

**REPORT OF THE
DEPARTMENT OF HISTORIC RESOURCES ON**

**The Problems
of Small Community,
Family-Type Cemeteries**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 31

**COMMONWEALTH OF VIRGINIA
RICHMOND
1990**



COMMONWEALTH of VIRGINIA

Department of Historic Resources

Hugh C. Miller, Director

221 Governor Street
Richmond, Virginia 23219
Telephone (804) 786-3143
TDD: 804-786-4276

January, 1990

To the Members of the General Assembly of Virginia:

Senate Joint Resolution 177 adopted at your 1989 session requested the Division of Historic Landmarks - now the Department of Historic Resources - to study "the problems of small community, family-type cemeteries, which may have been neglected or abandoned and thus lost to future generations, and to determine the need for and appropriateness of state action in this area, including the establishment of maintenance responsibility, as well as locating and mapping the existence of such cemeteries under guidelines to be developed and, if necessary, funded by the Commonwealth."

At a time when the state's historic preservation program has this past summer been elevated to departmental status in order to heighten its stature in state government, it is certainly fitting that one of the new department's first tasks be to examine a particular resource that also would benefit from heightened stature and public awareness.

I am pleased to transmit to you the results of the study you requested, and I hope that these findings provide you with the basis for improving the care we afford our small cemeteries.

Sincerely,


Hugh C. Miller, FAIA

INTRODUCTION

The Department of Historic Resources responded to the General Assembly's request for an examination of small community, family-type cemeteries by retaining Martha Little of Charlottesville to conduct the study and prepare a report on her findings. Ms. Little is a graduate student at the University of Virginia who is pursuing advanced studies in urban and environmental planning. She has a particular interest in historic preservation and has conducted previous research on the preservation of cemeteries in the United States and Great Britain.

The Department determined that, within the time and resources available to conduct this study, there was no way either to amass a complete data base on all of Virginia's small cemeteries or to reach definitive conclusions on all of the measures necessary to insure their appropriate care. Instead, the object of this study has been to seek a sampling of the kinds and condition of Virginia's small cemeteries, to get some gauge of public interest in this particular resource, and to put forward some thoughts on the appropriate next steps for the Commonwealth to take. Consequently, Department staff worked with Ms. Little to design a questionnaire that would be broadly distributed among groups and individuals likely to have some interest in small cemeteries. The questionnaire was designed not only to gather information on the cemeteries, themselves, but to solicit public opinion on the cultural value of the cemeteries and on the need for some publicly sponsored effort to encourage their proper care. A copy of the questionnaire follows these introductory remarks.

Following that questionnaire we present Ms. Little's report. She has done an excellent job of synthesizing the results of the questionnaire and of drawing logical conclusions from the combination of the questionnaire data and her own independent research. The inclusion in her report of citizen comments taken directly from the survey forms also presents a strong testimonial to the emotional value Virginia's small cemeteries represent. Additional evidence of public interest in the preservation of small cemeteries lies in the fact that well after the deadline established for receipt of data to be included in Ms. Little's analysis, scores of additional survey forms have continued to come to this office from people who know they missed the deadline

but who hope that the state will maintain some ongoing interest in this resource.

The basic question posed by Senate Joint Resolution 177 was whether there is some appropriate role for the state to assume in the care of this fragile resource. Based upon the information that has been gathered in the conduct of this study, the Department of Historic Resources fully agrees with the author that the Commonwealth should undertake a program to locate and record its small community, family-type cemeteries. Creating and publicizing such a record is the obvious first step toward appropriate care of the cemeteries. Such a record also serves as a repository of information that will otherwise be lost when some of these cemeteries inevitably are destroyed. While such a recording project would be a massive state undertaking if conducted by paid, centrally headquartered Department staff, we agree with Ms. Little that an effective survey could be mounted by adding one or two Department staff whose jobs would be to draw on and coordinate the efforts of what appears to be a fairly large volunteer labor pool interested in this resource all across the state. We would also expect such new staff members to be professionally able to assess the comparative value of the cemeteries being recorded and to make recommendations as to which cemeteries should be singled out for special recognition, such as addition to the Virginia Landmarks Register. Finally we would expect such staff to be involved in fostering local educational efforts aimed at increasing appreciation among Virginia's citizens for the importance and fragility of small cemeteries.

Ms. Little's report also addresses possible changes in the Code of Virginia to provide greater protection of small cemeteries and to provide for a family's access to the graveyard of its ancestors in cases where it no longer owns that graveyard. While the Department of Historic Resources has not been able to pursue any in-depth research on the various legal questions pertaining to cemeteries, we certainly commend Ms. Little's conclusions to the General Assembly for further consideration. There is little doubt that Virginia's laws could be redrawn to reflect a greater sense of the value and vulnerability of small cemeteries: the Code could provide for greater penalties for malicious damage to cemeteries, and it could guarantee access to cemeteries for those who would care for them but are now prevented from doing so.

Finally, Ms. Little addresses the question of state financial assistance for the maintenance of small cemeteries. As she notes, there are several administrative schemes by which such assistance could be provided: a program administered by the state based on individual applications, or allocations to locally administered funds, for example. The Department of Historic Resources would certainly agree with the fundamental premise that providing some financial assistance would greatly encourage the preservation of these cemeteries; it would also be our expectation that average assistance payments for any given cemetery would be quite small. However, without the further work described above to locate and record more of Virginia's small cemeteries, the Department is unable at this time to offer a recommendation on a specific amount of funding to address the need effectively. We note that precedent for such an assistance program already exists in Virginia: pursuant to Section 10.1-2211 of the Code the Commonwealth currently provides some \$45,000 per year to be distributed among a large number of local private groups to assist in the care and maintenance of Confederate cemeteries and individual graves.

The information gathered from this study project is now on file at the Department of Historic Resources. While the material is only a beginning, it does form a useful and interesting data bank. The Department encourages anyone with a particular interest in the preservation of small cemeteries to visit the office and examine the materials that have been collected so far.

Divisions
Historic Landmarks
Litter Control
Parks and Recreation
Soil and Water Conservation

B. C. LEYNES, JR.
Director



COMMONWEALTH of VIRGINIA

Department of Conservation and Historic Resources

Division of Historic Landmarks

H. Bryan Mitchell, Director

221 Governor Street
Richmond, Virginia 23219
Telephone (804) 786-3143

CEMETERY STUDY QUESTIONNAIRE

Do you know of any small community, family-type cemeteries, any other small cemeteries or graveyards whose continued maintenance is in question, or any abandoned cemeteries or gravesites in Virginia? If so, please answer as many of the following questions as best you can for each cemetery. Please duplicate this form as many times as necessary, or write your answers on plain paper. You do not have to be the owner of the cemetery to report on it.

1. Is the cemetery known by any name? _____ If so, what name? _____

2. Where is the cemetery located? Please give street address of property, if applicable, or location in relation to public roads or other landmarks, as well as county or city and local community.

3. What is the approximate age of the cemetery? _____
Earliest burial? _____ Latest burial? _____

4. About how many graves are there in the cemetery? _____

5. Do you know of any individuals of local, regional, statewide, or national interest buried in the cemetery? Are any of our war dead buried in the cemetery? Are any slaves buried in the cemetery? Is the cemetery of special cultural interest for some other reason? Please explain.

6. Are there any gravestones of particular artistic or cultural interest? _____ If so, please describe or send a picture.

7. In your opinion, is the cemetery _____ well maintained, _____ inadequately maintained, or _____ not maintained at all?

8. Is the cemetery threatened by neglect, by potential development, or by any other cause? _____. If so, please explain. _____

9. Please provide the name and address of the owner of the cemetery.

Is someone other than the owner responsible for the cemetery's upkeep? _____

10. Please provide the name(s) and address(es) of anyone else who might have additional information on this or other small cemeteries in Virginia.

11. If available, please provide a photograph (original or photocopy), newspaper clipping, or any other picture of the cemetery.

12. In your opinion, should there be any kind of public program aimed at the preservation of this cemetery and others like it? If so, what kind of program would you suggest?

13. Please feel free to add any additional information or comments you think would be helpful to the conduct of this study.

Name and address of person filling out questionnaire:

Please return this questionnaire by July 10, 1989 to:

if possible

Martha H. Little
2518 Jefferson Park Avenue
Charlottesville, Virginia 22903

A Study of Small Community, Family-Type Cemeteries
by Martha H. Little

Pursuant to Senate Joint Resolution 177
of the
1989 Virginia General Assembly

I. Preface

Cemeteries are the symbolic repositories of the lives of all of our predecessors. As historic resources, they present a unique resource indicative of the Commonwealth's cultural history. Senate Joint Resolution #177 adopted by the 1989 General Assembly requested the Historic Resources to "study the problems of small community, family-type cemeteries, which may have been neglected or abandoned and thus lost to future generations, and to determine the need for and appropriateness of state action in this area..." This legislative request initiated an exciting investigation which could have a considerable impact on Virginia's understanding of its past and its methods of protecting its historic resources in general.

The value of cemeteries as historic resources is evident to historians, archaeologists, folklorists, sociologists, and anthropologists. These cemeteries can help to describe the demographic, economic and sociologic pattern of our past, as well as cultural transformations in language, design and sculpture, and poetry. They are material evidence of the changing technology and tastes of earlier societies. They are also visible statements of man's perspective on death and its relationship to life in a particular period of time.

In addition to these scholarly interests in graveyards, the average citizen has deep emotional ties to the burial site of his ancestors. It is this citizen who until recently has worked alone in trying to protect these important sites in Virginia. Individuals have scoured the countryside, encountering brambles, poison ivy and snakes along the way, in search of these hidden remnants of their past; they have spent many hours typing hundreds of pages listing these cemeteries and the names of persons buried in them; they have borne the cost of publishing this material, so that others now and in the future may have the knowledge they have collected. Their efforts were an invaluable resource in this study and will continue to be so in the future.

The family and community cemetery has many facets that could determine its historical value or significance. Some of these--such as age, association with historically significant people or events, artistic or landscape design merit--may serve as useful criteria in the setting priorities for a historic preservation program for cemeteries. Another factor which unfortunately will most likely play a role in setting preservation priorities is degree of threat. As we will see from our study result, there are many threats to the existence of these cemeteries, including neglect, poor maintenance, vandalism and encroaching development.

II. Information gathering: The questionnaire and research

The cemetery study, conducted over a three-month period, employed a variety of survey and research methods to gain information on the problems of small community, family-type cemeteries. Some of these methods included a mailed questionnaire, archival and legal research, oral interviews and attendance of a Burial Site Preservation Conference sponsored by the National Trust for Historic Preservation. While the bulk of the information was gathered through the questionnaires mailed out to over 3,000 individuals and organizations, all of these methods proved informative. The final products of this study include this report; a data base of the information on cemeteries gathered to date; files organized by county on these cemeteries; a resource guide of individuals, organizations and publications with information on the subject (listed both alphabetically and by county); and a collection of other pertinent information. All of these products represent only a hint of the possibilities available to a study of longer duration and more focus.

The most impressive discovery made during this study was the overwhelming interest and enthusiasm of Virginians in this project. From private individuals to church groups to students to county and city governments, people and organizations across the state wished to volunteer their time and effort to help the state gather information now and in the future. Several groups, especially historical societies, invested enormous amounts of time to produce thorough and complete surveys of the cemeteries they knew about. Others spread the work throughout their area to help with the effort. It was particularly gratifying to note that numerous city and county governments enthusiastically responded to our questionnaire. In all, the interest and concern for these cemeteries expressed by individuals and organizations was inspiring.

The questionnaire which was mailed out to a variety of individuals and organizations including historic property owners, preservation organizations, historical societies, archaeological groups, local governments, planning district commissions, etc. brought a vast amount of information on cemeteries in the Commonwealth of Virginia. Of the 3,000+ questionnaires mailed out, approximately 455 responded. Information on 1,905 cemeteries was gathered from these 455 responses. On those 1,905 cemeteries, 20 were known to have been established before 1700, 71 cemeteries before 1750, and 373 cemeteries before 1850. The age of most was not determined by the respondents. 322 cemeteries were specified as containing the remains of significant historic figures (including veterans of the Revolutionary War, Civil War, and War of 1812), and 27 were said to have been associated with important historical events. Although several appeared to be of unusual artistic design from the photographs sent, it was difficult to discern the artistic merit of many from the questionnaire responses.

The overall condition of these cemeteries became very apparent from these questionnaire responses. Of the 1,905 cemeteries discussed in the responses, 832 were described as to condition. 56% of those were characterized as "not maintained at all," 25% were described as "inadequately maintained," and only 18% as "well

maintained." Many of the "well maintained" cemeteries were either church cemeteries or cemeteries of unusual historical significance. Several respondents specified other threats as well. For example, 374 cemeteries were described as threatened by neglect; 159 cemeteries were threatened by some type of development; and 326 were threatened by overgrowth, weathering, or vandalism. Other problems included threats of farm animals, damage from a farmer's plow, a lawn mower, etc.

Finally, people's attitudes towards these cemeteries--their impression of the importance of maintaining these cemeteries; their opinion of whether or not a public program should assist in the preservation of these cemeteries; and their suggestions for possible solutions to the problems of these cemeteries--were articulated in these questionnaires. Of the 455 groups or individuals that responded, approximately 61% said they wanted a public program to be developed to help protect these graveyards and only 6% did not. The remainder did not answer this question. A sample of some of the remarks found in this section of the questionnaire follows:

--"It appears that the preservation of old and historical cemeteries would be a worthy project. I would like to see legislation adopted requiring developers to preserve cemeteries with valuable history by leaving the area undisturbed and erecting memorial markers to commemorate the dead or by moving remains to perpetual care cemeteries. Additionally, a public program which would assist in funding the restoration of old, historical, abandoned or neglected cemeteries would be welcomed by County citizens and community organizations."

--"There should be a program to locate these cemeteries and laws which protect them should be strictly enforced. I believe they should be actively maintained by either public offices or that funds should be made available to family members or other interested groups to enable them to conduct these maintenance activities."

--"Establish trusteeships on county or regional basis to administer and maintain these; authorize endowments and tax exempt status; require trustees to preserve use to descendants of original families; assure right-of-way over private land does not fail for want of use; provide central registry of cemeteries and trustees."

--"Either a trust supported by public funds or state law to require maintenance."

--"Complete inventory...Assistance in preserving stones. Programs which provide markers and grants to local historical societies to do leg work."

--"...there should be an effort to maintain historically or artistically significant cemeteries as historical landmarks. Maintenance could be undertaken by your department and a guide could be made available through Virginia's Dept. of Tourism."

--"I would love to see at least some system for cataloguing these cemeteries. Access could be provided through libraries and computers linked to the State Library. I feel all this valuable history should be preserved... Although illegal, many graves are now bulldozed--perhaps a preservation program would prevent this."

--"No one family can cover the area and monitor encroachments. Nor can a family enter into the work of clearing, maintaining and grooming these places. However, neither should families who know of the final resting places of grandparents, great grandparents and so on be confronted with the fact that a housing development was more important than a grave site."

While each of the previous comments were made by an individual, they each reflect a perspective commonly held among many of the respondents. Other frequent suggestions were to make existing laws more powerful; to use volunteer groups such as summer youth groups, Boy Scouts, and other service groups to do much of the work in surveying and maintaining cemeteries; to provide matching grants for groups interested in maintaining cemeteries; to develop a "Recommended Guidelines" book or pamphlet; to create an official county register of cemeteries which could become an integral part of zoning and building permit procedures; to sponsor a yearly conference or symposium for experts throughout the state; and to ensure that all cemeteries are recorded on local tax and zoning maps to protect them from future development.

The questionnaire responses in general exposed many of the effects that a progressive, future-oriented nation and rapidly developing state can have on these cemeteries of the past. It also revealed the growing concerns of citizens for the damage that this rapid growth in the absence of protective measures can wreak upon valuable historic and cultural resources. Persons wishing to protect these cemeteries encountered numerous problems: some wished to protect their ancestral burial site but were unable to locate it; others who knew of the location of a family plot were unable to maintain it because they were denied access to the property; many saw their family plots destroyed by new property owners or developers without prior notice; still others faced the frustrations of continuous vandalism; and some even had lengthy battles with other state agencies, in their attempts to protect their family cemeteries. All of these problems and many others were disheartening, yet common occurrences.

Archival, legal and other forms of research also revealed important data on the situation of cemeteries in the Commonwealth of Virginia. It was discovered that many books have been published which list existing cemeteries in particular areas, often identifying location, condition and number of known burials in that cemetery. Other books and lists of cemeteries are now being compiled by local historical societies and private individuals. This existing data helped us gain more accurate estimates of the number of cemeteries that may exist within each county.

Most of this additional material was collected for genealogical purposes; to research family relationships and create individual family trees. By incorporating this material into a statewide survey, the state will accomplish three important goals. First, the Commonwealth will amass information useful in demographic, sociological, and cultural studies. Second, the state will foster greater recognition of the importance of these cemeteries as repositories of our heritage. Third, the Commonwealth will broaden the sense of responsibility for these cemeteries--no longer will they be the responsibility of individual Virginians, but they will be part of the patrimony of the whole of Virginia.

Another way of identifying or locating family cemeteries is through the use of USGS topographical maps; however, not all cemeteries are included on these maps. Moreover, the Department of Historic Resources had information on some cemeteries in Virginia prior to this study, and listed a small number of cemeteries as historic landmarks. However, recognition of the historical importance of cemeteries is very limited. For example, cemeteries cannot be nominated to the National Register of Historic Places unless they "qualify under the criteria as they apply to designed historic landscapes if they are integral parts of districts that meet the criteria" or if they fall within the following categories described in National Register Bulletin #18:

- a. a religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- c. a birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life; or
- d. a cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- f. a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
- g. a property achieving significance within the past 50 years if it is of exceptional importance.

While several of these categories appear quite broad, it is a rare occurrence for a cemetery to be included in the National Register.

III. Effect of Virginia laws on family cemeteries: problems

By examining the laws in Virginia regarding cemeteries, particularly abandoned family graveyards, we can see the root of many of the problems encountered by Virginians wishing to protect or preserve their family cemeteries. During our study, we discovered a widespread lack of awareness of the laws pertaining to cemeteries. Also, from our study results we could clearly see

that even some citizens who were aware of the laws blatantly ignored them:

For example, from our study we were made aware of the rampant destruction of cemeteries by developers. We were told by a number of people that their family plots were dug up without prior notice to the family descendants or other interested parties. However, when we look to Section 57-38.1 of the Code of Virginia, we see that landowners must follow a series of proceedings, including the filing of a bill in equity to the circuit court of the county before the removal of any abandoned graveyard is permitted. The proceedings include proof that there are no reservation of rights in such graveyard, or that they have been waived, that no body has been interred for 25 years and proof of the propriety of the removal. All interested parties, whether they are known or unknown, are made defendants. If any parties are unknown, the bill should be published. It is also important to note that the court, in determining the question of removal, shall consider the historical significance of such graveyard as well as the wishes of the parties concerned so far as they are brought to its knowledge.

Thus, it appears that in this particular case the law as stated is sufficient to protect the interests of abandoned family graveyards from unrestrained and unwarranted destruction without notice. Nonetheless, it also appears that in this case this law has been insufficiently enforced. In many of the cases that have come to our attention, it seems that landowners, particularly developers, consistently deny knowledge of the existence of the cemeteries on their property.

Another problem encountered by many of our respondents was the desecration or destruction of cemeteries by new property owners. In this case, the property owners were not completely removing the remains of burial sites, but were damaging the stones, plowing over the graves or completely destroying ground level evidence of the burial site. In this case under Section 18.2-127 of the Code, the landowner is guilty of a Class 1 misdemeanor. Thus, the landowner can destroy all visible evidence of the graveyard and be charged as any other vandal would with a Class 1 misdemeanor, a very small punishment for destruction of our cultural roots. Again, at the present time this law is very difficult to enforce.

Because of the nature of these two laws, landowners become much more inclined to destroy or neglect cemeteries on their property than to have them moved to a more suitable location. On the one hand, the Code seems to provide ample protection from the complete destruction of abandoned cemeteries, whereas it appears to give little protection from either complete neglect of the graveyard or destruction of all visible evidence in the cemetery by the property owner. By failing to protect these graveyards from either complete neglect or the destruction of the markers by the property owner, the state is tolerating the loss of all of the historical and cultural assets that these graveyards embody. This effect is compounded by the fact that neither of these laws is sufficiently enforced.

Another recurring theme we encountered in our study was the difficulty family members or descendants have in gaining access to

a family cemetery in order to care for it or just to visit the graves of their forebears. There appears to be no law which directly addresses this issue in the Code, and because of this, it has become the cause of a great deal of confusion. Under Code Section 57-39.1, access to maintain a cemetery is granted to petitioners only if it is proven that the neglect of the cemetery by the landowner has caused the value of adjacent land to decrease. In this case, an adjacent landowner has the ability to petition for the right to improve the condition of a neglected cemetery if he wishes to improve the condition himself and pay all costs. However, there seems to be no recourse for a descendant or family member who wishes to maintain his family cemetery and no longer has title to the property.

IV. Effect of Virginia laws on family cemeteries: solutions

Virginia has ignored the problem of adequately protecting and preserving family cemeteries long enough. In comparison with other states, Virginia is substantially lagging behind in this area. The solutions in the following section are based on the most appropriate laws from other states for the problems that face Virginia. By amalgamating the laws from other states that have successfully dealt more with this issue, Virginia can become a leader in the field of cemetery preservation. Virginia has the advantage of adapting the best laws of other states to its own circumstances. Because its history and culture are so rich, it needs the strongest and most advanced protection laws.

The most pressing need is state recognition of the historical and cultural value of family cemeteries. With the passing of Senate Joint Resolution #177 which brought this issue to a state level, Virginia moved ahead of many other states that we have studied. The majority of states studied chose to assign this authority to the local level (Alabama, Georgia, Louisiana, Mississippi, Florida and others). This has created in many states a piecemeal policy towards cemetery preservation. By maintaining policy considerations at a state level and enforcement at a local level, Virginia can create an integrated and comprehensive program which will make it a true leader in this field (North Carolina does this to a degree). State recognition of the importance of these cemeteries alone will have an immense impact on protecting these graveyards. The state must convey to its citizens that it values these cemeteries for their contribution and witness to our history.

By conducting a state inventory and documenting the location of these cemeteries, enforcement of existing laws would be made much easier. Only by knowing exactly where and what these cemeteries are can we adequately protect them. Two other states which we studied are in the process of conducting an inventory of cemeteries within their states. For example, in the state of New Hampshire, the Old Graveyard Association in cooperation with the New Hampshire Historical Society, the State Division of Historic Resources, and the Sons of the American Revolution, is in the process of conducting a comprehensive listing of cemeteries in the state. Similarly, North Carolina began a cemetery survey project in 1979 to record all cemeteries across the state containing graves prior to 1913 (the year the state began keeping birth and

death certificates.) This effort is coordinated by the Division of Archives and History. Both of these efforts are state directed and locally managed and thus present good examples for Virginia to emulate.

Destruction of family graveyards by farmers, developers and other property owners in the Commonwealth must be halted immediately. A possible solution to this predicament, which does not seem to have been adequately addressed by other states that we looked at, could be to require property owners with cemeteries on their property to sign a form recognizing their responsibilities as owners of a cemetery. With a complete state inventory of family graveyards updated every seven years, the continued existence of these cemeteries could be monitored. Any landowner on whose property a cemetery has disappeared could face substantial fines and the burden of replacing the lost markers. Upon transfer of the property's title the new owner should be made aware of his obligations. It should be specified in the deed that ownership of the cemetery implies protecting it from destruction.

Another addition to the law which may slow down the destruction of cemeteries caused by rapid development would be a requirement that a full report be submitted to the Department of Historic Resources and that ample time be provided for state input prior to removal or disturbance of a cemetery. For example, under New Hampshire law the governing board of a municipality cannot grant approval for removal without first giving 30 days notice, along with a report of the full circumstances to the Division of Historical Resources.

The potential penalty discussed above for property owners who have destroyed cemeteries may prevent the complete disappearance of family graveyards, but it will not assure adequate maintenance. Thus, an important question that the state must address is who is responsible for the maintenance of family cemeteries. Many states have chosen to require landowners to maintain the cemeteries on their property (New York, Texas, Louisiana and others). Some of our respondents considered this a viable option for Virginia as well. "Make a Resolution similar to that of New York and Texas which requires the landowner to do something to maintain a cemetery," says one Virginian who responded to our questionnaire.

A program which combines aspects of each of the previous strategies could require that property owners pay the penalty mentioned above for damage to the graveyard on their property, and the program could also incorporate a state-directed maintenance effort to provide funds and assistance for the necessary maintenance. The program should allocate funds to property owners as well as other volunteer organizations interested in helping to preserve family graveyards. Moreover, these property owners should be allowed to involve descendants and other interested community groups in the maintenance of the cemetery plot. The state may foster this maintenance plan with tax incentives to property owners and grant programs to volunteer groups. The state could maintain a county-by-county file on interested groups to provide to the landowners.

Since we have seen that many families are willing but unable to maintain or even visit their family plots, the state should assure them fair access to their family cemeteries, especially in cases where property owners cannot or are unwilling to maintain the cemeteries. The following Florida law is an example of the type of addition needed:

The relatives and descendants of any person buried in a cemetery shall have an easement for ingress and egress for the purpose of visiting the cemetery at reasonable times and in a reasonable manner. If the cemetery is abandoned or otherwise not being maintained, such relatives and descendants may request the owner to provide for reasonable maintenance of the cemetery, and, if the owner refuses or fails to maintain the cemetery, the relatives and descendants shall have the right to maintain the cemetery.
Chapter 704, Easements, s. 704.08, Florida Code

Finally, many people felt that the penalty for injuries to cemeteries described in Section 18.2-127 of the Code were not severe enough to deter vandalism. It was suggested that willful or malicious destruction of gravestones, tombs, monuments, etc., be considered a felony rather than a Class 1 Misdemeanor. One respondent made the following statement: "State laws making it a felony to molest a cemetery, in any respect, penalty of 5 years mandatory in prison and a \$5,000 fine minimum... require local political subdivisions to keep up cemeteries as do other states." Other states that we studied which do consider willful or malicious injury to a gravestone, tomb, monument, etc., as a felony include Arizona, Connecticut, North Carolina, Florida (if the damage of property is greater than \$100), Illinois, Michigan, Ohio, Rhode Island and others).

V. Overview of Cemetery Study Results:

From the information obtained in the cemetery study it became clear that locating and documenting these cemeteries is an important first step in their protection. It also became clear that recognition of the historical importance of these cemeteries by the state was a need expressed by many throughout this study.

The state must recognize the significance of cemeteries as both historical artifacts and repositories of folk art. A cemetery is an outdoor museum. Gravestones are a written record of a person's life, an indicator of a family's marriage patterns, economic standing, religious beliefs and much more. They also represent the earliest form of folk art in this country. The carving and symbolism used on gravestones can tell us almost as much about the way our forbears viewed their world as diaries.

As part of this recognition the state should not allow its own department (i.e. Transportation) to wantonly destroy historical sites just because it is convenient.
(Brian A. Conley, Fairfax City Regional Library)

Education of the public was stressed by many as an important means in protecting cemeteries. By educating the public about the importance of preserving cemeteries and dispersing information on preservation techniques to accomplish that goal, much can be achieved at little cost. Public awareness of the location of cemeteries and their importance was seen as a possible tool of protection from developers.

The study also revealed a real need for the coordination of efforts to locate and document cemeteries. As was stated earlier, many historical and genealogical organizations have been documenting cemeteries for some time. Without the products of these efforts, attempting a statewide survey of cemeteries would prove to be an impossible task. However, many of these projects seem to overlap with each other; others become outdated even before they can be completed and published. Because of the great amounts of time and expense required to conduct such a herculean task, it becomes very difficult for individuals or small groups to produce on a voluntary basis a complete and accurate account of all the cemeteries in a large area.

I feel that the state of Virginia should undertake a program to compile accurate and up-to-date records of all of the small family cemeteries within its bounds so that this information is available to those who need it. Although such information is vitally important from an historical standpoint, past efforts on the part of the private sector have been largely sporadic and of a voluntary nature." (Robert Allen Hopkins, Glen Allen, Va.)

Another need clearly defined in the cemetery study was the need for available funds for the maintenance of cemeteries. Many people stressed a willingness to maintain cemeteries on their property or in their county if funds were available to assist them. While some wanted money available for all family or community cemeteries, others specified a hierarchy of historically important cemeteries as recipients of maintenance funds.

It also became clear from our study that among the citizens concerned about the loss of these cemeteries are many that are willing to participate voluntarily in any program which the state might undertake. Other volunteer groups which may want to participate in such an important community endeavor are the Boy Scouts, youth groups, church groups, garden clubs and other community service groups.

VI. Final Recommendations:

The following comments are presented as options to be considered separately, not as steps in a recommended program. Here are only a few of the many possible options for state action in this area.

*Coordinate a statewide inventory of cemeteries from the Department of Historic Resources (expand the data base that was begun with this study), using volunteer groups to do much of the

field work. This plan may take advantage of federal programs just beginning under the Bush administration's goal of greater volunteerism in American Life. Have someone manage the program from the Richmond office and designate an individual in each county to organize field workers. Provide the field workers with an initial training program and survey forms.

*Appropriate state funds such as matching grants for cemetery maintenance for groups willing to do work. Have these groups submit proposals to the Department of Historic Resources for approval. The DHR worker in charge of coordinating volunteer activities could also oversee the progress of these preservation projects.

*Create a state register for historic cemeteries similar to that of the Virginia Landmark program. Use criteria such as age; relationship to historic persons, event or designated "historic district"; grave of important historical figure; artistic and landscape design merit; and degree of threat to determine eligibility for register. (In assigning Register status, emphasis should be placed on local history and cultural interest.) Authorize tax-exempt status and provide historical markers for these cemeteries.

*Establish a state cemetery preservation clearing house within the Department of Historic Resources to centralize information on preservation techniques, funding sources, qualifications for "cemetery register" and other protection tools. Include an education program geared towards assisting groups in cemetery preservation. Develop pamphlets, videos, lectures, a cemetery hotline and other education tools.

*Authorize local governments to inventory the cemeteries within their jurisdictions and to document them on zoning and other land use maps, making the preservation of cemeteries an integral part of the zoning and building permit procedure. Provide funds to these local governments to distribute as cemetery maintenance funds. Require that cemeteries be included in all preservation plans.

*Prior to removal or destruction of any cemetery by developers, state agencies or property owners, make it a requirement to submit a proposal for removal to the Department of Historic Resources for approval.

*Require landowners to maintain cemeteries on their properties with strict penalties and/or forfeiture of ownership rights for failure to comply.

*Make laws for access to a family cemetery by relatives more powerful.

Make laws governing cemetery vandalism stricter--perhaps make it a felony to molest, damage, destroy or remove any gravestone.

VII. Conclusion:

It is clear from the results of the cemetery study that a large number of the citizens of Virginia recognize the need for state action to overcome many of the problems facing the thousands of abandoned, neglected, overgrown family and community cemeteries throughout the Commonwealth. These people recognize the historical, cultural and personal values that these cemeteries can offer to present day citizens and to the children of the future. They feel that it is important to share this understanding with other people in Virginia through education and preservation programs.

The cemeteries documented in this study represent a small sample of the thousands that dot the Virginia countryside. However, this sample has given us a very clear picture of the general condition that we find these cemeteries in today. Hundreds have already been lost and hundreds more will be lost very soon unless some type of action is taken immediately to prevent the deterioration and/or destruction taking place.

