

**IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD**

**BLOXWICH CEMETERY**

**ON THE PETITION OF NICOLA HILL**

**RE: THE REMAINS OF JOHN HENRY STONE AND JOHN BERNARD WALL**

**JUDGMENT**

- 1) Ms. Nicola Hill petitions for a faculty authorising the exhumation of the remains of John Henry Stone (her great uncle) and John Bernard Wall (her father) from the consecrated part of the cemetery at Bloxwich, Walsall. Ms Hill petitions also on behalf of her mother, Mrs Maureen Wall, who is the widow of John Bernard Wall. John Henry Stone was Mrs Wall's uncle. The petition is supported by Ms Jacqueline Simpkins, who is Mrs Wall's sister, and Mrs Wall's three sons, Jason, John and Andrew Wall. These persons are the only adult relatives of John Bernard Wall and John Henry Stone. The family is, therefore, united in this petition.
- 2) The circumstances of the petition are unusual. When John Henry Stone was interred in 1969, the intention was that the grave would accommodate three coffins in one family grave. In error, the interment was made insufficiently deep. When it came to the second burial, that of John Bernard Wall in August 2022, the mistake was discovered. The interment proceeded, but the family then entered into discussions with Walsall Council Bereavement Services. The Bereavement Services support and will fund the exhumation of the two coffins, the deepening of the grave and the reinterments, having fully accepted the error. All wish to achieve the family grave as originally intended. The Funeral Directors responsible for the second interment have undertaken to provide suitable outer shell coffins for both the deceased which, given the passage of time since the first interment, is essential.
- 3) Ms Hill seeks a decision on the basis of written representations, which is appropriate to the circumstances.

- 4) The approach which I am to take in considering this Petition was laid down by the Court of Arches in Re Blagdon Cemetery [2002] Fam 299. I have a discretion, but the starting point in exercising that discretion is the presumption of the permanence of Christian burial. That presumption flows from the understanding that burial (or the interment of cremated remains) is to be seen as the act of committing the mortal remains of the departed into the hands of God as represented by His Holy Church. Exhumation is to be exceptional and the Consistory Court must determine whether there are special circumstances justifying the taking of that exceptional course in the particular case (the burden of establishing the existence of such circumstances being on the petitioner in the case in question). If there are exceptional circumstances, the Consistory Court must then determine whether it is appropriate to exercise the discretion and permit exhumation.
- 5) I find that the circumstances of this case are sufficiently exceptional to warrant exhumation. There has been a clear error in the depth to which the grave was dug for John Henry Stone. There have been other such cases, but they are rare. The same circumstance of insufficient depth occurred in Re Washingborough: St John (Lincoln Consistory Court 2014), where the graves were duly deepened, and in Codsall St Nicholas on the Petition of James Hewison (Lichfield Consistory Court 2015), where the graves had to be relocated. In both those cases, the exhumations were also made necessary by the unseemly exposure of the upper coffin, which does not arise in this case. By contrast, in this case, a very long-established intention for a family grave of triple depth will be frustrated if exhumation and reburial in the same plot, but deeper, were not to be permitted. Notwithstanding the differences between these cases, I consider exceptionality to be made out.
- 6) I also consider it is appropriate to exercise my discretion having regard to the circumstances overall and the wish for the formation of a family grave. I have taken account of the passage of time since the interment of John Henry Stone, but I do not consider that this is sufficiently serious as a consideration to refuse the petition. In this I have regard to the readiness of the Funeral Directors to carry out the necessary exercise. I also have regard to the fact that the resulting

interments will be as originally intended and only differentiated from the current disposition of the deceased by some deepening of the shared grave. The site will not be changed in any fundamental sense. The intentions of all concerned and the wishes of the family thus can be honoured.

7) Accordingly, I authorise the grant of the faculty sought.

*Dr Anthony Verduyn*

CHANCELLOR

27<sup>th</sup> February 2023