

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

In the matter of Ansley, Churchyard of St Laurence

Petition to exhume and re-inter the buried remains
of Frederick John Long

JUDGMENT

1. I am asked to make decision on the petition of Patricia Margaret Long, relict of the late Frederick John Long, to permit the exhumation of the cremated remains of her husband so they can be re-interred in the Cemetery at Hartshill.
2. Frederick John Long sadly died on 2nd August 2012 and his mortal remains were then cremated. There was no interment for several years, and it was only on 17th June 2015 that he was laid to rest in an urn in plot CGE8 in the churchyard at St Laurence Church in Ansley. Atop this interment plot has been installed a polished marble memorial stone, surrounded by loose chippings, with a gilded inscription (all of which, coincidentally, are prohibited under the current Churchyard regulations for the Coventry Diocese). It is quite clear it is intended that in the fullness of time Mrs Long's cremated remains will also be interred

with her husband's, as there is a space on the right of the memorial stone for an additional inscription, divided from the text honouring Frederick John Long by an etched tassel. The memorial stone also has a holder for flowers.

3. Mrs Long seeks exhumation of the urn so it can instead be buried in the Cemetery at Hartshill. Mrs Long explains that she can no longer make the journey on foot to visit her Husband's place of interment without assistance. She also cites dissatisfaction with the up-keep of the churchyard, and states she was far from satisfied with the response from an unidentified person when she offered to pay the gardener extra to take care of the plot. Mrs Long said that the other memorial stones within the area where her husband is interred are so closely spaced that she has difficulty placing flowers on the grave. She also has included annotated photographs in order to demonstrate that 'there is no walkway or suitable access from the church pathways' because she has to walk across grass to reach the interment plot. Mrs Long also stated if there were interment at Hartshill Cemetery she could attend her husband's place of interment 'alone and privately'.
4. Written 'consent' for the proposed exhumation has been given by the Priest-in-Charge of St Laurence's Church and by Mrs Long's two daughters. There is also a letter from the Parish Clerk/Cemetery Manager at Hartshill confirming there is space in the 'Ashes scattering area' at Hartshill Cemetery to accommodate Mr Long's ashes.

Principles that apply

5. The principles to be applied to an exhumation of a body following a Christian burial are well known and were set out by the Court of Arches in the case of *In Re Blagdon Cemetery* [2002] Fam 299.
6. The presumption is that burial of human remains in consecrated ground is permanent. The Right Reverend Christopher Hill (then Bishop of Stafford) in *The Theology of Christian Burial* (as quoted in paragraph 23 of the judgment) explained this permanency,;

‘The funeral itself articulates very clearly that its purpose is to remember before God the departed; to give thanks for [his/her] life; to commend [him/her] to God the merciful redeemer and judge; to commit [his/her] body to burial/cremation and finally to comfort one another.’

He went on to explain more generally that :

‘The permanent burial of the physical body/the burial of cremated remains should be seen as a symbol of our entrusting the person to God for resurrection. We are commending the person to God, saying farewell to them (for their “journey”), entrusting them in peace for their ultimate destination, with us, the heavenly Jerusalem. This commending, entrusting, resting in peace does not sit easily with “portable remains”, which suggests the opposite: reclaiming, possession, and restlessness; a holding on to the ‘symbol’ of a human life rather than a giving back to God’.

7. In *Blagdon* the Court of Arches explained the legal view of permanency thus :
“The general concept of permanence is reflected in the fact that it is a criminal offence to disturb a dead body without lawful permission. Moreover, the fact that there is no ownership of a dead body according to English law, and the absence of any legal right in English law or under the European Convention of Human Rights to exhume a body or cremated remains, reflects a culture in which the norm is that the remains of a dead person should not be disturbed once they have undergone the initial act of interment.”
8. The above comments do not mean that exhumation cannot occur, but in *Blagdon* the Court expressed that there has to be some **exceptional** circumstance before the norm of permanent burial is set aside. The Court gave some guidance as to what could constitute exceptional circumstances. These factors include medical reasons supported by necessary psychiatric evidence (which do not apply here), or a mistake in the administration of the burial so that an important error in location is made. Most importantly for the present application “a change of mind as to the place of burial on the part of relatives or others responsible in the first place for the interment should not be treated as an acceptable ground for authorising exhumation”. The judgment of the Court does not qualify that guidance, but there was reference to an earlier judgment, *In re Christ Church, Alsager* [1999] Fam 142. In *Alsager* the Chancery Court of York said “... *it will not normally be sufficient to show a change of mind on the part of relatives of the deceased ... Some other circumstance must usually be shown*”. It is therefore very difficult for relatives to justify a request for translocation of buried remains

when the principal reason is that the proposed new location is easier to access or closer to the present home of the petitioner(s)

9. Numerous judgments from other Consistory Courts have shewn that ‘portability of remains’ should be discouraged. In other words, the message needs to go out that exhumation should not be granted simply because it would be more convenient for the family of the deceased if the buried remains (including cremated remains) were moved to a different location. In *Blagdon* itself the Court stated “*If advancing years and deteriorating health, and change of place of residence due to this, were to be accepted as a reason for permitting exhumation then it would encourage applications on this basis. As George QC Ch pointed out in Re South London Crematorium (27 September 1999, unreported):*

‘Most people change place of residence several times in their lives. If such petitions were regularly to be allowed, there would be a flood of similar applications, and the likelihood of some remains (and ashes) being the subject of multiple moves.’

Such a practice would make unacceptable inroads into the principle of permanence of Christian burial and needs to be firmly resisted.”

Determination

10. In this matter it is for the Petitioner to persuade me, on a balance of probability, that there is an exceptional reason that would justify overturning the presumption of permanence of burial. I regret to say that the arguments presented by Mrs

Long do not come close to persuading me that a faculty permitting exhumation should be granted in this case. The petition is therefore dismissed.

11. There will be no order for costs other than the fixed costs that Mrs Long has already paid.

Glyn Ross Samuel
Chancellor
15th October 2024.