

In the Consistory Court of the Diocese of Blackburn

In the Matter of the Parish of Standish St Wilfrid, and

In the Matter of the Petition of Elaine Elizabeth Durrington to exhume the cremated remains of Cyril Halstead Cawthron

JUDGMENT

- 1) This petition was lodged by Mrs Elaine Elizabeth Durrington on 3rd March 2018. On 26th March I prepared a Note setting out a number of questions that needed to be answered before I could deal with the matter. The petitioner has provided me with answers commendably quickly, and I am grateful.
- 2) Elaine seeks permission for the exhumation of the cremated remains of her father, Cyril Halstead Cawthron, from the Lawn Plot Row 28 no.6, in the churchyard of St Wilfrid's, with a view to re-interment in a grave, section M, row 4 no 24 in the churchyard.
- 3) The latter contains the remains of the petitioner's mother, Marion Cawthron, who died on 27th May 1956. Elaine must have been a child or in her early teens at that time. Subsequently, Cyril's parents' remains were buried in the same grave, Harry Cawthron dying in August 1961, and Nance in July 1969. Cyril died on 29th November 1992, some 36 years after Marion.
- 4) Cyril and Marion were married on 7th February 1941. They had one child, the petitioner.
- 5) Cyril made the arrangements for Marion's interment, through a firm of undertakers in Wigan. I presume he also arranged for his own parents to be buried in Marion's grave, or at least consented to their burial there.
- 6) On 14th March 1964, Cyril married again, to Joan. She already had a daughter, who thus became the petitioner's step-sister. I do not think I have her first name, but she is now Mrs M P Blundell, who lives at an address in Standish.
- 7) When Cyril died in November 1992, the petitioner tells me that the arrangements were made, as one would expect, by his second wife, Joan, along with the petitioner and Mrs Blundell. However she also tells me that Joan was seriously ill at that time, and she in fact died within a short time of her husband, on 25th March 1993. Her remains were interred next to Cyril's, with the assistance of the same undertakers, under the direction of the petitioner and Mrs Blundell.
- 8) Because Joan was terminally ill at the date of Cyril's death, she *'wished to leave the funeral arrangements to the undertaker'*, and the petitioner and Mrs Blundell *'felt unable to approach her at that time to discuss where my father's ashes or her own should be interred'*. The first part of this is clear enough, although I doubt that the undertakers did any more than in any similar case, making the arrangements with the then parish priest, and

- 9) The second part of what she says, as quoted in the preceding paragraph, is less clear, and I will come back to it again.
- 10) **Wishes of the deceased:** The petitioner also says that her father '*assumed he would be buried with (his first wife)*'. He had mentioned this to the petitioner – his only child – and to a neighbour and family friend, Mrs Margery Crossley, who is now also deceased. I do not know if this was something mentioned long before his own death, but following his marriage to Joan, or was raised by him at a time (if it was so) when he knew his own death was approaching. Elaine will appreciate that this 'wish' can have no relevance to where he wished to be buried, unless it was expressed after his second marriage. I will assume that to be the case.
- 11) However this 'wish' does not fit well with Elaine's next statement that when his parents were interred with Marion, (that is, by 1969 at the latest), Cyril was under the impression that there would be no room for him, a position the petitioner herself accepted over the years. I am not told when she understood that not to be the case.
- 12) I have to say the idea Cyril assumed, or expressed that 'wish', he would be buried with Marion, has to be looked at carefully. If it was said soon after Marion died, or within the next few years, that would be perfectly natural. That could well be his '*original*' wish, as the petition says. It does not make sense however after his own parents were interred with Marion, because he apparently believed that grave was then full. After his second marriage, and as time went on, it makes even less sense.
- 13) He was married to Marion for 15 years, and then nearly 8 years later, he married Joan. That second marriage lasted 28 years, nearly double the length of his first marriage. Did he really believe that on his death his remains would be placed with Marion? That is not something he would ever have raised with Joan, surely. He would have been unfeeling and foolish to do so, as in all probability it could only have soured his second marriage and his relationship with Joan.
- 14) When Joan was faced with making arrangements for Cyril's interment, when she herself was terminally ill, she can hardly have believed that the arrangements made for him, would not have some bearing, in terms of location, on the arrangements for her own, within a short time. I am sure she would have believed their remains would be together, or at least very close. Elaine tells me that Cyril is in plot 6, and Joan in Plot 6A, and I cannot but think that reflects what Joan would have expected.
- 15) Referring back to what Elaine says, as set out in paragraph 8 above, what was there that the petitioner or Mrs Blundell refrained from raising with the dying woman about where her recently deceased husband's remains were to be placed? It seems that at that time it was believed the grave with Marion and his parents was full, so there can have been no question of his being buried there as well. There was no question of that at that time. Joan was the person who, as his nearest relative, had the right to say where he was to be laid to rest, subject to any directions in his will. There was nothing said in that document about his place of interment.
- 16) Plainly it would have been immensely upsetting to Joan for Elaine or Mrs Blundell or indeed anyone else, to suggest at that time he should be buried with Marion, even if that had been thought possible. Joan may have

been prepared to leave matters very much in the hands of the undertakers, but she could never have contemplated that either then or subsequently, efforts would be put in hand to have him interred with Marion and his parents.

- 17) **Possible objectors:** Mrs Blundell has been approached by Elaine and apparently has no objection to the course of action proposed by her. Canon Andrew Holliday, the Rector of Standish has spoken with Elaine, and has indicated by a letter of 6th March that he has no objections to the proposed re-interment (or, presumably, the exhumation).
- 18) **Memorials:** Cyril's plot is not distinguished by an individual marker. Presumably that is true in relation to Plot 6A as well. Their exact places of interment are under grass, although I expect there is a plan or some kind kept at the church, showing just where the individual interments are. Elaine tells me that there is a single large stone at the head of the row, listing names and dates of those interred along that row.
- 19) **Marion's grave:** Elaine tells me that there is a memorial of white marble, which has deteriorated over the years. I assume it was first placed when Marion was laid to rest, some 60 years ago. The petitioner has commissioned a new memorial *'and decided to investigate whether there was a possibility that (her) father could be re-interred there at this time so his name could be added.'* It seems from that the wish to have her father's remains re-located is a fairly recent wish on her part.
- 20) **Discussion and evaluation:** in my initial Note when I requested further information, I made clear to the petitioner that the Church of England takes a clear stand on the issue of exhumation, and will only permit that to take place in exceptional circumstances. The Church accepts a body or remains to be buried in a churchyard on the understanding they are to be placed in their final resting place, and remain there. Of course no rule can be applied strictly in all circumstances. There is no definition of what is 'exceptional', because the multitude of possible circumstances in which the question may arise for consideration, is infinite.
- 21) One category falls under the general heading of mistake, where for some reason, a body or remains are interred in the wrong place, or in circumstances where those putting in place the arrangements in hand have misunderstood the consequences of choosing a churchyard of the Church of England. There is no such mistake arising in this case. Cyril was buried in a place that his widow Joan was content with. As I have pointed out above, the idea that Cyril believed he would be buried with Marion is difficult to accept. He seems to have believed that her grave was full, and next, he was a partner in a longstanding second marriage. He expressed no wishes about where he was to be interred in his will.
- 22) A second category seems to fall under the general idea of a family grave, namely that exhumation could be permitted to allow the remains of members of the same family to be gathered together in one place. From Elaine's point of view, she wants to bring her father and mother together, along with his parents. They are all members of her family. However that pays insufficient attention to the history. Her parents' marriage ended with her mother's early death, and I have no doubt that that was a traumatic event for her and her father to cope with, and may have taken

many years for them to come to terms with. However after a period of about 8 years, Cyril and Joan committed themselves to one another, and a new marriage relationship was established. That remained in place for 28 years. I asked the petitioner to tell me if there *'any circumstances relating to the second marriage, or otherwise, (she thought) I should know about'*. Her reply was a clear 'no'. Joan was buried next to Cyril, and in my view that was, even if in distinct plots, equally a family grave. There is nothing in the circumstances put before me that even begins to indicate that second marriage ought to be subordinated to the first, so it would be right to proceed with an exhumation of Cyril's remains.

23) There is also the passage of time that has gone. It is now 25 years since Cyril died. There is really no explanation given to explain why this application was not launched many years ago. Within months, Joan had also died and could no longer be upset by such a request. The whole thing seems to me to have been largely sparked off by the consideration of a new memorial over Marion's grave. Although I note what Elaine says about her father's wishes, about which I have commented above, the very delay in bringing this application says something about how much his alleged wishes are at the heart of the petitioner's present request. The more recent realisation that that grave was not 'full' after all may have played a part also.

24) **Conclusion:** I am satisfied there are no circumstances in this case that could be considered as 'exceptional' or such as to justify giving permission for the exhumation of Cyril's remains from alongside those of his second wife, with a view to re-interment with those of his first wife. **The petition is dismissed.**



John W. Bullimore
Chancellor
10th April 2018