwich investigation had focused on a 19th-century farmstead and the contractor had destroyed a portion of a cellar hole, the results would have been unfortunate but by no means as poignant. Because the site in question was a cemetery, the usual issues of "determining site boundaries" and "sampling strategy" acquired an entirely different dimension. The Harwich case study, like many non-federally-mandated cemetery projects, demonstrates what can go wrong when the usual cultural resource management framework is applied to a sepulchral site.

Case Study 2: Lewis Ground 2

The Lewis Ground 2 cemetery in Westerly, Rhode Island, stood in the village of White Rock at the top of a steep gravel knoll. Preliminary plans for a new elementary school on the site indicated that the footprint of the school building would avoid the cemetery; nevertheless, the School Building Committee requested that the knoll be leveled to provide space for new athletic fields.

No gravestones were visible on the surface of the plot when personnel from The Public Archaeology Laboratory, Inc. (PAL Inc.) walked over the site in November 1994. Extensive background research, ground-penetrating radar, and electromagnetic sensing studies of the cemetery plot—luxuries not permitted in the Harwich study—were inconclusive. After these studies were completed, no one was certain how many individuals, if any, were left in the Lewis Ground 2 plot.

At a meeting held on the site January 25, 1995, representatives of the School Building Committee reiterated their desire to move forward with the project. Drawing on the Harwich experience, PAL Inc. recommended, with

concurrence of the RIHPHC representative, that the knoll be mechanically stripped of topsoil to identify graveshafts. Once the limits and extent of the graveyard had been identified archaeologically, the town would be able to transfer any remains to an appropriate new resting place.

Two ordinances were prepared by the Westerly Solicitor in preparation for the removal of graves. The first, titled "An Ordinance in Relation to Historical and Archaeological Burial Sites," was a townwide regulation designed to establish the procedure specified by the RIGL. The second, "An Ordinance Directing the Relocation of a Historic/Family Cemetery (Lewis Ground 2)," was specific to the proposed project. Public notice of both proposed ordinances was published in the local newspapers for the Town Council meeting on March 27, 1995. At the meeting, several individuals, including descendants of the Lewis family, objected to the removal of the cemetery, on the grounds that it was unnecessary and possibly a desecration of sacred ground. Nonetheless, the Town Council passed the first ordinance unanimously and the second on a six-to-one vote.

PAL Inc. applied for and received permit no. 95-3 from the RIHPHC to conduct archaeological delineation of the burying ground. In retrospect—and what should have been immediately apparent—was that the permit was superfluous, since the delineation was undertaken for the town in compliance with town and state regulations. The application and issue of an archaeological permit symbolizes the ambiguous role of the state in the cemetery removal process.

Results of the Archaeological Investigations

Stripping of Lewis Ground 2 was accomplished with the assistance of the school construction contractor. Archaeological investigations identified a total of 18 graveshafts, 16 of which had been exhumed at an undetermined time in the late 19th or early 20th century. The 14 non-burial features at Lewis Ground 2 included one footing or base for a large monument; four marble headstones or footstones; five granite slabs that could have been unmarked headstones or footstones; three brownstone bases for headstones or foot-

Figure 4. Past meets present: after completion of the archaeological fieldwork, a track excavator prepares to level the knoll containing the Lewis Ground 2 cemetery, Westerly, Rhode Island.

stones; and two postholes, evidence of an earlier fence or gate that stood around the cemetery. The survey identified two sets of human remains in subsurface brick crypts, the first a two-year-old female child and the second a 50- to 60-year-old man (Garman 1996).

The two intact graves with human remains were excavated carefully by hand. Field personnel, with assistance from funeral director Steve Dolan, transferred bones systematically from the graves to waiting caskets. All observations of trauma and pathology were carried out in the field. At the completion of each removal, Mr. Dolan transported the sealed caskets to the Gaffney-Dolan Funeral Home to await reburial in Riverbend Cemetery.

As with the HUMC project, fieldwork was limited to a three-day period. After a brief memorial service conducted on behalf of the descendants of the Lewis family at the site, reburial of the two sets of human remains took place in Riverbend Cemetery in Westerly on April 27, 1995. These reinterments are at present unmarked. On the same day, heavy equipment levelled the knoll (FIG. 4).

Evaluation

The consultation process in the Lewis Ground 2 case followed the letter of the law. The town, under first-rate counsel, went through all the proper steps to ensure compliance with all legal and statutory obligations in its removal of the cemetery. Furthermore, the level of information gained was more substantial than at Harwich. If nothing else, the brief program of archaeological work and documentary research at Lewis Ground 2 points to two apparently contradictory aspects of death and mourning in the Victorian era: first, the beautification of death, seen in the palls, the white-metal hardware, and the carefully constructed brick vaults; and second, the matter-of-fact manner in which the living moved burying grounds across the countryside as they sought different opportunities in new towns and counties (for further details, see Garman 1996). This inherent ambiguity between the permanence of death and the transitory nature of interment is perhaps the most powerful message stemming from these investigations.

Yet as with Harwich, there was an overriding sense that the system had somehow not satisfied anyone's needs but the proponents. As consultants, we lost an opportunity to do the sort of thorough osteological analysis that would have strengthened our interpretations. As the quasi-regulatory agency, the RIHPHC was in the ambiguous position of having officially permitted the excavation but declined a pro-active role (or indeed, to comment on the archaeological report). Those who identified themselves as descendants of the deceased felt the keenest sense of loss, since they found their objections to the removal stifled in a torrent of language concerning "expediency" and the "public good."

Conclusion: Cemeteries as Ethical Dilemmas for Archaeologists

I conclude by contrasting the role of the consulting archaeologist in both of the case studies discussed here, while raising a question concerning the relevant statutes: are Massachusetts and Rhode Island laws, written with the intention of protecting historical cemeteries, actually making it easier to destroy them?

In the Harwich case, the archaeological team delineated all marked and unmarked graveshafts, provided the proponents with accurate project plans, and recommended archaeological excavation of remains—a recommendation that the church was neither willing nor able to finance. Project consultation with the MHC resulted in a new footprint for the building, designed to promote avoidance of unmarked graves and removal of marked graves by an undertaker. Yet despite this wealth of pertinent data, several sets of remains were disturbed during construction of the new parish hall. Furthermore, although archaeological investigation revealed some intriguing details about 19th-century mortuary activities, the overall level of information obtained in this study was, at best, moderate.

In the Westerly case, the archaeologists delineated all marked and unmarked grave shafts, supervised the removal of both interments, and conducted rudimentary osteological analysis in the field. There were no later discoveries because the knoll was subsequently leveled. The phased approach allowed sufficient time to exhaust other methods, such as background research and remote sensing, before proceeding to excavation.

Ironically, the Westerly project, executed under the jurisdiction of the town, rather than the state, demonstrates a greater level of success than the Harwich example. The level of information gained was greater, the amount of control was somewhat higher, and cursory assessment of pathology was possible. The success of this project, however, may result more from the proponents' recognition that they were a public body required to undertake the necessary work rather than the structure of the laws. Had the client been a private developer antagonistic to archaeological investigations, the results could have been disastrous.

What both these case studies share are ambiguities in the regulatory process, ambiguities that were at least partially created by limitations on what the State Historic Preservation Offices could legitimately request. In Westerly, the RIHPHC might have made more of an issue of the project and requested archaeological excavation of the remains. Instead, the delineation and removal process proceeded with the state agency acting as an adviser, not

a regulator. In the Harwich case study, the MHC might have requested more stringent control measures, including archaeological monitoring of construction activities on the site. In both cases, with lack of legislation such as the Illinois Skeletal Remains Protection Act (Illinois Revised Statutes 1989, c. 127, para. 2660 et seq.), there was little or no opportunity to study 19th-century pathology, demography, or mortuary ritual. In both cases discussed in this article, the ultimate results were identical: human remains were removed in an expedient matter; those reburied now lie in unmarked plots; and the original cemeteries no longer exist, except as described in CRM reports.

If the cemeteries no longer exist, and the archaeologist has taken a role in that process, then how can the archaeologist not bear some degree of complicity or responsibility for his or her participation in the removal of burying grounds? This is a question that makes archaeologists, especially those working within CRM or regulatory contexts, extremely uncomfortable. Responses to the dilemma include a variety of defensive rationales developed in hindsight. In the case studies cited above, I (as the consulting archaeologist) could argue that it is not my fault that the construction contractor in Harwich exceeded the line of excavation, or that proponents have failed to mark the graves of the reinterred individuals. I could also argue that extensive documentary research conducted on my own time for the Westerly case study, inconclusive as it was, did some degree of justice to those interred in the cemetery. Concerning this need for additional (and non-funded) research, Edward L. Bell, who reviewed this manuscript for publication, argues that professional responsibility demands that consultants go beyond what is essential to the research design (Edward Bell to Mary C. Beaudry, 1996):

There are several examples of cemetery research projects . . . that undertook considerably more research beyond the original scope of the research design. . . . Typically, this additional research may not be fundable within the original budget, but may be negotiable with one's client.

Bell's critique explicitly places cemeteries in a unique applied research context: underfunded

(with church congregations as proponents) and requiring extra time to do the job right.

I believe that consulting archaeologists become involved with cemetery projects for two reasons. First, from an archaeological perspective, the projects and the opportunities they afford are by nature extremely interesting. Few professional scholars have the opportunity to confront the dead in as visceral a manner as archaeologists do. Note, for example, this recent posting from the HISTARCH list server, a contribution to a discussion concerning exhumations:

We too had a cast-iron coffin in our cemetery, although not 300 pounds! Ours contained the remains of a five-year old child. Quite an expense for a child. It was a fascinating experience to open it. I would love to hear more details about the one you recovered! (Diane Houdek, posting to HISTARCH list server, October 28, 1996)

Note the archaeologist's appropriation of both the symbolic space and the material culture of death (i.e., "our cemetery," "Our [cast-iron coffin]," and the fascination with the glimpse into the other side. The second reason firms take these jobs, from a business perspective, is that one wants the work, if only to keep someone else from having it and to keep field crews working. In the absence of proper funding, why else would anyone take a job requiring massive amounts of unpaid or unbillable hours?

The consulting archaeologist is in an awkward position when it comes to historical cemeteries. The consultant has a client and a mandate to assist the client through the process of compliance with relevant statutory obligations; yet the consultant is also an archaeologist with a separate and distinct mandate to excavate, record, and document to the best of his or her ability. Fulfilling the second mandate is rarely possible in any underfunded project, particularly one as potentially time-consuming and as socially charged as a cemetery assessment.

In the strictest sense, this dilemma is true of all historical archaeological CRM projects, whether they are 18th-century farmsteads, 19th-century blacksmith shops, or 20th-century workers' houses. There always will be

antagonistic clients unwilling or unable to pay for archaeology and overzealous construction contractors who compromise the integrity of significant sites. But it is surely naive to lump cemeteries with the site types mentioned above; doing so ignores two important points. First, cemeteries are not typical historical archaeological sites. As places deliberately designed to commemorate the dead, they constitute sacred spaces in ways that other sites do not. Archaeological investigations of cemeteries arouse members of the public, descendant groups, and, invariably, the media. Second, this article has demonstrated that State Historic Preservation Offices in Rhode Island and Massachusetts may have a stronger regulatory handle over "typical" archaeological sites than they do over cemeteries. Thus the usual rules and regulations do not apply to the removal of the dead.

The ethical ramifications of this situation are manifold, and beg the following question: would any archaeologist holding meticulous recording and CRM standards bid on a project that he or she realized was destructively underfunded? Unless one was desperate for the work, the answer is generally no. Yet the archaeological community seems to have less difficulty with this situation when dealing with cemetery projects than with other sorts of sites. Why this is so is unclear. Perhaps there is a sense that master's theses or published articles will come out of the work. Perhaps there is an underlying moral sense of "if we don't do it, someone else will (and poorly, at that)" and any information will be irretrievably lost. No matter how well-meaning their intentions, archaeologists have no business working on sites that they cannot excavate properly without the regulatory or financial support, especially cemeteries.

As archaeologists, we all are indoctrinated with the notion that archaeology is a destructive process; hence the need for careful recording standards. In the case of a cemetery, with all the attendant issues surrounding reinterment and the rights of the dead and the descendants, consulting archaeologists should question whether the information that will be salvaged from a "boundary delineation" is worth the necessary level of professional compromise while working under the conditions

described in this article. As the archaeologist responsible for both case studies described in this article, I believe it may have been better in both cases to have passed on the projects. Although the data presented in this paper and in the project reports might have been lost, I personally would have been more comfortable had I not lent the *imprimatur* of professional archaeology to the destruction of two historical cemeteries.

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