

Introduction

Finding Common Ground

Senator Gonzalo Barrientos^{*}

Back in 1993, I noticed on my calendar that Judges David Phillips and Steve Russell had set up a meeting with me. This is nothing unusual. They are from my district, I have known them both for years, and we visit from time to time on how to improve the law. Imagine my surprise when they wanted to talk about *graverobbing!*

Like most Texans, I have always thought that when we put the dead to rest, the grave becomes somewhat like a church: a place for meditation and respectful contemplation of what awaits us all; a place to take children to remember loved ones; a sacred place.

At that meeting in 1993 and in the hearings that followed in Sen. Carlos Truan's Committee, I heard a different story. I heard about necklaces of human teeth, human skulls sold as curios, and human remains boxed and labeled as "scientific data."

I also learned that this shocking disregard for the humanity of the dead has distinct racial overtones. The lack of legal protection of unmarked burials could create problems in protecting the graves of the early white settlers of Texas, enslaved African people who are now citizens, and even people buried around the Spanish missions. However, most corpses that are stripped for profit are those of the original inhabitants of Texas, American Indians. This is so because of the common practice among the Indians of Texas to inter personal equipment with their dead, such as the Caddo pottery that is highly prized among art collectors.

I began to see graverobbing as a civil rights issue. The disrespect shown Indian dead is mirrored in Texas' historic treatment of living Indians. I cannot agree with those who can justify disturbing the dead if the dead are "only Indians" or "only slaves" or "only Mexicans." We are all human beings, and the law must insure equal treatment from cradle to grave.

I salute the *Texas Forum on Civil Liberties and Civil Rights* for recognizing this as a civil rights issue. This Symposium issue will be evidence in the fight I have undertaken to convince my colleagues in the Legislature that something needs to be done.

It is especially heartening to see Indian lawyers and archaeologists coming together for protection of our cultural heritage. Indians recognize that progress is going to cause some disturbance of graves and have no objection to a carefully documented disinterment followed by a respectful reburial.

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Archaeologists recognize that Indians living today are stakeholders in the question of how their ancestors should be treated. It is good that Indians and archaeologists have found common ground, because the forces aligned against graves protection remain formidable.

I have heard landowners object to being required to report the finding of human remains to the Sheriff or the State Archeologist, who are ordered to keep the location secret. They need to think about this objection from the point of view of crime victims who have missing loved ones; determining the age of human remains requires professional expertise.

I have heard landowners object that the contents of graves are “private property.” This is true only in the sense that if the graves do not contain crime victims, they can cover them up and leave them in peace. No one has a right to steal from graves for profit or idle curiosity.

Legitimate users of land—farmers, miners, builders and developers—have nothing to fear from graves protection, but fear it they do, in spite of the experiences in other states.

I cannot promise legal protection for unmarked graves in the coming legislative session, even though I have passed bills in the Senate twice before. I can promise that I will not stop trying until the dead of all Texans are given the respect that they deserve.