

THE LAST WORD SOCIETY

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The Legal Legacy of the Resurrectionists

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ABSTRACT: The availability of human cadavers for dissection has been a continuing problem for hundreds of years. During the eighteenth and nineteenth centuries, body stealing or grave robbing became common in order to meet the demands of physicians and medical schools for bodies for dissection. The activities of the grave robbers, or "resurrectionists," as they were also called, created a public outcry. Numerous laws were enacted to provide criminal sanctions for body snatching. It was not until the late nineteenth century, however, that body donation laws dried up the lucrative practice of the resurrectionists. Indirectly, their legal legacy persists to this day.

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The laws of the United States are derived from a variety of sources, with the majority having originated in the English Common Law. Some of our laws relating to dead human bodies have an unusual origin. They were derived from and directly related to the activities of a small group of individuals known collectively as the resurrectionists. This group of entrepreneurs was involved in stealing bodies from graves to sell to medical schools and physicians for purposes of dissection. The activities of the grave robbers or body stealers, as they were also known, eventually led to legal efforts to curtail such activities.

The resurrectionists became increasingly active in the eighteenth and nineteenth centuries. As medical knowledge increased, the demand for bodies for dissection (to learn anatomy) increased among physicians and the growing number of medical schools. Digging up dead bodies and selling them became a profitable enterprise. For the physicians and medical schools, the resurrectionists were a necessary evil; they had no other means of obtaining bodies for dissection.

Although the physicians and resurrectionists were content with the arrangement, family members were not. Relatives did not want their loved ones disinterred and dissected. Those who could afford to commonly posted guards at the grave site for a week to prevent grave robbing.

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Criminal Laws

Development of a "Right of Possession" in a Dead Body

Family members initially had little legal recourse against the resurrectionists. To some extent developments in this area were inhibited by a dictum of Lord Coke, a famous English jurist in the sixteenth century. In a case dealing with the overturning of tombstones by vandals, Lord Coke stated that although an individual overturning tombstones can be prosecuted, there is "no property right in a dead human body" [1]. The latter part of his statement is called dictum because it had nothing to do with the facts of the case.

Since there was "no property right," there was no criminal or civil (suit for monetary damages) liability for stealing a body that had no value. Because of his prestige as a jurist, Lord Coke's statement was held as law. It was not until late in the eighteenth century that his dictum was circumvented.

In 1767, a resurrectionist named King was caught in the act of grave robbing. He was prosecuted, and his attorney presented the usual defense that no crime was involved because, according to Lord Coke, there was no property right in a dead human body. How could his client be convicted of stealing an object that had no value? The court was not impressed by this reasoning. Lip service was paid to Lord Coke's dictum in finding that there is no property right in a dead body; however, the court also found that the next of kin had a "right of possession for purposes of burial" and that stealing a body was "an offense against public decency" [1]. At long last, the resurrectionists could be criminally prosecuted.

The decision in *Regina v. King* established the power to prosecute resurrectionists in Great Britain; however, prosecution was uncommon and did little to stop the practice. The demand for bodies steadily increased in Britain and in the United States as new medical schools were established. The resurrectionists filled a "vital" role in supplying the bodies, and physicians and medical schools ignored the illegality of the practice. The increased demand made grave robbing a booming business. For a time in each country, body stealing reached epidemic proportions, until shocking events occurred that resulted in anatomic acts which eventually obviated the need for resurrectionists to supply bodies.

The Warburton Act (Great Britain, 1832)

Great Britain passed an anatomic act in 1832 following public outrage over the activities of William Burke and William Hare, "the infamous pair." Burke and Hare were resurrectionists who apparently decided that digging up dead bodies was too much work and developed a technique of smothering derelicts and drunks and then sold the "fresh" bodies to physicians and medical schools. Asphyxia by smothering results when external airways (the nose and the mouth) are blocked, preventing air from entering the lungs. The method employed by Burke and Hare involved using the hands to cover the victim's nose and mouth and is referred to today as "burking."

Burke and Hare were caught in 1828 and tried for murder. It was during their trial that the scandalous activities of the resurrectionists were brought to the public's attention. The ensuing outcry resulted in the passing by Parliament of the Warburton Act, which directed that unclaimed bodies and the bodies of executed criminals were to be given to medical schools for dissection [2]. For the first time, the medical schools had a source of cadavers and no longer had to rely on the resurrectionists.

Anatomic Acts (United States, after the "Harrison Horror")

The Warburton Act quickly ended the activities of the resurrectionists in Great Britain. Where criminal sanctions had been unsuccessful in stopping them, the economics of supply and demand succeeded. In the United States, however, grave robbing continued unabated.

Many states did have criminal laws under which body snatchers could be prosecuted; however, as in Great Britain, the laws had little effect. The number of medical schools in the United States was increasing throughout the nineteenth century. For example, there were four medical schools located in Cincinnati, OH, around 1870, and in that city another great scandal developed which resulted in the passage of anatomic acts by several state legislatures.

The scandal involved the politically and historically prominent Harrison family, who lived near Cincinnati. William Henry Harrison was the ninth President of the United States. One of his sons, John Scott Harrison, was a two-term Congressman from Ohio and was also the father of Benjamin Harrison, a prominent U.S. Senator from Indiana who later became the twenty-third President. John Scott Harrison thus had the unique distinction of being the son of a President and the father of a President.

John Scott Harrison was 74 years old when he died in 1878, at the family home in Northfield, OH. After his funeral, his family hired a night watchman to check on his grave, mainly because of a rash of grave robberies that had occurred in the area. At the funeral, the Harrisons had discovered that the grave of a recently deceased family friend had been disturbed and that the body of the friend was missing. The following morning a son and grandson of John Scott Harrison went to Cincinnati to look for the body of the family friend. They assumed that the body had been "resurrected" and sold to one of the medical schools in Cincinnati. After obtaining a search warrant, they were shocked to find, not the body of the family friend, but the body of John Scott Harrison! He also had been "resurrected" after his funeral.

The resurrection of John Scott Harrison shocked the nation when it made national front-page headlines as the "Harrison Horror." The resulting investigation revealed a nationwide commerce in dead bodies, with Cincinnati as the center of the body business. The body of the Harrison's family friend was found in a formalin-filled barrel labeled "Pickles" at the medical school in Ann Arbor, MI [3].

The scandal of the Harrison resurrection resulted in several state legislatures passing anatomic acts. These laws, like the Warburton Act, permitted unclaimed bodies to be given to medical schools. These were not the first anatomic acts in the United States. New York state had established an anatomic act in 1788. The notoriety of the Harrison case, however, undoubtedly influenced many state legislatures to pass anatomic acts. As in Great Britain, these acts finally resulted in a sufficient supply of bodies for the medical schools. There was no longer a need for the resurrectionists, and they faded from history.

Civil Liability

The resurrectionists are indirectly responsible for one other legal legacy. In *Regina v. King*, the courts had recognized a "right of possession" for purposes of burial. More than 100 years passed before the courts found that an individual could be compensated monetarily when this right was interfered with. Again, the initial case occurred in Great Britain. In the case of *Williams v. Williams*, a widow was successful in her lawsuit against her brother-in-law. After her husband died, the widow wanted to bury him in a cemetery. The brother-in-law, however, had the body cremated and scattered the ashes in Italy. The court found that her "right of possession" had been interfered with and compensated her with monetary damages [1].

Compensation for interference with the "right of possession" has been extended to other parties working with dead bodies. There have been numerous lawsuits in this area. Particularly affected are pathologists who perform autopsies. Courts have found that the "right of possession" vests in the next of kin. Interference with this right by performing an unauthorized autopsy or exceeding the restrictions of an autopsy consent can result in civil liability [4].

Summary

The resurrectionists as a group exerted considerable influence on the laws pertaining to dead human bodies. In a nefarious way, they supplied a need (dead bodies for medical

schools), but their activities outraged the public. Laws were initially passed to allow criminal prosecution for grave robbing. These laws proved ineffective in curtailing the activities of the resurrectionists, however, and anatomic acts were established to provide medical schools with a supply of bodies for dissection. Finally, the resurrectionists were indirectly responsible for the courts finding that interference with a person's "right of possession for purposes of burial" can result in civil liability.

References

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